

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

Gibson Building
Gibson Drive
Kings Hill, West Malling
Kent ME19 4LZ
West Malling (01732) 844522

To: MEMBERS OF THE COUNCIL

Dear Sir/Madam

I hereby summon you to attend a meeting of the Tonbridge and Malling Borough Council which will be held online via Microsoft Teams on Tuesday, 14th July, 2020 at 7.30 pm. Information on how to observe the meeting will be published on the Council's website. The following business is proposed to be transacted:-

PART 1 - PUBLIC

- | | | |
|----|---|---------|
| 1. | Apologies for absence | 3 - 4 |
| 2. | Declarations of interest | |
| | To declare any interests in respect of recommended items | |
| 3. | Minutes | 5 - 14 |
| | To confirm as a correct record the Minutes of the meeting of Council held on 18 February 2020 | |
| 4. | Mayor's Announcements | 15 - 16 |
| 5. | Questions from the public pursuant to Council Procedure Rule No 5.6 | 17 - 18 |
| 6. | Questions from Members pursuant to Council Procedure Rule No 5.5 | 19 - 20 |
| 7. | Motion submitted under Council Procedure Rule No 5.27 | 21 - 22 |

To receive a Notice of Motion in respect of transparency and accountability of Borough Council business submitted by Councillor April Clark on behalf of the Green Group.

Notice of Motion attached

8. Leader's Announcements 23 - 24
9. Reports, Minutes and Recommendations 25 - 26

To receive and consider reports, minutes and recommendations from the meetings of the Cabinet and Committees set out in the Minute Book and officers' reports on any matters arising from them, and to receive questions and answers on any of those reports.

Decisions taken under Emergency Provisions are set out in pages 51-66.

Matters for recommendation to the Council are indicated below at item 10

10. Tonbridge and Malling Leisure Trust 27 - 32

Item CB 20/52 referred from Cabinet of 30 June 2020

11. Appointments to Outside Bodies 33 - 34

To consider appointments to the Tonbridge Lands & Richard Mylles Charity

12. Amendment to Scheme of Delegation - Protocol for meetings held by Video Conferencing Facilities 35 - 44

This report confirms the amendment to the scheme of delegation agreed by the Leader on 7 May 2020 to enable the Council to hold virtual meetings.

13. Sealing of Documents

To authorise the Common Seal of the Council to be affixed to any Contract, Minute, Notice or other document requiring the same.

JULIE BEILBY
Chief Executive
Monday, 6 July 2020

Apologies for absence

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TONBRIDGE AND MALLING BOROUGH COUNCIL

COUNCIL MEETING

Tuesday, 18th February, 2020

At the meeting of the Tonbridge and Malling Borough Council held at Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 18th February, 2020

Present: Her Worship the Mayor (Councillor Mrs J A Anderson), the Deputy Mayor (Councillor R V Roud), Cllr M C Base, Cllr Mrs P A Bates, Cllr R P Betts, Cllr T Bishop, Cllr J L Botten, Cllr M D Boughton, Cllr V M C Branson, Cllr G C Bridge, Cllr C Brown, Cllr R I B Cannon, Cllr A E Clark, Cllr M A Coffin, Cllr D J Cooper, Cllr R W Dalton, Cllr N Foyle, Cllr N J Heslop, Cllr P M Hickmott, Cllr M A J Hood, Cllr F A Hoskins, Cllr S A Hudson, Cllr A P J Keeley, Cllr D Keers, Cllr Mrs F A Kemp, Cllr A Kennedy, Cllr D W King, Cllr K King, Cllr J R S Lark, Cllr D Lettington, Cllr Mrs R F Lettington, Cllr B J Luker, Cllr P J Montague, Cllr Mrs A S Oakley, Cllr W E Palmer, Cllr M R Rhodes, Cllr H S Rogers, Cllr J L Sergison, Cllr T B Shaw, Cllr N G Stapleton, Cllr K B Tanner, Cllr Mrs M Tatton, Cllr M Taylor, Cllr Miss G E Thomas, Cllr D Thornevell, Cllr F G Tombolis and Cllr C J Williams

Apologies for absence were received from Councillors Mrs S Bell, D A S Davis, M O Davis, Mrs T Dean, S M Hammond, Mrs C B Langridge and L J O'Toole

PART 1 - PUBLIC

C 20/1 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct.

C 20/2 MINUTES

RESOLVED: That the Minutes of the proceedings of the meeting of the Council held on 29 October 2019 be approved as a correct record and signed by the Mayor.

C 20/3 MAYOR'S ANNOUNCEMENTS

The Mayor reported that since October she had visited many school nativities, Christmas fayres and award presentations. She highlighted a number of memorable events including Her Majesty The Queen's visit to RBLI, Aylesford, the Kent International Piano Courses Concert, the Armistice Day Service at RBLI's Garden of Honour in Aylesford, a Nikolausabend Dinner, the East Peckham Dementia Community's

opening of a New Information Hub and Sensory Planter at East Peckham Library, The Diocese of Rochester's International White Ribbon Campaign, Tonbridge Rotary Club's Christmas Festival and the Mayor of Margate's Blessing of the Seas.

Past Mayoral events included hosting local primary schools' debates, Remembrance Sunday Services and Parades on 10 November and the Charity Evening at the Oast Theatre on 21 January. The Mayor was pleased to announce that the Charity Event at the Old Juddians Rugby Club on 25 January had raised £1,000 in aid of her charity CRY. The Mayor encouraged Members to buy tickets for the forthcoming Charity Event at the Old Fire Station on 15 April and advised that there were some spaces available for the Charity Quiz to be held at the Devonshire Rooms, Snodland on 21 February.

C 20/4 QUESTIONS FROM THE PUBLIC PURSUANT TO COUNCIL PROCEDURE RULE NO 5.6

No questions were received from members of the public pursuant to Council Procedure Rule No 5.6.

C 20/5 QUESTIONS FROM MEMBERS PURSUANT TO COUNCIL PROCEDURE RULE NO 5.5

No questions were received from Members pursuant to Council Procedure Rule No 5.5.

C 20/6 NOTICES OF MOTION SUBMITTED PURSUANT TO COUNCIL PROCEDURE RULE NO 5.27

Consideration was given to a Notice of Motion pursuant to Council Procedure Rule No 5.7 submitted by Councillor F Hoskins on behalf of the Tonbridge and Malling Liberal Democrat Group in the following terms:

This council notes:

- *the motion declaring a climate emergency which was passed on 9th July 2019;*
- *that the biggest single contributor to climate change is the emission of carbon from fossil fuels;*
- *that trees have the ability to soak up carbon emissions and therefore tree planting can offset some of the carbon dioxide which is contributing to climate change.*

This council therefore calls on the Chief Executive to prepare a tree planting strategy which:

- *aims to increase considerably the tree cover within the borough by identifying council owned land that could be used for tree planting;*
- *sets out to create community orchards to help improve the supply of fresh, local produce and boost the health of residents;*
- *works with the voluntary sector and local parish councils to deliver tree planting plans;*
- *involves schools, colleges and Kent university and their pupils and students in carrying out tree planting and woodland maintenance;*
- *identifies sources of funding available to the council, parishes and voluntary organisations to pay for tree planting.*

Councillor N Heslop proposed, seconded by Councillor R Betts an amendment to the motion as follows:

This council notes:

- *the motion declaring a recognition of global climate change and biodiversity emergencies which was passed on 9th July 2019;*
- *the commitment to review services and operations to ensure Tonbridge and Malling Borough Council has policies that support climate change mitigation;*
- *that the biggest single contributor to climate change is the emission of carbon from fossil fuels;*
- *that trees play an important role in terms of CO₂ capture and storage. Therefore tree planting can offset some of the carbon dioxide which is contributing to climate change.*

The council welcomes the emerging Climate Change Strategy and commits to:

- *a Tree Charter for the Borough, working in partnership with organisations such as the Woodland Trust;*
- *the aim of retaining a planting budget to re-plant native trees where appropriate and ensure that trees on Borough Council owned land are well cared for;*
- *working with partners such as local landowners, developers, Kent County Council, parish councils and community groups amongst others, to encourage tree planting and explore suitable opportunities for planting within boundaries and hedgerows;*
- *inviting the Street Scene and Environment Services Advisory Board to consider the establishment of community orchards; and*
- *notes that the revenue estimates for tree maintenance on Borough Council owned land in 2020/21 is £30,000.*

Members signified consent to this alteration and it was

RESOLVED: that the Notice of Motion (as amended) be agreed as follows:

1. The Council notes:
 - the motion declaring a recognition of global climate change and biodiversity emergencies which was passed on 9th July 2019;
 - the commitment to review services and operations to ensure Tonbridge and Malling Borough Council has policies that support climate change mitigation;
 - that the biggest single contributor to climate change is the emission of carbon from fossil fuels; and
 - that trees play an important role in terms of CO₂ capture and storage. Therefore tree planting can offset some of the carbon dioxide which is contributing to climate change.
2. The Council welcomes the emerging Climate Change Strategy and commits to:
 - a Tree Charter for the Borough, working in partnership with organisations such as the Woodland Trust;
 - the aim of retaining a planting budget to re-plant native trees where appropriate and ensure that trees on Borough Council owned land are well cared for;
 - working with partners such as local landowners, developers, Kent County Council, parish councils and community groups amongst others, to encourage tree planting and explore suitable opportunities for planting within boundaries and hedgerows;
 - inviting the Street Scene and Environment Services Advisory Board to consider the establishment of community orchards; and
 - notes the revenue estimates in 2020/21 of £30,000 for tree maintenance on Borough Council owned land.

C 20/7 LEADER'S ANNOUNCEMENTS

Waste Services Contract

The Leader began his announcements by making reference to the poor bin collection service received by residents either side of Christmas and the New Year, stating that he was aware of the significant workload created for Members.

He advised Members that, early in the New Year, the Council escalated the situation with the contractor at the most senior level. The Chief Executive personally wrote to Urbaser's Managing Director, which had been followed by a senior level meeting with the contractor involving the Leader, Councillors Coffin and Betts and senior officers.

He indicated that, since this intervention, service delivery had improved significantly, with Urbaser regularly reporting that all rounds were being completed on their scheduled day and resources had been deployed to progress the clearance of the back log of missed collections. The Council had also seen a notable reduction in calls, email traffic and complaints.

The early days of the new arrangements had seen an increase in recycling rates. The Leader stated that, for a number of years, annual recycling rates had remained relatively static at around 42%. Based on data received to date recycling rates for October and November 2019 were at 55% and 54% respectively which compared with 44% and 40% respectively in the same months in 2018.

He advised that, overall, during this period and compared with October and November 2018, the amount of material collected for recycling and composting had increased by 27%, the amount of waste sent for disposal had dropped by 24%, and overall waste had dropped by 2.5%.

The new arrangements had introduced a subscription garden waste service. He reported that 47% of all households in the Borough had signed up and that this represented by far the highest take-up in Kent and was significantly greater than the original target of 30%.

Local Plan

The Leader announced the provisional dates for the first three days of the Local Plan Hearing and advised that, subject to confirmation from the Inspectorate, the Hearing was due to open during the week commencing 18 May for three consecutive days (Tuesday 19 to Thursday 21 May) and would be held at the Orchard Suite, East Malling Research Centre.

Larkfield Leisure Centre

The Leader provided an update on the capital plan scheme at Larkfield Leisure Centre. He reported that the work in the plant room was progressing well, with the old boilers being removed, the new boilers moved into place and final connections being made. A temporary boiler had been providing heating and hot water during the course of the work. Works to the air handling unit would commence in the coming weeks.

He advised that, as the old roof was being removed, the contractors discovered some corrosion of the steelwork which had to be treated with a specialist product before any further work could take place. This had resulted in a delay to the programme of approximately 3-4 weeks,

meaning the overall scheme was currently due to be completed in mid-June. The recent inclement weather had also not helped progress although the contractors on site had continued to work in the conditions, where safe to do so.

It was reported that three out of the thirteen new polycarbonate roof bays had been installed and painting of the internal steel roof framework would begin during the week commencing 24 February.

Members were advised that Officers would continue to work closely with the contractor and the Leisure Trust to try and minimise the impact on customers.

Tonbridge Medical Group

After many years of seeking opportunities to bring a new medical centre in Tonbridge, the Leader expressed his delight that the Tonbridge Medical Group would soon achieve its aspiration for a high quality, state of the art medical facility in the town centre.

He was especially pleased that the Borough Council had been able to play its part by releasing the land that had helped realise this ambition. He congratulated the Tonbridge Medical Group and all involved for their hard work in getting to a point when the new centre would be opening its doors to patients for the first time in just a few months.

Recent Bad weather

The Leader referred to the consecutive weekends of storms and significant amounts of rain and wind which had resulted in a number of fallen trees and localised flooding, given that water levels were already at a high level. He reported that Officers were not aware of any flooding to a significant number of properties but, nevertheless, the Borough Council had had staff on duty, working with local flood warden teams and he thanked all the services that had worked over both weekends.

C 20/8 LOCALISM ACT - PAY POLICY

Item GP 20/3 referred from the General Purposes Committee minutes of 27 January 2020

RESOLVED: That the recommendations at Minute GP 20/3 be approved.

C 20/9 RISK MANAGEMENT

Item CB 20/7 referred from Cabinet minutes of 13 February 2020

RESOLVED: That the recommendations at Minute CB 20/7 be approved.

C 20/10 TREASURY MANAGEMENT UPDATE AND ANNUAL INVESTMENT STRATEGY 2020/21

Item CB 20/8 referred from Cabinet minutes of 13 February 2020

RESOLVED: That the recommendations at Minute CB 20/8 be approved.

C 20/11 SETTING THE BUDGET FOR 2020/21

Item CB 20/9 referred from Cabinet minutes of 13 February 2020

It was proposed by Councillor Coffin and seconded by Councillor Heslop that the recommendations at Minute CB 20/9 be adopted. In accordance with Council Procedure Rule No 8.5 voting was recorded as follows:

Members voting for the motion:

Cllr Mrs J A Anderson, Cllr M C Base, Cllr Mrs P A Bates, Cllr R P Betts, Cllr T Bishop, Cllr J L Botten, Cllr M D Boughton, Cllr V M C Branson, Cllr G C Bridge, Cllr C Brown, Cllr R I B Cannon, Cllr M A Coffin, Cllr D J Cooper, Cllr R W Dalton, Cllr N Foyle, Cllr N J Heslop, Cllr P M Hickmott, Cllr F A Hoskins, Cllr S A Hudson, Cllr A P J Keeley, Cllr D Keers, Cllr Mrs F A Kemp, Cllr A Kennedy, Cllr D W King, Cllr K King, Cllr J R S Lark, Cllr D Lettington, Cllr Mrs R F Lettington, Cllr B J Luker, Cllr P J Montague, Cllr Mrs A S Oakley, Cllr W E Palmer, Cllr M R Rhodes, Cllr H S Rogers, Cllr R V Roud, Cllr J L Sergison, Cllr T B Shaw, Cllr K B Tanner, Cllr Mrs M Tatton, Cllr M Taylor, Cllr Miss G E Thomas, Cllr D Thornevell, Cllr F G Tombolis and Cllr C J Williams

Total 44

Members voting against the motion:

None

Members abstaining:

Cllr A E Clark, Cllr M A J Hood and Cllr N G Stapleton

Total 3

RESOLVED: That the recommendations at Minute CB 20/9 be approved.

C 20/12 SETTING THE COUNCIL TAX 2020/21

Item CB 20/10 referred from Cabinet minutes of 13 February 2020

It was proposed by Councillor Coffin and seconded by Councillor Heslop that the recommendations at Minute CB 20/10 be adopted. In accordance with Council Procedure Rule No 8.5 voting was recorded as follows:

Members voting for the motion:

Cllr Mrs J A Anderson, Cllr M C Base, Cllr Mrs P A Bates, Cllr R P Betts, Cllr T Bishop, Cllr J L Botten, Cllr M D Boughton, Cllr V M C Branson, Cllr G C Bridge, Cllr C Brown, Cllr R I B Cannon, Cllr A E Clark, Cllr M A Coffin, Cllr D J Cooper, Cllr R W Dalton, Cllr N Foyle, Cllr N J Heslop, Cllr P M Hickmott, Cllr M A J Hood, Cllr F A Hoskins, Cllr S A Hudson, Cllr A P J Keeley, Cllr D Keers, Cllr Mrs F A Kemp, Cllr A Kennedy, Cllr D W King, Cllr K King, Cllr J R S Lark, Cllr D Lettington, Cllr Mrs R F Lettington, Cllr B J Luker, Cllr P J Montague, Cllr Mrs A S Oakley, Cllr W E Palmer, Cllr M R Rhodes, Cllr H S Rogers, Cllr R V Roud, Cllr J L Sergison, Cllr N G Stapleton, Cllr K B Tanner, Cllr Mrs M Tatton, Cllr M Taylor, Cllr Miss G E Thomas, Cllr D Thornevell, Cllr F G Tombolis and Cllr C J Williams

Total 46

Members voting against the motion:

None

Members abstaining:

None

RESOLVED: That the recommendations at Minute CB 20/10 be approved and the Council Tax Resolution 2020/21, as set out as an Annex to these Minutes, be adopted.

C 20/13 REVIEW OF PUBLIC HEALTH

Item CB 20/11 referred from Cabinet minutes of 13 February 2020

RESOLVED: That the recommendations at Minute CB 20/11 be approved.

C 20/14 REVIEW OF DISABLED FACILITIES GRANTS

Item CB 20/12 referred from Cabinet minutes of 13 February 2020

RESOLVED: That the recommendations at Minute CB 20/12 be approved.

C 20/15 CORPORATE STRATEGY 2020-2023

Item CB 20/13 referred from Cabinet minutes of 13 February 2020

RESOLVED: That the recommendations at Minute CB 20/13 be approved.

C 20/16 CLASS C EMPTY PROPERTY COUNCIL TAX DISCOUNT AND LONG TERM EMPTY HOMES PREMIUM

Item CB 20/14 referred from Cabinet minutes of 13 February 2020

RESOLVED: That the recommendations at Minute CB 20/14 be approved.

C 20/17 LOCAL COUNCIL TAX REDUCTION SCHEME 2020/21

Item CB 20/15 referred from Cabinet minutes of 13 February 2020

RESOLVED: That the recommendations at Minute CB 20/15 be approved.

C 20/18 ASSET MANAGEMENT PLAN

Item CB 20/16 referred from Cabinet minutes of 13 February 2020

RESOLVED: That the recommendations at Minute CB 20/16 be approved.

C 20/19 SEALING OF DOCUMENTS

RESOLVED: That authority be given for the Common Seal of the Council to be affixed to any instrument to give effect to a decision of the Council incorporated into these Minutes and proceedings.

The meeting ended at 9.06 pm

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Mayor's Announcements

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Agenda Item 5

Questions from the public pursuant to Council Procedure Rule No 5.6

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Agenda Item 6

Questions from Members pursuant to Council Procedure Rule No 5.5

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Notice of Motion submitted pursuant to Council Procedure Rule No 5.27

To consider the following Notice of Motion submitted by Councillor A Clark on behalf of the Green Party:

Transparency and Accountability Motion

Since the onset of the COVID-19 pandemic, the Council has stepped up to the challenge of continuing to perform our duties and serve our community - including rapidly identifying, testing and executing a new system of meeting and voting online that meets current regulatory and constitutional requirements. It is a great credit to the Officers and all the Members who have demonstrated flexibility and versatility in order to ensure the success of this new way of working together.

We therefore propose that we amend the way that this Council records the business of its meetings beyond the pandemic response period, in order to continue to:

- encourage and enable the greatest possible participation in meetings and local democracy by Members and Residents alike,
- build trust between Residents and Members who represent them, and
- enable greater understanding of how the Council conducts its business and makes decisions.

The measures proposed are all designed to complement the Council's Digital Strategy, and to bring the meeting practices of the Council in line with many other local authorities that have already put such measures in place successfully. At such time as we find ourselves able to meet again in person, the investment already made in the microphone system in the Council Chamber at King's Hill, as well as a portable system available for meetings held in the Angel Centre, to provide a hearing loop, mean that only a small estimated additional investment will be required, if any, in order to put these measures in place. Electronic voting has also recently been tested by Members with positive feedback on the functionality and security of the system proposed.

We believe these measures will also ensure that we respond to the potential equality impact on residents who would like to observe and participate in meetings by asking questions, as well as Members. This especially applies to those with caring responsibilities, short- and long-term disabilities, pregnancy and post-natal care, unavoidable work commitments, illness or who are on low incomes without access to affordable transport in the evenings.

To ensure that the objectives above are addressed, this motion proposes that:

- (1) Every Council Meeting, Cabinet, Advisory Board and Committee Meeting be live streamed on a secure internet connection, as well as recorded, beyond the pandemic period. Recordings should be made available on the Council's website for members of the public to access within 2 working days of the meeting having taken place.

- (2) Electronic voting be introduced for every Council Meeting, Cabinet Meeting, Advisory Board and Committee Meeting.
- (3) Recorded votes be extended to every Council Meeting, Advisory Board and Committee Meeting on Member request.
- (4) As long as government regulation continues to allow (especially in the instance that the current concession introduced during the pandemic response period be made permanent), that the option for full remote participation in meetings, including remote voting for Members of Council, Cabinet and Advisory Boards, be continued.

Leader's Announcements

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Schedule

Meeting	Page No in Minute Book	Recommendations to Council
18 February: Council - Minute Numbers: C 20/1 – 19 - Annex: Council Tax Resolution	3-16	
10 March: Licensing and Appeals Committee - Minute Numbers: LA 20/1 – 5	17-18	
19 May: Extraordinary Cabinet - Minute Numbers: CB 20/32 – 34	19-20	
Cabinet Decision Notice: - D200028CAB	21-22	
21 May: Area 1 Planning Committee - Minute Numbers: AP1 20/1 – 5	23-26	
27 May: Area 2 Planning Committee - Minute Numbers: AP2 20/1 – 5	27-30	
3 June: Cabinet - Minute Numbers: CB 20/35 – 49	31-34	
Cabinet Decision Notices: - D200019MEM – D200024MEM - D200025MEM – D200026MEM - D200027MEM	35-50	
Decisions Taken Under Emergency Provisions: - D200001EM – D200002EM - D200003EM - D200004EM – D200005EM - D200006EM – D200008EM - D200009EM – D200010EM	51-66	

Meeting	Page No in Minute Book	Recommendations to Council
Cabinet Decision Notices: - D200029CAB – D200036CAB	67-74	
4 June: Area 3 Planning Committee - Minute Numbers: AP3 20/6 – 11	75-78	
17 June: General Purposes Committee - Minute Numbers: GP 20/09 – 14	79-80	
18 June: Overview and Scrutiny Committee - Minute Numbers: OS 20/10 – 13	81-84	
25 June: Area 1 Planning Committee - Minute Numbers: AP1 20/6 – 11	85-88	
30 June: Cabinet - Minute Numbers: CB 20/50 – 60	89-92	CB 20/52
Cabinet Decision Notices: - D200037MEM - D200038CAB – D200041CAB	93-100	

Note: Meetings of the Borough Council were cancelled 12 March – 18 May 2020 due to the coronavirus pandemic. Matters referred from Advisory Boards, Panels and Other Groups that should have been presented to Cabinet on 17 March were presented to Cabinet on 3 June 2020.

Item CB 20/52 referred from Cabinet of 30 June 2020

The joint report of the Director of Street Scene, Leisure and Technical Services and the Chief Financial Services Officer outlined the need to establish a budget provision in 2020/21 to support Tonbridge and Malling Leisure Trust (TMLT) in maintaining the Council's facilities during the pandemic and preparing them for re-opening and operation in the manner required through Government direction. The report suggested that a budget of £1m be set aside against which validated claims from TMLT, made through the 'open book' process, could be paid.

Members supported the proposals as the facilities offered by the Leisure Trust provided social, health and wellbeing, mental health and community benefits to residents of Tonbridge and Malling.

RECOMMENDED: That

- (1) the Council establish a supplementary budget of £1m in 2020/21 in respect of the Council's Leisure Management Arrangements; and
- (2) the Council, in liaison with the Leisure Trust, lobbies Government for direct financial support.

* **Referred to Council**

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TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

30 June 2020

Report of the Director of Street Scene, Leisure and Technical Services and the Chief Financial Services Officer

Part 1- Public

Matters for Recommendation to Council

1 TONBRIDGE & MALLING LEISURE TRUST

A report seeking approval from Full Council for the establishment of a budget provision in 2020/21 in respect of the Council's Leisure Management Arrangements with the Tonbridge and Malling Leisure Trust.

1.1 Introduction

1.1.1 At the meeting of Cabinet on 3 June under part 2 of the agenda, Members agreed 'in principle' support for the Tonbridge and Malling Leisure Trust (TMLT) during the pandemic. Cabinet resolved under Decision Notice D200036CAB that:

- 1) the potential financial implications for the Tonbridge and Malling Leisure Trust as a result of the government's directions in response to the pandemic be noted;
- 2) the written reassurance of the Management Team, in liaison with the Leader and Deputy Leader, to the Tonbridge and Malling Leisure Trust Board be noted;
- 3) the proposal that Management Team work with the Tonbridge and Malling Leisure Trust to set out potential options to a future meeting of the Communities and Housing Advisory Board be endorsed; and
- 4) the Management Agreement with the Tonbridge and Malling Leisure Trust be reviewed with details presented to a future meeting.

1.1.2 In considering the report, Members acknowledged the significant investment that has been made in the facilities, in particular Larkfield Leisure Centre, and of the importance of the provision of health and leisure services to our residents.

1.1.3 As the country emerges in due course from the pandemic, it is highly likely that services such as these will be essential for general health and wellbeing. Indeed, it is encouraging to note that since its re-opening in mid-May within the tight social distancing and health and safety requirements, Poult Wood Golf

Centre has been fully booked on a daily basis with demand for tee-times exceeding supply.

1.2 Progress

- 1.2.1 Since the meeting of Cabinet on 3 June, work has progressed with TMLT to assess the impacts in the format set out in the previous report. This needs to be undertaken on an incremental basis taking on board the ‘moving’ situation in terms of re-opening of facilities and any reactive and/or proactive action that might need to be taken in response to further government direction or health and safety issues.
- 1.2.2 It is disappointing that TMLT as a leisure operator is not eligible for government support (other than the job retention scheme) as things currently stand. This is of serious concern and I believe it is essential that in liaison with TMLT the Council lobbies government to address this extreme situation.
- 1.2.3 Given the stark financial challenges that TMLT face in maintaining and planning to re-open the Council’s facilities to the public, and the risks to our facilities and services if we do not do this, in line with guidance from the Cabinet Office and the Local Government Association it is important that incremental payments are made to assist TMLT in remaining solvent
- 1.2.4 Members will note from the report of the Director of Finance & Transformation elsewhere on the agenda that the broad assessment in 2020/21 is that a sum of circa £1m may be required to support TMLT in maintaining the Council’s own facilities during the pandemic and preparing them for re-opening and operation in the manner required through government direction. It is important to stress that this figure is only a broad estimate, as we will not be able to properly assess the full impact for some time. Nevertheless, a budget does need to be set.
- 1.2.5 Through the ‘open book’ process we have adopted in liaison with the Trust’s senior management, the Chief Financial Services Officer and the Head of Street Scene and Leisure have together assessed the first interim payments that need to be made to TMLT in respect of the months of March and April 2020. This first instalment amounts to a total of £147,334.
- 1.2.6 These figures have been shared with the Leader, Cabinet Member for Finance, Innovation and Property and the Chairman of Overview & Scrutiny in advance of this report for the purposes of transparency and challenge. Payment of the sum detailed above has been made to TMLT with the agreement of the Members listed in advance of this meeting given the imperative of solvency.
- 1.2.7 Cabinet will appreciate there is currently no budget for these payments. Through this report, therefore, it is requested that Cabinet recommend to Full Council that a budget of £1m is set aside against which validated claims from TMLT can be paid. As previously explained, validation through an open book process will be

undertaken by the Chief Financial Services Officer and the Head of Street Scene and Leisure.

1.3 Legal Implications

- 1.3.1 Should the work in progress mentioned in the preceding paragraph result in any changes to the contractual arrangements these must be in accordance with the change mechanisms agreed at the time the contract was formalised and in addition comply with the Public Contracts Regulations 2015 and the Public Concessions Regulations 2016.

1.4 Financial and Value for Money Considerations

- 1.4.1 It is important to stress that it is not in the Council's financial interests, nor that of its taxpayers, for TMLT as the Council's contractor to fail as a consequence of the measures imposed by the government.
- 1.4.2 The Council maintains a prudent level of reserves to provide a safety net for unforeseen or other circumstances. The Robustness of Estimates and Adequacy of Reserves statement that the Council's Chief Financial Officer is required to produce under the local Government Finance Act 2003 to support Members in considering the Budget Setting report, lists as an example of why the Council needs to retain a minimal level of reserves "*closure of major trading area e.g. leisure centre for uninsured works*". The Council has resolved to hold a minimum level of general revenue reserve of £3 million in order to provide for a host of potential financial and operational risks, including the one mentioned.

1.5 Risk Assessment

- 1.5.1 The Council and its contractors must ensure that they follow published guidance and directions from government.
- 1.5.2 If TMLT are unable to continue as a going concern, the financial implications falling to the Council are significant and could put the Council's overall financial position under even greater pressure. In addition, the services to the public will be at risk at a time when health and wellbeing could not be more important.

1.6 Equality Impact Assessment

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.7 Policy Considerations

- 1.7.1 Procurement
- 1.7.2 Community
- 1.7.3 Business Continuity/Resilience

1.7.4 Healthy Lifestyles

1.8 Recommendations

1.8.1 Cabinet is requested to **RECOMMEND** to Full Council that a supplementary budget of £1m is established in 2020/21 in respect of the Council's Leisure Management Arrangements; and

1.8.2 the Council in liaison with the Leisure Trust lobbies Government for direct financial support.

Background papers:

Nil

contact:

Neil Lawley
Darren Lanes

Robert Styles

Director of Street Scene, Leisure and Technical Services

Neil Lawley

Chief Financial Services Officer

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

14 July 2020

Report of the Director of Central Services

Part 1- Public

Matters For Decision

1 APPOINTMENTS TO OUTSIDE BODIES

To consider appointments to the Tonbridge Town Lands and Richard Mylls Charity.

1.1 Introduction

1.1.1 A request has been received from the Clerk to the Town Wardens for the Council to reappoint for a further 4 year term of office:

- Councillor Dave Davis; and
- Dr Gordon Court

1.2 Legal Implications

1.2.1 None.

1.3 Financial and Value for Money Considerations

1.3.1 Not applicable.

1.4 Risk Assessment

1.4.1 Not applicable.

1.5 Equality Impact Assessment

1.6 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.7 Recommendations

- 1.7.1 RECOMMENDED that Councillor Dave Davis and Dr Gordon Court be reappointed for a further four year term of office to the Tonbridge Town Lands and Richard Mylls Charity.

Background papers:

contact: Democratic Services

Nil

Adrian Stanfield
Director of Central Services

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

14 July 2020

Report of the Chief Executive

Part 1- Public

For information

1 AMENDMENT TO SCHEME OF DELEGATION – PROTOCOL FOR MEETINGS HELD BY WAY OF VIDEO-CONFERENCEING FACILITIES

Executive Summary

This report confirms the amendment to the scheme of delegation agreed by the Leader on 7 May 2020 to enable the Council to hold virtual meetings.

The report is for information only.

1.1 Background

- 1.1.1 The implementation of virtual meetings as permitted by Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020 required certain temporary changes to be made to the Borough Council's Constitution.
- 1.1.2 On 07 May 2020 the Leader exercised his powers under paragraph 1.4 of the Executive Procedure Rules to amend the extent of delegation to the Monitoring Officer so as to allow temporary changes to be made to the Constitution to facilitate virtual meetings.
- 1.1.3 In accordance with the requirements of paragraph 1.4, the Leader gave written notice of such officer delegation amendments to the Chief Executive. In turn the Chief Executive is required to present a report to the next meeting of the Council setting out the changes made by the Leader.
- 1.1.4 The amendment to the Constitution as made by the Monitoring Officer i.e. the inclusion of a protocol for the use of video-conferencing facilities is set out at **Annex 1**. The proposed amendment was agreed by the Leader and Deputy Leader, and notified to all Members on 14 May 2020.
- 1.1.5 The protocol for the use of video-conferencing facilities shall apply only until
- (a) 7th May 2021;
 - (b) In the event that the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel

Meetings) (England and Wales) Regulations 2020 are amended to extend the period during which Council standing orders are suspended, such period as stated within those Regulations as amended; or

(c) Such earlier date as may be determined by the Leader.

1.2 Legal Implications

1.2.1 As set out above.

1.3 Financial and Value for Money Considerations

1.3.1 None arising from this report.

1.4 Risk Assessment

1.4.1 It was essential that the Council agreed a process for the implementation of virtual meetings. A failure to do so would have restricted the ability of the Council to conduct its decision making processes.

1.5 Policy Considerations

- Community
- Business Continuity/Resilience

Background papers:

contact: Adrian Stanfield

Local Authorities and Police and Crime Panels
(Coronavirus) (Flexibility of Local Authority and Police
and Crime Panels Meetings) (England and Wales)
Regulations 2020

**TONBRIDGE & MALLING BOROUGH COUNCIL
PROTOCOL FOR THE USE OF VIDEO-CONFERENCING
FACILITIES**

The following protocol shall be adopted in relation to the conduct of all meetings of the Council, Cabinet and all Committees and Boards. Participation via video conferencing will be permitted in accordance with the following provisions.

Application of Rules

These rules shall only apply until:

- (a) 7th May 2021;
- (b) In the event that the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 are amended to extend the period during which Council standing orders are suspended, such period as stated within those Regulations as amended; or
- (c) such earlier date as may be determined by the Leader

Prior to the Meeting

- 1) In order to facilitate access to the virtual meeting, the following arrangements will apply:-
 - a. Members will be able to access all virtual meetings via a link in the meeting appointment.
 - b. It will be assumed that Members will be in attendance at all meetings of Cabinet/ Committees/ Boards of which they are a member. Any Member who is unable to attend a meeting should give their apologies in the usual way.
 - c. Any Member who is not a member of Cabinet, a Committee or Board but who wishes to attend and/ or speak at any such meeting is requested to let the Democratic Services Team know by no later than 5pm on the working day prior to the meeting taking place. Relevant officers will also be invited to the meeting, to provide advice (including any legal advice which may be needed) and to ensure the meeting follows proper procedures.
- 2) Any other person who is in attendance at the meeting for the purposes of exercising a right to speak e.g. a member of the public speaking at an Area Planning Committee, must register with the Democratic Services Team as early as possible but, in any event, no later than **5.00pm on the closest working day prior to the day of the meeting**. For example, any person wishing to speak at a meeting scheduled to take place on a Wednesday must give notice no later than 5pm on the Tuesday before the meeting. Notice should be given by email to committee.services@tmbc.gov.uk. Anyone seeking to register to speak after this time will be refused
- 3) The Democratic Services Officer will notify the relevant Chairman, and will take steps to ensure that the link can be established, that support for this link and for the Member using it can be provided, and that all associated facilities, e.g. telephone, email, are available.
- 4) In the case of a number of requests being received for the establishment of multiple remote links for the same meeting, such requests will be considered in chronological order of receipt until the maximum number that the equipment can support has been reached, subject to priority being given to voting members of the relevant Committee/ Board.
- 5) Any person participating by video-conference link must test their link before the commencement of the meeting and should (insofar as practicable) join the meeting at least 20 minutes before the scheduled start time to ensure any connectivity issues can be addressed.

- 6) The video-conferencing equipment must be arranged in such a way that the Chairman can hear and, where practicable, see the remote Member(s) in attendance, as well as any members of the public in attendance exercising a right to speak.

At the meeting

- 7) Members and Officers should recognise that the virtual meeting is a public meeting and they will be visible and audible by the general public. All Members and officers should conduct themselves, and dress, accordingly. Mobile telephones should be switched off or on silent and not used during the meeting unless they are being used to access the meeting, or committee papers. Wherever possible, backgrounds should be free of distraction and care should be taken to ensure there are no sensitive or personal papers visible. A neutral or blurred virtual background should be used wherever possible.
- 8) A virtual “meeting chat” will be established (via the conversation function) between:
 - a. Members of the Cabinet, Board, Committee or other meeting (as appropriate) and the Chairman so that participating Members may indicate a wish to speak;
 - b. Key presenting officers, any council legal representative, and Democratic Services Officer present to ensure that officers are able to discuss questions raised by members so that an appropriate answer can be provided, and procedures are adhered to;
 - c. An appointed officer (either Democratic Services Officer or an appropriate presenting officer) and the meeting Chairman (or Mayor for Council). This is to ensure the Chairman/ Mayor is aware of any procedural issues requiring their attention or which may require the meeting to be adjourned or postponed or officer advice is needed to be sought.
- 9) No other “meeting chats” are to be used when the meeting is taking place, and those set out above are only to be used for the stated purpose. Members should proceed as if the content can be viewed by participants and the wider public. It should not be used to discuss the substantive issue – this should be done verbally.
- 10) The Chairman will confirm at the outset and at any reconvening of the meeting that he/she can hear and, where practicable, see all participating Members and any members of the public in attendance exercising a right to speak. Any Member participating by remote link must confirm their attendance at the outset and at any reconvening of the meeting. He/she must also confirm that they can hear and, where practicable, see the other participating Members and any members of the public in attendance exercising a right to speak. Members should ensure that their microphones are turned off unless they are speaking.
- 11) Any Member participating by remote link who declares an interest (either a Disclosable Pecuniary Interest or Other Significant Interest) in any item of business and is required to leave the meeting or determines to do so, shall leave the meeting for the duration of the item in question. Officers will make arrangements to be able to contact members to ensure they can be “invited back” to the meeting once the item in question has been concluded.
- 12) Should any aspect of the video-conference link fail, the Chairman may call a short adjournment of up to fifteen minutes to determine whether the link can quickly be re-established. If not re-established within this time, the Chairman may temporarily suspend discussion of the item under consideration at the time of link failure and continue with the remaining agenda items. Efforts should continue to re-establish the link. The Chairman will return to the suspended item on re-establishment, or on confirmation that this cannot be done, or before the end of the meeting, whichever is the earliest. For clarity, the item under consideration at the point of any re-establishment of a link will be concluded before returning to the suspended item.
- 13) If the Committee, Panel, Board or Council have to discuss confidential or exempt items under

“Part 2” the Chairman will make clear that the officers and Members will be moving into a confidential discussion. This will take place in a separate virtual meeting room to which there will be no access by the general public or press. Once the confidential item has been discussed, the Chairman/ Mayor will announce in the public meeting room that the Members are returning to the public discussion.

- 14) In the event of link failure, the remote Member(s) will be deemed to have left the meeting at the point of failure of the equipment and if the link cannot be re-established before the end of the meeting then the presumption will be that the meeting should continue to deal with the item. If the link is successfully re-established then the remote Member(s) will deem to have returned at the point of re-establishment. However, any Member who is absent for all or any part of the item in question will not be able to participate in the vote.

Voting

- 15) Voting will be by way of a roll call. The Chairman shall ask Members to record whether they are for, against, or abstaining by way of roll call. Councillors will need to vote for or against the motion using the phrases ‘For’ or ‘Against’ or if wishing to abstain do so by stating that they wish to ‘Abstain’. No response shall be taken as an abstention. For the avoidance of doubt a vote conducted by way of roll call shall not be treated as a recorded vote for the purposes of the Council and Committee Procedure Rules set out in Part 4 of the Constitution.
- 16) Where a roll call is not able to take place, voting will be through a poll overseen by the Democratic Services Officer through the conversation function, with the Democratic Services Officer announcing whether the motion/amendment was agreed or not agreed once this has concluded. No response shall be taken as an abstention

Area Planning Committees/Licensing & Appeals Panel

- 17) As the Council must be able to demonstrate that decisions of a regulatory nature are taken on the basis of the same information being available to all Members involved in the decision, any additional papers tabled at a meeting of an Area Planning Committee or a Licensing & Appeals Panel must be emailed to the remote venue and time allowed, by a short adjournment if necessary, for these to be delivered to and read by the remote Members.
- 18) Supplementary reports must, therefore, be circulated in final form no later than 24 hours before the start time of the relevant meeting. Any additional updates required after that time will be in the form of an oral address by the relevant officers at the meeting.
- 19) Similarly, to help ensure that a remote Member can clearly follow any officer presentation, separate copies of the presentation should be shown simultaneously at all remote venues, in addition to using the video-conferencing link.
 - a. Please note that Paragraphs 17 and 18 will also apply to any other person who is required to take part in a Hearing.
- 20) All written representations to Area Planning Committees must be made no later than 48 hours prior to the start time of the relevant meeting.
- 21) The Chairman will conduct the meeting in accordance with the Interim Rules for public speaking at planning committee as set out at Appendix (x), Part 4 of the Constitution.

Confidential/Exempt Items

- 22) If a remote Member wishes to participate in discussion of a confidential/exempt item, he/she must verify that the venue from which they are participating is secure, that no member of the

public has access and that no recording of the proceedings is being made.

Amendment of Protocol

- 23) The Monitoring Officer is authorised to make any amendments to this Protocol and/ or the Interim Rules for public speaking at planning committee in consultation with Chief Executive and Leader.

**TEMPORARY RULES FOR PUBLIC SPEAKING IN RESPECT OF
PLANNING APPLICATIONS DURING THE CORONAVIRUS OUTBREAK**

1.	Application of Rules
1.1	<p>These rules shall only apply until:</p> <p>(a) 7th May 2021;</p> <p>(b) In the event that the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 are amended to extend the period during which Council standing orders are suspended, such period as stated within those Regulations as amended; or</p> <p>(c) such earlier date as may be determined by the Leader</p> <p>These rules apply to the consideration of planning and allied applications that may be determined by the Borough Council where the application is to be determined by an Area Planning Committee (or by Council in accordance with Council and Committee Procedure Rule 15.23 or 15.24), but do not apply to applications where the Council is a consultee and not the determining authority.</p>
1.2	The right to speak does NOT apply to reports relating solely to enforcement matters or any other business of the Area Planning Committees than that in 1.1 above.
2.	Procedure before Committee
2.1	Where these rules apply, the Applicant's Acknowledgement Letter will indicate that, in the event that the matter is to be determined by a Committee, members of the public will be given an opportunity to speak at the Committee.
2.2	Once the Director of Planning, Housing & Environmental Health has determined that an application will be determined by a Committee, the applicant will be sent written notification stating the date, time and manner of accessing the Committee's meeting.
2.3	The Neighbours' Consultation Letter will state that, in the event that the matter is to be determined by a Committee, members of the public or a representative of the relevant Parish Council will be given an opportunity to speak if they have made a written representation.

2.4	Anyone who has made a written representation on an application, and the applicant/their agents, must notify the Council in advance that they wish to take advantage of the opportunity to speak at Committee. Anyone who wishes to do so must register with the Democratic Services Officer contact as early as possible but, in any event, no later than 5.00pm on the closest working day prior to the day of the meeting . For example, any person wishing to speak at a meeting scheduled to take place on a Wednesday must give notice no later than 5pm on the Tuesday before the meeting. Notice should be given by email to committee.services@tmbc.gov.uk . Anyone seeking to register to speak after this time will be refused.
2.5	A person wishing to address committee but who does not wish to appear “live” at the virtual meeting may either provide a video or audio recording of their statement (limited to 3 minutes) or provide the address in writing to be read out by the Chairman (or an Officer nominated by the Chairman) (up to 3 minutes per statement), no later than 5.00pm on the closest working day prior to the day of the meeting . In any event, anyone wishing to address the committee whether in person or otherwise is encouraged to provide a written copy of their statement.
2.6	<p>Where a recorded (or written) statement is being provided, the representor is encouraged to state their postal address at the beginning of their statement for the committee’s reference.</p> <p>Potential speakers are encouraged to indicate (for the purposes of the Data Protection Act 2018 and/or any other relevant data protection legislation) if they agree to their contact details being shared with other representors to enable them to get in contact with each other and to encourage them to select a single spokesperson.</p>
3.	Procedure at Committee
3.1	In the introduction to the meeting the Chairman will explain the composition of the virtual “top table”. The Chairman will also explain the need for speakers to only deal with planning matters and the need to guard against making defamatory statements.
3.2	The Chairman will indicate the order in which the Agenda is to be dealt with, this will ordinarily be as the Agenda, but is at the absolute discretion of the Chairman (on advice of officers where needed).
3.3	The Chairman will explain the speaking time limitations. Each speaker will be limited to 3 minutes for each application. Where there is more than one application for a site, for example an application for planning permission and listed building consent, the time allowed will be limited to 3 minutes for each application i.e. 6 minutes in total.

3.4	Where the Chairman has suggested at the Chairman's briefing that an initial officer presentation is required, that presentation will be the first step in consideration of the Committee item, and will occur before the speakers are invited to speak.
3.5	<p>The speakers shall be taken in the following order:</p> <p>The representative of the relevant Parish (where they have registered in advance to speak);</p> <p>Individual speakers will then be invited to come forward by the Chairman, by name;</p> <p>Where a written statement has been provided in lieu of attending, the Chairman shall read out the statement (up to 3 minutes per application, per statement) after all "live" speakers have addressed the committee;</p> <p>Any pre-recorded statements shall then be played;</p> <p>Finally, the applicant and/or their agent will then have an opportunity to address the committee where they have registered to do so in advance.</p> <p>Where any written statement or pre-recorded statement exceeds 3 minutes, only the first 3 minutes shall be read or played.</p>
3.6	Committee Members will not be able to question speakers directly but may seek clarification of matters of fact raised by the speaker through the Chairman.
3.7	At the conclusion of their presentation, the speaker's microphone will be muted by the meeting organiser.
3.8	At the conclusion of the public speaking, the Chairman will invite Members to debate the application. The members will indicate their wish to address the meeting through the virtual meeting platform and the Chairman will invite each member to speak in turn. All other microphones will be muted by the meeting organiser.
3.9	After Members have debated the item, Officers will answer questions, summarise the debate or clarify points, including any matters arising from the points raised by speakers, and to give any necessary professional advice before Members reach their decision.
3.10	If the case is deferred for a site inspection or for a further report speakers will be permitted to speak again at a subsequent meeting.

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