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TONBRIDGE & MALLING BOROUGH COUNCIL

EXECUTIVE SERVICES

Chief Executive

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Democratic Services
committee.services@tmbc.gov.uk

3 November 2020

To: **MEMBERS OF THE PLANNING AND TRANSPORTATION ADVISORY BOARD**
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Planning and Transportation Advisory Board to be held online via Microsoft Teams on Wednesday, 11th November, 2020 commencing at 7.30 pm. Information on how to observe the meeting will be published on the Council's website.

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

- | | | |
|----|--------------------------|-------|
| 1. | Apologies for absence | 5 - 6 |
| 2. | Declarations of interest | 7 - 8 |

Members in any doubt about such declarations are advised to contact Legal or Democratic Services in advance of the meeting

3.	Minutes	9 - 14
To confirm as a correct record the Notes of the meeting of the Planning and Transportation Advisory Board held on 28 July 2020		
4.	Minutes of Extraordinary meeting	15 - 18
To confirm as a correct record the Notes of the extraordinary meeting of the Planning and Transportation Advisory Board held on 29 September 2020		
<u>Matters for Recommendation to the Cabinet</u>		
5.	Section 106 Protocol and Monitoring	19 - 42
<p><i>This report seeks approval for the adoption of a Planning Obligations Protocol (and associated monitoring fee) which is intended to provide a clear and transparent framework in respect of how the Service will negotiate and secure planning obligations under section 106 of the Town and Country Planning Act 1990 in order to mitigate the impacts of development taking place across the Borough. Successful negotiation of planning obligations requires effective management and monitoring to ensure timely and appropriate use of collected obligations.</i></p>		
6.	Review of Planning Application Charging Regime	43 - 52
<p><i>This report provides a review of the pre-application charging regime and sets out the proposed new charges for 2021-2022. It is necessary to review the protocol every year in order to ensure the Council continues to provide a comprehensive, high quality service and that the evidence base remains up to date. The charging schedule is also considered annually and this year in ensuring that the charging schedule is fairly applied and costs recovery continues to take place proportionately, an increase in fees is proposed.</i></p>		
7.	Review of Planning Performance Agreement and Charging Schedule	53 - 60
<p><i>This report provides a review of the planning performance agreement protocol and sets out the proposed new charges for 2021-2022. It is necessary to review the protocol every year in order to ensure the Council continues to provide a comprehensive, high quality service and that the evidence base remains up to date. The charging schedule should also be considered annually.</i></p>		
8.	Review of Building Control Fees 2021/22	61 - 70

The purpose of this report is to propose the Building Control fee tables for 2021/22

9.	Development Management Update	71 - 76
	<i>This report seeks to provide an update on matters pertaining to the Development Management function over the course of the year.</i>	
10.	Kent Rail Strategy Consultation	77 - 102
	<i>The report provides details of the Kent Rail Strategy Consultation and sets out the Borough Council's proposed response.</i>	

Matters submitted for Information

11.	A229 Blue Bell Hill Junction Improvement Scheme - Consultation	103 - 130
	<i>This report provides an overview to junction improvements on the A229 Blue Bell Hill and sets out the Borough Council's response to the consultation.</i>	
12.	Urgent Items	131 - 132

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive

Matters for consideration in Private

13.	Exclusion of Press and Public	133 - 134
	<i>The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.</i>	

PART 2 - PRIVATE

14.	Urgent Items	135 - 136
	<i>Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.</i>	

MEMBERSHIP

Cllr R W Dalton (Chairman)
Cllr J L Botten (Vice-Chairman)

Cllr T Bishop
Cllr M D Boughton
Cllr V M C Branson
Cllr D J Cooper
Cllr D A S Davis
Cllr M O Davis
Cllr S A Hudson

Cllr D Keers
Cllr D W King
Cllr Mrs C B Langridge
Cllr H S Rogers
Cllr N G Stapleton
Cllr M Taylor
Cllr D Thornewell

Agenda Item 1

Apologies for absence

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Agenda Item 2

Declarations of interest

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Agenda Item 3

TONBRIDGE AND MALLING BOROUGH COUNCIL

PLANNING AND TRANSPORTATION ADVISORY BOARD

Tuesday, 28th July, 2020

Present: Cllr R W Dalton (Chairman), Cllr T Bishop, Cllr M D Boughton, Cllr V M C Branson, Cllr D J Cooper, Cllr D A S Davis, Cllr M O Davis, Cllr S A Hudson, Cllr D W King, Cllr Mrs C B Langridge, Cllr H S Rogers, Cllr N G Stapleton, Cllr M Taylor and Cllr D Thornewell.

Councillors Mrs T Dean, N J Heslop, M A J Hood, D Lettington, B J Luker, P J Montague, Mrs A S Oakley, W E Palmer, R V Roud, J L Sergison, T B Shaw and Mrs M Tatton were also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors J L Botten (Vice-Chairman) and D Keers.

PE 20/8 DECLARATIONS OF INTEREST

Councillor M Davis declared an Other Significant Interest in the agenda item relating to the Local Plan on the grounds of his status as a partner of Warner's Solicitors. In accordance with the dispensation granted at Minute GP 19/13 ([General Purposes Committee of 19 June 2019](#)) he remained in the meeting and addressed the Advisory Board but took no further part in the discussion.

PE 20/9 MINUTES

RESOLVED: That the notes of the meeting of the Planning and Transportation Advisory Board held on 3 March 2020 be approved as a correct record and signed by the Chairman.

MATTERS FOR RECOMMENDATION TO THE CABINET

PE 20/10 PLANNING ENFORCEMENT SECTION 215 PROTOCOL

(Decision Notice D200055MEM)

The report sought approval for the adoption of a Planning Enforcement Section 215 Protocol intended to provide a clear and transparent framework in respect of how the Service would decide whether to take action to serve formal notices, in particular how sites would be assessed to establish whether such action was appropriate and proportionate and whether any other powers held by the Council should be called upon as an alternative. It was noted that, given the high number of complaints the enforcement team received on such matters, the Protocol would

ensure that Council financial and personnel resources were properly focused.

Members welcomed the proposals for a Planning Enforcement Section 215 Protocol as a formal framework supported good governance and transparency in decision making. It also set out a clear process as to what detailed assessments would be undertaken to establish whether formal action was necessary and proportionate in light of all the prevailing circumstances of a case.

A number of issues were raised including the flexibility to enable objective decisions to be taken using the criteria set out; measures for land owners experiencing repeat fly tipping; addressing long term empty properties and overgrown sites or gardens. Members were assured that sufficient flexibility remained within the Protocol when read in conjunction with other main Planning Policies. In addition, it was reiterated that Planning Officers would liaise with Housing; Waste and Environmental Services to discuss suitable or alternative measures for addressing the other issues raised.

The request to amend paragraph 4.2 of the Protocol to emphasise liaison with Environmental Health on measures to address overgrown gardens and pest control, where appropriate, was noted.

Finally, it was reported that the Protocol would be regularly reviewed and could be amended if it became necessary to address any of the concerns raised by Members.

RECOMMENDED: That the Planning Enforcement Section 215 Protocol, as set out at Annex 1 to the report, be approved with effect from 1 September 2020.

MATTERS SUBMITTED FOR INFORMATION

PE 20/11 DEVELOPMENT MANAGEMENT - PROCESSES AND PROCEDURES

The report of the Director of Planning, Housing and Environmental Health provided an update on Development Management since the proposals were first presented to the Advisory Board in March 2020. The proposals would result in some savings to support the Borough Council's Medium Term Financial Strategy and create service efficiencies.

Particular reference was made to the concerns raised by parish councils and a number of consultations had been undertaken to understand the issues around the proposals. The initial outcomes of this engagement exercise were reported verbally to Members and included concerns around the functionality of Public Access and My Account; re-

consultation on applications amended online and the 21 day notification period for consultation responses. It was noted that some parishes had reiterated concerns about the lack of initial consultation on these proposals and the perceived changing relationship between the Borough and Parish Councils.

Planning Officers were working extensively with IT Services on testing the functionality of the Public Access and My Account platforms to better understand the issues raised by parish councils. It was hoped that the next round of consultation would involve training sessions and user guidance on these online systems.

Finally, the Director of Planning, Housing and Environmental Health emphasised that these proposals were intended to improve the application process for all parties and parish councils continued to have an important role in consultation.

PE 20/12 SECTION 106 PROTOCOL AND MONITORING REPORT

The report provided an overview of planning obligations for the period 2018-20 and updated on upcoming changes to how future monitoring of obligations would take place. Approval was also sought for the adoption of a Planning Obligations Protocol which was intended to provide a clear and transparent framework in respect of how planning obligations would be negotiated and secured under section 106 of the Town and Country Planning Act 1990, in order to mitigate the impacts of development taking place across the Borough. Successful negotiation of planning obligations required effective management and monitoring to ensure timely and appropriate use of collected obligations.

Careful consideration was given to Section 106 funding and Members were reminded that Local Planning Authorities were only able to secure contributions to mitigate impacts of a development and these were not able to address historic issues. There was also concern expressed about how s106 monies were allocated and which tier of authority exercised powers over contributions. The latter point was subject to a potential pilot scheme being considered by Kent County Council.

Members welcomed the intention to report back to this Advisory Board in November with the finalised Planning Obligations Protocol and associated monitoring fee charging schedule. A further update on progress on changes to the recording and monitoring of new agreements in accordance with Government requirements would also be provided.

PE 20/13 LOCAL PLAN UPDATE

Members were updated on the progress of preparing the Local Plan, including new provisional dates for the first phase of Examination

Hearings that were postponed due to the coronavirus restrictions in March.

It was reported that the rearranged phase one Examination Hearing sessions were provisionally scheduled for 6 – 8 October; 3 – 5 November and 10 – 11 November 2020, which differed from those set out in paragraph 1.1.10 of the report. Currently, the arrangements were that a final decision on the format of the hearings would be taken nearer the opening session taking into consideration the latest guidance on social distancing and the response of those confirming that they wished to participate, which would be the subject of a questionnaire from the Programme Officer later this month.

In the meantime progress had been made in preparing the Borough Council's statements for the first phase of the examination and responding to the 70 questions that would form the basis of the discussion at the hearing sessions. These were still being finalised and would be submitted by the new deadlines.

PE 20/14 PLANNING FOR THE FUTURE WHITE PAPER

The report of the Director of Planning, Housing and Environmental Health summarised the main topics set out in the recently published White Paper 'Planning for the Future' and highlighted those matters which potentially had significant implications for the operation of the Development Management function.

Particular reference was made to the creation of new permitted development rights for building upwards on existing buildings, extending residential blocks by up to two storeys and to delivering new and bigger homes. There was also the potential for a permitted development right to allow vacant commercial buildings, industrial buildings and residential blocks to be demolished and replaced with well-designed new residential units. Members expressed concern about the quality of accommodation that would be created under these new permitted development rights but acknowledged that there was a national housing crisis.

In addition, Members welcomed the support for first time buyers and 'more homes for local people'.

It was recognised that the White Paper was published against a very different national backdrop to that now being faced and inevitably there would be implications for the timescales in addressing the measures set out. However, it was also recognised that the planning system would be identified as a key priority in ensuring economic revival and the importance of home building and fast decision making would continue to be important.

PE 20/15 TRANSPORTATION UPDATE

The report reviewed the outcomes of the Tonbridge and Malling Borough Council Cycling Strategy; considered options for an updated strategy framework for cycling and walking and provided an update on the South Eastern rail franchise and Lower Thames Crossing.

Members noted the progress of the principles and proposals to improve cycle routes across the Borough (as set out in paragraph 1.2.1 of the report), expressed concern that regional route 12 (Tonbridge to Penshurst) could be downgraded and recognised that improvements were necessary to the cycling network in Tonbridge and Malling, subject to securing funding to provide quality infrastructure. The importance of well-maintained walking routes was also recognised.

Reference was made to the Lower Thames Crossing consultation and it was indicated that the Borough Council had raised concerns with Highways England regarding the impacts on the A228, A229, M2 and M20 (junctions 4 – 6).

MATTERS FOR CONSIDERATION IN PRIVATE

PE 20/16 EXCLUSION OF PRESS AND PUBLIC

There were no matters considered in private.

The meeting ended at 10.25 pm

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Agenda Item 4

TONBRIDGE AND MALLING BOROUGH COUNCIL

(EXTRAORDINARY) PLANNING AND TRANSPORTATION ADVISORY BOARD

Tuesday, 29th September, 2020

Present: Cllr R W Dalton (Chairman), Cllr J L Botten (Vice-Chairman),
Cllr T Bishop, Cllr M D Boughton, Cllr V M C Branson,
Cllr D J Cooper, Cllr D A S Davis, Cllr M O Davis, Cllr S A Hudson,
Cllr D Keers, Cllr D W King, Cllr Mrs C B Langridge, Cllr H S Rogers,
Cllr N G Stapleton, Cllr M Taylor and Cllr D ThorneWell

Councillors F A Hoskins, A Kennedy, Mrs J A Anderson, Mrs S Bell,
R P Betts, G C Bridge, C Brown, P M Hickmott, P J Montague,
Mrs A S Oakley, T B Shaw, Mrs M Tatton, Mrs P A Bates,
R I B Cannon, A E Clark, M A Coffin, Mrs T Dean, N J Heslop,
M A J Hood, A P J Keeley, K King, D Lettington, B J Luker,
W E Palmer, M R Rhodes, R V Roud, J L Sergison and K B Tanner
were also present pursuant to Council Procedure Rule No 15.21.

PE 20/17 DECLARATIONS OF INTEREST

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

MATTERS FOR RECOMMENDATION TO THE CABINET

PE 20/18 PLANNING FOR THE FUTURE AND OTHER PLANNING REFORMS

The report of the Director of Planning, Housing and Environmental Health summarised the Government's current proposals for reforming the planning system.

In addition, the Borough Council's proposed responses to the Governments consultations 'Changes to the Current Planning System' (set out in Annex 1) and 'Planning for the Future' (set out in Annex 2) were presented for consideration. The deadline for submission was 1 and 29 October respectively.

Careful consideration was given to the proposed changes to the current planning system (set out in paragraph 1.2 of the report). Members expressed significant concern about the revision to the standard methodology for assessing housing need and the potential requirement for Tonbridge and Malling to generate 1,440 units annually. It was noted that if this figure was confirmed as the new housing need allocation for the Borough it represented a doubling of the figure currently in the submitted Local Plan.

A number of other concerns were also raised including the fragility of the current infrastructure network to support any increase in local development; whether the proposed increased housing figures could realistically be delivered; the loss of decision making by residents and elected members; the lack of affordable housing for local people, particularly first time buyers, and the lack of suitable mix of accommodation types and the proposals around 'permission in principle.

It was also commented that the performance of the Borough Council in delivering new houses was well above average nationally and disappointment was expressed that Tonbridge and Malling appeared to have been penalised for performing so well in the past.

However, Members recognised the importance of retaining employment land in the Borough and providing suitable accommodation for all.

A technical response on the issues raised was provided by the Director of Planning, Housing and Environment Health, the Head of Planning Policy and the Development Control Manager.

Careful consideration was then given to the Planning for the Future White Paper and Members expressed significant concern regarding affordability in the South East; the proposal to identify land types and how conflicts regarding growth areas, renewal areas and protected areas would be resolved and the missed opportunities regarding climate change and providing accommodation for older persons.

With regard to establishing a standard method for housing requirements (Proposal 4) it was suggested that the response to question 8(a) be revised to include 'no' or 'not' sure'. This was noted by the Head of Planning Policy who would consider the response further before final submission.

The Cabinet Member for Strategic Planning and Infrastructure reminded Members that there would be further discussion on the Planning White Paper at Cabinet on 14 October and encouraged all to submit comments in advance of this meeting.

A technical response on the issues raised was provided by the Head of Planning Policy and the Development Control Manager. The Director of Planning, Housing and Environmental Health also offered to detail the points and concerns raised that could not be included in the Borough Councils consultation response in a covering letter to Government.

Finally, Members welcomed the joint letter sent by Kent Members of Parliament and the letter of the Leader of Kent County Council to the Secretary of State requesting a meeting to discuss the proposals further. In addition, the Leader of the Borough Council intended to write to the Secretary of State setting out the concerns raised by Members.

In conclusion, Members expressed significant concern on a number of the proposals and felt that the proposed response of the Borough Council (set out in Annexes 1 and 2) was well balanced, highlighted the main areas of concern and offered potential solutions.

RECOMMENDED: That

- (1) the content of the report be noted;
- (2) subject to the concerns raised by Members and summarised above, the proposed response to the consultation on 'Changes to the Current Planning System' (set out in Annex 1 of the report) form the basis of the Borough Council's formal response to the Government;
- (3) the Director of Planning, Housing and Environmental Health, in consultation with the Leader and Cabinet Member for Strategic Planning and Infrastructure, finalise and submit the Borough Council's response to the 'Changes to the Current Planning System' consultation by the deadline of 1 October 2020;
- (4) subject to the concerns raised by Members and summarised above, the proposed response to the Planning White Paper – Planning for the Future (set out in Annex 2 of the report) form the basis of the Borough Council's formal response to Government, pending the views of Cabinet on 14 October; and
- (5) the Director of Planning, Housing and Environmental Health, in consultation with the Leader and Cabinet Member for Strategic Planning and Infrastructure, finalise and submit the Borough Council's response to the Planning White Paper – Planning for the Future consultation by the deadline of 29 October 2020

***Referred to Cabinet**

MATTERS FOR CONSIDERATION IN PRIVATE

PE 20/19 EXCLUSION OF PRESS AND PUBLIC

There were no matters considered in private.

The meeting ended at 10.15 pm

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TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

11 November 2020

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 SECTION 106 PROTOCOL AND MONITORING

Summary: This report seeks approval for the adoption of a Planning Obligations Protocol (and associated monitoring fee) which is intended to provide a clear and transparent framework in respect of how the Service will negotiate and secure planning obligations under section 106 of the Town and Country Planning Act 1990 in order to mitigate the impacts of development taking place across the Borough. Successful negotiation of planning obligations requires effective management and monitoring to ensure timely and appropriate use of collected obligations.

1.1 Introduction

1.1.1 Section 106 related matters were last reported to this Board in July 2020. The focus of that report was to provide the following:

- Summary of the obligations secured, received and used for applications received 2018 – June 2020 along with a synopsis of some key obligations being sought through the Development Management process;
- Update for Members on the upcoming national requirements relating to the publication of monitoring statistics and how it is intended to action these requirements going forward; and
- Introduction of a new Protocol and consideration of the introduction of a monitoring fee (which had yet to be determined at the time of reporting).

1.1.2 At that time, officers undertook at that time to develop the protocol in detail and as a result of that further work, this report is intended to cover:

- Development of the Protocol and associated guidance with a particular emphasis on how the process should seek to engage with local communities;
- Benchmarking and analysis to establish fees to ensure monitoring can be appropriately and robustly resourced going forward.

1.1.3 In addition, Members can note that officers are continuing to prepare for the new monitoring and publishing requirements by continuing to liaise with IT to establish how our existing systems can best be utilised to record and report the necessary data. It is suggested that a further report to this Board early next year specifically address this following the December 2020 deadline in this respect.

1.2 Relevant statutory and policy framework:

1.2.1 Section 106 agreements, also known as planning obligations or developer contributions, are typically undertakings by developers or agreements between a local planning authority and a developer in the context of granting planning permission. Their function is to make acceptable development which would otherwise be unacceptable in planning terms and they typically involve commitment to provide something in-kind on site in a particular form (e.g. affordable housing, community facilities) or money for the authority to undertake necessary work. Section 106 monies, by their nature, are mostly for capital works as they are for the provision of infrastructure necessary to mitigate the impact of the development (e.g. junction modifications, school extensions).

1.2.2 Planning obligations effectively are used for three main purposes:

- Prescribe the nature of development (for example, requiring a given portion of housing is affordable);
- Compensate for loss or damage created by a development;
- Mitigate the impact of a development.

1.2.3 As part of the planning process, a developer may be required to enter into a legal agreement to provide infrastructure and services on or off the development site, acting as a delivery mechanism for the matters that are necessary to make the development acceptable in planning terms.

1.2.4 Examples of types of infrastructure or services that planning obligations can include are:

- Transport infrastructure or services, including new or improvements to existing footpaths, cycle ways, roads and bus services and their associated infrastructure, to link development to surrounding areas and ensure it is accessible by all modes of travel;
- Affordable and specialist housing (where there is a proven local need);
- Education facilities to meet any expected demand in school places arising from the development;
- Community facilities, including buildings and play or open space, where existing provision is inadequate to provide for the new development;

- Environmental improvements where necessary to mitigate the impact of a development or integrate it with surrounding areas;
- Restrictions and obligations on the use of land.

- 1.2.5 The Community Infrastructure Regulations 2010 (CIL) that came into force on 06 April 2010 set out the statutory tests on what can reasonably be sought under section 106 of the Act, replacing the circular 05/2005 guidance for all developments. Regulation 122 requires that a planning obligation cannot be taken into account in a decision on a planning application unless it is:
- (i) necessary to make the development acceptable in planning terms;
 - (ii) directly related to the development; and
 - (iii) fairly and reasonably related in scale and kind to the development.

1.3 The Protocol:

- 1.3.1 The Protocol is intended to provide best practice guidance on managing Section 106 Planning Obligations related to development taking place in the Borough. It is intended to amplify adopted local and national requirements whilst looking towards a collaborative approach to the provision of affordable housing, infrastructure projects and public services. It is essential that the means of securing such obligations takes place in a fair, open, transparent and reasonable in order to retain public confidence in the system and to provide greater clarity to all those involved.
- 1.3.2 The Protocol is intended to sit alongside the pre-application advice service the Council currently provides and the use of Planning Performance Agreements, (both of which are subject to separate reports provided elsewhere on this agenda).
- 1.3.3 It also recognises that it is important that the negotiation of planning obligations does not unnecessarily delay the planning process, thereby holding up development delivery. It is therefore essential that all parties proceed as quickly as possible towards the resolution of meaningful and enforceable obligations in parallel to planning applications (including through pre-application discussions where appropriate) and in a spirit of early engagement and co-operation, with deadlines and working practices agreed in advance as far as possible (via formal planning performance agreements wherever possible to do so) in order to shape better quality schemes and improve the outcomes of a proposed development. It is considered that a protocol will embed within it the roles and responsibilities of each party in order to achieve this in practical terms.
- 1.3.4 The Protocol itself along with a series of associated annexes is set out in at **Annex 1** to this report. Since July, officers have focused in particular on ensuring that Town and Parish Councils along with other local community groups can

robustly and effectively identify projects within their communities to which contributions may be directed via the collation of evidence bases to ultimately assist in making representations on individual planning applications. A directing aim of this guidance is to ensure such groups understand the statutory and policy context within which such contributions should be sought along with the importance of providing clear evidence.

- 1.3.5 The intention being that in parallel to this guidance being published, officers facilitate focused workshops with these groups to discuss the guidance and provide practical and informative advice where needed.
- 1.3.6 Officers have also undertaken further analysis of monitoring fees benchmarking, with a particular focus on the ways in which immediately neighbouring authorities already structure their fees. In general terms, authorities either tend to adopt a “fixed fee” approach on a per obligation basis whereas some do distinguish between on and off site obligations, with the latter tending to equate to a percentage of the total value of a financial contribution.
- 1.3.7 As Members are aware, authorities can charge a monitoring fee through section 106 planning obligations, to cover the cost of monitoring and reporting on delivery of that section 106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation. Monitoring fees should not be sought retrospectively for historic agreements. The PPG advises that fees could be a fixed percentage of the total value of the section 106 agreement or individual obligation; or could be a fixed monetary amount per agreement obligation (for example, for in-kind contributions). However, in all cases, monitoring fees must be proportionate and reasonable and reflect the actual cost of monitoring. Authorities could consider setting a cap to ensure that any fees are not excessive. Authorities must report on monitoring fees in their infrastructure funding statements.
- 1.3.8 Currently, monitoring is undertaken by a combination of officers, rather than having a dedicated resource although (linked to the national requirements coming into effect by the end of this calendar year) it is anticipated that such a resource should be identified and secured. Monitoring fees would understandably assist in facilitating such a resource. Until that comes forward and detailed time and motion work can be undertaken and further analysed, it is suggested that a flat fee of £300 per obligation be required. This follows the Sevenoaks District Council approach and is a more straightforward means of prescribing a fee at this time than some others. Furthermore, the relative values between the two authorities are readily comparable. I can advise that on this basis for the agreements pertaining to 2019 applications (determined and pending determination for the course of that year), such a fee would equate to a total of £16,800. Whilst this is a somewhat arbitrary calculation it is intended to provide Members with a general understanding of the potential fees that could be generated in order to ensure ongoing robust monitoring can take place.

1.4 Potential implications of Planning Reforms:

- 1.4.1 Members will already be aware that the Planning for the Future White Paper includes the proposal to replace the Community Infrastructure Levy (“CIL”) and section 106 obligations with a new Infrastructure Levy. Views are currently being sought on whether levels should be set nationally or locally; whether the rates should be higher or stay the same; and whether it should be extended to changes of use through permitted development. The Council’s own response to the consultation has already been discussed by this Board and I do not intend to repeat those discussions here. However, this does set an important context for this piece of work as any adopted protocol, and in particular the guidance we offer to local community groups, should be framed in such a manner that it stands the test of time in the event that reforms do come forward. There will inevitably be a need to adapt the work when any such changes are made nationally to ensure it remains fit for purpose but with an underlying understanding of what those changes might involve particularly so that any work to compile localised evidence bases at this time remain robust and useful in the future.

1.5 Infrastructure Funding Statements:

- 1.5.1 Members may also be aware that there is a new requirement for Local Planning Authorities to publish an annual Infrastructure Funding Statement in a manner carefully prescribed nationally. Officers are currently working on producing this document which must be published by 31 December 2020. Briefly, these statements are required to identify infrastructure needs, the total cost of this infrastructure, anticipated funding from developer contributions, and the choices the authority has made about how these contributions will be used.
- 1.5.2 Given the timescales involved, it has not been possible to provide a draft of this document with this report and as such it is recommended that authority to publish the final statement be delegated to the Director of Planning, Housing and Environmental Health in consultation with the Cabinet Member for Strategic Planning and Infrastructure. This is included within the recommendation that follows.

1.6 Legal Implications

- 1.6.1 The Local Government Act 2003 provides the power for local authorities to charge for discretionary services (as defined in the Local Government Act 1999). Discretionary services are those services that an authority has the power but not a duty to provide. An authority may charge where the person who receives the service has agreed to its provision. The power to charge under this provision does not apply where the power to provide the service in question already benefits from a charging power or is subject to an express prohibition from charging.
- 1.6.2 The Local Government Act 2003 places a duty on authorities to ensure that, taken one year with another, the income from charges for each kind of discretionary service does not exceed the costs of provision. An authority may set charges as it

thinks fit, and may, in particular, charge only certain people for a service or charge different people different amounts.

- 1.6.3 Local authorities are required to have regard for any guidance that may be issued by the Secretary of State in terms of carrying out their functions under the 2003 Act. Section 93(7) of the Act provides that certain prohibitions in other legislation preventing authorities from raising money are specifically dis-applied in relation to the exercise of the charging power.
- 1.6.4 Local Planning Authorities therefore have powers to recover the costs of monitoring work in recognition of the time officers have to spend ensuring compliance with obligations.

1.7 Financial and Value for Money Considerations

- 1.7.1 It is appropriate to review the protocol and charging schedule every year, to ensure the evidence base is up to date and that the monitoring is fairly applied.

1.8 Risk Assessment

- 1.8.1 Robust monitoring should be carried out every year to ensure the protocol and charging schedule in place is based on up to date evidence.

1.9 Equality Impact Assessment

- 1.9.1 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.

1.10 Recommendations

- 1.10.1 It is **RECOMMENDED TO CABINET** to **APPROVE** the following:

- Adopt the Planning Obligations Protocol and associated monitoring fee as attached at **Annex 1**.

- 1.10.2 It be **AGREED** that production and publication of the Infrastructure Funding Statement by the deadline of 31 December 2020 be delegated to the Director of Planning, Housing and Environmental Health in consultation with the Cabinet Member for Strategic Planning and Infrastructure.

Background papers:

contact: Emma Keefe

Annex 1: Section 106 Protocol (with associated Annexes)

Eleanor Hoyle
Director of Planning, Housing and Environmental Health

Tonbridge and Malling Borough Council
Planning Obligations Protocol



Contents:

- 1 Introduction and Context
- 2 Practice
- 3 Role of developers and applicants
- 4 Role of the County Council
- 5 Involvement of Councillors, Town and Parish Councils and local community groups
- 6 Unilateral Undertakings
- 7 Execution of the Agreement
- 8 Legal Costs
- 9 Implementation and Monitoring

Annexes:

1. Guidance to promote local engagement
2. Collecting quantitative and qualitative evidence of need for provision and enhancement of community owned public open space

1. Introduction and Context:

- 1.1 This document is intended to provide best practice guidance on managing Section 106 Planning Obligations related to development taking place in the Borough of Tonbridge and Malling. It is intended to amplify adopted local and national requirements whilst looking towards a collaborative approach to the provision of affordable housing, infrastructure projects and public services across the Borough. The Council believes it is essential that the means of securing such obligations takes place in a fair, open, transparent and reasonable manner in order to retain public confidence in the system and to provide greater clarity to all those involved.
- 1.2 The Council does not operate a Community Infrastructure Level (CIL) charging schedule. It was decided at the meeting of the Community Infrastructure Levy Panel on 19 December 2011 to not move forward with production of such a schedule, although this position is continually kept under review. In determining planning applications for new development, the Council therefore relies on the provisions of the Town and Country Planning Act 1990 to ensure that appropriate and successful mitigation of development takes place in all instances.
- 1.3 Under Section 106 of the Act any person interested in land in the area of a Local Planning Authority may, by agreement or unilaterally, enter into a planning obligation –
 - (a) restricting the development or use of land in any specified way;
 - (b) requiring specified operations or activities to be carried out on the land;
 - (c) requiring the land to be used in any specific way;
 - (d) requiring a sum or sums to be paid to the authority on a specified date for an agreed purpose.
- 1.4 Such agreements are effectively a mechanism designed to ensure a development proposal is acceptable in planning terms where it would not otherwise be acceptable. The statutory tests for such agreements are that the obligations must be:
 - necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 1.5 This is further supported in policy through the National Planning Policy Framework 2019 (NPPF) at paragraph 55.

- 1.6 Common examples of what may be sought as planning obligations in order to make development acceptable in this Borough are as follows:
- Affordable housing;
 - Provision of public open space and public realm enhancements;
 - Highways, transport and travel schemes including cycle and public transport improvements, highway infrastructure works, pedestrian links and facilities;
 - Educational facilities;
 - Libraries;
 - Healthcare facilities;
 - Provision of community facilities;
 - Local environmental improvements including enhancement of designated nature conservation areas;
 - Flood defence;
 - Securing an acceptable mix of uses on development sites;
 - Securing affordable business space;
 - Archaeology and conservation schemes;
 - Pollution mitigation;
 - Fire and rescue facilities;
 - Crime and disorder prevention activities;
 - Town centre improvements; and
 - Employment and training.

- 1.7 However, the above list is not exhaustive and the precise details of what will be sought by way of a planning obligation will be dependent on the scale and nature of the application and will be governed by relevant development plan policies in force in the area and any other material considerations. As such, prospective developers and applicants are advised to read this Protocol in conjunction with all relevant adopted development plan policies and are encouraged to enter into early pre-application discussions with the Council (as set out in more detail at Section 2).

1.8 In addition, the Infrastructure Delivery Plan (the “IDP”) identifies critical infrastructure and for strategic allocations the IDP identifies what, where, when and how critical new infrastructure will be provided. For strategic locations the IDP identifies likely infrastructure requirements and the measures needed to ensure their future delivery. As the process for bringing forward the sites progresses, this information will be updated and may identify other more minor infrastructure that is required.

2. Practice

- 2.1 It is important that the negotiation of planning obligations does not unnecessarily delay the planning process, thereby holding up development delivery. It is therefore essential that all parties proceed as quickly as possible towards the resolution of meaningful and enforceable obligations in parallel to planning applications (including through pre-application discussions wherever appropriate) and in a spirit of early engagement and co-operation, with deadlines and working practices agreed in advance as far as possible (via formal planning performance agreements wherever possible to do so) in order to shape better quality schemes and improve the outcomes of a proposed development.
- 2.2 The Council will advise developers and applicants at the earliest opportunity if a planning obligation is required in connection with their development proposal as well as the reasons for this. Ideally this will form part of the pre-application discussions and further advice on this is provided in the pre-application protocol which is available on the Council’s website. In addition, applicants will be informed as soon as possible if it is likely that there is a potential reason for refusal which could be overcome through a planning obligation arising from engagement and consultation with the relevant infrastructure delivery bodies (both internal to the Council and external providers such as the County Council).
- 2.3 The need for and calculation of financial contributions will be applied consistently by the Council but may, occasionally, be subject to negotiation with the Development Management case officer dealing with the application in consultation with relevant colleagues both within and outside the Council. Where any departure from adopted policy is being proposed this will be made explicit and fully justified and in full accordance with the planning practice guidance.
- 2.4 The Development Management case officer in their report (whether delegated or committee) will include a section referring to the section 106 agreement detailing why it is necessary to make the development acceptable in planning terms, stating how the requirements are directly related to the development being proposed and demonstrating how they are fairly and reasonably related in scale and kind. This section of the officer report can then be referred to in any future enquiries or planning appeals.

- 2.5 Applications will not be reported to the relevant Planning Committee until such time as the legal agreement has either
- a) been signed by all necessary parties; or
 - b) detailed drafting of the legal agreement has been agreed and execution of the agreement is imminent.
- 2.6 In terms of the latter, when a Planning Committee determines an application for planning permission subject to the completion of the legal agreement, the permission will not be issued until the legal agreement has been completed and signed. Officer reports will, in all cases, make recommendations as to the length of time reasonable to ensure the agreement is completed and signed with recourse to either allow for further time to be built into the process if negotiations are continuing proactively, or to allow for delegated authority to refuse planning permission if it becomes clear that the obligations are not going to be met and there is a clear and justified reason for doing so.

3. Role of developers and applicants

- 3.1 Detailed Heads of Terms or fully drafted agreements should be submitted with all planning applications where policy triggers are met in accordance with adopted development plan policy or where pre-application advice has indicated that obligations will be required from external providers (including the County Council). Failure to provide either of these at the submission stage will result in the planning application being made invalid and possibly returned to the applicant. This is in accordance with the Council's published Local Validation Requirements.
- 3.2 Once a valid application has been received, in all instances, the Development Management case officer will be responsible for leading on and coordinating all negotiations pertaining to planning obligations. At this point, applicants and agents should not directly contact individual service providers but rather allow the case officer to collate, consider and coordinate any requests for obligations to ensure an effective and consistent approach. This is consistent with the ways of working of the Development Management Team and internal and external stakeholders are aware of this requirement.
- 3.3 In the event that the development is considered unviable by the applicant because of the level of contributions being requested then the Council will always seek detailed evidence from the applicant in accordance with the national Planning Practice Guidance (the "PPG"). Again, this should be provided at the submission stage because the applicant would have understood all policy requirements as part of effective pre-application discussions. In the event that no such evidence is provided and the application is not subject to a Planning Performance Agreement (PPA), the applicant will be given one

opportunity to withdraw the application within a prescribed time period after which the Council will refuse planning permission.

- 3.4 In circumstances where viability evidence is put forward, the applicant must provide a full financial appraisal of the scheme (which accords with the requirements set out in the Planning Practice Guidance) and allow the appraisal to be verified, at their expense, by an independent agent chosen by the Council. In these instances, such a process should wherever possible be enshrined within an agreed PPA.

4. Role of the County Council

- 4.1 Kent County Council is a key service and infrastructure provider within Tonbridge and Malling Borough. As such, it is important to recognise the need for a collaborative working approach between the County and Borough Council in securing necessary planning obligations. As part of this, Tonbridge and Malling Borough Council undertakes to:

- Highlight to developers at the pre-application stage the need to engage with the County Council to establish what requirements they might have in order to incorporate into the finalised proposal and application submission (and for this to be enshrined within the planning performance agreement where applicable and possible to do so);
- Consult the County Council on all applications for major development across the Borough and invite views on likely infrastructure and services required;
- Request that the County Council at all times clearly sets out the basis on which infrastructure or other contributions are required and provides this information by a specified deadline;
- Fully consider any representations from Town Councils, Parish Councils and other community groups seeking contributions where they are in accordance with the adopted development plan and have been fully evidenced.
- Ensure effective and full liaison between instructed solicitors in order to finalise and execute any agreement.

- 4.2 Tonbridge and Malling Borough Council are the local planning authority that will have the ultimate responsibility for the determination of planning applications across the Borough. To assist the Council's assessment of any proposals and the need for planning obligations, the County Council will be expected to clearly stipulate the type of infrastructure contributions required to make the development acceptable in planning terms having regard to adopted policy and

established evidence base and reasoned justification for the contributions sought.

- 4.3 The Borough Council's Development Management case officer will be responsible for leading and coordinating all negotiations regarding planning obligations. Where developer approaches are made at a pre-application stage direct to the County Council, the Borough Council should be copied in to any advice given. Once an application has been formally submitted, any such approaches should be directed back to the relevant case officer with any appropriate advice or guidance to assist negotiations.

5. Involvement of Borough Councillors, Town and Parish Councils and local community groups

- 5.1 Developers promoting larger and strategic schemes are often keen to meet with local Councillors to discuss local needs and the issue of wider community benefits that may come forward as planning obligations. There is an opportunity for Councillors to do this without pre-determining the outcome of the application process through structured and organised Member briefings. Presentations by prospective developers are also possible but officers should also be in attendance at these.
- 5.2 The need for such Member briefings is a matter best addressed through developers and applicants entering into a formal PPA where parameters and timeframes can be agreed between the parties. However, in all instances Council officers would take the lead in providing such briefings, utilising where necessary material provided by the developer.
- 5.3 Similarly, it is recognised that Town and Parish Councils and other local community groups can positively engage in this process in order to identify projects within their communities that may be funded through contributions. Such contributions may only be spent on new facilities or improvements to facilities where the new development has been identified as contributing to the need for that facility or will have an impact on the existing facilities. It should however be remembered that costs related to revenue expenditure or costs which primarily relate to the maintenance of existing facilities such as minor repairs, replacement or redecoration will be will not meet the necessary tests.
- 5.4 The Council would expect such groups to clearly identify and robustly evidence any such projects at the time they make their representations on a planning application to enable the Council to make an assessment of the project and take it forward as part of the negotiations with the developer. Submitting this evidence in this manner will in no way prejudice any objections raised within the wider representations made. Where such projects are taken forward, the terms of the obligations will be shared with the group in question so they understand the relative requirements prior to the agreement being finalised. Similarly, if it is

not considered that the project can be taken forward, an explanation as to the reasons will be provided within the officer's report.

- 5.5 Further guidance on how to compile such evidence can be found at Annexes 1 and 2 of the Protocol.
- 5.6 It should be remembered that Town and Parish Councils must prepare a report for any financial year in which it receives levy receipts. The information that parish councils should report on is prescribed in Regulation 121B of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019. The report must be published online. A copy of the report should be sent to the charging authority from which it received levy receipts (the Borough or County Council), no later than 31 December following the reported financial year, unless the report is, or is to be, published on the charging authority's website.

6. Unilateral Undertakings

- 6.1 The submission of unilateral undertakings on behalf of applicants may be acceptable. If this approach is being considered on behalf of the applicant then it is important that it is discussed at the pre-application stage with the relevant Development Management case officer before any work is done on the proposed undertaking. A unilateral undertaking must comply with the same statutory and policy requirements as a bilateral agreement. Where a unilateral undertaking is submitted and it meets the relevant tests then it will be taken into account as a material consideration when determining the application. However, if the obligation does not meet those tests and the proposed development is unacceptable without it, then the planning application will be recommended for refusal. If an alteration to the undertaking would overcome the reason for refusal then the Council will advise the developer prior to determining the application.

7. Preparation and Execution of the Agreement

- 7.1 If the Council has resolved to grant planning permission subject to the execution of a planning obligation, the planning permission will only be issued once the agreement has been executed by all parties and dated by the Council. The Council will ask for evidence that the owner has capacity to enter into the agreement and that any persons signing the agreement on behalf of the owner are authorised to do so. Ideally, this should be provided at the submission stage along with the Heads of Terms/draft agreement.
- 7.2 Applicants requiring a s.106 agreement or undertaking are expected to instruct a specialist solicitor to assist them with the preparation and completion of these documents. These are important and contractually binding documents which are often legally complex. The Council does not produce or expect a "standard

format” of agreement to be followed, as this cannot account for every eventuality which a planning obligation may need to address.

- 7.3 All obligations and conditions contained within the agreement will become legally binding once the agreement has been signed. The obligations and conditions contained within the agreement cannot subsequently be changed unless the consent of the owner is obtained together with further approval by Planning Committee or the Director of Planning, Housing and Environmental Housing as is appropriate or necessary. If any such variation is subsequently sought, the developer will be expected to provide a full, reasoned and evidenced justification for such a variation.
- 7.4 Once completed, legal agreements form part of the planning permission and are a public document. As such, anyone may see a copy of it by viewing the documents on Public Access.

8. Legal costs

- 8.1 The Council will require the developer to pay the Council’s legal fees of preparing the planning obligation or checking any draft agreement or unilateral undertaking. These costs vary according to the type of agreement or unilateral undertaking and the scale or complexity of the associated development. The Council’s Legal Department will be able to advise on the cost of dealing with the agreement once they have received instructions from the Planning Department.
- 8.2 The majority of the Council’s section 106 agreements are outsourced to the Council’s appointed external advisers save in a minority of cases where they are legally unable to act for the Council, in which case the matter will be dealt with by the Council’s internal legal team.

9. Implementation and Monitoring

- 9.1 Once planning obligations have been agreed it is important that they are implemented, monitored and, where necessary, enforced in an efficient and transparent way. This is to ensure that contributions are spent on their intended purpose and that the associated development contributes to the sustainability of the area. This will require monitoring which, in turn, may involve joint-working by different parts of the Council.
- 9.2 Following the finalisation of a planning obligation there are a range of different activities that need to be undertaken by a variety of different parties, to different timetables, sometimes extending over a number of years. Some of these tasks include:
 - ensuring the delivery of on-site obligations by the developer to the required standard and timetable;

- ensuring that the necessary infrastructure that the Council or another public body has agreed to provide (wholly or in part, funded by contributions) is delivered;
- ensuring receipt of financial contributions at appropriate times;
- monitoring adherence to restrictions on all parties, including the Council, imposed through planning obligations;
- managing applications for the modification or discharge of agreements; and
- any necessary enforcement action.

- 9.3 If the Council's monitoring work indicates that contributions from developers have not been spent for their specified purpose within an agreed timeframe, which will be set out in the obligation and depend on the level of the contribution and its proposed end use, they will be returned to the developer. The time periods during which financial contributions are to be spent will run from the date the contribution is received by the Council once the trigger point is reached as opposed to the date of the agreement or obligation.
- 9.4 If the contribution cannot be spent for the originally specified purpose within the timescale set out in the agreement the Council will first seek to negotiate with the developer, or their successor in title, an alternative purpose for the financial contribution.
- 9.5 In order that the monitoring and enforcement of planning obligations is carried out efficiently and effectively for the benefit of communities affected by development, the Council will levy a monitoring fee on each planning obligation (rate of £300 for each obligation contained within the agreement). This monitoring fee will be enshrined within the planning obligation and must be paid by the developer or other parties as may be specified in the obligation on signing the section106 agreement. The fee will be applied to all obligations whether these are by agreement or submitted as unilateral undertakings. Similarly, the monitoring fee applies to all obligations including those payable to the County Council (and notwithstanding any fees they may levy in addition) because the Borough Council as determining local planning authority is under a duty to monitor compliance with those obligations as a matter of course too.

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Annex 1: Guidance to promote local engagement

What are Section 106 Agreements?

Section 106 agreements are mechanisms for making sure that the necessary financial or other contributions are secured to mitigate the impact of a development on the local area. (Section 106 refers to the relevant section of the Town and Country Planning Act 1990).

This is the method that is currently used by the Council. There are other methods used by other Councils and you may have heard of the Community Infrastructure Levy (CIL) which relies on fixed levels of contribution. However, the planning system is currently in a state of flux so the methods of seeking developer contributions may change over time. Regardless there will always be a role for the local community to feed into the process and the purpose of this guidance is to make this possible in the most effective way.

Section 106 agreements are negotiated between the Council and the developer, and sometimes include the County if for example highway or education matters are involved. The Government's National Policy Planning Framework (NPPF) currently sets out how such agreements should be delivered. The agreements need to meet three tests.

- the project is necessary to make the development acceptable in planning terms
- it is directly related to the development; and
- it is fairly and reasonably related in scale and kind to the development

The Council negotiates Section 106 Agreements directly with the developer. Contributions relating to affordable housing provision, health care, education, libraries and other County run services, including highway matters, are negotiated directly with the providers. Council owned open amenity and play space is subject to specific adopted policy to calculate the necessary contributions. However it is also important that Town and Parish Councils, and other community groups, also feed into this process.

How can my community become involved?

It is possible to contribute to this process by making specific comments and recommendations on every relevant planning application. However this has a number of disadvantages.

- S106 agreements often relate to large scale housing developments. Such applications are likely to be complex and sometimes controversial. There is limited time for consultation which may not allow for proper consideration of community need which could benefit from S106 contributions.
- There is a perception that comments on large scale planning applications which relate to potential community benefits are a 'developer's bribe', and that

by seeking S106 contributions the Parish or Town Council is supporting the development. This perception is unhelpful. This is the opportunity for the community to benefit as a whole if the planning application is found to meet national and local planning policy and subsequently approved.

- In order for the Council to seek S106 contributions on behalf of Parish and Town Councils, and other community groups, the need must be evidenced. This is absolutely vital. The Council cannot seek S106 contributions for the local community unless the need is proven. The time constraints are such that community based groups would struggle to meet this requirement given the limited consultation time for individual planning applications.

The advantages of a creating a plan

The solution to these disadvantages is the production of a document or plan. The Parish or Town Council, or potentially a community group, can draw together a document or plan which lists the needs of their community.

- A plan can be prepared in advance of the submission of any large scale planning applications. This will allow for a fully considered response to any potential new development.
- A plan will set out the needs of the community as a whole and having been prepared in advance of any submissions will avoid accusations of 'developer bribes'.
- The plan will be suitably evidenced and have the support of the local community. This will mean that the Council can use the plan as robust evidence of need in its negotiations with developers over S106 agreements.

The plan can take many different forms and can be at any scale – whatever is most appropriate for your community. There have already been a range of initiatives that some communities may have undertaken which could form the basis for such a document. There are also a number of initiatives being undertaken by communities in other districts. One such initiative is the Parish Infrastructure Spend Plan.

A Parish Infrastructure Spend Plan is a plan produced by Parish and Town Councils which identifies and prioritises the necessary infrastructure works in a specified area. This specific type of plan is aimed at those Parish and Town Councils whose Borough Councils have adopted CIL. However similar principles can apply.

Hints on how to draft a plan

Identify those assets that are already in the ownership or control of the Parish or Town Council, or other community group

This will help to focus the plan. The temptation will be to create a 'wish list'. Whilst this may be a useful exercise for the community and one that may be worth pursuing as a starting point for your plan, the plan must be based on need relating to potential

development and not merely aspiration. It is important not to artificially raise the expectations of the community as not all projects will meet the criteria of S106 requirements.

This may be best illustrated in the following examples:

- S106 contributions can be sought for a sports club that is already operating at full capacity and the relevant development will further increase demand. S106 contributions cannot be sought if the sports club has spare capacity even allowing for the increased demand due to the relevant development.
- S106 contributions can be sought to improve an existing play area which is located near to the relevant development as the play area will be used by the residents of the relevant development. S106 contributions cannot be sought if the existing play area is some distance from the relevant development and therefore the new residents would be unlikely to use it.
- S106 contributions can be sought to mitigate the impact of any new traffic generation if the existing traffic congestion exists to ensure the situation is no worse. S106 contributions cannot be used to mitigate existing traffic congestion if this is not increased by the new development.

Review any existing initiatives that may have already been undertaken in your area

Your Parish, Town Council or other community group may have already undertaken survey work which could contribute to your plan. A village design statement, community action plan or neighbourhood plan for example. Whilst this information may be dated it may still provide a useful starting point for your plan.

Identify wider projects that could be eligible for S106 funding

You may wish to do this as a community wide exercise. It is appreciated that Parish and Town Councillors are likely to be aware of the needs of their community and this may provide a good starting point. However remember for the plan to be robust it must represent the views of the local community. It may be useful to contact the existing community groups in your area which is likely to give a broader approach, but always remember the three golden rules of S106 contributions – is the project necessary to make the development acceptable in planning terms, is the project directly related to the development, and is the project fairly and reasonably related in scale and kind to the development. Also remember that the projects must be capital projects and cannot be used as general subsidies for staff payments or running costs regardless of the excellent work that may be being done by any particular group or organisation.

Prioritise the identified projects

You may find it useful to rank the identified projects. This may be in terms of short, medium or long term need. This may be in terms of scale or proximity to any

potential site within your area. It will also be useful to estimate the likely costs of any project. This does not need to be an exercise to be undertaken by experts but there is guidance available which can estimate costs. For example, Sport England provides costing examples on its website.

The plan must have the support of your community

In order for the plan to be effective it must reflect the views of your community. This is a simple phrase with huge implications, but it is essential in the production of any plan. However each Parish or Town Council, or other community group, is likely to already have mechanisms in place to seek the views of residents, and you might wish to organise a series of public consultations or have a presence at existing community functions. It will also be necessary to ensure that the formation of the plan is open and transparent. This will ensure credibility and reassure your community that the manner in which the plan has been drawn up has been fully inclusive. It might be useful to include summary details of this process within the plan, as an introduction or annex possibly.

The plan must be flexible and regularly updated

The plan needs to be a flexible document to reflect the changes in need in your community. You may wish to view the document as working document which can be easily updated in order to respond quickly to change.

What should a plan include?

- The area it covers and the location of any identified projects
- A list of projects and summary details
- A justification for each project including evidence of public support
- The indicative cost of each project
- The envisaged timescale for the delivery of each project

There are examples of similar documents that have been prepared by other Parish and Town Councils and these can be accessed through a general internet search. You may find viewing other examples helpful but be minded that every community is different and some may relate to CIL rather than S106 contributions.

Annex 2: Collecting quantitative and qualitative evidence of need for provision and enhancement of community owned public open space

[to be read in conjunction with the guidance provided at Annex 1]

It is firstly important to remember that the Borough Council as Local Planning Authority is statutorily required to determine planning applications in accordance with the adopted development plan unless material considerations indicate otherwise. It is within this context, and more specifically the requirements set out in the Protocol itself, which any contributions towards the provision or enhancement of community owned public open space should be sought.

The evidence base for seeking such contributions is key and whilst the Borough Council maintains records in connection with its own sites, in order for us to accurately consider other sites that Parishes own, it would be advantageous to compile a list of open spaces you have along with the proposed improvements. Please note that this list does not mean that funding is available or that a site will be chosen. This will be decided on a case by case basis and include other open spaces that are not owned by parishes/community groups. The exact funding could vary between developments from hundreds of pounds to potentially hundreds of thousands of pounds dependant on the size and dynamic of the new development so it is important you list all needs, even if they are very small or very big.

Please could you break down your open spaces into the relevant areas of –

- Parks and Gardens
- Amenity open space
- Outdoor sport
- Natural green space
- Children's play areas

You are also advised to refer to Annexes 3 and 7 of the Open Space Strategy Technical Study Annexes which will assist in compiling your evidence.

https://www.tmbc.gov.uk/_data/assets/pdf_file/0004/57280/OPEN SPACE STRATEGY TECH STUDY ANNEXES FEB 2009.pdf

Please use this as a guide to fill in the table below for existing and new open spaces that you own and maintain and include this within any representations you make in which you seek to secure contributions.

Name of Parish:

Name and type of open space	Location	Identified need and evidence base	Cost Estimate	Funding Source	Action/Programme/Comments (Who/When)
		Eg new or enhanced pavilion/change facility, new or enhance play area, additional fencing, wildflower meadow, paths, new or improved pitches, floodlighting, skate park tree work/planting etc Suggest inspection sheet examples provided are utilised			

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

11 November 2020

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 REVIEW OF THE PLANNING APPLICATION CHARGING REGIME

Summary: This report provides a review of the pre-application charging regime and sets out the proposed new charges for 2021-2022. It is necessary to review the protocol every year in order to ensure the Council continues to provide a comprehensive, high quality service and that the evidence base remains up to date. The charging schedule is also considered annually and this year in ensuring that the charging schedule is fairly applied and costs recovery continues to take place proportionately, an increase in fees is proposed.

1.1 Introduction

- 1.1.1 The current pre-application advice protocol and charging regime was introduced on 01 April 2016 and has since been updated annually following ongoing periods of monitoring and review. As part of this, Officers continue to record the feedback received in connection with this service along with the time spent providing the advice sought.
- 1.1.2 Moreover, as Members will appreciate, our ways of working have changed fundamentally since March of this year and as a result some immediate changes were brought into effect in terms of the service we provide. We have used this as a learning opportunity to consider how the protocol and associated charging schedule should be modified to accommodate some of these experiences on a longer term basis.
- 1.1.3 For further context, Members will also be aware of the recent and ongoing promotion of the use of Planning Performance Agreements as part of our engagement with applicants and developers. This item is reported elsewhere on the agenda but it is important to remember that the two should run concurrently in order to achieve the best positive outcomes for developer across the Borough.

1.2 The current pre-application process

- 1.2.1 The Pre-application Protocol and fee structure, introduced on 01 April 2016 and subsequently updated annually continues to identify five main categories:

- 1) Householders:- includes proposals relating to individual houses and flats for residential purposes where the building affected is not a listed building.
- 2) Minor development:- includes alterations to an existing building (not householder) where there is no increase in floor space, increase in floor space less than 499 sq.m., new or replacement shop fronts, new or replacement advertisements, alterations to a listed building, demolition of an unlisted building within a conservation area, proposals for Telecommunications Equipment, proposals for Air Conditioning / Ventilation Equipment, amendments to Previously Approved Schemes, discharge of conditions attached to permissions and 1 new residential unit.
- 3) Medium development:- includes advice on 2 to 9 new residential units or the creation/change of use of up to 999 sq.m. floor space.
- 4) Major development:- includes advice on 10 to 99 new residential units or the creation/change of use of 1,000 to 9,999 sq.m.
- 5) Large/Strategic development:- includes advice on 100 or more new residential units or the creation/change of use of 10,000 sq.m. or more floor space.

1.2.2 The charges for advice continue to relate to the submission of one query only. Submissions that include multiple options, amended drawings submitted following a meeting/site visit and any additional matters not included with the original submission are viewed as new enquiries and are subject to a separate fee.

1.2.3 The Protocol identifies two categories where fees will not apply:

- Advice to third parties affected by the development and/or change of use
- Disabled access improvements.

1.2.4 The Protocol offers a three option system as follows:

- A pre-application written response
- A pre-application meeting at the Council offices, followed by a letter
- A pre-application meeting on site, followed by a letter.

1.2.5 This system allows the prospective applicant to choose what level best suits their needs and budget. Since March, the option of an office meeting has been replaced by virtual meetings and this is discussed in detail at Section 1.3 of the report.

1.3 Review of current service

- 1.3.1 The Pre-Application Protocol continues to prove effective in delivering technical planning advice in a timely way since it was introduced, having established a clear framework to all parties in how the Council will provide such advice.
- 1.3.2 Officers continue to be mindful that in some instances applicants and developers have been frustrated that planning permissions have not been forthcoming subsequent to pre-application advice having been sought and paid for. In this respect, we will continue to make clear that all pre-application advice is given on a “without prejudice” basis and have adapted our letter templates to ensure this is made very clear to all customers.
- 1.3.3 Nevertheless, when such circumstances do arise it is recognised that a small number of applicants and developers may consequently question the value of engaging with the Council early on which may undermine the process, particularly when we have made changes to our wider ways of working and as part of this have sought to promote the use of the service as the most appropriate way to engage with the Council to achieve positive outcomes. As part of this, officers have set up a Developer Forum inviting a number of local and regular agents and developers to meet with officers to discuss key issues and share experiences and information. The inaugural meeting is scheduled to take place on 12 November with an expectation that these would then take place 2 – 3 times a year.
- 1.3.4 Since March, officers have not been undertaking face to face meetings in the Council offices but have instead held pre-application meetings via virtual platforms, charged at the same rate as for an office meeting. Feedback has indicated that these have worked well and that overall customers have come to expect this option and have made good use of it. In fact, in many circumstances we have been able to arrange meetings in a shorter space of time than via traditional means. As part of this however there have been a need to manage expectations as to the speed at which meetings can take place after a request has been made, not least because the case officer needs adequate time to prepare and research and bring in any internal colleagues that need to be involved in providing a comprehensive, proactive response. It is therefore recommended that the fee charging schedule is amended to reference virtual, rather than face to face meetings on the same fee charging basis given that the work involved is no different in practical terms.
- 1.3.5 Furthermore, with a view to ensuring the advice service is a comprehensive and attractive route for developers to obtain detailed advice on proposed schemes before submission, it is often necessary to seek the input of other officers of the Council, in particular housing, leisure and technical services along with the advice of the Conservation Officers which provide advice via a Service Level Agreement we have with Tunbridge Wells. It is recognised that this is most commonly necessary for major and strategic sites and it is therefore recommended that a greater uplift in fees for these categories be incorporated to reflect this in order to

ensure all costs are recovered in providing the service. Furthermore, in respect of major and strategic sites, officer experience has shown that these are requiring more intensive resourcing overall and in previous years the fees charged were not reflective of the amount of work involved or the complexity of that work. The fees are recommended to be increased in a manner proportionate to that work.

1.3.6 Officers have also explored additional services that could be provided and where cost recovery could be adequately ensured as part of this review, including whether it would be possible to:

- Provide planning history records;
- Provide a validation check before submission service;
- Confirm that planning conditions have been discharged;
- Confirm whether permitted development rights exist.

1.3.7 Whilst we will continue to review whether it is appropriate to incorporate these into our current service, at this time it is considered that online records and information provide sufficient detail to enable customers to find this information out for themselves and given the time and resources that might be required depending on the scale and complexity of a site/scheme it would not be possible to robustly ensure all costs arising from officer time could be adequately recovered.

1.3.8 In order to further improve the service provided to customers, we will be making clear on the website that fees are non-refundable in the event that they chose to dispense with the service part way through. This is because of the administrative and professional time and resource that could have been incurred up until that point.

1.3.9 In terms of reviewing the fees overall, trends have otherwise proved to be similar to those monitored last year and as such it is proposed that the fees should be increased in line with inflation and that the Pre-Application Charging Schedule be amended to reflect this, along with the amendments set out in this report **[Annex 1]**. For reference purposes, the existing Pre-Application Schedule is attached as **Annex 2**.

1.3.10 Should the proposed changes to charging schedule be considered acceptable, then they could be introduced on 01 April 2021.

1.4 Legal Implications

1.4.1 The Local Government Act 2003 provides the power for local authorities to charge for discretionary services (as defined in the Local Government Act 1999). Discretionary services are those services that an authority has the power but not a duty to provide. An authority may charge where the person who receives the service has agreed to its provision. The power to charge under this provision

does not apply where the power to provide the service in question already benefits from a charging power or is subject to an express prohibition from charging.

- 1.4.2 The Local Government Act 2003 places a duty on authorities to ensure that, taken one year with another, the income from charges for each kind of discretionary service does not exceed the costs of provision. An authority may set charges as it thinks fit, and may, in particular, charge only certain people for a service or charge different people different amounts.
- 1.4.3 Local authorities are required to have regard for any guidance that may be issued by the Secretary of State in terms of carrying out their functions under the 2003 Act. Section 93(7) of the Act provides that certain prohibitions in other legislation preventing authorities from raising money are specifically dis-applied in relation to the exercise of the charging power.
- 1.4.4 Local Planning Authorities therefore have powers to recover the costs of pre-application advice in recognition of the time officers have to spend researching information in order to provide answers to prospective developers or applicants.

1.5 Financial and Value for Money Considerations

- 1.5.1 It is appropriate to review the protocol and charging schedule every year, to ensure the evidence base is up to date. This will ensure that we are responsive to the needs of the customer and that the charging schedule is fairly applied.

1.6 Risk Assessment

- 1.6.1 Robust monitoring should be carried out every year to ensure the protocol and charging schedule in place is based on up to date evidence.

1.7 Equality Impact Assessment

- 1.7.1 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.

1.8 Recommendations

- 1.8.1 It is **RECOMMENDED TO CABINET** to **APPROVE** the following amendment with effect from 01 April 2021:

- Adopt the updated Pre-application Charging Schedule 2021/22 as attached at **Annex 1**.

Background papers:

contact: Emma Keefe

Annex 1: Proposed Charging Schedule 2021/22

Annex 2: Existing Charging Schedule 2020/21

Eleanor Hoyle
Director of Planning, Housing & Environmental Health

Tonbridge and Malling Borough Council Pre-application charging schedule 2021/2022							
	Type of Development	Fee for written advice only	Fee for a virtual meeting and letter	Fee for a meeting on site and letter			
1	Householder development	£128.00 £107 + VAT	£194.00 £161 + VAT	£291.00 £242 + VAT			
2	Minor development	£162.00 £135 + VAT	£291.00 £242 + VAT	£387.00 £322 + VAT			
3	Medium development	£195.00 £162 + VAT	£387.00 £322 + VAT	£419.00 £349 + VAT			
4	Major development	£576.00 £480 + VAT	£780.00 £650 + VAT	£900.00 £750 +VAT			
5	Large scale/strategic development	Site visit/meeting and written response option only £1,1200 £1000 + VAT + additional officers					
Exemptions							
<ul style="list-style-type: none"> • Advice to third parties affected by development proposals • Disabled access 							

Notes
<ul style="list-style-type: none">• The charges set out above relate to each separate query submitted to the Council• Further queries and variations raised following the issue of advice by the Council will be subject to a new fee

Tonbridge and Malling Borough Council Pre-application charging schedule 2020/2021							
	Type of Development	Fee for written advice only	Fee for a meeting at the Council Offices and letter	Fee for a meeting on site and letter			
1	Householder development	£126.00 £105 + VAT	£189.60 £158 + VAT	£284.40 £237 + VAT			
2	Minor development	£158.40 £132 + VAT	£284.40 £237 + VAT	£378.00 £315 + VAT			
3	Medium development	£189.60 £158 + VAT	£378.00 £315 + VAT	£410.40 £342 + VAT			
4	Major development	£524.40 £437 + VAT	£650.40 £542 + VAT	£720.00 £600 +VAT			
5	Large scale/strategic development	Site visit/meeting and written response option only £1,172.40 £977 + VAT					
Exemptions							
<ul style="list-style-type: none"> • Advice to third parties affected by development proposals • Disabled access 							
Notes							
<ul style="list-style-type: none"> • The charges set out above relate to each separate query submitted to the Council • Further queries and variations raised following the issue of advice by the Council will be subject to a new fee 							

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TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

11 November 2020

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 REVIEW OF THE PLANNING PERFORMANCE AGREEMENT PROTOCOL

Summary: This report provides a review of the planning performance agreement protocol and sets out the proposed new charges for 2021-2022. It is necessary to review the protocol every year in order to ensure the Council continues to provide a comprehensive, high quality service and that the evidence base remains up to date. The charging schedule should also be considered annually.

1.1 Introduction

- 1.1.1 The current PPA protocol and charging regime was introduced on 01 April 2020 and officers undertook to build in an initial period of review (6 months) to establish how the protocol and associated charging schedule was working in practice.
- 1.1.2 Linked to this, Members will also be aware of the work ongoing to prepare a Planning Obligations Protocol and undertake the annual review of our pre-application advice service. These items are reported elsewhere on the agenda but it is important to remember that they should run concurrently in order to achieve the best positive outcomes for developer across the Borough.

1.2 The current Protocol

- 1.2.1 The protocol and fee structure, introduced on 01 April 2020 identifies four main development types, as follows:
 - 1) Small development: under 50 dwellings or up to 2,500 sq. m of commercial floor space.
 - 2) Medium development: between 50 and 99 dwellings or 2,500 – 4,999 sq. m of commercial floor space.
 - 3) Large development: between 100 and 249 dwellings or 5,000 – 9,999 sq. m of commercial floor space.
 - 4) Strategic development: over 250 dwellings or 10,000 sq. m of commercial floor space.

- 1.2.2 The schedule then goes on to set out expectations for the number of meetings with officers and Member briefings provided for within the PPA.

1.3 Review of current Protocol

- 1.3.1 To date, there has been reasonable uptake on the use of PPAs and officers are in negotiations with developers continually in order to promote them as a key project management tool, particularly for large and strategic development types. The intention is to utilise the fees collected to assist in resourcing the DM team to ensure the programmes agreed within PPAs can be met whilst continuing to meet and, wherever possible exceed, wider targets for decision making.
- 1.3.2 Feedback from officers and developers alike has centred on the fact that the protocol and template agreement need to be more explicit around expectations for payment of the fees for PPAs relative to pre-application advice being sought initially and this can be incorporated into a revised document in a straightforward way. Developers should equally be aware of how and when the Council expects payment to be made when they enter into a PPA, and again this will be made more overt through amendments to the protocol itself.
- 1.3.3 Concern has been raised amongst some officers that the fees for entering into a PPA, particularly for large and strategic developments may not be wholly reflective of the associated work involved. Broadly, it is considered that a longer period of review is needed to accurately capture what any amendments might be in this respect. However, it is already clear that the number of meetings enshrined within the fee charging schedule for strategic developments has been underestimated. Based on recent experiences since the PPA protocol was adopted, it is recommended that this be increased and that there be a fee uplift to reflect this. Furthermore, it would be prudent to also account for the likelihood that Members Site Inspections would be arranged for strategic developments too.
- 1.3.4 The charging schedule has been amended to reflect this at **Annex 1**. For reference purposes, the existing fee charging schedule is attached as **Annex 2**. Should the proposed changes to the charging schedule be considered acceptable, then they could be introduced on 01 April 2021.
- 1.3.5 In terms of the amendments and points of clarification to be incorporated into the protocol and template agreement, it is considered prudent to await any outcomes of the upcoming Developer Forum to establish whether any additional changes should be incorporated. There is however no need to delay publishing the updated version of the Protocol itself until the new fees come into effect on 01 April 2021, in fact it is considered important to expedite these changes at the earliest opportunity. As such, it is recommended that authority to publish the final updated version be delegated to the Director of Planning, Housing and Environmental Health in consultation with the Cabinet Member for Strategic Planning and Infrastructure. This is included within the recommendation that follows.

1.4 Legal Implications

1.4.1 PPAs are intended to be agreed in the spirit of a ‘memorandum of understanding’. They are not intended to be a legally binding contract, unless the parties wish to approach it in this way. It is helpful to be clear about its status in the planning performance agreement itself. The parties are encouraged to make the existence and content of a planning performance agreement publicly available, so that the agreed process and timescale are transparent.

1.4.2 A PPA does not differ from other forms of pre-application engagement. It does not commit the local planning authority to a particular outcome. It is instead a commitment to a process and timetable for determining an application.

1.5 Financial and Value for Money Considerations

1.5.1 The Planning Practice Guidance (PPG) states that local planning authorities may make a charge for the administrative work involved in agreeing and implementing the planning performance agreement itself. As such, a fee schedule is produced as an appendix to the protocol.

1.5.2 The fees to be charged should be subject to annual review.

1.6 Risk Assessment

1.6.1 Encouraging the use of PPAs at the early stages of engagement with applicants, agents and developers will create greater certainty in the decision making process in terms of expectations placed on each of the parties and in particular timescales for determination. This should assist in ensuring appeals against non-determination are avoided because the existence of a PPA means that the statutory time limits for determining the application no longer apply (to the extent that the agreement specifies a longer period for the decision, in which case the agreement will count in the same way as an agreed extension of time). If an authority fails to determine the application by the agreed date, then the applicant may appeal.

1.7 Equality Impact Assessment

1.7.1 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.

1.8 Recommendations

1.8.1 It is **RECOMMENDED TO CABINET** to **APPROVE** the following amendment with effect from 01 April 2021:

- Adopt the updated Planning Performance Agreement Charging Schedule 2021/22 as attached at **Annex 1**.

- 1.8.2 It be **AGREED** that amendment and publication of the Planning Performance Agreement Protocol after 12 November 2020 be delegated to the Director of Planning, Housing and Environmental Health in consultation with the Cabinet Member for Strategic Planning and Infrastructure.

Background papers:

contact: Emma Keefe

Annex 1: Proposed Charging Schedule 2021/22

Annex 2: Existing Charging Schedule 2020/21

Eleanor Hoyle

Director of Planning, Housing and Environmental Health

Planning Performance Agreement Protocol**Appendix 1: Fee Schedule**

Development Type	Residential Units	Commercial Floorspace	Meetings	Member Briefings	Fee
Small	Under 50	Up to 2,500 sq.m	Up to 2	0	£3,500
Medium	50 – 99	2,500 – 4,999 sq.m	Up to 3	Up to 1	£5,000
Large	100 – 249	5,000 – 9,999 sq.m	Up to 4	Up to 1	£7,500
Strategic	250 +	10,000 sq.m +	Up to 6	Up to 2 plus Members Site Inspection	£13,800 (where a design reviews is agreed as necessary this is paid for separately)

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Planning Performance Agreement ProtocolAppendix 1: Fee Schedule

Development Type	Residential Units	Commercial Floorspace	Meetings	Member Briefings	Fee
Small	Under 50	Up to 2,500 sq.m	Up to 2	0	£3,500
Medium	50 – 99	2,500 – 4,999 sq.m	Up to 3	Up to 1	£5,000
Large	100 – 249	5,000 – 9,999 sq.m	Up to 4	Up to 1	£7,500
Strategic	Over 250	Over 10,000 sq.m	Up to 4	Up to 2	£10,000 (where a design reviews is agreed as necessary this is paid for separately)

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Agenda Item 8

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

11 November 2020

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 REVIEW OF BUILDING CONTROL FEES FOR 2021/22

1.1 Current position

- 1.1.1 The Building Control Shared Service is currently provided through a partnership arrangement with Sevenoaks District Council (SDC), overseen by a Partnership Board of senior officers from both organisations.
- 1.1.2 Following internal discussions at SDC regarding their role in various service partnerships, they have decided to give TMBC notice that they wish to dissolve the partnership. The two organisations are keen to work together to make the transition as smooth as possible and to ensure that both parties can continue to deliver high quality Building Control services. A full assessment of service requirements is being undertaken and the necessary reports will be presented to Members on revised structures, via General Purposes, and the Building Control Business Plan, via this Board, over the coming months, with the intention being that the new TMBC structure can be in place by 31 March 2021 to allow the partnership to cease. This assessment will consider all options for service delivery including other partnership options.
- 1.1.3 The purpose of this report is to propose the Building Control fee tables for 2021/22 for TMBC only.
- 1.1.4 The graphs below provide performance data for the partnership over the past few financial years. As is to be expected given lockdown earlier in the year and the pace of recovery of the construction sector have had a significant impact on activity and income.

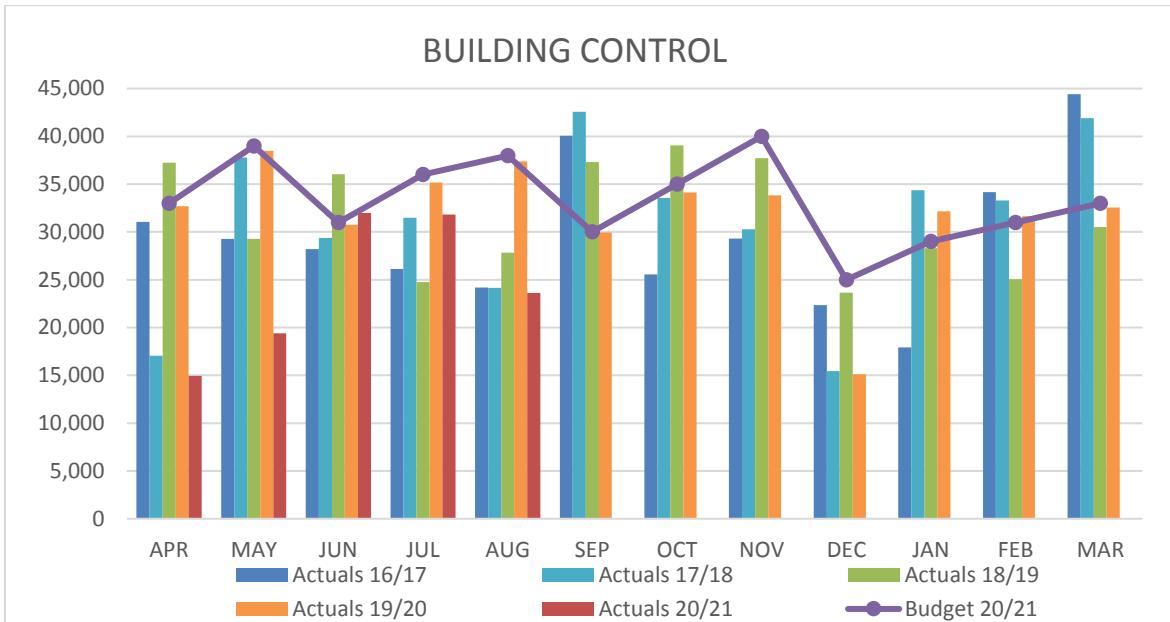


Figure 1 - TMBC monthly Building Control income

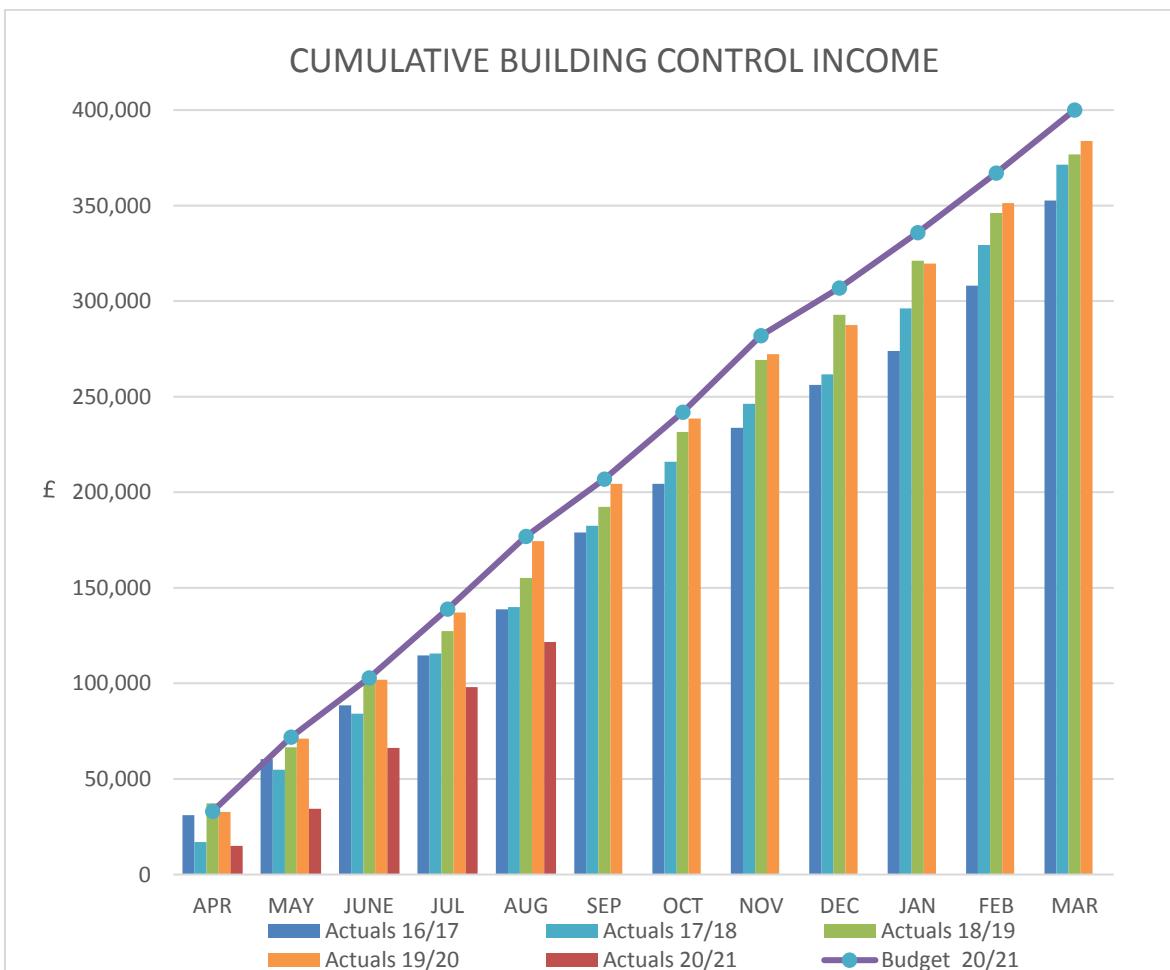


Figure 2 - TMBC cumulative Building Control income

1.2 Building Control Fees

- 1.2.1 The Building (Local Authority Charges) Regulations 2010 require local authorities to ensure that the prices charged by the service is an accurate reflection of the costs of carrying out the chargeable building control functions and for giving chargeable advice relating to the Building Regulations.
- 1.2.2 The Regulations require authorities to achieve full cost recovery on their building regulation chargeable work. However, charges should not be increased above the level of the costs of providing a service under the Building Regulations. The Regulations identify standard and individual charges that, in turn, should reflect the cost of the service on individual building projects in accordance with the ‘user pays’ principle.
- 1.2.3 Authorities can set standard charges and individually determined charges at a local level. The use of standard charges should be limited to the types of building work where it is possible to estimate the amount of Building Control input required for a particular type of Building Regulation application. Quotes are provided to clients for individually determined charges, which are calculated on a scheme-by-scheme basis based on an hourly rate.
- 1.2.4 Building Control charges can be challenged by clients, therefore it is important that the evidence base that sits behind the charges schedule is robust and relates to the actual costs of carrying out the main building regulation function.
- 1.2.5 The overriding objective in the Charges Regulations requires local authorities to achieve full cost recovery in the setting of their charges. Income derived by the local authority from performing their ‘chargeable functions’ should equate as far as possible, to the costs incurred by the authority in providing these services.

1.3 Review of chargeable services

- 1.3.1 At present, officers do not consider that there is a suitable baseline to make any significant changes to fee levels. The reasons for this are twofold; firstly the baseline information on chargeable services is currently at a partnership level and secondly, activity to time monitor activity and review the split between chargeable and other services had been proposed to be undertaken in detail in early 20/21 and due to COVID-19 this work has not taken place.
- 1.3.2 On this basis, it is therefore proposed to utilise the current BC Partnership tables with an inflationary rise of 1% as the basis for the TMBC 2021/22 fees.
- 1.3.3 As part of the 2021/22 Building Control business plan, which will be presented to this Board in February 2021, there will need to be a review of building control services in accordance with CIPFA Local Authority Building Control Accounting Guidance to ensure that the correct percentage split is being applied between chargeable services and non-chargeable services (such as dangerous structures inspections). The review will provide an evidence base to inform changes to fees

in future financial years to ensure charges achieve full cost recovery and users only pay for the service they receive. This will provide a basis for fee proposals for the 21/22 financial year.

1.4 Legal Implications

- 1.4.1 The Building (Local Authority Charges) Regulations 2010 (S.I. 2010/404) makes provision for local authorities in England and Wales to fix their own charges in a schedule, based on the full recovery of their costs for carrying out their main Building Control functions relating to the Building Regulations.

1.5 Financial and Value for Money Considerations

- 1.5.1 The Building Control Standard Charges are reviewed every year and the evidence base should be updated to ensure that the service is responsive to the needs of the customer and that the charging schedule is fairly applied.
- 1.5.2 Building Control has seen a reduction of income due to COVID-19 compared to the previous year resulting in a £62,000 drop in income and therefore the income estimate for the year has been reduced from £400,000 to £290,000 to take account of this drop but also the increase in service demand more recently as building work recommences.

1.6 Risk Assessment

- 1.6.1 The ‘break even’ position should be assessed each year to ensure that income, as nearly as possible, equates to costs and is based on up to date evidence.
- 1.6.2 There is a risk that as a result of the COVID-19 pandemic and the possibility of an economic recession in spring 2021 that Building Control income may continue to remain deflated despite the inflationary increase proposed.
- 1.6.3 Local Authority Building Control is in competition with private sector building control and increased fees could result in clients opting to use private Approved Inspectors (AIs) instead of the local authority for their building projects. It is therefore important to ensure that the Building Control Service operates efficiently to maintain a competitive fee structure and provide value for money for the customer.

1.7 Equality Impact Assessment

- 1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act.

1.8 Policy Considerations

- 1.8.1 N/A

1.9 Recommendations

- 1.9.1 Members are **RECOMMENDED** to **AGREE** a 1% increase to the Building Control Charges from the 1 April 2021 as per the list of Building Control fees attached at **Annex 1**.

Background papers:

Nil

contact: Allan Taylor
Eleanor Hoyle

Eleanor Hoyle
Director of Planning, Housing and Environmental Health

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Code	Bungalows or Houses less than 3 storeys		Full		Building Notice	Regularisation Charge*
			Plan Charge	Inspection Charge*		
H01	1 Plot	Net	247.5	510	908.33	1363
		VAT	49.5	102	181.67	
		Total	297	612	1090	1363
H02	2 Plots	Net	309.17	824.17	1360	2039
		VAT	61.83	164.83	272	
		Total	371	989	1632	2039
H03	3 Plots	Net	370.83	1081.67	1742.5	2614
		VAT	74.17	216.33	348.5	
		Total	445	1298	2091	2614
H04	4 Plots	Net	432.5	1334.17	2120	3180
		VAT	86.5	266.83	424	
		Total	519	1601	2544	3180
H05	5 Plots	Net	494.17	1462.5	2348.33	3523
		VAT	98.83	292.5	469.67	
		Total	593	1755	2818	3523
Flats						
F01	1 Flat	Net	133.33	360	493.33	875
		VAT	26.67	72	98.67	
		Total	160	432	592	875
F02	2 Flats	Net	247.5	360	607.5	875
		VAT	49.5	72	121.5	
		Total	297	432	729	875
F03	3 Flats	Net	309.17	510	819.17	1180
		VAT	61.83	102	163.83	
		Total	371	612	983	1180
F04	4 Flats	Net	370.83	630.83	1001.66	1443
		VAT	74.17	126.17	200.34	
		Total	445	757	1202	1443
F05	5 Flats	Net	432.5	864.17	1296.67	1867
		VAT	86.5	172.83	259.33	
		Total	519	1037	1556	1867
Conversion						
V01	Single Dwelling House	Net	278.33	562.5	840.83	1261
		VAT	55.67	112.5	168.17	
		Total	334	675	1009	1261
V02	Single Flat	Net	133.33	360	523.33	829
		VAT	26.67	72	104.67	
		Total	160	432	628	829

Plan Charge	Inspection Charge*	Full		Building Notice	Regularisation Charge*
		Building Notice	Regularisation Charge*		
250.00	515.00	917.00	1377.00	249.975	515.1 917.4133 1376.63
50.00	103.00	183.40			
300.00	618.00	1100.40	1377.00		
312.00	832.00	1374.00	2059.00		
62.40	166.40	274.80			
374.40	998.40	1648.80	2059.00		
375.00	1092.00	1760.00	2640.00		
75.00	218.40	352.00			
450.00	1310.40	2112.00	2640.00		
437.00	1348.00	2141.00	3212.00		
87.40	269.60	428.20			
524.40	1617.60	2569.20	3212.00		
499.00	1477.00	2372.00	3558.00		
99.80	295.40	474.40			
598.80	1772.40	2846.40	3558.00		
135.00	364.00	498.00	884.00		
27.00	72.80	99.60			
162.00	436.80	597.60	884.00		
250.00	364.00	614.00	884.00		
50.00	72.80	122.80			
300.00	436.80	736.80	884.00		
312.00	515.00	827.00	1192.00		
62.40	103.00	165.40			
374.40	618.00	992.40	1192.00		
375.00	637.00	1012.00	1457.00		
75.00	127.40	202.40			
450.00	764.40	1214.40	1457.00		
437.00	873.00	1310.00	1886.00		
87.40	174.60	262.00			
524.40	1047.60	1572.00	1886.00		
281.00	568.00	849.00	1274.00		
56.20	113.60	169.80			
337.20	681.60	1018.80	1274.00		
135.00	364.00	529.00			
27.00	72.80	105.80			
162.00	436.80	634.80	837.00		

Code	Extensions & Conversions		Full Plans		Building Notice Charge*	Regularisation Charge*
			Plan Charge	Inspection Charge*		
D01	Single storey extension with a floor area less than 10m ²	Net	123.33	309.17	432.5	649
		VAT	24.67	61.83	86.5	
		Total	148	371	519	649
D02	Single storey extension with a with- floor area between 10m ² &	Net	185	432.5	617.5	927
		VAT	37	86.5	123.5	
		Total	222	519	742	927
D03	Single storey extension with floor area between 40m ² & 100m ²	Net	247.5	494.17	741.67	1112
		VAT	49.5	98.83	148.33	
		Total	297	593	890	1112
D04	Multi-storey extension (ie some part 2 or 3 storeys in height) & floor	Net	247.5	494.17	741.67	1112
		VAT	49.5	98.83	148.33	
		Total	297	593	890	1112
D05	Multi-storey extension (ie some part 2 or 3 storeys in height) & floor	Net	247.5	555.83	803.33	1241
		VAT	49.5	111.17	160.67	
		Total	297	667	964	1241
D06	Extension comprising SOLELY a garage, carport or store with a floor area less than 60m ²	Net	123.33	309.17	432.5	630
		VAT	24.67	61.83	86.5	
		Total	148	371	519	630
D07	Detached non-habitable domestic building with a floor area less than	Net	123.33	309.17	432.5	649
		VAT	24.67	61.83	86.5	
		Total	148	371	519	649
Conversions						
D08	Loft conversions with a floor area less than 40m ²	Net	247.5	494.17	741.67	1112
		VAT	49.5	98.83	148.33	
		Total	297	593	890	1112
D09	Loft conversions with a floor area between 40m ² & 100m ²	Net	247.5	555.83	803.33	1241
		VAT	49.5	111.17	160.67	
		Total	297	667	964	1241
D10	Conversion of a garage to a habitable room	Net	123.33	226.67	350	525
		VAT	24.67	45.33	70	
		Total	148	272	420	525

Full Plans		Building Notice Charge*	Regularisation Charge*
Plan Charge	Inspection Charge*		
125.00	312.00	437.00	655.00
25.00	62.40	87.40	
150.00	374.40	524.40	655.00
187.00	437.00	624.00	936.00
37.40	87.40	124.80	
224.40	524.40	748.80	936.00
250.00	499.00	749.00	1123.00
50.00	99.80	149.80	
300.00	598.80	898.80	1123.00
250.00	499.00	749.00	1123.00
50.00	99.80	149.80	
300.00	598.80	898.80	1123.00
250.00	561.00	811.00	1253.00
50.00	112.20	162.20	
300.00	673.20	973.20	1253.00
125.00	312.00	437.00	636.00
25.00	62.40	87.40	
150.00	374.40	524.40	636.00
125.00	312.00	437.00	655.00
25.00	62.40	87.40	
150.00	374.40	524.40	655.00

250.00	499.00	749.00	1123.00
50.00	99.80	149.80	
300.00	598.80	898.80	1123.00
250.00	561.00	811.00	1253.00
50.00	112.20	162.20	
300.00	673.20	973.20	1253.00
125.00	229.00	354.00	530.00
25.00	45.80	70.80	
150.00	274.80	424.80	530.00

Code	Alterations		Full Plans		Building Notice Charge*	Regularisation Charge*
			Plan Charge	Inspection Charge*		
D11	Renovation of a thermal element ie recovering a roof or recladding walls	Net	185.00		185.00	278.00
		VAT	37.00		37.00	
		Total	222.00	0.00	222.00	278.00
D12	Replacement of windows, roof windows, or external glazed doors	Net	185.00		185.00	278.00
		VAT	37.00		37.00	
		Total	222.00	0.00	222.00	278.00
D13	Cost of work not exceeding £2,000	Net	185.00		185.00	278.00
		VAT	37.00		37.00	
		Total	222.00	0.00	222.00	278.00
D14	Cost of work between £2,001 & £5,000	Net	257.50		257.50	375.00
		VAT	51.50		51.50	
		Total	309.00	0.00	309.00	375.00
D15	Cost of work between £5,001 & £15,000	Net	154.17	259.17	413.34	590.00
		VAT	30.83	51.83	82.66	
		Total	185.00	311.00	496.00	590.00
D16	Cost of work between £15,001 & £25,000	Net	175.00	345.83	520.83	782.00
		VAT	35.00	69.17	104.17	
		Total	210.00	415.00	625.00	782.00
D17	Cost of work between £25,001 & £50,000	Net	278.33	562.50	840.83	1261.00
		VAT	55.67	112.50	168.17	
		Total	334.00	675.00	1009.00	1261.00
D18	Cost of work between £50,001 & £100,000	Net	345.83	680.00	1025.83	1521.00
		VAT	69.17	136.00	205.17	
		Total	415.00	816.00	1231.00	1521.00
Competent Persons Schemes (in addition to the above, where applicable)						
D19	Where a satisfactory competent Persons certificate will not be issued, ie Part P,	Net	275	This charge relates to the first fix pre- plaster inspection and final testing on completion. For a Regularisation Certificate full testing and appraisal will be carried out.		
		VAT	55			
		Total	330			

Full Plans		Building Notice Charge*	Regularisation Charge*
Plan Charge	Inspection Charge*		
187.00	0.00	187.00	281.00
37.40	0.00	37.40	
224.40	0.00	224.40	281.00
187.00	0.00	187.00	281.00
37.40	0.00	37.40	
224.40	0.00	224.40	281.00
187.00	0.00	187.00	281.00
37.40	0.00	37.40	
224.40	0.00	224.40	281.00
260.00	0.00	260.00	379.00
52.00	0.00	52.00	
312.00	0.00	312.00	379.00
156.00	262.00	417.00	596.00
31.20	52.40	83.40	
187.20	314.40	500.40	596.00
177.00	349.00	526.00	790.00
35.40	69.80	105.20	
212.40	418.80	631.20	790.00
281.00	568.00	849.00	1274.00
56.20	113.60	169.80	
337.20	681.60	1018.80	1274.00
349.00	687.00	1036.00	1536.00
69.80	137.40	207.20	
418.80	824.40	1243.20	1536.00

278.00
55.60
333.60

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Agenda Item 9

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

11 November 2020

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 DEVELOPMENT MANAGEMENT UPDATE

Summary:

This report seeks to provide an update on matters pertaining to the Development Management function over the course of the year.

1.1 Introduction

- 1.1.1 As Members are aware, the Development Management team comprises a total of 12 officers which is responsible for the assessment and determination of all applications made under the Town and Country Planning Acts and ensuring compliance with all statutory requirements in making such decisions. The team also deals with planning appeals through written representations, attendance at informal hearing and giving evidence at inquiry, post decision matters such as discharging conditions and reviewing scheme amendments in addition to providing pre-application advice to prospective applicants.
- 1.1.2 The planning enforcement team comprises a total of 3 officers and they are responsible for investigating breaches of planning control, taking necessary remedial action and progressing prosecutions where necessary to do so, including giving evidence in court.

1.2 Decision Making

- 1.2.1 For the period April – September 2020, a total of 1005 planning and allied applications were submitted to the Authority for determination, compared to a total of 998 for the same period in 2019.
- 1.2.2 The Planning Practice Guidance sets out that once a planning application has been validated, the local planning authority should make a decision on the proposal as quickly as possible, and in any event within the statutory time limit unless a longer period is agreed in writing with the applicant. The statutory time limits are usually 13 weeks for applications for major development and 8 weeks

for all other types of development (unless an application is subject to an Environmental Impact Assessment, in which case a 16 week limit applies).

- 1.2.3 Where a valid application has not been determined within the relevant statutory period (or such other period as has been agreed in writing between the local planning authority and the applicant), the applicant has a right to appeal to the Secretary of State against non-determination.
- 1.2.4 If the applicant has not exercised this right of appeal, and the application remains undetermined after 26 weeks, then the fee paid by the applicant can be refunded to them (unless a longer period for the decision has been agreed).
- 1.2.5 Furthermore, Section 62B of the Town and Country Planning Act 1990 (as amended) allows the Secretary of State to designate local planning authorities that “are not adequately performing their function of determining applications”, when assessed against published criteria. Those criteria relate to:
 - the speed of decisions made by local planning authorities for applications for major and non-major development, measured by the percentage of applications that have been determined within the statutory period or such extended time as has been agreed between the local planning authority and the applicant
 - the quality of decisions made by local planning authorities for applications for major and non-major development, measured by the proportion of decisions on applications that are subsequently overturned at appeal (including those arising from a ‘deemed refusal’ where an application has not been determined within the statutory period).
- 1.2.6 If a local planning authority falls below the performance thresholds set out in the criteria it may be designated for its performance in relation to applications for major development, non-major development, or both.
- 1.2.7 In this case, section 62A of the Town and Country Planning Act 1990 (as amended) allows applications for the category of development for which the authority has been designated (i.e. major development, non-major development or both) to be submitted directly to the Secretary of State (if the applicant wishes) as long as the designation remains in place. This excludes householder and retrospective applications, which must still be made directly to the local planning authority.
- 1.2.8 Within this context, in terms of decisions issued for the year 2020/21 to date, our performance measured against nationally set targets is:
 - Major applications – 76.47% (against a target of 60%);
 - Minor applications – 89.66% (against a target of 60%);

- All other applications – 96.38% (against a target of 80%).

1.3 Income and Fees

- 1.3.1 For the financial year 2020/21, at the end of September the total income on planning applications stood at £450,531 and a total of £28,165 had been received for pre-application advice.
- 1.3.2 As a basis for comparison, for the same period in 2019/20, the income received stood at £332,761 (planning applications) and £43,773 (pre-application advice).

1.4 Planning Inspectorate Decisions

- 1.4.1 Since 01 January, a total of 29 appeals have been lodged with the Planning Inspectorate so far this year; 3 against non-determination within the statutory timeframe, 2 against the serving of Enforcement Notices and the remainder against the decision of the Authority to refuse planning permission.
- 1.4.2 One of these is due to be heard by Public Inquiry commencing on 01 December and expected to last a total of 8 days, two are to be heard by informal hearing with dates still to be agreed, with the remainder being dealt with by written representations and the householder procedure where it falls to be applied.
- 1.4.3 During the course of the year, the Planning Inspectorate has determined a total of 26 appeals for development in the Borough, with a total of 8 being allowed. Whilst this number appears proportionality higher than previous years it should be noted that 3 of the decisions were in connection with the conjoined Public Inquiry on the Kings Hill sites and another 4 related to a series of planning and listed building applications on a single site in East Peckham.
- 1.4.4 No awards of costs have been made against the Authority for any of the appeal decisions made over the course of the year.

1.5 Judicial Reviews

- 1.5.1 Only one legal challenge against our decision making was granted permission by the High Court this year (Woodford, Old Lane, Ightham). This resulted in officers providing evidence and witness statements to the court and along with their instructed barrister attending a two day virtual hearing in June. The challenge was not upheld and the planning permission granted by the Authority remains intact.

1.6 Reflecting on the year and looking ahead

- 1.6.1 Pre-application engagement is indicating that we should expect a continued upward trend in the submission of planning applications particularly as developers promoting sites alongside the local plan process want to demonstrate deliverability

in the continued absence of a five year housing land supply. We are, for example, expecting the third of our draft strategic sites (Broadwater Farm, land north of Kings Hill) to come forward as a planning application in outline form by the end of this calendar year. Members will recall that a large proportion of the South Aylesford allocation now has outline planning permission and we were able to secure all necessary infrastructure in order to make that application acceptable in planning terms. The remaining parcels of land are subject to separate, live, planning applications which continue to be assessed. Similarly, a proportion of the South-West Tonbridge allocation is a current application for determination in the coming months with the other parcels within separate ownership likely to follow next year.

- 1.6.2 At the other end of the spectrum, changes to the planning system, in particular a new tranche of permitted development rights coming into effect, will bring new challenges to how we administer, process and determine such proposals.

1.7 Engagement with customers and stakeholders

- 1.7.1 The Development Management team has embarked on a number of changes to our ways of working this year and these have been extensively reported to this Board in recent months. We remain committed to ensuring positive engagement with our customers and stakeholders as these changes take effect and to that end are looking to provide a series of workshop events with Parish/Town Councils and have our first Developer Forum scheduled to take place on 12 November.

1.8 Member Training

- 1.8.1 Following on from the production of a series of topic based briefing papers which have been published in the Member library, officers are now looking to make use of MS Teams to deliver some virtual training events and are in liaison with the Cabinet Member for Strategic Planning and Infrastructure and the Area Planning Committee Chairs. As part of this, we are also discussing the possibility of colleagues from Kent Highway Services and Design South East delivering some specific, targeted training.

1.9 Planning Enforcement:

- 1.9.1 Unsurprisingly, the number of planning enforcement cases and subsequent action was considerably lower from March of this year given that construction and commercial activities halted for a significant period of time. Now that activity has recommenced, complaints are rising again.
- 1.9.2 For much of the year, planning enforcement matters have not been prioritised by the courts and this means that there are a number of cases we now need to take forward to prosecution in the coming months. Similarly, Members will be aware that we have a number of breaches we intend to remedy through direct action using the £50,000 awarded to us by the government. Again, progression of that work has been stalled in recent months for reasons outside our control. The one

example of direct action we have been able to complete was in respect of a Section 215 Notice relating to a site in Hadlow. The condition of the land has now been improved and the owner of the property reimbursed the Council for the cost of the works as anticipated by the adopted Protocol.

1.10 Legal Implications

- 1.10.1 The ongoing work set out above will ensure that all functions undertaken by the Development Management team will continue to meet all statutory duties and requirements.

1.11 Financial and Value for Money Considerations

- 1.11.1 All services provided across the Development Management function are managed within existing budgets.

1.12 Risk Assessment

- 1.12.1 Failure to properly manage and deliver Development Management functions could result in an increased number of appeals, with associated resource and financial implications, risk of costs being awarded against the Authority for unreasonable behaviour. Furthermore, persistent failure to meet nationally prescribed determination targets could result in “designation” by the Secretary of State.

1.13 Equality Impact Assessment

- 1.13.1 No issues raised.

1.14 Recommendations

- 1.14.1 That the contents of the report be **NOTED**.

Background papers: contact: Emma Keefe
Nil

Eleanor Hoyle
Director of Planning, Housing and Environmental Health

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Agenda Item 10

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

11 November 2020

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 KENT RAIL STRATEGY 2021 CONSULTATION

- 1.1.1 KCC has published a new draft Kent Rail Strategy for consultation, this can be [viewed online](#). The consultation closes on 17 November. The strategy aims to influence train services in the county for the next decade. It sets out the requirements that KCC considers are needed for rail infrastructure enhancements to keep pace with increased demand for services. This includes ensuring there is an expanded fleet of new High Speed trains, a replacement fleet for the Metro services and improvements to station facilities and communications.
- 1.1.2 The strategy also looks at transport priorities for the next decade including environmental issues, by encouraging more people out of their cars and on to trains and by persuading freight operators to move from road to rail.
- 1.1.3 The strategy identifies four ambitions for the next South Eastern agreement. These are supported, however officers are mindful notwithstanding the financial implications of the pandemic for the rail sector, that partners must be ambitious for the future of rail services, especially so if future contractual arrangements will be set over a longer term and we are to achieve targets for carbon neutrality.
- 1.1.4 In responding we therefore suggest adding a fifth ambition which directly links a recovery/revolution in rail travel and patronage, with achieving mode shift towards rail, this could explicitly reference the county council's carbon reduction ambitions as follows;
 - To bring about a revolution in low carbon travel, through better integration of buses, walking and cycling facilities with stations, to provide passengers with viable, flexible and integrated transport choices.
- 1.1.5 The strategy also identifies actions for areas including fares, infrastructure enhancements, passenger services, rolling stock and rail freight. These actions are broadly supported and reflect known rail priorities for the borough, including the extension of Thameslink services from Maidstone East, which will provide a

direct connection to the City of London from West Malling and Borough Green and Wrotham.

- 1.1.6 The provision of a direct Gatwick service from Tonbridge is also included in the strategy. This aligns with the Transport Strategy for the South East which seeks to enhance orbital connectivity across the wider region. A direct Gatwick service is supported in the draft response **[Annex 1]**, in addition to feedback promoting a greater role for the Medway Valley Line. It is considered that this line has further potential to support local growth, mode shift towards rail and sustainable inter-urban travel between towns and communities in Kent.
- 1.1.7 Support is also outlined for the provision of smart and flexible ticketing, and further station access improvements.

1.2 Conclusion

- 1.2.1 The Kent Rail Strategy aims to influence train services in the county for the next decade. It sets out the requirements that KCC considers are needed for rail infrastructure enhancements to keep pace with increased demand for services. Support for the Strategy is expressed in the consultation response prepared, as it includes known rail priorities for the borough. A greater role for the Medway Valley Line is promoted in the draft response.

1.3 Legal Implications

- 1.3.1 There are no direct legal implications arising from this report.

1.4 Financial and Value for Money Considerations

- 1.4.1 Whilst there are no direct financial or value for money considerations arising from this report, there will however be wider benefits for local residents and businesses as a result of the delivery of the service, route and infrastructure improvements identified in the draft strategy.

1.5 Recommendation

- 1.5.1 That the content of this report be **NOTED**; and
- 1.5.2 That issues raised in response to the Kent Rail Strategy consultation be **AGREED** by the Cabinet Member for Strategic Infrastructure and Planning, in consultation with the Leader and Director of Planning, Housing and Environmental Health, and submitted to Kent County Council by the deadline of 17 November.

Background papers:

contact: Bartholomew Wren

Annex 1 - Kent Rail Strategy – Draft Consultation
Questionnaire

Eleanor Hoyle

Director of Planning, Housing and Environmental Health

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Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Consultation Questionnaire

KCC's current Rail Action Plan for Kent (RAPK) was published in 2011. It set out KCC's principal objectives to ensure that the franchise, which was due to commence in April 2014, delivered a rail service that met the needs of the county's residents and visitors. KCC's new Kent Rail Strategy 2021 will inform the new contract or concession that follows the existing franchise.

We are keen to hear your thoughts as we further develop this draft during formal consultation. We have provided this feedback questionnaire for you to give your comments.

What information do you need before completing the questionnaire?

We recommend that you view the consultation material online at kent.gov.uk/kentrailstrategy2021 before responding to this questionnaire.

If you have any questions regarding these proposals or require hard copies of the strategy and/ or questionnaire, please email kentrailstrategy2021@kent.gov.uk.

This questionnaire can be completed online at kent.gov.uk/kentrailstrategy2021. Alternatively, fill in this paper form and return to Transport Strategy Team, Kent County Council, Invicta House, Maidstone ME14 1XX

Please ensure your response reaches us by 17 November 2020.

Privacy: Kent County Council (KCC) collects and processes personal information in order to provide a range of public services. KCC respects the privacy of individuals and endeavours to ensure personal information is collected fairly, lawfully, and in compliance with the General Data Protection Regulation and Data Protection Act 2018. Read the full Privacy Notice at the end of this document.

Alternative formats

If you require any of the consultation material in an alternative format or language, please email: alternativeformats@kent.gov.uk or call: 03000 42 15 53 (text relay service number: 18001 03000 42 15 53). This number goes to an answering machine, which is monitored during office hours.

Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Q1. Are you responding as...?

Please select the option from the list below that most closely represents how you will be responding to this consultation. *Please select **one** option.*

- | | |
|---|--|
| | As a Kent resident |
| | As a resident from somewhere else, such as Medway, East Sussex, Surrey or Greater London |
| | On behalf of a rail industry organisation |
| | As a representative of a local community group or residents' association |
| | On behalf of an educational establishment, such as a school or college |
| X | On behalf of a Parish / Town / Borough / District Council in an official capacity |
| | As a Kent business owner or representative |
| | As a Parish / Town / Borough / District or County Councillor |
| | On behalf of a charity, voluntary or community sector organisation (VCS) |
| | Other, please specify: |

Q1a. If you are responding on behalf of an organisation (business, rail industry organisation, community group, residents' association, council or any other organisation), please tell us the name of your organisation.

*Please write in **below**.*

Tonbridge & Malling Borough Council

Draft Kent Rail Strategy 2021

Public consultation

23 September to 17 November 2020

Q2. Please tell us the first five characters of your postcode:

ME19 4

Please do not reveal your whole postcode. If you are responding on behalf of a friend or relative, please provide their postcode. We use this to help us to analyse our data. It will not be used to identify who you are.

The draft Kent Rail Strategy 2021 sets out the following ambitions for the next South Eastern agreement:

- To determine the required passenger service levels in each sector of the network: High Speed, Mainline and Metro
- To set out the requirements for rail infrastructure enhancements to facilitate these levels of service
- To establish the requirements for new fleets of rolling-stock in each sector to enable these service levels to be realised
- To improve the provision of passenger station facilities and communications.

Q3. To what extent do you agree or disagree with the ambitions for the next South Eastern agreement as set out in the draft Kent Rail Strategy?

*Please select **one** option.*

Strongly
agree

Tend to agree

 X

Neither agree
nor disagree

Tend to
disagree

Strongly
disagree

Don't know

Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Q3a. Please tell us the reason for your answer to Q3 in the box below.

TMBC agrees with these ambitions, however we are mindful notwithstanding the financial implications of the pandemic for the rail sector, that partners must be ambitious for the future of rail services, especially so if future contractual arrangements will be set over a longer term and we are to achieve targets for carbon neutrality.

We therefore suggest adding a fifth ambition which directly links a recovery/revolution in rail travel and patronage, with achieving mode shift towards rail, this could explicitly reference the county council's carbon reduction ambitions.

- *To bring about a revolution in low carbon travel, through better integration of buses, walking and cycling facilities with stations, to provide passengers with viable, flexible and integrated transport choices.*

At present for too many residents and those who work in Kent, rail does not provide a competitive and realistic option for their journey vs using the private car. This must be addressed through a greater focus on orbital connectivity across the county and wider region, as advocated in the TfSE Transport Strategy (Reading-Gatwick-Ashford). TMBC supports this proposal, and also considers that the Medway Valley Line should have an enhanced role in supporting growth, mode shift towards rail and sustainable inter-urban travel between towns and communities in Kent.

Q4. To what extent do you agree or disagree with the recommended actions for the Rail Policy in the Strategy? (See page 59 in the draft Strategy)

*Please select **one** option.*

Strongly agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't know
<input checked="" type="checkbox"/> X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Q4a. Please tell us the reason for your answer to Q4 in the box below.

All proposed actions are suitable.

Q5. To what extent do you agree or disagree with the recommended actions for the Fares Policy in the Strategy? (See page 59 in the draft Strategy)

*Please select **one** option.*

Strongly
agree

Tend to agree

 X

Neither agree
nor disagree

Tend to
disagree

Strongly
disagree

Don't know

Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Q5a. Please tell us the reason for your answer to Q5 in the box below.

All proposed actions are suitable. Regarding the extension of fare zones, we are mindful that in February 2019 the DfT published the 'Pay-as-you-go on rail consultation – Moving Britain Ahead'. This provided further detail as to how government may seek to make smart ticketing widely available across the South East rail network.

A suggested PAYG area was published with this consultation, which was proposed as a step towards full rollout across the network. This covered all stations within Tonbridge and Malling borough which was welcomed, but not the whole of Kent. TMBC would support ongoing work between rail partners to resolve this long overdue matter.

Q6. To what extent do you agree or disagree with the recommended actions for the Rail Infrastructure Enhancements in the Strategy? (See page 60 in the draft Strategy)

*Please select **one** option.*

Strongly
agree

Tend to agree

Neither agree
nor disagree

Tend to
disagree

Strongly
disagree

Don't know

Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Q6a. Please tell us the reason for your answer to Q6 in the box below.

TMBC supports the operation of high speed services that call at Snodland and Maidstone West. The Medway Valley is a location of substantial housing and employment growth. With 2000 homes under construction at Holborough Lakes and Peters Village, with a further 1500 proposed at Eccles.

We therefore support the improvement of stations to accommodate 12 car high speed trains as identified in the Network Rail, Kent Area Route Study. Whilst Snodland is identified for selective door opening, going forwards we would like this station to be considered for platform lengthening.

TMBC would also like to see an increase in the number of high speed services serving Snodland at peak periods, if not throughout the day. The availability of additional rolling stock on the high speed network could help to facilitate this. A viable business case could be prepared to support service enhancement and the borough council would be willing to assist with this.

Q7. To what extent do you agree or disagree with the recommended actions for the Rolling-Stock Improvements in the Strategy? (See page 60 in the draft Strategy)

Please select one option.

Strongly agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't know
<input type="checkbox"/>	<input checked="" type="checkbox"/> X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Q7a. Please tell us the reason for your answer to Q7 in the box below.

All proposed actions are suitable. In addition TMBC would support the enhancement of capacity on Medway Valley services (train lengthening as demand required). This line has a significant role to play in supporting cross county connectivity and providing links to London and other regional destinations.

Q8. To what extent do you agree or disagree with the recommended actions for Passenger Services in the Strategy? (See pages 60-61 in the draft Strategy)

Please select one option.

Strongly
agree

Tend to agree

Neither agree
nor disagree

Tend to
disagree

Strongly
disagree

Don't know

Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Q8a. Please tell us the reason for your answer to Q8 in the box below.

The proposed actions reflect TMBC's service priorities for the borough, particularly regarding a Gatwick service via Redhill to Tonbridge.

Q9. To what extent do you agree or disagree with the recommended actions for Community Rail Partnerships in the Strategy? (See page 61 in the draft Strategy)

*Please select **one** option.*

Strongly
agree

Tend to agree

Neither agree
nor disagree

 X

Tend to
disagree

Strongly
disagree

Don't know

Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Q9a. Please tell us the reason for your answer to Q9 in the box below.

In practice the aspirations of the CRPs for their respective lines are more detailed. This section should be restructured to summarise the key priorities for each line which CRPs will be delivering.

Q10. To what extent do you agree or disagree with the recommended actions for the Rail Freight Provision in the Strategy? (See page 61 in the draft Strategy)

*Please select **one** option.*

Strongly
agree

Tend to agree

Neither agree
nor disagree

 X

Tend to
disagree

Strongly
disagree

Don't know

Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Q10a. Please tell us the reason for your answer to Q10 in the box below.

TMBC supports maximising the use of the rail network for freight and logistics, this is however challenging to achieve in practice beyond the distribution of aggregates and containers. At the present time rail does not provide sufficient flexibility across the country for many hauliers and logistics businesses, without points of interchange with the strategic highway network. Rail freight interchange facilities are potentially large and have a history of being highly contentious in planning terms.

TMBC supports the proposed gauge clearance works on Mainline routes through Kent, to maximise their use for freight. Network Rail should continue to work with the logistics sector (Freight Transport Association and Road Haulage Association) as well as landowners, to secure the use of available rail heads, stations or depots that can meet the needs of business.

Q11. To what extent do you agree or disagree with the recommended actions for International Rail Services in the Strategy? (See page 62 in the draft Strategy)

Please select one option.

Strongly agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't know
<input type="checkbox"/> X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q11a. Please tell us the reason for your answer to Q11 in the box below.

These actions are appropriate and reflect longstanding priorities for KCC and ABC.

Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Q12. Do you have any other comments on the draft Kent Rail Strategy? Please write in below.

TMBC has no further comments.

To help ensure that we are meeting our obligations under the Equality Act 2010 we have prepared an initial Equality Impact Assessment (EqIA) for the proposals put forward in this consultation.

An EqIA is a tool to assess the impact any proposals would have on the protected characteristics: age, disability, sex, gender reassignment, sexual orientation, race, religion, and carer's responsibilities. The EqIA is available online at kent.gov.uk/kentrailstrategy2021 or on request.

Q13. We welcome your views on our equality analysis and if you think there is anything we should consider relating to equality and diversity, please add any comments below:

Draft Kent Rail Strategy 2021

Public consultation

23 September to 17 November 2020

Q14. How did you find out about this consultation? Please select *all* that apply.

- An email from KCC
- An email from another organisation
- Rail summit
- From a friend or relative
- Social Media (Facebook or Twitter)
- Kent.gov.uk website
- Newspaper
- Local television or radio
- Saw a poster
- Other, please specify:

Draft Kent Rail Strategy 2021

Public consultation

23 September to 17 November 2020

About You

In this section we would like to ask you some equality and diversity questions about you. We want to make sure that everyone is treated fairly and equally, and that no one gets left out. That's why we are asking you these questions. We won't share the information you give us with anyone else. We'll use it only to help us make decisions and improve our services.

If you would rather not answer any of these questions, you don't have to.

It is not necessary to answer these questions if you are responding on behalf of an organisation.

Q15. Are you....? Please select **one option.**

Male

Female

I prefer not to say

Q16. Which of these age groups applies to you? Please select **one option.**

0-15

25-34

50-59

65-74

85 + over

16-24

35-49

60-64

75-84

I prefer not to say

Q17. Do you regard yourself as belonging to a particular religion or holding a belief? Please select **one option.**

Yes

No

I prefer not to say

Draft Kent Rail Strategy 2021

Public consultation
23 September to 17 November 2020

Q17a. If you answered 'Yes' to Q17, which of the following applies to you? Please select **one option.**

- Christian
- Buddhist
- Hindu
- Jewish
- Muslim
- Sikh
- Other
- I prefer not to say

If you selected Other, please specify:

The Equality Act 2010 describes a person as disabled if they have a long standing physical or mental condition that has lasted, or is likely to last, at least 12 months; and this condition has a substantial adverse effect on their ability to carry out normal day-to-day activities. People with some conditions (cancer, multiple sclerosis and HIV/AIDS, for example) are considered to be disabled from the point that they are diagnosed.

Q18. Do you consider yourself to be disabled as set out in the Equality Act 2010? Please select **one option.**

- Yes
- No
- I prefer not to say

Draft Kent Rail Strategy 2021

Public consultation

23 September to 17 November 2020

Q18a. If you answered 'Yes' to Q18, please tell us the type of impairment that applies to you.

You may have more than one type of impairment, so please select all that apply. If none of these applies to you, please select 'Other' and give brief details of the impairment you have.

- Physical impairment
- Sensory impairment (hearing, sight or both)
- Longstanding illness or health condition, or epilepsy
- Mental health condition
- Learning disability
- I prefer not to say
- Other

Other, please specify:

A Carer is anyone who cares, unpaid, for a friend or family member who due to illness, disability, a mental health problem or an addiction cannot cope without their support. Both children and adults can be carers.

Q19. Are you a Carer?

Please select one option.

- Yes
- No
- I prefer not to say

Draft Kent Rail Strategy 2021

Public consultation

23 September to 17 November 2020

Q20. To which of these ethnic groups do you feel you belong? Please select one option. (Source: 2011 Census)

White English	<input type="checkbox"/>	Mixed White & Black Caribbean	<input type="checkbox"/>
White Scottish	<input type="checkbox"/>	Mixed White & Black African	<input type="checkbox"/>
White Welsh	<input type="checkbox"/>	Mixed White & Asian	<input type="checkbox"/>
White Northern Irish	<input type="checkbox"/>	Mixed Other*	<input type="checkbox"/>
White Irish	<input type="checkbox"/>	Black or Black British Caribbean	<input type="checkbox"/>
White Gypsy/Roma	<input type="checkbox"/>	Black or Black British African	<input type="checkbox"/>
White Irish Traveller	<input type="checkbox"/>	Black or Black British Other*	<input type="checkbox"/>
White Other*	<input type="checkbox"/>	Arab	<input type="checkbox"/>
Asian or Asian British Indian	<input type="checkbox"/>	Chinese	<input type="checkbox"/>
Asian or Asian British Pakistani	<input type="checkbox"/>	I prefer not to say	<input type="checkbox"/>
Asian or Asian British Bangladeshi	<input type="checkbox"/>		
Asian or Asian British Other*	<input type="checkbox"/>		

*Other - If your ethnic group is not specified on the list, please describe it here:

Thank you for taking the time to complete this questionnaire, your feedback is important to us. All feedback received will be reviewed and considered in the development of our Strategy.

We will report back on the feedback we receive, but details of individual responses will remain anonymous and we will keep your personal details confidential.

Closing date for responses: 17 November 2020

Draft Kent Rail Strategy 2021

Public consultation

23 September to 17 November 2020

Consultation Privacy Notice

Last updated: 2nd November 2018

Who are we?

Kent County Council collects, uses and is responsible for certain personal information about you. When we do so we are regulated under the General Data Protection Regulation which applies across the European Union (including in the United Kingdom) and we are responsible as 'controller' of that personal information for the purposes of those laws. Our Data Protection Officer is Benjamin Watts.

The personal information we collect and use

Information collected by us

In the course of responding to Consultations published by Kent County Council we collect the following personal information when you provide it to us:

- Postcode
- Email address if you want updates on a specific consultation
- Feedback on the consultation
- Equalities Data - Ethnicity, Religion, Sexuality, Disability or if you are a Carer
- Cookies – we use three types of cookies when you use our website. For more information about the cookies and how they are used please visit <https://kahootz.deskpro.com/kb/articles/kahootz-cookie-information-ci>

We use cookies to remember who you are and a few of your preferences whilst you use the website.

We do not use cookies to collect personally identifiable information about you, track your behaviour or share information with 3rd parties.

Our cookies do not contain any of your personal information and only take up about one-thousandth of the space of a single image from a typical digital camera.

All of the cookies we set are strictly necessary in order for us to provide the online service to you.

Draft Kent Rail Strategy 2021

Public consultation

23 September to 17 November 2020

You do not need to submit any equalities information if you do not want to. KCC is committed to the principle that all our customers have the right to equality and fairness in the way they are treated and in the services that they receive. Any information you do give will be used to see if there are any differences in views for different groups of people, and to check if services are being delivered in a fair and reasonable way.

No personal information which can identify you, such as your name or address, will be used in producing equality reports. We will follow our Data Protection policies to keep your information secure and confidential. Your equality data will be anonymised before sent to other teams.

How we use your personal information

We use your personal information to inform you of the outcome of the consultation, if you have requested updates.

We may use your postcode to carry out a type of profiling to estimate which one of a number of lifestyle groups you are most likely to fall into. We do this using geodemographic segmentation tools. We do not make any decisions about individual service users based solely on automated processing, including profiling.

How long your personal data will be kept

We will hold your personal information for up to 6 years following the closure of a consultation.

Reasons we can collect and use your personal information

We rely on '*processing is necessary for the performance of a task carried out in the public interest*'

And

'processing is necessary for compliance with a legal obligation to which the controller is subject.'

The provision of contact details, including name, address or email address is required from you to enable us to respond to your feedback on consultations.

We rely on *processing is necessary for reasons of substantial public interest* as the lawful basis on which we collect and use your special category data for the purpose of equalities monitoring.

Further, the processing is necessary for the purposes of identifying or keeping under review the existence or absence of equality of opportunity or treatment between groups of people with the view to enabling such equality to be promoted or maintained.

Draft Kent Rail Strategy 2021

Public consultation

23 September to 17 November 2020

You can read KCC's Equality Policy on our website <http://www.kent.gov.uk/about-the-council/strategies-and-policies/corporate-policies/equality-and-diversity>

Who we share your personal information with

We may share your personal data and feedback with those listed below who may need to help us respond to your feedback. In some cases that may include your name and contact details.

We may share your personal data with;

- Services within the Council who are responsible for carrying out analysis of consultation responses.

We will share personal information with law enforcement or other authorities if required by applicable law.

We use a system to log your feedback, which is provided by a third-party supplier.

Your Rights

Under the GDPR you have a number of rights which you can access free of charge which allow you to:

- Know what we are doing with your information and why we are doing it
- Ask to see what information we hold about you
- Ask us to correct any mistakes in the information we hold about you
- Object to direct marketing
- Make a complaint to the Information Commissioners Office

Depending on our reason for using your information you may also be entitled to:

- Ask us to delete information we hold about you
- Have your information transferred electronically to yourself or to another organisation
- Object to decisions being made that significantly affect you
- Object to how we are using your information
- Stop us using your information in certain ways

We will always seek to comply with your request however we may be required to hold or use your information to comply with legal duties. Please note: your request may delay or prevent us delivering a service to you.

Draft Kent Rail Strategy 2021

Public consultation

23 September to 17 November 2020

For further information about your rights, including the circumstances in which they apply, see the guidance from the UK Information Commissioners Office (ICO) on individuals' rights under the General Data Protection Regulation.

If you would like to exercise a right, please contact the Information Resilience and Transparency Team at data.protection@kent.gov.uk.

Keeping your personal information secure

We have appropriate security measures in place to prevent personal information from being accidentally lost or used or accessed in an unauthorised way. We limit access to your personal information to those who have a genuine business need to know it. Those processing your information will do so only in an authorised manner and are subject to a duty of confidentiality.

We also have procedures in place to deal with any suspected data security breach. We will notify you and any applicable regulator of a suspected data security breach where we are legally required to do so.

Who to contact

Please contact the Information Resilience and Transparency Team at data.protection@kent.gov.uk to exercise any of your rights, or if you have a complaint about why your information has been collected, how it has been used or how long we have kept it for.

You can contact our Data Protection Officer, Benjamin Watts, at dpo@kent.gov.uk. Or write to Data Protection Officer, Kent County Council, Sessions House, Maidstone, Kent, ME14 1XQ.

The General Data Protection Regulation also gives you right to lodge a complaint with a supervisory authority. The supervisory authority in the UK is the Information Commissioner who may be contacted at <https://ico.org.uk/concerns> or telephone 03031 231113.

For further information visit <https://www.kent.gov.uk/about-the-council/about-the-website/privacy-statement>

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TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

11 November 2020

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Information

1 A229 BLUE BELL HILL JUNCTION IMPROVEMENT CONSULTATION

1.1 Summary: This report provides an overview to junction improvements on the A229 Blue Bell Hill and sets out the Borough Council's response to the consultation.

1.2 Overview

- 1.2.1 KCC published a consultation which sought views on three design options for the A229 Blue Bell Hill Junction Improvement Scheme. The consultation was open from 15 September to 19 October, due to the timing of this the response prepared by officers was approved by Cllr Lettington prior to submission [**Annex 1**].
- 1.2.2 This consultation is still available to [view online](#). This sets out the county council's initial proposals for improvements to the junctions on this important route that connects the M20 and M2.
- 1.2.3 The overall aim of the scheme is to improve journey time reliability and road safety. This will allow the road to accommodate an increase in future traffic, expected as a result of the Lower Thames Crossing and proposed local developments, while providing suitable routes and facilities for public transport, pedestrians and cyclists.
- 1.2.4 Three options were presented in the consultation for the improvement of the route which covers the Bridgewood, Taddington and Lord Lees roundabouts at junction 3 of the M2, which are situated in Tonbridge & Malling borough, and the Cobtree and Running Horse roundabouts at junction 6 of the M20 which are situated in Maidstone borough.
- 1.2.5 In responding a preference was expressed for option 2 on the basis that the enhanced arrangement at the Bridgewood Roundabout, could provide the most direct and convenient route for traffic routing eastbound on the M2 then southbound on the A229. Subject to detailed design this could also be less visually prominent than option 1 which bisects the Taddington Roundabout.

- 1.2.6 The A229 northbound to M2 westbound free flow link and additional southbound lane on the A229 were supported, as these were considered to improve the capacity of the road and support the free flow of traffic.

1.3 Next Steps

- 1.3.1 KCC will use the feedback received to inform the selection of a preferred option for the scheme. This will be subject to further modelling and site investigations. Support was expressed for this and for further design consultation, which includes targeted engagement with the communities that will be immediately affected by the proposals.
- 1.3.2 The feedback received will be published in a consultation report, which will be issued in December. This report will be used to inform a funding bid which is due to be submitted to the Department for Transport (DfT) before the end of the year.

Background papers:

Contact: Bartholomew Wren

Annex 1 - A229 Blue Bell Hill Improvement Scheme –
Consultation Questionnaire

Eleanor Hoyle
Director of Planning, Housing and Environmental Health

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Consultation Questionnaire

Kent County Council (KCC) is seeking your views on the proposals being put forward for A229 Blue Bell Hill Junction Improvement Scheme and have provided this feedback questionnaire for you to give your comments. Your responses will help us to develop the design of the scheme.

This questionnaire can be completed online at kent.gov.uk/a229bluebellhill.

If you are unable to complete online, please fill in this Word version and return to

Email: A229bluebellhill@kent.gov.uk

Address: A229 Blue Bell Hill Junction Improvement Scheme, Major Capital Programme Team, Kent County Council, 1st Floor Invicta House, County Hall, Maidstone ME14 1XX.

What information do you need before completing the questionnaire?

We recommend that you visit our virtual exhibition or view the consultation material online kent.gov.uk/a229bluebellhill before responding to this questionnaire.

If you have any questions you can email us at A229bluebellhill@kent.gov.uk or call 03000 42 14 37. This number goes to an answering machine. Please leave a message and someone will get back to you.

Please ensure your response reaches us by 23:59 Monday 19 October 2020.

Privacy: Kent County Council (KCC) collects and processes personal information in order to provide a range of public services. KCC respects the privacy of individuals and endeavours to ensure personal information is collected fairly, lawfully, and in compliance with the General Data Protection Regulation and Data Protection Act 2018. Read the full Privacy Notice at the end of this document.

Alternative formats: If you require any of the consultation material in an alternative format or language, please email: alternativeformats@kent.gov.uk or call: 03000 42 15 53 (text relay

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

service number: 18001 03000 42 15 53). This number goes to an answering machine, which is monitored during office hours.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Section 1 – About You

Q1. Please tell us in what capacity you are completing this questionnaire:

Please select the option from the list below that most closely represents how you will be responding to this consultation. *Please select **one** option.*

- As a Kent resident
- As a resident from somewhere else, such as Medway
- A representative of a local community group or residents' association
- X On behalf of a Parish / Town / Borough / District Council in an official capacity
- A Parish / Town / Borough / District / County Councillor
- On behalf of an educational establishment, such as a school or college
- On behalf of a local business
- On behalf of a charity, voluntary or community sector organisation (VCS)
- Other, please specify:

Q1a. If you are responding on behalf of an organisation (business, community group, residents' association, council or any other organisation), please tell us the name of your organisation: Please write in **below.**

Tonbridge & Malling Borough Council

Q2. Please tell us the first five characters of your postcode:

ME19 4L

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Please do not reveal your whole postcode. We use this to help us to analyse our data. It will not be used to identify who you are.

Q3. Please tell us how often you travel on the A229 Blue Bell Hill (including the M2 Junction 3 or M20 Junction 6 interchanges of the A229) using the following methods of transport.

*Please select **one** option for **each** type of transport. If you are responding on behalf of an organisation, please skip this question and move onto question 4.*

	Five or more times a week	A couple of times a week	Less frequently	Not applicable (e.g. never travel in this way)
Bicycle				
Bus				
Motorbike				
Private car – as a driver				
Private car - as a passenger				
Taxi – as a driver				
Taxi – as a passenger				
Van or lorry				
Walking				

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Other, please specify:

Other, please specify:				
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Section 2 – The Scheme

You can provide feedback on all or as many of the questions as you like. If you would rather not provide feedback on a question just move on to the next question.

The consultation material sets out why we think this scheme is necessary, please see exhibition board 2 and/or page 7 in the consultation brochure for more information.

Q4. To what extent do you agree or disagree that improvements are required to the A229 Blue Bell Hill, including the M2 Junction 3 and M20 Junction 6 interchanges?

Please select one option.

Strongly agree	<input checked="" type="checkbox"/> X	Tend to agree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>	Tend to disagree	<input type="checkbox"/>	Strongly disagree	<input type="checkbox"/>	Don't know	<input type="checkbox"/>
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Q4a. Please tell us the reason for your answer to Q4 in the box below:

We ask you not to identify yourself within your response.

TMBC strongly supports the improvement of Jn 3 of the M2 which includes the Taddington and Lord Lees roundabouts in our borough, as well as the improvement of M20 Jn 6. These junctions currently perform poorly especially at peak times, and will require investment to accommodate the growth in traffic volumes, that are anticipated as a consequence of development in the adjoining boroughs of Tonbridge & Malling, Medway and Maidstone. In addition to this there will be significant demand arising from traffic that is seeking to cross the River Thames between Essex and Kent, as a consequence of the anticipated Lower Thames Crossing (LTC).

The underlying modelling and assumptions being developed for the LTC project do not currently take account fully of the combined impacts of the above, nor is the project anticipated to provide a wider package of mitigation measures for local roads. The borough council therefore strongly supports KCC in its bid to secure Large Local Majors scheme funding for Blue Bell Hill improvements.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Q5. To what extent do you agree or disagree with the objectives for the scheme?

*Please select **one** response for each objective.*

Objective	Strongly agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't know
1. To improve journey time reliability at M2 Junction 3 and M20 Junction 6 interchanges of the A229	X					
2. To reduce congestion along the route	X					
3. To enable the local area to develop in accordance with population and housing growth predicated under Local Plans	X					
4. To reduce the impact of additional traffic from the Lower Thames Crossing (LTC) and allow LTC to maximise its potential	X					
5. To improve road safety and address known accident hotspots	X					
6. To make best use of existing infrastructure assets including land and highways	X					

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

7. To provide suitable routes and facilities for public transport	X					
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Objective	Strongly agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't know
8. To provide a safe and attractive route for pedestrians and cyclists	X					
9. To improve air quality in the Air Quality Management Area (AQMA)	X					
10. To protect and enhance the local environment	X					

Q5a. Please add any comments you would like to make about the objectives in the box below:

TMBC is pleased to have been able to feed into the officer level workshop sessions which informed the identification of the above scheme objectives. We believe that these cover all of the relevant issues and should guide the development of preferred scheme options.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

This consultation provides details of three options for improvements. This scheme is still in an early phase of design and therefore the options are not definitive. The final option selected could be one of the three options currently proposed or it could involve a combination of works proposed under each of the different options.

Q6. Do you think that Option 1 would achieve the scheme objectives listed in Q5?

*Please select **one** option.*

	Yes
X	Partly
	No
	Don't know

Q6a. Please tell us the reason for your answer to Q6 in the box below:

We ask you not to identify yourself within your response.

Option 1 includes the upgrade of the current signalised junction at Taddington Roundabout, allowing traffic travelling from the M2 eastbound to A229 via a new bridge over the M2. This is likely to become a significant pinch point without a free flowing intervention between the M2 and the A229, as a consequence of demand arising from the Lower Thames Crossing, which will include traffic routing through to the channel ports.

The new bridge/through lane at the Taddington Roundabout is however, likely to be visually prominent, and would still result in M2 west bound traffic merging with east bound traffic at the Lord Lees Roundabout. The widened 4 lane arrangement between the two roundabouts could be an intimidating environment for some motorists and may encourage lane changing and vehicle conflicts.

The A229 northbound to M2 westbound free flow link and additional southbound lane on the A229 are supported, and would improve the capacity of the road and support the free flow of traffic.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Q7. Do you think that Option 2 would achieve the scheme objectives listed in Q5?
*Please select **one** option.*

X	Yes
	Partly
	No
	Don't know

Q7a. Please tell us the reason for your answer to Q7 in the box below:

We ask you not to identify yourself within your response.

The enhanced arrangement at the Bridgewater Roundabout, could provide the most direct and convenient route for traffic routing eastbound on the M2 then southbound on the A229. Subject to detailed design this could also be less visually prominent than option 1 which bisects the Taddington Roundabout.

The A229 northbound to M2 westbound free flow link and additional southbound lane on the A229 are supported, and would improve the capacity of the road and support the free flow of traffic.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Q8. Do you think that Option 3 would achieve the scheme objectives listed in Q5?

*Please select **one** option.*

	Yes
	Partly
	No
X	Don't know

Q8a. Please tell us the reason for your answer to Q8 in the box below:

We ask you not to identify yourself within your response.

Option 3 retains the same arrangement with an enhanced Bridgewood Roundabout at the northern end of Blue Bell Hill. It however includes a new grade separated junction at the southern end, where the existing Forstal Road bridge is currently located.

The southern end of Blue Bell Hill and related junctions with the M20 are situated at Sandling which is within Maidstone borough. Maidstone Borough Council is therefore best placed to comment upon the benefits and impacts of proposed improvements here.

Our initial impression is that the provision of a new roundabout over the M20 at junction 6, would have the benefit of intercepting eastbound M20 traffic travelling towards Maidstone via the A229. The proposed roundabout would prevent this traffic from joining the A229 at the Cobtree Roundabout, therefore freeing up capacity at that junction for traffic routing south along the A229 then eastbound M20 towards the channel ports. This is however likely to have greater visual impact in comparison to extended Running Horse Roundabout and related slip widening that is included in options 1 and 2.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Q9. Do you have a preferred option for the A229 Blue Bell Hill Junction Improvement Scheme? Please select **one option.**

- | | |
|---|--|
| | Option 1 |
| X | Option 2 |
| | Option 3 |
| | None, I don't like any of the options |
| | No preference, I don't mind which option is selected |
| | Don't know |

Q9a. Please tell us the reason for your answer to Q9 in the box below:
We ask you not to identify yourself within your response.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Our initial impression is that option 2 could have the least visual impact, and could provide the most direct and convenient link for traffic routing between the M2 and M20 between the LTC and channel ports.

TMBC would welcome further information regarding the traffic flow and junction waiting time benefits of the options presented, in addition to other relevant information such as requirement for third party land and landscape impact, before providing further comments.

TMBC understands that the development of a preferred option will be subject to further modelling and site investigations. We would wish for this work to be undertaken and for that to inform a further design consultation, which includes targeted engagement with the communities that will be immediately affected by the proposals, in addition to local ward councillors.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

As we are in the early design phase, the environmental impact of the three options is in the process of being identified. See exhibition board 7 and/or page 18 of the consultation brochure for more information.

Q10. We welcome your feedback on any potential environmental impacts. Please add any comments below:

We ask you not to identify yourself within your response.

The Borough Council is mindful of the potential combined implications of local growth and the Lower Thames Crossing upon the local environment, including air quality and noise arising from vehicular traffic. Understandably these combined implications are not addressed within the evidence base which supports our emerging Local Plan, as this predates proposals for the LTC and growth in the neighbouring boroughs of Medway and Maidstone. We however hope that due to the increasing use of ultra-low emission vehicles, that going forwards despite a growth in traffic volumes on the A229, related emissions may actually decrease.

We are mindful of the potential consequences of an increase in traffic upon human health and wellbeing, due to noise and emissions which include nitrogen dioxide and particulates. Going forwards we would expect a full environmental impact assessment (EIA) to accompany the development consent order (DCO) for the junction improvements, and for appropriate mitigation to be provided where this is necessary, e.g. the provision of suitable surfacing, earth bunds, landscaping and acoustic fencing to reduce the cause and spread of noise.

The borough council has responsibility for air quality monitoring, and has 52 active monitoring sites across the borough. Whilst no part of the A229 within Tonbridge & Malling is currently a dedicated AQMA, our environmental protection team would be willing to discuss any relevant monitoring which may be necessary to support junction improvements delivered.

The North Downs Woodlands Special Area of Conservation, an area of protected semi-natural dry grasslands and scrubland, is within the vicinity of the A229 Blue Bell Hill. The borough council seeks reassurance that the combined increase in traffic volumes, in particular HGVs, will not lead to a detrimental impact upon the woodland and its biodiversity, due to an increase in pollution.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Opportunities should be considered to provide a net gain in biodiversity terms from the infrastructure improvements delivered, and support ambitions for net-zero carbon emissions by 2050 (HM Government), as anticipated in the emerging Environment Bill 2020. These matters should be addressed in the EIA. Suitable enhancement of facilities for pedestrians and cyclists should be integrated into the junction improvements, dedicated cycle routes are currently limited in the vicinity of the A229 which connect with adjacent communities.

The borough council supports the additional investigations proposed, that will be used to inform the EIA going forwards. In addition to the preparation of a habitats regulations assessment (HRA) and landscape strategy to support the preferred scheme option.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

To help ensure that we are meeting our obligations under the Equality Act 2010 we have undertaken Equality Impact Assessment (EqIA).

An EqIA is a tool to assess the impact any proposals would have on the protected characteristics: age, disability, sex, gender reassignment, sexual orientation, race, religion, and carer's responsibilities. The EqIAs is available online at kent.gov.uk/a229bluebellhill or in hard copy on request.

Q11. We welcome your views on our equality analysis and if you think there is anything we should consider relating to equality and diversity. Please add any comments below:

We ask you not to identify yourself within your response.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Section 3 – The Consultation

Q12. How did you find out about this consultation? Please select *all* that apply

- Postcard delivered to my home / business
- Email notification
- Newspaper article
- From my Parish / Town / Borough / District Council
- From a friend or relative
- Social Media (Facebook or Twitter)
- Kent.gov.uk website
- Saw a poster
- From a local business
- X Other, please specify:

Direct officer contact

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

For this consultation we used a virtual consultation hub to create an [online exhibition](#) with a video and exhibition boards. This is the first time we have used this software and we would welcome your feedback.

Q13. Did you find the virtual consultation hub easy to use?

*Please select **one** option.*

X	Yes
	No
	Partly
	I didn't look at it
	I wasn't able to access the virtual consultation hub

Q13a. Please add any comments on the virtual consultation hub in the box below:
We ask you not to identify yourself within your response.

The use of an online virtual format is welcomed and has made the consultation more accessible and engaging.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Section 4 – More About You

We want to make sure that everyone is treated fairly and equally, and that no one gets left out. That's why we are asking you these questions. We won't share the information you give us with anyone else. We'll use it only to help us make decisions and improve our services.

If you would rather not answer any of these questions, you don't have to.

It is not necessary to answer these questions if you are responding on behalf of an organisation.

Q14. Are you....? Please select **one option.**

- | | |
|--|---------------------|
| | Male |
| | Female |
| | I prefer not to say |

Q15. Which of these age groups applies to you? Please select **one option.**

- | | | | | |
|-------|-------|-------|----------|---------------------|
| 0-15 | 16-24 | 25-34 | 35-49 | 50-59 |
| 60-64 | 65-74 | 75-84 | 85+ over | I prefer not to say |

The Equality Act 2010 describes a person as disabled if they have a long standing physical or mental condition that has lasted, or is likely to last, at least 12 months; and this condition has a substantial adverse effect on their ability to carry out normal day-to-day activities. People with some conditions (cancer, multiple sclerosis and HIV/AIDS, for example) are considered to be disabled from the point that they are diagnosed.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Q16. Do you consider yourself to be disabled as set out in the Equality Act 2010?

*Please select **one** option.*

Yes

No

I prefer not to say

Q16a. If you answered ‘Yes’ to Q16, please tell us the type of impairment that applies to you.

You may have more than one type of impairment, so please select all that apply. If none of these applies to you, please select ‘Other’ and give brief details of the impairment you have.

Physical impairment

Sensory impairment (hearing, sight or both)

Longstanding illness or health condition, or epilepsy

Mental health condition

Learning disability

I prefer not to say

Other

Other, please specify:

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

A Carer is anyone who cares, unpaid, for a friend or family member who due to illness, disability, a mental health problem or an addiction cannot cope without their support. Both children and adults can be carers.

Q17. Are you a Carer? Please select **one option.**

	Yes
	No
	I prefer not to say

Q18. To which of these ethnic groups do you feel you belong? Please select **one option. (Source 2011 Census)**

White English	_____	Mixed White & Black Caribbean	_____
White Scottish	_____	Mixed White & Black African	_____
White Welsh	_____	Mixed White & Asian	_____
White Northern Irish	_____	Mixed Other*	_____
White Irish	_____	Black or Black British Caribbean	_____
White Gypsy/Roma	_____	Black or Black British African	_____
White Irish Traveller	_____	Black or Black British Other*	_____
White Other*	_____	Arab	_____
Asian or Asian British Indian	_____	Chinese	_____
Asian or Asian British Pakistani	_____	I prefer not to say	_____
Asian or Asian British Bangladeshi	_____		

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Asian or Asian British Other*

*Other - If your ethnic group is not specified on the list, please describe it here:

Thank you for taking the time to complete this questionnaire; your feedback is important to us. All feedback received will be reviewed and considered in the development of our proposals.

We will report back on the feedback we receive, but details of individual responses will remain anonymous and we will keep your personal details confidential.

Closing date for responses: 19 October 2020

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020 Consultation Privacy Notice

Last updated: 13 January 2020

Who are we?

Kent County Council collects, uses and is responsible for certain personal information about you. When we do so we are regulated under the General Data Protection Regulation which applies across the European Union (including in the United Kingdom) and we are responsible as 'controller' of that personal information for the purposes of those laws. Our Data Protection Officer is Benjamin Watts.

The personal information we collect and use

Information collected by us

In the course of responding to Consultations published by Kent County Council we collect the following personal information when you provide it to us:

- Postcode
- Email address if you want updates on a specific consultation
- Feedback on the consultation
- Equalities Data - Ethnicity, Religion, Sexuality, Disability or if you are a Carer
- Cookies – we use three types of cookies when you use our website. For more information about the cookies and how they are used please visit <https://kahootz.deskpro.com/kb/articles/kahootz-cookie-information-ci>

We use cookies to remember who you are and a few of your preferences whilst you use the website.

We do not use cookies to collect personally identifiable information about you, track your behaviour or share information with 3rd parties.

Our cookies do not contain any of your personal information and only take up about one-thousandth of the space of a single image from a typical digital camera.

All of the cookies we set are strictly necessary in order for us to provide the online service to you.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

You do not need to submit any equalities information if you do not want to. KCC is committed to the principle that all our customers have the right to equality and fairness in the way they are treated and in the services that they receive. Any information you do give will be used to see if there are any differences in views for different groups of people, and to check if services are being delivered in a fair and reasonable way.

No personal information which can identify you, such as your name or address, will be used in producing equality reports. We will follow our Data Protection policies to keep your information secure and confidential. Your equality data will be anonymised before sent to other teams.

How we use your personal information

We use your personal information to inform you of the outcome of the consultation, if you have requested updates.

We may use your postcode to carry out a type of profiling to estimate which one of a number of lifestyle groups you are most likely to fall into. We do this using geodemographic segmentation tools. We do not make any decisions about individual service users based solely on automated processing, including profiling.

How long your personal data will be kept

We will hold your personal information for up to 6 years following the closure of a consultation.

Reasons we can collect and use your personal information

We rely on '*processing is necessary for the performance of a task carried out in the public interest*'

And

'processing is necessary for compliance with a legal obligation to which the controller is subject.'

The provision of contact details, including name, address or email address is required from you to enable us to respond to your feedback on consultations.

We rely on *processing is necessary for reasons of substantial public interest* as the lawful basis on which we collect and use your special category data for the purpose of equalities monitoring.

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

Further, the processing is necessary for the purposes of identifying or keeping under review the existence or absence of equality of opportunity or treatment between groups of people with the view to enabling such equality to be promoted or maintained.

You can read KCC's Equality Policy on our website <http://www.kent.gov.uk/about-the-council/strategies-and-policies/corporate-policies/equality-and-diversity>

Who we share your personal information with

Kent County Council will share your details with services within the Council who are responsible for management of this consultation. Responses will be shared with a third-party supplier who has been contracted to independently analyse the consultation responses. Any information given will not be used to identify you. We ask you not to identify yourself within your consultation response.

We will share personal information with law enforcement or other authorities if required by applicable law.

We use a system to log your feedback, which is provided by a third-party supplier.

Your Rights

Under the GDPR you have a number of rights which you can access free of charge which allow you to:

- Know what we are doing with your information and why we are doing it
- Ask to see what information we hold about you
- Ask us to correct any mistakes in the information we hold about you
- Object to direct marketing
- Make a complaint to the Information Commissioners Office

Depending on our reason for using your information you may also be entitled to:

- Ask us to delete information we hold about you
- Have your information transferred electronically to yourself or to another organisation
- Object to decisions being made that significantly affect you
- Object to how we are using your information
- Stop us using your information in certain ways

A229 Blue Bell Hill Improvement Scheme

Public consultation: 15 September to 19 October 2020

We will always seek to comply with your request however we may be required to hold or use your information to comply with legal duties. Please note: your request may delay or prevent us delivering a service to you.

For further information about your rights, including the circumstances in which they apply, see the guidance from the UK Information Commissioners Office (ICO) on individuals' rights under the General Data Protection Regulation.

If you would like to exercise a right, please contact the Information Resilience and Transparency Team at data.protection@kent.gov.uk.

Keeping your personal information secure

We have appropriate security measures in place to prevent personal information from being accidentally lost or used or accessed in an unauthorised way. We limit access to your personal information to those who have a genuine business need to know it. Those processing your information will do so only in an authorised manner and are subject to a duty of confidentiality.

We also have procedures in place to deal with any suspected data security breach. We will notify you and any applicable regulator of a suspected data security breach where we are legally required to do so.

Who to contact

Please contact the Information Resilience and Transparency Team at data.protection@kent.gov.uk to exercise any of your rights, or if you have a complaint about why your information has been collected, how it has been used or how long we have kept it for.

You can contact our Data Protection Officer, Benjamin Watts, at dpo@kent.gov.uk. Or write to Data Protection Officer, Kent County Council, Sessions House, Maidstone, Kent, ME14 1XQ.

The General Data Protection Regulation also gives you right to lodge a complaint with a supervisory authority. The supervisory authority in the UK is the Information Commissioner who may be contacted at <https://ico.org.uk/concerns> or telephone 03031 231113.

For further information visit <https://www.kent.gov.uk/about-the-council/about-the-website/privacy-statement>

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Agenda Item 12

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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Agenda Item 13

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT INFORMATION

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Agenda Item 14

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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