

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

31 January 2023

To: MEMBERS OF THE COMMUNITIES AND ENVIRONMENT SCRUTINY
SELECT COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Communities and Environment Scrutiny Select Committee to be held in the Council Chamber, Gibson Drive, Kings Hill on Wednesday, 8th February, 2023 commencing at 7.30 pm.

Members of the Committee are required to attend in person. Other Members may attend in person or participate online via MS Teams.

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

1. Guidance for the Conduct of Meetings

5 - 6

PART 1 - PUBLIC

2. Apologies for absence
3. Notification of Substitute Members 7 - 8
4. Declarations of interest 9 - 10

Members are reminded of their obligation under the Council's Code of Conduct to disclose any Disclosable Pecuniary Interests and Other Significant Interests in any matter(s) to be considered or being considered at the meeting. These are explained in the Code of Conduct on the Council's website at [Code of conduct – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tmbc.gov.uk).

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

5. Minutes 11 - 16

To confirm as a correct record the Notes of the meeting of the Communities and Environment Scrutiny Select Committee held on 19 October 2022

6. Representative of South East Water Verbal Report

A representative of Southeast Water has been invited to address the Committee in respect of water shortages and leaks.

Matters for Recommendation to the Cabinet

7. Household Recycling and Waste Service 17 - 24

The report outlines opportunities to maintain and improve service provision in relation to the Council's Waste Services Collection Contract, which is provided in Partnership with Tunbridge Wells Borough Council, that will be reported to Cabinet on the 14 February 2023. The report advises on a proposed extension to previously agreed support for a further 5 month period in relation to the recent and ongoing impacts of HGV market conditions and support for a proposed Phase 2 of re-rounding. Members of this Scrutiny Select Committee are invited to review the content of the report in advance of the Cabinet meeting and make any recommendations or observations to Cabinet.

8. Climate and Biodiversity Action 25 - 34

To update on current climate change and biodiversity measures being undertaken by the Council and consider future options.

9. Public Space Protection Orders - Consultation Feedback 35 - 74

To provide feedback on the responses received on the Public Space Protection Order (PSPO) consultation and agree on the terms for the PSPO

Matters submitted for Information

10. Key Performance Indicators - Waste Contract 75 - 80
To report on performance of the Waste Contract against a suite of Key Performance Indicators
11. Key Performance Indicators - Community and Environment 81 - 86
A number of Key Performance Indicators (KPIs) are presented to enable the Scrutiny Select Committee to assess and scrutinise performance.
12. Work Programme 2023 87 - 88
The Work Programme setting out matters to be scrutinised during 2023 is attached for information. Members can suggest future items by liaising with the Chair of the Committee.
13. Urgent Items 89 - 90
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

14. Exclusion of Press and Public 91 - 92
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.

PART 2 - PRIVATE

15. Urgent Items 93 - 94
Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr S A Hudson (Chair)
Cllr Miss G E Thomas (Vice-Chair)

Cllr Mrs P A Bates
Cllr Mrs S Bell
Cllr C Brown
Cllr A Cope
Cllr N Foyle
Cllr F A Hoskins
Cllr M A J Hood

Cllr A Kennedy
Cllr J R S Lark
Cllr D Lettington
Cllr W E Palmer
Cllr M R Rhodes
Cllr Mrs M Tatton

GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

- (1) All meetings of the Borough Council will be livestreamed to YouTube here, unless there is exempt or confidential business be discussed:

<https://www.youtube.com/channel/UCPp-IJISNgoF-ugSzxjAPfw/featured>
- (2) There are no fire drills planned during the time a meeting is being held. For the benefit of those in the meeting room, the fire alarm is a long continuous bell and the exits are via the doors used to enter the room. An officer on site will lead any evacuation.
- (3) Should you need this agenda or any of the reports in a different format, or have any other queries concerning the meeting, please contact Democratic Services on committee.services@tmbc.gov.uk in the first instance.

Attendance:

- Members of the Committee/Advisory Board are required to attend in person and be present in the meeting room. Only these Members are able to move/ second or amend motions, and vote.
- Other Members of the Council can join via MS Teams and can take part in any discussion and ask questions, when invited to do so by the Chairman, but cannot move/ second or amend motions or vote on any matters. Members participating remotely are reminded that this does not count towards their formal committee attendance.
- Occasionally, Members of the Committee/Advisory Board are unable to attend in person and may join via MS Teams in the same way as other Members. However, they are unable to move/ second or amend motions or vote on any matters if they are not present in the meeting room. As with other Members joining via MS Teams, this does not count towards their formal committee attendance.
- Officers can participate in person or online.
- Members of the public addressing an Area Planning Committee can participate in person or online. Please contact committee.services@tmbc.gov.uk for further information.

Before formal proceedings start there will be a sound check of Members/Officers in the room. This is done as a roll call and confirms attendance of voting Members.

Ground Rules:

The meeting will operate under the following ground rules:

- Members in the Chamber should indicate to speak in the usual way and use the fixed microphones in front of them. These need to be switched on when speaking or comments will not be heard by those participating online. Please switch off microphones when not speaking.
- If there any technical issues the meeting will be adjourned to try and rectify them. If this is not possible there are a number of options that can be taken to enable the meeting to continue. These will be explained if it becomes necessary.

For those Members participating online:

- please request to speak using the 'chat or hand raised function';
- please turn off cameras and microphones when not speaking;
- please do not use the 'chat function' for other matters as comments can be seen by all;
- Members may wish to blur the background on their camera using the facility on Microsoft teams.
- Please avoid distractions and general chat if not addressing the meeting
- Please remember to turn off or silence mobile phones

Voting:

Voting may be undertaken by way of a roll call and each Member should verbally respond For, Against, Abstain. The vote will be noted and announced by the Democratic Services Officer.

Alternatively, votes may be taken by general affirmation if it seems that there is agreement amongst Members. The Chairman will announce the outcome of the vote for those participating and viewing online.

Community and Environment Scrutiny Select Committee – Substitute Members (if required)

	Conservative	Liberal Democratic	Green	Ind. Kent Alliance	Note
1	David Cooper	Tim Bishop	April Clark	Tim Shaw	
2	Roger Dalton	Garry Bridge			
3	Howard Rogers	Trudy Dean			
4	Frixos Tombolis	Anita Oakley			
5	Colin Williams	David Thornewell			

Members of Cabinet cannot be appointed as a substitute to this Committee

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Declarations of interest

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TONBRIDGE AND MALLING BOROUGH COUNCIL

COMMUNITIES AND ENVIRONMENT SCRUTINY SELECT COMMITTEE

MINUTES

Wednesday, 19th October, 2022

Present: Cllr S A Hudson (Chair), Cllr Miss G E Thomas (Vice-Chair), Cllr Mrs P A Bates, Cllr A Cope, Cllr M A J Hood, Cllr W E Palmer, Cllr M R Rhodes, Cllr Mrs M Tatton, Cllr T Bishop, Cllr D J Cooper, Cllr H S Rogers and Cllr F G Tombolis were in attendance as substitute Members.

Virtual: Councillors D Keers, D Lettington, K B Tanner, R P Betts, V M C Branson, G C Bridge, P J Montague and T B Shaw participated via MS Teams and joined the discussion when invited to do so by the Chair in accordance with Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors Mrs J A Anderson, Mrs S Bell, N Foyle, F A Hoskins and J R S Lark

PART 1 - PUBLIC

CE 22/7 NOTIFICATION OF SUBSTITUTE MEMBERS

Notification of substitute members were recorded as set out below:

Cllr T Bishop substitute for Cllr F Hoskins
Cllr D Cooper substitute for Cllr N Foyle
Cllr H Rogers substitute for Cllr Mrs J Anderson
Cllr F Tombolis substitute for Cllr J Lark

In accordance with Council Procedure Rules 17.5 to 17.9 these Councillors had the same rights as the ordinary member of the committee for whom they were substituting.

CE 22/8 MINUTES

RESOLVED: That the notes of the meeting of the Communities and Environment Scrutiny Select Committee held on 20 July 2022 be approved as a correct record and signed by the Chair.

MATTERS FOR RECOMMENDATION TO THE CABINET

CE 22/9 TONBRIDGE CASTLE - OUTCOME OF PUBLIC CONSULTATION AND OPTIONS FOR FUTURE COMMERCIAL ACTIVITIES.

The report of the Director of Central Services and Deputy Chief Executive provided an update on the outcome of the public consultation

in respect of Tonbridge Castle. In addition, a number of high-level options were set out for consideration.

Members were reminded that the Gateway agreement with Kent County Council would expire on 6 July 2024. Given the expected loss of income from this date the current commercial operations at Tonbridge Castle and grounds were being evaluated to identify opportunities to generate sustained long term revenue savings and income.

Careful consideration was given to the options detailed in 1.4 of the report and a number of points were raised and discussed. Members noted the public interest in having toilet facilities at the Castle, expressed interest in providing a 'changing place' space, expressed interest in working collaboratively with local independent businesses, recognised the value of exploring in depth commercial opportunities to generate income and welcomed the Borough Councils intention to consult with organisations and local authorities with experience of managing historic attractions. There was interest expressed in exploring the opportunity of establishing a charitable trust to manage the Castle on behalf of the Borough Council.

Finally, Members were pleased that the public consultation had received such a positive response with many local residents expressing interest in participating in focus groups.

RECOMMENDED: That

- (1) the outcome of the public consultation exercise be noted and the positive response welcomed;
- (2) Options A to E (Café/Bistro restaurant; events and activities; educational tours; shop and other concepts) be commended to Cabinet for further investigation and evaluation.

***Referred to Cabinet**

CE 22/10 WORKING WITH HOUSING ASSOCIATIONS TO TACKLE ANTI-SOCIAL BEHAVIOUR

The report of the Director of Central Services and Deputy Chief Executive considered how the Borough Council and its housing association partners worked together to address anti-social behaviour. In addition, the actions that could be taken against residents who caused anti-social behaviour were identified. Members also considered whether any improvements to the service were required.

Reference was made to Community Protection Notices issued by local authorities and the police to individuals (over 16) or businesses to address a wide range of problems such as littering and noise nuisance.

Breaches of these Notices was a criminal offence and a Fixed Penalty Notice could be issued. At present, housing associations were not designated by the Borough Council as being authorised to issue Community Protection Notices.

Members expressed concern about the ability of housing associations to address anti-social behaviour, the perception of tenants that housing associations were unsympathetic to victims of anti-social behaviour, the requirement for victims of anti-social behaviour to provide evidence without the support of housing associations and whether housing associations would issue Community Protection Orders in a timely manner if they were authorised to do so. However, it was noted that the use of Community Protection Orders had the potential to assist housing associations and there would be further discussion with relevant organisations on the usefulness of this tool.

The value of CCTV in securing evidence of anti-social behaviour was recognised and Members hoped that opportunities for mobile cameras would continue to be explored.

Members supported the greater sharing of information between the Borough Council and housing associations and welcomed the continuation of monthly meetings to achieve this.

Finally, further information was provided on the Community Trigger which was an additional tool designed to give victims of anti-social behaviour the right to request a review of their case and bring agencies together to take a joined up problem solving approach.

RECOMMENDED: That

- (1) the Borough Council's Anti-Social Behaviour Officer set up monthly meetings with housing associations to discuss cases and agree actions;
- (2) in consultation with Housing Associations, consideration be given as to whether Housing Associations should be authorised by the Borough Council to issue Community Protection Notices and a further report providing an update presented to a future meeting of the Communities and Environment Scrutiny Select Committee.

***Decision taken by Cabinet Member**

CE 22/11 USE OF THE COUNCIL'S PUBLIC OPEN SPACES

Members reviewed the new policy and fees and charges for the use of Borough Council owned space which was introduced in January 2022.

The Policy setting out criteria against which each request for an event was assessed together with the approved fees and charges was attached at Annex 1. Information on the number and type of events held during 2022 was set out in Annex 2.

There had been no obvious or evidenced detrimental impact on the number of events taking place. In fact, there had been a 32% increase since 2021. The existing charges, included in Section 6 of the Policy, had not had a negative impact on the number of events taking place and in line with corporate guidance it was suggested that the prices be increased in line with inflation.

Members discussed the principle of whether bands or organisations should be charged if they were providing entertainment. In response, it was noted that bands and organisations had already been invited to participate in events during 2023/24. Details of the charging policy had been provided at the same time and it was confirmed that all dates were filled. This demonstrated that bands and organisations were willing to pay the charges as set out. It was also noted that the current £25 charge did not fully cover the costs incurred by the Council when administering, authorising and supporting such events.

RECOMMENDED: That

- (1) the outcome of the review be noted;
- (2) the Policy (attached at Annex 1) be approved with no changes identified; and
- (3) an inflationary increase of 10% in charges for 2023/24 be commended to Cabinet.

***Referred to Cabinet**

MATTERS SUBMITTED FOR INFORMATION

CE 22/12 WASTE SERVICES - KEY PERFORMANCE INDICATORS

Members reviewed the performance of the Waste Contract against a suite of Key Performance Indicators (KPIs) for the period April to August 2022 and welcomed the increased percentages of waste collected for recycling or composting, the reduction in food waste and refuse bin tonnages.

Particular reference was made to dog waste bins not being emptied regularly. It was explained that there was no standard frequency of emptying throughout the borough as bins in different locations had varying amounts of use. However, if there were particular issues in certain areas, Members should alert Waste Services who would arrange

for the dog waste bin to be emptied and who would review whether the frequency of emptying should be amended.

CE 22/13 WORK PROGRAMME 2022/23

The Work Programme setting out matters to be scrutinised during 2022/23 was attached for information. Members were invited to suggest future matters by liaising with the Chair of the Committee. It was requested that the following matters be considered for inclusion in the Work Programme, subject to liaison with relevant Services:

- Representatives of Clarion Housing Association to be invited to discuss anti-social behaviour issues;
- Planning Services to advise how climate change issues were being incorporated into planning issues;
- Review best practice in respect of Warm Spaces initiative

The Chair advised that representatives of the Post Office, who had been invited to address Members, were unable to attend the Finance, Regeneration and Property Scrutiny Select Committee on 14 March 2023. However, they had offered to attend the Communities and Environment Scrutiny Select Committee on 8 February 2023 if that was acceptable. Upon reflection, Members felt that this matter was of more relevance to Tonbridge and the Post Office should be invited to attend the meeting of Tonbridge Community Forum on 27 February 2023.

MATTERS FOR CONSIDERATION IN PRIVATE

CE 22/14 EXCLUSION OF PRESS AND PUBLIC

There were no matters considered in private.

CE 22/15 DECLARATIONS OF INTEREST

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

The meeting ended at 9.50 pm

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TONBRIDGE & MALLING BOROUGH COUNCIL

COMMUNITY AND ENVIRONMENT SCRUTINY SELECT COMMITTEE

08 February 2023

**Report of the Director of Street Scene, Leisure & Technical Services and Cabinet
Member for Technical & Waste Services**

Part 1- Public

Matters for Recommendation to Cabinet

1 HOUSEHOLD RECYCLING AND WASTE SERVICE

Summary

The report outlines opportunities to maintain and improve service provision in relation to the Council's Waste Services Collection Contract, which is provided in Partnership with Tunbridge Wells Borough Council, that will be reported to Cabinet on the 14 February 2023. The report advises on a proposed extension to previously agreed support for a further 5 month period in relation to the recent and ongoing impacts of HGV market conditions and support for a proposed Phase 2 of re-rounding. Members of this Scrutiny Select Committee are invited to review the content of the report in advance of the Cabinet meeting and make any recommendations or observations to Cabinet.

1.1 Introduction and Background

- 1.1.1 In 2018 the Council jointly awarded a contract with Tunbridge Wells Borough Council (TWBC) to Urbaser Ltd and Urbaser SA for street cleansing and the collection of household waste and recycling. The contract commenced in March 2019 with an 8-year term.
- 1.1.2 This report, which is due to be presented to the Cabinet on 14 February, considers two areas in relation to the operation of the contract. The first relates to the time limited provision of limited financial assistance previously agreed by the councils for the period May to October 2022 (inclusive). The second sets out a proposal from Urbaser to undertake changes to the current food, recycling and refuse collection rounds and the introduction of a new fleet of collection vehicles during 2023.
- 1.1.3 Members of this Scrutiny Select Committee are invited to review the content of the report in advance of the Cabinet meeting and make any recommendations or observations to Cabinet.

1.2 Provision of Limited Financial Assistance By Way of Additional Payments

- 1.2.1 In response to the HGV driver shortage, Urbaser proposed the introduction of an enhanced pay rate for its HGV drivers working in the joint contract to reflect the pressures in the employment market. The aim of the enhanced pay rate was to improve the recruitment and retention of drivers, ensuring that sufficient drivers were available and aid the reinstatement of suspended garden waste service in early 2022.
- 1.2.2 A proposal was put forward for the additional unexpected staffing costs to be shared between the two councils and Urbaser. This proposal was approved under a Cabinet Member Decision Notice and a six-month agreement to make additional payments to provide limited financial assistance between May and October 2022 (inclusive) was put in place.
- 1.2.3 As a result, the recruitment and retention of drivers has improved. There is now a higher proportion of directly employed drivers and a reduced reliance on temporary agency staff. The same is also the case for loaders and this has led to an increase in consistency of staff on collection rounds.
- 1.2.4 The pressures, however, continue to exist in the HGV driver market with wage settlement running ahead of inflation and market conditions have not improved. In response, Urbaser has asked for this support to continue for the remaining years of the contract, reviewed on an annual basis. The two councils acknowledge that pressures remain in the driver market and that the position since the first period of financial assistance (May to October 2022) were agreed has not significantly altered.
- 1.2.5 The annual contract sum is subject to a contractual annual indexation each April calculated using the RPI and DERV indices from the preceding October. The estimated indexation from 1 April 2023 is 16.3% and the councils' view is that this level of indexation takes into account the increased wage costs currently being experienced and that this, together with future annual indexation, removes any need to continue to provide this support beyond April 2023. In recognition of the ongoing exceptional circumstances during 2022/23 the two councils are minded to agree to an extension of the previously approved additional payments but only until 31 March 2023, conditional upon the contractor continuing to provide agreed and satisfactory evidence. The value of these monthly payments for TMBC is a maximum of £15,356 giving an additional cost from November 2022 to March 2023 (inclusive) of £76,780. As with the initial supplemental payment, this cost can be funded from the Budget Stabilisation Reserve to protect the garden waste income stream. The Revised Estimates for 2022/23 being considered by Cabinet on 14 February have been updated accordingly.
- 1.2.6 The councils have received confidential and privileged legal advice and have concluded that the proposed limited extension of financial support by way of these additional payments, is permitted under the Public Contracts Regulations 2015.

The payments are made in order to address unexpected additional costs to Urbaser caused by unexpected changes in market conditions and are only paid upon satisfactory evidence of those costs being provided to the councils.

- 1.2.7 The councils will publish an appropriate procurement notice (a Voluntary Ex-Ante Transparency Notice - a VEAT Notice) in the Official Journal of the European Union and the Find a Tender Service. Any agreement for the proposed further payments will not be entered in to until the expiry of period and absence of a challenge.

1.3 Re-rounding and Re-fleeting

- 1.3.1 Members will be aware that Urbaser has already reviewed and implemented the re-rounding of the Garden Waste Service in November 2022 (Phase 1). This was undertaken to re-balance the number of properties per round to reflect the changes in subscription numbers and new housing developments. The changes also allowed for the creation of dedicated collections crews to be based at the Tonbridge and Tunbridge Wells depots and serve the respective council areas. The crews now have an improved familiarity with the area improving service provision for residents.
- 1.3.2 Apart from the recent suspension of the garden waste service due to the implications of the adverse weather in December and the usual catch-up arrangements following the Christmas and New Year period, the introduction of the new rounds has gone to plan. The full benefits are expected to be seen during the main growing season.
- 1.3.3 Urbaser has now approached the two councils with a request to consider the implementation of a second phase of re-rounding that will involve changes to food, recycling and refuse collections. This Phase 2 also contains a proposal to replace the existing vehicle fleet with brand new vehicles of different configuration to fully optimise the efficiencies from re-rounding.
- 1.3.4 Currently, although on recycling week, separate vehicles are deployed to collect food waste, some food waste is collected on the same vehicles as the refuse. The proposed new fleet configuration will introduce an entirely separate food waste collection vehicles to service all properties that currently have a food waste collection. There would then be dedicated vehicles for both recycling and refuse collections. All of these materials will still be collected on the same day, but residents may see a change in their collection day and/or week of collection. If the proposal is approved, it would be implemented in Tonbridge & Malling in July 2023 following a communication campaign to inform residents of the specific changes to their collections.
- 1.3.5 Combining the rebalancing of the collection rounds with the vehicle re-fleeting will enable the optimisation of the collection service, taking into account actual and projected property growth, the changes in waste composition, volume and weight

from changing habits and the expected new legislation and guidance, including the forthcoming change requiring the collection of food waste from all properties.

- 1.3.6 The re-rounding and re-fleeting will enable a more efficient use of resources to meet the changing demands on the service, reducing travel distances and vehicle down time and improving the stability of the service.
- 1.3.7 To realise the maximum efficiencies from the re-rounding and re-fleeting will require the early lease termination of a number of the current vehicles. Urbaser has requested that the two councils assist with the implementation costs of the Phase 2 proposals and is seeking a contribution towards the early lease termination costs associated with a number of the existing fleet. The total cost of termination will be in the region of £775,000 and following discussions with Urbaser, the contribution that has been sought from the councils is set at a maximum of £150k per council. Any agreed payment would be made in the 2023/24 financial year, and the draft budget for 2023/24 being considered by Cabinet at its meeting on 14 February has been updated accordingly. As this is a one-off, designed to stabilise the waste contract and service delivery, it will be proposed to Cabinet that the additional cost is also funded from the Budget Stabilisation reserve.
- 1.3.8 Urbaser is proposing to lease circa 44 new vehicles, subject to finalising the requirements of the new rounds, and has requested our consent for the lease to be 8 years. This is the accepted industry norm for the lifecycle of a new vehicle, but this approach will result in the vehicle leases expiring beyond the end of the existing service contract. Entering into a lease of this length will result in lower monthly vehicle costs to Urbaser to offset against the cost of implementing the Phase 2 changes. This proposal will also contribute to long-term cost certainty (to the benefit of both councils and their populations) by securing a fleet of vehicles for use for 4 years from April 2027 by the next service provider(s) of their recycling and waste collection service at a known monthly cost. This benefit would also be achieved if the service was brought in-house by one, or both, of the councils, allowing a transition period with the key assets in place and not being exposed to the need to compete with established service providers for new vehicles in a congested market during the start-up period.
- 1.3.9 Planning for the next vehicle change in 2031 will also allow the electric vehicle market to have matured further and give the councils time to investigate and implement the enhancements necessary for the associated power network infrastructure.
- 1.3.10 The engines of the new fleet will meet the most recent Euro VI emissions standards, and, unlike the existing fleet, they will be capable of running on the biofuel HVO (hydrotreated vegetable oil) the use of which can significantly reduce the carbon dioxide emissions in comparison to diesel. The option of using HVO can be considered in 2027. In the meantime, the re-rounding is expected to

reduce vehicle milage and emissions and other opportunities to reduce emissions, such as the use of electric bin lifts on the vehicles are being explored.

- 1.3.11 The 8-year lease length will require the councils to enter into an appropriate contract variation to provide a binding commitment that the vehicle lease(s) will be transferred either to the council(s) or to the new service provider(s) from April 2027. The two councils will also need to enter in to binding agreement to confirm which vehicles each council will take responsibility for from April 2027.
- 1.3.12 The councils have received confidential privileged legal advice and have concluded that the above proposal is permitted under the Public Contracts Regulations 2015.
- 1.3.13 The councils consider that the proposal does not amount to a substantial modification of the contract. It does not alter the scope or nature of the contract but brings about efficiencies and service improvements to the benefit of the councils and the populations they serve.
- 1.3.14 The proposed contribution to the vehicle termination costs does not alter the economic balance of the contract in favour of the incumbent. The changes will benefit the councils during the remainder of the contract with improved performance and a response to new legislation. The longer-term vehicle lease agreements will also be beneficial to the Council when the current contract expires as part of any option to provide the service in house or re-procure as a partnership or individually.
- 1.3.15 The re-fleeting and re-rounding proposals do not fundamentally change the character of the service, nor the contract originally procured, retaining the collection of the same material streams as set out in the contract specification.
- 1.3.16 As above, and as part of their commitments to transparency, the councils will publish an appropriate procurement notice (a Voluntary Ex-Ante Transparency Notice - a VEAT Notice) in the Official Journal of the European Union and the Find a Tender Service

1.4 Summary

- 1.4.1 The recommendation to Cabinet will be to accept both aspects of the proposal detailed above. This will meet both objectives of ensuring the retention of necessary staff in light of continuing difficulties in the HGV driver market and bringing about long-term cost certainty and efficiencies as detailed above.

1.5 Legal Implications

- 1.5.1 The councils have received confidential privileged legal advice and have concluded that the above proposals are permitted under the Public Contracts Regulations 2015.

- 1.5.2 The councils will publish an appropriate procurement notice (a Voluntary Ex-Ante Transparency Notice - a VEAT Notice) in the Official Journal of the European Union and the Find a Tender Service in respect to all proposals above. Any agreement for the proposed further payments will not be entered in to until the expiry of period and absence of a challenge.

1.6 Financial and Value for Money Considerations

- 1.6.1 The Council's draft Estimates for 2022/23 (revised) and 2023/24 being considered by Cabinet on 14 February have been updated to reflect these recommendations.

1.7 Risk Assessment

- 1.7.1 Rejecting the proposal for additional payments would risk staff not being retained until April 2023 (when increased staffing costs will be reflected by indexation in the contract). This would present an unacceptable risk of service(s) having to be cut or suspended (as happened previously with the Garden Waste service) and is likely to require the provision of higher levels of support to re-recruit and retain staff.
- 1.7.2 Rejecting the proposal relating to vehicle leases would mean that the councils will not secure the benefits of a new fleet of vehicles with the long-term cost certainty or the beneficial effect on the next contract, however this is provided, that this will bring.
- 1.7.3 The proposal for the councils to take on responsibility for the new fleet of vehicles from April 2027 presents an element of risk. At the time of considering this proposal the configurations of the new vehicles are industry standard and the expectation is that they will meet the needs of the service for the long-term foreseeable future.
- 1.7.4 The vehicles will be maintained by the supplier under the lease contract, and it is in all parties' interests to ensure that they are suitably maintained. The councils will carry out regular monitoring of maintenance records during the remainder of the current service contract. The current contractor has committed to an annual review of each vehicles' condition; provision of annual service & maintenance records; and an annual review of mileage. In addition, each vehicle will be subject to a full condition survey in the run up to the next service procurement exercise and at the handover of the vehicles in March 2027.
- 1.7.5 From March 2027, the liabilities for the lease costs and associated maintenance costs will be borne by the new contractor should the Council decide to go out to procurement for the services by a third party for 2027 onwards. Should the Council decide to bring the services in-house, the Council would bear this liability. In both cases these costs would have to be borne by either party anyway as part of future service provision.

1.7.6 There are operational risks associated with the effective implementation of the new collection rounds. A project team is in place with membership from Urbaser, Tunbridge Wells BC and this Council. A separate TMBC team will be re-established, involving representatives from the Communications and IT teams together with the operational representatives.

1.8 Equality Impact Assessment

1.8.1 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.

1.9 Policy Considerations

1.9.1 Climate Change, Community and Procurement

1.10 Recommendations

1.10.1 Please find below recommendations due to be taken to Cabinet on 14 February. Members of the Community & Environment Scrutiny Select Committee are invited to offer any comments on the report above and recommendations below.

- 1) that Council gives authority to the Director of Street Scene, Leisure and Technical Services to extend, for the period November 2022 to March 2023, the provision of limited financial assistance to Urbaser Ltd and Urbaser SA in respect of the contract originally procured and that the value of this (£77,000) be reflected in the Revised Estimates for 2022/23 and funded from the Budget Stabilisation Reserve;
- 2) that Council approves a one-off contribution to Urbaser Ltd of up to £150,000 towards the costs of terminating a number of existing collection vehicle leases to facilitate the provision of a new fleet of collection vehicles in 2023/24 and that the value of this be reflected in the Estimates for 2023/24 and be funded from the Budget Stabilisation Reserve;
- 3) that Council gives authority to the Director of Street Scene, Leisure and Technical Services in consultation with Director of Finance and Transformation and Director of Central Services to complete all necessary negotiations, legal processes and legal documentation to enter into an agreement with Urbaser Ltd to allow for the transfer of the new vehicle lease(s) to the Council in conjunction with Tunbridge Wells Borough Council or to the organisation(s) contracted to provide the two councils' household waste collection service on the expiry of the current joint recycling and waste collection and street cleansing contract;

- 4) that Council gives authority to the Director of Street Scene, Leisure and Technical Services in consultation with the Director of Finance and Transformation and the Director of Central Services to complete all necessary negotiations, legal processes and legal documentation and enter into an agreement with Tunbridge Wells Borough Council to share the liability for the new vehicle fleet from the end of the current joint recycling and waste collection and street cleansing contract; and

- 5) that Council notes that a Voluntary Ex-Ante Transparency Notice will be published containing details of the proposed changes set out in recommendation 1,2 and 3 to cover the items highlighted above.

The Director of Street Scene, Leisure & Technical Services confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Darren Lanes

Nil

Councillor Piers Montague
Cabinet Member for Technical & Waste Services

Robert Styles
Director of Street Scene, Leisure & Technical Services

TONBRIDGE & MALLING BOROUGH COUNCIL

COMMUNITY and ENVIRONMENT SCRUTINY SELECT COMMITTEE

08 February 2023

Report of the Chief Executive

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

1 CLIMATE AND BIODIVERSITY ACTION

To update on current climate change and biodiversity measures being undertaken by the Council and consider future options.

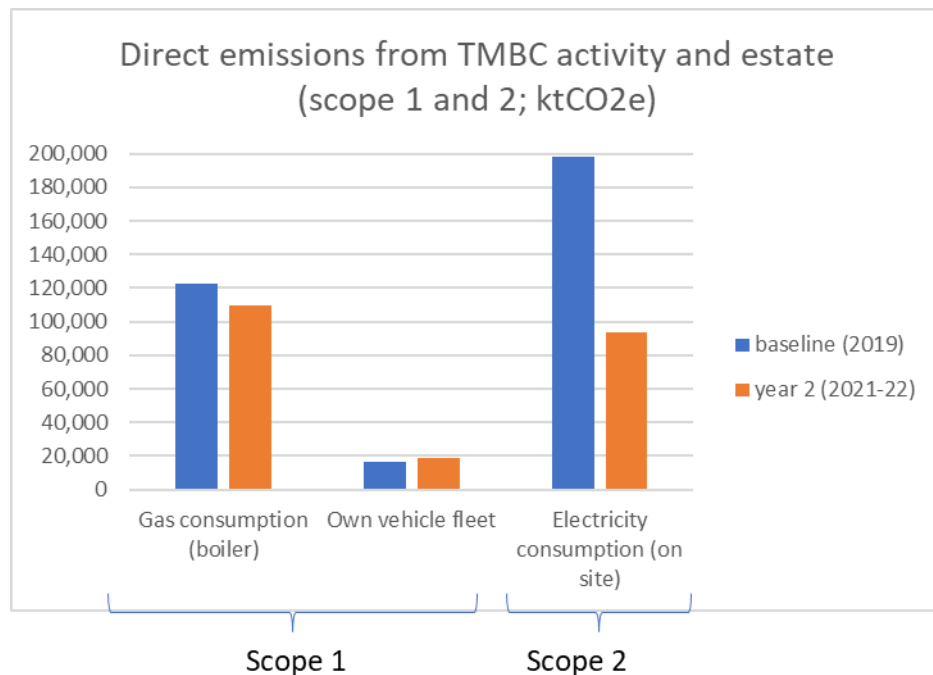
1.1 Background

- 1.1.1 A request was made from Cllr Base in 2022 to provide additional information and update on progress in relation to the Council's climate change and biodiversity measures. This report will provide an update on climate change measures/biodiversity activity currently underway as well as potential options to help us work towards net zero.
- 1.1.2 The Council has announced its aspiration to be carbon neutral by 2030. A full update on the Climate Change Action Plan for 2022-23 and new measures for 2023-24 will be brought to Cabinet after April, when data for the current financial year will be available.
- 1.1.3 In addition to this report, Cllr Betts requested a Cabinet Member Briefing note in January on Action Plan measures completed or in progress to be circulated to keep people informed of ongoing work relating to climate change and biodiversity, attached as Annex 1.
- 1.1.4 Members will be aware that the current energy crisis is challenging for residents, businesses and public sector services. This has inevitably shifted focus and attention towards the energy saving measures that need to be implemented at the Council. Switching to renewable electricity and decarbonising heat and transport are increasingly urgent for achieving significant reductions in greenhouse gas emissions. Considered action will balance moving rapidly on energy efficiency renewable energy generation, to ease immediate financial and operational pressures and deliver emissions reductions, with making longer-term investments in deeper decarbonisation measures. The balance of actions will determine the shape of the emissions reduction pathway to 2030 and beyond.

1.2 TMBC Estate and Operations

1.2.1 Meeting the 2030 goal will require investment in renewable electricity generation and significant decarbonisation measures for heat and transport. Greenhouse gas emissions produced directly by the Council have been reduced over the last three years through a number of policy, behavioural and technological measures. These include rationalizing the Gibson building, increased working from home, reduced printing and increased online services (e-Billing), more efficient IT and equipment, as well measures such as solar charging parking meters. Emissions from the Council's own estate and operations are measured using categories called 'scopes.' Scope 1 measures direct emissions from TMBC's gas boilers for heat and TMBC-owned vehicles. Scope 2 measures the emissions from electricity consumption by the Council's buildings and on streets (e.g. street lighting; car parking meters and lighting). Figure 1 shows changes in emissions from scopes 1 and 2.

Figure 1: Direct emissions from TMBC activity and estate



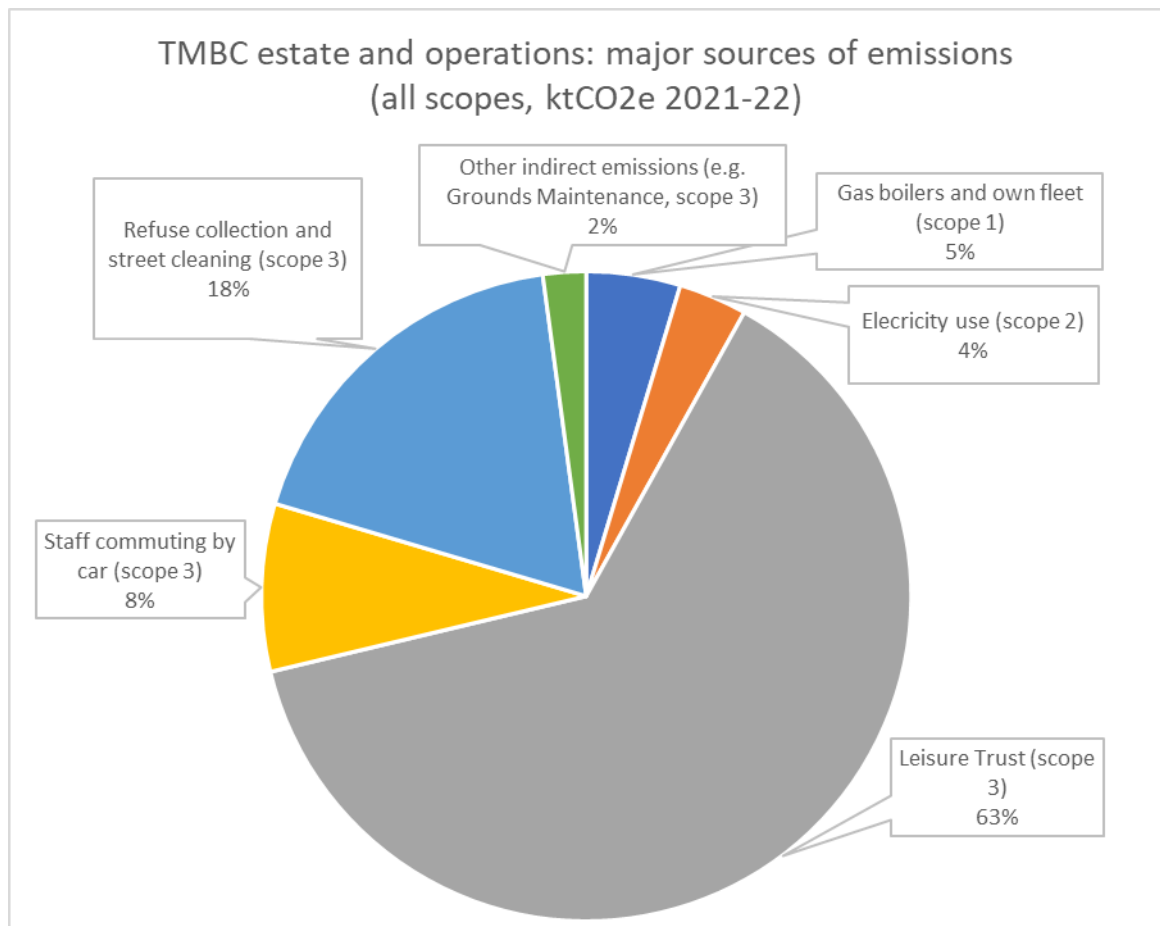
1.2.2 Figure 1 shows that the greatest reduction in emissions (ktCO₂e) between the baseline and the last reporting year (2021-22) has been in reduced direct electricity consumption (scope 2). Furthermore, these are gross emissions, as the TMBC owned estate has been on a renewable energy tariff since April 2021.

1.2.3 Heat and transport are the largest remaining sources of emissions, accounting for 58% of the scope 1 and 2 total. In other words emissions from heat and transport now exceed those from electricity use.

1.2.4 In terms of indirect emissions from the Council's estate and operations only three activities account for 98% of emissions from scope 3; that is, 90% of TMBC's total

emissions from all scopes. Scope 3 is a broader category of indirect emissions associated with the Council's activities or estate, including the Leisure Trust, Ground Maintenance, contracts and procurement. The three major sources of Council emissions are: Leisure Trust activities, refuse collection and street cleaning, and staff commuting by car (see Figure 2). Again, decarbonising both heat and vehicle fuel remain the most significant challenges.

Figure 2: Major sources of greenhouse gas emission from TMBC estate and operations (ktCO₂e; 2021-22)



- 1.2.5 On-site renewable electricity generation can significantly reduce carbon emissions from electricity use, whether at TMBC-owned sites or in housing and businesses in the borough more broadly. As part of the ongoing work around rationalisation of the Council's office accommodation at Kings Hill the plan is to incorporate carbon reductions, including options for energy efficiency measures and decarbonising electricity and heat.
- 1.2.6 Solar panels and a lake source heat pump are in operation at Leybourne Lakes Country Park, now managed by the Leisure Trust. The Council has already committed to the installation of approximately 190 solar PV panels on the sports hall roof at Larkfield Leisure Centre. This installation is scheduled to begin in

January and complete late February 2023, delivering electricity generation of approximately 90,000kWh/ year and saving 19tCO₂ per year.

- 1.2.7 Additional energy efficiency measures at Larkfield Leisure Centre and Tonbridge Swimming Pool (both Leisure Trust sites) include the installation of LED lighting at both centres, and solar PV at Tonbridge Swimming Pool, as proposed in the Carbon Descent reports for each site. The capital plan which was considered by Members at Overview & Scrutiny on 26th January included a proposal to allocate funding to these schemes. Further decarbonisation measures (including heat pumps) identified in the Carbon Descent reports will require both further technical investigation as well as significant additional funding. Due to the anticipated high cost of these schemes it is envisaged external funding will be required to deliver them. The technical investigations into options will provide the detailed evidence needed for writing a robust bid. Members will have an opportunity for a full review of the Leisure centres at a future Overview & Scrutiny meeting.
- 1.2.8 Decarbonising emissions from transport from both the Council's owned fleet (scope 1) and from staff commuting (scope 3) will similarly require further options development, including the cost and feasibility of shifting to an all-electric fleet by 2030; and considering ways to encourage either fuel or mode switching for staff commutes.

1.3 Emissions from other sectors

- 1.3.1 Beyond the Council's own estate and operations, domestic housing and transport remain significant sources of greenhouse gases, accounting for 73% of emissions in the borough. Along with housing, measures to tackle emissions from businesses have supported the introduction of renewable and energy efficiency measures. Annex 1 shows the renewable energy and efficiency measures delivered for domestic private and social housing, and green business grants through the Climate Change Action Plan this year.
- 1.3.2 Although new Building Regulations to reduce emissions from domestic housing are welcome (in effect from 2022 and 2025), new housing will constitute only up to 7% of the Borough's housing by 2030. As such existing housing stock remains an important site for emissions reductions through energy efficiency and renewable energy generation measures, in addition to actions to reduce waste, increase recycling, and encourage good water use management.
- 1.3.3 Climate change mitigation and adaptation are already embedded within the National Planning Policy Framework (NPPF) and relevant planning legislation as well as within the council's current local development framework documents. The production of a new local plan however presents a significant opportunity to further embed climate change mitigation and adaptation within new development in the borough. Through this process there is potential to introduce new or heightened standards to manage and mitigate against the impacts of climate change on the borough such as through seeking more efficient and resilient

construction methods and transport infrastructure improvements, while contributing to the restoration and resilience of biodiversity, habitats, and tree coverage.

- 1.3.4 Biodiversity Net Gain (BNG) is already required through national planning policy in England and Wales. However, the Environment Act 2021 introduced new requirements to demonstrate at least 10% biodiversity net gain on all development sites, other than a small number of exemptions, that it will be measured using Defra's biodiversity metric and that habitats will need to be secured for at least 30 years. This can be achieved on site, off site, or through a combination of on-site and off-site measures This will become mandatory from November 2023.
- 1.3.5 The new local plan offers an opportunity to explore whether there is potential for a higher percentage target in the borough if it can be evidenced, as well as provide further local detail on where off-site delivery could be best directed. Officers are currently liaising with Kent County Council, the Kent Local Nature Partnership and Kent Wildlife Trust. Consultation on the Regulation 18 Local Plan took place between 22nd September and 3rd November 2022. This document identified some key issues relating to climate change and the natural environment such as lowering carbon emissions through the location of development, construction, energy efficiency and transport; water resource management and flood risk; and biodiversity net gain. The planning policy team are currently processing and responding to the consultation responses as well as commissioning further evidence to guide the proposed approach to the above matters.
- 1.3.6 A response to the current government consultation on future changes to the NPPF will be brought to 14th February meeting of Cabinet. Followed by a report to the HPSSC meeting of 21st March 2023 on the implications of these potential changes on the local plan and its timetable.
- 1.3.7 Measures introduced through the new local plan coupled with the council's own functions would mean that places and habitats are more resilient to extreme heat and flooding, supporting well-being, lower congestion and improved air quality.
- 1.3.1 Further action on wider environment measures, including tree planting and working with schools to tackle poor air quality, are included in Annex 1.

1.4 Legal Implications

- 1.4.1 None.

1.5 Financial and Value for Money Considerations

- 1.5.1 Options appraisal of the possible pathways for carbon neutral in 2030 will need to require evaluating the cost of measures for the quantity of greenhouse gas emissions reductions they achieve (£/ ktCO_{2e} of each measure, over the lifetime of the investment). TMBC cannot fund all necessary measures unilaterally. Thus meeting carbon neutral goals will rest on both partnership working, such as

seeking joint-funding, and successful bids for grant funding. There is no guarantee regarding the funding schemes that will be offered between 2023 and 2030, or of TMBC's success in making any particular bid. However, it is important to identify significant emissions reduction potential and value for money options in order to provide clarity on the pathway to 2030. It is also important that we have sufficient evidence in place as this is a requirement needed to apply for grant bids.

- 1.5.2 There is a reserve budget held for climate change. The opening balance this year was £779,920. However, much of this has already been allocated (including funding the installation of PV panels at Larkfield Leisure Centre and salary costs for climate change work). The balance available this financial year for projects to de-carbonise the Council's estate is £215,000.

1.6 Risk Assessment

- 1.6.1 In light of the financial pressures and significant expenditures needed for decarbonisation, a medium-term risk remains against the funding needed to deliver on the carbon neutral aspiration.

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 Policy Considerations

- 1.8.1 Asset Management
- 1.8.2 Biodiversity & Sustainability
- 1.8.3 Business Continuity/Resilience
- 1.8.4 Climate Change

1.9 Recommendations

- 1.9.1 That Members **recommend** to Cabinet the growing priority of decarbonising heat and transport emissions from the Council's estate and operations alongside existing Climate Change Action Plan measures. Taking forward work in these areas could include:
- Scoping and commissioning the feasibility of heat pump systems at both Larkfield Leisure Centre and Tonbridge Swimming Pool be progressed with a report on options brought to a future meeting of the Overview and Scrutiny Committee.
 - investigating potential options to reduce scope 1 and 3 transport emissions.

The Chief Executive confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Carrie Spencer
Climate Change Officer

Nil

Julie Beilby
Chief Executive

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Cabinet Member Briefing Note
Progress on Climate Change Actions

Cllr Robin Betts

January 2023

Interim Update: What has been achieved so far

1. This note provides a snapshot of TMBC’s progress on tackling greenhouse gas emissions. The table below summarises key measures that have reduced emissions from our owned estate and operations, and supported renewable energy and efficiency investments by businesses, private and social housing.
2. Community engagement and support for residents has also continued, including through a range of media activities from encouraging the switch to paperless council tax bills to information on green grants and providing household energy efficiency tips. In addition, we have been working with schools to tackle poor air quality, with sensors and signs now installed at pilot schools and anti-idling activities taking place in January. The next Climate Change Forum will take place in January.
3. To support the natural environment, we have already planted 1,000 new trees and are currently planting the additional match-funded thousand trees, enhancing green spaces, habitats and carbon sequestration capacity for the coming decades.
4. The full list of current measures to tackle climate change is available in the Climate Change Action Plan at <https://www.tmbc.gov.uk/downloads/download/439/climate-change-action-plans>. A progress report for 2022-23 and new measures for 2023-24 will be produced after April when data for the current financial year is available.

Table of key renewable energy and efficiency actions delivered to date

	What we’ve done	Impact	What next?
Leisure Trust – energy	Installation of approximately 190 solar PV panels at the Larkfield Leisure Centre (scheduled to begin January).	The installation will generate an estimated 90,500kWh/ year and reduce emissions by 19tCO ₂ per year.	Investigation of further decarbonisation measures at Leisure Trust operated sites is underway.
Electric vehicle charging points	Installation of 28 rapid or fast electric vehicle (EV) charging points in 5 car parks has been completed. The final 3 charging bays in the Gibson Buildings visitor car park should be completed soon (January).	In the three months September – November 2022 a total of 12,073 kWh were charged across the five sites. Sovereign Way North (Tonbridge) was the most frequently used:	Following successful completion, Phase 2 will install up to 100 additional EV chargers.

Annex 1: Climate change and biodiversity report

	What we've done	Impact	What next?
Green business grants		248 times during the three-month period.	
	The Green Business Grant Scheme supports T&M businesses in the low carbon sector, and businesses across sectors to lower their carbon footprint. There was a total funding pot of £150,000 for first two rounds of the scheme.	The funding pot has been allocated to 31 projects across the borough, supporting measures such as switching to LED lighting, the installation of solar panels, funding new equipment for a local zero waste shop, installation of heat pump heating, and tree planting. 17 of these projects are complete. The remaining projects have until April 2023 to complete.	Using UK Shared Prosperity Funding (which has now been secured), we will be launching another couple of rounds of the Green Business Grant Scheme in 2023.
Social Housing	The Social Housing Decarbonisation Fund (SHDF) Demonstrator project delivered deep retrofit measures to 110 homes across TMBC and Fenland District Council. Deep retrofit includes technically challenging and costly measures, such as external wall insulation in addition to efficiency measures such as loft insulation. The project was joint funded by BEIS and Clarion Housing Group.	The homes started with an EPC rating of E or D, and were to achieve a minimum of C and a reduced space heating demand of 50kWh/m ² per year. Overall emissions saving estimated of up to 2.5 tonnes of carbon and energy bill costs of £500 per household per year.	The retrofit works started through the Demonstrator project are continuing across an additional 450 properties across both Districts.
	Solar Together is a group buying scheme to allow residents to group together to purchase solar panels at a cheaper rate.	Round 2 has seen 104 panels installed on 91 homes to date (delivery for this round is ongoing).	
Energy efficiency at home	TMBC participated with other Councils in the KCC Share the Warmth campaign, designed by their Behavioural Insights consultants. The campaign offered 5 zero/ very low cost energy efficiency tips for residents.	Evaluation and assessment of the campaign is taking place in January/ February.	

TONBRIDGE & MALLING BOROUGH COUNCIL

COMMUNITY and ENVIRONMENT SCRUTINY SELECT COMMITTEE

08 February 2023

Report of the Director of Central Services and Deputy Chief Executive

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

1 PUBLIC SPACE PROTECTION ORDER – CONSULTATION FEEDBACK

To provide feedback on the responses received on the Public Space Protection Order (PSPO) consultation and agree on the terms for the PSPO

1.1 Background to the Public Space Protection Order

- 1.1.1 The Anti-social Behaviour, Crime and Policing Act 2014 placed a new duty on the Council to tackle Anti-social Behaviour (ASB), working co-operatively with the Police, social landlords and other agencies. The Act put victims at the heart of the response to ASB and was intended to give professionals the flexibility they needed to deal with any given situation.
- 1.1.2 Public Spaces Protection Orders (PSPOs) were one of a number of new tools contained within the Act and were intended to deal with a particular nuisance or problem in a particular area that was detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They were designed to ensure the law-abiding majority could use and enjoy public spaces, safe from anti-social behaviour.
- 1.1.3 Councils are responsible for making the new PSPO. District Councils will take the lead in England with county councils undertaking the role only where there is no district council. The new power is not available to parish councils or town councils.
- 1.1.4 The PSPOs have replaced dog control orders, designated public place orders (also known as Alcohol Control Zones) and gating orders.
- 1.1.5 A PSPO has been in place in the borough since April 2017 which contained a number of different restrictions. This was then reviewed in 2020, with some new restrictions added to the original PSPO. Details of the current PSPO Order can be found at Annex 1.

1.2 The requirements of a PSPO

1.2.1 The council can make a PSPO on any public space in its own area. The definition of a public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, for example a shopping centre. It does not just apply to land owned by the Borough Council but to any open space anywhere in the borough (even land owned by Parish Councils or Kent County Council).

1.2.2 Before making a PSPO the council must consult with the local police. This is an opportunity for the police and council to share information about the area and the problems being caused as well as to discuss the practicalities of enforcement. In addition, the owner or occupier of the land should be consulted as well as community representatives as appropriate.

1.2.3 The test for a PSPO is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. A PSPO can be made by the council if they are satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be unreasonable; and
- justifies the restrictions imposed.

1.2.4 The Statutory Guidance for frontline professionals on the Anti-social Behaviour, Crime and Policing Act 2014 advises that

‘the council should give due regard to issues of proportionality: is the restriction proposed proportionate to the specific harm or nuisance that is being caused? Councils should ensure that the restrictions being introduced are reasonable and will prevent or reduce the detrimental effect continuing, occurring or recurring. In addition, councils should ensure that the Order is appropriately worded so that it targets the specific behaviour or activity that is causing nuisance or harm and thereby having a detrimental impact on others’ quality of life. Councils should also consider whether restrictions are required all year round or whether seasonal or time limited restrictions would meet the purpose.’

1.2.5 In relation to groups hanging around/ standing in groups/ playing games, the guidance advises as follows

'It is important that councils do not inadvertently restrict everyday sociability in public spaces. The Public Spaces Protection Order should target specifically the problem behaviour that is having a detrimental effect on the community's quality of life, rather than everyday sociability, such as standing in groups which is not in itself a problem behaviour.'

Where young people are concerned, councils should think carefully about restricting activities that they are most likely to engage in. Restrictions that are too broad or general in nature may force the young people into out-of-the-way spaces and put them at risk. In such circumstances, councils should consider whether there are alternative spaces that they can use.

People living in temporary accommodation may not be able to stay in their accommodation during the day and so may find themselves spending extended times in public spaces or seeking shelter in bad weather. It is important that public spaces are available for the use and enjoyment of a broad spectrum of the public, and that people of all ages are free to gather, talk and play games.'

- 1.2.6 A single PSPO can include multiple restrictions and requirements in one order. It can prohibit certain activities, such as the drinking of alcohol, as well as placing requirements on individuals carrying out certain activities, for instance making sure that people walking their dogs keep them on a lead.
- 1.2.7 The maximum duration of a PSPO is three years but they can last for shorter periods where appropriate. At any point before expiry the council can extend a PSPO by up to three years if they consider that it is necessary to prevent the original behaviour from occurring or reoccurring. If a new issue arises in an area where a PSPO is in force the council can vary the terms of the order at any time. This can change the size of the restricted area or the specific requirements or restrictions. As well as varying the PSPO, a council can also seek to discharge it at any time.
- 1.2.8 Our current PSPO was authorised in April 2020 and will expire in April 2023. We have therefore considered whether we want to continue with our current restrictions and also looked at whether we want to include any new restrictions.

1.3 The proposed PSPO for Tonbridge & Malling

- 1.3.1 After consultation with Borough Council officers and with Cabinet, we are proposing to proceed with a PSPO containing multiple restrictions. Some of these restrictions are the same as were included previously, as we have been able to provide evidence to show that the issues are continuing. In addition, we have also proposed some new restrictions as they are new issues that have been reported to us since 2020 and which we feel meet the criteria of the PSPO and will help to reduce the problems.
- 1.3.2 As found in the previous PSPO, some of the restrictions are borough wide (e.g. deterring dog fouling, dogs on leads by direction) and some are specific to

geographical locations depending on particular issues (for example to prevent the use of unauthorised BBQs within Leybourne Lakes Country Park). We believe that each of the proposed restrictions passes the PSPO 'Test' (see paragraph 1.2.3 above) and that they will all help to prevent ASB in the borough.

- 1.3.3 Discussions were held with TMBC Officers to look at what evidence we had to show the need to continue with our current PSPOs and also to look at any additional restrictions we wanted to include. Cabinet also discussed the initial proposals on 8 November 2022.
- 1.3.4 Officers have used evidence and professional judgement to develop this proposed PSPO and have considered all issues/areas against the stated test process. There are some areas that were considered and then rejected as they did not pass the test process and have procedures already in place which can tackle the anti-social behaviour. The new restrictions proposed include:
- 1.3.5 Vehicles on public open spaces (across the whole of the borough).
Leisure Services Officers have reported that this issue occurs at sites across the borough and is persistent in nature. It causes significant damage to established public open spaces and creates health and safety issues with large divots and unofficial access points that pedestrians may be unaware of. We currently have no way of stopping this and an active PSPO would provide an effective way to bring the situation under control. Cabinet agreed that this restriction should apply to the whole of the borough.
- 1.3.6 Nuisance associated with Car/motorcycle meetings (across the whole of the borough).
This has become an issue where local Members and officers have received reports (particularly in relation to Blue Bell Hill car park and areas of Leybourne and Larkfield). It does have a detrimental effect on residents (they are affected by noise, dangerous driving etc).
- 1.3.7 The restriction would need to contain information about the specific behaviour we would want to stop, so we would need to carefully consider the wording of this restriction. For example, we may wish to restrict the following types of behaviour
- Driving in convoy
 - Racing
 - Performing stunts
 - Sounding horns (as to cause public nuisance)
 - Revving engines
 - Wheel spins

- Playing music (as to cause public nuisance)
- Congregating or loitering as part of a group surrounding or within one or more stationary vehicles at any time where such activity causes noise, exhaust fumes, harassment, alarm, or distress

1.3.8 Anti-social behaviour associated with fishing at Town Lock/Tonbridge Moorings.

Town lock has struggled with behaviour associated with unauthorised anglers and people camping on-site. The presence of anglers often acts as an invitation for others to attend and has regularly resulted in mass complaints from residents and regular visits from Kent Police. The noise of those fishing in the area causes issues for local residents and can encourage others to attend the area.

1.3.9 Cabinet agreed to 'no fishing' within the proposed PSPO.

1.3.10 No unauthorised swimming/bathing/boating at Holborough Lakes.

During the summer period the borough council and police received large amounts of reports of young people causing problems at Holborough Lakes. The Leader and Cabinet Member for Community Services also attended a meeting with Berkley Homes and resident's representatives to try and resolve the issues. It is therefore evident that these issues are causing a detriment to those in the locality.

1.3.11 One solution would be to put PSPO restrictions into place to help alleviate some of the issues. However, it should be noted that fines cannot be issued to under 16's and therefore if the majority of those going into the lake or causing problems are under the age of 16, the PSPO will not help. However, including the suggested restriction (no unauthorised swimming, bathing or boating) would show to residents that we are trying to stop some of the issues from occurring and Cabinet agreed to include this restriction within the proposals.

1.3.12 It is not possible, or appropriate, to include every area within the borough with an anti-social behaviour issue (or perceived issue). The majority of ASB can be dealt with through other measures without the need for a Public Spaces Protection Order. However, if through the consultation process a request for a restriction is provided then this will be considered (assuming the test has been met) and discussed further.

1.4 Enforcement and penalties

1.4.1 It is an offence for a person, without reasonable excuse, to:

- do anything that the person is prohibited from doing by a PSPO
- fail to comply with a requirement to which the person is subject under a PSPO.

- 1.4.2 If a person fails to adhere to the PSPO they may be issued with a Fixed Penalty Notice (FPN). Where the FPN is not paid within the required timescale, court proceedings may be initiated.
- 1.4.3 Fixed Penalty Notices will be issued by authorised Borough Council staff. During the period of the current PSPO we have issued 28 FPNs, the majority of these are related to unauthorised swimming at Leybourne Lakes Country Park.
- 1.4.4 At present the cost of the Fixed Penalty Notice is £80, reduced to £50 if paid within 10 days. Cabinet agreed to increase our FPN to £100 with no reduction for early payment, in line with what other councils charge.

1.5 Consultation responses

- 1.5.1 The consultation process opened on 5 December 2022 and closed on Sunday 15 January 2023. This was an online consultation, but hard copies were available if requested. A summary of the responses received can be found at Annex 2. We received 93 online responses.
- 1.5.2 The Police and Crime Commissioner also responded to the consultation and gave his provisional support to the proposed order across the Borough, subject to the outcome of the consultation. A copy of the letter received from the Police and Crime Commissioner is attached at Annex 3.
- 1.5.3 A summary of comments from the online consultation is given below:
- The majority of respondents agreed with the current PSPO restrictions, as well as the new proposed restrictions.
 - The proposal with the most comments related to the nuisance associated with car/motorbike meetings. Many respondents gave their own experiences of the nuisance caused by these activities and how this had affected them/their quality of life and were supportive of the restriction. There were, however, concerns from some respondents who did not want responsible clubs from being prevented in gathering. It should be noted that this restriction would only target those causing nuisance behaviour and therefore anyone meeting in a controlled manner would not breach the restrictions.
 - The proposal for Holborough Lakes also provided a fairly large response. Although most replies were supportive, there were suggestions of other restrictions that could be imposed – such as preventing the gathering of groups. It should be noted that the Police do already have the powers to put a dispersal order into place which prevents the gathering of groups and therefore a PSPO would not be the most appropriate tool to use in this instance.

- Other general comments provided by respondents related to the need to enforce the PSPOs, the need for additional police presence and increased traffic calming measures. Some respondents misinterpreted some of the proposed restrictions (e.g. that we were looking to stop drones altogether or stop people from enjoying public open spaces). The PSPO will not stop any activity but will mean that activities have to be authorised or can be enforced if anti-social behaviour is taking place.

- 1.5.4 Leybourne Parish Council also provided a response to the consultation and asked a number of questions in relation to their own play areas and issues around specific locations within their parish area. These questions can be seen in Annex 4.
- 1.5.5 A more detailed response will be provided to Leybourne Parish Council but it should be noted that many of the queries raised are already covered by the general restrictions contained within the PSPO (e.g. dog fouling can be enforced across the whole of the borough, as can asking people to cease drinking alcohol if they are causing anti-social behaviour). Members are also reminded that the PSPO can only be used on those over the age of 16.
- 1.5.6 The proposed new restriction around vehicles on public open land would help to address some of the concerns raised in relation to Castle Lake and as the definition of a public place within the 2014 Act is fairly broad (it includes any place to which the public or a section of the public has a right of access, with or without payment, or the ability to access with express or implied permission) we believe that this would be sufficient to cover play areas within the leases held by the Parish Council from KCC.
- 1.5.7 However, if it was felt that we wanted to extend the area covered by the PSPO or to include new proposals we would need to gather evidence to support the need for the restriction(s) and to go out for consultation again.

1.6 The next steps

- 1.6.1 Following the consultation and the responses received it is clear that the majority of the public who replied are happy with the continuation of the current restrictions and also happy to include the additional restrictions. We therefore feel that we can proceed with the PSPO as recommended previously and this is attached at Annex 5.
- 1.6.2 This proposal will need to be agreed by Cabinet and then finalised before April 2023 (when the current PSPO ends).
- 1.6.3 A response will be provided to Leybourne Parish Council on the queries they raised.

1.7 Legal Implications

- 1.7.1 The power to make a PSPO is contained in section 59 of the 2014 Act. A local authority can only make a PSPO if it is satisfied on reasonable grounds that the conditions set out at paragraph 1.2.3 have been met.
- 1.7.2 In deciding whether to make/ extend/ vary or discharge a PSPO, the Council is required to have particular regard to the rights or freedom of expression and freedom of assembly set out in Articles 10 and 11 of the European Convention on Human Rights.
- 1.7.3 Once the final PSPO measures are agreed the PSPO will need to be published in accordance with the regulations made by the Secretary of State.

1.8 Financial and Value for Money Considerations

- 1.8.1 Although there are no direct costs associated with the establishment of the PSPO, there will be a resource implication for the Borough Council for issuing Fixed Penalty Notices and the work associated with this.

1.9 Risk Assessment

- 1.9.1 All appropriate risk assessments will be undertaken as required.

1.10 Equality Impact Assessment

- 1.10.1 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.

1.11 Policy Considerations

- 1.11.1 Community Safety

1.12 Recommendations

- 1.12.1 That the proposed Public Space Protection Order, as presented at Annex 4, be agreed

The Director of Central Services and Deputy Chief Executive confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

Nil

contact: Alison Finch
Safer & Stronger Communities
Manager

Adrian Stanfield
Director of Central Services and Deputy Chief Executive

The Tonbridge & Malling Borough Council Public Spaces Protection Order [2020]

Pursuant to powers granted to the Council under s.59 of the Anti-social Behaviour, Crime and Policing Act 2014, Tonbridge and Malling Borough Council has made the following Order:

From 12 April 2020 it is an offence for a person without reasonable excuse:

- (a) To do anything that the person is prohibited from doing in this Order, or
- (b) To fail to comply with any requirement to which the person is subject under this Order

A person guilty of an offence in relation to this Order is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000 as at 25 February 2020).

The Council or a Police Constable may issue a fixed penalty notice to any person he or she has reason to believe has committed an offence in relation to this Order. A fixed penalty notice offers the opportunity to discharge liability for conviction upon payment of a fine of £80 (reduced to £50 if paid within 10 days).

1. Measures affecting the whole of the Borough of Tonbridge and Malling

The following measures apply to all areas to which the general public has access within Tonbridge and Malling:

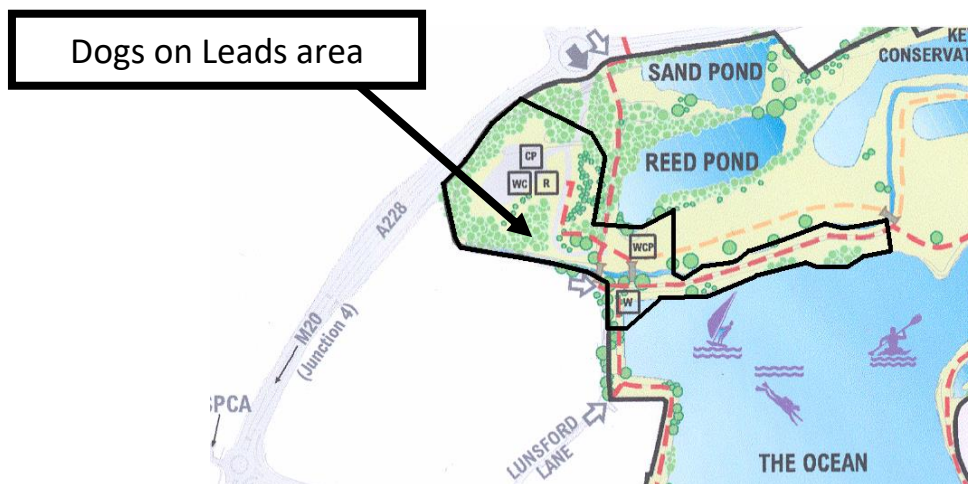
- a. Dog Fouling
No person is permitted to leave dog faeces deposited by any dog under their control or ownership in any public place, save in a designated dog faeces bin. Owners and dog-walkers must clean up after dogs under their control, care or ownership.
- b. Exclusion of Dogs from Children's Play Areas
No person in control, care or ownership of a dog may allow (whether wilfully or otherwise) those dogs to enter or remain upon any Children's Play Area which is owned and operated by the Borough Council.
- c. Dogs on Leads by Direction
When required by an authorised officer of the Council, any person in control of dogs must place those dogs on a lead.
- d. Maximum Numbers of Dogs Under a Person's Control
No person is permitted to have under their control more than 6 dogs in a public place.
- e. Alcohol Control
No person may drink alcohol in a public place when requested to stop by an authorised officer of the Council or Police Constable.

- f. Public Urination/ Defecation
No person may urinate or defecate in any public place, except in a public lavatory.
- g. Use of Drones
No person may operate a drone from or in any open space owned by the Borough Council without first obtaining authorisation from the Borough Council.
For the purposes of this measure, “drone” means any remote-controlled pilotless aircraft or Unmanned Aerial Vehicle.

2. Area- Specific Measures

In addition to the Borough-wide measures, the following measures apply within the boundaries of these designated areas:

- a. Leybourne Lakes Country Park
 - i. No unauthorised Barbecues
No person may use any barbecue, open fire or other method of cooking or heating food within the Country Park unless specifically authorised in writing by the Council
 - ii. No unauthorised swimming, bathing or boating
No person may swim, bathe or operate any boat or craft in any lake within the Country Park unless specifically authorised in writing by the Council
 - iii. Dogs on Leads at all times in designated areas
Dogs must be kept on leads at all times within the areas shown on the plan below. Broadly, these areas are the car parks and the access road for the Watersports facility.
 - iv. No unauthorised camping
No person may camp in any place within the Country Park unless specifically authorised in writing by the Council.



b. Tonbridge Memorial Gardens

i. No wheeled-sports activities

No wheeled-sports activities may take place within the Tonbridge Memorial Gardens. This includes, but is not limited to: skateboards, BMX, in-line skating and scooters.

c. Tonbridge Moorings

i. No unauthorised mooring

No person is entitled to moor any boat or craft on the moorings unless licenced to do so or otherwise specifically authorised in writing by the Council or Environment Agency.

ii. No unauthorised camping

No person may camp in any place within the Country Park unless specifically authorised in writing by the Council.

d. Haysden Country Park

i. No unauthorised Barbecues

No person may use any barbecue, open fire or other method of cooking or heating food within the Country Park unless specifically authorised in writing by the Council

ii. No unauthorised swimming, bathing or boating

No person may swim, bathe or operate any boat or craft in any lake within the Country Park unless specifically authorised in writing by the Council

iii. Dogs on Leads at all times in designated areas

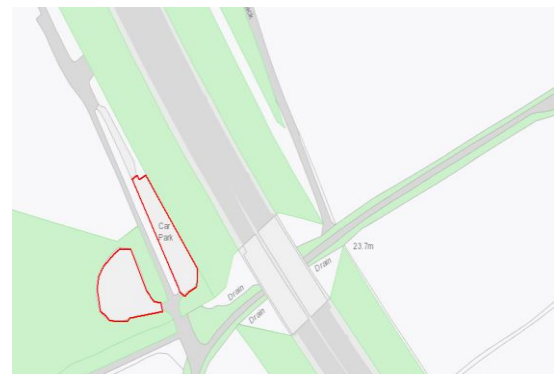
Dogs must be kept on leads at all times within the areas shown on the plans below. Broadly, these areas are the car parks and around the catering unit.

iv. No unauthorised camping

No person may camp in any place within the Country Park unless specifically authorised in writing by the Council.



Map above showing dogs on lead area within main car park and catering area within Haysden Country Park



Map above showing dogs on lead area within Lower Haysden Lane Car Park



Map above showing dogs on lead area within Audley Rise Car Park

e. Tonbridge Racecourse Sportsground and Tonbridge Castle

i. No unauthorised Barbecues

No person may use any barbecue, open fire or other method of cooking or heating food within these areas unless specifically authorised in writing by the Council

ii. Dogs on Leads at all times in designated areas

Dogs must be kept on leads at all times within the areas shown on the plan below. Broadly, these areas are the castle grounds.

iii. No unauthorised camping

No person may camp in any place within these areas unless specifically authorised in writing by the Council.



f. Tonbridge Farm Sports Ground

i. No unauthorised Barbecues

No person may use any barbecue, open fire or other method of cooking or heating food within these areas unless specifically authorised in writing by the Council

ii. Dogs on Leads at all times in designated areas

Dogs must be kept on leads at all times within the areas shown on the plan below. Broadly, this is the Sports Ground car park.

iii. No unauthorised camping

No person may camp in any place within these areas unless specifically authorised in writing by the Council.



g. Tonbridge Cemetery

i. Dogs on leads at all times

Dogs must be kept on leads at all times within Tonbridge Cemetery



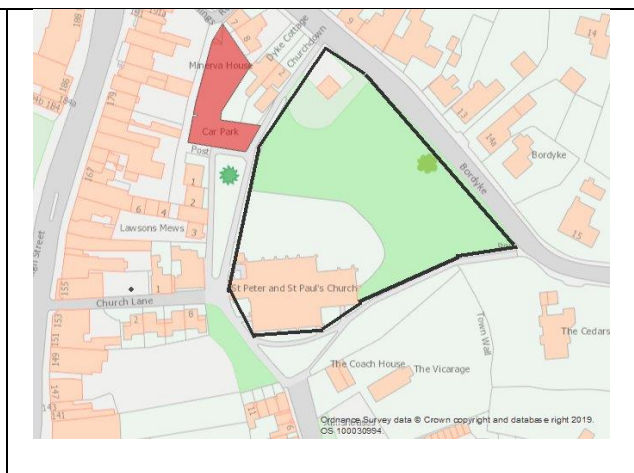
h. Closed Churchyards at St Stephens and St Peter's and St Paul's Churches

i. Dogs on leads at all times

Dogs must be kept on leads at all times within the Churchyards of St Stephens and St Peter's and St Paul's churches in Tonbridge



St Stephen's Churchyard



St Peter and St Paul's Churchyard

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Public Space Protection Order Consultation

93

Responses

1. Are you a resident of the borough?

Yes 86

No 7



2. Are you responding as?

Person who works in Tonbridge & Malling 2

Local business owner/manager 0

Local Town or Parish Councillor 2

Representative of a community group/voluntary group 0

Other 3

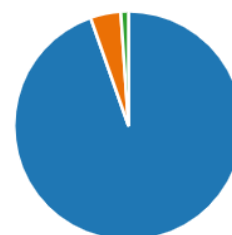


3. Do you agree with the proposal to continue with a borough wide Public Spaces Protection Order (PSPO) to deter dog fouling?

Yes 88

No 4

Don't know 1



4. Do you agree with the proposal to continue with a borough wide PSPO to exclude dogs from Borough Council owned and maintained children's play areas?

Yes 85

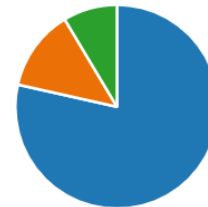
No 6

Don't know 2



5. Do you agree with the proposal to continue with a borough wide PSPO to ensure dogs are on a lead by direction?

Yes	73
No	12
Don't know	8



6. Do you agree with the continuing PSPO to restrict the number of dogs that one person can take onto a public place to six dogs to ensure that they have full control of these dogs?

Yes	83
No	7
Don't know	3



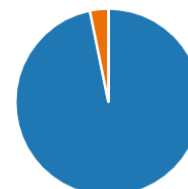
7. Do you agree with the proposal to continue with a borough wide PSPO for a controlled alcohol zone?

Yes	87
No	5
Don't know	1



8. Do you agree with the proposal to continue with a borough wide PSPO to deter public urination/defecation?

Yes	90
No	3
Don't know	0



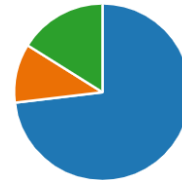
9. Do you agree with the proposal to continue with a borough wide PSPO to deter unauthorised drones on any open space owned by Tonbridge & Malling Borough Council?

Yes	68
No	17
Don't know	8



10. Do you agree with the need to continue the PSPO for Leybourne Lakes Country Park?

Yes	68
No	10
Don't know	15



11. Is there anything else that you would like to see included in the PSPO for Leybourne Lakes Country Park?

9 Responses

- Yes, stop vehicles parking right on lake at Roden lake, blights view of lake & countryside.
- Just BBQ and Alcohol
- I think it's disgraceful that all responsible people should be tarred with the same brush as the vast minority of trouble makes. My friends and I are motorbike enthusiasts as regularly meet up with friends before going off for a ride, stopping off somewhere to have some breakfast and a catch up, and then ride home. We are all respectful members of the local community. Your proposal to ban all motor bikers is ridiculous!!!!the same goes for car enthusiasts as well. We all know there are some problem people, but it's simply not fair, or more correctly shows a complete lack of understanding by whoever came up with this suggestion.
- Action actually taken by rangers against unauthorised swimmers. Currently, it's very frustrating to see swimmers entering the water at unauthorised points without any safety measures in the full knowledge there is no enforcement that will stop them. This action makes it dangerous for authorised swimmers when the people ensuring their safety are then trying to prevent the random swimmers.
- No individual should be allowed to walk more than 3 dogs and all dogs should be kept on leads. Cyclists must have a bell fitted and use it to warn pedestrians of their approach many of them do not cycle with care.

12. Do you agree with the need to continue with the PSPO for Tonbridge Memorial Gardens?

Yes	63
No	4
Don't know	26



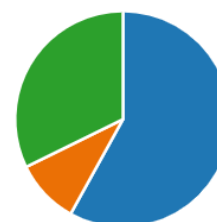
13. Is there anything else that you would like to see included in the PSPO for Tonbridge Memorial Gardens?

5 Responses

- I think it's disgraceful that all responsible people should be tarred with the same brush as the vast minority of trouble makes. My friends and I are motorbike enthusiasts as regularly meet up with friends before going off for a ride, stopping off somewhere to have some breakfast and a catch up, and then ride home. We are all respectful members of the local community. Your proposal to ban all motor bikers is ridiculous!!!!the same goes for car enthusiasts as well. We all know there are some problem people, but it's simply not fair, or more correctly shows a complete lack of understanding by whoever came up with this suggestion.
- Perhaps more benches across open area used by bikes and skateboards. They don't read signs.....
- Signs forbidding skateboarding and smoking cannabis
- No
- N/A

14. Do you agree with the need to continue with the PSPO for Tonbridge Moorings/Town Lock?

Yes	54
No	9
Don't know	30



15. Is there anything else that you would like to see included in the PSPO for Tonbridge Lock?

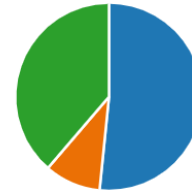
5 Responses

- I'm a keen angler but have never fished this lock. In the 46 years I've been fishing I have never broken any rules and I am respectful of the environment and anyone else around me. I find it unfair to ban everyone from an activity they do, again, just because of a few bad apples. This need to be re thought out as the proposal is entirely unfair to the majority of respectful anglers.
- I have a boat and won't come up this far as keep hearing of all the trouble with boater and youths jumping on boats et

- No
- N/A
- No cycling or skateboards or loitering

16. Do you agree with the need to continue with the PSPO for Haysden Country Park?

Yes	48
No	9
Don't know	36



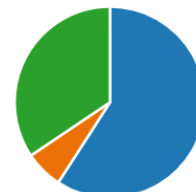
17. Is there anything else that you would like to see included in the PSPO for Haysden Country Park?

6 Responses

- It should remain a country park open for all to enjoy
- I think it's disgraceful that all responsible people should be tarred with the same brush as the vast minority of trouble makes. My friends and I are motorbike enthusiasts as regularly meet up with friends before going off for a ride, stopping off somewhere to have some breakfast and a catch up, and then ride home. We are all respectful members of the local community. Your proposal to ban all motor bikers is ridiculous!!!!the same goes for car enthusiasts as well. We all know there are some problem people, but it's simply not fair, or more correctly shows a complete lack of understanding by whoever came up with this suggestion.
- No
- I find the No Drones rule here in to be unneeded. Haysden Lake is a beautiful addition to our town, and drones offer a unique opportunity to capture the lake from the air, while posing absolutely minimal interference with other users of the park.
- N/A
- Banning anglers from entering the lake area

18. Do you agree with the need to continue with the PSPO for Tonbridge Racecourse Sports Ground and Tonbridge Castle?

Yes	55
No	6
Don't know	32



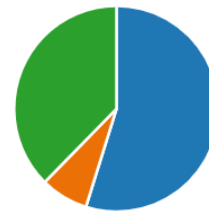
19. Is there anything else that you would like to see included in the PSPO for Tonbridge Racecourse Sports Ground and Tonbridge Castle?

7 Responses

- PSPO for Tonbridge Castle only
- I think it's disgraceful that all responsible people should be tarred with the same brush as the vast minority of trouble makes. My friends and I are motorbike enthusiasts as regularly meet up with friends before going off for a ride, stopping off somewhere to have some breakfast and a catch up, and then ride home. We are all respectful members of the local community. Your proposal to ban all motor bikers is ridiculous!!!!the same goes for car enthusiasts as well. We all know there are some problem people, but it's simply not fair, or more correctly shows a complete lack of understanding by whoever came up with this suggestion.
- No
- The Racecourse is another location where drone use should be allowed. This is a huge open space, where local drone operators can fly their aircraft in an environment where any risk to the safety and enjoyment of other park users is hugely mitigated.
- Banning memorial flowers on benches
- A fenced off dog walking area

20. Do you agree with the need to continue with the PSPO for Tonbridge Farm Sports Ground?

Yes	51
No	7
Don't know	35



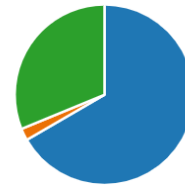
21. Is there anything else that you would like to see included in the PSPO for Tonbridge Farm Sports Ground?

4 Responses

- I think it's disgraceful that all responsible people should be tarred with the same brush as the vast minority of trouble makes. My friends and I are motorbike enthusiasts as regularly meet up with friends before going off for a ride, stopping off somewhere to have some breakfast and a catch up, and then ride home. We are all respectful members of the local community. Your proposal to ban all motor bikers is ridiculous!!!!the same goes for car enthusiasts as well. We all know there are some problem people, but it's simply not fair, or more correctly shows a complete lack of understanding by whoever came up with this suggestion.
- No
- N/A
- Fenced off dog walking area

22. Do you agree with the need to continue with the PSPO for Tonbridge Cemetery?

Yes	62
No	2
Don't know	29



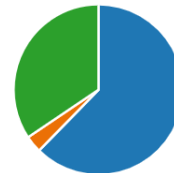
23. Is there anything else that you would like to see included in the PSPO for Tonbridge Cemetery?

3 Responses

- I think it's disgraceful that all responsible people should be tarred with the same brush as the vast minority of trouble makes. My friends and I are motorbike enthusiasts as regularly meet up with friends before going off for a ride, stopping off somewhere to have some breakfast and a catch up, and then ride home. We are all respectful members of the local community. Your proposal to ban all motor bikers is ridiculous!!!! ...the same goes for car enthusiasts as well. We all know there are some problem people, but it's simply not fair, or more correctly shows a complete lack of understanding by whoever came up with this suggestion.
- No
- N/A

24. Do you agree with the need to continue with the PSPO for the closed Churchyards of St Peters' and St Paul's and St Stephen's in Tonbridge?

Yes	58
No	3
Don't know	32



25. Is there anything else that you would like to see included in the PSPO for the closed Churchyards of St Peters's and St Paul's and St Stephen's in Tonbridge?

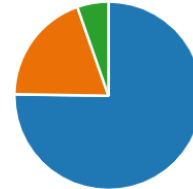
4 Responses

- I think it's disgraceful that all responsible people should be tarred with the same brush as the vast minority of trouble makes. My friends and I are motorbike enthusiasts as regularly meet up with friends before going off for a ride, stopping off somewhere to have some breakfast and a catch up, and then ride home. We are all respectful members of the local community. Your proposal to ban all motor bikers is ridiculous!!!! ...the same goes for car enthusiasts as well. We all know there are some problem people, but it's simply not fair, or more correctly shows a complete lack of understanding by whoever came up with this suggestion.
- No

- Closed churchyard at St Stephens? There is one tiny fenced off crypt. I think the wilding of these areas with wild flower meadow reduces some anti social use....
- N/A

26. Do you agree with the new proposed PSPO to prevent unauthorised parking on public open spaces?

Yes	70
No	18
Don't know	5



27. Is there anything else that you would like to see included in the PSPO for unauthorised parking on public open spaces?

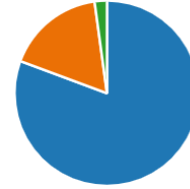
16 Responses

- Yes, stop vehicles parking on grass verges, it's unsightly & ruins the grass.
- These places need regular Police patrols and places that will then become alternative locations for unauthorised parking.
- IT DEPENDS ON WHAT YOU MEAN AND WHERE
- A public open space is paid for by the public for the use of the public, why can't I park on one? I can see the need to stop those who want to drive at speed across an open space and damage it, but parking, where's the harm in that?
- Unauthorised parking only but not to deter people in motorised vehicles going and enjoying the Open Space
- Better definition of which spaces are defined as "public open", in theory this could be as simple as parking outside of a marked bay at Tesco
- I think it's disgraceful that all responsible people should be tarred with the same brush as the vast minority of trouble makes. My friends and I are motorbike enthusiasts as regularly meet up with friends before going off for a ride, stopping off somewhere to have some breakfast and a catch up, and then ride home. We are all respectful members of the local community. Your proposal to ban all motor bikers is ridiculous!!!!the same goes for car enthusiasts as well. We all know there are some problem people, but it's simply not fair, or more correctly shows a complete lack of understanding by whoever came up with this suggestion.
- We need to stop youths all congregating in these car parks revving their cars and causing anti social behaviour
- too vague and all encompassing
- If you could extend that to pavement parking that would be really something....
- I wouldn't want to see people being deprived of access to the public open spaces, so designated parking would help if it's possible.
- officers to enforce
- N/A
- Parking dangerously on country lanes and on pavements making visibility to oncoming traffic impossible and dangerous. No one seems to want to help with this daily situation on Pratling Street.
- I would also like an inclusion for a PSPO for those driving across public open spaces as they do frequently on the Columbine Road, Carnation Crescent Green on Step Stile Estate.

- Include Hadlow Parish Council land: Williams Field

28. Do you agree with the new proposed PSPO to stop nuisance associated with car and/or motorcycle meetings?

Yes	75
No	16
Don't know	2



29. Is there anything else that you would like to see included in the PSPO to tackle nuisance associated with car/motorbike meetings?

29 Responses

- I live on New Hythe Lane, Larkfield it is horrendous & please stop cars racing & making their car bang, they sounds like explosions! It's terrifying my dog & causes us unnescessary stress!
- The car meets in larkfield are a terrible nuisance to us. They go on for hours and wake up our toddler and keep us awake when we have very little as it is. I would like the police to tackle these meets quickly as currently, it is impossible to report them using the telephone line as it is always busy and there is often no response when logged online.
- It is paramount these places need regular Police patrols and especially places that will then become alternative locations for noise, please can we monitor, do what we can to reduce extreme noise from loud car/motorbike exhausts going up and down the A228 coming from the Shell garage towards McDonald's. Car exhausts are being deliberately 'popped' repeatedly very late at night whilst cars are being driven at speed up the road.
- IT DEPENDS ON WHAT YOU MEAN AND WHERE
- The car meets at Larkfield have a very detrimental effect on sleep and are getting louder and more frequent ! They should absolutely be banned .
- not just a meeting, but cars using Larkfield roads at SPEED for the noise and then just driving away
- This depends on what you defined as a nuisance.
- There is a limit to your policing of the freedom of the general public.
- The ability for genuine clubs to have access during daytime
- I think it's disgraceful that all responsible people should be tarred with the same brush as the vast minority of trouble makes. My friends and I are motorbike enthusiasts as regularly meet up with friends before going off for a ride, stopping off somewhere to have some breakfast and a catch up, and then ride home. We are all respectful members of the local community. Your proposal to ban all motor bikers is ridiculous!!!! ...the same goes for car enthusiasts as well. We all know there are some problem people, but it's simply not fair, or more correctly shows a complete lack of understanding by whoever came up with this suggestion.
- I live in Snodland and all I can hear on a very regular basis is car racing, engines revving. This is becoming a real problem with sleeping with windows open and needs to stop
- too vague and all encompassing
- do not ban everybody, deal with the minority of individuals causing problems

- CCTV/Anpr introduced at know problem areas eg New Hythe Industrial estate is used most weekends, but lack of resources are unable to attend this and other problem areas. Leaving residents with night after night of no sleep, cameras in these area would surely be a deterrent.
- Bikes are also causing considerable erosion to footpaths. Often resulting in wider paths into undergrowth as they try to avoid mud pits of their own making.
- The noise they make with there backfiring exhausts is like gunfire, I have recordings
- I ride a classic motorcycle as do my friends. We have never been a nuisance and are very considerent to all we meet. I always find that I end up picking up other peoples litter and dog shit in most places we stop. If this being a nuisance I don't know what is. I find that in most of these open places the bins are never emptied, maybe you should be considering how often these are cleared and stop looking for people to blame for the mess left by lazy people. I have never left anything behind and have never been a nuisance to anybody. I find this proposal discrimination towards ordinary older motorcycle who just what to meet up and ride our bikes.
- More police presence. This is consistently happening every weekend now Friday and Saturday night. New hythe train station and the new panottoni park are regular meet up spots. This is impacting residents mental health and lifestyle.
- More cameras to be fitted to deter participants.
- Prison sentences?? Confiscation/scrapping of vehicles involved
- More police presence and traffic calming measures in Larkfield/New Hythe (in New Hythe Lane but also in Lunsford Lane and Leybourne Way). The amount of speeding vehicles on New Hythe Lane during the day is so dangerous; and the nuisance car meetings during the night is horrendous for residents.
- More regular patrols of issue areas, ie New Road/Church Street, Burham for racing traffic and antisocial parking
- Include Williams Field, Marshall Gardens, TN11 0HQ (Hadlow Parish Council land)
- I think if there is an organiser who agree to terms of the meeting then it's ok. Up until 10pm it's ok to meet.
- I would like to see this extended to include the horse trotting meetings held on Whetstead Road (near the Hop Farm). These are becoming more regular and are a danger to drivers and horses. The behaviour of those participating is intimidating and aggressive with cars driving two abreast, and passengers sitting outside car windows as they're moving.
- Speed cameras, police presence, speed bumps, noise detectors. Mostly these happen between 11pm and 3 am so breaking other laws too regarding overnight noise, never mind the speed, damage to highways and danger to property or person
- New hythe industrial estate every weekend is now full of up to 150 cars. Recent videos of police chases online and drifting. The roundabout by the river is covered in litter and burnt tyres because of these meetings.
- Please specifically help and deal with New Hythe Lane/Papyrus Way car meets as this goes on every Saturday and the occasional Friday. Illegal meet, speeding, noise, damage to tarmac and aggressive behaviour. It's impossible to feel safe driving home during those hours
- New Hythe Lane is awful with car and bike meets. So so pound and into the early hrs. It is such a nuisance

30. Do you agree with the new proposed PSPO to stop anti-social behaviour associated with fishing at Tonbridge Town Lock/Tonbridge Moorings?

Yes	61
No	11
Don't know	21



31. Is there anything else that you would like to see included in the PSPO to stop anti-social behaviour associated with fishing at Tonbridge Town Lock/Tonbridge Moorings?

3 Responses

- I agree that anti social behaviour associated with fishing should be stopped but what does this mean. Fishing seems such a quiet sport, how can it be anti social? Do you have an example or is it based on complaints by people who may not like anglers?
- See previous comments about fishing
- Large fines and confiscation of equipment

32. Do you agree with the new proposed PSPO to stop unauthorised swimming, bathing and/or boating at Holborough Lakes?

Yes	63
No	17
Don't know	13



33. Is there anything else that you would like to see included in the PSPO to stop unauthorised swimming, bathing and/or boating at Holborough Lakes?

20 Responses

- Although there is a difference between kids, families 'paddling' (which should be allowed) and unauthorised swimming.
- There is an established Dive school operating at Holborough Lakes. You can also access open water swimming etc. by paying a fee etc. I assume this will still be possible?
- pROVIDING IT IS SAFE
- Drinking alcohol, gathering in groups
- Is the council saying that "unauthorised swimming/boating" is anti social, disturbs wild life and is excessively noisy but authorised swimming does not. This doesn't appear a very balanced argument?
- I cannot see how the enjoyment of nature and the health benefits of a few swimmers, or the enjoyment of many needs such draconian measures

- Swimming and Bathing but not boating - whilst there may be some unauthorised boating it is not ASB, indeed it helps prevent it.
- General nuisance by children on the entire estate not just limited to the lake itself.
- Why can't there be authorised swimming? At least make it more accessible especially as we are having longer hotter summers
- All ASB and numbers of groups congregating
- I would like to see added no groups gathering to cause antisocial behaviour, threats of violence, intimidation of the residents of Holborough Lakes, vandalism, urinating against the properties at Holborough Lakes, destruction of nesting wild fowl nests and treading on chicks, no slingshots used to kill/harm wildlife either on or near the lake, offensive weapons being band (children and teenagers with knives plus threats of getting knives to harm residents and Nemes staff). Stopping adults driving children and teenagers to the nearest viewing platform by Nemes dive school and collecting them after they have been abusive/threatening to residents and Nemes staff. Groups of children and teenagers chasing and beating up a single child at Holborough Lakes. Stopping children and teenagers drinking alcohol/smoking drugs etc on the viewing platforms at Holborough Lakes. Stopping children and teenagers turning the viewing platforms into boxing rings and bring boxing gloves and equipment with them. Stopping boxing on the foot path that runs at the side of the lake. Stopping children and teenagers riding motorbikes on the footpaths at Holborough Lakes.
- Noise pollution needs to be considered- ou may be able to stop the gangs of youth swimming in the lake but it will not stop the congregation of these kids in holborough lakes. There needs to be something to stop large groups of under 18s from gathering without authorisation. They have been stoning Cars and beating up residents.
- Unauthorised congregating on the viewing platform. A warning process, that leads to a removal of said persons and a ban from the area. Always youths that don't live on the estate that congregate to cause antisocial disturbance and distress to residents.
- Stop anti social behaviour anywhere on Holborough Lakes - also Dog fouling
- On the provision authorised swimming is still available.
- Are there adequate warnings about how deep and dangerous these lakes are? Are notices up warning the public of the effects of cold water on the body?
- Large fines and confiscation of boats
- This need to be put in place due to security threat of the residents also. Being verbally and physically abused by youths all summer.
- It would be nice to include an area where people can swim legally and safely.

34. Are there any other areas that you would like to see included within the PSPO? Or if you have any other comments, please include them here:

26 Responses

- Please address the HUGE volume of traffic in New Hythe Lane, since Panatoni have built units the traffic is horrendous & is only going to get worse. The exhaust fumes must be dangerous for our health. The road needs opening up as soon as possible to allow traffic to go through Aylesford.
- Only that I think we need to see far more Police presence in Snodland, and more vehicle patrols in the area too. Far more patrols to monitor and control noise and speed down the A228 is important. There is quite commonly problems with youths around Snodland train station car park such bus shelters getting smashed, kids large groups hanging out outside the bakers in Snodland being very menacing and anti-social.
- PEOPLE WALKING IN RURAL AREAS SHOULD BE RESTRICTED TO PUBLIC FOOTPATHS. WE OFTEN HAVE PEOPLE ON OUR SOWN WHEATFIELDS AND EVEN DOGS LET LOOSE TO RUN ON THE FIELD.

- aS FEW AS POSSIBLE
- Is TMBC putting drivers, motorcyclists, swimmers and sailors in the same bracket as those who let their dogs foul and don't pick it up, those who urinate in public and those who spy on others? Most people who carry out these activities are well behaved citizens, why the need to place restrictions on them. This is the thin end of a very long wedge as there are small groups in all sections of activities who are anti social and that includes complainers.
- Local and national auto /motorcycle clubs are law abiding and considerate. There may be a few that are not of course, but please do not legislate against many clubs enjoying the countryside because of a few. Will you ban cycling groups next?
- I think it's disgraceful that all responsible people should be tarred with the same brush as the vast minority of trouble makes. My friends and I are motorbike enthusiasts as regularly meet up with friends before going off for a ride, stopping off somewhere to have some breakfast and a catch up, and then ride home. We are all respectful members of the local community. Your proposal to ban all motor bikers is ridiculous!!!!the same goes for car enthusiasts as well. We all know there are some problem people, but it's simply not fair, or more correctly shows a complete lack of understanding by whoever came up with this suggestion.
- the lack of toilets is a problem in many areas
- I appreciate resources are stretched, but if you have these PSPO's in force please use them, the street racing is still happening as is other ASB. It looks good on paper but it needs putting into action, residents are suffering.
- Perhaps an area of river where people may swim? Historically people enjoyed this freedom in the Medway. In Hayesden park children often paddled. Now you are fenced in and barely allowed to even look at the river in case you drown. People need to make some of their own decisions and learn to live along side nature. The country side is not a Zoo....
- I think the above covers everything
- I would like to see the green at Holborough lakes be also protected from youths / gangs. I think the lake also needs a limit of groups of children without parents being set to a maximum of 2.
- Unauthorised congregating on the viewing platform. A warning/removal process, that leads to a removal of said persons and a ban from the area. It's Always youths that don't live on the estate that congregate to cause and intense antisocial disturbance and distress to residents that makes living here in the summer months unbearable and seriously effects residents mental health.
- Will there be people/ officers to enforce these PSPO's
- Stop the racing along the East Peckham by-pass. Very dangerous and very noisy
- Introduction of traffic calming measures in Larkfield/New Hythe (in New Hythe Lane in particular, but also in Lunsford Lane and Leybourne Way). The amount of speeding vehicles on New Hythe Lane during the day is so dangerous. Also, myself and countless other pedestrians/children have almost been run over by vehicles accelerating straight through the red traffic light whilst coming off the New Hythe Lane/Leybourne Way roundabout. The nuisance car meetings towards the New Hythe Lane industrial estates /car revving in Tesco car park during the night is also horrendous for residents.
- More regular patrols of issue areas, ie New Road/Church Street, Burham for racing traffic and antisocial parking Where drug taking is involved and dumping rubbish
- The smell of cannabis inTonbridge is getting more and more prevalent and is such an antisocial smelly thing for normal people to endure that it's use in any area should be banned
- We believe that areas owned by the local Town or Parish Councils should also be included with the PSPO, if you can include private areas like Holborough Lakes and local churches then all open spaces within Towns and Parishes should be included.

- Please consider the inclusion of Williams Field, Marshall Gardens, Hadlow, TN110EH
- Control antisocial behaviour in children's playground in Melrose Avenue, Kings Hill
- Answering on behalf of West malling Parish Council and have therefore only responded to matters that impact the parish and not those relating to Leybourne, Tonbridge etc.
- The number of dogs that can be walked safely on leads by one person, should be reduced from 6 to 3.
- As above larkfield have seen a rise in car meets every friday and Saturday night because of the new roundabouts and no enforcement.
- Please specifically help and deal with New Hythe Lane/Papyrus Way car meets as this goes on every Saturday and the occasional Friday. Illegal meet, speeding, noise, damage to tarmac and aggressive behaviour. It's impossible to feel safe driving home during those hours
- N/A

Matthew Scott
Kent Police and Crime Commissioner

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The Office of the Kent
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ME15 9BZ



Alison Finch
Safer & Stronger Communities Manager
Tonbridge & Malling Borough Council
Gibson Drive
Kings Hill
West Malling
Kent
ME19 4LZ

09 January 2023
Ref: OPCC/MS/OG/064/23
Please quote reference on all replies

Dear Alison,

Re: Renewal of Proposed Public Space Protection Order – Leybourne Lakes Country Park and

Thank you for your letter requesting the renewal of PSPO for Leybourne Lakes and other local country parks. I confirm that I am comfortable with the four new restrictions proposed that tackle some of the recent issues. These are:

- vehicles on public open spaces
- nuisance associated with car and motorcycle meetings
- anti-social behaviour associated with fishing at Town Lock and Tonbridge Moorings
- no unauthorised swimming, bathing or boating at Holborough Lakes

My office has been in liaison with the Force in respect of the proposal and both the Tonbridge and Malling District Commander and Inspector are supportive of the proposal and believe that this is proportionate and justified and agree with the suggested terms.

Tonbridge and Malling CSU acknowledge that over the summer months there were significant ASB issues in Larkfield, Holborough Lakes and Tonbridge Lock. This PSPO will give the council greater powers to deal with this and it is my priority that all PSPO's have a minimal impact on front line policing resources.

I note that public consultation is currently underway until 15 January 2023 and I would look to provide my provisional support for the proposed order.

Yours sincerely

Matthew Scott
Kent Police & Crime Commissioner

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Queries from Leybourne Parish Council in response to the Public Space Protection Order consultation

Email 15/12/22

Dear Sirs,

Leybourne Parish Council has asked me to investigate how to put a PSPO on certain areas in Leybourne:

1. The Bombhole Play Area – Oxley Shaw Lane

This is a public open space with a play area that is not fenced off, Leybourne Parish Council would like to keep this area free of dog faeces and to exclude dogs from this area as it is many children play here. The exclusion of dogs from parish council owned and maintained children's play areas will prevent any distress and alarm to children. It will also enable children to enjoy the facilities unimpeded from dogs.

Also this area is often frequented by groups of teenagers at night and so it would be beneficial to be able to ask them to cease drinking if anti-social behaviour occurred.

2. Castle Lake

Leybourne Parish Council have recently taken ownership of Castle Lake, which is 29 acres of woodland and a lake. Unauthorised fisherman have been causing a nuisance to residents who live near the lake with anti-social behaviour, fires (during the extremely hot weather), driving vehicles across TMBC land to be closer to their "swims" and there has also been reports of anti-social/ nuisance behaviour with off road motorbikes.

The parish council would also like to be able to enforce the no BBQ's rule, unauthorised swimming, bathing and boating, unauthorised fishing and unauthorised camping

Email 16/12/22

Dear Sirs,

Further to my email there are a couple of areas that we lease from KCC and I believe all PSPO's are through the Borough Council, could the following also be considered:-

1. Toddler Playground and Outdoor Gym, Castle Way

Leybourne Parish Council would like to keep this area free of dog faeces and to exclude dogs from this area as it is many children play here. The exclusion of dogs from parish council owned and maintained children's play areas will prevent any distress and alarm to children. It will also enable children to enjoy the facilities unimpeded from dogs.

2. Muga Area, Oxley Shaw Lane

Leybourne Parish Council would like to deter anti-social behaviour.

3. Land where the Christmas Tree on the Corner of Lillieburn/ Castle Way

Leybourne Parish Council would like to keep this area free of dog faeces and to exclude dogs from this area and to deter anti-social behaviour.

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The Tonbridge & Malling Borough Council Public Spaces Protection Order [2023]

DRAFT FOR CONSULTATION

Pursuant to powers granted to the Council under s.59 of the Anti-social Behaviour, Crime and Policing Act 2014, Tonbridge and Malling Borough Council has made the following Order:

From [date] it is an offence for a person without reasonable excuse:

- (a) To do anything that the person is prohibited from doing in this Order, or
- (b) To fail to comply with any requirement to which the person is subject under this Order

A person guilty of an offence in relation to this Order is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000 as at 28th June 2022).

The Council or a Police Constable may issue a fixed penalty notice to any person he or she has reason to believe has committed an offence in relation to this Order. A fixed penalty notice offers the opportunity to discharge liability for conviction upon payment of a fine of £100.

Measures affecting the whole of the Borough of Tonbridge and Malling

The following measures apply to all areas to which the general public has access within Tonbridge and Malling:

a. Dog Fouling

No person is permitted to leave dog faeces deposited by any dog under their control or ownership in any public place, save in a designated dog faeces bin or general waste bin. Owners and dog-walkers must clean up after dogs under their control, care or ownership.

b. Exclusion of Dogs from Children's Play Areas

No person in control, care or ownership of a dog may allow (whether wilfully or otherwise) those dogs to enter or remain upon any Children's Play Area which is owned and operated by the Borough Council.

c. Dogs on Leads by Direction

When required by an authorised officer of the Council, any person in control of dogs must place those dogs on a lead.

d. Maximum Numbers of Dogs Under a Person's Control

No person is permitted to have under their individual control more than 6 dogs in a public place.

e. Alcohol Control

No person may drink alcohol in a public place if requested to stop by an authorised officer of the Council or Police Constable.

f. Public Urination/ Defecation

No person may urinate or defecate in any public place, except in a public lavatory.

g. Use of Drones

No person may operate a drone from any open space owned by the Borough Council without first obtaining authorisation from the Borough Council.

For the purposes of this measure, “drone” means any remote-controlled pilotless aircraft or Unmanned Aerial Vehicle.

h. Vehicles on public open spaces

No person may park a vehicle on any public open space within the borough, save in a designated vehicle parking space. For the purposes of this provision, ‘public open space’ shall mean any land laid out as a public garden or used for the purposes of public recreation.

i. Nuisance associated with car/motorcycle meetings

No person may participate in car cruising activity as a passenger or driver of a vehicle within the area designated in this Order

No person may congregate in an area to spectate cruising activity undertaken by vehicles in the area designated in this Order.

For the purposes of this measure, “car cruising activity” means, as a driver or passenger of a vehicle: driving in convoy; performing stunts; sounding horns repeatedly; revving engines; wheel spins; playing music (in a manner which creates annoyance to the public); using foul or abusive language; causing obstruction on a public highway, whether moving or stationary; or engaging in any other activity that a reasonable person would consider to be a “car cruising activity”

2. Area- Specific Measures

In addition to the Borough-wide measures, the following measures apply within the boundaries of these designated areas:

a. Leybourne Lakes Country Park

i. No unauthorised Barbecues

No person may use any barbecue, open fire or other method of cooking or heating food within the Country Park unless specifically authorised in writing by the Council

ii. No unauthorised swimming, bathing or boating

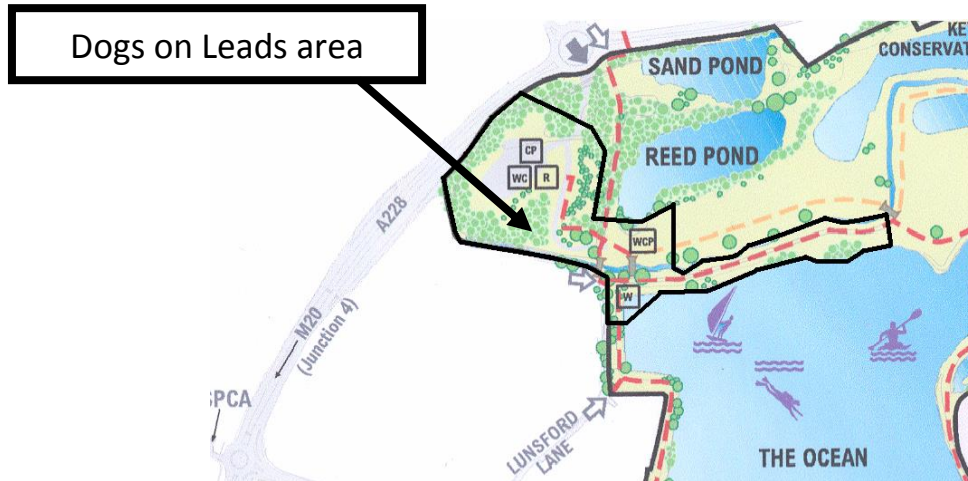
No person may swim, bathe or operate any boat or craft in any lake within the Country Park unless specifically authorised in writing by the Council

iii. Dogs on Leads at all times in designated areas

Dogs must be kept on leads at all times within the areas shown on the plan below. Broadly, these areas are the car parks and the access road for the Watersports facility.

iv. No unauthorised camping

No person may camp in any place within the Country Park unless specifically authorised in writing by the Council.



b. Tonbridge Memorial Gardens

i. No wheeled-sports activities

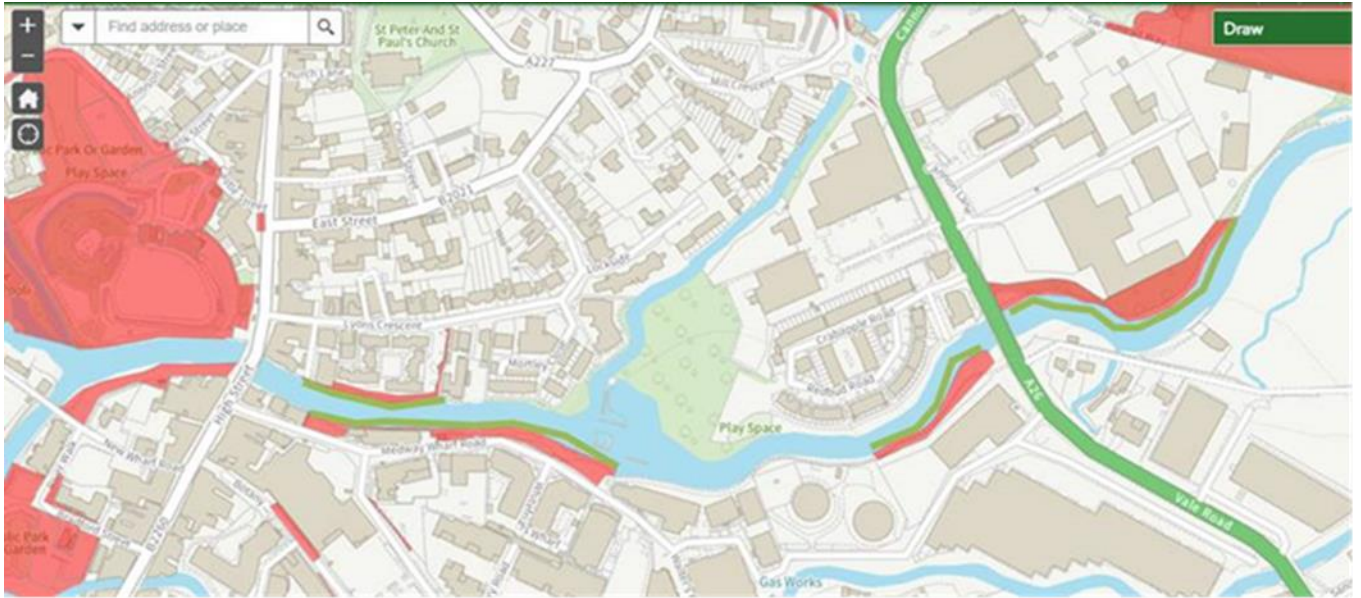
No wheeled-sports activities may take place within the Tonbridge Memorial Gardens. This includes, but is not limited to: skateboards, BMX, in-line skating and scooters.

c. Tonbridge Moorings

i. No unauthorised mooring

No person is entitled to moor any boat or craft on the moorings unless licenced to do so or otherwise specifically authorised in writing by the Council or Environment Agency.

No person is entitled to moor any boat or craft at any time on the riverbank area as shown below (green lines).

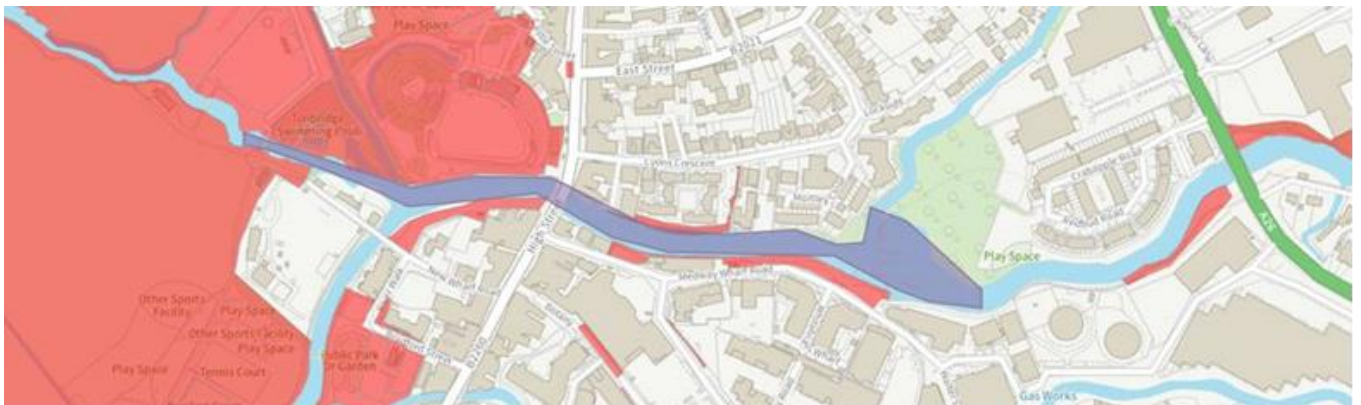


ii. No unauthorised camping

No person may camp in any place unless specifically authorised in writing by the Council.

iii. No unauthorised swimming or bathing

No person may swim or bathe within the area shown in purple at any time.



iv. Anti-social behaviour associated with fishing

No person may fish as shown within the purple area above.

d. Haysden Country Park

i. No unauthorised Barbecues

No person may use any barbecue, open fire or other method of cooking or heating food within the Country Park unless specifically authorised in writing by the Council

ii. No unauthorised swimming, bathing or boating

No person may swim, bathe or operate any boat or craft in any lake within the Country Park unless specifically authorised in writing by the Council

iii. Dogs on Leads at all times in designated areas

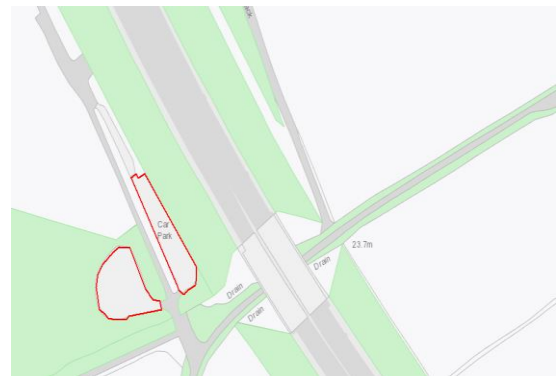
Dogs must be kept on leads at all times within the areas shown on the plans below. Broadly, these areas are the car parks and around the catering unit.

iv. No unauthorised camping

No person may camp in any place within the Country Park unless specifically authorised in writing by the Council.



Map above showing dogs on lead area within main car park and catering area within Haysden Country Park



Map above showing dogs on lead area within Lower Haysden Lane Car Park



Map above showing dogs on lead area within Audley Rise Car Park

e. Tonbridge Racecourse Sportsground and Tonbridge Castle

i. No unauthorised Barbecues

No person may use any barbecue, open fire or other method of cooking or heating food within these areas unless specifically authorised in writing by the Council

ii. Dogs on Leads at all times in designated areas

Dogs must be kept on leads at all times within the areas shown on the plan below. Broadly, these areas are the castle grounds.

iii. No unauthorised camping

No person may camp in any place within these areas unless specifically authorised in writing by the Council.



h. Closed Churchyards at St Peter's and St Paul's Churches

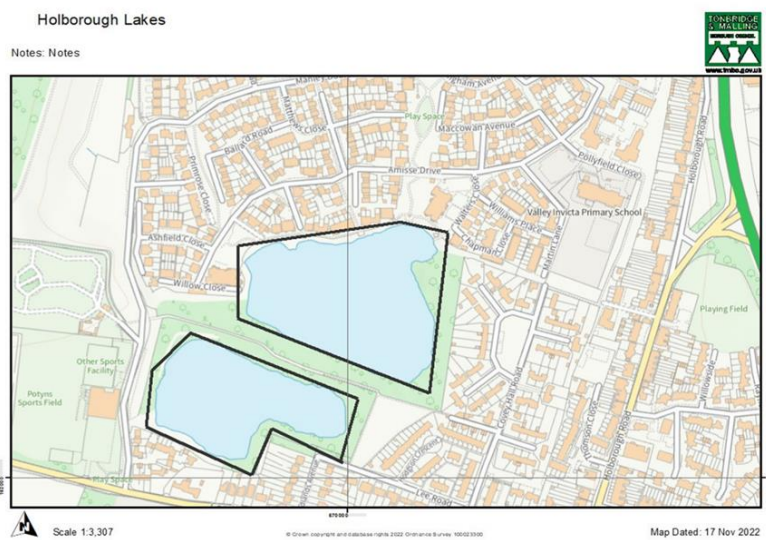
i. **Dogs on leads at all times**

Dogs must be kept on leads at all times within the Churchyards of St Peter's and St Paul's churches

i. Holborough Lakes, Snodland

(i) **No unauthorised swimming, bathing or boating**

No person may swim, bathe or operate any boat or craft in any lake within Holborough Lakes unless specifically authorised in writing



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TONBRIDGE & MALLING BOROUGH COUNCIL

COMMUNITY AND ENVIRONMENT SCRUTINY SELECT COMMITTEE

08 February 2023

Report of the Director of Street Scene, Leisure & Technical Services

Part 1- Public

Matters for Information

1 WASTE CONTRACT - KEY PERFORMANCE INDICATORS

To report on performance of the Waste Contract against a suite of Key Performance Indicators

1.1 Background

1.1.1 As part of the ongoing monitoring & management of the Waste Contract, currently delivered by Urbaser, a suite of Key Performance Indicators is measured and areas for improvement identified. This is in addition to day-to-day management of the contract through site inspections; health & safety checks; spot checks on crews; morning, midday, and end of day updates on collection progress; and daily afternoon briefings to identify causes of any delays and to agree deployment of resources for catch-up work if required.

1.1.2 As recommended by Members of this Committee on 7 July 2022, and subsequent approval by Cabinet on 7 September, the Overview & Scrutiny – Cabinet Protocol established that the Scrutiny Work Programme will have, as a standing item, Key Performance indicators relating to the service areas covered by each Scrutiny Select Committee.

1.2 Key Performance Indicators

1.2.1 The data included within this report for each Key Performance Indicator is for the period September to November 2022, with comparative data for September to November 2021, together with percentage variance when compared with the 2021 performance. The exceptions are for those relating to recycling & composting performance, where the data for April to September 2022 is the most recent audited data available. These are shown in comparison with the same period in 2021, and again with the percentage variance.

1.2.2 Narrative for key issues is provided below this table:

Description	September - November 2021	September – November 2022	%age Variance in Performance
Completion of scheduled collections (%age of rounds completed on scheduled collection day)	86.7 %	96.5%	+11%
Missed Collections – total number of reports	2,959	2,907	-2%
Missed Collections - % of jobs not actioned within SLA - (24 hrs)	100%	100%	0%
Formal complaints – (inc. Intents to default) - Refuse & Recycling	108	84	-22%
Formal complaints – (inc. Intents to default - Street Cleaning	4	0	-100%
Complaints (inc. missed collections, bin returns, pull outs, etc.) – total number	3,072	2991	-3%
Green Box Requests – total number	512	180	-65%
Green Box requests - %age of jobs not actioned within SLA - (5w/days)	13%	30%	+134%
Bin Requests (inc. new properties, replacements & repairs) – total number	1,359	1826	+34%
Bin Requests (inc. new properties, replacements & repairs) - % of jobs not actioned within SLA - (5 w/days)	41%	41%	0%
Bulky Collections (inc. fridges/freezers) – total number	711	676	-5%
Bulky Collections (inc. fridges/freezers) - % of jobs not actioned within SLA - (scheduled collection date)	3%	2%	-33%
Fly Tipping – total number of incidents reported	216	179	-17%

	April-Sept 2021	April-Sept 2022	%age Variance in Performance
Recycling Performance – total % of waste recycled or composted	45.92%	50.51%	+10%
Recycling Performance - % of waste recycled	21.24%	20.14%	-5%
Recycling Performance - % of waste composted	24.68%	30.37%	+23%
Total waste collected (tonnes)	25,318	25,435	+0.5%
Kerbside Collections:			
Recycling (tonnes)	4,920	4,591	-7%
Food waste (tonnes)	1,844	1,345	-27%
Garden waste (tonnes)	7,873	6,381	-19%
Refuse - black bin (tonnes)	12,625	11,677	-8%

1.2.3 The performance on completion of rounds in 2021 was significantly disrupted by collections, caused by staffing issues experienced by Urbaser due to the national shortage of HGV drivers and the ongoing impacts of Covid at that time. In September to November 2021, garden waste collections remained suspended, but the level of completion on refuse, recycling & food waste remained low at 86.7%. In the same period in 2022, performance had improved to above the level of 95% which is generally expected when taking into account such issues as bad weather, road closures, staff shortages, etc. The programme of daily updates detailed above are being maintained in order to proactively identify any rounds which potentially may not complete that day, and the deployment of resources required to ensure any non-completion is rectified.

1.2.4 The number of individual missed collection reports has reduced slightly compared with the same period last year. Given that there are around 514,000 scheduled refuse, recycling, food waste & garden waste collections in each month, there would have been approximately 1,542,000 scheduled for the reporting period. This equates to a missed collection rate of 0.19% in this period. We will continue to work with Urbaser to further reduce the rate of missed collections, particularly for vulnerable residents on our assisted collection service, and for repeat misses at the same property.

- 1.2.5 This is especially pleasing to note given that the project to reschedule the garden waste rounds was carried out in this reporting period. Any significant changes to collection days, changes to collection staff, etc, would normally be expected to result in an at least temporary spike in missed collection reports, complaints, etc, but due to the preparation work carried out by Officers & Urbaser, the rescheduling took place without too many issues or any drop in performance. Prior to the rescheduling of the garden waste rounds, completion each day was averaging around just 90% each day, whereas after the changes, the daily completion rate for garden waste rounds stood at an average of 99.9% at the end of November.
- 1.2.6 The %age of missed collections completed within the SLA is difficult to assess, as currently the back-office system does not always recognise when missed collections have been completed by the same crew who missed it on the collection day, or if they have been completed by a different “missed collection” crew. Urbaser are currently looking into this issue with the systems, but until this is resolved, we will continue to report using the data that is available.
- 1.2.7 The number of formal complaints has continued to reduce compared with the same period last year, from 36 per month to 28 per month. These complaints will include issues such as poor bin placement, spillage of waste, repeat missed collections, behaviour of crew, alleged mixing of waste, etc. The Council’s client team will continue to carry their schedule of proactive monitoring & spot checks and ensure that Urbaser also monitor “hot spot” properties.
- 1.2.8 Due to the number of bin requests increasing, particularly with new builds being completed, Urbaser are currently bulking up bin orders to deliver them by area, including carrying out deliveries on Saturdays. This includes each month’s Garden Waste bin requests from new subscribers. This is considered more efficient than carrying them out in order of the request being made, which leads to increased mileage & driving time. As such, some deliveries have to be made outside of the current Service Level Agreement(SLA). Officers & Urbaser are currently reviewing the SLA set in the back-office system in order to reflect this more efficient way of carrying out deliveries without impacting on frontline services.
- 1.2.9 Now that collections have generally stabilised, Urbaser are now being asked to refocus on some of the other aspects covered within the table above, such as delivery of containers within the contract SLAs, return of bins & boxes in an acceptable manner, and the closing down of completed service requests in a timelier manner.
- 1.2.10 Members will note that the number of incidents of fly tipping has reduced in this reporting period compared with last year, averaging 60 per month against 72 last year. Although TMBC continues to have one of the lowest levels of fly tipping in Kent, it remains a significant issue for Members & residents particularly in “hot spot” areas. As such one of the aims of the pilot of an external resource to carry out investigations & enforcement of fly tipping incidents – in addition to littering &

dog fouling offences – is to reduce levels still further, as well as act as a deterrent through increased levels of enforcement. A review of the performance of the third-party arrangement will be brought forward for Members' consideration at a future meeting of this Committee, together with options for future provision of this aspect of the service.

- 1.2.11 It is pleasing to note that there has been an increase in the %age of waste collected for recycling or composting compared with the same period last year. However, the element of dry recycling (paper/card and plastics, glass & cans) has reduced slightly so analysis is being carried out to identify which waste streams have been affected and the potential reasons for that reduction. A programme of promotional & engagement activities will be implemented in addition to those already taking place & planned for the future in order to try to improve capture rates of recyclable material from the black bin waste stream. A briefing note on these issues & proposed activities will be provided to all Members imminently.
- 1.2.12 Members will note that food waste tonnages continue to drop significantly, as have refuse bin (& garden waste) tonnages compared with the same period last year. This would indicate that although residents continue to use the separate food waste collections as opposed to using black bins for food waste, there is likely to be less food waste being generated. Experience elsewhere would appear to show that as food waste becomes more visible to residents by them separating it from general waste, awareness of the amount being thrown away increases and affects residents' behaviours in a positive manner. The economic situation is also likely to be impacting on food waste arisings, as well as other material streams. This will continue to be monitored as these factors are likely to impact on recycling performance not just in Tonbridge & Malling but elsewhere in Kent and nationally. As above, promotional activities will take place throughout 2023 to try to increase capture rates of food waste from the black bin waste stream.

1.3 Legal Implications

- 1.3.1 The measuring & monitoring of Key Performance Indicators complies with the legal obligations of the Waste Contract with Urbaser. The continued monitoring of recycling & composting performance will assist in delivering the Council's obligations set out in the legally binding Inter-Authority Agreement between the Council and Kent County Council (KCC).

1.4 Financial and Value for Money Considerations

- 1.4.1 The monitoring & management of the performance of the Waste Contractor, Urbaser, will assist in delivering value for money for the Council and its residents.
- 1.4.2 Improved recycling & composting performance, and reductions in black bin waste will assist in maximising the potential of the Performance Payments received from KCC.

1.5 Risk Assessment

1.5.1 Contractual performance is monitored at varying frequencies and varying levels, from daily update briefings to monthly Operational and Steering meetings.

1.6 Policy Considerations

1.6.1 Community

Background papers:

Nil

contact: David Campbell-
Lenaghan
Darren Lanes

Robert Styles

Director of Street Scene, Leisure and Technical Services

TONBRIDGE & MALLING BOROUGH COUNCIL
COMMUNITIES AND ENVIRONMENT SELECT COMMITTEE

08 February 2023

Report of the Chief Executive

Part 1- Public

Matters for Information

1 **KEY PERFORMANCE INDICATORS**

One of the key recommendations of the Peer Challenge Review was to “establish a Corporate Performance Framework which provides visibility and a formal mechanism to track your progress.”. This covering report and appendix provides a list of Key Performance Indicators (KPIs) that will be monitored on a quarterly-annual basis and made available on an ongoing basis.

1.1 **Overview of KPIs and Next Steps**

1.1.1 The KPI dataset that is provided represents the key strategic indicators that the Council reports on to various Government departments and bodies. They are not designed to provide detailed service specific indicators.

1.1.2 Each of the three Scrutiny Select Committees are receiving a suite of KPIs that specifically relate to their area of interest. The KPIs provided in Appendix 1 are those that are more relevant to this scrutiny select committee. A baseline covering April-June 2022 has been used, with the data for October-December 2022 representing the most up-to-date available statistics.

1.1.3 Where required, short explanatory notes have been provided to give additional context.

1.1.4 If there are any questions regarding the KPIs provided, **these should be submitted to the relevant Director/Chief Executive at least 2 days in advance of the scrutiny select committee meeting** in order to ensure that a suitable response can be provided at the meeting. If additional queries are raised at the scrutiny select committee meeting, these will be responded to within 5 working days.

1.1.5 As these statistics are collated on an annual or quarterly basis, and the scrutiny select committees are five times a year, it will not be possible to provide every meeting with new KPI information. However, it is intended to report to the upcoming select committees once the quarterly information has been produced.

1.1.6 This KPI reporting represents the first stage of a programme of activity to action the recommendation from the Peer Challenge Review. Future steps are likely to include;

- Providing comparator baselines for other Kent districts and other similar authorities (for example, our CIPFA grouping)
- Agreeing KPI targets relating to improvement or maintenance of service delivery standards
- Exploring opportunities for benchmarking offered by the LGA's performance management function
- Regular review of the KPIs at Management Team and Service Management Teams, especially as the Corporate Strategy evolves and is finalised, in order to ensure that there is strong alignment between the KPIs and the Corporate Strategy.

1.1.7 Further down the line, a technological solution, such as Power BI (which is currently being used for planning enforcement) may enable the collation of and access to KPIs to become more streamlined, with real-time, self-serve access for officers and Members. This will be explored alongside the rollout of Agile, which utilises Power BI reporting already. This is likely to provide the opportunity for more detailed statistics about individual service areas and these models will be co-developed by officers and Members.

Background papers:

Nil

contact: Jeremy Whittaker,
Strategic Economic
Regeneration Manager

Appendix 1 – Communities and Environment Key Performance Indicators

	BASELINE				2022/23			2023/24				NOTES
	Value	Date	Frequency	Source	July-Sept	Oct-Dec	Jan-Mar	Apr-Jun	Jul-Sept	Oct-Dec	Jan-Mar	
INDICATORS - Community and Environment												
Community Safety												
Total number of ASB cases	86	Apr-June 2022	Quarterly	ASB Database (Excel)	126	50						
Total number of victim-based crimes	1,982	Apr-June 2022	Quarterly	Kent Police	2,040	1,868						
Climate Change												
T&M carbon dioxide emissions data (ktCO2e)	757.4	2020	Annually	BEIS – CO2 Emissions Statistics	N/A	N/A						Available annually June/July
TMBC annual carbon audit emissions data (tCO2e)	2,029.4	2021/22	Annually	Primary Research/gov.uk	N/A	N/A						
Environmental Protection												
Number of Contaminated land enquiries	13	2021/22	Annually		N/A	N/A						
Total number of service requests leading to investigation	512	2021/22	Annually	IDOX Uniform	N/A	N/A						

Number of Enforcement notices served	9	2021/22	Annually	EP Notices Register	N/A	N/A						
Food & Safety												
Number of food safety inspections due risk category A-C	35	Apr-Jun22	Quarterly	IDOX Uniform	36	44	33					Jan-March 2023 figure relates to inspections that are scheduled in for that quarter.
Number of food safety inspections undertaken risk category A-C	62	Apr-Jun 22	Quarterly	IDOX Uniform	65	41						
Number of food safety inspections due risk category D-E	36	Apr-Jun22	Quarterly	IDOX Uniform	65	91	49					Jan-March 2023 figure relates to inspections that are scheduled in for that quarter.
Number of food safety inspections undertaken risk category D-E	79	Apr-Jun22	Quarterly	IDOX Uniform	68	90						
One You												
Number of clients referred into the service	182	Apr-June 2022	Quarterly	Refer All OYWK database	141	185						
Waste Services												
Total number of actual missed collection	14954	2021/22	Annually	Whitespace Analytics	N/A	N/A						Please note - more detailed waste &

Total number of formal complaints - refuse and recycling	525	2021/22	Annually	Whitespace Analytics	N/A	N/A						street contract KPIs are now being supplied to each meeting of the CESSC as a separate info report
Total number of complaints - street cleansing	256	2021/22	Annually	Whitespace Analytics	N/A	N/A						
Total number of complaints (including missed collections)	15765	2021/22	Annually	Whitespace Analytics	N/A	N/A						
% of household waste sent for recycling and composting	51.60%	2020/21 (audited)	Annually	Waste Data Flow (Defra)	N/A	N/A						
Leisure Services - Leisure Centres												
Total income from events	£35,000	2021/22	Annually	Integra	N/A	N/A						
Overall income (% to profile)	102%	Apr-Jun 2022	Quarterly	TMLT Management System	103%	N/A						
Overall expenditure (% to profile)	108%	Apr-Jun 2022	Quarterly	TMLT Management System	108%	N/A						
Total Attendance - LLC, AC, TSP and PWGC (cumulative for year by quarter)	275578	Apr-Jun 2022	Quarterly	TMLT Management System	601997	N/A						Total attendance is not profiled, there were 601,997 visits to the facilities (LLC,AC,TSP and PWGC) at end of Q2 compared to 159,817 last year which was

													impacted by Covid 19. Please note – figures for Oct-Dec 2022 not available until mid-February 2023.
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COMMUNITIES AND ENVIRONMENT SCRUTINY SELECT COMMITTEE

WORK PROGRAMME 2022/23

Standing items:

- Record of Officer Decisions Taken (If any);
- Key Performance Indicators
- Work Programme (for information).

Meeting Date	Matter for Discussion	Requested by:	Director/Officer
24 May 2023	Review of fly tipping and littering enforcement pilot	Cllr Hood	
	Review of one year trial of rewilding across the Borough	Cllr Thomas/Cllr Hood	
	Key Performance Indicators		J Whittaker
19 July 2023	Key Performance Indicators		J Whittaker
21 September 2023	Key Performance Indicators		J Whittaker
8 November 2023	Key Performance Indicators		J Whittaker
Note: Meetings for July – November 2023 are to be confirmed by Annual Council			

Item	Meeting Date	Papers published	Director/Officer
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Potential items to be considered for inclusion (to be confirmed by the Committee:

- Review of CCTV and Kent Police to be invited to address the Committee;
- Scheme to improve drainage at Tonbridge Racecourse Sportsground – options to resolve issues;
- Capacity of Borough Council’s sportsgrounds and facilities and how well used are they;
- Waste Services Contract
- Representatives of Clarion Housing Association to be invited to discuss anti-social behaviour issues;
- Review best practice in respect of Warm Spaces initiative

Agenda Item 13

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 14

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 15

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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