

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Interim 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

24 May 2024

To: MEMBERS OF THE CABINET
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Cabinet to be held in the Council Chamber, Gibson Drive, Kings Hill on Tuesday, 4th June, 2024 commencing at 7.30 pm.

Members of the Cabinet 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.

(NB: Background papers to items referred from Scrutiny Select Committees and Committees have been omitted from printed agenda packs.)

Yours faithfully

ADRIAN STANFIELD

Interim Chief Executive

A G E N D A

1. Guidance for the Conduct of Meetings

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3. Declarations of interest 13 - 14

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 for members – 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.

4. Minutes 15 - 28

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6. Decisions taken by Cabinet Members 33 - 34

A record of the decisions taken by portfolio holders since the last meeting of Cabinet are attached.

Decisions to be taken in accordance with Part 3 of the Constitution

Executive Non-Key Decisions

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Recommendation OS 24/20 of the Overview and Scrutiny Committee of 4 April 2024 in respect of a Housing Association Performance Framework.

8. Risk Management 41 - 66

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9. Tree Enforcement Protocol and Tree Preservation Order 67 - 92

Recommendation HP 24/23 of the Housing and Planning Scrutiny Select Committee of 21 May 2024 in respect of Tree Enforcement and Tree Preservation Order Protocols.

10. Local Plan - Duty to Co-operate Update 93 - 116
 Recommendation HP 24/24 of the Housing and Planning Scrutiny Select Committee of 21 May 2024 in respect of the Local Plan and the Duty to Co-operate.
11. Transfer Incentive Scheme 117 - 124
 Recommendation HP 24/25 of the Housing and Planning Scrutiny Select Committee of 21 May 2024 in respect of proposals for a transfer incentive scheme.
12. Graffiti Update 125 - 142
 Recommendation CE 24/16 of the Communities and Environment Scrutiny Select Committee of 22 May 2024 in respect of graffiti.
13. Corporate Strategy Action Plan 143 - 160
 This report provides a high-level update on progress made in delivering the Council's priority actions in the Corporate Strategy Action Plan 2023/24, and seeks approval for the Corporate Strategy Action Plan 2024/25
14. Tonbridge Town Centre Programme Board - Terms of Reference 161 - 168
 The report sets out proposed Terms of Reference for the newly established Tonbridge Town Centre Programme Board.

Executive Key Decisions

15. Adoption of the High Weald National Landscape Area of Outstanding Natural Beauty Management Plan 2024 - 2029 169 - 172
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16. Urgent Items 173 - 174
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Matters for consideration in Private

17. Exclusion of Press and Public 175 - 176
 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.

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18. Grounds Maintenance Contract 177 - 188

(Reasons: LGA 1972 – Section 100A (2) – Confidential information)

This report updates Members on the retender of the Council's Grounds Maintenance Contract for public open spaces following a formal tender and evaluation process; brings forward the proposed successful contractor for Members consideration and approval; and advises on a contract option for alternative Herbicide/Pesticide use.

19. Urgent Items 189 - 190

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

Councillor M D Boughton, (Leader)
Councillor R P Betts, (Climate Change, Regeneration and Property)
Councillor M A Coffin, (Transformation and Infrastructure)
Councillor D Keers, (Community Services)
Councillor K B Tanner, (Finance and Housing)
Councillor M Taylor, (Planning)

Members of the Council who are not members of the executive may attend meetings of the Cabinet. With the agreement of the Leader, any such Member may address the Cabinet on any item on the agenda but may not vote.

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GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

- (1) Most of the Borough Council meetings are livestreamed, unless there is exempt or confidential business being discussed, giving residents the opportunity to see decision making in action. These can be watched via our YouTube channel. When it is not possible to livestream meetings they are recorded and uploaded as soon as possible:

<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 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 Chair, 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 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 should attend in person. However, arrangements to participate online can be considered in certain circumstances. 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.

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Apologies for absence

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Declarations of interest

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Public Document Pack Agenda Item 4

TONBRIDGE AND MALLING BOROUGH COUNCIL

CABINET

Tuesday, 2nd April, 2024

Present: Cllr M D Boughton (Chair), Cllr R P Betts, Cllr M A Coffin, Cllr D Keers, Cllr K B Tanner and Cllr M Taylor

In attendance: Councillors B Banks, Mrs T Dean, F A Hoskins, Mrs A S Oakley, R V Roud and Mrs M Tatton were also present pursuant to Access to Information Rule No 23.

Virtual: Councillors Mrs S Bell, J Clokey, A Cope, S Crisp, M A J Hood, M R Rhodes and C J Williams participated via MS Teams in accordance with Access to Information Rule No 23.

PART 1 - PUBLIC

CB 24/41 DECLARATIONS OF INTEREST

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

CB 24/42 MINUTES

RESOLVED: That the Minutes of the meeting of the Cabinet held on 5 March 2024 be approved as a correct record and signed by the Chairman.

DECISIONS TAKEN IN ACCORDANCE WITH PART 3 OF THE CONSTITUTION

EXECUTIVE KEY DECISIONS

CB 24/43 PARKING PROPOSALS AND CHANGES TO ON-STREET AND OFF-STREET PARKING FEES AND CHARGES

(Decision Notice: D240034CAB)

Consideration was given to proposals in respect of on-street and off-street parking arrangements, fees and charges and the consultation responses received as part of the recent public consultation.

Due regard was also given to the views and recommendations of the Joint Transportation Board who had considered proposals related to on-street parking on 4 March 2024 and to the financial and value for money considerations. Cabinet recognised that some of the proposals required the procurement of equipment, services and capital works, that funding for the implementation of the proposals would come from existing

revenue budget and capital funding and that some of the proposals currently in List C of the Capital Plan would need to be brought forward for fast-track evaluation in due course.

RESOLVED: That

- (1) the recommendations of the Joint Transportation Board of 4 March 2024, be approved as set out below;
 - (i) the proposals for Avebury Avenue, Tonbridge to remove the current on-street Pay and Display be approved, and that the on-street Traffic Regulation Order be amended to reflect the changes;
 - (ii) the proposals for the introduction of on-street charges in West Malling High Street and Swan Street be introduced as drawn, with the inclusion of no charge for up to 1 hour of parking and that the on-street Traffic Regulation Order be amended to reflect the changes;
 - (iii) the proposal for the loading bay in West Malling High Street be introduced as drawn, the future level of enforcement and size of signs be reviewed and the on-street Traffic Regulation Order be altered to reflect the changes;
 - (iv) the changes to the on-street fees and charges be implemented as advertised and that the on-street Traffic Regulation Order be altered to reflect the changes.
- (2) the parking charges to Martin Square car park be introduced as stated in the report, with the inclusion of no charge for up to 30 minutes of parking;
- (3) the parking charges to Aylesford Bailey Bridge (East) and Bailey Bridge (West) car parks be introduced as stated in the report, subject to the reduction in the charge for a season ticket to £200 per annum and the introduction of a scheme for parking associated with the local primary school;
- (4) the Bailey Bridge (East) car park be extended*;
- (5) the Upper Castle Field car park be extended*;
- (6) the existing nine Gateway parking spaces located in the Tonbridge Castle Grounds car park become available for general use and that they are subject to the same parking conditions and requirements for payment as the rest of the Castle Grounds car park;
- (7) the off-street parking tariffs be revised as stated in the report; and

- (8) with the exception of West Malling High Street, the Council's off-street parking charges be extended until 8pm and that the parking charges also be applied on Sundays and Bank Holidays, excluding Christmas Day, Boxing Day and New Years Day.

**subject to Capital Plan/fast-track evaluations*

CB 24/44 TONBRIDGE TOWN CENTRE PROGRAMME MANAGER

(Decision Notice: D240035CAB)

Consideration was given to the appointment of a Programme Manager on a full-time 3 year fixed-term basis to co-ordinate the various town centre related projects, developing and managing a town centre wide programme and monitoring progress.

Due regard was given to the views of the Finance, Regeneration and Property Scrutiny Select Committee who supported the creation of a Tonbridge Town Centre Programme Board to oversee the wider work programme. The financial and value for money considerations detailed in 1.4 of the report were noted.

On the grounds of mitigating risks associated with having sufficient resource to progress the wide range of work, it was proposed by Cllr Boughton and seconded by Cllr Coffin that a Programme Manager be appointed.

RESOLVED: That

- (1) a Tonbridge Town Centre Programme Manager be appointed on a full-time 3 year fixed-term contract; and
- (2) the allocation of funds from the Regeneration of Tonbridge Reserve to meet the costs of the above appointment, be approved (as detailed in 1.4).

CB 24/45 EMPTY HOMES

(Decision Notice: D240036CAB)

Consideration was given to recommendation HP 24/9 of the Housing and Planning Scrutiny Select Committee of 19 March 2024 in respect of empty homes in the borough, a new Local Government Association (LGA) report on dealing with empty homes and proposals for the introduction of a new Empty Homes Officer post.

Cabinet had due regard to the views of the Scrutiny Select Committee, the financial and value for money considerations and legal implications

and recognised the importance of adopting measures to get empty properties back into use.

On the grounds of focusing attention, monitoring progress and exploring options for a longer-term approach, Cllr Boughton proposed, seconded by Cllr Coffin, the establishment of a fixed term Empty Homes Officer post. The creation of a budget of £30,000 to fund work that enabled the facilitation of empty homes being brought back into use was also supported.

RESOLVED: That

- (1) a two-year fixed-term Empty Homes Officer post be established;
- (2) the cost of the post (£91,000) and empty homes budget (£30,000) be taken from the Housing Assistance Reserve; and
- (3) the Local Government Association report on empty homes be noted and that this approach be utilised as the basis for the fixed-term Empty Homes Officer post.

CB 24/46 VOLUNTARY SECTOR GRANTS - FUTURE FUNDING OPTIONS

(Decision Notice: D240037CAB)

Cabinet considered a number of options in respect of future funding arrangements for key Voluntary and Community Sector Groups.

It was noted that in relation to offering lower amounts set over a longer period (detailed in Option 4), that organisations had been contacted to establish what service impacts could arise if this option was progressed.

Due regard was given to the responses received from the organisations (summarised in paragraph 1.2.3), the opportunity for voluntary and community sector groups to apply for UKSPF Community Development Grant funding from 1 March 2024 and the valuable work provided by these groups to support residents throughout the Borough.

Particular reference was made to the larger grant of £95,000 offered to CANWK which had remained static for several years. Despite the ongoing cost of living crisis meaning that their services were in high demand, it was prudent for the Borough Council to consider all value for money options. On the grounds that CANWK could apply for the UKSPF Community Development Grant, Cabinet supported a £5,000 reduction in funding with the security of a four-year Service Level Agreement.

RESOLVED: That

- (1) grant funding for Imago, Involve, Mediation Schemes and Age UK Sevenoaks and Tonbridge be reduced as detailed in Option 4 and set for a period of 4 years to provide additional stability;
- (2) a £5,000 reduction in grant funding be applied for CANWK with the security of a four-year Service Level Agreement; and
- (3) prior to the next review of the Service Level Agreements for Voluntary Sector grant funding in April 2028, that consideration be given to which organisations, if any, would be eligible.

CB 24/47 PROCUREMENT SUPPORT

(Decision Notice: D240038CAB)

Careful consideration was given to a proposal to enter into an agreement with the Mid Kent Procurement Partnership to provide procurement support to the Borough Council.

Due regard was given to the options detailed in the report, which included the appointment of a dedicated officer and a partnership approach. The advantages and disadvantages of each option were detailed in Annex 3 to the report. It was felt that the in-house option did not provide adequate resource and represented less value for money than the partnership approach. The Management Team proposed to allocate funding from the Transformation Reserve if Cabinet supported the option to progress the partnership approach on a 2-year trial.

On the grounds that there was a risk to the Borough Council if it did not address the need for additional support in regard to procurement, as previously identified by the External Auditor, Cllr Boughton proposed, seconded by Cllr Coffin that the partnership approach be adopted.

RESOLVED: That

- (1) the Borough Council enter into a 2-year trial agreement with the Mid Kent Procurement Partnership; and
- (2) the 2-year trial agreement be funded from the Transformation Reserve.

EXECUTIVE NON-KEY DECISIONS**CB 24/48 TONBRIDGE TOWN CENTRE ASSET REVIEW - PHASE 2**

(Decision Notice: D240039CAB)

Consideration was given to recommendation FRP 24/4 of the Finance, Regeneration and Property Scrutiny Select Committee in respect of the Tonbridge Town Centre Asset Review.

Due regard was given to the detailed reports and assessments provided by the external consultant, Mace, together with the views expressed by the Scrutiny Select Committee.

It was suggested that the membership of the Town Centre Programme Board be the Cabinet Member for Climate Change, Regeneration and Property, Cabinet Member for Community Services, Councillors Athwal, Bridge, Hood and Mehmet.

RESOLVED: That

- (1) the Phase 2 reports from Mace be noted;
- (2) in order to facilitate efficient and consistent decision making, Officers be instructed to develop terms of reference for a Tonbridge Town Centre Programme Board (as set out in 1.3.6, 1.3.7 and Annex 6) for Cabinet approval and the membership of the Board as above, be noted;
- (3) the Borough Councils general approach to parking should be to provide unallocated parking spaces between the current 970 and anticipated future peak demand, on the grounds that the proposals from Sainsbury PLC and the potential provision of a hotel and medical practice were likely to attract greater numbers to the town;
- (4) options for a podium parking solution with development above, be explored for Angel West car park;
- (5) the Borough Councils general approach to housing should be to focus on low-rise high-density housing types and that any development should maximise affordable housing provision and place the needs of local residents first and should preferably be delivered by a Borough Council owned housing company, subject to further investigation by the Programme Board and more detailed viability work being undertaken;
- (6) options for retail and commercial use around public spaces that provide flexible, simple units to optimise value be explored, and

- that the Borough Council acts as landlord for any new retail units and ensures that the viability of current commercial businesses are not put at risk by the creation of an alternative shopping centre;
- (7) options for a hotel be included in the project, with the possibility of the Borough Council acting as developer and landlord;
 - (8) the inclusion of a GP Practice be supported on the grounds of providing adequate infrastructure for residents and that the Borough Council looks to incorporate this into the redevelopment as landlord;
 - (9) the Borough Council should aspire to undertake a master developer role to influence the shape, style and design of the development so that it remains sympathetic to the local area; and the extent and scope of this role be reviewed by the Tonbridge Town Centre Programme Board;
 - (10) the Borough Council should explore a collaborative agreement with Network Rail in relation to their train station car park sites and that the Tonbridge Town Centre Programme Board consider whether other stakeholders and/or landowners should be approached;
 - (11) the Borough Council should commit to a net zero baseline as a fundamental requirement of the development;
 - (12) to guarantee continuity of service for leisure and community users, the Angel Centre should remain open and in operation until a replacement facility becomes available;
 - (13) upon completion of the Alliance Leisure feasibility study on options for potential leisure and community uses, facilities and locations, and subject to agreement of the Tonbridge Town Centre Programme Board, full public consultation be undertaken as soon as possible on the master plan proposals;
 - (14) the Tonbridge Town Centre Programme Board be requested to liaise with key stakeholders, partners and landowners to discuss options around services and operations;
 - (15) Officers be instructed to develop a communication strategy for the Tonbridge Town Centre Project to be reported to a future meeting of the Programme Board for consideration; and
 - (16) Officers be instructed to progress a masterplan exercise for the area east of the High Street.

CB 24/49 NATIONAL PLANNING POLICY LEGISLATION UPDATE

(Decision Notice: D240040CAB)

Consideration was given to recommendation HP 24/10 of the Housing and Planning Scrutiny Select Committee of 19 March 2024.

RESOLVED: That

- (1) the contents of the report be noted; and
- (2) the approach to the Local Plan preparation matters be approved as set out in the report.

CB 24/50 TEMPORARY ACCOMMODATION AND HOMELESSNESS CONSULTANCY REVIEW

(Decision Notice: D240041CAB)

Consideration was given to recommendation HP 24/11 of the Housing and Planning Scrutiny Select Committee of 19 March 2024 in respect of a recent consultancy review of temporary accommodation and homelessness.

Cabinet had due regard to the views of the Scrutiny Select Committee, the financial and value for money considerations and legal implications and recognised that given the continued demands on homelessness services and the need for temporary accommodation, the Borough Council would be unable to continue to manage the temporary accommodation numbers without the service working at maximum efficiency and effectiveness.

RESOLVED: That

- (1) the Temporary Accommodation and Homelessness Service Review (attached at Annex 1), be noted; and
- (2) the Action Plan (attached at Annex 2), be approved.

MATTERS SUBMITTED FOR INFORMATION**CB 24/51 CORPORATE KEY INDICATORS**

Data on Key Performance Indicators (KPIs) aligned to the Corporate Strategy 2023-2027 and monitored on a quarterly or annual basis were provided. The data was made available to the Scrutiny Select Committees, Overview and Scrutiny and Cabinet on an ongoing basis.

CB 24/52 MINUTES OF PANELS, BOARDS AND OTHER GROUPS

The Minutes of the Tonbridge Community Forum of 26 February 2024 and the Minutes of the Joint Transportation Board of 4 March 2024 were received and noted.

CB 24/53 DECISIONS TAKEN BY CABINET MEMBERS

Details of the Decisions taken in accordance with the rules for the making of decisions by executive members, as set out in Part 4 of the Constitution, were presented for information.

CB 24/54 EXCLUSION OF PRESS AND PUBLIC

The Chairman moved, it was seconded and

RESOLVED: That as public discussion would disclose exempt information, the following matters be considered in private.

EXECUTIVE KEY DECISION**CB 24/55 GIBSON BUILDING UPDATE**

(Reasons: LGA 1972 – Sch 12A Paragraph 3 – Financial or business affairs of any particular person)

(Decision Notice: D240042CAB)

Consideration was given to the proposals to release the restrictive covenants on the Council's Gibson site Title.

Cabinet had due regard to the financial and value for money considerations and legal implications and recognised that the proposals supported the Council's corporate priority to provide efficient services for all residents, whilst maintaining an effective Council.

RESOLVED: That the proposals set out in the exempt report, be agreed.

The meeting ended at 8.51 pm

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TONBRIDGE AND MALLING BOROUGH COUNCIL

EXTRAORDINARY CABINET

Tuesday, 30th April, 2024

Present: Cllr M D Boughton (Chair), Cllr R P Betts, Cllr M A Coffin, Cllr D Keers, Cllr K B Tanner and Cllr M Taylor

In attendance: Councillors L Athwal, B Banks, G C Bridge, J Clokey, D A S Davis, Mrs T Dean, G B Hines, M A J Hood, F A Hoskins, D W King, A Mehmet, M R Rhodes, R V Roud, Mrs M Tatton and D Thornewell were also present pursuant to Access to Information Rule No 23.

Virtual: Councillors Mrs S Bell, R I B Cannon, A Cope, S Crisp, D Harman, S A Hudson and W E Palmer participated via MS Teams and joined the discussion when invited to do so by the Chair in accordance with Access to Information Rule No 23.

PART 1 - PUBLIC

CB 24/56 DECLARATIONS OF INTEREST

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

MATTERS TO INFORM THE EXECUTIVE

CB 24/57 PETITION IN RESPECT OF UPPER CASTLE FIELD, TONBRIDGE

Cabinet received a petition from Slade Area Residents Association (SARA) and the Save Upper Castle Fields Facebook Group asking that 'the green space and play area at Upper Castle Fields be preserved' and urging 'local authorities to safeguard this vital community asset for present generations and those yet to come'.

Dr. R Herbert and Ms J Wyatt addressed the chamber in accordance with Part 4 of the Council and Committee Procedure Rules.

The signatures in the petition and the statements were given due regard during the substantive debate under agenda item 4 (Minute Number CB 24/59).

RESOLVED: That

- (1) the petition at Annex 1, be received and noted; and
- (2) the issues raised in the petition be considered alongside the recommendations of the Overview and Scrutiny Committee of 22 April 2024.

CB 24/58 PETITION IN RESPECT OF PREVENTING THE EXTENSION OF CHARGING HOURS IN BOROUGH COUNCIL CAR PARKS

Cabinet received a petition stating ‘The recent proposal to extend charging hours in the towns car parks is not just an inconvenience, but a potential threat to the vibrancy and vitality of our community’ and urged the ‘Borough Council to not only consider these facts but also listen to constituents who have overwhelmingly supported no increase to the charging hours in the car parks. We need policies that encourage growth and community engagement rather than hinder it.’

Ms K Sinclair addressed the chamber in accordance with Part 4 of the Council and Committee Procedure Rules. A written statement from Mr G Simmonds was read out at the discretion of the Leader.

The signatures in the petition and the statements were given due regard during the substantive debate under agenda item 4 (Minute Number CB 24/59).

RESOLVED: That

- (1) the petition at Annex 1, be received and noted; and
- (2) the issues raised in the petition be considered alongside the recommendations of the Overview and Scrutiny Committee of 22 April 2024.

EXECUTIVE KEY DECISIONS**CB 24/59 CALL IN OF EXECUTIVE DECISION D240034CAB - PARKING PROPOSALS AND CHANGES TO ON-STREET AND OFF-STREET PARKING FEES AND CHARGES**

(Decision Notice: D240034(1)CAB)

In accordance with the Overview and Scrutiny Procedure Rules, decision D240034CAB was the subject of a call-in and was scrutinised by the Overview and Scrutiny Committee on 22 April 2024. Members of the Overview and Scrutiny Committee considered the grounds for the call-in and had regard to the responses provided by the Cabinet. After in-depth discussion and a formal vote the Overview and Scrutiny Committee recommended that decision D240034CAB be amended as set out in Minute Number OS 24/28.

Careful consideration was given to the recommendations of the Overview and Scrutiny Committee, the views of wider Members and the signatories of the petitions received in respect of ‘Upper Castle Field’ and the ‘Extension of charging hours in Borough Council car parks’.

Due consideration was also given to the statements made at the meeting by community representatives, during which significant concern was expressed over the potential threat to the vibrancy and vitality of the community, the extension of the Upper Castle Field car park and the extension of charging hours until 8pm including Sundays and Bank Holidays and impact on local residents, business and visitors.

After careful consideration and having due regard to the financial and value for money considerations, Cabinet proposed a number of amendments to Decision No. D240034CAB which was superseded by Decision No. D240034(1)CAB.

RESOLVED: That

- (1) the following recommendations of the Joint Transportation Board of 4 March 2024, be approved:
 - (i) the proposals for Avebury Avenue, Tonbridge to remove the current on-street Pay and Display be approved, and that the on-street Traffic Regulation Order be amended to reflect the changes;
 - (ii) the proposals for the introduction of on-street charges in West Malling High Street and Swan Street be introduced as drawn, with the inclusion of no charge for up to 1 hour of parking and that the on-street Traffic Regulation Order be amended to reflect the changes;
 - (iii) the proposal for the loading bay in West Malling High Street be introduced as drawn, the future level of enforcement and size of signs be reviewed, and the on-street Traffic Regulation Order be altered to reflect the changes; and
 - (iv) the changes to the on-street fees and charges be implemented as advertised and that the on-street Traffic Regulation Order be altered to reflect the changes;
- (2) the parking charges to Martin Square car park be introduced as stated in the report, subject to an amendment to no charge for up to 1 hour of parking and the reduction in the charge for a season ticket to £10 per month;
- (3) the parking charges to Aylesford Bailey Bridge (East) and Bailey Bridge (West) car parks be introduced as stated in the report, subject to the reduction in the charge for a season ticket to £120 per annum and the inclusion of no charge for up to one hour of parking, with further consideration to be given to the provision of parking spaces for exclusive use by residents; however, the parking charges are not to be implemented until the extension of

- the Bailey Bridge (East) car park has been completed which is subject to Capital Plan/fast-track evaluation;
- (4) the Bailey Bridge (East) car park be extended subject to Capital Plan/fast track evaluation;
 - (5) the current proposal to extend the Upper Castle Field car park not be agreed;
 - (6) the existing nine Gateway parking spaces located in the Tonbridge Castle car park become available for general use and they are subject to the same parking conditions and requirements for payment as the rest of the Castle Grounds car park;
 - (7) the off-street parking tariffs be revised as stated in the report;
 - (8) with the exception of West Malling High Street, the Council's off-street parking charges be extended until 8pm and that the parking charges also be applied on Sundays and Bank Holidays, excluding Christmas Day, Boxing Day and New Years Day; and
 - (9) there be no charge for up to 30 minutes of parking in the following short stay car parks in Tonbridge: Bradford Street, Castle Grounds, Kinnings Row, Lamberts Yard, River Lawn and Upper Castle Field.

CB 24/60 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 9.54 pm

Agenda Item 5

The minutes of meetings of Advisory Panels, Boards and Other Groups are attached. Any recommendations arising from these minutes are set out as individual items on this agenda.

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Notes of the Tonbridge Community Forum held on Monday 20 May 2024 are to follow.

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Executive Decisions Record - May 2024

Decision Number	Title	Cabinet Member	Date of Decision	Date Published	Call-in period ends	Called in	Scrutiny Committee Consideration	Referred back to Cabinet	Referred back to Council	Council referred to Cabinet	Date Decision Effective
D240045MEM	The use of part of the Angel East car park to allow the operation of a mobile prostate cancer screening unit	Finance and Housing	07.05.24	09.05.24	16.05.24						17.05.24
D240046MEM	To appoint Bloomfields Chartered Town Planners to undertake work on a masterplan for Tonbridge Farm	Community Services	07.05.24	16.05.24	23.05.24						24.05.24
D240047MEM	Update to Integra Centros Financial Management System	Finance and Housing	13.05.24	16.05.24	23.05.24						24.05.24
D240048MEM	Application for Hardship Relief	Finance and Housing	17.05.24	17.05.24	24.05.24						25.05.24
D240049MEM	Community Safety Partnership Plan 2024 - 2025	Community Services	22.05.24								
D240050MEM	Air Quality Management Area Status Updates and Recommendations	Climate Change, Regeneration and Property	22.05.24								

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Decision pending	Call in period	Key Decision	Private	Urgent
	Subject to call in			

URG - outside of budget and policy framework

Number of monthly call-ins:	
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Executive Decisions Record - April 2024

Decision Number	Title	Cabinet Member	Date of Decision	Date Published	Call-in period ends	Called in	Scrutiny Committee Consideration	Referred back to Cabinet	Referred back to Council	Council referred to Cabinet	Date Decision Effective
D240033MEM	Change Reserve to make up the difference between the planned replacement costs and the replacement with	Climate Change, Regeneration and Property	02.04.24	04.04.24	11.04.24						12.04.24
D240034CAB	Parking Proposals and changes to on and off street parking fees and charges	Cabinet	02.04.24	05.04.24	12.04.24	8.04.24	22.4.24	30.4.24*			N/A
D240034(1)CAB	Call in of D240034CAB - Parking Proposals	Cabinet Original DN amended to reflect recommendations of OS.	30.4.24	02.05.24	N/A						30.04.24
D240035CAB	TTC Programme Manager	Cabinet	02.04.24	05.04.24	12.04.24						13.04.24
D240036CAB	Empty Homes	Cabinet	02.04.24	05.04.24	12.04.24						13.04.24
D240037CAB	Voluntary Sector Grants - Future Funding Options	Cabinet	02.04.24	05.04.24	12.04.24						13.04.24
D240038CAB	Procurement Support	Cabinet	02.04.24	05.04.24	12.04.24						13.04.24
D240039CAB	TTC Asset Review - Phase 2	Cabinet	02.04.24	05.04.24	12.04.24						13.04.24
D240040CAB	National Planning Policy Legislation update	Cabinet	02.04.24	05.04.24	12.04.24						13.04.24
D240041CAB	TA and Homelessness Consultancy	Cabinet	02.04.24	05.04.24	12.04.24						13.04.24
D240042CAB	Gibson Building Update	Cabinet	02.04.24	05.04.24	12.04.24						13.04.24
D240043MEM	UKSPF - Green Retrofit Skills	Climate Change, Regeneration and Property	10.04.24	11.04.24	18.04.24						19.04.24
D240044MEM	Approval to extend memorandum of agreement with MVCP until April 2029	Community Services	29.04.24	29.04.24	07.05.24						08.05.24
Decision pending	Call in period	Key Decision	Private	Urgent							
	Subject to call in										

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URG - outside of budget and policy framework

*D240034CAB superseded by D240034(1)CAB

Number of monthly call-ins:	1
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HOUSING ASSOCIATION PERFORMANCE FRAMEWORK

Item OS 24/20 referred from Overview and Scrutiny Committee of 4 April 2024

A proposed Housing Association Performance Framework setting out the data to be requested from the largest Registered Providers, arrangements to review nomination agreements with those providers and how the Housing Association Liaison Panel could be used to ensure Member engagement was attached at Annex 1 for consideration.

Reviewing the approach to a Housing Association Performance Framework was an identified action in the Borough Council's Housing Strategy Action Plan for Year 2.

However, it was reported that the Borough Council would engage with Clarion Housing differently to other registered providers given the size of their portfolio in the Borough. This was reflected in the proposed Framework with a specific section on a meeting programme with Clarion.

Members welcomed the introduction of a Performance Framework so that the Borough Council was aware of registered providers performance and able to assess any potential impacts this performance might have on the authority's activity or its residents. Data would be requested from all Housing Associations with stock in Tonbridge and Malling on at least an annual basis as set out in 1 of Annex 1. To address concerns raised by the Committee, information on damp and mould complaints and issues would also be requested from all Housing Associations.

It was also noted that there was renewed focus by Clarion Housing in respect of 'voids' and whilst better data was being received it was difficult to share information with Members on the grounds of confidentiality and GDPR. However, consideration would be given as to whether data sharing was an option.

***RECOMMENDED:** That

- (1) the Housing Association Performance Framework be commended to Cabinet for adoption.

***Recommended to Cabinet**

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TONBRIDGE & MALLING BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

04 April 2024

Report of the Director of Planning, Housing & Environment Health

Part 1- Public

Matters for Recommendation to Cabinet

1 HOUSING ASSOCIATION PERFORMANCE FRAMEWORK

1.1 Current position

- 1.1.1 Clarion attended a meeting of this committee on 14 September 2023. They presented a detailed performance update on all aspects of their work in the borough, including repairs, maintenance, rent management, tenant engagement, major works and voids.
- 1.1.2 Reviewing the Council's approach to a Housing Association Performance Framework is an identified action in the Council's Housing Strategy Action Plan for Year 2.

1.2 The Councils' Housing Association Performance Framework

- 1.2.1 A proposed Framework is attached to this report at Annex 1. It covers the data we will request from our largest Registered Providers, the steps we will put in place to review our nominations agreements with all RPs and how the Housing Association Liaison Panel could be utilised to ensure Member engagement in this programme of work.
- 1.2.2 As discussed previously with Members, given the size of Clarion's portfolio in the borough, the way that the Council engages with them will necessarily be different than with other Registered Providers. This is reflected in the attached Framework proposal with a specific section on a meeting programme with Clarion.

1.3 Legal Implications

- 1.3.1 Councils have no formal power to scrutinise Housing Associations – this lies with the Regulator of Social Housing.

1.4 Financial and Value for Money Considerations

- 1.4.1 There are no direct financial implications from the proposals in this report

1.5 Risk Assessment

- 1.5.1 Although the Council has no formal powers to scrutinise Housing Associations, ensuring that the Council is apprised of their performance and assess any potential impacts this may have on the Council's activity or on its residents. This will need to be done on an ongoing basis.

1.6 Equality Impact Assessment

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

1.7 Policy Considerations

- 1.7.1 Community

1.8 Recommendations

The Committee is asked to;

- 1.8.1 RECOMMEND the Housing Association Performance Framework to Cabinet for adoption

Background papers:

contact: Eleanor Hoyle

Nil

Eleanor Hoyle
Director of Planning, Housing and Environmental Health

TMBC's Housing Association Performance Framework - 2024

The Council will undertake the following activities in order to ensure Members and Officers have the right information and opportunities to consider the performance of Housing Associations with stock in the borough. This is a collaborative exercise, with the Council having no formal powers to scrutinise the performance of Housing Associations.

1. Data; we will request the following data from all of our Registered Providers on at least an annual basis;
 - Occupancy percentage
 - Properties let (true voids and non true voids) and nominations information
 - ASB cases
 - Resident satisfaction levels
 - Repair response
 - Voids
 - Arrears
 - Number of contacts with residents
 - New stock delivery for all tenures and achievement of any agreed LLP aims
 - Shared ownership sales and resales
2. Review of nomination agreements; the Council will undertake a review of the existing nominations agreements that are in place with Registered Providers, some of which have been in place for a number of years. This will inform the production of a new, standard nominations agreement, which all RPs will be consulted on, subject to the views of Members.
3. Housing Association Liaison Panel (HALP) – the HALP will be utilised to ensure that Member engagement with Registered Providers includes those RPs who have significant stock holdings in the borough. This will initially include engagement with Hyde, Southern and Moat as those providers with over 200 units in the borough. The outcomes of these meetings will be reported back to the wider Membership of the Council via the Housing & Planning Scrutiny Select Committee.

4. Engagement with Clarion as the largest housing provider in the TMBC area – the current framework of meetings with Clarion will be maintained to ensure that in a year, at least the following engagement takes place;
 - Quarterly meetings between the Director of Planning, Housing & Health, the Head of Housing and the Regional Director at Clarion to review performance statistics (including at least the data listed in section 1 of this report) and discuss joint working on key Housing matters.
 - Annual meeting between the Cabinet Member for Finance & Housing, the Director for Planning, Housing & Environmental Health and the Group Chief Executive of Clarion.

RISK MANAGEMENT

Item AU 24/14 referred from Audit Committee of 15 April 2024

Members received an update on the risk management process and the Strategic Risk Register (SRR). In January 2024, there were 7 risks categorised as 'red' as summarised below:

- Savings and Transformation Strategy
- Local Plan
- Implementation of the Agile software system
- Political factors including stability of political leadership and decision making
- Homes for Ukraine Scheme
- Carbon Neutral 2030 Aspiration
- Safeguarding and PREVENT

Since last reported, and at the snapshot in time that the Management Team had reassessed the risks, Safeguarding and PREVENT, Political factors including stability of political leadership and decision making, Homes for Ukraine Scheme and Carbon Neutral 2030 Aspiration were no longer identified as RED risks. However, Procurement had been added, giving a total of four remaining RED risks as follows:

- Savings and Transformation Strategy
- Local Plan
- Implementation of Agile software system
- Procurement.

At the request of Members, the Director of Planning, Housing and Environmental Health provided an update on the management of the Agile project risk, which remained RED, during which reference was made to the report submitted to the Overview and Scrutiny Committee on 4 April 2024. Members asked that further updates in respect of the Agile project risk be provided at future meetings.

During discussion, attention was brought to 'Procurement' which was identified as a significant weakness by Grant Thornton in their Annual Audit report. Members received an update regarding this risk, in particular the imminent engagement of procurement resources following a decision by Cabinet on 2 April 2024. It was therefore anticipated that the risk would be reduced at the next update.

RECOMMENDED*: That the updates to the Strategic Risk Register since the last iteration with particular emphasis on those risks categorised as 'RED', as well as the general positive 'direction of travel', be noted.

***Referred to Cabinet**

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TONBRIDGE & MALLING BOROUGH COUNCIL

AUDIT COMMITTEE

15 April 2024

Report of the Management Team

Part 1- Public

Matters for Recommendation to Cabinet

1 RISK MANAGEMENT

The report also provides an update on the risk management process and the Strategic Risk Register.

1.1 Introduction

- 1.1.1 The Risk Management Strategy sets out the Council's risk management objectives and details the roles and responsibilities of officers, Members and the Council's partners in the identification, evaluation and cost-effective control of risks.
- 1.1.2 The Council's risk management arrangements are designed to ensure that risks are reduced to an acceptable level or, where reasonable, eliminated thereby safeguarding the Council's assets, employees and customers and the delivery of services to the local community. Examples of risk include budget deficit, cyber/data loss, environmental and reputational.
- 1.1.3 The Council endeavours to pursue a forward-looking and dynamic approach to delivering services to the local community and will not be averse to taking a degree of commercial risk. However, it will always exercise a prudent approach to risk taking and decisions will be made within the parameters of the Council's internal control arrangements, i.e. Constitution, Procedural Rules, etc. These arrangements will serve to ensure that the Council does not expose itself to risks above an acceptable level.
- 1.1.4 The current Risk Management Strategy was endorsed by this Committee in January and subsequently adopted by Full Council on 20 February 2024.

1.2 Risk Management Escalation Process

- 1.2.1 Effectively risks are assessed/scored in terms of their likelihood/impact.
- 1.2.2 Any risk evaluated as 'High Risk' (score of 15 or above) will be deemed by the Council to be beyond 'risk tolerance' and to have exceeded its 'risk appetite' and will be escalated immediately. Such risks should be added to the service's risk register and discussed at the earliest opportunity within the Service Management

Team (SMT) to inform a decision as to whether this should be escalated to Management Team by the respective Service Director. Management Team should then consider whether the risk is significant enough for inclusion in the Strategic Risk Register and action this if relevant. A record should be maintained of risks discussed at both SMTs and Management Team and the outcome of those discussions.

- 1.2.3 Similarly risks identified as “Medium Risk” may be escalated to the appropriate SMT for advice and to ensure they are kept fully aware of the current risks being faced. Risks determined as “Low Risk” should be managed within the service team. It is recommended that SMTs consider periodic review or moderation processes for Service Risk Registers to ensure they are happy with the scores risks have been given and confirm whether there are ‘Medium’ or ‘Low’ risks they wish to consider further.

1.3 Strategic Risk Register

- 1.3.1 The Strategic Risk Register (SRR) is considered to be a ‘live’ document and is updated, as often as is required, by the Management Team. An executive summary of the **RED** risks has been provided at **[Annex 1]** and a full update of the current strategic risks and how they are being managed as at the time of writing is appended at **[Annex 1a]**.
- 1.3.2 As part of the Zurich review Officers have reviewed the scoring on all of the risks identified in order to ensure that the scoring reflects the current position of the risk considered.
- 1.3.3 For completeness the risks categorised as **RED** at the time of the January meeting is given below.
- 1) Savings and Transformation Strategy
 - 2) Local Plan
 - 3) Implementation of the Agile software system
 - 4) Political factors including stability of political leadership and decision making
 - 5) Homes for Ukraine Scheme
 - 6) Carbon Neutral 2030 Aspiration
 - 7) Safeguarding and PREVENT
- 1.3.4 Following the most recent review by Management Team, a number of changes have been made to the Register.

- 1.3.5 Management Team no longer believes that “*Waste Management*” needs to appear as a strategic risk and has therefore been removed from the Register.
- 1.3.6 “*Procurement*” has, however, been added as a strategic risk following recommendations from the internal Procurement OSG. Members are reminded that this was identified as a significant weakness by Grant Thornton in their Annual Audit report. Members will be updated on the evening of the committee regarding this risk as a report is being presented to Cabinet on 2 April regarding the engagement of procurement resources. [Agenda for Cabinet on Tuesday, 2nd April, 2024, 6.30 pm \(tmbc.gov.uk\)](#)
- 1.3.7 Members will note from the notes in **red font** on the Register identifying current mitigations and updates to risks. Four risks have been assessed as no longer being red: namely
- Safeguarding and PREVENT
 - Political factors including stability of political leadership and decision making
 - Homes for Ukraine Scheme
 - Carbon Neutral 2030 Aspiration
- 1.3.8 The **RED** risks remaining at the time of publishing this report are:
- 1) **Savings and Transformation Strategy**
 - 2) **Local Plan**
 - 3) **Implementation of the Agile software system**
 - 4) **Procurement**
- 1.3.9 Members are asked to note the updates in red font since the last iteration of the Register and the movement in the scoring of the risks.
- 1.3.10 At the last meeting, Members of the Committee asked that the Senior Responsible Officer for the *Agile* project attend the meeting in order to update the Committee on the management of this risk, which remains **RED**. The Director of Planning, Housing and Environmental Health will dial into the meeting to answer any questions Members might have. Members are also advised that a report was submitted to the Overview and Scrutiny Committee on 4 April regarding the implementation of the Agile project, and Members may wish to have a look at this. [Agenda for Overview and Scrutiny Committee on Thursday, 4th April, 2024, 7.30 pm \(tmbc.gov.uk\)](#)
- 1.3.11 Following the detailed training the Committee received at its last meeting and the recommendations made by the risk consultant from Zurich, over the coming

months a review will be undertaken of all the risks contained within the Strategic Risk Register with a view to achieving a more streamlined version.

1.4 Ongoing Risks and Risks Identified by Service Management Teams and Management Team

1.4.1 To give Members some reassurance as to the effectiveness of risk management outcomes from the risk management escalation process are reported to the meetings of this Committee unless that is there is something that needs to be brought to Members' attention in the interim.

1.4.2 A schedule of ongoing risks and risks identified by Service Management Teams and Management Team since the last report to this Committee in January is appended at [**Annex 2**].

1.5 Legal Implications

1.5.1 There is a Health and Safety requirement for effective risk management to be in place and the Strategy supports this requirement.

1.5.2 There is also a requirement in the Accounts and Audit Regulations that accounting control systems must include measures to ensure that risk is appropriately managed.

1.6 Financial and Value for Money Considerations

1.6.1 Financial issues may arise in mitigating risk which will be managed within existing budget resources or reported to Members if this is not possible.

1.6.2 Effective risk management arrangements make a positive contribution to ensuring value for money is provided in the delivery of services.

1.7 Risk Assessment

1.7.1 Sound risk management arrangements aid the Council in effective strategic decision-making. The Council's approach to risk should be reviewed on a regular basis to ensure it is up to date and operating effectively.

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 Risk management is relevant to all areas of the Council's business.

1.10 Recommendations

1.10.1 Members are asked to **NOTE** the updates to the Strategic Risk Register since the last iteration with particular emphasis on those risks categorised as RED, as well as the general positive 'direction of travel'.

Background papers:

contact: Sharon Shelton

Nil

Sharon Shelton

Director of Finance and Transformation on behalf of the Management Team

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No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
6	Savings and Transformation Strategy	F, R, S	Failure to meet objectives and/or make savings. Impact on quality of service, budget overspends, salami slicing, etc. staff motivation impacted and increased risk of fraud or error. Coronavirus pandemic and the subsequent economic crisis has significant economic implications for the Council, businesses and residents.	01/04/2017	4	4	16	STS reviewed and updated in line with review of MTFS. With regular reports to update MT and Members The 24/25 Budget is balanced with contribution to General Revenue Reserve and significant contributions to Earmarked Reserves for Corporate priorities. MTFS and STS updated and approved by Council in Feb 2024. Funding gap estimated to be £1.7m. Take all opportunities to maximise income receipts Withdrawal of Bring Recycling Bank Sites from April 2024 and changes to parking charges being considered in April 2024.	3	3	9	It is expected that after 24/25 once the Fair Funding Review has been undertaken, the budget position will dramatically switch and expenditure will outstrip external funding. Therefore savings needs to be made in order to ensure that by the end of MTFS we have a balanced budget again. Some savings were identified in report to Cabinet Dec 23 and were incorporated into budget adopted in Feb 24. Some further savings/contributions have been identified since (bring banks), and parking charges are subject of Member discussion and decision.	Priority in the Corporate Strategy of "Efficient services for all our residents, maintaining an effective council"	Chief Executive / Director of Finance and Transformation/ Management Team	↔	Jun-24
7	Local Plan	F, R	Lack of sound legal footing for Plan through inadequacies in evidence base, legal advice or process, including duty to cooperate. Leading to widespread public concern, or risk of failure at Examination. External factors or widespread planning reforms leading to delays to timetable, reputational risks around plan-making and impacts on development management processes through protracted period with no up-to-date plan. Absence of corporate or external co-ordination leading to a lack of infrastructure to support future development.	4/1/2017, reviewed and updated March 24	4	4	16	Members are updated via informal email updates and reports to the Housing & Planning Scrutiny Select Committee Reg 18 concluded in late 2022 Revised LDS adopted summer 2023 The Council has decided to continue progressing the Local Plan under the current legislative and National Planning Policy Framework. It will be critical that the new plan is prepared in compliance with the regulatory framework and relies on a robust evidence base that meets the requirements of the NPPF so that the plan can be found to be sound at the examination stage. Timing is of the essence as the Local Plan will need to be submitted to the PI by 30th June 2025. The Council has recently engaged Towers and Hamlins Law Firm to advise and support the Planning Policy Team in order to progress matters up until the Adoption stage of the Local Plan. The current vacant Planning Policy Manager position does create challenges around capacity leading up to the Reg 18b consultation. Whilst a consultant has been appointed to the interim role, this is for reduced hours and creates challenges around capacity. Measures have been put in place to increase these hours but the interim post holder cannot work the full 37 hrs week and therefore even with the additional hours agreed, there remains a risk in capacity to this crucial role. Proposed informal engagement with members on emerging spatial strategy in Autumn 2023 Current Risk score to remain until conclusion of Regulation 19 consultation.	3	3	9	Regular review of Government policy announcements that may impact on delivery, including housing standard methodology and WMS relating to Planning Ongoing engagement with Counsel Ongoing engagement with Members Regular analysis of budget position and priority given to finding a permanent Planning Policy Manager. Regular review of hours of Interim Planning Policy Manager to ensure capacity is available within the team. Regular analysis of programme - within Policy team on a weekly basis, reporting to Head of Planning/DPHEH bi-weekly.	Local Plan assists in economic growth, delivering the supply of future housing and addressing affordability. Procedures set by National Government	Director of Planning, Housing and Environmental Health	↔	Jun-24
20	Implementation of Agile system	F, S	Service impacts from level of staff time required to develop the Agile product for use as operating system. Significant level of concern from staff about implementation process results in a lack of confidence in implementation, which will adversely impact service delivery and record keeping	01/11/2022	5	3	15	Programme of liaison meetings with Agile in place including Board and weekly catch ups Employment of Business Change PM to manage project on behalf of TMBC and coordinate all issues Regular updates for CM for Finance & Housing, who is the Cabinet Lead for Agile. Internal meetings with staff, managed by Business Change Project Manager Issues log in use Issues escalated to Agile management Post-implementation review of APAS implementation Agreement to deliver enhancement project in Q1/24 APAS (Planning) Module now live. Placis Module currently in implementation phase	2	2	4	Further escalation of issues to Agile CEO At least 2 stand ups per week between Business Change PM and SRO (DPHEH) in September to oversee APAS go live by end of September PLACIS delivery plan updated by Agile following review of data migration approach Weekly review of project plan and considerations of service impacts required to meet go live programme - to be reported into MT and informal Cabinet on a regular basis Review of project governance and use of Project Board for escalation of issues Completion of all modules for go live	Digital Strategy	Director of Planning, Housing and Environmental Health	↔	May-24



No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
24	Contract/Contractor Procurement	F, R	Failure to appoint suitably experienced and qualified contractors leading to poor quality of service, reputational damage and increased costs to the Council.	01/02/2024	4	4	16	<p>Compliance with Council's adopted Procurement Rules and Strategy.</p> <p>Consultation undertaken with Property and Legal Services to ensure appropriate Lease/License/Contract arrangements are in place.</p> <p>Procedure adopted and monitored for the engagement of contractors setting out and seeking minimal requirements including Risk Assessment and Public Liability.</p> <p>Establishment of cross-departmental working groups for key contracts and projects.</p> <p>Contracts awarded on an evaluation of 'most economically advantageous' and 'best value' and not solely on financial benefit.</p> <p>Directorate representatives on the Council's Procurement OSG.</p> <p>Use of external specialist consultant (Dartford Borough Council) in the administration of contract procurement.</p> <p>Use of specialist advisors on major contracts.</p> <p>Contracts to include break clause and/or extension periods based on performance.</p> <p>Contracts to include break clause and/or extension periods based on performance.</p> <p>Use of contract frameworks where appropriate.</p> <p>Risk assessment approach to appointment of contractors.</p> <p>Risk assessment approach to appointment of contractors.</p>	1	3	3	<p>Corporate Procurement Rules & Strategy being addressed by Corporate Procurement Group as currently out of date.</p> <p>Corporate Procurement Group addressing adequacy of corporate procurement support.</p> <p>Decision awated following recommendation to Cabinet 2 April for procurement resources through Mid Kent Partnership</p>	Procurement Strategy. Compliance with legislation. Health and Safety.	Director of Street Scene, Leisure & Technical Services	NEW	Jun-24



No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
1	Safeguarding and PREVENT	S, R	Significant impact should a child, young person or adults at risk come to harm, including radicalisation and child sex exploitation, and TMBC are unable to demonstrate appropriate processes are in place with adequate staff resource to ensure safeguarding procedures are consistently being followed.	01/04/2017	3	4	12	<p>The overall responsibility for safeguarding lies with the Chief Executive, rather than individual services.</p> <p>The Council has undertaken the following actions to mitigate risk</p> <ul style="list-style-type: none"> Carried out audit review of procedures to identify and address weaknesses Provided training to all licenced Hackney Carriage and Private Hire Drivers Provides a secure database for the recording and sharing of safeguarding concerns. Officer Study Group with safeguarding champions across services who are able to provide advise and support regarding safeguarding issues Management Team have approved the recruitment of a dedicated safeguarding officer (October 2023). Included in the service aspirations list for consideration by Members. <p>Training provided to staff</p>	3	4	12	<p>Continue to refer Safeguarding concerns to appropriate agencies where necessary and also raise with partners at the weekly CSU meetings.</p> <p>Undertake actions from the latest Safeguarding Audit and update Safeguarding Policy.</p> <p>Consideration for additional resourcing (supported by Management Team in October 2023, and report due to go to General Purposes Committee in June)</p>	Safeguarding Policy	Chief Executive	Downward arrow	Jun-24
2	Financial position/budget deficit	F, R	<p>Financially unstable organisation. Failure to deliver a balanced budget, detrimental impact on quality of service, increased intervention.</p> <p>This includes</p> <ul style="list-style-type: none"> Failure to maximise New Homes Bonus (for as long as it exists). Assessment of the current economic implications of higher inflation and interest rates Failure to deliver identified savings / Additional income 	01/04/2017	3	4	12	<p>The Council provides an annual statement (as a minimum) on the following areas;</p> <ul style="list-style-type: none"> Treasury Management and Investment Strategy. Robustness of estimates and adequacy of reserves. Medium Term Financial Strategy (MTFS) Savings and Transformation Strategy (STS) Statement of Accounts containing Audit and Value for Money Opinion <p>Growth in business rate income above baseline is assisting overall financial position in current year 24/25 .</p> <p>The Council also considers it has the following</p> <ul style="list-style-type: none"> Effective Budgetary control and reporting procedures covering areas such as Leisure Trust Utility costs Effective monitoring covering Business Rates and Council Tax income including reporting to the Kent Pool. Regular reviews undertaken on the forecast of the Local Government Settlement. Interest rates for investments are at a recent high, these are providing some additional funds for reserves but cannot provide a long term solution. Minimum level of General Revenue Reserve maintained at £3m. In addition, a Budget Stabilisation Reserve is held. <p>Current financial position within MTFS shows balanced budget for final year. This is after allowing for assumptions made on long term resourcing issues covering Fair Funding, Business Rates reset and allows for increased contract costs on major council contracts.</p>	3	3	9	<p>The 2024/25 Budget is balanced with contribution to General Revenue Reserve, as well as significant contributions to Earmarked Reserves in order to support Corporate priorities. Council tax increase of 3% approved for 2024/25</p> <p>However, it is expected that after 24/25 once the Fair Funding Review has been undertaken, the position will dramatically switch and expenditure will outstrip external funding. Therefore savings needs to be made in order to ensure that by the end of MTFS we have a balanced budget again.</p> <p>Ensure that Business Rate income is maximised for benefit of TMBC prior to any Reset by Government (expected post 25/26)</p> <p>Maximise receipts through business rates via pooling and prior to any business rates reset</p> <p>Await and assess the outcome of the Government's consultation and review of New Homes Bonus. This was anticipated Spring 2023, but has still not been forthcoming.</p> <p>Three key financial risks were highlighted to Members: namely Waste (including the proposed Extended Producer Responsibility scheme which has been delayed), Homelessness and Local Plan. All three have significant financial implications for the Council in different ways and are being assessed and managed.</p> <p>MT and Cabinet continuing to work with LGA to consider the best way of delivering transformation which could also to assist with identification and delivery of efficiencies</p> <p>Savings, contained with MTFS and Saving and Transformation Strategy, must be achieved in a timely manner in order to ensure that MTFS targets maintained. Reports will be brought forward as options are assessed.</p>	Priority in the Corporate Strategy of "Efficient services for all our residents, maintaining an effective council"	Director of Finance and Transformation	Double-headed arrow	Jun-24



No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
3	Economic Stability	F	Financial impact and effect on the economy as well as uncertainty around current EU legislation, i.e. what replaces it, could have a significant financial impact and lead to legislative changes impacting on finance and resources. A number of key threats to business continuity including: border delays and congestion impacts on the Kent road network creating difficulties for local businesses, TMBC staff and potential air quality issues; loss of KCC staff e.g. welfare/social services support; potential loss of TMBC waste contract workforce, general increase in costs as imports become restricted. Current high rates of inflation coupled with higher interest rates than have been seen for a number of years likely to have wider impact on community and businesses	01/04/2017	3	4	12	Kent-wide working to understand, plan for and react to pressures. Regular review of; MTFS reflecting economic factors Treasury Management and Investment strategies. Collection performance for council tax and business rates All staff equipped to be able to work from home and deliver public services and arrangements set out in adopted working policy Delivery of Household Support funds in liaison with KCC. New round of HSF announced in Chancellor's Spring Budget Whilst inflation remains above BoE levels they now are beginning to fall with stability expected in the next few years.	3	4	12	Council continuing to work with Kent Resilience forum and County Partnership groups as needed Keep Business Impact assessments under review. Business continuity planning updated to ensure smooth running of services to public. Work with KCC, if required, to roll out tranche 5 of Household Support Fund. Continued focus on homelessness prevention work. Consultants recommendations on how to improve/maintain position received Jan 2024. Assessment of options for new TA accommodation underway following report to Housing & Planning Scrutiny Select Committee Dec 23.	N/A - external risk.	Chief Executive / Director of Finance and Transformation/ Management Team	↔	Jun-24
4	Corporate Strategy	F, R, S	The lack of an up to date Corporate Strategy would lead to a lack of strategic direction for the Council, and lead to a lack of clarity about priorities, and the ability to meet objectives and make savings.	04/01/2017	4	3	12	Following the Peer Challenge Review (PCR), a draft Corporate Strategy was produced and benefited from staff consultation in November 2022 and Cabinet and O&S consideration ahead of going out to public consultation in Jan-Feb 2023. The findings from this consultation, along with aligned KPIs and draft Annual Action Plan went to Cabinet and O&S in Spring 2023 and the final version was approved by Council in July 2023. KPIs (including targets, trends and benchmarking) will continue to be reported to MT, SSCs, O&S and Cabinet on a quarterly basis. A report covering progress on the Annual Action Plan and the refreshed plan for 2024/25 will be presented in Spring 2024.	3	2	6	Final adoption of the Corporate Strategy 2023-2027 (achieved in July 2023), along with monitoring of the annual action plan and KPIs that will ensure overview of performance. Implementation of values set out in corporate strategy to be progressed during 2024.	The new Corporate Strategy has a vision to "be an innovative and forward thinking council that leads the people and businesses of the borough towards a vibrant, prosperous and sustainable future".	Chief Executive	↔	Jun-24
5	Performance Management	F,R,S	Without an effective performance management framework in place, the authority will not be able to understand any required improvements or achieve value for money.	30/08/2023 (separated from Corporate Plan)	3	3	9	As mentioned above, with the adoption of the new Corporate Strategy, the authority has also set in place new aligned KPIs to monitor progress, and provide detail on direction of travel, and targets. Further work is being undertaken on benchmarking following the purchase of LGInform Plus and also on instilling the KPIs within the culture of the organisation. At present the KPIs are initially discussed at SMTs, before being presented to Management Team and Informal Cabinet before being shared with the Scrutiny Select Committees, O&S and Cabinet on a quarterly basis. An internal audit review of performance management was undertaken from November 2023 - March 2024, the findings of which are to be released shortly.	2	3	6	Any actions arising from the internal audit review of performance management will be prioritised.	One of the priorities in the new Corporate Strategy is "Efficient services for all our residents, maintaining an effective council"	Chief Executive/ Management Team	↔	Jun-24



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6	Savings and Transformation Strategy	F, R, S	Failure to meet objectives and/or make savings. Impact on quality of service, budget overspends, salami slicing, etc. staff motivation impacted and increased risk of fraud or error. Coronavirus pandemic and the subsequent economic crisis has significant economic implications for the Council, businesses and residents.	01/04/2017	4	4	16	STS reviewed and updated in line with review of MTFS. With regular reports to update MT and Members The 24/25 Budget is balanced with contribution to General Revenue Reserve and significant contributions to Earmarked Reserves for Corporate priorities. MTFS and STS updated and approved by Council in Feb 2024. Funding gap estimated to be £1.7m. Take all opportunities to maximise income receipts Withdrawal of Bring Recycling Bank Sites from April 2024 and changes to parking charges being considered in April 2024.	3	3	9	It is expected that after 24/25 once the Fair Funding Review has been undertaken, the budget position will dramatically switch and expenditure will outstrip external funding. Therefore savings needs to be made in order to ensure that by the end of MTFS we have a balanced budget again. Some savings were identified in report to Cabinet Dec 23 and were incorporated into budget adopted in Feb 24. Some further e savings/contributions have been identified since (bring banks), and parking charges are subject of Member discussion and decision.	Priority in the Corporate Strategy of "Efficient services for all our residents, maintaining an effective council"	Chief Executive / Director of Finance and Transformation/ Management Team	↔	Jun-24
7	Local Plan	F, R	Lack of sound legal footing for Plan through inadequacies in evidence base, legal advice or process, including duty to cooperate. Leading to widespread public concern, or risk of failure at Examination. External factors or widespread planning reforms leading to delays to timetable, reputational risks around plan-making and impacts on development management processes through protracted period with no up-to-date plan. Absence of corporate or external co-ordination leading to a lack of infrastructure to support future development.	4/1/2017, reviewed and updated March 24	4	4	16	Members are updated via informal email updates and reports to the Housing & Planning Scrutiny Select Committee Reg 18 concluded in late 2022 Revised LDS adopted summer 2023 The Council has decided to continue progressing the Local Plan under the current legislative and National Planning Policy Framework. It will be critical that the new plan is prepared in compliance with the regulatory framework and relies on a robust evidence base that meets the requirements of the NPPF so that the plan can be found to be sound at the examination stage. Timing is of the essence as the Local Plan will need to be submitted to the PI by 30th June 2025. The Council has recently engaged Towers and Hamlins Law Firm to advise and support the Planning Policy Team in order to progress matters up until the Adoption stage of the Local Plan. The current vacant Planning Policy Manager position does create challenges around capacity leading up to the Reg 18b consultation. Whilst a consultant has been appointed to the interim role, this is for reduced hours and creates challenges around capacity. Measures have been put in place to increase these hours but the interim post holder cannot work the full 37 hrs week and therefore even with the additional hours agreed, there remains a risk in capacity to this crucial role. Proposed informal engagement with members on emerging spatial strategy in Autumn 2023 Current Risk score to remain until conclusion of Regulation 19 consultation.	3	3	9	Regular review of Government policy announcements that may impact on delivery, including housing standard methodology and WMS relating to Planning Ongoing engagement with Counsel Ongoing engagement with Members Regular analysis of budget position and priority given to finding a permanent Planning Policy Manager. Regular review of hours of Interim Planning Policy Manager to ensure capacity is available within the team. Regular analysis of programme - within Policy team on a weekly basis, reporting to Head of Planning/DPHEH bi-weekly.	Local Plan assists in economic growth, delivering the supply of future housing and addressing affordability. Procedures set by National Government	Director of Planning, Housing and Environmental Health	↔	Jun-24



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8	Organisational development inc. staff recruitment and retention/skills mix. Impact of loss of capacity caused by recruitment difficulties upon delivery of corporate objectives. Increase in rate of inflation and consequent pressure on level of pay award.	F, R, S	Lack of resources or the right skills to deliver required outcomes, loss of key professionals/senior officers due to pay constraints and pressures, reduced staff morale and quality of work, leading to financial loss, reputational damage and detrimental impact on staff wellbeing.	01/04/2017	3	4	12	<p>Review of staff resources and skills via service reviews.</p> <p>Organisational structure reviews are part of S&TS to achieve efficiency, coordinated service delivery and reflect changing legislative and policy requirements and priorities.</p> <p>New market supplement and 'golden hello' recruitment and retention salary package offer being proposed to General Purposes Committee on 3 July 2023. Focused on the recruitment and retention of RTPI qualified planning staff. Wider market supplement policy approved by General Purposes committee in October 2023.</p> <p>Specific workstream on Building Control due to Building Safety Act requirements for all surveyors to be recertified - looking at different certification routes and HR processes for staff</p>	3	4	12	<p>Succession planning along with Development of further skills and expertise through strategies such as shared services and specialist Commissioning.</p> <p>Engagement of external consultants and specialists where required.</p> <p>Resilience and rationalisation of existing structures.</p> <p>Recruitment and retention strategy reviewed by MT. R&R report to be submitted to GP Committee and Council in October 2023 re hard to recruit to posts</p> <p>Pay award for 2024/25 5% or £1,900 (whichever is higher) for all staff, from April 2024.</p> <p>Structural reviews approved by Members on an ongoing basis.</p> <p>HR staff recruited with specialist experience in recruitment. This was demonstrated with a revised methodology for the recruitment of the DPEHH and Head of IT.</p> <p>Workforce Strategy approved by General Purposes Committee in June 2022</p> <p>Ongoing workstream on Building Control</p>	HR Strategy Savings and Transformation Strategy	Director of Central Services and Deputy Chief Executive/ Chief Executive	↔	Jun-24
9	Health and Safety	F, R, S	Significant reputational impact should a service user, officer, member or contractor come to harm and TMBC are unable to demonstrate appropriate processes were in place.	01/04/2017	3	4	12	<p>Lone working policy and service based practices to be continuously monitored.</p> <p>Health and Safety considered by management at weekly SMT meetings.</p> <p>Staff involvement with Health & Safety Group</p> <p>Ongoing review undertaken to react to potential key risk areas.</p> <p>Organisational learning and response to national events.</p> <p>Incident and near miss reporting.</p>	2	3	6	<p>Embedding and dissemination of good practice through staff briefings.</p> <p>Corporate Health and Safety Group (chaired by DPHEH) identifying cross organisational issues with feedback to Management Team and Health and Safety Officer.</p> <p>All services have reviewed all their Health & Safety local Procedures in particular Lone working and service specific risk assessments.</p> <p>Staff survey on H&W completed spring 2021, results reviewed and a future survey will be incorporated into general staff survey approach</p> <p>Corporate Health & Safety Policies and procedures are up to date and reviewed regularly which all staff can access.</p> <p>Continuing focus on risk assessment process including reviews as a result of Coronavirus pandemic. Further staff wellbeing survey to focus on working at home and wellbeing.</p>	Staff wellbeing and customer care underpin the Council's fundamental service and corporate objectives	Director of Planning, Housing and Environmental Health	↔	May-24
10	Compliance with legislation	F, R	Failure to meet legislative requirements or statutory obligations may result in loss of personal data, financial penalties and/or damage to the Council's reputation.	01/04/2017	3	4	12	<p>The Council has a nominated Data Protection Officer and a separate Senior Information Risk Owner (SIRO)</p> <p>Assessment of Legal implications included within all reports to Members.</p> <p>GDPR requirements are addressed by two officer groups, Information Governance Group and Procurement OSG, which includes Legal representation.</p> <p>CPD and Professional Monitoring offered to all staff</p> <p>The Council has undertaken both Corporate Governance and GPDR reviews / audits. Code of Corporate Governance reported to members on an annual basis.</p> <p>Legal Services give sign off of key corporate projects</p>	2	3	6	<p>The Council continues to disseminate new legislative requirements to both Officers and Members.</p> <p>Officers ensure that professional update training is undertaken.</p> <p>Members received GDPR training in July 2018, with all officers completing e-learning on GDPR by May 2018. GDPR training is a requirement for all new starters and is offered through the TMBC Learning portal.</p> <p>Revised constitution approved by Members in July 2019. Further amendments submitted since that date to Council as and when required. Governance changes approved in April 2022 led to further revisions to Constitution. Regular review by Monitoring Officer and reports to full Council (most recently at Council in July 2023).</p> <p>Additional GDPR and Cyber Awareness Training rolled out to all staff and members (July 2023).</p>	Information Governance Policy	Director of Central Services and Deputy Chief Executive	↔	As required



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11	Cyber Security	F, R	Loss of data and legislative breach, leading to financial penalties and reputational impact.	01/04/2017	3	4	12	<p>The Council has; Information Security Policy deployed via Policy Management System.</p> <p>Implemented network security measures including access controls.</p> <p>Considered cyber insurance.</p> <p>Established an Information Governance Group.</p> <p>Appointed a Member Cyber Champion.</p> <p>Rolled out Cyber awareness training to all staff and Members via eLearning.</p> <p>Deployed 'Next generation' Palo Alto firewall technology for improved visibility and control.</p> <p>Deployed software solution to identify potential confidential data held on file servers.</p> <p>Implemented secure email in accordance with NCSC guidelines.</p> <p>Maintained dual level firewall security with the KPSN gateway being primary and the Council's own firewalls secondary.</p> <p>Implemented Solarwinds Security Event Manager.</p> <p>1 member of IT team obtained Certified Information Systems Security Professional (CISSP) qualification October 2020.</p> <p>Implemented cloud backup and DR facilities to improve resilience; and embedded cyber security into DR and BCP processes.</p> <p>Continued to monitor Cybersecurity alerts via LGA Cyber Security email; through membership of NLAWARP and CISP; and attending information sharing events such as Kent Connects Information Security Group.</p> <p>Cloud based web and email filtering has been deployed to improve availability and resilience.</p> <p>Completed firewall ruleset review following migration to Cloud to ensure our configuration is in line with best practice guidelines.</p> <p>Carried out phishing simulation exercises for awareness training for staff and members, to highlight areas of risk and to identify training needs. Subsequent online training sent out to all staff and members.</p> <p>Developed and deployed wallpaper/ lock screen to all TMBC laptops and PCs, with cyber security reminder to further reduce risk by increasing awareness.</p> <p>Head of IT appointed Senior Information Risk Owner (SIRO) from October 22. This role has responsibility for information and data risk and protection.</p> <p>Obtained Cyber Essentials accreditation in November 2022, demonstrating that our technical controls are designed to defend against the most common cyber threats.</p> <p>NCSC approved cyber security training has been evaluated and made available via the Council's new LMS.</p> <p>Achieved 'Substantial' rating for Cyber Security at Internal Audit Report TM19-2023 & TM07-2023 - Cyber Security and ICT Infrastructure (Combined Report).</p> <p>An in-depth phishing training package, to highlight specific risks and increase staff awareness, was deployed to all staff and followed up by phishing simulations to check effectiveness of training.</p>	3	3	9	<p>The Council has; Prioritised the resources (both financial and staff) to ensure relevant updates and security mitigations are carried out in a timely manner.</p> <p>Scheduled annual IT Health Check (ITHC), quarterly PCI scans, and monthly vulnerability scans, feeding into remediation plans. July 2022 PCI scan passed. Investigating and resolving detected security issues from last ITHC 8/8/22 - 12/8/22. New ITHC completed August 2023, including the TMBC Microsoft 365 environment, report pending.</p> <p>Regular email messages are sent out to all staff and Members on cyber security vigilance.</p> <p>Continuing to investigate emerging threats and cyber alerts, communicating with 3rd party suppliers to check compliance/obtain security updates and Training for IT staff on security aspects of Cloud environment is underway.</p> <p>Investigating further improvements to DR capability with specific regard to recovery from cyber incidents.</p> <p>Ensuring new staff have been invited to undertake training cyber security training. Further training and audits will follow to ensure the Council is as aware and prepared as possible to respond to potential cyber attacks.</p> <p>Procured NCSC approved cyber security training for staff and members, deployed during 2023. Completed by 269 staff and 11 members as at end February 2024.</p> <p>Phishing simulations are carried out on an ad-hoc basis, without prior notification, to check effectiveness of training, and as regular assurance of staff and member awareness.</p> <p>We are currently working towards meeting the requirements for resubmission for Cyber Essentials accreditation. Submission is pending removal of legacy software associated with the IDOX DMS and Uniform systems.</p> <p>Enrolment and management of devices in Intune is now live. It has replaced SCCM for deployment of all line of business apps to PCs and laptops, and Microsoft Defender for Endpoint is being used to leverage additional security features including network blocking when malware is detected. Enforcement of encryption as a potential replacement for Checkpoint is under test.</p> <p>Test restore to sandbox environment carried out November 2023 to validate our ability to recover successfully from a cyber incident. Areas for improvement identified, documentation of process underway and training for all technical support staff Continued ongoing development training to ensure that knowledge is kept up to date.</p> <p>Investigating Microsoft Defender for Cloud to further enhance security of the Council's Azure IaaS infrastructure.</p> <p>PCI DSS accreditation is pending implementation of Smartpay 6 and the replacement of the payment terminal at the TIC with a compliant solution.</p>	IT Strategy	Director of Finance and Transformation		Jun-24



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12	IT Infrastructure	F, R	Failure to adequately invest resulting in inability to keep pace with technological change, leading to systems that are not fit for purpose to meet organisational need.	01/04/2017	3	4	12	<p>IT Strategy has been reviewed, updated and extended to 2023 (previously 2018-2022) with linkage to MTFs and Savings and Transformation and Digital Strategy.</p> <p>Invest to save opportunities and funding identified and projects have been initiated.</p> <p>Digital Strategy - developed and approved by Members in July 2019.</p> <p>Replacement of legacy business systems and greater use of digital alternatives (cloud based) projects have been initiated.</p> <p>Disaster Recovery solution (cloud based) has been implemented.</p> <p>All staff are able to work remotely via laptops and secure 'always-on' VPN.</p> <p>iPads and required software rolled out to Councillors, MT Members, Senior Management and in-field Staff.</p> <p>Data quality policy has been introduced to ensure improvement and efficiency can be achieved.</p> <p>Introduced Microsoft Teams for virtual meetings for members and staff.</p> <p>Implemented hybrid media conferencing solutions for on-site and remote workers.</p> <p>Multi-factor authentication solution enabled for remote access to O365 to improve security and business continuity.</p> <p>Migrated Telephony to the Cloud to improve business continuity and functionality.</p> <p>Multi-media Cloud based Contact Centre management solution implemented to improve functionality, availability and business continuity.</p> <p>Migrated production environment from on-premises to Cloud to improve and sustain business continuity and service availability.</p> <p>New CMS solution and website implemented to improve digital engagement for residents and businesses.</p> <p>Implemented cross-region Cloud backups for the new Cloud production environment to improve resilience.</p> <p>Implemented 'My TMBC' mobile app facilities to enable proactive and responsive engagement with residents and businesses in parallel with the Council's new website.</p> <p>Implemented corporate/enterprise document management system.</p> <p>VPN migrated to Cloud and Multi-factor authentication implemented for remote access over VPN to improve security and business continuity.</p> <p>MFD equipment and associated print management software renewed in March 2023.</p> <p>Microsoft Enterprise Subscription Agreement re-procured; new 3 year contract from June 2023. Licenses migrated from E3 to E5 to provide</p> <p>Implemented the use of AI bots for automation of switchboard via the multi-media Cloud Contact Centre solution, in line with the Digital Transformation agenda in March 2023.</p> <p>Implemented new DR sandbox subscription in Azure Cloud IaaS in June 2023 for testing restore from backup to provide assurance of the Council's ability to recover critical systems and data.</p> <p>Achieved 'Substantial' rating for ICT Infrastructure at Internal Audit Report TM19-2023 & TM07-2023 - Cyber Security and ICT Infrastructure (Combined Report).</p> <p>On-premises firewall hardware has been renewed and additional software solution has been implemented to improve and simplify management of all firewall configurations on premises and in the cloud.</p>	2	4	8	<p>Active engagement of Officer and Member Groups in the implementation of digital agenda and changes to the Website format and content.</p> <p>Mobile working solution for in-field workers currently being developed and undergoing field testing.</p> <p>Further development of corporate/enterprise document management system and expansion in usage across the Council is being planned.</p> <p>Further development of the multi-media Cloud Contact Centre solution, to exploit state of the art technology and features to improve customer experience in line with current industry standards, is in progress. Use of AI bots for automation of contact centre endpoints is now live with further development planned in Q1/Q2 2024/25 including introduction of new Webchat service.</p> <p>Implementation of an immutable backup solution to improve resilience to cyber-attack is complete. All VMs in the Cloud and on-premises are being successfully backed up. Work required to improve Oracle backups requires further testing before Replacement of Varonis GDPR solution with features available in Microsoft E5 licenses is currently in test, to simplify management and reduce costs.</p> <p>Review of wired and wireless network infrastructure, in line with planned Gibson Building accommodation changes, is in progress. Proposals and quotations requested from suppliers.</p> <p>Planning migration from Server 2012 R2 in line with EOL notification. To be completed by end of Q2 2023/24 for on-premises VMs. Azure hosted VMs Review of end user IT equipment is underway to inform future device policy.</p> <p>Implementation of Agile Applications cloud based solution as a replacement for IDOX DMS, Uniform and TLC is underway to provide a cost-effective and modern service delivery platform.</p> <p>Digital Strategy and IT Strategy currently under revision.</p> <p>iPad renewal for Members is almost complete. 2 outstanding at end February 2024.</p> <p>Laptop renewals project is under way. Equipment due to be replaced 2024/24 Q4 has been completed. Next batch due 2024/25 Q2/Q3.</p>	IT Strategy	Director of Finance and Transformation		Jun-24



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13	Business Continuity and Emergency Planning	F, R, S	Failure to provide statutory service or meet residents' needs resulting in additional costs, risk of harm and reputational impact. Impact/pressures on services and resources. Failure to ensure proper safeguards to prevent or to respond adequately to a significant disaster/event e.g. terrorist attack at a large scale public event or fire.	updated January	3	4	12	The Council has in place; Business Continuity Plan. Corporate Business Continuity Risk Register Emergency Plans Disaster Recovery Plans Inter-Authority Agreements Mutual Aid Agreement Partnership agreement with Kent Resilience Team. Emergency Planning Support Officer. Duty Emergency Coordinator System and Duty Officer System introduced to provide greater resilience. Covid Secure rest centre plan has been developed	3	4	12	Emergency planning documentation undergoing constant review and key aspects exercised . Increase % of staff trained in roles identified in the Emergency Plan Training organised by Kent Resilience Team . Business Continuity working group established to review and update existing Plan. Updated plan to be considered by Management Team and tested by a training exercise. Duty Officer rota in place to support Duty Emergency Coordinators out of hours. All staff fully trained before commencing duties. Out of Hours Manual reviewed and regularly updated. DSSLTS sits on Kent Resilience Forum Strategic Board. Actions taken in response to the Covid 19 pandemic will be reviewed and lessons learnt for the future. Any approved changes will be reflected in the Corporate Business Continuity Plan. Business Continuity Group including all members of Management Team meets twice weekly to oversee and coordinate response to pandemic. Annual Emergency planning review to be reported to Management Team. Pandemic response dealt with as emergency through Kent Resilience Forum. Reports regularly presented to Cabinet. More detailed reports covering Review Reorientation and Recovery presented to relevant Advisory Boards. Recruitment into roles in the Emergency Plan is ongoing. Emergency Planning Officer's hours increased to full time during pandemic. Virtual Emergency Management systems are being developed to allow a virtualised Emergency Control Room and data handling.	Business continuity underpins the delivery of the Council's essential services and is a core of the authorities risk management	Director of Street Scene, Leisure & Technical Services	↔	Jun-24
14	Devolution	F, R, S	Uncertainty about future operating models and changes / opportunities in responsibilities or service provision leading to financial pressures, impact on quality of services, reputational damage.	01/04/2017	3	3	9	Continual scanning of national / regional and Kent wide agenda by CE / Corporate Services manager. Participation in county wide debate via Joint Kent Chief Execs and Kent Leaders meetings. Update DEC 18 - County wide devolution discussions have been formally ceased. Horizon scanning and continued participation in Kent Leaders and CE meetings is ongoing. County Deal discussions are invited and Kent Leaders are giving preliminary considerations albeit that there is no agreed view at this stage.	3	3	9	White Paper on Devolution is to be published in the Autumn. Analysis of this will be a priority action. This is now replaced by the anticipated "Levelling Up" prospectus in 2022	External risk/national issue	Chief Executive	↔	As required



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15	Partnerships inc. shared services	F, R, S	<p>Reliance on partners to deliver key services, including private sector companies. Could include specific partnership or shared service models such as the Leisure Trust and risks around service delivery and impact on staff morale / retention if base moves from TMBC . Potential resistance to shared services / partnerships impacting on ability to deliver Savings & Transformation Strategy. Private sector partnerships failing having consequences for service delivery.</p> <p>Coronavirus pandemic has significant economic implications for the Council, businesses and residents.</p>	01/04/2017	2	3	6	<p>Regular liaison meetings with partners. Partnership Agreements in place and reviewed as appropriate.</p> <p>Good communication with staff.</p> <p>Officers maintain awareness of issues relating to private sector partners and plans formulated for service delivery in the event of failure via business continuity.</p> <p>KCC undertaking Audit and Fraud function from 1 October 2021 on a newly agreed delegated functions arrangement. As previously report to Audit Committee and Cabinet, this arrangement will provide greater resilience and breadth of experience/knowledge.</p> <p>Partnership work and liaison with key voluntary sector groups will continue via community development meetings in priority wards.</p> <p>Economic stability of major partners appears to be on a better footing now that effects of Covid and Inflationary pressures have now reduced.</p>	2	3	6	<p>Strengthening of the West Kent Partnership, including joint delivery of economic initiatives through the UKSPF and REPF, as well as creating a greater focus on promotion and inward investment. Work being undertaken on improving governance.</p> <p>New Waste Services Contract in partnership with Urbaser, TWBC and KCC commenced 1st March 2019. Formal Inter Authority Agreement and Partnership Agreement in place.</p> <p>Ground Maintenance Contract extended in light of good performance of contractor.</p> <p>The Council is working within guidance issued by Cabinet Office "Guidance on responsible contractual behaviour in the performance and enforcement of contracts impacted by the Covid-19 emergency " and Procurement Policy Notes to support contractors and suppliers.</p> <p>The Council will continue to administer the grants to key voluntary sector bodies, with progress to be reported annually. Additional Government grants as a result of the response to the pandemic (Emergency Assistance Grant and Covid Winter Grant) will be promoted to local voluntary sector organisations and applications for funding will be agreed.</p>	Savings and Transformation Strategy	Chief Executive	↔	As required



No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
16	Welfare reform inc. Housing need	F, R, S	Safeguarding impact on TMBC residents due to reduction in benefits, introduction of UC and increase in applications for DHP, etc. Failure to adequately understand and meet housing needs and return unsuitable properties to use leading to increase in homelessness or occupation of unsuitable homes. Financial impact of increased emergency accommodation and failure to provide new homes. Current economic situation has implications for residents and businesses with high inflation and increasing interest rates. Ukrainian refugee temporary resettlement program - We are awaiting full guidance on Local Authority responsibilities. Kent Resilience Forum are acting as lead.	01/04/2017	4	3	12	Cross sector working (e.g. welfare reform group) to identify issues and solution. New partners joining group Providing advice to residents on welfare and housing issues, or signposting to relevant providers. Working with partners to identify land and funding opportunities. Working with Registered Provider Partners to ensure needs of residents are being met. Working with owners to bring long term empty properties back into use. Report to H&PSSC March 24 recommended fixed term post of Empty Homes Officer to assist. Council in February 24 agreed empty homes premium and second homes premium. Work with consultancy firm Altair on options for longer term TA provision -consideration now being given to delivery following report to Members and allocation of £1.3m through 24/25 budget commissioned consultancy work in respect of Homelessness function (TA). Recommendations being implemented Concessionary charges for key services. EQIA assessment of key decisions included in all Board reports. Council rolled out energy schemes on behalf of government Signposting now to UC rather than HB for new working age claimants. Keeping track of welfare statistics CTR Scheme approved for 24/25 . Household Support fund tranche 4 all spent; awaiting details of tranche 5 from KCC New housing panel in place to work alongside RPs in considering best use of available properties.	3	3	9	Improved working with TA providers leading to more guarantees of available accommodation and developing a TA Procurement Strategy Improved working with main housing provider to identify trends/specific cases across borough to jointly agree approach to preventing homelessness using housing provider mechanisms, DHP payments and homeless prevention funding where needed. Consideration by Members of report from Altair on options for TA provision (Dec 23) Continue to facilitate Welfare Reform group and widen participation from external partners so as to ensure best support for those affected by welfare reforms in T&M. Work with Kent councils collaboratively to ensure grants and support targeted to those most in need Continued focus on homelessness prevention Consideration of use of DHP to encourage downsizing to free up under occupied property. Report to be brought forward to Members in due course Focus on Empty properties in the Borough and how they can be brought back into use. Report to Cabinet April 2024 Deliver District responsibilities of Ukrainian resettlement scheme. Work with KCC to deliver Household Support Fund 5	Promoting Fairness - acting transparently at all times and being accountable for what we do, and promoting equality of opportunities. Embracing Effective Partnership Working - achieving more by working and engaging effectively with a wide range of local partners from the private, public, voluntary and community sectors.	Director of Finance and Transformation/ Director of Planning, Housing and Environmental Health	↔	Jun-24
17	Political factors including stability of political leadership and decision making	F, R	Decisions required to achieve objectives including corporate strategy and savings and transformation may not be made and therefore required savings not achieved.	01/04/2017	3	4	12	Significant focus on temporary accommodation and in borough provision as well as framework agreement with private providers. Close liaison with Leader, Deputy Leader and Cabinet in developing the Savings & Transformation Strategy. Clear and comprehensive reports to support Members in making appropriate decisions to support the S&TS. Regular Group Leader meetings in place and stability of leadership following election. Regular pattern of informal MT/Cabinet meetings to provide stability and cohesiveness	3	3	9	Member briefings and training sessions. Training for Officers has been arranged for September 2023 by the LGA - 'working in a no overall control council' Top Team awayday between Cabinet and MT took place in December 2023. Action being implemented	Underpins delivery of overall strategy and Savings and Transformation.	Chief Executive	↓	May-24
18	Flooding	F, R, S	Impact on resources to support emergency planning, financial impact due to damage, loss of resources, etc. Residents and staff put at risk of harm. Impact on key flood risk areas - Tonbridge, Hildenborough, East Peckham and Aylesford.	01/04/2017	3	4	12	Working with partners through the Medway Flood Partnership (including EA/KCC/LEP) to secure funding and implement flood defence schemes which will reduce risk of future flooding, including the LEHES. Property resilience works at East Peckham have recently been concluded. Assistance provided to Parish/Town Council's to help develop local Flood Plans. Team of Volunteer Flood Wardens in place.	3	4	12	Work with partner organisations via Kent Resilience Forum and the Medway Flood Partnership continuing. Council Officers dial into Severe Weather Advisory Group meetings. Regular attendance at KRF training sessions. Ongoing support for Tonbridge Flood Group. Funding allocated in Council's Capital Plan to support works to Leigh Flood storage area which will be completed by 2025. £20,000 from Business Rates Retention Pilot Reserve approved for Natural Flood Management Schemes in the Borough (Leybourne Lakes and Ightham Mote). Both schemes has been delivered.	Emergency Plan Contingencies Act 2004 Kent Emergency Response Framework West Kent Partnership and Medway Catchment Partnership	Director of Street Scene, Leisure & Technical Services	↔	Sep-24



No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
19	Homes for Ukraine Scheme	F, R, S	Districts are required to undertake home assessments for potential host households to support Ukrainian refugees fleeing the conflict. Increased workload expected as likelihood of breakdown in housing arrangements as we approach the 2 year mark (and the end of thank you payments to hosts). There is a risk of homelessness and duty to place in T.A. therefore work needs to be undertaken to or support into private rented sector. This is an escalating risk given the longevity of the hosting arrangements. As of 1 April 2023, TMBC have taken on wider support role for Ukrainians in the borough under HFU scheme.	01/09/2022	3	4	12	Some reserve host families have been identified but larger families pose a bigger risk. Re-matches are unsustainable in the longer term. Work underway to support more families into PRS. Funding being rolled over to 2024/25 with around 40 families/individuals remaining with host families.	3	4	12	Additional support into Private Rented Sector required. Full time Resettlement Worker has been in post for some time.		Chief Executive	↓	Nov-24
20	Implementation of Agile system	F, S	Service impacts from level of staff time required to develop the Agile product for use as operating system. Significant level of concern from staff about implementation process results in a lack of confidence in implementation, which will adversely impact service delivery and record keeping	01/11/2022	5	3	15	Programme of liaison meetings with Agile in place including Board and weekly catch ups Employment of Business Change PM to manage project on behalf of TMBC and coordinate all issues Regular updates for CM for Finance & Housing, who is the Cabinet Lead for Agile. Internal meetings with staff, managed by Business Change Project Manager Issues log in use Issues escalated to Agile management Post-implementation review of APAS implementation Agreement to deliver enhancement project in Q1/2024 APAS (Planning) Module now live. Placis Module currently in implementation phase	2	2	4	Further escalation of issues to Agile CEO At least 2 stand ups per week between Business Change PM and SRO (DPHEH) in September to oversee APAS go live by end of September PLACIS delivery plan updated by Agile following review of data migration approach Weekly review of project plan and considerations of service impacts required to meet go live programme to be reported into MT and informal Cabinet on a regular basis Review of project governance and use of Project Board for escalation of issues Completion of all modules for go live	Digital Strategy	Director of Planning, Housing and Environmental Health	↔	May-24
21	Elections	R	Failure to comply with legislation, miscounts and significant reputational impact.	14/12/22	3	4	12	Ensure experienced staff are in place, corporate team reviewing activity and monitoring progress. Lack of Po's in particular. Tranche 2 of Election Bill changes Parliamentary Boundaries Parliamentary election - date unknown, possibly November 2024?	2	4	8	Broadening of staff skills and experience to build resilience. Train up Poll clerks, try and recruit more staff. Discussions on core staffing for Elections and use of more IT modules to reduce workload and progress digital transformation. Increase in temp staffing resources to mitigate delayed implementation of two IT system modules. Following elections this needs to be reviewed. Implementation of changes to Postal Votes portal and new application forms, changes to Proxy votes, Overseas electors, EU Citizenship. Core team keeping up to date with all notifications from EC and Cabinet Office and undertaking any training required. Changes to Parliamentary Boundaries have been completed on 1/2/24, in readiness for a Parliamentary Election. MT horizon scanning on any increased chance of snap General Election. RO and DRO's assessing risks. Most likely date for general election Oct/ Nov 2024.	Statutory requirement	Chief Executive	↔	Jun-24
22	Carbon Neutral 2030 Aspiration	F, R, S	Significant reputational risk, particularly if other similar councils have achieved similar goals or targets. Significant financial cost to purchasing offsets to meet carbon neutral. High cost of increased frequency and intensity of extreme events (floods, heat waves) that increase costs and disrupt service delivery.	01/09/2023	3	3	9	Development of climate evidence (e.g. for the Local Plan), partnerships (residents, community and other Councils) and pathway analysis to support move towards transformative and larger-scale emissions reductions Increased contributions to Climate Change Reserve to Support match funding as well as capital projects. Grant Award received for Energy Efficiency measures for Sports Facilities.	3	2	6	Ongoing commitment by Members, senior management and services to new actions beyond 'business as usual'. Improved understanding of financial returns from climate mitigation measures that can be reinvested. Innovative thinking and delivery of services and mitigation options. Successful outcomes in bids for significant additional grant funding. Funding is dependant on successful applications and awards being achieved, otherwise Council Resources will be needed. Gap analysis report endorsed at Overview and Scrutiny Committee January 24.	Climate Change Strategy, Corporate Strategy 2023 - 2025	Chief Executive	↓	May 2024 (next climate change action plan)



No	Risk Title	Risk Type	Consequences	Date identified	Likelihood Score (1-6)	Impact score (1-4)	Overall risk score	Current Mitigation	Desired Likelihood Score (1-6)	Desired Impact score (1-4)	Desired risk score	Actions required to ensure mitigation remains	Links to Corporate Objectives / Strategies	Lead on behalf of Management Team	Direction of Travel	Review Date
23	Waste/Recycling Income	F	Risk associated to the outcome of current government consultations on three waste aspects (Collection Consistency, Garden Waste and Extended Producer Responsibilities). High potential for alteration to levels and mechanisms for Council income associated to these areas including, but not restricted to, KCC Performance Payments and Garden Waste Subscriptions	01/09/2023	4	3	12	Consultations currently being monitored through the KRP and direct through DEFRA briefings/updates by Waste and Financial Services and updates being channelled through the Kent Chief Executives meetings.	3	3	9	Whilst consultations and implementation plans will be monitored, the influence on government policy may be limited. This restricts the ability for the Council to directly control the level of this risk and is why the risk remains the same following mitigations.	Statutory Requirement	Director of Street Scene, Leisure and Technical Services	↔	Jun-24
24	Contract/Contractor Procurement	F, R	Failure to appoint suitably experienced and qualified contractors leading to poor quality of service, reputational damage and increased costs to the Council.	01/02/2024	4	4	16	<p>Compliance with Council's adopted Procurement Rules and Strategy.</p> <p>Consultation undertaken with Property and Legal Services to ensure appropriate Lease/License/Contract arrangements are in place.</p> <p>Procedure adopted and monitored for the engagement of contractors setting out and seeking minimal requirements including Risk Assessment and Public Liability.</p> <p>Establishment of cross-departmental working groups for key contracts and projects.</p> <p>Contracts awarded on an evaluation of 'most economically advantageous' and 'best value' and not solely on financial benefit.</p> <p>Directorate representatives on the Council's Procurement OSG.</p> <p>Use of external specialist consultant (Dartford Borough Council) in the administration of contract procurement.</p> <p>Use of specialist advisors on major contracts.</p> <p>Contracts to include break clause and/or extension periods based on performance.</p> <p>Contracts to include break clause and/or extension periods based on performance.</p> <p>Use of contract frameworks where appropriate.</p> <p>Risk assessment approach to appointment of contractors.</p> <p>Risk assessment approach to appointment of contractors.</p>	1	3	3	<p>Corporate Procurement Rules & Strategy being addressed by Corporate Procurement Group as currently out of date.</p> <p>Corporate Procurement Group addressing adequacy of corporate procurement support.</p> <p>Decision awaited following recommendation to Cabinet 2 April for procurement resources through Mid Kent Partnership</p>	Procurement Strategy. Compliance with legislation. Health and Safety.	Director of Street Scene, Leisure & Technical Services	NEW	Jun-24

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Ongoing Risks and Risks Identified by Service Management Teams and Management Team

	Risk Identified	Background	Removed or ongoing	Reason for removal / ongoing
Page 63 Central and Exec	Homes For Ukraine Scheme	Moved to Strategic Risk Register		
	UKSPF Programme (inc. REPF)	Having had our T&M Investment Plan approved by DLUHC, implementation of projects required over the next few years (up to March 2025)	Ongoing.	Need to keep under review to ensure that delivery on track so that future years funding is not compromised (based on annual funding award). End of Year 2 report, setting out progress on the UKSPF and REPF Programmes will be going to MT and Cabinet in the coming months. Year 2 progress is likely to be substantially on track, however Year 3 may well prove to be more challenging.
	Gibson Building - unable to deliver financial saving which has been assumed within MTFS	Cabinet agreed in Sept 2022 that the main offices of the Council should remain located at Kings Hill and that Officers should investigate the feasibility of progressing option 4 set out in the report.	Ongoing.	Need to keep under review to ensure that changes in office accommodation deliver value for money and deliver identified savings.
	Tonbridge Castle Gatehouse Roof - costs of resolving roof issue	Water ingress from roof in Great Hall. Feb 2023 rot discovered in roof beam ends. Facility now open following completion of remedial works in July 2023. Permanent works in autumn 2024 to now be scoped	Ongoing	Extent to permanent works required still unknown and therefore operational and financial risk remains
	Elections	Introduction of Elections Bill changes Tranche 2	Updated	All Election Act changes up and running and being improved including new Postal vote portal, Postal vote renewals changing to every 3 years Proxy Vote changes. Overseas electors renewal every 3 years, the last one EU citizenship eligibility starts 7/5/24. Some training has been undertaken for this.
	Elections	Changes to Parliamentary boundaries	Updated	Work completed and register changed 1/2/24, in readiness for a Parliamentary election.
	Elections	Pending Parliamentary Election	Updated	Parliamentary Election has to take place by 28/1/25, no set date, can be called at any time. Concern over lack of PO's and Count supervisors, due to Polling and Count being on the same day.
	Climate Change Action Scorecard	Climate Emergency UK conduct an annual review of all local authority's climate actions. For 2022-23, the Right to Reply process revealed that TMBC is likely to score only around 25% and, as such, we should expect to be one of the lower scoring authorities. Climate Emergency UK will seek national media coverage for its findings and publish its results in Autumn 2023, posing a reputational risk to TMBC.	Ongoing	Scorecard results not yet published so level of media interest and final TMBC score unknown. Climate Emergency UK will carry out the annual process again for 2023/24 and while some further actions will result in a higher score (e.g. we have started climate literacy training) it is hard to assess progress relative to other authorities at this stage.

Ongoing Risks and Risks Identified by Service Management Teams and Management Team

	Risk Identified	Background	Removed or ongoing	Reason for removal / ongoing
<p align="center">Page 64</p> <p align="center">Finance and Transformation</p>	IT Security (formerly COCO Compliance)	Review of IT Infrastructure identified several areas of weakness for IT standards compliance	Ongoing	Number of risk removed, expected that remaining risks, once removed, will allow full compliance.
	Economic Stability	Economic issues surrounding Council Finances	Ongoing	Part of Strategic Risk Register.
	Staffing	Year end processes are a significant demand on staffing resources.	New	This has been exhibited but staff shortages at the present time. Workloads will be monitored closely to ensure service delivery maintained.
	Corporate Insurance	Increases and changes to premiums for 2023/24 insured year	Ongoing	The Councils Insurers have made changes to the charges included within the premiums. Therefore changes will be required to capital and revenue project evaluations to include insurance assessment.
	Payroll	Key information being supplied to Payroll in a timely manner, causing risk of staff and members not being paid.	Ongoing.	The Payroll Team pay over 250 Staff and Councillors on a monthly basis. Due to the date of payment, being the closest working day to the 15th of the month, information to be included in the pay run must be received no later than three working days into the month. In recent months some delays have occurred on the submission of data due to incomplete or incorrect information being supplied. this has jeopardised the payment to all staff requiring addition unsocial hours to be worked by the payroll team.
	IT Resources	Resource capacity for Development Staff	Ongoing	The current demands on IT Development Staff are placing increased pressures on the resource capacity on the staff given competing demands of corporate systems being reviewed and implemented.
	GDPR Compliance findings	Redacted information being stored with unredacted information	Ongoing	Access being restricted and will be removed once uniform is fully deactivated.
	Security and Access to Information	Access to information with shared access with DWP	Ongoing	Review of staff access to be carried out and further additional checks to be carried out.
Supported Accommodation	The Supported Housing (Regulatory Oversight) Act 2023 came in to force August 2023. Assessment of the act has been ongoing and a consultation on how the act will regulated in practice. The practice is likely to involve a Licensing duty for the responsibility of the Council. Further implications could effect Housing Benefit payments to Landlord where care levels are considered to be unsuitable for the tenant.	Updated	Further investigation work will need to be undertaken following the practice regulation are issued, this will involve potentially new service staffing and income to the council. Greater working relationship with Adult Social Care Services will need to be considered and protocols arranged.	

Ongoing Risks and Risks Identified by Service Management Teams and Management Team

Risk Identified	Background	Removed or ongoing	Reason for removal / ongoing
Temporary Accommodation (TA)	TA consultancy review undertaken Dec 2021, actions implemented in 2022. Cost of living crisis and DA legislation implementation are impacting on maintaining TA levels within the agreed range.	Ongoing	TA costs remain high, as does level of need. Project underway to look at sustainable TA portfolio approach to help manage unit costs for TA. This is alongside ongoing work/training in service to support demand.
Temporary Accommodation (TA)	Personal injury claims	Ongoing	Updated inspection regime being developed by officers.
Food & Safety	Increased risk of food complaints/poisoning. Additional resources to manage backlog of inspections.	Ongoing	During the Covid-19 crisis the ceasing/reduction in the food hygiene inspection regime may result in food safety issues. There will also be a backlog of food safety inspections due to restrictions on visiting/businesses closed. Agreed catch up programme in place utilising COMF funding.
Increased number of planning appeals/inquiries	Application determination timescales not being met, more speculative development, creates reputational risks and increases likelihood of appeals.	Ongoing	Volume and complexity of applications coming forward in parallel with local plan progression and given current uncertainties in timescales for adoption. MT agreed agency planning funding for short term. Head of Planning conducting service review summer 2022
Staffing challenges in Planning services	Ongoing recruitment and retention difficulties in the sector and in T&M specifically. Several recruitment campaigns carried out.	Ongoing.	MT agreed that development of a Workforce Strategy will include recruitment and retention. Part 2 report to GP in July 2023 to look at immediate pressures. This will likely be followed by a new recruitment campaign and therefore this risk remains.
Windmill Lane Gypsy Site	KCC have requested return of management of this site (which is already owned by TMBC) to TMBC on 31 March 2024. This is part of a programme of returns to districts of their owned G&T sites. Initial discussions about management issues and costs have been undertaken.	Ongoing	The return requires Member approval, proposing that this happens via Cabinet in Jan 2024. There are a mixture of Property and Housing risks relating to this potential transfer. Officers are awaiting detailed information from KCC on maintenance costs, the detailed works schedule for grant funded improvements that are scheduled to complete before end of financial year and rent roll. TMBC will require a management arrangement for the site, which is being explored with neighbouring authorities as well as external providers. There will also be a requirement for the Council to have a G&T Allocation Scheme. Risk that the approach to management of this site is not fully in place before the proposed transfer, which could cause liability issues. Also need to consider specific equalities considerations for this group of residents.
Local Plan	Reg 18 carried out in Autumn 2022. Changes to NPPF and proposed changes to system via LURB published December 2022. Assessing options for delivery of a Local Plan.	Ongoing	Members to make a decision on a revised Local Development Scheme in Summer 2023. This is subject to a number of challenges including ongoing delays in Govt announcements on national planning policy. The Council has decided to continue progressing the Local Plan under the current legislative and National Planning Policy Framework. It will be critical that the new plan is prepared in compliance with the regulatory framework and relies on a robust evidence base that meets the requirement of the NPPF so that the plan can be found to be sound at the examination stage. Timing is of the essence as the Local Plan will need to be submitted to the Planning Inspectorate by 30th June 2025. The Council has recently engaged Trowers and Hamlins Law Firm to advise and support the Planning Policy Team up until adoption stage.

Ongoing Risks and Risks Identified by Service Management Teams and Management Team

Risk Identified	Background	Removed or ongoing	Reason for removal / ongoing
Bridge inspections	Bridges on Council owned land identified as service risk. Internal Officer Group established and bridge audit progressed. Identified as Service Pressure Aspiration. Revenue budget approved to inspect and repair bridges over 2 years and annual inspections to be progressed. Structural assessments being undertaken.	Ongoing	Second year programme of work currently being progressed. Further survey undertaken and report to be analysed. Remembrance Garden and Maintenance bridges reassessed to check if structurally stable. Remembrance Garden bridge confirmed safe for 5-7 years, Maintenance bridge confirmed safe for 3-5 years. Structural assessment being undertaken re Haysden Country Park bridge replacement.
Pay & Display machines	Continual issues with contractor, G4S in terms of cash collection.	Ongoing	Considering alternative options as very few companies in market place willing to undertake work.
Phone Signal	CEOs having difficulty enforcing parking in Tonbridge and customers having issues accessing Ringo due to deterioration in mobile phone signal.	Ongoing	Multi-network sim cards issues to CEO's and liaison taking place with service providers.
Garden Waste invoices	Delay in invoices being issued to subscribers wanting to renew due to IT issues.	Ongoing	Ongoing liaison with IT Services to resolve issue and distribute invoices.
Utilities costs	Significant energy price increases at leisure centres is resulting in financial cost to the Council under the risk sharing agreement in the Management Agreement with the Trust.	Ongoing	Trust providing regular updates via Strategic/Service Fee meetings - cost of swim charges increased to help contribute to additional cost, energy saving initiatives being investigated and implemented and central government being lobbied. Government recently announced support package within the Budget statement.
Tonbridge Swimming Pool / Larkfield Leisure Centre	Low supply of chemicals for treating pools available across Europe. May lead to closures.	Ongoing	Trust exploring all opportunities to secure supply. Alternative means of cleansing investigated by Property Services and order to be placed for new system. Funded through BRREP and contribution from Leisure Trust.
KRF Review	The KRF have undertaken a review and plan to make adjustments to how the forum operates.	Ongoing.	Risks associated with increased responsibility being undertaken by LA's. The impact of this is currently being assessed and addressed by Kent Chief Executives. This appears to be requiring LA's to delivery work areas that were historically delivered through the KRF and KRT.
Business Continuity & Emergency Planning	The current structure of the LRF and legislation has been added to. The Kent Resilience Forum is undergoing a review with significant changes to how the Kent Resilience Team will provide support and guidance to Local Authorities. The UK Government has also recently published a new 'UK Government Resilience Framework'. Further guidance is expected but the theme is around increasing locally led resilience and planning at the LA level.	Ongoing	Need to track new guidance and review how we contribute and participate in the Kent Resilience Forum. We also need to be able to ensure that we maintain a fit-for-purpose organisation to enable suitable response.

TREE ENFORCEMENT PROTOCOL AND TREE PRESERVATION ORDER (TPO) PROTOCOL

Item HP 24/23 referred from Housing and Planning Scrutiny Select Committee of 21 May 2024

Consideration was given to the introduction of a new Tree Enforcement Protocol (at Annex 1) and Tree Preservation Order (TPO) Protocol (at Annex 2).

The Tree Enforcement Protocol detailed options available in respect of planning enforcement; the prosecution procedures and available penalties concerning trees. There would be greater liaison between Enforcement and Tree and Landscape Officers in assessing and investigating enforcement issues and this was welcomed by the Committee.

The TPO Protocol demonstrated principles of consistency in assessment and decision making when considering whether new Orders should be made and confirmed; aimed to increase public confidence and speed up decision making by streamlining the process and making it more robust.

An update was also provided on how the Planning Service dealt with tree related matters and it was acknowledged that there was a backlog in respect of outstanding TPOs which currently stood at 59. It was noted that these were triaged as indicated in the proposed Protocol and not identified as immediate priorities (unless an urgent TPO was required) when compared to other landscape related tasks carried out by the Landscape Officer. Measures to address the backlog were detailed in 1.4 of the report and a target of reducing this by at least one case per week would be implemented. The process of triaging TPO requests would continue and trees at immediate risk would always be prioritised.

Members expressed concern that the measures proposed to address the backlog were insufficient to make a significant improvement in a timely manner. To assist with monitoring the progress being made to reduce the backlog, it was suggested that six monthly updates be provided to the Scrutiny Select Committee and this to include potential alternative measures that could be implemented. This approach was supported by the Committee. The form of the update report would be discussed with the Cabinet Member for Planning.

Concern was expressed that there was an insufficient role for Members in the TPO Protocol and there was no safety-check to ensure that decisions were appropriate and fit for purpose.

Cllr Hood proposed, seconded by Cllr Oliver that a call-in mechanism for Councillors be added to the TPO Protocol. Following a formal vote this proposed was rejected. However, the Director of Planning, Environmental Health and Planning indicated that better engagement and communication between Officers and local Members regarding TPO applications and decisions could alleviate the concerns raised. A majority of the Committee supported this suggestion and a suitable approach to informal engagement would be discussed with the Cabinet Member for Planning.

***RECOMMENDED:** That

- (1) the Tree Enforcement Protocol (at Annex 1) be commended to Cabinet for adoption to aid decision making; and
- (2) subject to the approach on informal communications between Members and Officers being detailed, the Tree Preservation Order Protocol (at Annex 2) be commended to Cabinet for adoption to aid decision making.

***Recommended to Cabinet**

TONBRIDGE & MALLING BOROUGH COUNCIL
HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

21 May 2024

Report of the Director of Planning, Housing & Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non Key Decision

1 TREE ENFORCEMENT PROTOCOL AND TREE PRESERVATION ORDER PROTOCOL

Summary:

1.1 This report introduces the new Tree Enforcement Protocol and the Tree Preservation Order Protocol. This report seeks to provide an update to Members on how the service deals with all tree related matters and consequently what changes to processes and procedures are needed to facilitate necessary service improvements to address the backlog.

1.1.1 The Tree Enforcement Protocol and Tree Preservation Order Protocol are amended to this document as appendix 1 and 2 respectively.

1.1.2 The Development Management Team discharges the Council's functions in respect of tree-related matters. By way of background, in each of the following calendar years the Service has dealt with the following:

Year	Applications for works to protected trees	Notifications for works to trees in Conservation Areas	Tree Preservation Orders
2022	204	228	10
2021	202	219	9
2020	227	211	8
2019	174	174	9

1.1.3 Full access to 2023 numbers is not possible, due to issues experienced with the tree module caused by the implementation of Agile. However, the numbers are expected to be similar to 2022.

1.1.4 The number of applications is largely consistent over this 5 year period with the overall number gradually increasing. It is acknowledged that there was a peak in 2020. This was most likely due to the increase in numbers of people at home during the pandemic.

Landscape officer Workload

1.1.5 Added to above applications the Landscape Officer also considers condition applications for TPO trees, prior written consents, felling licences, observations for planning applications, general enquiries and officer training. They also advise on planning enforcement measures concerning trees which is why this report has brought together both protocols. Further challenges that the Tree and Landscape Officer has experienced is with the implementation of Agile. The module is currently being developed further to allow optimum functionality.

1.1.6 The establishment for the Council allows for one full time Landscape Officer. With one officer in place it is important that work is prioritised. How work is prioritised is outlined in the proposed protocol.

1.2 The Protocols

1.2.1 The aims of the **Tree Preservation Order (TPO) Protocol** are as follows:

- To demonstrate principles of consistency in the assessment and decision-making process of considering whether new Tree Preservation Orders should be made and confirmed.
- To increase public confidence and understanding in the system.
- To speed up decision making by streamlining the assessment process where acceptable and making it more robust.

1.2.2 The aims of the **Enforcement Tree Protocol** are as follows:

- To detail the options available concerning the planning enforcement options.
- Details of the prosecution procedures concerning trees and the penalties available.
- Processes and Procedures.

The tree protocol should be read alongside the Planning Enforcement Plan

1.3 Backlog

- 1.3.1 It is acknowledged that there is currently a backlog within the service, especially concerning outstanding TPOs. The backlog of TPO requests stands at 59. It should be noted that these have been triaged along the lines laid out in the proposed protocol and not identified as immediate priorities when compared to other Landscape related tasks carried out by the Landscape Officer.
- 1.3.2 An operational plan has been put in place to allow the Landscape officer the opportunity to look at least one a week to gradually reduce the numbers alongside the other duties that are required as outlined above and expanded upon below.
- 1.3.3 The backlog of TPOs should also be seen in the context of the officers existing workload. Currently the Tree and Landscape officer has case load of 73 applications excluding TPOs. Although not directly comparable it is higher than any of the planning officers and considered a substantial amount.
- 1.3.4 On top of this is the planning observations, pre application observations and advice to Councillors and general advice, which fall to the officer as detailed above.

1.4 Measures to tackle the backlog

- 1.4.1 Reports have already been streamlined and shortened to allow for maximum efficiency.
- 1.4.2 Delegated authority on no objections for Section 211 Notices will be cascaded to the Landscape officer, who will be able to determine applications without the need for further checking to maximise time efficiency. Spot checks on signed reports will be undertaken monthly to ensure sound decisions are being undertaken.
- 1.4.3 A weekly tree surgery with planning case officers will also be introduced for simple observations. This will be recorded to mitigate the need for written observations to save time.
- 1.4.4 The planning validation checklist, which is currently out to agent's consultation, has introduced requirements for tree applications, which will promote faster decision making, as information will be provided up front. This also will promote better outcomes for trees on development sites. The checklist is an operational tool.
- 1.4.5 Enforcement Officers will do some of the tree visits for tree applications as they are often out on site. The Landscape officer will be providing training and advice what photos and information is needed. If the tree officer needs to visit a site themselves, this will be undertaken. The Enforcement Officers already work alongside the Landscape Officer for enforcement related tree cases and this is seen as a useful, natural extension of their collaborative working.

1.4.6 The measures above are about freeing up capacity to allow the Landscape Officer to tackle the backlog and ensure a consistent approach is taken to all elements of their wide-ranging workload. A target of reducing the backlog by at least one case every week will be implemented. The process of triaging all TPO requests will continue. Trees in immediate danger will always be prioritised.

1.4.7 These measures will be also aimed to make the tree service more efficient and more sustainable in the long run. The measures described above do not need Member approval, as they relate to operational service delivery, but have been put in the report for information and context as requested by members.

1.5 Legal Implications

1.5.1 Not having a comprehensive and consistent Protocol in place could increase the risk of Council decisions being challenged both through appeal and judicial review.

1.6 Financial and Value for Money Considerations

1.6.1 Having a comprehensive Protocol in place will ensure appropriate skills and expertise are utilised in an efficient and cost-effective manner and limit exposure to costs awards being made against the Council in appeal scenarios.

1.7 Risk Assessment

1.7.1 Protocols are there to limit risk as they allow consistency and robustness. Not having an up-to-date protocol creates additional work as priorities and process are essential to the efficient running of a service.

1.8 Policy Considerations

1.8.1 The service improvements set out within this report are in accordance with the Council's wider corporate priorities in respect of the Service Plan and the emerging Local Plan.

1.9 Recommendations

1.9.1 That Members RECOMMEND to Cabinet the proposed strategy as set out in this report, namely:

- 1) Adoption of the Tree Preservation Order Protocol to help aid decision making
- 2) Adoption of the Tree Enforcement Protocol to help aid decision making

Background papers:

contact: Hannah Parker

Nil

Appendix 1 – Tree Enforcement Protocol

Appendix 2 – Tree Preservation Order Protocol including Annex 1 (TEMPO assessment)

Appendix 1

Tree Enforcement protocol

1. Introduction
2. Legislative Framework
3. Responding to complaints
4. Enforcement Investigations
5. Available Options for Action
6. Procedures and processes

1. Introduction and Context:

- 1.1. This document is intended to provide comprehensive guidance on the framework for dealing with tree related enforcement issues in a clear, consistent and transparent manner and to ensure that enforcement investigations and decisions take place in accordance with current legislation and guidance.
- 1.2 Tree enforcement issues across the Borough fall into the following categories:
 - Unauthorised removal of protected tree(s): Depending upon the size, species and prominence of the tree(s), the effect on visual amenity and the character of an area as a result will vary from case to case.
 - Unauthorised work to protected tree(s): The effect of work to tree(s) can vary from the expert removal of one minor limb to complete destruction. This can mean little or no effect on amenity or in severe cases a seriously detrimental effect and will always be dependent on the specific circumstances of the case.
 - Breach of tree protection conditions imposed on planning permissions: This can cause prejudice to the health/safety/life expectancy/appearance of the tree(s) and have consequences for the acceptability of a development in planning terms.
- 1.3 It is necessary to ensure a careful and balanced approach to the protection of valuable trees and enforcement of that protection across the Borough. It is acknowledged that to not do so could result in a serious impact on the quality of life for residents and visitors of the Borough. The overarching aim of this Protocol is therefore to ensure the appropriate enforcement of protected trees, within a clear and transparent framework in all cases. It should be read in conjunction with the Council's adopted Planning Enforcement Plan and associated guidance.

2. Legislative Framework

- 2.1 Trees are protected by legislation when they are subject of Tree Preservation Orders or are within Conservation Areas (subject to certain exemptions). It is an offence to cut down, uproot, lop, top, wilfully damage or wilfully destroy a protected tree without having first obtained the necessary consent.
- 2.2 In the case of a tree protected by a Tree Preservation Order, the Council's consent is normally required prior to undertaking any works to the tree and this will require the submission of a formal application. Any consent may be subject to conditions, and there is a right of appeal to the Secretary of State against the refusal of consent or the granting of consent subject to conditions.

- 2.3 In the case of a tree in a Conservation Area, six weeks' notice must normally be served on the Council of any proposal to carry out works on the tree. If the Council takes no action within six weeks, the works may go ahead as notified.
- 2.4 Trees may also be protected by conditions imposed on planning permissions where the statutory and policy tests for doing so have been met. Such conditions typically require that new trees be planted and maintained, or that existing trees be retained as part of development, usually for a minimum of five years. An application can however be made to the Council to vary or remove a condition (such as to allow the removal of a tree). If planning conditions are not complied with, the Council has powers to serve an enforcement notice or breach of condition notice to secure compliance. There is a right of appeal to the Secretary of State against an enforcement notice.
- 2.5 There are two offences, which apply equally to trees protected by Tree Preservation Orders and those within Conservation Areas. Firstly, anyone who cuts down, uproots or wilfully destroys a tree, or who lops, tops or wilfully damages it in a way that is likely to destroy it, is liable, if convicted in the Magistrates Court, to a fine of up to £20,000. If the person is committed for trial in the Crown Court, they are liable if convicted to an unlimited fine. The Courts have held that it is not necessary for a tree to be obliterated for it to be "destroyed" for the purposes of the legislation. It is sufficient for the tree to have been rendered useless as an amenity.
- 2.6 Secondly, anyone who contravenes the provisions of the tree preservation legislation in a manner that does not involve/result in the cutting down, uprooting or wilfully destruction of a tree, for example carrying out works to a tree that are not likely to destroy it, is liable, if convicted in the Magistrates Court, to a fine of up to £2,500. Any proceedings for offences in this category must be brought within six months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge and not more than 3 years after the date on which the offence was committed.

3. Responding to complaints

- 3.1 Investigations connected to alleged breaches of planning control in respect of tree protection legislation are in most cases instigated because of complaints received by the Council by members of the public. When this happens, investigations will commence in accordance with the Council's adopted Planning Enforcement Plan. This sets out that alleged works to protected trees rank as a top priority in all circumstances, with the target for initial site inspection being 1 working day. If the Council is advised of works taking place to protected trees all efforts will be made to ensure a visit can be undertaken within a quicker timescale so as to prevent irrevocable damage wherever possible. This prioritisation reflects the perceived urgency and level of harm arising to amenity or to areas or features that benefit from special protection.
- 3.2 At this stage the complainant is informed of the case officer's name and contact details. The named Officer will act as the main point of contact and

will advise all parties on progress and outcome of the case. Additionally, Borough Council Members are informed of the receipt of allegations on a weekly basis.

4. Enforcement Investigations

4.1 Our initial investigations will always involve research to establish:

- whether the tree is protected.
- whether any consent or permission has been granted for works; and
- who is responsible for the work being undertaken (either by act or instruction)

4.2 In all cases, this will involve both a desk-based assessment of the Council's official records, along with a land registry search along with a site inspection. The investigating planning enforcement officer will inspect the site in line with the Council's scheme of prioritisation and will also request that the Tree and Landscape Officer attends the inspection. If the Tree and Landscape Officer is unable to attend the inspection within the necessary timeframe, the investigating officer will subsequently discuss the evidence collated and establish whether a further inspection is required.

4.3 At the site inspection, potential transgressors will be asked to give an account of the activity taking place (if any is identified) and provide any relevant background information.

4.4 In some cases, it may however be necessary to caution a suspect during the site inspection itself and interview later if there are questions that may be required as evidence.

5. Available Options for Action

5.1 The Council has a range of possible courses of action available to deal with cases of unauthorised works on protected trees. These include the following:

- Prosecution
- Require Tree(s) to be replanted
- Serve a Breach of Conditions Notice.
- Informal action

Prosecution through Court: Proceedings

5.2 Two tests will be applied in cases where a tree has been destroyed or works have caused significant harm and therefore a prosecution appears likely. Consideration of which will be undertaken in consultation with the Council's

Legal Team in accordance with the Crown Prosecution Service's 'Code for Crown Prosecutors 2018'

- The Evidential Test: A prosecution will not be commenced unless there is sufficient, admissible and reliable evidence that the offence has been committed and that there is a reasonable prospect of conviction.
- The Public Interest Test: A prosecution will only be brought where this is in the public interest. This can include using enforcement action as an effective deterrent.

5.3 In most cases, a prosecution will not be brought if the works would have been allowed, had they been applied for. A prosecution will not normally be brought unless the unauthorised works have resulted in a loss of public amenity. The Tree and Landscape Officer will be advising the investigating enforcement officer and legal team and assist in assessment of the loss to public amenity.

5.4 In determining the most appropriate and proportionate course of action in any given circumstance, the Council will take into account the following:

- the size of the tree(s)
- the prominence of the tree(s)
- the condition of the tree(s)
- the life expectancy of the tree(s)
- the seriousness of the offence
- the loss of/effect on amenity

5.5 If a tree which was included within a Tree Preservation Order and appeared in good condition has been removed in contravention of the tree preservation legislation, the Council will, where possible and the evidential and public interest tests have been met, seek to prosecute those responsible for its removal. The Council will also seek to ensure that the replacement planting duty imposed under s206 of the Town and Country Planning Act 1990 (as amended) is complied with.

5.6 With respect to Conservation Area trees, the seriousness of such an offence will be judged by determining if the tree would have been made the subject of a draft Tree Preservation Order had the requisite notice been served. Where the tree would have been made the subject of an Order, the Council is likely to take the same action as indicated above.

5.7 Where extensive works are undertaken without consent or prior notification in the case of Conservation Areas that would not have been agreed had an application been submitted, the Council will seek to prosecute those responsible where possible and the evidential and public interest tests have

been met. This generally applies where the appearance of the tree is altered to a point where there is a clear effect on visual amenity. The Council may suggest that remedial works are undertaken where appropriate.

- 5.8 In cases where works are undertaken that would ordinarily have been acceptable, in terms of general form and extent, but to a poor standard, the Council may suggest that remedial works are undertaken where appropriate and will also consider whether to prosecute those responsible (where possible and the evidential and public interest tests have been met).
- 5.9 In considering whether to bring a prosecution, regard will also be had to the likelihood of the offence being repeated and the degree to which a prosecution would act as an effective deterrent. Regard will also be had to any financial advantage perceived to have been gained by carrying out the unauthorised works and whether the perpetrator has been prosecuted, cautioned or warned for similar offences in the past.
- 5.10 Whilst ignorance of the law is not an excuse, all relevant issues associated with the case will be considered including, where appropriate, the attitude and circumstances of the perpetrator, any indication that he/she was acting in good faith or other relevant mitigating factors.
- 5.11 The Council can, as an action short of prosecution, and if deemed appropriate, issue a formal caution to those responsible for unauthorised works. If such a caution is accepted it will be kept on the Council's records and may be produced as evidence of a previous offence in any future transgression.

Replanting

- 5.12 Whenever a tree has been removed in contravention of the legislation, or where removal has been authorized only under specified exemptions (if a tree - except a tree protected as part of a woodland - is removed, uprooted or destroyed because it is dead or because removal is urgently necessary to remove an immediate risk of serious harm), there is an automatic legal duty on the landowner to plant a replacement tree of a suitable size and species at the same place as soon as reasonably possible (unless that requirement is waived by the Local Planning Authority). In accordance with the legislation, for trees planted under this duty to replace those that are included within a Tree Preservation Order, the relevant tree preservation order shall apply to the replacement tree as it applied to the original tree. If the landowner fails to comply with this requirement, the Council may serve a Tree Replacement Notice within a period of four years from the date of the landowner's failure to replant as soon as he or she reasonably could to ensure compliance.

Breach of conditions

- 5.13 If a condition on a planning application is breached with tree protection measures a breach of condition notice suitable to rectify the breach.

Informal action

5.14 Not all cases require formal action. Informal action such as written correspondence and site visits may be sufficient to remedy breaches, especially concerning tree related planning conditions.

6. Procedures and processes

- 6.1 Tree enforcement issues will be dealt with by the Planning Enforcement Team in liaison with the Tree and Landscape Officer and the legal team.
- 6.2 In each case where it is evidenced that unauthorised works have been carried out on a protected tree (or trees), the investigating officer will compile a report containing the following information:
- Summary of the breach as alleged.
 - Description of the site, tree(s) in question and protection afforded.
 - Explanation of desk-based and site-based investigations.
 - Summary of all evidence collected.
 - Summary of all expert arboricultural and legal advice (where necessary) obtained
 - Recommendations for any further action for endorsement by the Development Manager or appropriate member of staff with delegated authority.
- 6.3 Enforcement Cases recommended for closure will appear on Members self-service enforcement Power BI report. Reasons for the closure will be reported in the same way as all other closed enforcement cases.
- 6.4 Ward Members will be updated by the investigating officer regarding any cases where recommendations for action are endorsed and a copy of the report and associated paperwork provided on a confidential and privileged basis. It is important to note that this documentation is not provided in full to complainants. In order that no prejudice arises in legal proceedings. Complainants will however be updated throughout proceedings by the investigating enforcement officer in accordance with the Council's Planning Enforcement Plan.

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**Tonbridge and Malling Borough Council
Tree Preservation Orders Protocol
May 2024**

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- 2 Legislation and guidance
- 3 Overarching aims
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- 5 Scheme of prioritisation
- 6 The assessment process.
- 7 Making a new Tree Preservation Order
- 8 Consideration of representations
- 9 Confirmation of a Tree Preservation Order
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Annexes:

- 1 Tree Evaluation Method for Preservation Orders (TEMPO) – Survey Data Sheet

1. Introduction and Context:

This document is intended to provide guidance on the administration, assessment, making and confirming of new Tree Preservation Orders (“TPOs”) by Tonbridge and Malling Borough Council. The Protocol seeks to demonstrate a consistent system for the service and administration of TPOs, from the prioritisation of requests for new TPOs, through the assessment of trees for possible inclusion within a new TPO, to service of an Order and confirmation (where the TPO is made permanent).

A TPO is a legal Order which provides statutory protection to specified trees, groups of trees, areas or woodlands. In accordance with the tree preservation legislation an Order prohibits the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of the specified trees without the prior formal consent of the Local Planning Authority (LPA – Tonbridge and Malling Borough Council).

2. Legislation and guidance:

The law on Tree Preservation Orders is contained in Part VIII of the Town and Country Planning Act 1990 (as amended) and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into force on 6 April 2012.

(<https://www.legislation.gov.uk/ukpga/1990/8/part/VIII>)

Section 192 of the Planning Act 2008 made further amendments to the 1990 Act which allowed for the transfer of provisions from within existing Tree Preservation Orders to regulations.

(<https://www.legislation.gov.uk/ukpga/2008/29/section/192>)

The government publishes online guidance “Tree Preservation Orders and trees in conservation areas” which explains the legislation governing Tree Preservation Orders and tree protection in conservation areas.

(<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>)

3. Overarching aims:

The aims of this Protocol are as follows:

- To demonstrate principles of consistency in the assessment and decision-making process of considering whether new Tree Preservation Orders should be made and confirmed.
- To increase public confidence and understanding in the system.
- To speed up decision making by streamlining the assessment process where acceptable and making it more robust.

4. An overview:

Local Planning authorities can make a Tree Preservation Order if it appears to them to be *‘expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area’*.

It is important to recognise that making TPOs is an entirely discretionary power: meaning that the Council does not have to place a TPO on any tree. Deciding whether or not to protect trees by way of TPO is a matter of judgement to be made by officers and there is no obligation for us to do so.

The government advises authorities *“to take into consideration what ‘amenity’ means in practice, what to take into account when assessing amenity value, what ‘expedient’ means in practice, what trees can be protected and how they can be identified.”*

The Town and Country Planning Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity (expedient) to make a TPO. The government guidance provides the following advice:

“What does ‘amenity’ mean in practice?”

‘Amenity’ is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.

Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

What might a local authority take into account when assessing amenity value?

When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority’s assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- size and form;*
- future potential as an amenity;*
- rarity, cultural or historic value;*
- contribution to, and relationship with, the landscape; and*
- contribution to the character or appearance of a conservation area.*

Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

What does ‘expedient’ mean in practice?

Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management.”

When assessing what trees can be protected it is important to note that a TPO can be placed on any tree that has amenity value, and no species of tree is automatically protected. Orders can be used to protect trees that are, for example, particularly attractive, are good examples of the species, contribute significantly to the appearance and amenity of an area and/or have any special cultural or historic value. A TPO can protect anything from a single tree to all the trees within a defined area or woodland. However, only trees can be included within an Order – other plants such as managed hedges, bushes, shrubs, climbing plants or grasses cannot be protected

by a TPO (although an old hedge which has become a line of trees of a reasonable height might be possible to include within a TPO, and if a line of trees that are already included within a TPO is pruned to form a hedge the TPO protection will still apply).

Trees can be included within a TPO under one of four designations:

- **As Individually specified trees:** A tree may merit protection within an Order in its own right (for example a tree that has grown up individually and is largely unaffected by competition from nearby trees). Individually designated trees are prefixed with the letter “T” in the first schedule of an Order, which will also include details of the genus (or species) of the tree(s) - for example “T1 Oak” and are shown as individual black circles on the TPO map.

- **As Groups of trees:** Several trees that have grown close together might have a collective amenity value that exceeds the value of the individual specimens. They may have grown to become co-dependant on one another affording each other mutual shelter or might be part of a formal landscape feature such as an avenue where it is the overall impact and quality of the group as a whole that merits protection. Group designations are prefixed with the letter “G” in the first schedule of an Order, which will also include details of the numbers of each different genus (or species) of the tree(s) within the group - for example “G1 2 Oak and 1 Beech”. Group designations are shown on the TPO map surrounded by a broken black line.

- **As Areas of trees:** Area designations can be made to include, for example, all the trees of whatever species, only those of selected species, or those shown on a plan (such as a landscaping plan) within a defined area. Such designations usually include larger numbers of trees than would be included within a Group designation and can include large collections of trees which because of their situation are inappropriate for inclusion within a Woodland designation. Area designations are shown on the TPO map surrounded by a black dotted line.

- **As Woodlands:** The purpose of a Woodland designation is to protect a woodland as a whole. As such the designation protects all trees within the boundaries of the woodland as shown on the TPO map. It is expected that in a woodland trees will decline and fall and others will grow up to replace them in a continuous self-perpetuating dynamic and, in addition to the trees present at the site at the time a TPO is made Woodland designations also include trees and saplings which grow naturally or are planted within the woodland area after the Order is made. Woodland designations are shown on the TPO map surrounded by a solid black line.

[For the avoidance of any doubt, Ancient Woodlands are not necessarily protected by way of TPO. The NPPF affords ancient woodland specific policy protection and other controls may also exist – such as the Felling Licence legislation.]

5. Scheme of prioritisation:

A request for a new TPO may arise from a number of different sources (for example in response to a s211 Notice of Intent, or a development application/enquiry, or from a request made by a member of the public, Council Member or Parish Council, or even from internal discussions).

Requests for a new TPO should in all circumstances be made in writing by emailing planning.applications@tmbc.gov.uk. The Council will not normally respond to anonymous requests, unless there is other information that indicates a very serious threat to important trees. Requests should include information that clearly identifies the location and species of the tree(s) in question, explain why the request is being made (why the proposer thinks the subject trees should be included within a new Order) and what threats to the tree(s) are present.

The Council will investigate all alleged threats to trees and all requests for trees to be made the subject of a TPO in the public interest.

However, given case volumes it is necessary to have a scheme of prioritisation for such requests. Work with statutory timescales must take precedence and as such the highest priority when dealing with requests for new TPOs will be given to those requests relating to trees which are affected by a current s211 Notice of Intent or full planning application. Assessment of the trees subject of such requests will be made within the relevant statutory decision target period for the Notice or Application.

Otherwise in assessing priority officers will take account of the perceived or real level of threat in any given circumstance. It also follows that the more urgent the threat is perceived to be, and the higher the public amenity value of the tree, then the greater weight should be given in terms of prioritisation.

The lowest priority will be given to requests where there is already a mechanism of control on the subject trees – for example if the trees are already protected by virtue of standing within a Conservation Area, or if the Council already has direct control of the trees as owner, or if a felling licence would be required.

Requests will be triaged upon receipt to clarify priority and may be assigned a higher, or lower priority if further information subsequently comes to light.

It should be noted that at this stage, the Council will not enter into discussions with the landowner to ascertain the level of real or perceived threat to the trees and we do not publish details of the requests for new TPOs that we receive. This is to avoid the potential risk arising from landowners accelerating felling programmes when alerted to the Council's interest in trees, which could lead to important trees being lost.

6. The assessment process:

The Government guidance advises that Local Planning Authorities should “develop ways of assessing the amenity value of trees in a structured and consistent way” taking account of the criteria referred to in “An overview” above.

The Government's view is the TPO's should be used to protect “selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public.” It therefore follows that there must be something that sets apart trees that are appropriate for inclusion within a TPO from other trees in general.

The Council needs to be able to show that a reasonable degree of public benefit exists, or would accrue, before TPOs are made or confirmed.

Trees may be worthy of preservation for their intrinsic beauty, or for their contribution to the landscape. The value of trees may be enhanced by their scarcity. The value of a group of trees or woodland may be collective only. Other factors, such as importance as a wildlife habitat, nature conservation or response to climate change may also be taken into account but these factors alone would be unlikely to be sufficient to warrant a TPO.

In terms of wider impact, the significance of the trees in their local surroundings will also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.

Trees are included within TPOs for their public benefit and the assessment will include an appraisal of the visibility of the subject trees from publicly accessible locations (this may include future visibility – for example when assessing trees on a potential development site).

As advised by the Government guidance just because a tree is visible from public locations does not necessarily mean that it is appropriate for inclusion within an Order and the assessment will also include an appraisal of the individual, collective and wider impact of the subject trees with reference to their

- Size and form,
- Future potential as an amenity
- Rarity, cultural or historic value
- Contribution to, and relationship with, the landscape and
- Contribution to the character or appearance of a Conservation Area

The Council's assessment will also take account of

- The condition of the tree(s) – which has implications for the future potential as an amenity.
- Previous treatment/management of the tree(s) and future management requirements – which also has implications for the future potential as an amenity.
- Proximity to the existing built form and suitability for location (which links to Contribution to, and relationship with, the landscape)

The Government guidance is clear that other factors can also be taken into account and no list of criteria could ever be exhaustive. Clearly it is not possible to predict every possible situation and there may be unusual circumstances which are of relevance in a particular case. Where there is such unusual circumstance the assessment report will detail why it is considered of relevance to the consideration of the particular tree(s).

Although a tree might warrant protection in terms of amenity value, it is also necessary to consider whether the protection of the tree by a TPO is 'expedient'. This is a test as to whether the serving of an Order in the public interest is a suitable/appropriate action in the circumstance of a particular case. For example, it is unlikely to be expedient to make a tree the subject of a TPO if it is under good proactive arboricultural or forestry/woodland management. However, if the Council consider that there is a risk of a tree being cut down, pruned or damaged in such a way that would have a significant and adverse impact on amenity, then a TPO may be appropriate.

The Council may have other reasons to believe that trees may be at risk. Circumstances such as changes in property ownership or management, general development pressure and possible development potential of a site can mean that the protection of trees by a precautionary TPO may be considered expedient. In some instances, because of a lack of accurate information, the risk may be perceived rather than actual. However, the Council has to take a precautionary approach because enquiries (regarding ownership for example) might trigger or accelerate tree removal.

There are a number of exemptions within the tree preservation legislation from the usual need to obtain the prior formal consent of the LPA for works to a tree (as set out in the Town and Country Planning (Tree Preservation) (England) Regulations 2012). For example the LPA's consent is not required for work to a tree which is dead even if it is included within a TPO and there is also an exemption for work necessary to implement a full planning permission as well as other specified exemptions. Exemption provisions can have an impact on the appropriateness or expediency of making a new TPO (there is unlikely to be public benefit in making a new TPO on a tree which could be immediately removed under exemption).

An appraisal of the expediency of making a TPO will be included in the assessment and previous planning history will also be considered.

It should be noted that there are some published evaluation methods for assessing the amenity value of trees. The Tree Evaluation Method for Preservation Orders ("TEMPO") is designed to be a structured guide and record of the assessment process for determining the value of trees

for the purposes of a TPO. A TEMPO assessment can sometimes assist in decision making and where appropriate officers will also undertake a TEMPO assessment in considering requests for new TPOs (it should be noted that TEMPO was designed for assessment of either 'Individual' or 'Group' designations and would not be appropriate for the consideration of whether to include trees within an Area or Woodland designation TPO. TEMPO assessments will also not be undertaken when assessing s211 Notices)

Any TEMPO assessment that is undertaken will be done in accordance with the published guidance - A copy of the TEMPO survey data sheet is produced at Annex 1 and published guidance notes for users can be found via the link below: <https://www.flac.uk.com/wp-content/uploads/2014/12/TEMPO-GN.pdf> (note: CBA Trees owns the copyright for TEMPO, however the method is freely available, including via internet download through the Arboricultural Information Exchange www.aie.org.uk)

7. Making a new Tree Preservation Order:

In all instances, the completed assessment report (including formal recommendation by the assessing officer), along with supporting evidence (for example, photographs) will be sent to the DPHEH, or other senior officer in the Planning Department (under responsibilities delegated via the DPHEH) for formal decision.

Having considered it appropriate to make an Order, the Council will make and then serve a copy of the TPO together with a formal Notice (the Regulation 5 Notice) to the owner or occupier of the land on which the subject tree(s) stand, and to any 'persons interested' in the land, or persons who may be entitled to carry out works to the tree affected by the TPO. The Regulations clearly defines a person interested in relation to an Order being every owner and occupier of the land affected by the order and every other person whom the authority knows to be entitled to

(a) to cut down, lop or top any of the trees to which the order relates; or

(b) to work by surface working any minerals in, on or under the land affected by the order.

Where a TPO is made in response to a s211 Notice of Intent the person(s) who served that Notice will also be served a copy of the TPO.

Land Registry search(es) will be undertaken to identify registered owners/interested parties as necessary. Dependent on the urgency assigned to the TPO, the documents will be either delivered by hand to the owner or occupier, left at the usual or last known address of the owner or occupier, or sent by recorded delivery, or 1st class post to the last known address of the owner or occupier. In the case of registered companies, the documents may be served on the company's secretary or clerk at the registered or principal office.

When the affected land is unoccupied, or when ownership of the land affected by the TPO cannot be ascertained, or when it is necessary to alert other parties who may be working on the land, the Council may also affix the documents conspicuously to some object on the land – such as the tree itself, a gatepost of the property concerned, or its fence.

It is important to note that provided the documents have been correctly or 'duly' served, it is not necessary for the owner to actually be aware of the TPO for the TPO to be in force. It is therefore advisable for anyone wishing to carry out works to trees to first check with the Council that permission is not required.

When a new TPO is served a copy will also be sent to Ward Councillors and the Parish Council(s). The person(s) who made the request(s) for the new TPO will also be notified of the

outcome of their request once the formal decision has been made (along with either a copy of the relevant new TPO, or reasoning for the decision as appropriate).

8. Consideration of representations:

In accordance with the legislation statutorily defined interested parties as described above must be given the opportunity to make representations on new Tree Preservation Orders. These are considered by the Council to be “duly made” if:

- They are made in writing (to planning.applications@tmbc.gov.uk or by post if email is not possible)
- delivered to, or could reasonably expected to be delivered to, the authority not later than the date specified in the Regulation 5 notice which will be a 28-day period
- specify the particular trees, groups of trees or woodlands to which they relate;
- in the case of an objection, state the reasons for the objection;

Any subsequent correspondence made by defined interested parties **cannot** be taken into account to influence the decision whether to confirm the TPO or not unless the Council believes that the 28-day period for objections could not have been reasonably met.

Furthermore, any representations received will only be taken into account in deciding whether to confirm an Order where a clear interest is demonstrated in accordance with the relevant legislation. Where wider representations are made these will not be taken into account in the final decision as to whether an Order will be confirmed or not.

Provided they fall within these specified parameters, representations about/objections to a new TPO will be formally taken into account in deciding whether to confirm or modify the Order.

9. Confirmation of a Tree Preservation Order

All TPOs are made on a provisional basis, which runs for a period of six months, and the TPO must be confirmed before the six-month period expires otherwise it will lapse and cease to take effect.

Following the making of a provisional TPO the LPA may receive objections or representations about the making of the Order from the owner/other interested parties.

The LPA should not confirm a made (provisional) Order unless any objections and representations duly made about the making of the Order have first been considered

Where the LPA has received objection(s) to the making of the Order and those objection(s) have not been subsequently withdrawn, then the decision whether to confirm the Order or not will be made at the relevant Area Planning Committee.

For all other cases the decision on whether to confirm the Order will be made by the DPHEH, or other senior officer in the Planning Department (under responsibilities delegated via the DPHEH).

Prior to the decision the case officer will prepare a report for the relevant committee/senior officer which includes a summary of any representations, assessment of any issues raised and recommendation.

Provisional Orders are unlikely to be withdrawn/not confirmed because a perceived level of risk has reduced, however they may be withdrawn/not confirmed if, on further assessment, it is considered that the trees fail the test of public amenity or that, for example, it is found that the tree(s) could be removed under exemption provisions within the tree preservation legislation.

There can remain disagreements surrounding the real threat to trees. However, it is considered that once work has been prioritised and assessments made that the trees are of the required quality in the public interest for a TPO to be justified, it would be a failure not to continue to the service of a confirmed Order. Owners of trees may consider that they have no intention of carrying out any detrimental work to their trees. However, trees can have a considerable lifespan, often far in excess of land ownership and it is considered that having established that a tree is of a quality worthy of protection it would be imprudent not to carry through the work because a potential threat was not immediate.

Subject to confirmation, the TPO will remain in force until it is revoked or until all the tree(s) have been removed without statutory replacement.

The placing of a TPO on land or individual trees does not place a moratorium on works to a tree, nor does it prevent a tree being removed. It does however require a person, wishing to undertake work to a protected tree, to apply to the Council for approval for such work (subject to exemption provisions within the legislation).

When the decision is made on whether to confirm or not confirm an Order the Council will notify those persons with an interest in the trees/land of the decision in accordance with the legislation along with Ward Councillors, **Parish Council(s)**, and any persons who made a request for the specified trees to be included within a new TPO.

10. Review of historic Tree Preservation Orders:

If the Council were to review an existing TPO then the subject tree(s) would be considered in accordance with the assessment process detailed in this document.

However, it should be noted that the Council does not currently have any scheme to systematically review its existing TPO's. There are a large number of existing Orders in force within the Borough, which between them include thousands of trees, and it would take a considerable resource (not currently available) to embark on a full scale review of the Orders.

Further consideration of a program to review existing Orders will be brought forward if the necessary resource becomes available and following scoping work in liaison with Borough Councillors.

LOCAL PLAN – DUTY TO CO-OPERATE UPDATE

Item HP 24/24 referred from Housing and Planning Scrutiny Select Committee of 21 May 2024

The report of the Director of Planning, Housing and Environmental Health provided an update on the duty to co-operate, partnership working and reporting.

Members were reminded that the Duty to Co-operate was a legal requirement on local planning authorities to engage with other relevant authorities and bodies constructively, actively and on an ongoing basis in relation to strategic planning matters.

A simple guide to strategic planning and the duty to co-operate was attached at Annex 1.

Government considered that effective and on-going joint working was integral to the production of a positively prepared and justified Local Plan. It was intended that joint working should help to determine where additional infrastructure was necessary, whether development needs that could not be met wholly within a particular area plan could be met elsewhere. It was good practice for local authorities to keep an accurate record of meetings undertaken with neighbouring authorities and other bodies. These would inform the preparation of statement of common ground later in the plan making process.

A record of engagement providing a summary of contact between the Borough Council and neighbouring authorities from July 2021 was attached at Annex 2. Members were advised that since the publication of the agenda, a further request to assist with unmet need had been received from Sevenoaks District Council. The record of engagement would be updated accordingly.

***RECOMMENDED:** That the contents of the report and the legal requirements regarding the Duty to Co-operate as part of the Local Plan process be noted.

***Recommended to Cabinet**

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TONBRIDGE & MALLING BOROUGH COUNCIL
HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

21 May 2024

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

1 LOCAL PLAN – DUTY TO COOPERATE UPDATE

The Duty to Cooperate (DtC) is a legal requirement on local planning authorities to engage with other relevant authorities and bodies constructively, actively and on an ongoing basis in relation to strategic planning matters. This report provides an update on duty to cooperate, partnership working and reporting.

1.1 Background

1.1.1 The National Planning Policy Framework (NPPF) 2023 states that *“Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries”* (paragraph 24). As such local planning authorities should collaborate to identify the relevant strategic matters which they need to address in their Local Plans.

1.1.2 The government consider that effective and on-going joint working between is integral to the production of a positively prepared and justified Local Plan spatial strategy. It is intended that joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.

1.1.3 The Planning Advisory Service has prepared a simple guide to strategic planning and the DtC, this can be found at Annex 1.

1.1.4 The Levelling Up and Regeneration Act will facilitate the ending of the duty, to be replaced with a new alignment policy which is subject to further detail to be made available through secondary legislation and guidance. At this time no further detail has been published regarding this, until this legislation gains royal ascent the duty will remain.

1.2 Duty to Cooperate Update

1.2.1 To demonstrate effective and on-going joint working, it is good practice for local authorities to keep an accurate record of meetings undertaken with neighbouring authorities and other bodies. These will inform the preparation of statements of

common ground later in the plan making process, which will document the cross-boundary matters identified and progress made in cooperating to address these. It should be noted that the duty to cooperate is not a duty to agree. Should there be differences of opinion or position between parties, these will also be recorded in the statements of common ground.

- 1.2.2 A DtC record of engagement has been prepared (Annex 2), this provides a summary of contact between TMBC and neighbouring authorities from July 2021, the point at which the council recommenced plan making. It is not intended to be an exhaustive list of all engagement and partnership work that has been undertaken. This will be extended as required to include other public bodies as the Local Plan progresses through the next stages of public consultation.
- 1.2.3 The following provides a summary of the current strategic planning position with regard to each adjacent authority highlighting any known cross-boundary matters. All neighbouring authorities and other public bodies will be invited to comment on the TMBC Local Plan Regulation 18b once published. Further DtC meetings will be arranged by officers as required.

Planning Authority	Current Local Plan Status	Comments
Gravesham Borough Council	Preparing a Local Plan review. The regulation 18 stage 2 consultation closed in December 2020. The regulation 19 consultation is awaited.	<p>TMBC responded to the Gravesham regulation 18 stage 2 consultation in December 2020. Based on the development needs as well as the location and distribution of potential development set out in the consultation, it was not considered that there would be significant cross-boundary impacts upon Tonbridge and Malling.</p> <p>Concern was however expressed regarding the potential expansion and infilling of villages which could contribute towards growth in traffic on local roads, particularly the A227. In addition to potential impacts upon the Kent Downs national landscape and North Downs Woodland SAC.</p> <p>Tonbridge and Malling don't share a housing market area with Gravesham, as such it is less likely to be asked to assist Gravesham should it be unable to fully meet its housing need.</p>
Maidstone Borough Council	<p>The appointed Inspector's Final Report on the new Maidstone Local Plan was delivered to the Council on 8 March 2024, this signified the formal closure of their Examination.</p> <p>The Maidstone</p>	<p>TMBC responded to the Inspector's consultation in February 2024 on some additional technical documents, including an M2 Junction 3 Transport Assessment. In doing so we expressed concern regarding the scheme of mitigation proposed by MBC for the junction, requesting that officers be included in further discussions by MBC regarding this matter.</p> <p>There are known junction capacity issues at these linked junctions which have cross-boundary significance. TMBC is supporting a</p>

	Borough Local Plan Review 2021-2038 was adopted on 20 March 2024.	more substantial scheme for Blue Bell Hill, including M2 junction upgrades that is being pursued by KCC. This is subject to a 'Large Local Major Schemes' bid to the DfT.
Medway Council	Preparing a new Local Plan. Similar timescale to TMBC, with regulation 18b consultation expected June/July 2024.	<p>DtC meeting held between officers in March 2024 to discuss the timing of forthcoming Local Plan consultations. Officers agreed to collaborate once respective details regarding draft site allocations and evidence base documents are published.</p> <p>Medway Council are using the Kent VISUM transport model to undertake scenario and sensitivity testing.</p>
Tunbridge Wells Borough Council	<p>Public consultation on Tunbridge Wells Borough Council's response to the Inspector's initial findings letter on the Examination of their new Local Plan was extended to 12 April 2024.</p> <p>Examination ongoing, Inspector's report and adoption anticipated late 2024.</p>	<p>TMBC responded to this consultation in February 2024, supporting the reduction in the scale of proposed growth east of Paddock Wood by 1000 dwellings, and the deletion of the Tudeley Village allocation from the submitted Plan.</p> <p>Notwithstanding TMBC's support for the proposed policy changes, the council remains concerned about the cross-boundary traffic impacts of growth upon the A228 north of Paddock Wood and the B2017 west of Paddock Wood, which links with the A26 at Woodgate Way, Tonbridge.</p> <p>Additional growth places further pressure upon the local road network which will be taken into consideration as officers prepare transport evidence to support the new TMBC Local Plan.</p>
Sevenoaks District Council	Preparing a new Local Plan. The regulation 18, part 2 consultation closed in January 2024. Regulation 19 consultation anticipated summer 2024.	<p>TMBC responded to the to the Sevenoaks Local Plan regulation 18 (part 2) consultation in December 2023. Support was expressed for development strategy options 2 and 3 as these either meet or exceed the projected need over the Local Plan period. Further clarity was requested regarding the spatial distribution of growth so that consideration could be given to any cross-boundary implications.</p> <p>Given the landscape constraints within Tonbridge and Malling especially within the west of the borough that is within the West Kent HMA (shared with Sevenoaks and Tunbridge Wells), it was expressed that TMBC was unlikely to be able to assist with any unmet need should this arise.</p> <p>TMBC and SDC have commissioned aligned Green Belt and transport evidence to support plan making.</p>

1.3 Legal Implications

1.3.1 The duty to cooperate is a legal test that is considered at the initial stage of Local Plan Examination (legal compliance). It can't be retrofitted should the appointed Inspector(s) consider that based upon the evidence submitted, the local planning authority has failed to demonstrate that it has met the duty. A failure to meet the duty would put at risk the progression of the Local Plan through the Examination process.

1.4 Financial and Value for Money Considerations

1.4.1 It is important that accurate DtC records are maintained to ensure that the authority is successful in meeting this legal duty. Failure to do could result in failing the duty which would put at risk the Local Plan process, resulting in expensive reworking of the timetable due to the staff time and consultant resources this would involve.

1.5 Equality Impact Assessment

1.5.1 The matters discussed in this report have low or no direct relevance to the substance of the Equality Act 2010. An Equalities Impact Assessment is being undertaken alongside the preparation of the next stages of the Local Plan.

1.6 Risk Assessment

1.6.1 As reported at the March 2024 meeting of this committee, the duty to cooperate is identified on the Local Plan risk register. The policy team will continue to take a robust approach to the recording of relevant meetings, maintain the monitoring grid and apply a legal compliance checklist/assessment in advance of submitting the Local Plan to the Secretary of State for Examination.

1.7 Recommendations

1.7.1 HPSSC is asked to recommend to Cabinet:

(1) NOTE the contents of the report.

Background papers:

Annex 1 – Planning Advisory Service, Simple Guide to Strategic Planning and the DtC
Annex 2 - DtC Record of Engagement

contact: Bartholomew Wren
Principal Planning Policy

Eleanor Hoyle
Director of Planning, Housing and Environmental Health

Simple Guide to Strategic Planning and the Duty to Cooperate

Contents

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- [2.](#) What is meant by the term 'strategic planning'?
- [3.](#) What happens if strategic planning issues are not properly addressed?
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- [6.](#) What does the 'duty to cooperate' mean for councils?
- [7.](#) What does the 'duty to cooperate' mean?
- [8.](#) What new ways of working and skills may be needed to implement the 'duty to co-operate'?
- [9.](#) How will the 'duty to co-operate' be tested?
- [10.](#) What happens if a council or identified public body will not co-operate or cannot agree?

1. Why is strategic planning important?

The overarching priority for national planning policy (NPPF) ([link below](#)) is to deliver long term sustainable growth, ensuring that councils positively take into account the three pillars of sustainable development – economic, environmental and social - in their local plans. Many social, environmental and economic issues can only be effectively addressed over a number of local authority administrative boundaries. This is because people and businesses do not confine their activities to one council area. For example:

- employees may live in one area and work in another, sometimes travelling large distances on a daily basis
- suppliers may service many local shops from a small number of distribution centres linked to major transport hubs
- a retail development may attract customers from across a wide catchment area
- people may travel hundreds of miles to visit tourist attractions, leisure facilities or sporting venues on a regular basis
- manufacturing companies may source materials and supply goods from across the UK and beyond.

Similarly, from an environmental perspective:

- residents in some areas may consume water and power that has travelled hundreds of miles
- surface water run-off in one location may present a flooding hazard to communities further 'downstream'
- water and air pollution may have a damaging impact on environmental assets some distance away.

Local plans need to recognise these relationships and include policies to manage their impacts.

NPPF: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

2. What is meant by the term 'strategic planning'?

The term 'strategic planning' refers to policies that address larger than local issues that cannot be dealt with by one local planning authority working alone and that are addressed and delivered through a local plan. For example:

- the provision for new housing across a major conurbation or wider housing market area
- the provision of major retail, leisure, industrial and other economic development across a travel to work area
- the provision of infrastructure for transport, waste treatment, energy generation, telecommunications, water supply and water quality
- requirements for minerals extraction
- the provision of health, security, and major community infrastructure facilities
- measures needed to address the causes and consequences of climate change, including managing flood risk and coastal change
- protection and enhancement of the natural and historic environment, including townscape.

The priority given to these issues will depend on local circumstances; strategic approaches may not always be needed. The sustainability appraisal scoping report should help to identify what is important for your locality.

3. What happens if strategic planning issues are not properly addressed?

The NPPF (Paragraph 179 – link below) requires councils to work together to address strategic priorities across boundaries and development requirements which cannot be wholly met within their own areas.

Failure to do this will:

- lead to less sustainable plans
- reduce the ability to deliver infrastructure and inward investment
- undermine confidence in the ability of councils generally to make difficult political decisions and deliver on newly won freedoms.

Ultimately, if strategic planning matters are not properly addressed in a local plan, the plan will be found unsound at examination, significantly reducing the local authority's ability to manage development.

NPPF paragraph 179: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

4. How has strategic planning been done in the past?

From 2004 Regional Assemblies and Leaders Boards (from 2009) were responsible for strategic planning which was done through regional strategies. In November 2011, the Localism Act (link below) signalled the end of regional strategies which were officially revoked in 2013. Between 2011 and 2013, regional strategies still formed part of the statutory development plan and therefore continued to influence the strategic policies in local plans adopted before 2013.

In London the Mayor has been responsible for strategic planning through the London Plan since 1999 (link below). This sets the strategic framework for the borough local plans.

From 2008, the decisions on 'infrastructure of national importance' fell within the remit of the 'Infrastructure Planning Commission' (IPC) with decisions guided by a series of national policy statements (NPS) prepared by Government. In April 2012 the work of the IPC was absorbed into the Planning Inspectorate (link below).

Localism Act: <http://www.legislation.gov.uk/ukpga/2011/20/section/109/enacted>

London Plan: <http://www.london.gov.uk/priorities/planning/london-plan>

Planning Inspectorate: <http://infrastructure.planningportal.gov.uk/>

5. How is strategic planning done now?

Following revocation of the regional strategies in England (outside London), strategic planning is now the responsibility of unitary, district or borough councils. Authorities are expected to address strategic issues in local plans and demonstrate how this has been managed through the '**duty to co-operate**' set out in Section 110 of the Localism Act (link below) and amplified in Paragraphs 178-181 of the National Planning Policy Framework (NPPF) (link below) and in the National Planning Practice Guidance (NPPG) (link below).

The Mayor's London Plan (link below) continues to provide the strategic context for local plans produced by the boroughs. However both the Mayor and individual boroughs will be required to work with surrounding councils to address strategic issues and demonstrate that they have met the requirements of the duty to cooperate.

Decisions on 'infrastructure of national importance' continue to be made by the Secretary of State on the advice of the Planning Inspectorate (link below) and within the policy framework set by the National Policy Statements for major infrastructure.

Section 110 of the Localism Act: <http://www.legislation.gov.uk/ukpga/2011/20/section/110/enacted>

178-181 of the National Planning Policy Framework

(NPPF): <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

NPPG: <http://planningguidance.planningportal.gov.uk/blog/guidance/duty-to-cooperate/>

The Mayor's London Plan: <http://www.london.gov.uk/priorities/planning/london-plan>

Planning Inspectorate: <http://infrastructure.planningportal.gov.uk/>

6. What does the 'duty to cooperate' mean for councils?

Section 110 of the Localism Act (link below) sets out the '**duty to co-operate**'. This applies to all local planning authorities, national park authorities and county councils in England – and to a number of other public bodies (see Question 7). The duty:

- relates to sustainable development or use of land that would have a significant impact on at least two local planning areas or on a planning matter that falls within the remit of a county council
- requires that councils set out planning policies to address such issues
- requires that councils and public bodies 'engage constructively, actively and on an ongoing basis' to develop strategic policies
- requires councils to consider joint approaches to plan making.

The NPPF (Paragraph 156) (link below) sets out the strategic issues where co-operation might be appropriate. Paragraphs 178-181 give further guidance on 'planning strategically across local boundaries', and highlight the importance of joint working to meet development requirements that cannot be wholly met within a single local planning area, through either joint planning policies or informal strategies such as infrastructure and investment plans. Further guidance on how the **duty to co-operate** should be applied in local planning is included in the National Planning Practice Guidance (NPPG) (link below).

Section 110 of the Localism Act: <http://www.legislation.gov.uk/ukpga/2011/20/section/110/enacted>

The NPPF (Paragraph 156): <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

National Planning Practice Guidance (NPPG): <http://planningguidance.planningportal.gov.uk/blog/guidance/duty-to-cooperate/>

7. What does the 'duty to cooperate' mean for:

Other public bodies?

- The 'duty to co-operate' also covers a number of public bodies in addition to councils. These bodies are set out in Part 2 of the Town & Country Planning (Local Planning) (England) Regulations 2012 (link below) and comprise:
- Environment Agency
- Historic Buildings and Monuments Commission for England (English Heritage)
- Natural England
- Mayor of London
- Civil Aviation Authority
- Homes and Communities Agency
- Clinical Commissioning Groups
- National Health Service Commissioning Board
- Office of the Rail Regulator
- Highways Agency
- Transport for London
- Integrated Transport Authorities
- Highway Authorities
- Marine Management Organisation

These bodies are required to co-operate with councils on issues of common concern to develop sound local plans.

Local Enterprise Partnerships?

As LEPs are not defined by statute, they are **not** covered by the '**duty to cooperate**'. However, LEPs are identified in the regulations as bodies that those covered by duty 'should have regard to' when preparing local plans and other related activities. Their role in supporting local authorities in plan preparation, particularly in developing the evidence base, is also highlighted in NPPF (Paragraph 160).

LEPs are playing an increasingly important role in the funding of infrastructure and other development to support long term sustainable growth. They are already responsible for **Regional Growth Fund** (link below) and **Growing Places Fund** (link below) but from 2014 will have significantly more responsibility for strategic investment priorities through **Growth Deals** delivered through **Strategic Economic Plans** (link below). From 2014 LEPs will also have responsibility for managing the **European Structure and Investment Funds Growth Programme** (link below) which brings together a number of European funding streams focusing on innovation, supports for SMEs, low carbon, skills, employment and social inclusion.

Regional Growth Fund: <https://www.gov.uk/understanding-the-regional-growth-fund>

Growing Places Fund: <https://www.gov.uk/government/publications/the-growing-places-fund-investing-in-infrastructure>

Strategic Economic Plans: <https://www.gov.uk/government/publications/growth-deals-initial-guidance-for-local-enterprise-partnerships>

European Structure and Investment Funds Growth

Programme: <https://www.gov.uk/government/publications/european-structural-and-investment-funds-strategies-supplementary-guidance-to-local-enterprise-partnerships>

Local Nature Partnerships?

Local Nature Partnerships (LNPs) (link below) are also prescribed in the regulations as bodies which local authorities 'should have regard to' given their role in the management of natural environmental assets, supporting biodiversity and, in particular, identifying Nature Improvement Areas. They are relatively new partnerships and have evolved from recommendations in the Natural Environment White Paper (link below).

The NPPF (Paragraph 165) (link below) encourages local planning authorities to work with LNPs, recognising the valuable input they can make to, for example, assessments of ecological networks and Sustainable Environmental Assessments (SEA) of the local plan.

LNPs: <https://www.gov.uk/government/policies/protecting-biodiversity-and-ecosystems-at-home-and-abroad/supporting-pages/local-nature-partnerships>

Natural Environment White Paper: <http://sd.defra.gov.uk/2011/06/the-natural-choice-securing-the-value-of-nature/>

The NPPF (Paragraph 165): <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Private sector utility providers?

Private sector utility providers are **not** covered by the **duty to co-operate**. However it is their interests and those of councils to be involved in planning. LEPs may provide a forum through which this dialogue can take place.

8. What ways of working and skills may be needed to implement the 'duty to co-operate'?

Co-operation on strategic issues is not new. Councils have a history of working together and with other bodies to address planning issues of common concern and new practice is emerging. Some examples of joint arrangements are set out below.

- Commissioning of **joint evidence** to inform individual core strategies on key issues.
- Development of **'aligned' plans** across several local planning areas that include complementary policies on key issues: for example the 'aligned' local plans in Greater Nottingham (link below)
- **Joint local plans** providing a single plan across several local planning areas, overseen by each authority separately or by a joint committee: for example the Black Country's Joint Core Strategy (link below).

However, until 2011 this kind of joint working has been done mainly to deliver policy objectives set out in structure or regional plans. The scope of such arrangements is now the responsibility of individual local authorities and will have to be agreed locally, with partners, to meet local circumstances.

New approaches, such as non-statutory local investment plans or local strategic statements (setting out broader strategic objectives) are not required but are proving to be useful to local authorities when demonstrating that they have properly addressed strategic planning matters in the local plan and have complied with the duty to cooperate. Two examples of this are the Coastal West Sussex and Greater Brighton Local Strategic Statement (link below) and the Cambridgeshire and Peterborough Memorandum of Cooperation (link below). Some

authorities are also developing new strategic planning frameworks as part of the LEP's Strategic Economic Plans, such as the Greater Birmingham and Solihull Spatial Plan for Recovery and Growth (link below).

All councils will need to further develop partnership working skills at officer and member levels for effective co-operation to work. Strong leadership by councillors and senior officers will be particularly important.

PAS has produced further details on joint working 'good practice' that has emerged under the new strategic planning arrangements: http://www.pas.gov.uk/strategicplanning/-/journal_content/56/332612/4077356/

Greater Nottingham: <http://www.nottinghamcity.gov.uk/article/5770/Local-Plan>

Black Country's Joint Core Strategy <http://blackcountrycorestrategy.dudley.gov.uk/>

Coastal West Sussex and Greater Brighton Local Strategic Statement: <http://www.coastalwestsussex.org.uk/cws-in-partnership/cws-strategic-planning-board/>

Cambridgeshire and Peterborough Memorandum of Cooperation: (PDF 21 pages 1.11MB): <https://www.scams.gov.uk/sites/www.scams.gov.uk/files/documents/Memorandum%20of%20Co-operation.pdf>

Greater Birmingham and Solihull Spatial Plan for Recovery and Growth: <http://centrefenterprise.com/strategic-spatial-framework-plan/>

9. How will the 'duty to co-operate' be tested?

The 'duty to co-operate' is a legal requirement of the plan preparation process (link below). It is the first thing that the Planning Inspectorate (PINS) will look at before considering whether a plan is sound. PINs will need to see sufficient evidence to demonstrate that the 'duty to co-operate' has been undertaken appropriately for the plan being examined.

There is no fixed format for how this evidence should be presented, nor what it should comprise, but it should be:

- flow from the issues that have been addressed jointly
- highlight the practical policy outcomes that have resulted from the joint work.
- succinct, using weblinks to evidence where possible

A 'tick box' approach or a collection of correspondence will not be sufficient. Councils will also need to show how they have considered joint plan-making arrangements, what decisions were reached and why. Councils need to report how the **duty** is being taken forward on an ongoing basis – effective cooperation does not end at adoption – it should continue through plan implementation and its effectiveness should be monitored through the Annual Monitoring Report to help flag up where a review of policy is needed.

Just because a local plan passes the legal test of the **duty**, it does not mean it will be found 'sound' in dealing with strategic matters. The policy outcomes of co-operation will need to be tested against the evidence at examination in the normal way as set out in Paragraph 182 of the NPPF.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Duty to co-operate: <http://www.legislation.gov.uk/ukpga/2011/20/section/110/enacted>

10. What happens if a council or identified public body will not co-operate or cannot agree?

Co-operation works two ways. Situations may arise where an invitation to co-operate is not accepted, or agreement on shared policy outcomes cannot be reached.

Where co-operation is not forthcoming, PINs are likely to consider the extent to which the request to co-operate is 'reasonable' based on the evidence. If the deliverability of the plan is dependent on a reasonable request for co-operation by the plan-making body that is not forthcoming, the plan may still be found unsound unless some form of working arrangement can be brokered.

If PINS consider that the legal requirement to co-operate has been met through joint working but there is disagreement about the policy outcome (for example the proposed level of housing provision), then this will need to be resolved through the examination process based on the evidence.

All of these scenarios will cause delay and uncertainty and should be avoided if possible. Councils and other public bodies covered by the **duty** should make every effort to ensure that strategic issues are properly addressed at the formative stages of the plan preparation process, and that any major disagreements are resolved well before the examination.

Further information:

PAS Making Strategic Planning Happen - http://www.pas.gov.uk/strategicplanning/-/journal_content/56/332612/3603478/ARTICLE

Duty to Cooperate Record of Engagement

Duty to Cooperate record of meetings and engagement between Tonbridge and Malling Borough Council, other local authorities and public bodies regarding Local Plan matters. This record begins from July 2021 when the council recommenced plan making and is not intended to be an exhaustive list of all of the engagement and partnership work that has been undertaken. Specific Duty to Cooperate meetings are held with neighbouring authorities, these are identified in bold in the schedule below.

Other Local Authorities or Public Bodies Involved	Date	Purpose of Meeting or Engagement	Summary of Key Actions and/or Outcomes
Wealden District Council	10.05.24	Response to request from Wealden District Council dated 25.04.24 for assistance with unmet housing and employment needs.	Written response submitted advising that TMBC was not able to assist with unmet needs.
Medway Council	25.03.24	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	TMBC and Medway officers agreed to share and discuss evidence base studies once these were published.
Tunbridge Wells Borough Council	26.02.24	Consultation on proposed changes to the Tunbridge Wells Borough Local Plan (2020 - 2038) response to Examination Inspector's initial findings	Written response submitted. This supported the reduced scale of growth at Paddock Wood and deletion of Tudeley Village allocation from the submitted Plan. Ongoing concerns regarding cross boundary traffic arising from growth at Paddock Wood were outlined.
Maidstone Borough Council	12.02.24	Examination of the Maidstone Local Plan Review – Inspector additional consultation on technical documents 2024.	Written response submitted outlining concerns regarding proposed mitigation for M2 Junction 2.
Kent County Council and JBA consulting	09.01.24	Meeting to discuss TMBC's Strategic Flood Risk Assessment.	To discuss KCC response to the draft SFRA.
Kent County Council	04.01.24	Meeting to discuss SuDS and emerging policy in new Local Plan.	Discussed various aspects of the draft SFRA and surface water flooding, including new draft SuDS policy.
Sevenoaks District Council	13.12.23	DtC meeting (including portfolio holders) - To share Local Plan updates	The Sevenoaks Local Plan (Regulation 18) consultation was discussed, including growth options. TMBC

Other Local Authorities or Public Bodies Involved	Date	Purpose of Meeting or Engagement	Summary of Key Actions and/or Outcomes
		and discuss any cross-boundary matters.	agreed to provide a response to the consultation.
Gravesham Borough Council	08.12.23	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Officers agreed to keep each other informed of evidence and cross-boundary matters, including landscape, highways and the impacts of Lower Thames Crossing.
Maidstone Borough Council	16.11.23	DtC meeting – To share Local Plan updates and discuss and cross-boundary-matters.	Gypsy and Traveller issues were a focus. Maidstone was progressing separate Gypsy and Traveller DPD. TMBC Gypsy and Traveller Accommodation Assessment preparation was ongoing.
Tunbridge Wells Borough Council	07.11.23	DtC meeting – To share Local Plan updates and discuss any cross-boundary matters.	TWBC provided an update on revised draft Tudeley and Paddock Wood strategic allocations, and cross-boundary implications upon Tonbridge and other communities.
Medway Council	16.10.23	DtC meeting – To share Local Plan updates and discuss any cross-boundary matters.	No actions agreed.
Sevenoaks District Council	12.10.23	DtC meeting – To share Local Plan updates and discuss any cross-boundary matters.	Emerging spatial strategies and evidence base work discussed, including Green Belt and transport modelling which were aligned.
Gravesham Borough Council	15.09.23	DtC meeting – To share Local Plan updates and discuss any cross-boundary matters.	No actions agreed.
Kent County Council	13.09.23	District liaison meeting with various service leads to discuss growth and emerging Local Plan infrastructure requirements.	Local Plan update shared by TMBC officers. Infrastructure and Service capacity issues were discussed covering, highways, education, flood risk and heritage.

Other Local Authorities or Public Bodies Involved	Date	Purpose of Meeting or Engagement	Summary of Key Actions and/or Outcomes
Sevenoaks District Council, Tunbridge Wells Borough Council and JBA consulting	06.09.23	Meeting with West Kent districts to discuss TMBC's Strategic Flood Risk Assessment modelling.	Agreed with JBA to share, flood zone 2 and 3b modelling outputs as these become available.
Tunbridge Wells Borough Council	24.08.23	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	TWBC officers provided update on work that was ongoing to address their Inspector's concerns re Tudeley and Paddock Wood allocations.
Maidstone Borough Council	02.08.23	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Progress on Local Plans was discussed including preparation of evidence with specific focus upon Gypsy & Traveller accommodation needs, highways and minerals and waste.
Kent County Council	20.07.23	Minerals Site Plan Regulation 18 consultation.	Written response submitted. Concerns outlined regarding the proposed new hard rock site at Oaken Wood and the impact upon the ancient woodland, ecology and biodiversity.
Maidstone Borough Council	17.07.23	To discuss the Kent Minerals Sites Plan Regulation 18 consultation.	A new hard rock site was proposed at Oaken Wood that straddles the borough boundary. Agreed that both authorities had significant concerns over the potential impacts and their respective responses would reflect this.
Maidstone Borough Council	30.6.23	Meeting to discuss Maidstone's Design and Sustainability DPD.	Local Plan updates shared including timings of DPD Regulation 19 consultation. Integration of Local Plan policies with DPD discussed as well as TMBC's previous consultation comments.
Gravesham Borough Council	14.6.23	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Updates were provided regarding respective Local Plan timetables and evidence preparation. Timetable. Officers agreed

Other Local Authorities or Public Bodies Involved	Date	Purpose of Meeting or Engagement	Summary of Key Actions and/or Outcomes
			to provide future updates regarding key evidence and potential cross-boundary matters, including transport modelling, Lower Thames Crossing, Green Belt and AONB impacts as well as Gypsy and Traveller needs.
Medway Council	12.6.23	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Updates shared on Local Plan progress, timetables, and evidence. Potential cross-boundary site discussed. Officers agreed to continue to liaise in regarding matters including transport modelling and Lower Thames Crossing.
Maidstone Borough Council	26.5.23	Response to the Maidstone Borough Council, Design and Sustainability DPD – Regulation 18b preferred approach.	Written response submitted.
West Kent including Sevenoaks District Council, Tunbridge Wells Borough Council	18.05.23	Joint DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	A joint West Kent officer update meeting follow the May elections, covering Local Plan progress updates, evidence and infrastructure matters as well as changes to political representation.
Tunbridge Wells Borough Council	28.04.23	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	TWBC officers updated on work responding to their Examination Inspector’s initial findings, this was ongoing including preparation of a Bus Study. TMBC Local Plan evidence preparation was ongoing, including transport modelling.
Tunbridge Wells Borough Council	27.04.23	Meeting to discuss TMBC’s Strategic Flood Risk Assessment modelling.	Agreed to share the JBA SFRA fluvial flood risk modelling to Tunbridge Wells BC – for areas around Paddock Wood.

Other Local Authorities or Public Bodies Involved	Date	Purpose of Meeting or Engagement	Summary of Key Actions and/or Outcomes
Maidstone Borough Council	17.04.23	Response to Regulation 18a Gypsy, Traveller & Travelling Show people consultation.	Written response submitted. This advised that TMBC were unlikely to be able to assist with unmet need.
Tunbridge Wells Borough Council	23.03.23	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	TWBC Local Plan update on work progressing to respond to Examination Inspector's initial findings, including transport modelling. Statement of Common Ground reviewed.
Maidstone Borough Council	07.03.23	Response to Maidstone's Local Plan Examination Inspectors Matters Issues and Question's.	Written response submitted. This covered the Inspectors matters, issues and questions on Matter 8 (Housing Delivery), Issue 3 (Provision for Gypsies, Travellers, Travelling Showpersons and households not seeking bricks and mortar homes)
Sevenoaks District Council	11.01.23	Response to The Sevenoaks District Council Local Plan Regulation 18 consultation & request for help with unmet need.	Written response provided. Advised SDC that TMBC was not able to assist owing to similar environmental constraints and market absorption rates.
Kent County Council, Tunbridge Wells Borough Council	16.12.22	DtC meeting - To share Local Plan updates and discuss cross-boundary matters specifically relating to Tudeley Village.	Local Plan and evidence updates shared, relating to Tunbridge Wells Bus Study, transport modelling and active travel work.
Maidstone Borough Council	12.12.22	Response to the Maidstone Reg 18 Design and Sustainability DPD consultation.	Written response submitted.
Maidstone Borough Council	08.12.22	Meeting to introduce Maidstone's Regulation 18 consultations on their Design and Sustainability and Gypsy and Traveller	TMBC agreed to review and respond to the forthcoming consultations.

Other Local Authorities or Public Bodies Involved	Date	Purpose of Meeting or Engagement	Summary of Key Actions and/or Outcomes
		Development Plan Documents.	
Sevenoaks District Council	08.12.22	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	SDC to write to TMBC requesting a response to the consultation and highlighting unmet need.
Tunbridge Wells Borough Council	06.12.22	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Update provided on TWBC Local Plan Examination and Inspector's initial findings, primarily in respect of Tudeley Village.
Kent County Council	30.11.22	KCC Minerals and Waste Local Plan Regulation 18 II consultation	Written response submitted covering - Local Plan timeline, vision, objectives, policies, sustainability appraisal, strategic flood risk assessment and safeguarding map.
West Kent including Sevenoaks District Council, Tunbridge Wells Borough Council	22.11.22	Joint DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Short presentation provided on Sevenoaks Local Plan Regulation 18 consultation, with updated provided on key sites and evidence preparation.
Maidstone Borough Council	04.11.22	DtC meeting (including portfolio holders) - To share Local Plan updates and discuss any cross-boundary matters.	Short presentation shared on TMBC Local Plan Regulation 18 Consultation. Update provided on Maidstone Local Plan Examination.
Sevenoaks District Council	02.11.22	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Ongoing Local Plan evidence work discussed, including viability, Green Belt, landscape, biodiversity, open space & play space, air quality, Habitats Regulations Assessment, Equality Impact Assessment.
Kent County Council	20.10.22	District liaison meeting with various service leads to discuss growth and emerging Local Plan infrastructure requirements.	Local Plan update shared by TMBC officers. Infrastructure and Service capacity issues were discussed covering,

Other Local Authorities or Public Bodies Involved	Date	Purpose of Meeting or Engagement	Summary of Key Actions and/or Outcomes
			highways, education, flood risk and heritage.
Medway Council	10.10.22	DtC meeting (with members) this followed the officer meeting below.	Short presentation on TMBC Reg 18 Consultation.
Medway Council	10.10.22	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Short presentation shared on TMBC Reg 18 consultation. Update and timescales for Medway Council Local Plan work. Lower Thames Crossing DCO discussed.
Maidstone Borough Council	06.10.22	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Short presentation on TMBC Reg 18 Consultation. Maidstone Local Plan Examination update. Maidstone advised on preparation of DPD's on Design and Sustainability and Gypsy and Travellers Flood Risk and water cycle matters discussed.
West Kent including Sevenoaks District Council, Tunbridge Wells Borough Council	04.10.22	Joint DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	TMBC to share list of their Local Plan evidence to be commissioned, in consideration of opportunity to joint commissioning. SDC identified that they will have a potential circa 6000 dwelling shortfall, however varying scenarios were being considered.
Gravesham Borough Council	29.09.22	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Short presentation on TMBC Reg 18 consultation shared. Gravesham informed that TMBC would be engaged on their gypsy and traveller work when this is progressed.
West Kent including Sevenoaks District Council,	07.09.22	Joint DtC meeting - To share Local Plan updates	Local Plan updates shared.

Other Local Authorities or Public Bodies Involved	Date	Purpose of Meeting or Engagement	Summary of Key Actions and/or Outcomes
Tunbridge Wells Borough Council		and discuss any cross-boundary matters.	Matters discussed – housing, Green Belt, transport, gypsy and traveller needs and TMBC Reg 18 Local Plan Consultation.
West Kent including Sevenoaks District Council, Tunbridge Wells Borough Council	21.07.22	Joint DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Local Plan updates shared. Strategic matters discussed including – Green Belt, transport, gypsies and travellers and development in protected landscapes.
Maidstone Borough Council	18.05.22	Meeting with Maidstone to discuss TMBC’s representations to their Local Plan Regulation 19 re Gypsies and Travellers.	No actions agreed.
West Kent including Sevenoaks District Council, Tunbridge Wells Borough Council	11.05.22	Joint DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Local Plan updates shared. Other matter discussed included requests for assistance with unmet need from other authorities, ability of authorities to meet their own needs and ensuring a consistent approach to exceptional circumstances for Greenbelt release and major development in national landscapes.
Medway Council	03.05.22	DtC meeting (including portfolio holders) - To share Local Plan updates and discuss any cross-boundary matters.	Discussed the following strategic issues, gypsy and traveller needs, economic development, infrastructure including Lower Thames Crossing, flood risk, air quality and future engagement.
Medway Council (meeting cut short and rearranged for 03.5.22).	19.04.22	DtC meeting (including portfolio holders) - To share Local Plan updates and discuss any cross-boundary matters.	Discussed strategic and cross boundary matters including housing sites and transport.

Other Local Authorities or Public Bodies Involved	Date	Purpose of Meeting or Engagement	Summary of Key Actions and/or Outcomes
Maidstone Borough Council	29.03.22	DtC meeting (including portfolio holders) - To share Local Plan updates and discuss any cross-boundary matters.	Updates shared on matters including – housing, employment including retail, protected landscapes, biodiversity, air quality, flooding, highways, education and gypsy and traveller needs.
Maidstone Borough Council	28.03.22	Final agreement of Statement of Common Ground	SoCG signed 28.03.
Tunbridge Wells Borough Council	22.03.22	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Update on TWBC Local Plan and potential for unmet housing need in the West Kent Housing Market Area. Cross-boundary working on highways and flooding matters in relation to strategic sites.
Gravesham Borough Council	09.03.22	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Updates shared on matters including – housing and objectively assessed needs, development strategy and strategic sites, gypsies and travellers, employment including retail, gypsy and traveller needs, highways, flood risk and protected landscapes.
West Kent including Sevenoaks District Council, Tunbridge Wells Borough Council	21.02.22	Joint DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Local Plan updates shared on matters including – housing, employment including retail, Infrastructure, opportunities for commissioning joint evidence.
Kent County Council	09.02.22	Response to the Kent County Council Minerals and Waste Plan Reg 18 Consultation.	Written response submitted. Comments related to, vision, objectives, policies and text, and the Sustainability Appraisal scoping report.
Sevenoaks District Council	08.02.22	DtC meeting (including portfolio holders) - To share Local Plan updates	Updates shared on matters including – housing, gypsy and traveller needs, economic development,

Other Local Authorities or Public Bodies Involved	Date	Purpose of Meeting or Engagement	Summary of Key Actions and/or Outcomes
		and discuss any cross-boundary matters.	infrastructure, flood risk, environment, air quality and future engagement.
Maidstone Borough Council	12.12.21	Response to Regulation 19 Local Plan consultation.	Written response submitted.
Tunbridge Wells Borough Council	28.10.21	Tunbridge Wells Local Plan Examination Statement of Common Ground.	Signed Statement of Common Ground submitted.
Medway Council	13.10.21	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Updates shared on matters including – housing, economic development, transport, environment, and unmet needs requests from other areas.
Maidstone Borough Council	27.09.21	DtC meeting (including portfolio holders) - To share Local Plan updates and discuss any cross-boundary matters.	Members were introduced to the DtC engagement process. Updates shared on draft SoCG, highways infrastructure at Hermitage Lane, housing and gypsy and traveller needs.
Maidstone Borough Council	04.08.21	DtC meeting - To share Local Plan updates and discuss any cross-boundary matters.	Updates shared on matters including – Maidstone Local Plan timetable key dates, draft Statement of Common Ground, cross boundary transport issues, housing delivery including proposed garden communities, employment, gypsies and travellers, biodiversity and environment.
Tunbridge Wells Borough Council	03.06.21	Response to Regulation 19 Local Plan consultation.	Written response submitted.

TRANSFER INCENTIVE SCHEME

Item HP 24/25 referred from Housing and Planning Scrutiny Select Committee of 21 May 2024

Members considered proposals for a new transfer incentive scheme policy to assist Tonbridge and Malling Borough Council to make the best use of existing housing stock.

A potential Scheme was attached at Annex 1 and proposed incentive payments ranging from £1,500 to £3,500 depending upon the size of the property released with an additional £2,000 for the freeing up of an adapted property. Funding for the Scheme would be met from existing budgets such as Discretionary Housing Payments or Housing Assistance reserve.

The Scheme would be closely monitored and where it was determined that there was no available funding in year, applications could be deferred to the following year.

It was recognised that a financial incentive might not be the only factor in encouraging a tenant to downsize. The Borough Council would work with relevant housing providers and other agencies to offer support where required.

***RECOMMENDED:** That the Transfer Incentive Scheme (at Annex 1) be commended to Cabinet for approval.

***Recommended to Cabinet**

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TONBRIDGE & MALLING BOROUGH COUNCIL
HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

21 May 2024

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

1 TRANSFER INCENTIVE SCHEME

Summary

This report recommends the approval of a new transfer incentive scheme policy to help Tonbridge & Malling B.C. make the best use of existing housing stock.

1.1 Background

1.1.1 Tonbridge & Malling B.C. (TMBC) needs to ensure that the most effective use of the housing stock in its borough is being made. Where properties are under-occupied or where adapted properties are occupied by those who do not require adaptations, those in need of larger properties or those with disabilities are less likely to be rehoused. A transfer incentive scheme policy is intended to help ensure that properties are being matched to housing need and contributes to other approaches to manage under occupancy taken by both TMBC and housing providers.

1.1.2 An action to investigate a pilot project to address under occupation formed part of the Housing Strategy Action plan for year 2 2023-24.

1.1.3 A Transfer Incentive Scheme is attached at **Annex 1**. This provides incentive payments ranging from £1,500 to £3,500 depending on the size of the property freed up with an additional £2,000 for the freeing up of an adapted property.

1.1.4 It is recognised that a financial incentive may not be the only factor or indeed the most important factor in encouraging a tenant to downsize. We will work with the relevant housing provider to provide support where required in terms of easing any move and we will link in where appropriate with other agencies who could offer practical help e.g. support with new fixtures and fittings etc.

1.2 Legal Implications

1.2.1 Ensuring the best use of the housing stock contributes towards the legal housing duties we have under Part 6 and 7 of the Housing Act 1996.

1.3 Financial and Value for Money Considerations

- 1.3.1 The funding for this scheme will come from existing budgets. For applicants in receipt of a relevant means tested benefit this will be from the Discretionary Housing Payments (DHP) budget and for others it will be from the Housing Assistance reserve.
- 1.3.2 The scheme will be closely monitored for take up and applications managed with the existing budget available. Where it is determined there is no available funding in year, applications may be deferred to the following year.

1.4 Risk Assessment

- 1.4.1 There are no perceived risks with the adoption of this policy.

1.5 Recommendations

- 1.5.1 That Members **RECOMMEND** to Cabinet the approval of the transfer incentive scheme as detailed at Annex 1.

Background papers:

Nil

contact: Linda Hibbs, Head of
Housing and Health/ Gillian
Aylett, Housing Strategy and
Enabling Manager

Eleanor Hoyle
Director of Planning, Housing and Environmental Health

Transfer Incentive Scheme

Version: 1

Approved: [date]

1.0 Introduction

- 1.1 Tonbridge and Malling Borough Council is committed to working with its Registered Provider partners to make best use of social housing stock in the borough. There is a limited supply of rented social housing and adapted social housing in the borough. This Transfer Incentive Scheme (the scheme) is aimed at social housing tenants under-occupying their homes or who no longer need an adapted home.
- 1.2 The scheme outlines the Council's approach to enabling tenants to move to smaller homes if they are under-occupying their current home. The Scheme is for Registered Provider tenants who are living in family size accommodation, have one or more bedrooms they no longer need and are interested in downsizing or ending their tenancy. Tenants have the option of transferring to another social housing property or moving to the private sector.
- 1.3 The scheme is also available for tenants living in an adapted property who no longer require those adaptations and could move to another home without adaptations (even with the same number of bedrooms), freeing up an adapted property for someone who needs it.
- 1.4 The scheme relates to tenants of social or affordable rent properties. It does not apply to intermediate affordable housing tenures such as shared owners, leaseholders or intermediate rent or any accommodation occupied on unsecure terms such as temporary accommodation or licence agreement.

2.0 Scope and criteria

- 2.1 The scheme is available to social housing tenants living in the Tonbridge and Malling Borough who:
 - Hold a Secure tenancy agreement (Assured or Secure) – starter or introductory tenancies are not eligible
 - Have been assessed and accepted onto the housing register for a transfer move. You can find more information on applying to the housing register [here](#)
 - Occupy a general needs or adapted property
 - Agree to transfer to a smaller property that meets their assessed housing need and/or a non-adapted property and provide vacant possession of their current

home. Housing need is assessed through the Housing Allocations Scheme, with one spare room allowed for households who are downsizing or moving home under this scheme.

- Are under-occupying or living in an adapted home and relinquish their home and tenancy, moving out of their social housing home into another tenure such as private rental or home ownership. Once the tenant has formally ended their tenancy and given vacant possession of the home to the Registered Provider payments can be released.

2.2 There are circumstances that will exclude tenants from being eligible for the Transfer incentive scheme as follows:

- Any form of legal or possession action; possession orders, Notice of Seeking Possession, demotion notice
- Where the tenant has previously received a Transfer Incentive Scheme payment or similar incentive from their Registered Provider landlord.
- Where a Registered Provider will not accept the creation of a new tenancy following any policies they have in place on allocations and tenancies.

2.3 As well as moving through a transfer to another social home via the Housing Register, tenants who may choose to move by buying a home or renting privately, are also eligible for the incentive scheme as they will be relinquishing a social home.

2.4 An adapted property is a home with major adaptations for example a through floor lift, level access to the property in the form of a permanent ramp or similar or accessible bathroom such as wet room.

3.0 Incentive payments

3.1 Incentive payments under this scheme to qualifying tenants are:

- £1,500 if the property freed up is a two bedroom home
- £2,500 if the property freed up is a three bedroom home
- £3,000 if the property freed up is a four bedroom home
- £3,500 if the property freed up is a five or more bedroom home
- £2,000 if the property freed up is an adapted property, even if the property moved to is a home with the same number of bedrooms. This can be in addition to the amounts above.

3.2 The amounts above for downsizing moves are by the number of bedrooms at the home being downsized from and freeing up to the housing stock.

3.3 The size of the property a qualifying tenant is able to move to will be assessed and agreed through a Housing Register application in line with the Council's Housing

[Allocations Scheme](#) with an additional 'spare' room allowed for transfer moves under this scheme.

- 3.4 Payment is made once the Registered Provider confirms the tenancy for the new home has been signed. For a move to the private sector, proof of the new tenancy or home ownership will be needed before any payment is issued. Payment will be made by BACS transfer only.
- 3.5 Incentive payments under this scheme are subject to budget limits, meaning:
- Once the annual budget for the scheme is met no further payments will be made through the scheme unless further budget provision can be identified. We may need to assist with a transfer in the following financial year.
 - While the offer is operating with budget available during a financial year, priority will be given to those moving from accommodation that is most needed; i.e. larger family homes with 4 or more bedrooms or adapted properties.

4.0 Approach to transfers - application and assessment

- 4.1 Tenants who believe they are eligible for the transfer incentive scheme will need to be accepted onto and have a live application on the Housing register. The homes that can be bid on through the Kent HomeChoice choice based lettings system online will be confirmed through a housing register application.
- 4.2 Tenants accepted onto the Housing Register are given priority linked to the extent they are under-occupying their current home.
- 4.3 The Council may make direct offers of accommodation for transfer households downsizing or moving from a wheelchair adapted home.
- 4.4 If a tenant is under-occupying an adapted property (which has been funded through a disabled facilities grant) the Council will work with the Registered Provider to try and find a suitable smaller property that is already adapted to meet the households needs. Where this is not possible, a smaller property that needs adaptations will be considered with suitability and extent of works needed to be informed by an occupational therapist assessment.
- 4.5 To apply for the scheme if you are moving into the private sector, whether renting or buying, you'll need to complete the transfer incentive form at least a month before the move. Proof of the new tenancy or home ownership will be needed before any payment is issued.

5.0 Reviews

- 5.1 If an applicant for this scheme is not happy with how this scheme has been applied or believe the council has not followed this scheme as set out in this document they can request a review.
- 5.2 Review requests need to be made within 21 calendar days of receiving the original decision stating why the applicant is not happy with how the scheme has been applied or why the scheme has not been followed.
- 5.3 You can request a review by email to housing.services@tmbc.gov.uk or by post to: Housing Services, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling. ME19 4LZ.

6.0 Monitoring and review

- 6.1 This scheme offer will be reviewed annually, or sooner if required by changes due to budget, legislation or relevant case law.
- 6.2 Minor changes, which make no significant difference to service provision, will be made to the document under delegated authority by the Director of Planning, Housing and Environmental Health in consultation with the Cabinet Member for Finance and Housing.

GRAFFITI UPDATE

Item CE 24/16 referred from Communities and Environment Scrutiny Select Committee of 22 May 2024

The report of the Interim Chief Executive provided an update on the work to tackle graffiti in the borough, including feedback from the public consultation and the development of a graffiti policy.

With regard to the idea of a 'graffiti wall', Members noted that at present there was lack of evidence to prove the effectiveness of graffiti walls in reducing the incidents of illegal tagging within an area. Furthermore, operational and financial concerns in respect of the establishment and maintenance of a graffiti wall were also flagged.

Consideration was given to a draft Graffiti Policy, attached at Annex 2, which sought to clarify the responsibilities in respect of graffiti clearance and removal. Whilst the Borough Council did not have a statutory duty to remove graffiti on privately owned property, work with Community Payback scheme was ongoing with a view to removing graffiti from privately owned properties if deemed suitable and appropriate. Introduction of the Policy was welcomed by Members with particular reference made to its communication for awareness of members of the public and the wider community.

RECOMMENDED*: That

- (1) the report be noted;
- (2) the lack of evidence of the effectiveness of graffiti walls to reduce illegal tagging be acknowledged; and
- (3) the Graffiti Policy, attached at Annex 2, be adopted.

***Recommended to Cabinet**

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TONBRIDGE & MALLING BOROUGH COUNCIL
COMMUNITIES AND ENVIRONMENT SCRUTINY SELECT COMMITTEE

22 May 2024

Report of the Interim Chief Executive

Part 1- Public

Matters for Recommendation to Cabinet – Non Key Decision

1 GRAFFITI UPDATE

This report provides an update on the work to tackle graffiti in the borough, including feedback from the public consultation and also on the development of a graffiti policy.

1.1 Background

1.1.1 Members will remember that in November, an initial report was discussed in relation to how the council tackles graffiti. This set out the Council's current approach to removing graffiti and proposed the development of a graffiti policy and a public consultation to gather views in relation to a 'graffiti wall'.

1.1.2 These items have now been undertaken and this report provides feedback on these matters to Members.

1.2 Results of the graffiti survey

1.2.1 The public consultation in relation to graffiti was open from 22 January to 29 February 2024, and we received 115 responses. A copy of the replies can be seen at **Annex 1**.

1.2.2 Of those who replied, 105 had seen graffiti in the borough and 78 of those were concerned about this. We then asked people's views on whether they would like to see a graffiti wall in the borough. Of those who replied 57 stated they would, 47 would not and 11 did not know. Comments in relation to this included:

"I would only want them if they are a proved deterrent from graffiti appearing across the town."

"It will still be an eye sore, and it will be unfair if it is put up near a local business or homes. Even if put up in an area like a park it will just be an eye sore."

"In theory it sounds like a good idea. It just depends on where it is, how well it is painted and how it is maintained and/or refreshed".

- 1.2.3 In order to look at whether a graffiti wall was something that we would want in Tonbridge & Malling, I consulted with Tunbridge Wells Borough Council who have a graffiti mural wall in Grosvenor and Hilbert Park. This has been in place for around seven years and is managed by the park's Friends Group and the Borough Council. The wall is used by graffiti artists, who generally create art, rather than just tagging. The wall looks after itself, with a group of artists refreshing the artwork periodically. Tunbridge Wells Borough Council could not evidence whether the use of their graffiti mural wall had led to a reduction in graffiti tags across the rest of the town.
- 1.2.4 Tunbridge Wells Borough Council do monitor the wall during normal park visits, and they have a park keeper on site who reports anything offensive or considered controversial or political. They have only had one incident that needed action in the seven years the wall has been in place.
- 1.2.5 I did ask other county colleagues if they had used graffiti walls. Canterbury City Council were the only other location to come back to me. They have not used graffiti walls but have used graffiti murals to cover up areas where they had previously had graffiti reported, such as underpasses and empty buildings. They found that the graffiti murals were well received and had not, to date, been graffitied over. However, there was a cost implication to this. They were able to fund this work through Welcome Back Funding (Covid related funding).
- 1.2.6 Evidence as to whether graffiti walls are effective is difficult to source, however, an EnCams report (*'Good Graffiti, Bad Graffiti? A new approach to an Old Problem, 2008'*) carried out case studies into established graffiti walls across the county. Their research suggested that graffiti walls were more likely to succeed if the initiative was rooted in the community, particularly amongst young people. The most successful examples of graffiti walls were those that were managed by young people and subsequently adopted by the council. However, they found that it was extremely difficult to measure the success of graffiti walls in terms of reducing the wider graffiti problem.
- 1.2.7 Graffiti murals on the other hand, do seem to have a positive impact on an area though and research shows that murals can reduce instances of vandalism. One reason might be potential community involvement in mural projects, which fosters local pride and ownership feelings over public spaces.
- 1.2.8 Whilst the Council may wish to consider the establishment of a graffiti wall, officers do have concerns around these. There are concerns around identifying the correct location for a wall, there would be a need to check for inappropriate or offensive graffiti and concerns around who would then be responsible for managing and maintaining the walls and any associated costs with this. It is also not known at present, whether a graffiti wall would help to reduce incidents of tagging within an area and therefore members may feel that further information would be needed before a decision can be taken.

1.3 Graffiti policy

- 1.3.1 Following on from the last report we have now drafted the attached Graffiti policy at **Annex 2**. The proposed policy attempts to provide residents and businesses with clarity as to responsibilities for graffiti clearance and deliver a graffiti removal service that is efficient and sustainable within the resources and budget allocation.
- 1.3.2 Any offensive graffiti on property owned by the Council will be removed within two working days and anything non-offensive on property owned by the Council will be removed in ten working days.
- 1.3.3 The council does not have a statutory duty to remove graffiti on privately owned property. The owner/tenant of the property will be required to arrange removal by either themselves or a third-party contractor.
- 1.3.4 Where appropriate we will look to link in with Community Payback to see if they can assist in removing graffiti from privately owned property.

1.4 Removing graffiti

- 1.4.1 The Council is continuing to remove graffiti from its own property (as set out in our policy). Between November and the end of April there were 8 incidents of graffiti noted and removed directly by Technical Services. In the last 6 months Leisure have removed 19 instances of graffiti on our land and Waste Services have received 17 reports of graffiti so far during 2024.
- 1.4.2 We are working with Community Payback to remove graffiti from privately owned property. However, whilst we have nominated three graffiti locations to be removed, unfortunately none of these could be progressed due to health and safety concerns due to the specific location of the graffiti and the potential risks to the workers. However, we are continuing to work with Community Payback when we get reports sent into us and hope that they will be able to remove graffiti in due course.
- 1.4.3 I have also been able to purchase a number of graffiti removal kits. Three of these kits are kept at the Kings Hill offices and three at Tonbridge Castle. They can be used by officers and Members if required. If Members would like to use the kits from Tonbridge Castle, then please contact me and I will let the Castle know. Any graffiti removed from privately owned property would need the owner's permission first.

1.5 Legal Implications

- 1.5.1 There is no legal requirement for the Council to remove graffiti, however Section 17 of the Crime and Disorder Act 1998 states that it is a legal duty for all local authorities to consider the impact of their functions and decisions on crime and disorder in their area. This means that Local Authorities have to do all that they reasonably can to prevent crime, disorder and anti-social behaviour.

1.6 Financial and Value for Money Considerations

- 1.6.1 There will be a financial impact if Members decide to establish a graffiti wall. These costs are not known currently and would require further investigation.

1.7 Risk Assessment

- 1.7.1 Any appropriate risk assessments would be carried out. If a graffiti wall(s) was to be implemented then this would require its own risk assessment(s) to be completed.

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 Waste Services, Community Safety

1.10 Recommendations

- 1.10.1 That Members note this report and the lack of evidence of the effectiveness of graffiti walls to reduce illegal tagging.
- 1.10.2 That Members adopt the Graffiti Policy as attached at Annex 2.

Background papers:

Nil

contact: Alison Finch
Safer & Stronger Communities
Manager

Adrian Stanfield
Interim Chief Executive

Results from the graffiti consultation

The consultation asked respondents for their views on graffiti within the borough and also asked for views on the use of graffiti walls.

The consultation was open from 22 January to 29 February 2024, and we received 115 responses.

1. Have you seen any graffiti in the borough

Yes: 105

No: 8

Don't know: 2

2. If so, are you concerned about this?

Yes: 78

No: 27

Don't know: 7

3. The Borough Council is working to tackle this issue and as part of this we are considering the use of graffiti walls. Graffiti walls are an area which can be legally used to do graffiti. These differ from street art which is generally more visually appealing. Would you be happy to see graffiti walls used in the borough?

Yes: 57

No: 47

Don't know: 11

4. If you answered 'no' or 'don't know' to the question above, why was this?
Please explain below:

"Because some of the graffiti in Tonbridge was obscene and it will only encourage this to be done under the guise of art".

"Graffiti walls encourage tagging which will spread to areas around the wall. It would be naive to think those doing it would stick to the allocated areas".

"It won't deter graffiti on other surfaces".

"I am unconvinced that an 'approved' wall will reduce graffiti. It may appeal to 'taggers' who are interested in the artistic value, but will that include all people who spray walls?"

"It makes everywhere look disgusting, would this wall be tucked away from the main town"

"It will make people think it is ok to deface buildings in this way"

"One man's waste is another man's treasure. The same is said for art.

*Clearly the tags are not visual appealing to 99% of people and to allow one allows all! It opens up for people to carry paint and pens to carry out tags elsewhere on a whim. The Waitrose supermarket in tonbridge still says c**t on the side after numerous cleans. Graffiti needs to be discouraged not encouraged"*

"There will still be graffiti elsewhere as well as on the wall"

"Allowing some graffiti will lead to more in other areas"

"It will still be an eye saw and it will be unfair if it is put up near a local business or homes. Even if put up in an area like a park it will just be an eye saw."

"Would prefer a proper street art wall"

"I would only want them if they are a proved deterrent from graffiti appearing across the town."

"Look awful i never let my kids draw on my walls at home so why on walls outside?"

"It would depend on where they are and what evidence there is that they would deter people from graffitiing anywhere and everywhere"

"The issue is there is too much graffiti in the borough. Graffiti walls will introduce and legitimise graffiti in the borough. Rather than a solution it maintains the status quo. I am sceptical that graffiti walls will reduce overall graffiti as such individuals have a demonstrable willingness to subvert norms and break the law. I see no reason why they wouldn't continue to graffiti as before. A better solution would be CCTV and action from law enforcement. Graffiti is unbecoming of a rural borough like Tonbridge and Malling."

"Allowing it legally just raises the likelihood that more people will get into it and if that's the case Tonbridge will look like the trainline into Victoria before long"

"It's an eyesore & just encourages more graffiti"

"This would entice others to tag other property when there was no access to such a wall."

"Mural walls give licence to others to paint as they think it is acceptable."

"Why not run a club for graffiti and art in the angel centre,"

"I detest graffiti and it is an invitation to crime. It just looks awful especially in rural or suburban areas. I would be horrified to see any in beautiful West Malling or environs. Totally out of keeping."

"No it degrades the area. Also encourages other antisocial behaviour. Extension rebellion is spraying its logo on the train approach and bin outside the foresters. They are also fly posting every month on bus stops and empty shops on the high st. Pls prosecute them"

"Because that is not art, it is just doodling and showing off a fancy signature, i.e. Ugly self promotion!"

"Why encourage it? And doesn't this contradict the law in not selling aerosols to youths? Or are you planning to give them aerosols and hope they will only use "graffiti walls"? Which are an eyesore as well..."

"Don't encourage them! This is not art, it is extremely ugly."

"A wall with graffiti art - maybe commissioned locally to engage young people from schools/youth clubs, that felt engaging and meaningful to TMBC and our community could be a powerful and engaging piece of art. Would a graffiti wall be essentially TMBC owned walls that would be set aside as an outlet? Or would walls like the sides of businesses CEX or the side of Poundsnd etc be left? Personally these are spaces which can look grotty and so the tags and graffiti create a more negative environment. I would want businesses to ensure graffiti is painted over and these walls kept clean or they are candidates for street art (associated with the business). Generally people don't tag over street art."

"I understand the theory of why to provide them, but I worry they may also encourage an uptick in graffiti in the nearby surrounding region if not handled correctly. If a suitable site is found near youth oriented facilities but not too close I may support them."

"Yes if it keeps graffiti away from other areas and keeps them graffiti free."

"Makes the area look like an inner city slum."

"Providing a wall for people to graffiti is not dealing with the issue of it being an illegal activity. I would equate it to the absurdity of councillors picking up other people's litter on a regular basis. Also allowing people to paint freely on certain walls in the town could lead to there being more examples like the dreadful example that blights the wall next to the public toilets in Priory Road."

"These sort of things are normally only seen in inner city urban development and are not suitable for our rural countryside and they look horrible."

"We have a lot of Antisocial Behaviour in our area, and graffiti already on the hoardings next to Hillsong Church. It's started!! We do not want it to spread."

"A graffiti wall will not stop graffiti. It's done to be antisocial not as a piece of art for people to enjoy. It makes the area look so deprived."

"I answered yes, but it's yes with serious caveats - commission local artists to get the ball rolling on this wall and set a high standard that values skill and creativity.

Signage to make it clear what the wall is for helpful, as would having a webpage dedicated to displaying monthly photos of the wall's changing landscape. It'd also be good for everyone to know they can use the wall at any time but if they get in touch they can be credited on the webpage - therefore it becomes a portfolio opportunity for them. Basically, I think for best results some degree of active management is key."

"I'm not sure, depends where the walls are"

"In theory it sounds like a good idea. It just depends on where it is, how well it is painted and how it is maintained and/or refreshed"

"Graffiti is an act of vandalism and as such should not be encouraged. Street Art however is totally different and I would welcome considered street art"

"It does nothing for the high street or town it's anti social behaviour and needs to be stopped! we need more police patrolling the town. Youths just hanging about and messing about on there bikes doing wheelies on the footpath!"

"All graffiti should be stopped; any selective permission at any site would be seen as general encouragement and appeasement (appeasement or partial tolerance well just look at Hitler!)"

"i haven;t seen evidence (research) to know weather designating specific spaces to graffiti works. Surely this just moves the problem to another area of town."

"Complete waste of time, unless this can be manned at all times. People will not stick to the allocated wall, therefore it will not solve the problem at all in fact it will only exasperate it even more."

"Graffiti is unsightly and looks untidy, why should tax payers have to pay for this when money could be spent elsewhere."

"Not in the many historic and rural villages and towns. Other than that...I think graffiti walls can be very interesting...omitting foul language."

"graffiti has no place in our community and encouraging this scourge by having an approved wall is completely wrong"

5. If you have any further comments or have any ideas how we can tackle graffiti please give these below:

"Have a dedicated removal team who are proactive and remove within 24 hours of reporting"

"Heavier fines will help, Tonbridge has cameras everywhere"

"I would love to see a graffiti wall in Tonbridge, generally people tagging respect these and don't paint over them (e.g. Grovesner Park in Tunbridge Wells). More murals like the one in Barden would be good too. Perhaps tmbc could talk to businesses like Cook and CeX about getting some high quality street art on the side of their buildings? Could be gaming themed on CeX or food themed on Cook (as both these businesses have a problem with tagging on their side). If you do find a good central location for a main street art wall you should kick-start it by getting some respected local graffiti artists to help create it"

"Just leave it unless it is offensive"

"Catch and Prosecute the offenders"

"The fact that you are considering a graffiti wall is beyond me - spend the money on CCTV or perhaps sporting facilities. Glorifying the likes of Banksy in the media does not help this issue. It's graffiti not art and no one asked for it! What's next? a used chewing gum wall because a small minority of people think that's ok. TMBC get on with making positive changes not negative ones!"

"I don't think a graffiti wall will resolve the issue of increased graffiti as those who do it are mostly off their faces on drugs sold in the area."

"Remove it / paint over it all as soon as possible... if the graffiti artists see that it will be promptly removed then the cost of the paint is wasted. There is a lot alongside M20 between J4 and J5 and there is some on A228 in tunnel below A20."

"Need more people to clean it up when it is first spotted. As the more that is left up the more people will do it again and again. Need more CCTV."

"It's the tags on the green broadband boxes that is the worst- so pointless and looks awful."

"Some people think that it is art - I disagree - and believe it is criminal damage. Tonbridge like many towns locally and nationally which are blighted by the problem - there are so many eyesores in the town. The unfinished building on the corner of Avebury Avenue and River Lawn Road - the former Poundland store - and the former Beales site - graffiti only adds to the them."

"Graffiti is criminal damage. Treat it as such"

"Love a graffiti wall! Let's encourage creativity in our towns."

"Tagging awful. Good graffiti and planned street art can be amazing and should be promoted"

"It's unsightly and makes the area look rough. It needs clamping down on without glorifying it"

"Stiffer penalties for those found committing the offence of criminal damage by graffiti and educating young people through a schools programme as to the perils of causing graffiti in their locality."

"Police need to crackdown on those carrying it out, rapid clean up response to existing graffiti, better measures to tackle graffiti on third party land"

"CCTV in known spots to catch perpetrators and heavy fines"

"Get those serving community sentences to remove it."

"Have schedule to overpaint the wall every say two months to provide a blank canvas regularly, black, white, silver whatever, change it each time, and have the artwork documented for archive and to show on a website. There are loads of photographers in Tonbridge who would help out with that. Maybe an annual residents vote for the best artwork?"

"The Angel Centre being in the central location of Tonbridge is an ideal place to run an art and graffiti club"

"This is one of the areas of least concern for the local area and money should not be spent on this while other services are stripped back and assets sold off."

"Public floggings. Taser. Or more usefully put the brats in chain gangs to litter pick in dresses and livestream on TikTok."

"Personally I appreciate graffiti street art! There are some fantastic examples all over the world! It's when it's just a tag, randomly made, that it becomes annoying."

"Put temporary cameras on the most blighted areas then you can find the people, show them on social media, identify them and then prosecute them or their parents"

"The graffiti all along the riverbank on the walls of Wharf House have been there for two years now, and nothing is being done. We had quite a bit of correspondence with Matt Broughton at the time, when he was the local councillor. At the time, he said that TMBC have a dedicated graffiti removal specialist, but they could not clean those because the building is privately owned. I hope that the owners are being actively pursued to get the job done, because the view along the river from Big Bridge is completely ruined!"

"Enforce sale restrictions, put police back on the streets to deter graffiti and other crime and give local kids something to do that keeps them busy and off the streets"

"There has been an awful lot of ugly graffiti on the wall of Wharf House by the river, for over two years now. Matt Broughton said two years ago that he was working on getting it removed, but nothing has happened. This graffiti is very obvious, and ugly, from Big Bridge - it makes our town look ugly, and it makes me ashamed."

"Build more around the skate park and encourage them to graffiti the ground of the skate park(s) The SP in TW in Culverden is covered and it looks amazing."

"It's shocking in and around Tonbridge, Tunbridge Wells etc. we moved in from Bromley over a year ago who seemed rigorous in their approach, it wasn't noticeable at all. I'm very much in the camp that graffiti is a blot and a stain on the visual appearance of a community and the negative connotations it brings are unwarranted. More effort needs to be given to clear it away quickly every time, it shouldn't be for residents to report what is clearly there for all to see before action is considered. More rigorous rectification and enforcement is needed."

"Bromley have "street friends" people who are happy to hold a supply of council provided paint or graffiti removal kits to swiftly remove graffiti. When graffiti is swiftly removed it is less appealing to do. Prompt removal combined with a graffiti wall seems like a sensible balanced approach."

"Some graffiti is actually very good. There are places in London and even France that have specific Graffiti safe walls. There are signs that clearly state its ok to spray there so there is no confusion. I think the community would rather not see it in or near the high street but local parks with lots of land is a great place to have a graffiti safe wall. Times are changing, as is the style of art, the things we wear, the electrical gadgets we use. We should embrace these changes but in the right way and by supplying graffiti walls to prevent damage to property and making the high street untidy."

"Graffiti work shops are great I would like to see these run in leisure centres, it educates on the art of graffiti and teaches how to create stunning art work that can actually add to a community."

"Regarding graffiti walls. If one were designated I think the council should try and lean into it, photographing and publicising the site to show its progression (or highlighting high quality work). This may generate a social/competitive element to the wall and focus graffiti efforts to that region."

As for graffiti around the area I have noticed a significant uptick in vandalism, littering and graffiti. Maybe there is potential to encourage community lead efforts to paint over vandalism similar to the litter picks currently organised by several groups? This would likely require more hands on effort by the council to interface between such a group and the affected property."

"We need to see street art installed at graffiti blackspots as generally tagging will not happen at locations with professional street art in place."

"Graffiti should be left alone, the more there is that is not removed, the more it is a testament to the failures in catching and prosecuting the perpetrators. There should only be efforts in enforcing the law and not providing any areas for this to be done legally. Graffiti artists should do this at home on their own property or on paper."

"Catch them in the act and make they pay for the cost of clearup, put CCTV Camera aout if suitable."

"Street art on walls is much better than plain walls which just get tagged over and over again. It also brightens up dingy alley ways"

"One idea was to limit the sale of spray paints to teenagers. Another is more CCTV to catch them, then make them clean it off!"

"Trying to tackle this issue the same way as it has been in the past will not work. So why not flip it, work with graffiti artists, embrace them, offer collaborations with shops, leisure facilities, libraries, graffiti walls, get them to run workshops, teaching others their skills make them feel valued. Instead of saying no and excluding, how about saying yes and being inclusive, god knows we need some young, fresh creativity in this town, you never know Tonbridge may just have the next Banksy!"

"Support graffiti and positive additions / murals to buildings in the right location. Provide controls / enforcement where not. Ensure effective and proactive engagement with the community including schools"

"Policeman on the beat would help."

"Hopefully the result would be realistic artwork not just a lot of tag scrawls which mean nothing to anyone apart from the "artist"."

"Be really, really hot on actively eliminating graffiti from anywhere other than approved spaces. Unfortunately it's probably just going to take some money/ resource to resolve."

"Graffiti is an irrelevance. The council should concentrate on ameliorating the falling quality of life for many local residents and stopping the demise of local services."

"Please have the walls, the young people need something to do in their lives!"

"I'm concerned about the graffiti on M20 between junction 4-5. Surely they shouldn't be on the motorway and police should be fining and tackling the problem,"

"Maybe speak with the people doing the graffiti and let them cover some wall around snodland ask them cover up some dull looking walls / fences with some bright colours and that way we in snodland get to see there art and they the people doing the graffiti will fill as though they have done something wroth looking at"

"I would like to see quality urban artists employed to teach the graffiti taggers the skills to make quality artworks on the graffiti walls that you are proposing. It maybe that later on when they are skilled they could be commissioned to produce artworks for the borough."

"The quicker and more frequently it is removed there becomes little point in the "artist" spending time and money on their work. They want to be seen."

"As with any antisocial behaviour and vandalism it is rife because there is a lack of police and consequences"

“can you not get criminal offenders to clean up the graffiti as part of their punishment /community service! set up cctv in most affected areas. River walk side of verdi gris always has kids being anti social and near the sainsbury's and by the CEX gaming shop alley way! Too much rubbish on the streets near takeaway fast food outlets!”

“Recurrent offenders need to be made to clean-off or overpaint any graffiti at their expense (time and cost)”

“A zero tolerance approach to graffiti would be better”

“Graffiti can, in certain circumstances (e.g. graffiti wall), be used to express and share an art form, however, it is unwelcome where the artists considers it their right to paint, draw, spray wherever they please. If it is illegal to deface public property, then it's wrong and the perpetrator should be penalised and have to pay for the clean up. I would enjoy seeing this art form where it is properly and, moreover, legally displayed.”

“I do not know if graffiti walls will eradicate the problem, as some people do not have respect for their surroundings. However it would be an opportunity for some to exhibit their skills.”

“Create spaces for creative young people. They are the future.

Graffiti does not kill people. Speeding traffic does. Get Banksi to sponsor the wall.”

“Artwork could be acceptable. If it is not offensive to anyone, has no political bias and is uplifting in content, aligned with the local area and popular opinions.”

“I think areas such as under bridges could be improved by allowing them to be used as a graffiti wall. No additional construction would be needed as the "wall" already exist to be used.”

“set up cameras in known hotspots and have regular patrols”.

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GRAFFITI POLICY

1 Background

- 1.1 Graffiti is defined as unauthorised writing, drawing or scratches that are scribed, painted, or engraved upon walls and other surfaces without the owner's express permission.
- 1.2 Graffiti can be generally placed into the following categories:
 - Offensive graffiti – whilst there is no specific legal definition of 'offensive' we determine offensive graffiti as words or images which target a person's protected characteristics. Protected characteristics as defined in the Equality Act 2010 are:
 - age
 - disability
 - gender reassignment
 - marriage and civil partnership
 - pregnancy and maternity
 - race
 - religion or belief
 - sex
 - sexual orientation
 - General graffiti:
 - 'Tags' – the most prominent form of graffiti in most areas of the UK
 - Artistic – drawings, poetry etc.
 - Other non-offensive writing or drawing
- 1.3 Graffiti is an important environmental issue for the borough because of the adverse effects it can have on areas. The presence of unauthorised graffiti is unsightly and may also contribute to the decline of an area.
- 1.4 Graffiti is costly to remove, and it can increase the perception of fear of crime and can be detrimental to community safety. It can decrease local investment in regeneration and cause depreciation of property values. It can be particularly distressing for those whose property is defaced by graffiti, especially if of an offensive nature, and can also have a negative impact upon the vitality and viability of a business.
- 1.5 This proposed policy attempts to provide residents & businesses with clarity as to responsibilities for graffiti clearance and deliver a graffiti removal service that is efficient and sustainable within the resources and budget allocation.

2 Proposed Policy

Ownership	Type	Action
Council Owned Property	Non-offensive <i>Under 2 metres in height*</i>	Removed from council owned property, parks, play equipment and street furniture within ten working days unless the graffiti is on a specialist surface or listed buildings where contractors or consents may be required to carry out the work.
	Offensive <i>Under 2 metres in height*</i>	Removed from council owned property, parks, play equipment and street furniture within two working days unless the graffiti is on a specialist surface or listed buildings where contractors or consents may be required to carry out the work.
Privately Owned Property both residential and commercial	All	<p>The council does not have a statutory duty to remove graffiti on privately owned property. The owner/tenant of the property will be required to arrange removal by either themselves or a third-party contractor.</p> <p>If the owner/tenant does not make their own arrangements for graffiti removal, the council may, after exhausting every other avenue, and in exceptional circumstances use other powers requiring land to be cleaned up. Before taking steps to exercise those powers legal and enforcement advice will be sought and adequate evidence to support any action will be required.</p>

* *The council's contractor's 'working at height' risk assessment determines that two metres is the highest they can work safely without using ladders or specialist equipment.*

Graffiti on council owned property which is over two metres in height will be passed to the council's Property Services team who will arrange for a contractor to attend to take the action required to remove the incident(s).

3 Graffiti Removal on Council Owned Property

3.1 The council's key performance indicators for graffiti removal on council owned property will be:

- Ten working days for non-offensive graffiti (under two metres in height) on Council owned property.
- Two working days for offensive graffiti (under two metres in height) on Council owned property.

- 3.2 Graffiti removed by the council will be photographed before removal so that the case can be referred to the Police via the Community Safety Unit for their own records and potential enforcement action against graffiti offenders.
- 3.3 All offensive graffiti if related to extremist material (e.g. swastikas or offensive language etc.) will be photographed before being removed. These photographs will be sent to csp@tmbc.gov.uk so that they can be sent to KCC's Prevent Team.
- 3.4 The Council's Outdoor Leisure Services officers have been issued with graffiti removal kits which are suitable for the removal of small incidents of graffiti on such surfaces as play equipment, park bins & park signage and these will be removed as and when officers come across these incidents.
- 3.5 The Council's Technical Services team also arrange removal of small to medium size graffiti incidents from surfaces for which they are responsible such as street name plates, car park signage & bridges, etc.

4 Graffiti Removal from Private Property

- 4.1 When we receive reports of graffiti on private property, we will refer the reporter to the landowner/occupier of the property.
- 4.2 The council can only arrange the removal of graffiti from private property by the Community Payback scheme if the owner/occupier is willing to sign a disclaimer releasing the scheme from any liability arising from the services being undertaken.
- 4.3 Timescales for the removal of graffiti on private property by the Community Payback scheme will be subject to agreement with the owner/occupier and the completion of the disclaimer.
- 4.4 If the owner/occupier does not wish us to refer the case to Community Payback, we will ask them to source alternative removal companies to complete the works.
- 4.5 If the owner/occupier does not make their own arrangements for graffiti removal, the council may, after exhausting every other avenue, and in exceptional circumstances use other powers requiring land to be cleaned up. Before taking steps to exercise those powers legal and enforcement advice will be sought and adequate evidence to support any action will be required.

5 Community Payback

- 5.1 The Community Payback scheme is run by the Her Majesty's Prison & Probation Service and projects such as graffiti removal can

be nominated if they will benefit the wider community. This scheme is most suited to large, one-off infestations.

- 5.2 Any requests received from property owners/occupiers for the removal of graffiti will be forwarded to the Community Safety Unit for assessment for suitability and for engaging the Community Payback scheme if works are considered appropriate.

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

04 June 2024

Report of the Interim Chief Executive

Part 1- Public

Executive Non Key Decisions

1 CORPORATE STRATEGY ACTION PLAN

This report provides a high-level update on progress made in delivering the Council's priority actions in the Corporate Strategy Action Plan 2023/24, and seeks approval for the Corporate Strategy Action Plan 2024/25

1.1 Background:

1.1.1 The Corporate Strategy 2023-2027 was adopted in July 2023 and is our most broad strategic document. It sets out our vision, priorities and the outcomes we expect to achieve for the period up to 2027. The Action Plan provides detail on the key projects that we aim to implement in order to achieve our priorities, and as such it is important that the Action Plan is reviewed and refreshed on a regular basis.

1.2 Corporate Strategy 2023-2027:

1.2.1 The Corporate Strategy 2023-2027 sets out a clear vision "(t)o be an innovative and forward-thinking council, that leads the people and businesses of the borough towards a vibrant, prosperous and sustainable future". This vision is underpinned by three values:

- **Innovation** – embracing new ideas and technology, and proactively finding solutions that improve our services to residents.
- **Transformation** – adapting so we can meet the standards residents, businesses and all those involved in the borough council rightly expect.
- **Delivery** – ensuring we set ambitious targets that we strive to meet, in order to provide high quality public services for our residents.

1.2.2 The four priorities set out in the Corporate Strategy are:

- Efficient services for all our residents, maintaining an effective council.
- Sustaining a borough which cares for the environment.

- Improving housing options for local people whilst protecting our outdoor areas of importance.
- Investing in our local economy to help support residents and businesses and foster sustainable growth.

1.2.3 Under each of these priorities, the Corporate Strategy highlights the actions that the council and its partners will undertake.

1.3 Corporate Strategy Action Plan 2023/24 - Update

1.3.1 The 2023/24 Action Plan update is provided in Appendix 1. The vast majority of the actions set out in this plan are ongoing and, as such, have been given an ‘amber’ rating and also appear in the 2024/25 Action Plan. However, there are a number of positive steps that have been undertaken in 2023/24 that can be highlighted. These include:

- Efficient Services for all our Residents:
 - Adoption of the Digital Strategy 2023-2027.
 - Increased reach of social media, the My TMBC App and the TMBC Newsletter.
 - Funding allocated to the Transformation Reserve.
- Sustaining a Borough which Cares for the Environment:
 - Solid progress on the Climate Change Strategy Action Plan.
 - Completion of a Green Infrastructure Strategy to support the Local Plan.
 - Successful roll-out of dry recycling services to communal bin stores.
 - £1.5m external funding secured to decarbonise Larkfield Leisure Centre.
- Improving Housing Options for Local People:
 - Preparation for the Regulation 18b Local Plan Consultation is on track.
 - Work progressing on establishing a robust repairs and maintenance contract for temporary accommodation.
- Investing in our Local Economy:
 - Adoption of the Economic Development Strategy 2023-2027.
 - 100% of our Year 1 and 2 UK Shared Prosperity Fund allocation spent.
 - Progress on plans for Tonbridge Castle.

- Approval of Phase 2 of the Tonbridge Town Centre Review.

1.4 Corporate Strategy Action Plan 2024/25

1.4.1 The Corporate Strategy Action Plan 2024/25 is provided in Appendix 2. This Action Plan incorporates a number of the ongoing actions from 2023/24 but also includes additional actions which have increased in priority over the course of the past year. These additional actions are highlighted in bold in the document, but for ease of reference, they are set out below:

- Improve the Council's procurement function to ensure services deliver best value for money
- Provide ongoing procurement support in accordance with an updated Procurement Strategy and through joining the Mid Kent Procurement Partnership
- Build upon the positive findings of the Performance Management Internal Audit Report to strengthen the benchmarking of KPIs through the use of LGInform Plus.
- Implement Biodiversity Net Gain requirements in development management
- Adopt and Implement a Green Infrastructure Strategy
- Progress plans for the Angel Centre.

1.4.2 Subject to it being approved, mid-year and end-of-year updates will be provided to Cabinet setting out progress on the Action Plan.

1.5 Legal Implications

1.5.1 The matters raised in this report are considered to be routine, uncontroversial or not legally complex and a legal opinion has not been sought on these proposals.

1.6 Financial and Value for Money Considerations

1.6.1 None arising directly from this report.

1.7 Risk Assessment

1.7.1 There is a reputational risk if the Council fails to deliver the actions set out in the Action Plan, as such it is important to ensure that the plan is regularly monitored to ensure progress is being made.

1.8 Policy Considerations

1.8.1 The Corporate Strategy Action Plan is a high-level plan aimed at demonstrating how the Council aims to deliver on its key priorities as set out in the Corporate Strategy 2023-2027.

1.11 Recommendations

1.11.1 That the report and the Corporate Strategy Action Plan 2023/24 as set out in Appendix 1 **BE NOTED.**

1.11.2 That the Corporate Strategy Action Plan 2024/25 as set out in Appendix 2 **BE APPROVED.**

Background papers:

contacts:
Jeremy Whittaker, Strategic
Economic Regeneration
Manager

Adrian Stanfield
Interim Chief Executive

Corporate Strategy Action Plan 2023/24

Priorities	Actions	Strategic Project	Owner	Timescale	Status	Overview of Progress
Efficient services for all our Residents Page 47	Promote well-being and help people live healthy and active lifestyles.	Delivering cost efficient leisure centres through capital investment that improves their financial and environmental sustainability.	CM for Community Services	Ongoing		The Council continues to invest in its leisure facilities through both its cyclical and planned maintenance programme as well as through its capital plan investment programme.
		Deliver One You Public Health Initiative	CM for Finance and Housing	Ongoing		Just under 700 people were referred to the One You Service in 2023/24 gaining support on a wide range of health matters.
	Through key partnership working with Kent Police and other partners, support residents and ensure safeguarding is an integral part of council activity.	Delivery and implementation of the annual Community Safety Partnership Plan, including measures to tackle anti-social behaviour and domestic violence.	CM for Community Services	Ongoing		Tackling anti-social behaviour and domestic abuse continue to be a priority for the Community Safety Partnership (as well as other priorities including tackling violence against women and girls and tackling extremism and hate). During the year the ASB Officer has received over 280 reports of anti-social behaviour. We have also worked to prevent nuisance vehicles and issued over 40 Fixed Penalty Notices. The CSP continues to commission domestic abuse organisations to support victims of domestic abuse and they have been able to support over 250 victims, providing them with one-to-one support.

Priorities	Actions	Strategic Project	Owner	Timescale	Status	Overview of Progress
Page 148	Make our services and advice available to residents 24 hours a day through digital innovation.	Implementation of the Communications Strategy 'strategic themes' specifically building digital reach through social media channels and the MyTMBC app.	CM for Finance and Housing	Ongoing		Strategy themes delivering on objectives: <ul style="list-style-type: none"> • Marketing annual plans approved by MT • Budget allocated to Corporate Plan themes. • MyTMBC app seeing good growth to over 9,000 subscriptions • Continuing social media growth – combined followers of around 23,000 • TMBC newsletter subscriptions of 5,700
		Adoption and implementation of a new Digital Strategy		2023/24		The new Digital Strategy 2023-2027 was adopted in October 2023. The five core strategic priorities within the strategy are: <ol style="list-style-type: none"> 1. Secure by Design and Culture 2. Transformation 3. Demand Management 4. Efficient Workforce 5. Economic Growth
	Further move the borough council forward so its services are delivered innovatively and in the most cost-effective and efficient way.	Additional resource/staffing to be allocated to delivering innovative change through the council's transformation agenda.	CM for Transformation and Infrastructure and CM for Finance and Housing	2023/24		A total of £676,000 transferred to the Transformation Reserve through Budget 2024/25 to facilitate transformational projects. Discussions are underway through the LGA regarding assessment of resource need.
		Implementation of the Medium Terms Financial Strategy and the Savings and Transformation Strategy		Ongoing		Updated Medium Term Financial Strategy and Savings and Transformation Strategy adopted in February 2024. £120,000 of savings have been incorporated into the 2024/25 draft budget. A savings target of £305,000 to be delivered by 31 March 2025, with options underway.

Priorities	Actions	Strategic Project	Owner	Timescale	Status	Overview of Progress
Sustaining a borough which cares for the environment	Deliver climate change plans which focus on cutting emissions and increasing biodiversity.	Implementation of the Climate Change Strategy Action Plan – including measures that cover sustainable development, transport, housing, waste, business and property.	CM for Climate Change, Regeneration and Property	Ongoing		There has been good progress across the Climate Change Action Plan in delivering projects, such as installation of EV chargers, as well as ongoing longer-term investments, such as the decarbonisation of leisure centres.
		Partnership working with KCC, the Kent Local Nature Partnership and Kent Wildlife Trust to identify sites for a high level of biodiversity net gain.		Ongoing		A Green Infrastructure Strategy for the borough has now been completed and will form part of the evidence base for the forthcoming Local Plan consultation. Amongst other considerations, this strategy looks at the potential for biodiversity net gain and ecosystem services on council owned land. There is ongoing engagement with KCC and the Kent Nature Partnership on the emerging Kent and Medway Nature Recovery Strategy, entitled Making Space for Nature.
	Build on our track record of recycling more than anywhere else in Kent.	Continue to increase kerbside recycling.	CM for Transformation and Infrastructure	Ongoing		Dry recycling services for paper/card, plastics, glass and metals has been rolled out to communal bin stores. Food waste roll out is to be completed during 2024/25.
		Promote recycling and waste minimisation.		Ongoing		Ongoing promotional activity has been undertaken, including social media campaigns and school visits.

Priorities	Actions	Strategic Project	Owner	Timescale	Status	Overview of Progress
Page 150	Improve environmental quality in the borough by tackling sources of pollution.	Implementation of Air Quality Action Plan	CM for Climate Change, Regeneration and Property	Ongoing		Actions within the Air Quality Action Plan continue to be worked on and implemented by relevant teams within the Council.
		Continue with dedicated environmental enforcement.		2023/24		New contract for litter and fly tipping enforcement to be tendered in 2024.
	Continue our successful management of parks, open spaces and leisure centres.	Maintain Green Flag Award status for our parks.	CM for Community Services	Ongoing		The Council was successful in its 2023 Green Flag applications for Tonbridge Racecourse Sportsground and Haysden Country Park. TM Active, who manage Leybourne Lakes Country Park on behalf of the Council, were successful in their 2023 application for the site. TMBC and TM Active are awaiting the outcome of the 2024 applications for these sites.
		Delivering cost efficient leisure centres through capital investment that improves their financial and environmental sustainability.		Ongoing		The Council continues to invest in its leisure facilities through both its cyclical and planned maintenance programme as well as through its capital plan investment programme. Applications submitted to Government and Sport England have both been successful resulting in grants totalling more than £1.5m being made available to invest in solar power and heat pumps at Larkfield Leisure Centre. In addition, Tonbridge Swimming Pool has recently had solar panels installed, saving 14 tonnes of emissions per annum.

Priorities	Actions	Strategic Project	Owner	Timescale	Status	Overview of Progress
Improving housing options for local people	Develop a Local Plan which will ensure the provision of new homes in appropriate locations, focusing on tackling the need to deliver a range of housing for the whole community.	Submission of Local Plan for the borough.	CM for Planning	Spring 2025		The Regulation 18b Local Plan is currently on target to be presented to Housing and Planning in Q1 of 2024/25, with consultation taking place in July 2024 for a period of 7 weeks. Regulation 19 (publication of the draft Local Plan is then due in Q3/4 of 2024/25 with the Regulation 20 consultation due to take place in Q4 of 2024/25. The Regulation 22 submission to the Secretary of State is then due in Q1/Q2 of 2025/26. The Local Plan is on target to meet the end stop date of submission to the Planning Inspectorate by June 25.
		Examination in Public of the Local Plan		2026		
	Ensure a supply of affordable housing for people who would struggle to buy on the open market	Investigate use of council owned assets for use to deliver affordable housing through joint working with Registered providers.	CM for Finance and Housing	2023/24		A review of sites has been undertaken. Work is ongoing, with a consultancy brief on feasibility for one site currently underway.
		Promote Local Letting Plans to help deliver homes for local people.				
	Use every power we can to support those who are most in need of housing support and at risk of becoming homeless.	Manage our temporary accommodation provision to support vulnerable residents.	CM for Finance and Housing	Ongoing		The Council continues to manage its temporary accommodation with work to secure a robust repairs and maintenance contract progressing.
		Develop and implement a Homelessness and Rough Sleeping Strategy and Action Plan				

Priorities	Actions	Strategic Project	Owner	Timescale	Status	Overview of Progress
	Improving standards in rented accommodation.	Delivery of the Housing Upgrade Grant Project	CM for Finance and Housing	Up to March 2025		Delivery is ongoing. A marketing approach with our delivery partners has been agreed for 2024/25 to maximise take-up of the grants.
		Work with partner organisations and Registered providers to provide advice and signpost to available support.		Ongoing		Clarion Housing has agreed to work towards a Memorandum of Understanding on housing condition complaints. The Council continues to provide appropriate advice and signposting.
Investing in our local economy to help foster sustainable growth Page 192	Deliver a range of measures to help our local economy bounce back.	Implementation of the T&M UK Shared Prosperity Fund Investment Plan and REPF Addendum.	CM for Climate Change, Regeneration and Property.	Up to March 2025		100% of the Year 2 UKSPF budget was spent, with the remainder being carried over into the final year (2024/25). Projects that have progressed well during 2023/24 include: Mobile CCTV, Youth Provision Project, Shopfront & Vacant Unit Improvement Grant Scheme, Living Bus Shelter Roofs, Green Business Grant Scheme and the West Kent Business Support Scheme The REPF funding has been used to establish the West Kent Rural Grant Scheme, which launched in July 2023. In the first round, 12 projects were allocated funding, of which 7 completed by 31 March 2024 (with the remainder being carried over into 2024/25). Since November 2023, new rounds have been opened up for delivery of projects in 2024/25. These rounds will continue until the funding has been allocated. As of 31 March 2024, around £200,000 remained to be allocated from the c £445,000 pot.

Priorities	Actions	Strategic Project	Owner	Timescale	Status	Overview of Progress
Page 153		Produce and implement a new Economic Development Strategy for 2023-2027.	CM for Climate Change, Regeneration and Property.	Adopt September 2023.		The Economic Development Strategy 2023-2027 went out to consultation in October 2023 and was then reported to FRPSSC in November 2023 and finally to Cabinet in January 2024. Progress on implementing the strategy will go to FRPSSC in May 2024.
	Identify ways we could use our land and other assets better, especially in Tonbridge Town Centre.	Tonbridge Town Centre Review (inc. Tonbridge Farm)	CM for Climate Change, Regeneration and Property.	Ongoing		The outcome of phase 2 of the review was reported to Members for consideration at the Finance, Regeneration & Property Scrutiny Select Committee on 12 March, and, along with the creation of a new post – Tonbridge Town Centre Programme Manager – was subsequently approved by Cabinet on 02 April 2024.
		Progress plans for Kings Hill Offices		Ongoing		Progressing plans to rationalise Kings Hill office accommodation.
	Develop proposals to raise the profile of Tonbridge Castle and all council assets.	Agreement of future plans for Tonbridge Castle and develop implementation strategy.	CM for Community Services.	During 2023/24		The Council has completed the consultation, Heritage Assessment, and Market Viability assessment for the business, which was undertaken by Bracketts. In addition, the identified concepts have been analysed and scored. The scope for the decommissioning of the Gateway is now complete together with the indicative costings for discussion with Kent County Council.

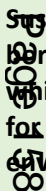
Priorities	Actions	Strategic Project	Owner	Timescale	Status	Overview of Progress
Page 154						The Event Strategy for TMBC is undergoing an internal consultation before being presented to Management Team and Members.
		Put new plans in place for the Castle.		From 2024		The Steering Group will meet on 08 May 2024 to agree the strategy and development plans for Tonbridge Castle. These will then go to Management Team and then Communities and Environment SSC for consideration.
	Strengthen our links with strategic partners and funding bodies.	Ongoing engagement with strategic partners such as RBLI, NIAB EMR and the Kent and Medway Economic Partnership to ensure investment in the borough.	CM for Climate Change, Regeneration and Property.	During 2023/24		<p>Departments from across the Council continue to work closely with strategic partners on a range of investments, including the Centenary Village (RBLI); GreenTech Hub (NIAB EMR) and Leigh Expansion and Hildenborough Embankment Scheme (Environment Agency).</p> <p>The Kent and Medway Economic Partnership (KMEP) is currently undergoing change as powers are transferred down from the South East Local Enterprise Partnership. At present there is limited funding opportunities for investment.</p>
		Refocus the West Kent Partnership to move from predominantly skills and employability measures to a broader economic development approach that includes promotion and investment.			During 2023/24	

Priorities	Actions	Strategic Project	Owner	Timescale	Status	Overview of Progress
						<ul style="list-style-type: none"> - Jobs Fairs (in partnership with Jobcentre Plus) - UKSPF Life Skills Projects <p>However, further work is still needed to reinvigorate the wider partnership and to reintroduce governance arrangements that strengthen the level of communication between partners. It is hoped the West Kent Expo in March 2024 has helped start that process.</p>

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Appendix 2 - Corporate Strategy Action Plan 2024/25

Priorities	Actions	Strategic Project	Owner	Timescale
Efficient Services for all our Residents Page 157	Promote well-being and help people live healthy and active lifestyles.	Delivering cost efficient leisure centres through capital investment towards carbon descent plans that improve both financial and environmental sustainability.	CM for Community Services	Ongoing
		Deliver One You Public Health Initiative	CM for Finance and Housing	Ongoing
	Through key partnership working with Kent Police and other partners, support residents and ensure safeguarding is an integral part of council activity.	Delivery and implementation of the annual Community Safety Partnership Plan, including measures to tackle anti-social behaviour and domestic violence.	CM for Community Services	2024/25
	Make our services and advice available to residents 24 hours a day through digital innovation.	Implementation of the Communications Strategy 2022-25 'strategic themes' specifically building digital reach through social media channels and the MyTMBC app.	CM for Finance and Housing	2024/25
		Implementation of the 5 core digital priorities of the Digital & IT Strategy 2023-2027 as set out in the road map.		Up to 2027
	Further move the borough council forward so its services are delivered innovatively and in the most cost-effective and efficient way.	Allocate additional resource/staffing to delivering innovative change through the council's Transformation Agenda.	CM for Transformation and	2024
		Implementation of the Medium Terms Financial Strategy and the Savings and Transformation Strategy.	Infrastructure and CM for Finance and Housing	Ongoing
		Improve the Council's procurement function to ensure services deliver best value for money		2024/25

Priorities	Actions	Strategic Project	Owner	Timescale
		Provide ongoing procurement support in accordance with an updated Procurement Strategy and through joining the Mid Kent Procurement Partnership		2024/25
		Build upon the positive findings of the Performance Management Internal Audit Report to strengthen the benchmarking of KPIs through the use of LGInform Plus.		July 2024
<p>Sustaining a Borough which cares for the Environment</p> 	Deliver climate change plans which focus on cutting emissions and increasing biodiversity.	Implementation of the annual Climate Change Strategy Action Plan – including measures that cover sustainable development, transport, housing, waste, business and property.	CM for Climate Change, Regeneration and Property	2024/25
		Partnership working with KCC, the Kent Local Nature Partnership and Kent Wildlife Trust to identify sites for a high level of biodiversity net gain.		Ongoing
		Implement Biodiversity Net Gain requirements in development management	CM for Planning	2024/25
		Adopt and Implement the Green Infrastructure Strategy	CM for Climate Change, Regeneration and Property	2024/25
	Build on our track record of recycling more than anywhere else in Kent.	Continue to increase kerbside recycling.	CM for Transformation and Infrastructure	Ongoing
		Promote recycling and waste minimisation.		Ongoing
	Improve environmental quality in the borough by tackling sources of pollution.	Implementation of Air Quality Action Plan 2022-2027	CM for Climate Change, Regeneration and Property	Up to 2027
		Continue with dedicated environmental enforcement through third-party provision.		Ongoing
	Continue our successful management of parks, open spaces and leisure centres.	Maintain Green Flag Award status for our parks.	CM for Community	Ongoing

Priorities	Actions	Strategic Project	Owner	Timescale
		Delivering cost efficient leisure centres through capital investment towards carbon descent plans that improve both financial and environmental sustainability.	Services	Ongoing
Improving housing options for local people Page 159	Develop a Local Plan which will ensure the provision of new homes in appropriate locations, focusing on tackling the need to deliver a range of housing for the whole community.	Submission of Local Plan for the borough to the Planning Inspectorate	CM for Planning	June 2025
		Examination in Public of the Local Plan		2026
	Ensure a supply of affordable housing for people who would struggle to buy on the open market	Investigate use of council owned assets to deliver affordable housing through joint working with registered providers.	CM for Finance and Housing	Ongoing
		Promote Local Letting Plans to help deliver homes for local people.	CM for Finance and Housing	Ongoing
	Use every power we can to support those who are most in need of housing support and at risk of becoming homeless.	Manage and develop our temporary accommodation portfolio to support vulnerable residents.	CM for Finance and Housing	Ongoing
		Develop and implement a Homelessness and Rough Sleeping Strategy and Action Plan		2024
	Improving standards in rented accommodation.	Delivery of the Housing Upgrade Grant Project	CM for Finance and Housing	Up to March 2025
		Work with partner organisations and Registered providers to provide advice and signpost to available support.		Ongoing
	Deliver a range of measures to help our local economy bounce back.	Implementation of the T&M UK Shared Prosperity Fund Investment Plan and REPF Addendum.	CM for Climate Change, Regeneration and Property.	Up to March 2025

Priorities	Actions	Strategic Project	Owner	Timescale
Investing in our local economy to help foster sustainable growth		Implement the Economic Development Strategy 2023-2027.	CM for Climate Change, Regeneration and Property.	2023-2027
	Identify ways we could use our land and other assets better, especially in Tonbridge Town Centre.	Progress plans for Tonbridge Town Centre Programme (inc. Tonbridge Farm)	CM for Climate Change, Regeneration and Property.	Ongoing
		Progress plans for the Angel Centre		Ongoing
		Progress plans for Kings Hill Offices		Ongoing
	Develop proposals to raise the profile of Tonbridge Castle and all council assets.	Agreement of future plans for Tonbridge Castle and develop implementation strategy.	CM for Community Services.	2024
		Implementation of new plans for the Castle.		From 2024
	Strengthen our links with strategic partners and funding bodies.	Ongoing engagement with strategic partners such as RBLI, NIAB EMR and the Kent and Medway Economic Partnership to ensure investment in the borough.	CM for Climate Change, Regeneration and Property.	2024/25
		Improve the governance of the West Kent Partnership (Invest West Kent) and continue to refocus from predominantly skills and employability measures to a broader economic development approach that includes promotion and investment.		2024/25

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

04 June 2024

Report of the Interim Chief Executive

Part 1- Public

Executive Non Key Decisions

1 **TONBRIDGE TOWN CENTRE PROGRAMME BOARD – TERMS OF REFERENCE**

1.1 Introduction

1.1.1 At its meeting on 2nd April 2024, Cabinet approved the creation of a Tonbridge Town Centre Programme Board (the Board) to support delivery of the wider town centre programme.

1.1.2 Officers were asked to develop terms of reference for the Board, for Cabinet's approval.

1.2 Terms of Reference

1.2.1 Clear and concise terms of reference are considered essential for any board supporting a wide ranging and complex programme of work, such as Tonbridge Town Centre, to facilitate efficient and effective decision making.

1.2.2 The proposed terms of reference for the Board can be found at **Annex A**.

1.3 Legal Implications

1.3.1 There are not considered to be any legal implications arising from the approval of the terms of reference.

1.4 Financial and Value for Money Considerations

1.4.1 There are not considered to be any financial or value for money considerations arising from the approval of the terms of reference.

1.5 Risk Assessment

1.5.1 If terms of reference were not in place, or were unclear, the Board would struggle to fulfil its role in supporting the delivery of the wider town centre programme.

1.6 Equality Impact Assessment

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

1.7 Policy Considerations

1.7.1 Asset Management

1.8 Recommendations

1.8.1 Cabinet are **RECOMMENDED** to approve the Tonbridge Town Centre Programme Board terms of reference as set out at Annex A.

Background papers:

contact: Stuart Edwards

Nil

Adrian Stanfield
Interim Chief Executive

Tonbridge Town Centre Programme Board Terms of Reference

1.0 Establishment and Purpose

- 1.1 The Council's Corporate Strategy identifies the better use of assets within Tonbridge town centre as a key aim under the theme of 'Investing in our local economy'. The potential redevelopment of Tonbridge town centre is an exciting opportunity for the Council, residents of the town and wider borough and visitors to Tonbridge.
- 1.2 The Council has been undertaking a review of its assets in conjunction with the company Mace. During the phase 2 work, Mace recommended the Council considered the creation of a governance structure to help oversee the various workstreams associated with the town centre.
- 1.3 To facilitate efficient and consistent decision making, Cabinet, at its meeting on 2nd April 2024, approved the creation of a Tonbridge Town Centre Programme Board (the Board). The relationship of the Board with other parts of the Council's governance system is set out at **Annex A**.
- 1.4 The Board will not have any decision making powers and will make recommendations on Key Decisions to Cabinet, either directly or via the Finance, Regeneration & Property Scrutiny Select Committee. Cabinet Members will be able to take Non-Key Decisions relating to their portfolios, in line with the Council's Constitution. Any recommendations on non-executive matters will be referred to the full Council.
- 1.5 The Board will be responsible for:
 - Making recommendations to the Project Sponsor (Cabinet/ Portfolio Holders)
 - Adding items to the Board Work Plan
 - Creating, reviewing and updating key project documents for Cabinet's approval which may include a Tonbridge Town Centre strategy, Programme Management Plan, Programme Work Plan, Programme and Programme Risk Management Strategy and risk register
 - Creating, reviewing and updating a, for Cabinet's approval
 - Creating, reviewing and updating a, including identifying tasks, allocating resources and setting deadlines, for Cabinet's approval
 - Creating, reviewing and updating a, for Cabinet's approval
 - Creating, reviewing and updating a, including risk register, for Cabinet's approval
 - Identifying internal and external resources in order to successfully deliver the town centre strategy
 - Monitoring and reviewing programme spend
 - Approve creation of technical working groups, including their terms of reference, to progress individual projects or work streams

- Providing strategic direction to the technical working groups
- Receiving update reports from the technical working groups
- Providing update reports to Cabinet
- Approving any external funding applications
- Allocating funds from the Tonbridge Town Centre reserve to specific projects or tasks, subject to the Council's financial procedure rules and any required Cabinet/ Cabinet Member Decision
- Approving the submission of any capital plan funding applications

2.0 Membership

2.1 The Board will be made up of the following members:

- Chair – Cabinet Member for Climate Change, Regeneration & Property
- Vice Chair – Cabinet Member for Communities
- Two Tonbridge Green Party Members (Cllrs Athwal and Hood)
- One Tonbridge Conservative Party Member (Cllr Mehmet)
- One Tonbridge Liberal Democrat Party Member (Cllr Bridge)
- The Chief Executive
- The Director of Central Services
- The Director of Finance & Transformation Services
- The Head of Administrative & Property Services
- Tonbridge Town Centre Programme Manager

2.2 Substitute members will not be permitted in order to ensure consistency.

2.3 Quorate for the Board will be 4 members in attendance, which must include either the Chair or Vice Chair.

2.4 Membership of the Board will be reviewed annually or at such intervals as may be required. Any changes to membership will need to be approved by Cabinet.

3.0 Frequency of Meetings

3.1 The Board will meet bi-monthly, or at such intervals as required to maintain progress. Meetings will take place in person at Tonbridge Castle where possible but can be held virtually with the approval of the Chair.

4.0 Agendas and Reporting

4.1 Agendas will be circulated 6 working days prior to the Board meeting date, with reports having to be submitted 8 working days prior to the Board meeting date.

4.2 Minutes from the Board will be reported to Cabinet.

- 4.3 At each meeting the Board Work Plan will be considered. Members of the Board will be able to request items be added to the Work Plan by notifying the Chair of the item at least 8 working days in advance of the Board meeting date. Members of the Board will then vote on inclusion of the proposed item.

5.0 Voting

- 5.1 The aim of the Board will be to agree recommendations to Cabinet/ Portfolio Holder/ Council as appropriate, via unanimous agreement.
- 5.2 Where there is not general affirmation, a vote will be recorded of Board members on the recommendation being considered. Each serving Borough Council Councillor shall have one vote. A simple majority will suffice for a recommendation to be made to Cabinet/ Portfolio Holder/ Council as appropriate.
- 5.3 In the event of a split vote, the Chair shall have the casting vote.

6.0 Confidentiality

- 6.1 Due to the nature of the information being considered by the Board, unless specifically otherwise agreed by the Board, all items will be confidential. This will provide the Board with the necessary private thinking space in order to reach considered recommendations and to provide assurance to partners and third parties with whom the Council will be working closely. This will extend to agendas, reports, minutes and discussion at the Board.

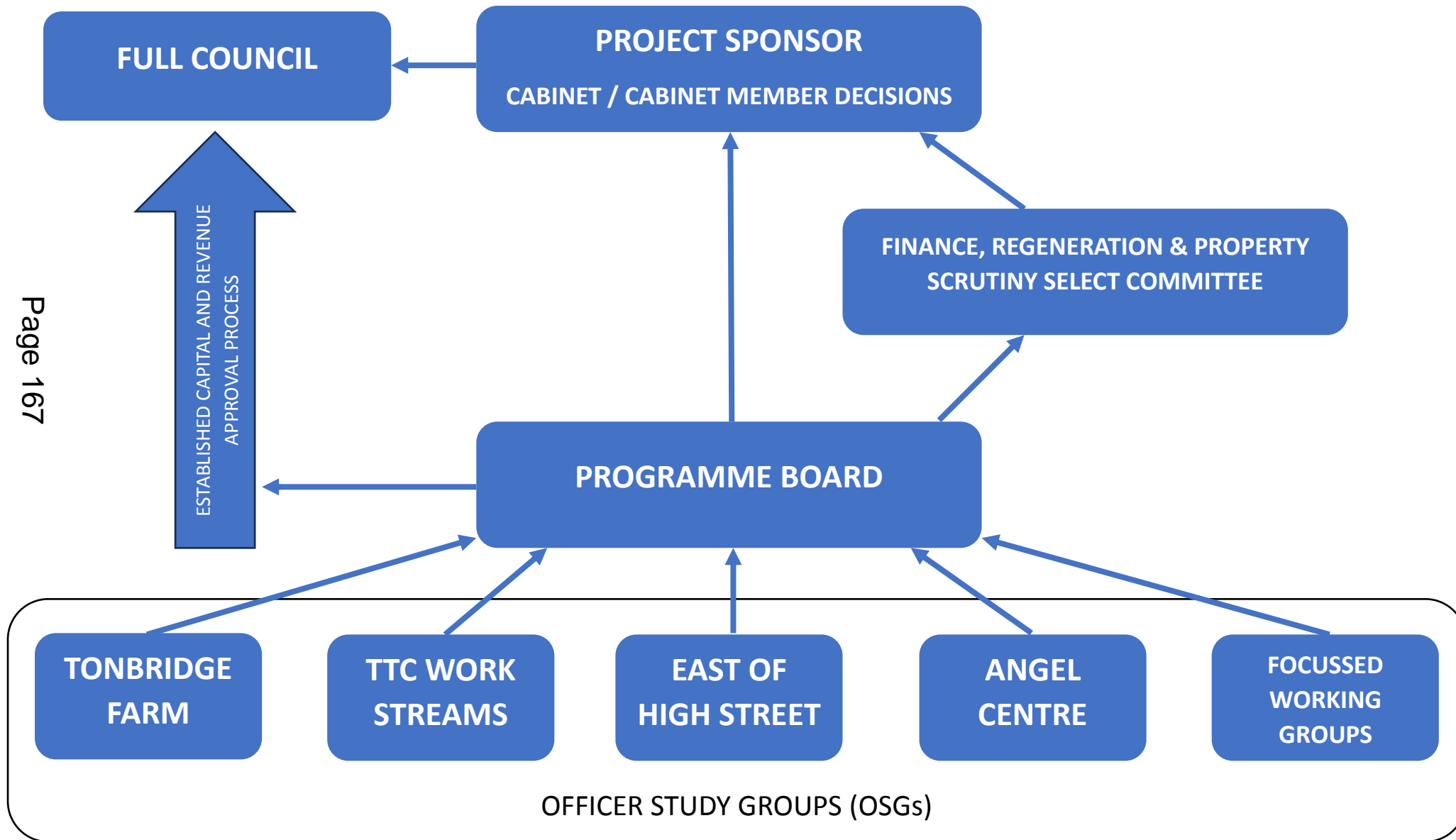
7.0 Review

- 7.1 These terms of reference will be reviewed by the Board on an annual basis.

May 2024

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TONBRIDGE TOWN CENTRE GOVERNANCE ARRANGEMENTS



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TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

04 June 2024

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Executive Key Decisions

1 ADOPTION OF THE HIGH WEALD NATIONAL LANDSCAPE AREA OF OUTSTANDING NATURAL BEAUTY MANAGEMENT PLAN 2024 – 2029

Summary: The Countryside and Rights of Way Act 2000 requires local authorities with land in an Area of Outstanding Natural Beauty [now rebranded as National Landscapes] to prepare and publish an up-to-date plan which ‘formulates their policy for the management of the area and for the carrying out of their functions in relation to it’ (S89 (2)). Where AONBs cross administrative boundaries, local authorities are required to act jointly to prepare the plan (S89 (11)(b)).

The High Weald AONB is the area between the North and South Downs and stretches from Horsham in the west to Hastings in the south east. Tonbridge and Malling Borough contains only a small area of this AONB, to the south of Tonbridge which accounts for less than 1% of the total High Weald AONB area. This report provides an overview and briefly outlines the process through which the High Weald AONB Management Plan has been prepared. It recommends the adoption of the High Weald AONB Management Plan 2024-2029.

1.1 Introduction

1.1.1 National Landscape is the new term adopted in December 2023 to describe an Area of Outstanding Natural Beauty (AONB) following a change to the Levelling Up and Regeneration Act (2023). Area of Outstanding Natural Beauty (AONB) is the legal term for the designation. An AONB is an area of countryside designated by the government to protect its landscape character and the wildlife, natural systems and cultural associations on which it depends in order that people, now and in the future, can enjoy its natural beauty.

1.1.2 AONBs were first designated under the 1949 National Parks and Access to the Countryside Act, for the primary purpose of conserving and enhancing the natural beauty of the landscape. Subsequently the Countryside and Rights of Way Act 2000 (CRoW Act), afforded further protection which sets out the legal purpose of AONB designation as being to “conserve and enhance natural beauty”.

- 1.1.3 A secondary purpose of designation is to take account of the needs of agriculture, forestry and other rural industries and of the economic and social needs of local communities. Whilst recreation is not an objective of designation, the demand for recreation should be met so far as this is consistent with the conservation of natural beauty.
- 1.1.4 Part IV of the Countryside Rights of Way Act 2000 (CROW Act) places a statutory responsibility on relevant local authorities to produce and regularly review AONB Management Plans which formulates their policy for the management of the area and for the carrying out of their functions in relation to it. This Plan will be the first edition of a new 20-year strategy, with a five year implementation plan. The first statutory Management Plan for the High Weald was published in 2004, which was a 20-year strategy and set long-term objectives for the conservation of the High Weald's natural beauty. This was then reviewed in 2009, 2014 and 2019. There is a requirement to publish this new Plan by 2024.
- 1.1.5 The preparation of the Management Plan has been carried out by the High Weald Joint Advisory Committee [JAC] in accordance with national guidance and in close consultation with all of the local authorities for whom it is a statutory responsibility to act jointly to prepare and review AONB management plans. This includes Tonbridge and Malling Borough Council. The JAC comprises elected Councillors and officers representing individual districts, the AONB Unit, as well as representatives from statutory agencies, land owners, farming and community interest groups.

1.2 The High Weald National Landscape AONB Management Plan

- 1.2.1 The Management Plan is a statutory policy document for the whole of the protected landscape and is relevant to everyone. It guides local authority plan-making and decision-taking, and also has a wider role, setting a 20-year strategy for everyone who lives or works in the High Weald, or visits it, to work towards. The Management Plan defines the Natural Beauty of the High Weald AONB and sets out the management policy for its conservation and enhancement.
- 1.2.2 The review has needed to take account of the current and future major challenges/issues of biodiversity crisis, climate change, fairer access to nature, and development pressure. It was necessary that the Plan be cognisant of the National Guidance for AONB Management Plans, currently in preparation, which is anticipated to require plans to address these issues. Therefore, while the character components and management policy objectives (the most important aspects of the HWMP) remain broadly appropriate, the range of character components has broadened, and other aspects of the Plan have needed a more substantive re-consideration, including the inclusion of cross cutting themes: programmes, principles for action and investment strategy 2024-2029, to reflect the afore-mentioned challenges/issues.

- 1.2.3 The review of the High Weald Management Plan began in April 2022 when formal notice of intention was sent to Natural England. Early public engagement in the form of on-line public surveys began in March 2022 and a second survey in November and December 2022. Then a full public consultation on the Management Plan and its supporting documents ran from September 25th for six weeks to 5th November 2023. The consultation was hosted on the High Weald National Landscape (NL) website.
- 1.2.4 In parallel with the public consultation and Joint Advisory Committee meetings, the Management Plan has gone through an extensive process of consultation with the Officer Steering Group in 2022 and 2023, and has evolved as a result of reviewing the feedback received during that process, which included engagement and feedback from TMBC Officers. The Unit's consideration of the consultation responses resulted in a number of revisions to the Management Plan.
- 1.2.5 In addition to the drafting of the Plan, as required by law, the statutory requirements for a Strategic Environmental Assessment and Environment Report, an Equalities Impact Assessment and Habitat Regulations Assessment have also been undertaken.
- 1.2.6 As such, it is deemed that the High Weald AONB Management Plan 2024-2029 has completed all of the statutory stages of a review and has been subject to significant public engagement and scrutiny.
- 1.2.7 The Joint Advisory Committee therefore recommend that individual local authorities formally adopt the Plan according to their own procedures by the end of June 2024. The Plan and its supporting documents will then be submitted to the Secretary of State for the Environment, Food and Rural Affairs.

1.3 Legal Implications

- 1.3.1 Under the terms of the Countryside and Rights of Way (CROW) Act 2000 (part IV Section 89), the Borough Council and the other local authorities within the AONBs have a statutory duty to act jointly to prepare and review the Management Plans for AONBs, and to keep this under review.

1.4 Financial and Value for Money Considerations

- 1.4.1 Each of the Local Authorities covered by the AONB make a financial contribution towards the core costs of running the AONB Units. This includes the joint preparation and review of the Management Plans. The AONB Units ensure that that all of the relevant Local Authorities work together, so fulfilling their duty under the Act. This mechanism minimises the cost of the process. The Borough Council's contribution towards these costs is covered by existing budgets.
- 1.4.2 The agreed TMBC financial contribution for the High Weald Joint Advisor Committee for year 2024/25 and for the next 3 years was £1545.

1.5 Risk Assessment

- 1.5.1 Failure to adopt the High Weald AONB Management Plan would mean that the Council will be in breach of the requirements of the CRoW Act 2000 to review the Management Plan. In addition, there could be sanctions with regard to funding for the AONB Partnership from Natural England.

1.6 Equality Impact Assessment

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

1.7 Recommendations

- 1.7.1 That the Board RECOMMENDS to Cabinet that the Council should RESOLVE to adopt the High Weald AONB Management Plan 2024-2029 as a material planning consideration.
- 1.7.2 It be AGREED that preparation of the High Weald AONB Management Plan be delegated to the Director of Planning, Housing and Environmental Health in consultation with the Cabinet Member to make further minor changes during the adoption process subsequent to this Council's decision being made.

Background papers:

Nil

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Director of Planning, Housing and Environmental Health

Agenda Item 16

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 17

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.

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INFORMATION**

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Agenda Item 19

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