

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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**Chief Executive**  
Damian Roberts

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

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To: MEMBERS OF THE COUNCIL

**NB Background reports to items referred from Cabinet and Committees have been omitted from printed agenda packs.**

Dear Sir/Madam

I hereby summon you to attend a meeting of the Tonbridge and Malling Borough Council which will be held in the Council Chamber, Gibson Drive, Kings Hill on Tuesday, 22<sup>nd</sup> October, 2024 at 7.30 pm.

Information on how to observe the meeting will be published on the Council's website.

The following business is proposed to be transacted:-

1. Guidance on the Conduct of Meetings 5 - 8

**PART 1 - PUBLIC**

2. Apologies for absence 9 - 10
3. Declarations of interest

To declare any interests in respect of recommended items

4. Minutes 11 - 20

To confirm as a correct record the Minutes of the meeting of Council held on 9 July 2024

5. Mayor's Announcements 21 - 22
6. Questions from the public pursuant to Council Procedure Rule No 5.6 23 - 24

7. Questions from Members pursuant to Council Procedure Rule 25 - 26  
No 5.5

- 24/004 – Key Performance Indicators and proposed changes to reporting

8. Notice of Motion submitted pursuant to Council Procedure Rule 27 - 28  
No. 5.27 (24/005)

To consider a Notice of Motion (24/005) proposed by Councillor J Clokey on behalf of the Liberal Democrat Group in respect of Winter Fuel Payments.

**Matters for Decision as Planning Committee**

**In order to facilitate the proper consideration of the planning applications at agenda items 9 and 10, the Council will need to suspend its own procedure rules and resolve itself into a committee to which rules relating to a planning committee will be applied.**

9. Planning Application TM/24/0127/OA - Gibson Building, Gibson Drive 29 - 58

Refurbishment of Gibson East office building, comprising the removal of a corridor link to the grade II listed Gibson West building (and remedial works to the listed facade) minor changes to the external envelope of Gibson East (new external doors / windows and the addition of PV cells to the pitched roof), modifications to site parking and internal circulation, addition of a plant enclosure, single-storey external store, refuse store and cycle shelter.

10. Listed Building Application TM/24/01268/PA - Gibson Building, Gibson Drive 59 - 70

Proposed demolition of a modern corridor link between Gibson East and the grade II Gibson West building, with restoration works to reinstate the original appearance of the east facade of the listed building.

11. Leader's Announcements 71 - 72

**Matters for Decision**

12. Changes to Committee Appointments 2024/25 73 - 78

The Leader of the Borough Council is proposing a number of changes to the Conservative Group appointments to Committees, Scrutiny Select Committees, Panels and other Groups previously approved at Annual Council.

Details of appointments will be set out on Annex 1 and Annex 2 (if required) and circulated in advance of the meeting.

13. Appointments to Outside Bodies - Tonbridge Town Lands and Richard Mylls Charity 79 - 84
- To consider a request from the Clerk to the Town Wardens in respect of renewing a current appointment.
14. Local Code of Corporate Governance 85 - 110
- Consideration of recommendation AU 24/26 of the Audit Committee of 22 July 2024
15. Treasury Management Update and Annual Report for 2023/24 111 - 140
- Consideration of recommendation AU 24/27 of the Audit Committee of 22 July 2024
16. Capital Works - Car Parks 141 - 158
- Consideration of recommendation CB 24/90 of Cabinet of 3 September 2024
17. Local Authority Housing Fund 159 - 160
- Consideration of recommendation CB 24/98 (4) of Cabinet of 3 September 2024
- This matter was considered in private by Cabinet and the associated report and annex have not been attached to this agenda.
18. Regulation of Investigatory Powers Act (RIPA) - Revisions to Surveillance Guidance 161 - 192
- Consideration of recommendation GP 24/25 of the General Purposes Committee of 9 October 2024
19. Civil Enforcement Service 193 - 194
- Consideration of recommendation GP 24/27 (6) of 9 October 2024 in respect of civil enforcement
- This matter was considered in private by the General Purposes Committee and the associated report and annexes have not been attached to this agenda.
- Matters for Information**
20. Minutes of Cabinet and Committees 195 - 196
- To receive and note the Minutes of meetings of Cabinet and Committees as set out in the Minute Book (attached as a supplement).
21. Sealing of Documents
- To authorise the Common Seal of the Council to be affixed to any Contract, Minute, Notice or other document requiring the same.

DAMIAN ROBERTS  
Chief Executive  
Monday, 14 October 2024



## **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](mailto: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](mailto: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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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### COUNCIL MEETING

#### MINUTES

Tuesday, 9th July, 2024

At the meeting of the Tonbridge and Malling Borough Council held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 9th July, 2024

**Present:** His Worship the Mayor (Councillor S M Hammond), the Deputy Mayor (Councillor C Brown), Cllr L Athwal, Cllr B Banks, Cllr Mrs S Bell, Cllr A G Bennison, Cllr R P Betts, Cllr T Bishop, Cllr M D Boughton, Cllr P Boxall, Cllr G C Bridge, Cllr R I B Cannon, Cllr J Clokey, Cllr M A Coffin, Cllr S Crisp, Cllr R W Dalton, Cllr D A S Davis, Cllr Mrs T Dean, Cllr D Harman, Cllr M A J Hood, Cllr F A Hoskins, Cllr S A Hudson, Cllr D Keers, Cllr J R S Lark, Cllr A McDermott, Cllr A Mehmet, Cllr D W King, Cllr Mrs A S Oakley, Cllr W E Palmer, Cllr B A Parry, Cllr M R Rhodes, Cllr R V Roud, Cllr K B Tanner, Cllr Mrs M Tatton, Cllr M Taylor, Cllr D Thornewell, Cllr K S Tunstall and Cllr C J Williams

Apologies for absence were received from Councillors K Barton, A Cope, P M Hickmott, W J Mallard and R W G Oliver

#### PART 1 - PUBLIC

##### **C 24/56    DECLARATIONS OF INTEREST**

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

##### **C 24/57    MINUTES**

**RESOLVED:** That the Minutes of the proceedings of the meeting of the Council held on 14 May 2024 be approved as a correct record and signed by the Mayor.

##### **C 24/58    ELECTION OF MEMBER FOR JUDD WARD, TONBRIDGE**

The report of the Chief Executive and Returning Officer set out the results of the by-election held on 4 July 2024 to fill the vacancy in Judd Ward, Tonbridge.

Members were advised that Mr Stacey Pilgrim had been duly elected as Councillor to hold office until 2027.

**C 24/59 MAYOR'S ANNOUNCEMENTS**

The Mayor welcomed Damian Roberts (Chief Executive) and Stacey Pilgrim (Borough Councillor for Judd Ward) to their first meeting of the Council.

A number of engagements had been attended since the last meeting of Council and particular reference was made to the following civic and charity events:

- St John's Church Hildenborough's 180th Anniversary Event
- 80th Anniversary of D-Day Commemorative Service at Rochester Cathedral
- D-Day Beacon Lighting Ceremony at the RBLI
- Tonbridge Lions Club's Community Fete at Tonbridge Castle
- Spadework's 40th Anniversary Celebration Event
- Tonbridge Lions Club's It's a Knockout
- Unveiling of a Word Ward II Information Board relating to a V-1 Flying Bomb (Doodlebug), opposite Tonbridge School
- Chairman of KCC's Armed Forces Flag Raising Ceremony at County Hall, Maidstone
- Hillview School for Girls Primary Arts Festival at Deaconfield, Tonbridge
- Tonbridge Model Engineering Society's 80th Anniversary Celebration Event at The Slade, Tonbridge
- West Malling Community Choir's Joint Concert with Choeur a Choeur du Pays de Thelle at St James the Great Church, East Malling

Arrangements were being finalised for future civic and charity events and the following were noted:

- Remembrance Sunday Services – 10 November 2024
- Armistice Day – 11 November 2024

Finally, the Mayor thanked the Deputy Mayor for attending a number of events on their behalf.

**C 24/60 QUESTIONS FROM THE PUBLIC PURSUANT TO COUNCIL PROCEDURE RULE NO 5.6**

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

**C 24/61 QUESTIONS FROM MEMBERS PURSUANT TO COUNCIL PROCEDURE RULE NO 5.5**

In accordance with Council Procedure Rule No. 5.5 a question had been submitted by Cllr Clokey in respect of the decision to extend the off-



street car parking charges. A detailed response had been provided by the Cabinet Member for Transformation and Infrastructure and the question and answer, attached as Annex 1 to the Minutes, were noted.

Cllr Clokey took the opportunity to ask a supplementary question and sought clarification on how ongoing usage of car parks would be assessed and reported to Members for consideration. The Cabinet Member indicated that regular updates would be provided to the Joint Transportation Board and appropriate Scrutiny Select Committee.

**C 24/62 NOTICE OF MOTION SUBMITTED PURSUANT TO COUNCIL PROCEDURE RULE NO. 5.27 (24/004)**

Consideration was given to a Notice of Motion (24/004) pursuant to Council Procedure Rule No 5.7 submitted by Cllr Clokey in relation to the LGA Debate Not Hate Campaign (as set out on page 27).

Members noted that subsequent to the meeting of Council of 14 May where this Campaign was first discussed, the LGA had published the 'Ending Abuse in Public Life Council Self-Assessment Toolkit'. As set out in the Notice of Motion, Cllr Clokey proposed that:

- the Chair of the Joint Standards Committee be responsible for co-ordinating the completion of this toolkit; and
- the Joint Standards Committee review progress against the measures supplied in the toolkit on an annual basis.

This was seconded by Cllr Hoskins and supported unanimously by Members. However, it was also recognised that elements of the campaign could be applied to members of the public and could be reviewed by a Scrutiny Select Committee if appropriate.

**RESOLVED:** That actions requested by the Notice of Motion (24/004) be agreed.

**C 24/63 LEADER'S ANNOUNCEMENTS**

The Leader opened his announcements by welcoming Damian Roberts to his first meeting of Full Council as Chief Executive, together with Cllr Pilgrim as the newly elected Member for Judd Ward and paid tribute to those Officers who had undertaken interim roles following the retirement of the previous Chief Executive. Appreciation was also recorded to the Deputy Leader (Cllr M Coffin) who had taken over many responsibilities in support of the Leader during the run up to the General Election.

Reference was made to the recent General Election which saw Tonbridge and Malling welcome two new Members of Parliament in Helen Grant (Maidstone and Malling) and Tristan Osborne (Chatham and Aylesford); Tom Tugendhat remained the Member of Parliament for Tonbridge.

The Leader acknowledged the challenges of getting local messages to residents during a pre-election publicity period (formerly known as *purdah*) as reinforced by the upcoming Local Plan considerations.

Members were reminded that the draft Local Plan would be published in the next few weeks and the challenges around balancing development to meet housing targets and listening to views of local communities and residents would be difficult. There could also be potential conflict with central Government with changes to the National Planning Policy Framework (NPPF) anticipated. When finalising the Local Plan there would be a real focus on the evidence base and feedback from public consultation. The Housing and Planning Scrutiny Select Committee would have the opportunity to comment on the draft Local Plan prior to the public consultation at its next meeting.

Full Leader's announcements were available on the Borough Councils [YouTube channel](#).

### **MATTERS FOR DECISION**

#### **C 24/64 POLITICAL BALANCE ARRANGEMENTS**

The report of the Director of Central Services and Deputy Chief Executive set out details of political balance arrangements following the recent Judd Ward by-election. The Borough Council were required to apply political balance to its committees, scrutiny select committees and advisory panels and boards.

**RESOLVED:** That

- (1) the composition of all committees, scrutiny select committees and advisory panels and boards be approved in accordance with the table set out at paragraph 1.1.7 of the report; and
- (2) the Monitoring Officer make any consequential amendments to the Borough Council's Constitution in respect of political balance.

#### **C 24/65 APPOINTMENTS TO COMMITTEES, PANELS AND GROUPS**

As a consequence of the recent by-election for Judd Ward, there were a number of changes required to the membership of committees, scrutiny select committees, advisory panels and other groups for the remainder of the municipal year. Council was asked to approve membership in accordance with the Terms of Reference and delegated responsibilities set out in the Constitution.

The following appointments were recommended:

Area 1 Planning Committee	Cllr S Pilgrim (Green)
Communities and Environment Scrutiny Select Committee	Cllr S Pilgrim (Green)
Tonbridge Community Forum	Cllr S Pilgrim (Green)

There was also a requirement to appoint a new Chair for the Tonbridge Community Forum. After consultation between the Leaders of the Conservative Party and the Green Group, Cllr Boughton proposed that Cllr Lee Athwal be appointed as Chair of the Tonbridge Community Forum. This was seconded by Cllr Coffin and supported unanimously by Members.

Finally, the list of substitute Members agreed at Annual Council on 14 May 2024 would be updated to reflect that newly elected Cllr Pilgrim would fill the vacancies created by the resignation of former Cllr Hines.

**RESOLVED:** That

- (1) the appointment of Cllr Pilgrim to the Area 1 Planning Committee be approved;
- (2) the appointment of Cllr Pilgrim to the Communities and Environment Scrutiny Select Committee for the remainder of the municipal year be approved;
- (3) the appointment of Cllr Pilgrim to the Tonbridge Community Forum be noted;
- (4) the appointment of Cllr Athwal as Chair of the Tonbridge Community Forum be approved; and
- (5) the list of substitute Members be amended to reflect that Cllr Pilgrim would replace former Cllr Hines.

**C 24/66 CHANGES TO THE CONSTITUTION**

Consideration was given to recommended changes to the Constitution in respect of:

- (1) Council Procedure Rule 5.28 - Motions on Notice (Part 4 – Rules); and
- (2) the Planning Code of Good Practice (Part 5 – Codes)

Following the last meeting of Council, the Monitoring Officer had reviewed CPR 5.28 relating to the submission of Notices of Motion and it was recommended that the rule be amended to enable the Chief Executive to reject the motion if it related to national or international

matters in respect of which the Council had no powers, rights or duties. The recommended change was intended to provide greater clarity for future motions and addressed the concerns raised at the previous meetings.

Concern was expressed that the proposed amendment to CPR 5.28 prevented the Borough Council discussing issues that residents felt were important and that the authority had a responsibility for providing a unified voice on significant national and international issues. Cllr Bridge proposed that the wording '*e.g. the motion relates to national or international matters in respect of which the Council has no powers, rights or duties*' be removed and this was seconded by Cllr Hoskins. Following a vote this amendment was rejected.

A further amendment proposed by Cllr Clokey, seconded by Cllr Hoskins to add '*... and which does not affect the Borough*' after '*no powers rights or duties*' was rejected following a vote.

Councillor Boughton proposed, seconded by Cllr Coffin that CPR 5.28 be amended as detailed in the report and this was supported by the majority of Members.

With regard to the second recommended change, particular reference was made to the ongoing review of Borough Council assets within Tonbridge and as this progressed into the next phase it was appropriate to consider how any applications for development on Council owned land would be considered by the authority in its capacity as Local Planning Authority. Given the potential significance of proposals that were expected to arise through the review, it was recommended that all applications for planning permission submitted by the Borough Council as landowner should be determined by the Full Council. This would ensure that applications had been determined openly and transparently and allowed all Members of the authority to be involved in consideration of the proposals for development. The proposed amendments to the Codes were out set out in Annex 1.

Concern was expressed that the role of Area Planning Committees in decision-making of applications in their areas would be diminished and each Committee should be able to determine planning applications themselves. However, there were also views expressed that this proposed change to the Planning Code of Good Practice provided a greater level of scrutiny and removed any potential conflict between responsibility as a Borough Councillor or Ward Member. It was also felt important to separate the roles between landowner and decision maker.

Cllr Clokey proposed that 'if the Chair of the Area Planning Committee believed insufficient Members of the Committee were available to take the decision, due to having to declare an Interest and having to withdraw from the debate, that the application should be referred to the Council for decision'. This amendment was seconded by Cllr Hoskins.

In accordance with Council Procedure Rule 8.4 Councillor Thornewell requested that a recorded vote be undertaken. The request was supported by Councillor Hoskins.

The voting on the motion was recorded as follows:

Members voting in favour of the motion:

Councillors Athwal, Banks, Bennison, Bishop, Boxall, Bridge, Clokey, Dean, Crisp, Hoskins, Hood, Oakley, Pilgrim, Palmer, Parry, Roud, Taylor, Tatton and Thornewell.

Total: 19

Members voting against the motion:

Councillors Bell, Betts, Boughton, Brown, Cannon, Coffin, Dalton, Davis, Hammond, Harman, Hudson, Keers, King, Lark, McDermott, Mehmet, Rhodes, Tanner, Tunstall and Williams.

Total: 20

Members who abstained from voting: 0

**(Total Members Eligible to Vote = 39)**

Cllr Boughton proposed, seconded by Cllr Coffin that the Planning Code of Good Practice be amended as detailed in 1.2 of the report.

In accordance with Council Procedure Rule 8.4 Councillor Athwal requested that a recorded vote be undertaken. The request was supported by Councillor Parry.

The voting on the motion was recorded as follows:

Members voting in favour of the motion:

Councillors Bell, Betts, Boughton, Brown, Cannon, Coffin, Dalton, Davis, Hammond, Harman, Hudson, Keers, King, Lark, McDermott, Mehmet, Palmer, Rhodes, Tanner, Taylor, Tunstall and Williams.

Total = 22

Members voting against the motion:

Councillors Athwal, Banks, Bennison, Bishop, Boxall, Bridge, Crisp, Clokey, Dean, Hoskins, Hood, Oakley, Parry, Pilgrim, Roud, Tatton and Thornewell.

Total: 17

Members who abstained from voting: 0

**(Total Members Eligible to Vote = 39)**

**RESOLVED:** That

- (1) Council Procedure Rule 5.28 be amended as detailed in 1.1.4 of the report;
- (2) the Planning Code of Good Practice be amended as detailed in 1.2 of the report and in Annex 1; and
- (3) the Monitoring Officer be authorised to amend the Constitution as set out in paragraph 1.1.4 of the report and in Annex 1.

**C 24/67      DECARBONISING AND ENERGY EFFICIENCY CAPITAL PLAN SCHEMES**

Consideration was given to the recommendations of Cabinet of 8 July 2024 in respect of updating the Decarbonising the Council's Estate' List A Capital Plan Scheme. Particular reference was made to the Borough Councils successful applications for external grant funding from the Governments Swimming Pool Support Fund and the Public Sector Decarbonisation Scheme, which would be used to support a number of Schemes.

Following confirmation of the external grant funding awarded a revised set of allocations to individual projects, under the umbrella of the 'Decarbonising the Council's Estate, were detailed in the report considered by Cabinet. In summary, a total of £930,000 would be provided from TMBC funding and £1,644,799 from external grant funding. An additional £500,000 of Borough Council funding would be required as part of updating this Capital Plan Scheme and could be added from a combination of the revenue reserve for Capital Schemes and the Climate Change Reserve.

**RESOLVED:** That

- (1) the List A Capital Plan Scheme 'Decarbonising the Council's Estate' be updated to include all of the projects as outlined in the report considered by Cabinet on 8 July 2024;
- (2) a revised figure of £1,644,799 attributable to external grant funding be reflected in the updated Capital Plan Scheme; and
- (3) an increased contribution of £500,000 by the Borough Council to the Capital Plan Scheme be approved and divided as set out below:

- £225,000 funded from the Revenue Reserve for Capital Schemes;
- £275,000 funded from the Climate Change Reserve.

### **MATTERS FOR INFORMATION**

#### **C 24/68 NON-ANNUAL APPOINTMENT TO BERRY HOUSING TRUST**

The Secretary of the Berry Housing Trust had advised that the information held by the Borough Council in respect of its non-annual appointments were out of date. Members noted the current appointments as set out in 1.1.2 of the report were for an indefinite period.

#### **C 24/69 MINUTES OF CABINET AND COMMITTEES**

The Minutes of meetings of the Cabinet and Committees for the period April to June 2024 set out in the Minute Book (Volume 3), attached as a supplement, were received and noted.

Any recommendations to the Council from Cabinet or Committees were resolved elsewhere on the agenda.

#### **C 24/70 SEALING OF DOCUMENTS**

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

### **MATTERS FOR CONSIDERATION IN PRIVATE**

#### **C 24/71 EXCLUSION OF PRESS AND PUBLIC**

The Mayor moved, it was seconded and

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

### **PART 2 - PRIVATE**

### **MATTERS FOR DECISION**

#### **C 24/72 PROPOSED CHANGES TO THE ESTABLISHMENT**

(Reasons: LHA 1972 – Sch 12A Paragraph 1 and 2 – Information relating to an individual and information which is likely to reveal the identity of an individual)

Consideration was given to the recommendations of the General Purposes Committee of 12 June 2024 in respect of a number of

establishment changes. Approval was required from Full Council for those proposals which represented budget growth.

**RESOLVED:** That with effect from 10 July 2024

- (1) the Internal Communications Officer post (DA1299) be permanently established at 18.5 hours per week;
- (2) the proposed changes within the Revenues and Benefits Service be established; and
- (3) the proposed changes within Accountancy and Exchequer Services be established.

The meeting ended at 9.16 pm



Mayor's Announcements

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# Agenda Item 6

Questions from the public pursuant to Council Procedure Rule No 5.6

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## COUNCIL

22 OCTOBER 2024

### **AGENDA ITEM 8 – QUESTION ASKED PURSUANT TO COUNCIL PROCEDURE RULE NO 5.5**

The following question (24/004) has been asked pursuant to Council Procedure Rule No 5.5 by Councillor M Hood:

'Key Performance Indicators are a crucial early warning mechanism allowing officers and members to recognise trends developing in specific areas before they become a significant harder to resolve problem. The proposal to restrict KPIs to scrutiny select committees as part of an annual report presented by the relevant cabinet member will mean that the quarterly KPIs are seen by far fewer members which reduced their effectiveness. This cannot be best practice. Does the Leader agree that all members have the responsibility for identifying when the council falls short of its own performance targets and that the available data and KPIs should continue to be presented on a quarterly basis to the relevant scrutiny select committee?'

**Response of the Leader of the Borough Council (Cllr M Boughton):**

**To follow and will be published as a supplement as soon as possible**

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## **Notice of Motion submitted pursuant to Council Procedure Rule No. 5.27**

**To consider the following Notice of Motion proposed by Councillor J Clokey on behalf of the Liberal Democrat Group:**

### **Winter Fuel Payments:**

Council notes the recent announcement by the Labour Government to end universal winter fuel payments and restrict eligibility to only those in receipt of Pension Credits and other benefits.

Though many agree that universal Winter Fuel Payments are not necessary, Council is deeply concerned that many pensioners on lower and middle incomes will now not receive the payments. Across England and Wales the number of people eligible for winter fuel payments will fall by 10 million (from 11.4 million to only 1.5 million).

In Tonbridge and Malling the number of pensioners affected by the change in eligibility criteria is 22,217. That means 92.8% of pensioners currently eligible for winter fuel payments will no longer be able to claim the payment from this winter onwards.

Council believes that the Labour Government has set the threshold at which pensioners do not qualify for Winter Fuel Payments far too low. Only those receiving a pension of less than £218.15 a week (or £332.95 a week for couples) are eligible for pension credits. This is significantly lower than the living wage rate.

Council is also concerned by the low take up of pension credit with only 63% of those eligible nationwide receiving them – and over 880,000 pensioners not doing so. Council recognises the role we have to play to increase awareness of benefits such as Pension Credit to ensure people are aware of the support they are entitled to.

Council further notes that the Energy Price Cap is due to rise by 10% in October, which combined by the removal of Winter Fuel Payments will push thousands of local pensioners into fuel poverty.

Council is asked to:

- Instruct the Chief Executive to write to the Chancellor of the Exchequer calling for the policy on linking Winter Fuel Payments to Pension Credit receipt to be immediately paused and introduce a new threshold to determine eligibility for Winter Fuel Payments. Council further requests the Chief Executive write to all MPs covering Tonbridge and Malling asking them to give their formal support to halting the changes to the Winter Fuel Payment eligibility;
- Request all group leaders within Tonbridge and Malling Borough Council sign a joint letter to the Chancellor of the Exchequer calling for the new Winter Fuel Payment policy to be suspended and reviewed; and
- Urgently extend the scope of our awareness campaign to maximise uptake of pension credits. This will include use of council noticeboards, social media, promotion through local press, targeted communications with local voluntary

sector partners and investigation of the feasibility of sending targeted letters to those that we can identify as likely to be eligible.



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**Kings Hill**  
Kings Hill

**TM/24/01270/PA**

**Location:** Gibson Building Gibson Drive Kings Hill West Malling ME19 4LZ

**Proposal:** Refurbishment of Gibson East office building, comprising the removal of a corridor link to the grade II listed Gibson West building (and remedial works to the listed facade) minor changes to the external envelope of Gibson East (new external doors / windows and the addition of PV cells to the pitched roof), modifications to site parking and internal circulation, addition of a plant enclosure, single-storey external store, refuse store and cycle shelter

**Go to:** [Recommendation](#)

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## 1. Description of Proposal:

1.1 The application seeks full planning permission for the following works:

- Removal of the existing single storey corridor link between Gibson East and Gibson West.
- Reinstatement of the façade of Gibson West to its original condition at the junction with the removed corridor link.
- Addition of a brick-clad plant enclosure adjacent to the central stair of Gibson East.
- Construction of a brick clad single-storey external store at the south end of the Gibson East site, with an external vehicle compound, parking and EV charging points for council vehicles.
- Provision of a new timber clad, covered refuse store.
- Addition of a cycle shelter in the same location as the existing (uncovered) hoops.
- Reconfiguration of the existing vehicle circulation route and parking to allow Gibson East to operate as a site independently of Gibson West.
- Addition of new external doors to the west and south elevations of Gibson East along with the adjacent strip windows (to match existing).
- External ramps providing level thresholds to new and existing external doors of Gibson East (primarily final exits for emergency escape).
- Addition of rooftop photovoltaic cells to the south and east facing pitches of the existing Gibson East roof.
- Modifications to internals, renewal of finishes and upgrading/replacement of services within Gibson East.

1.2 A listed building application has also been submitted under 24/01268 for some of the above works which require listed building consent.

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## 2. Reason for reporting to Committee:

- 2.1 Paragraph E8.7, Part 5 (Codes) of the Tonbridge and Malling Borough Council Constitution sets out that:

*'Proposals for development submitted by the Council must be treated no differently to any other application.'*

*To ensure that planning applications submitted by the Council are determined openly and transparently all applications for planning permission submitted by the Council will be determined by Full Council.'*

- 2.2 As the application has been submitted by the Council's Property Service Team the application is required to be determined by Full Council in line with the adopted constitution.

## 3. The Site:

- 3.1 The application site is located in Kings Hill, to the south of Gibson Drive and east of Malling Road and host the Council offices. The site comprises the Gibson Building made up of Gibson East and Gibson West, which are adjoined via a single storey link.
- 3.2 The Gibson Building (Gibson West) was first listed as Grade II in 1999 and the Historic England list description describes the building as an:

*'Officers' mess, now council offices. 1939, based on a type design by A Bulloch, architectural advisor to the Air Ministry's Directorate of Works and Buildings. Stretcher-bond brick to cavity walling with hipped plain tile roofs and brick stacks.*

*PLAN: central entrance/recreation block with services and dining room to rear, flanking accommodation wings attached at right angles and extending to rear.*

*EXTERIOR: Neo-Georgian style. The front elevation has 3-window fronts of 2-storey accommodation blocks flanking the single-storey central block of 5:3:5 bays, the 5-bay central porch broken forward and with semi-circular arched entries with similar arches over half-glazed inner doors with fanlights; tall 12/16-pane sashes to flanking recreation rooms, their juncture with the hall marked by tall stacks. The 3-window fronts to the accommodation wings, which have 6/6-pane sashes and 13-window outer elevations, each have a central stack with swept flanks set above a similar arched door with tile impost.*

*INTERIOR: central block retains original plasterwork, including moulded cornicing, and joinery, including half-glazed doors, to hall and flanking recreation rooms; latter*

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have bolection-moulded surrounds to chimneypieces. Dining room to rear has cornicing to ceiling, which is subdivided into panels. HISTORY: West Malling constitutes one of the stations built for Fighter Command and planned during the latter stages of the inter-war expansion of the RAF. In contrast to the post-1933 Luftwaffe, whose stations at home were solely designed for training purposes and whose principal role abroad was close army support, the inter-war RAF had eschewed temporary fabric and envisaged future wars as being fought from fixed and secure bases rebuilt in permanent materials. The first phase of this scheme, the principles of which were debated and established in the Salisbury Committee of March 1923, took place under the guiding hand of General Sir Hugh Trenchard, who formed the RAF as the world's first independent strategic air force in April 1918 and who ranks, along with America's Billy Mitchell and Italy's General Douhet, as the most important advocate of the doctrine of offensive deterrence in the inter-war period, and one which was to determine the controversial policy of Bomber Command during the Second World War. His scheme involved the construction of offensive bomber bases in East Anglia and Oxfordshire, sited behind an 'aircraft fighting zone' some fifteen miles deep and stretching round London from Duxford near Cambridge to Salisbury Plain. It was the latter which accounted for the rebuilding of several bases around London which owed their origins to the First World War. Although political and financial factors had prevented the completion of Trenchard's scheme, it was the collapse of the Geneva disarmament talks, in 1933, which prompted the government to embark, from 1934, on its largest inter-war expansion of the air force, phased in order to ensure parity with the Luftwaffe and deployed with training and storage bases sited behind an eastern front facing Germany. A satellite of Biggin Hill within Fighter Command's strategically critical 11 Group, West Malling was opened in June 1940, although a series of raids in August 1940 rendered the airfield unservicable for much of the Battle of Britain. It reopened in October of that year, becoming a nightfighter station with Bristol Beaufighters in 1941, and later used by Mosquitos and Typhoons in offensive operations in northern Europe; it became a key station during Operation Diver' in 1944, the name given to the defence of the east and south-eastern coasts against the V1 bomb. The mess forms part of an exceptionally well-preserved group of buildings on the domestic site which are strongly representative of the neo-Georgian and Art Deco type designs characteristic of the 1930s expansion period. Whilst the design of Trenchard's stations displayed a stark utilitarian architecture which, apart from the Garden City inspiration for station married quarters, owed much to the army background of the designers who worked from the office of the Air Ministry's Directorate of Works and Buildings, it was the need to integrate the fundamental principle of dispersal against air attack which made airfield planning markedly different from the formal and more condensed layouts of naval or army barracks. This is exemplified, for example, in Trenchard's requirement for the crescent as opposed to previously linear planning of hangars, and the officers' mess designs which separated out the functions of mess and recreation rooms and accommodation in order to obviate the risk of a single run of bombs destroying a building and its occupants. It was in this context that Ramsey McDonald, as Prime Minister, had instructed that the Royal Fine Arts Commission be

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*involved in airfield design, and that a process of consultation with the Air Ministry resulted in the creation of the new post of architectural advisor to the Director of Works and Buildings, first occupied by A Bulloch in October 1934, with many of the early (1934-5) building designs being specifically approved by the commissioners; afterwards, liason over layout and other matters was personally handled by Lutyens. The buildings erected for much of the 1930s Expansion Period were, as a consequence, more carefully proportioned than their predecessors, a clear distinction being made between neo-Georgian for domestic buildings and more stridently modern styles for technical buildings. From 1938, and coinciding with Bulloch's replacement by P M Stratton, new buildings and stations, including Middle Wallop and West Malling, made increasing use of concrete and flat roofs in order to respectively speed up the building process and counter the effects of incendiary bombs.'*

- 3.3 The site takes vehicular access from Gibson Drive and has parking surrounding the building. In addition to the main entrance the site has pedestrian access points from Gibson Drive, Forest Way (to the northeast of the site) and Lancaster Way (to the east of the site).
- 3.4 Gibson West comprises the former mess building for the airfield, was built in 1939 and comprises a central single storey block and two linear two-storey (formerly accommodation) wings. The structures are stretcher bond brick clad with pitched plain tile roofs and timber sash windows throughout. The central area has been subject to various small extensions over the years. To the front of Gibson West lies a single storey row of garages, adjacent to Gibson Drive.
- 3.5 Gibson East comprises a more contemporary building (with plant on a reduced third floor) along with a single storey corridor link to Gibson West. It comprises two wings of office accommodation and a central core in an 'L' configuration, the building is brick clad with a profiled steel sheet pitched roof and horizontal strip windows. Both facades of the two wings are overlaid with a galvanised steel structure between ground and eaves level providing maintenance access and solar shading. Stairs located in the central core and at the ends of each wing are articulated and extend above the general eaves line. A number of windcatchers punctuate the building's roofscape providing natural ventilation to the accommodation.
- 3.6 The proposal site lies within a predominantly urban and built-up area with residential properties located to the immediate south and east (along Wellington Way, Lancaster and Tempest Road), an office/commercial building to the north (on the opposite side of Gibson Drive and the A228 (Malling Road) situated to the west. An area of ancient woodland lies within the most southern part of the site and buffers the site from neighbouring residential streets.

#### 4. Planning History (relevant):

Application No.	Proposal	Decision	Date
24/01268/PA	Listed Building application: Proposed demolition of a modern corridor link between Gibson East and the grade II Gibson West building, with restoration works to reinstate the original appearance of the east facade of the listed building.	Pending Consideration	-
15/00873/LB	Listed Building Application: Demolition of 1960's extension constructed of asbestos cement panels, following advice of asbestos consultant regarding deteriorating condition of structure.	Approved	13/03/15
02/03003/LB	Listed Building Application: internal refurbishment of Council Chamber and ancillary areas, plus disabled access to these areas and associated external alterations.	Approved	14/03/03
02/03002/DR3	Alterations to the external appearance of the Council Offices to include provision of new lighting; provision of smokers' accommodation; provision of new front entrance steps; creation of new vehicular access to Bunker and provision of new access ramps.	Approved	25/02/03
00/02950/LB	Erection of demountable partitions within dining hall to form postroom.	Approved	15/02/01
00/02291/LB	Listed Building Application: erection of timber stud partition with new doorway to divide room 9 into 2 no. rooms.	Approved	05/12/00
99/02630/ORM	Amended design of "Link Corridor" to Gibson Building previously approved under application ref: TM/99/00413/DR3.	Approved	10/02/00
99/02624/ORM	Amendment to car parking layout and vehicular and pedestrian circulation routes within the site; including new permissive footpath between Tempest Road and Forest Way pursuant to consent ref: TM/99/00413/DR3 (new office building).	Approved	07/02/00

99/02599/LB	Listed Building Application: construction of enclosed corridor link to new adjacent office building and minor adaptations to create connection with existing building's circulation corridors.	Approved	25/01/00
99/01186/ORM	Amendment to parking provision in respect of consent ref: TM/99/00413/DR3 (new office building): delete 9 car parking spaces adjacent to the south eastern boundary and relocate to extended parking area to the south of the building.	Approved	02/08/99
99/00413/DR3	Two storey office building with associated car parking and external works.	Approved	22/04/99

## 5. Consultees:

### 5.1 PC: OBJECTION, Kings Hill Parish Council has the following concerns

1. There is currently an Entrance/Exit and an Exit Only from the site onto Gibson Drive. This configuration should be maintained – If the Exit Only is changed to an Entrance/Exit, then that could cause dangerous traffic movements as it is so close to the busy A228, and vehicles entering from the A228 direction could stop abruptly and unexpectedly to be able to turn into the site. Note that Gibson Drive is the only route for which residents of Kings Hill have a right of access onto the A228. As such, any action which impacts on the availability or throughput of residents of this access should be discounted.

2. The store is being proposed as being about 1 metre from the ancient woodland. This does not comply with government guidance which recommends a 15 metre buffer. Although there is existing hard standing (car parking), the presence of the building in its current proposed location would require additional trimming of trees in the ancient woodland which would impact its health.

3. The diagrams for the proposed layout do not include a footpath for the access from Kate Reed Wood to Forest Way. This is important for safety. If the only access to the rear is via the existing one-way road, then this may not be wide enough for larger vehicles. Indeed, opening for larger vehicles would potentially require additional trimming of existing trees which could impact on their stability and effectiveness as a sound barrier for noise from the site to the residential Kate Reed Wood.

4. The wooded area where there is the suggestion of removal for the emergency generator is classified by DEFRA as Priority Deciduous Woodland, and removal will result in reduced wildlife links around the nearby areas of ancient woodland, reducing their health and biodiversity.

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5.2 Southern Water: We request that should this planning application receive planning approval, the following informative is attached to the consent: Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.

5.3 Forestry Commission: None received

5.4 Natural England: None received

5.5 KCC Highways and Transportation (23.09.24) Thank you for your consultation in relation to the above planning application. I have the following comments to make with respect to highway matters:-

This document should be read in conjunction with the previous response dated 29th August 2024. The applicant has confirmed that the one-way system will remain in place (travelling in a clockwise direction).

With this mind, the applicant has also provided vehicle tracking to show that refuse vehicle, delivery van, Fire Tender and an HGV can still access the site.

Drawing 02851\_1030 P11 does not show any form of separation between the two sites (Gibson West and Gibson East) at the northernmost access point, and therefore it is assumed that this connection will remain in place.

I refer to the above planning application and confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

Submission of a Construction/Demolition Management Plan before the commencement of any development on site to include the following:

- (a) Routing of construction and delivery vehicles to / from site.
- (b) Parking and turning areas for construction and delivery vehicles and site personnel, which may require supporting vehicle tracking/swept paths.
- (c) Timing of deliveries, avoiding network and school peaks where possible.
- (d) Provision of wheel washing facilities.
- (e) Measures to prevent the discharge of surface water onto the highway.
- (f) Temporary traffic management / signage.

5.6 KCC Highways and Transportation (29/08/24) The site currently has a one-way system around the eastern edge of the Gibson East building. From the drawing (number 1030 Rev P09) which was provided as part of this planning application, it is unclear how vehicles will traverse the internal site layout. Clarification is sought on the potential routing within the site. If the site is to be two-way, then evidence of appropriate internal site visibility splays will be required to ensure drivers have clear sightlines. Also, if two-way traffic is to be incorporated, then the largest vehicle

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(refuse vehicle) swept path analysis should be assessed and shown in the context of passing a car.

No details have been provided on the new external store - how often will this building be accessed and by what vehicle types?

These proposals show a slight floorspace increase of 213sqm to 2289sqm from 2076sqm, which means there should be a maximum of 91 car parking spaces according to KCC Supplementary Planning Guidance (SPG) 4, the applicant is proposing to include 94 spaces which is not too dissimilar to the maximum standards and is therefore acceptable to KCC Highways.

- 5.7 KCC Ecology: (26.09.24) We have reviewed the information submitted by the applicant and advise that sufficient ecological information has been provided.

We have taken this view due to the site consisting of mostly well managed, modified grassland habitat, which is likely to be of low ecological value. The woodland that is proposed to be lost can be compensated for through offsite biodiversity net gain. We are satisfied that there is a lack of suitable features for most protected species, and for those potentially on site, appropriate precautionary approaches have been proposed. We recommend that the site be managed to remain in its current state to deter protected species from establishing on site.

#### Hazel Dormice

Potential habitat (ancient woodland and broadleaf woodland) for hazel dormice has been identified on site. However, only 52sqm broadleaf woodland is proposed to be lost and therefore only a small portion of the dormouse range would be impacted if they are present. Therefore, we are satisfied that a dormouse survey is not required, and such a small loss of habitat is unlikely to impact the local dormouse population.

The PEA has proposed a precautionary strategy for tree clearance. We are satisfied that the measures are suitable. If a dormouse is found during tree clearance, we advise that all works cease immediately and that a qualified ecologist is consulted. We advise that these measures be incorporated into the Construction Environmental Management Plan and secured via a condition.

#### Badger

Whilst there were no signs of badgers on site during the PEA, suitable habitat for badgers exists on site and badgers have been recorded within 1km of the site. Therefore, it is possible that badgers could be using the site. As a highly mobile species, they can colonise areas quickly and new setts can appear between surveys and works beginning. We advise that within one month of any works taking place, a precautionary walkover of the site and, if accessible, a 30m radius around the site



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should be undertaken to search for badger setts. If a badger sett is discovered on site, or within 30m of the site, a suitably experienced ecologist will need to provide advice on whether a badger mitigation licence from Natural England is required prior to the commencement of any or specific site works. We advise that this is secured via a condition if planning permission is granted.

#### Suggested condition wording

Prior to works commencing (including preparatory works and site clearance), a badger survey will be carried out as detailed within section 4.7 of the Preliminary Ecology Appraisal (KB Ecology Ltd, 19 July 2024). If a badger sett is found, a detailed mitigation strategy must be submitted to the LPA for information.

Measures set out in sections 4.9 of the PEA for good practice to avoid impacts to any terrestrial animals on site, including badgers. If planning permission is granted, we recommend securing these measures in a Construction Environmental Management Plan through a condition.

#### Breeding Birds

It is possible that breeding birds may be using the trees and woodland vegetation on site. We advise that an informative is included on how works are to be carried out with respect to breeding birds should planning permission be granted.

#### Breeding bird informative – suggested wording

The applicant is reminded that, under the Wildlife and Countryside Act 1981 (as amended), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act.

Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation/structures that may provide suitable nesting habitats should be carried out outside of the bird breeding season (1st March to 31st August inclusive) to avoid destroying or damaging bird nests in use or being built. If vegetation/structures need to be removed during the breeding season, mitigation measures need to be implemented. This includes examination by a suitably qualified and experienced ecologist immediately prior to starting work. If any nesting birds are found, works must cease until after the birds have finished nesting.

#### Lighting

Lighting can negatively impact nocturnal species, like bats, that are foraging and commuting on site and in the surrounding habitat. Currently there is no lighting plan

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or information submitted. Therefore, if bats are present foraging/commuting within the area, there is a risk that any lighting may have a negative impact.

To mitigate against potential adverse effects on bats, and in accordance with the National Planning Policy Framework 2023, we suggest that the Bat Conservation Trust's 'Guidance Note 08/23: Bats and Artificial Lighting at Night', is consulted in the lighting design of the development. We advise that the incorporation of sensitive lighting design for bats is submitted to the local planning authority and secured via an attached condition with any planning permission.

#### Suggested condition wording

Prior to occupation, a lighting plan which has been designed to minimise impacts on biodiversity shall be submitted to and approved in writing by the local planning authority. The plan will show how and where external lighting will be installed and provide commentary regarding how the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23: Bats and Artificial Lighting at Night' has been considered in the lighting design. It will be clearly demonstrated that areas to be lit will not impact protected species. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and be maintained thereafter.

#### Ancient Woodland

The site is directly adjacent to an ancient woodland fragment and 160m from Local Wildlife Site (LWS) Mereworth Woods 160m west of the site. We highlight paragraph 186 of the NPPF which states that "development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists".

The Natural England/Forestry Commission standing advice states that there should be a minimum 15m buffer zone between development and ancient woodland. The guidance also requires consideration of the potential for additional impacts from proposals even when there is existing development within this minimum buffer.

There will be no loss of ancient woodland, but the proposed external storage will be within 15m of the ancient woodland. The Assessment of Alternative Locations for the external storage notes that the location adjacent to the ancient woodland is the only suitable location on site in terms of safety and accessibility, therefore we are satisfied that an alternate location on site is not possible. As the location of the storage will be on existing hardstanding, we are satisfied the proposed external storage will not additionally impact the woodland.

As the site is directly adjacent to the ancient woodland, we highlight that the proposed development entails some potential adverse impacts on the woodlands,

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namely from light pollution and potentially dust pollution from the demolition and construction on site.

The applicant should submit how they plan to reduce dust, noise and light pollution during and after construction so as not to impact the ancient woodland and any species living there. We expect these will also be sufficient to protect the nearby LWS. This should be included in a Construction and Environmental Management Plan (CEMP) and secured by a condition if planning permission is granted.

Construction and Environmental Management Plan (CEMP) – suggested wording:

Prior to works commencing, a Construction and Environmental Management Plan (CEMP) will be submitted to and approved in writing by the Local Planning Authority. The content of the plan will include:

- how the development will protect the adjacent Ancient Woodland and nearby ancient woodland of Mereworth Wood during the demolition and construction of the buildings, as well as during the operational phase. This shall include how the development plans to reduce dust and light pollution.
- Section 4.6 Dormice precautionary strategy for tree clearance
- Section 4.9 Other species (including hedgehogs) precautionary measures

#### Biodiversity Net Gain

Under section 40 of the NERC Act (2006) and paragraph 180 of the NPPF (2023), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 186 of the NPPF (2023), the implementation of measurable net gains for biodiversity (integrated as part of design) should be encouraged.

Under the Environment Act 2021, all planning applications for major development (unless exempt) submitted on or after 12 February 2024 in England, will have to deliver at least a 10% biodiversity net gain. It is a requirement for minor applications submitted on or after the 2 April 2024. This application was received on 7 August 2024 according to the information available on the planning portal.

Having reviewed the proposal and submitted documents, we consider this application to fall under mandatory biodiversity net gain. A statutory BNG metric has been submitted that shows the proposals will result in an on-site net change of -.010 for habitat units and +0.15 hedgerow units. This equates to an on-site net % change of -2.99% for habitat units and NA for hedgerow units as no hedgerows are present at the baseline. We are satisfied that baseline and proposed onsite habitats are correct.

The metric shows that BNG cannot be achieved on site. It is proposed that offsite units will be acquired but a site has not been proposed at this stage. However, for the habitat types that require offsite units (Lowland mixed deciduous woodland and Other

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neutral grassland) there are sufficient units available on the Kent BNG site Register. Therefore, we are satisfied that BNG will be achievable offsite and that the site location can be dealt with as part of the Gain Plan condition discharge.

If planning permission is granted, local planning authorities are encouraged to use suggested paragraphs for Biodiversity Gain Information on the written decision notice which are available to download here:

[https://assets.publishing.service.gov.uk/media/663251d969098ded31fca800/BNG\\_Decision\\_Notice\\_Text.odt](https://assets.publishing.service.gov.uk/media/663251d969098ded31fca800/BNG_Decision_Notice_Text.odt).

### Ecological Enhancements

Enhancement features are not considered as part of a measurable net gain; however, in addition to the measurable net gains we expect enhancement features to also be incorporated into an enhancement plan within the red line boundary. These can include integrated bat and bird bricks and/or durable boxes on retained trees, log piles, hibernacula, hedgehog homes, and the development of a full Biodiversity Management Plan for the wood. We advise that ecological enhancements be secured via condition if planning permission is granted.

### Suggested condition wording

Within three months of works commencing, detailed plans showing how the development will enhance and maintain biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include details of bat and bird durable boxes, log piles, hibernacula, hedgehog homes, and the development of a full Biodiversity Management Plan for the wood. The approved measures will be implemented and retained thereafter.

- 5.8 KCC Ecology: (04/09/24) We note that the proposed external storage is to be situated within the 15m buffer zone for the adjacent ancient woodland and will result in the loss of lowland mixed deciduous woodland habitat. Whilst we acknowledge that much of the storage location is on existing hardstanding, it is unclear as to why other areas of hardstanding were not considered for the location of the storage building as other areas suitable for the storage building exist on site. Were these other areas used, it would not result in the loss of woodland or be within the ancient woodland buffer. We advise that prior to determination, other areas for the location of the external storage are considered and, if not suitable, then justification for the current proposed location next to the woodlands is provided.

With regards to other matters, we are satisfied that no further surveys are required as the site consists of mostly well managed, modified grassland habitat, which is likely to be of low ecological value. We are satisfied that the woodland that is proposed to be lost can be compensated for through offsite biodiversity net gain. We are satisfied that there is a lack of suitable features for most protected species, and for those

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potentially on site, appropriate precautionary approaches have been proposed. We recommend that the site be managed to remain in its current state to deter protected species from establishing on site.

Hazel Dormice: Potential habitat (ancient woodland and broadleaf woodland) for hazel dormice has been identified on site. However, only 52sqm broadleaf woodland is proposed to be lost and therefore only a small portion of the dormouse range would be impacted if they are present. Therefore, we are satisfied that a dormouse survey is not required, and such a small loss of habitat is unlikely to impact the local dormouse population.

The PEA has proposed a precautionary strategy for tree clearance. We are satisfied that the measures are suitable. If a dormouse is found during tree clearance, we advise that all works cease immediately and that a qualified ecologist is consulted. We advise that these measures be incorporated into the Construction Environmental Management Plan and secured via a condition – we will provide suggested wording once the requested additional information has been submitted.

Breeding Birds: It is possible that breeding birds may be using the trees and woodland vegetation on site. We advise that an informative is included on how works are to be carried out with respect to breeding birds should planning permission be granted – we will provide suggested wording once the requested additional information has been submitted.

Breeding Birds: It is possible that breeding birds may be using the trees and woodland vegetation on site. We advise that an informative is included on how works are to be carried out with respect to breeding birds should planning permission be granted – we will provide suggested wording once the requested additional information has been submitted.

To mitigate against potential adverse effects on bats, and in accordance with the National Planning Policy Framework 2023, we suggest that the Bat Conservation Trust's 'Guidance Note 08/23: Bats and Artificial Lighting at Night', is consulted in the lighting design of the development. We advise that the incorporation of sensitive lighting design for bats is submitted to the local planning authority and secured via an attached condition with any planning permission – we will provide suggested wording once the requested additional information has been submitted.

Ancient Woodland: The site is directly adjacent to an ancient woodland fragment and 160m from Local Wildlife Site (LWS) Mereworth Woods 160m west of the site. We highlight paragraph 186 of the NPPF which states that “development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists”.

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The Natural England/Forestry Commission standing advice states that there should be a minimum 15m buffer zone between development and ancient woodland. The guidance also requires consideration of the potential for additional impacts from proposals even when there is existing development within this minimum buffer.

There will be no loss of ancient woodland, but the proposed external storage will be within 15m of the ancient woodland. Whilst this will be on existing hardstanding, as stated above, we advise that consideration and justification on the location of the storage unit within the buffer zone is submitted.

As the site is directly adjacent to the ancient woodland, we highlight that the proposed development entails some potential adverse impacts on the woodlands, namely from light pollution and potentially dust pollution from the demolition and construction on site.

The applicant should submit how they plan to reduce dust, noise and light pollution during and after construction so as not to impact the ancient woodland and any species living there. We expect these will also be sufficient to protect the nearby LWS. This should be included in a Construction and Environmental Management Plan (CEMP) and secured by a condition if planning permission is granted – we will provide suggested wording once the requested additional information has been submitted.

Biodiversity Net Gain and Ecological Enhancements: Under section 40 of the NERC Act (2006) and paragraph 180 of the NPPF (2023), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 186 of the NPPF (2023), the implementation of measurable net gains for biodiversity (integrated as part of design) should be encouraged.

Under the Environment Act 2021, all planning applications for major development (unless exempt) submitted on or after 12 February 2024 in England, will have to deliver at least a 10% biodiversity net gain. It is a requirement for minor applications submitted on or after the 2 April 2024. This application was received on 7 August 2024 according to the information available on the planning portal.

Having reviewed the proposal and submitted documents, we consider this application to fall under mandatory biodiversity net gain. A statutory BNG metric has been submitted that shows the proposals will result in an on-site net change of -.010 for habitat units and +0.15 hedgerow units. This equates to an on-site net % change of -2.99% for habitat units and NA for hedgerow units as no hedgerows are present at the baseline. We are satisfied that baseline and proposed onsite habitats are correct.

The metric shows that BNG cannot be achieved on site. It is proposed that offsite units will be acquired but a site has not been proposed at this stage. However, for the habitat types required for offsite units (Lowland mixed deciduous woodland and

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Other neutral grassland) there are sufficient units available on the Kent BNG site Register. Therefore, we are satisfied that BNG will be achievable offsite and that the site location can be dealt with as part of the Gain Plan condition discharge.

Enhancement features are not considered as part of a measurable net gain; however, in addition to the measurable net gains we expect enhancement features to also be incorporated into an enhancement plan within the red line boundary. These can include integrated bat and bird bricks and/or durable boxes on retained trees, log piles, hibernacula, hedgehog homes, and the development of a full Biodiversity Management Plan for the wood. We advise that ecological enhancements be secured via condition if planning permission is granted – we will provide suggested wording once the requested additional information has been submitted.

5.9 KCC Flood and Water Management: We note that the site is developed and is largely surfaced, with impermeable areas draining to an existing surface water system. Whilst a drainage design has been completed, no Drainage Strategy has been submitted for the site, and we would appreciate this being put forward for our review in order to clarify a number of points:

- The extent of new impermeable area that was previously impermeable and positively drained.
- The extent of new impermeable area that was previously soft landscaped.
- Proposed discharge rates to each existing network for the 1 in 100 year critical storm including allowance for climate change.
- How the development proposes to meet the requirements of our Drainage and Planning Policy, which sets out that brownfield sites should aim to discharge at peak rates as close to greenfield as possible, and with a minimum reduction of 50%.
- The anticipated impact upon potential surface water flooding as shown on gov.uk mapping in the vicinity of the link building proposed to be demolished.

We would therefore recommend the application is not determined until a complete surface water drainage strategy has been provided for review.

At a minimum, a drainage strategy submission must comprise:

- A location plan
- A site layout
- A drainage proposal schematic or sketch
- A clear description of key drainage features within the drainage scheme (e.g. attenuation volumes, flow control devices etc.)
- Information to support any key assumptions (e.g. impermeable areas, infiltration rates etc.)
- Supporting calculations to demonstrate the drainage system's operation and drainage model network schematic

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- Drainage strategy summary form (from our Drainage and Planning Policy Statement)
  - Consideration of key questions and / or local authority planning policy requirements.

Our Drainage and Planning Policy Statement sets out how Kent County Council, as Lead Local Flood Authority and statutory consultee, will review drainage strategies and surface water management provisions associated with applications for major development and should be referred to for further details about our submission requirements.

#### 5.10 KCC Heritage: None received

5.11 TMBC Environmental Protection: During the demolition and construction phases, the hours of noisy working (including deliveries) likely to affect nearby properties should be restricted to Monday to Friday 07:30 hours - 18:30 hours; Saturday 08:00 to 13:00 hours; with no such work on Sundays or Public Holidays. Although it would not be possible at this stage under Environmental Health legislation to prohibit the disposal of waste by incineration, the use of bonfires could lead to justified complaints from local residents. The disposal of demolition waste by incineration is also contrary to Waste Management Legislation. I would thus recommend that bonfires not be had at the site.

5.12 TMBC Conservation: The proposal, in respect of listed building application 24/01268/PA is relatively straight forward. The removal of the link and reinstatement of the façade brickwork and window would be considered to be a significant improvement and therefore I would raise no objections to the proposal from a heritage perspective. However, I would ask for additional information to make the paperwork complete on the application.

- There is no elevation looking from within the modern link back to the listed building to show the existing penetrations through the wall that will be made good when restoring the façade to its original format.
- There is no information on how the interface between the existing modern link and the listed building will be made good, for example, flashing cuts, mastic fillers between glass and wall, mortar between modern and old brickwork walls, floor to wall interface and below ground interfaces (foundations) etc.

This information could be requested during the application process, or conditions placed up on any approval decision notice.

The proposal in respect of the Planning application 24/01270/PA includes new works to the unlisted building along with a number of ancillary structures being constructed. All of these alterations and structures are located in close proximity to the modern office building and will have only a limited impact to the setting of the listed building.



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This impact will not cause harm to the significance of the listed building and on that basis, I would raise no objections from a heritage perspective.

5.13 Private Reps: 4 letters of objection received from local residents raising the following issues:-

- Need to retain woodland
- Need to retain footway link to Kate Reed Wood
- Gibson West should be retained in the public domain
- Ancient Woodland should be retained
- Development of store building too close to Ancient Woodland
- What is the purpose of the new store
- Impact of store on Kate Reed Wood due to noise and disturbance
- Noise and disturbance from generator
- Existing access arrangements should be retained and site should not be split
- Scheme may not represent value for money for residents
- Local residents should be kept informed regarding works.

## 6. Determining Issues:

### Policy and other considerations

6.1 Prior to the consideration of the proposal, it should be noted that the Government has concluded a consultation into revisions to the NPPF. These revisions to the NPPF therefore do not carry any weight at this stage and the following discussion is based on the contents of the current December 2023 NPPF as well as policies and guidance listed below:

- National Planning Policy Framework (NPPF) 2023 (December)
- National Planning Practice Guidance (NPPG)
- Tonbridge and Malling Borough Core Strategy 2007:
  - Policy CP1: Sustainable Development
  - Policy CP11: Urban Areas
  - Policy CP21: Employment Provision
  - Policy CP24: Achieving a High Quality Environment
  - Policy CP25: Mitigation of Development Impacts

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- Managing Development and the Environment Development Plan Document 2010:
    - o Policy CC1: Mitigation - Sustainable Design
    - o Policy CC2: Mitigation - Waste Minimisation
    - o Policy CC3: Adaptation - Sustainable Drainage
    - o Policy NE1: Local Wildlife Sites
    - o Policy NE2: Habitat Networks
    - o Policy NE3: Impact of Development on Biodiversity
    - o Policy NE4: Trees, Hedgerows and Woodland
    - o Policy SQ1: Landscape and Townscape Protection and Enhancement
    - o Policy SQ5: Water Supply and Quality
    - o Policy SQ6: Noise
    - o Policy SQ7: Health and Well-being
    - o Policy SQ8: Road Safety
    - o Policy SQ9: Crime and Disorder

### Background Information

6.2 As a result of changes in working practices arising from the Covid pandemic, the Local Authority plans to consolidate the accommodation it requires in the more modern, Gibson East, building. Removing the corridor link would allow for the separating of the buildings and the creation of separate sites. The purpose of this application is therefore to obtain the necessary planning consents to allow for the required works to be undertaken.

### Principle of Development

- 6.3 For the purposes of Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant policies of the Development Plan and the Council's Core Strategy are the starting point for the assessment of the planning application and an assessment on the acceptability of this application. In addition, it is important to consider the material considerations of the National Planning Policy Framework (2023) and other guidance contained within the Planning Policy Guidance.
- 6.4 The application site is situated within the defined Urban Area of Kings Hill where the principle of the proposed works is acceptable.
- 6.5 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires that in considering whether to grant planning permission for a development which affects a Listed Building or its setting or in considering whether to grant Listed Building consent for any works, the Local Planning Authority should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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## Visual Impact, Design and Layout

- 6.6 Chapter 12 of the NPPF emphasises the importance of achieving good design through the development process. Paragraph 131 sets out that good design is a key aspect of sustainable development, Paragraph 135 requires that the design of development be appropriate in relation to the character, appearance and functioning of the built and natural environment in terms of scale, mass, layout, siting, in respect of the site's surroundings and Paragraph 139 states that development that is not well designed should be refused.
- 6.7 Policy CP24 of the Core Strategy adopted Core Strategy relates to 'Achieving a High Quality Environment' and requires that all developments to be well designed, of a high quality and use of appropriate materials. They must through their scale, density, layout, siting, character, and appearance be designed to respect the site and its surroundings.
- 6.8 The site is not considered to sit within a highly sensitive setting, being situated within a defined urban boundary. The existing built form at the site is generally set back from the adjacent roads and public vantage points and in large parts well screened by existing woodland, trees and planting. The site, in its current form, is therefore not considered to appear highly prominent within the locality. The density, scale and layout of built form is also not at odds with the wider surroundings.
- 6.9 The proposed external works to Gibson East and West would result in an overall reduction in scale, by virtue of the removal of the existing single storey link. The proposed new plant enclosure is considered to be of a modest scale that would not detract from the character or appearance of the host building. The proposed addition would be well set back from public vantage and would not appear visually intrusive. The addition of solar panels to the roof of Gibson East would not be out of keeping with the existing building as they would be sited between the existing wind catchers and not significantly alter the overall appearance of the building.
- 6.10 The application includes the addition of a new external store building. The proposed building is proposed to be single storey and situated to the rear (south) of the application site. The building would not be considered to appear highly prominent by virtue of the surrounding woodland/trees and existing built form at the site. The building is of a design and scale that would clearly appear subservient to Gibson East and would not detract from the sites setting and appearance.
- 6.11 The siting of the proposed store would not have a detrimental impact on the setting of the listed building (Gibson West). The position in the corner of the site is suitably separate from Gibson West and the design of the structure is such that it would not harm the character of the setting of the Listed Building in general. Similarly, the removal of the link corridor would return the building back to its original form enhancing the appearance of the building and the character of its setting. The provision of a new boundary feature in the form of beech hedging with a wire fence

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close to the eastern side of Gibson West would not detract from the character and appearance of the listed building or the street scene in general.

- 6.12 The alterations to the external layout of the site retain the footway link through to Kate Reed Wood in the south eastern corner of the site.
- 6.13 Internal alterations are proposed to the internal layout of Gibson East which include the provision of a Council Chamber within the building. These works are purely internal and do not impact on the external appearance of the building and therefore do not raise any objections.
- 6.14 The proposed development would thus be considered to be in keeping with the wider area and is not considered to have a detrimental or unacceptable visual impact.

#### Residential Amenity

- 6.15 Policy CP1 (Sustainable Development) of the Council's adopted Core Strategy comments that when determining planning applications residential amenity will be preserved.
- 6.16 The proposed development is considered to have the most impact on the nearby residential properties situated along Wellington Way (located to the south of the application site), Lancaster Way and Tempest Road (located to the southeast of the application site). These properties generally front towards the application site. The dwelling at no.6 Tempest Road is located closest to the application site and is situated approximately 20-25m away.
- 6.17 The proposed development of the external store by virtue of its scale, nature, the retention of the existing woodland boundary screening and separation distance from neighbouring residential properties would not result in such a loss of light, privacy or outlook that would be detrimental to residential amenity.
- 6.18 The proposed development is to provide ancillary storage in an area of existing car parking. The storage building and compound is needed to replace the garages currently used for parking and ancillary storage in front of Gibson West. Due to its ancillary use relating to the overall site it is not be considered to generate a significant increase in noise levels at the site that would warrant the application being refused.
- 6.19 Similarly, whilst the emergency generator is sited close to the boundary it is not considered that this will have an adverse impact on the residential amenity of nearby properties as its noise levels can be controlled by condition to ensure no disturbance is experienced. The Council's Environmental Protection team have raised no concerns with regards the location of the emergency generator.

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## Highway Safety and Parking

- 6.20 Paragraph 115 of the NPPF sets out that *‘Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.’*
- 6.21 Policy CP2 (Sustainable Transport) of the Council’s Core Strategy seeks to ensure that new developments are well located relative to public transport links, provide a choice of transport modes, are compatible with the character and capacity of the highway network, provide for any necessary enhancements to the safety of the highway network and ensure accessibility for all.
- 6.22 Policy SQ8 (Road Safety) of the Managing Development and the Environment Development Plan comments that development proposals will only be permitted where they would not significantly harm highway safety and where they comply with parking standards.
- 6.23 The overall access arrangements to the site are not proposed to change with the access closest to the A228 remaining as out only, with the main access to the north east remaining as two way. The access around the site will feature a one-way route clockwise with the routing completed by an extension to the access and car parking continuing through where the link corridor is to be removed. This routing provides appropriate access to the new store building for delivery vehicles whilst retaining access to the parking spaces.
- 6.24 With regard to parking provision, 95 spaces, including disabled bays, are indicated. This provision is considered appropriate for the anticipated levels of use of the building. Kent Highway Services raise no objection to the proposals.
- 6.25 On this basis it is considered that there are no highways objections to the proposal.

## Trees and Ancient Woodland

- 6.26 Paragraph 186 of the NPPF states:

*“When determining planning applications, local planning authorities should apply the following principles:*

*(a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

*(b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both*

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*its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*

*(c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons 67 and a suitable compensation strategy exists; and*

*(d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.”*

- 6.27 No trees within the red line site boundary are included within a Tree Preservation Order (TPO) and the site is not within a Conservation Area.
- 6.28 The works result in the removal of a small area of trees in the southeastern corner of the site. The loss of these trees is not considered to have an overall adverse impact on the wider site and the woodland character of this corner of the site can be conserved by proposing appropriate conditions for tree retention and protection measures around the boundary.
- 6.29 The area surrounding the southern part of the site is designated as Ancient Woodland. The Ancient Woodland is outside the development area but normally, and in line with standing advice, there should be a 15m buffer zone between the woodland and any development to ensure its protection. The Ancient Woodland in this location consists of predominantly coppiced sweet chestnut but it should also be noted that an Ancient Woodland designation also covers the soils as well as the above ground vegetation.
- 6.30 The storage building is proposed to be sited within the buffer zone set out in the standing advice but in this instance it should be noted that the area is an existing hard surfaced car park. There is currently no buffer between the Ancient Woodland and the existing hard standing and due to the presence of this existing surface there would be minimal disruption to the soils below from the construction and the building itself would only require minimal lopping of trees that are already part of a managed coppice. The proposal has been fully assessed by KCC Ecology and they have concluded that in this instance the store building would not cause harm to the Ancient Woodland without the provision of the 15m buffer and they raise no objections to the works. On this basis it is considered that the development would not have an adverse impact on the Ancient Woodland, subject to the imposition of a condition requiring the submission of a Construction and Environmental Management Plan.
- 6.31 Given the ecologists comments it would not be justifiable to refuse this application on impacts on the Ancient Woodland or on tree grounds.

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### Ecology and Biodiversity

- 6.32 Given the nature of the site with its predominantly hard surfaced parking areas surrounding the building it is considered to be of low ecological value. The site lacks suitable features to provide a habitat for most protected species. To mitigate any potential impacts on wildlife the proposal can be subject to conditions to ensure appropriate details are sought for external lighting and provision of bird and bat boxes. KCC Ecology advise such an approach is adopted.
- 6.33 Under section 40 of the NERC Act (2006) and paragraph 180 of the NPPF (2023), biodiversity must be maintained and enhanced through the planning system. Additionally, in alignment with paragraph 186 of the NPPF (2023), the implementation of measurable net gains for biodiversity (integrated as part of design) should be encouraged.
- 6.34 Under the Environment Act 2021, all planning applications for major development (unless exempt) submitted on or after 12 February 2024 in England, will have to deliver at least a 10% biodiversity net gain. It is a requirement for minor applications submitted on or after the 2 April 2024.
- 6.35 The application is of a size that requires the provision of mandatory biodiversity net gain. A statutory BNG metric has been submitted that shows the proposals will result in an on-site net change of -.010 for habitat units and +0.15 hedgerow units. This equates to an on-site net % change of -2.99% for habitat units. The assessment has been reviewed by KCC Ecology and is considered correct.
- 6.36 The metric shows that BNG cannot be achieved on site. It is proposed that offsite units will be acquired and discussions are ongoing to secure appropriate provision. It is intended that this provision will be sought with a Responsible Body, which means that the land is secured by a Conservation Covenant, which is a legal agreement between the applicant and the landowner rather than a S106 agreement as such a provision cannot be made between the Council as LPA and the applicant.
- 6.37 On this basis, and subject to the securing of the Conservation Covenant, the proposal is considered to meet its BNG requirements and is therefore acceptable.

### Drainage and Flooding

- 6.38 The site is not in an area of flood risk and as such no special provisions are required. With regard to drainage the site is served by an existing surface water drainage system. Due to changes in the hard surfaced area proposed it is considered appropriate to attach a condition requiring the submission of a drainage strategy to ensure that appropriate provision and capacity is available.

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## Conclusion

6.39 Overall, the proposal is considered an appropriate rationalisation of the site that accords with all relevant planning policies and guidance. The development would not have a detrimental impact on the surroundings or listed building and provides for appropriate off-site BNG provision. The development accords with all relevant local and national planning policies and guidance. It is therefore recommended that the application be approved subject to the applicant entering into an agreement to secure a Conservation Covenant and conditions.

## **7. Recommendation:**

### **7.1 Grant Planning Permission** subject to:

- The applicant entering into a Conservation Covenant for the provision of off-site Biodiversity Net Gain; and
- The following conditions:-

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2 The development hereby permitted shall be carried out in accordance with the following approved plans:

02851 1000 S2 P07 Location Plan  
02851 1030 P11 Proposed site plan  
02851 2300 P04 Proposed elevations  
02851 2301 P04 Proposed elevations  
02851 2302 S2 P04 Proposed elevations  
02851 2000 S2 P04 Site sections  
02851 2305 P03 External store – elevations  
02851 1300 S2 P08 floor plan  
02851 1301 P08 floor plan  
02851 1302 P06 floor plan  
02851 1310 P08 floor plan  
02851 1311 P05 roof plan  
A9283 1500 P04 Drainage layout plan  
PJC/6597/24/01 Arboricultural report  
02851 1050 P05 Proposed BNG areas  
2024/05/31 Ecological Appraisal

Reason: To clarify which plans are approved.

3 All materials used externally shall accord with the approved plans.



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Reason: In the interests of visual amenity.

- 4 Prior to the use of any plant or machinery a scheme of sound insulation shall be submitted to, and approved by, the Local Planning Authority and retained and maintained at all times thereafter.

Reason: To protect the aural environment of nearby dwellings.

- 5 Prior the commencement of any part of the development hereby approved a Construction/Demolition Management Plan shall be submitted and approved in writing. The plan shall include the following:

- (a) Routing of construction and delivery vehicles to / from site.
- (b) Parking and turning areas for construction and delivery vehicles and site personnel, which may require supporting vehicle tracking/swept paths.
- (c) Timing of deliveries, avoiding network and school peaks where possible.
- (d) Provision of wheel washing facilities.
- (e) Measures to prevent the discharge of surface water onto the highway.
- (f) Temporary traffic management / signage.
- (g) Hours of working on site during demolition and construction operations.

Reason: To ensure the safe and free flow of traffic.

- 6 Prior to works commencing (including preparatory works and site clearance), a badger survey will be carried out as detailed within section 4.7 of the Preliminary Ecology Appraisal (KB Ecology Ltd, 19 July 2024). If a badger sett is found, a detailed mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority and the works undertaken in accordance with this strategy.

Reason: To ensure the works do not harm protected species

- 7 Prior to occupation, a lighting plan which has been designed to minimise impacts on biodiversity shall be submitted to and approved in writing by the local planning authority. The plan will show how and where external lighting will be installed and provide commentary regarding how the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23: Bats and Artificial Lighting at Night' has been considered in the lighting design. It will be clearly demonstrated that areas to be lit will not impact protected species. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and be maintained thereafter.

Reason: To limit the impact of light pollution from artificial light on nature conservation.

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8 Prior to works commencing, a Construction and Environmental Management Plan (CEMP) will be submitted to and approved in writing by the Local Planning Authority. The content of the plan will include:

- how the development will protect the adjacent Ancient Woodland and nearby ancient woodland of Mereworth Wood during the demolition and construction of the buildings, as well as during the operational phase. This shall include how the development plans to reduce dust and light pollution.

The plan shall also include appropriate measures to satisfy the following sections of the of the Preliminary Ecology Appraisal (KB Ecology Ltd, 19 July 2024).

- Section 4.6 Dormice precautionary strategy for tree clearance
- Section 4.9 Other species (including hedgehogs) precautionary measures

Reason: To safeguard the existing natural environment.

9 Within three months of works commencing, detailed plans showing how the development will enhance and maintain biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include details of bat and bird durable boxes, log piles, hibernacula, hedgehog homes, and the development of a full Biodiversity Management Plan for the wood. The approved measures will be implemented and retained thereafter.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to enhance the Biodiversity of the area in accordance with Paragraph 170 of the NPPF 2023 and Policies NE3 and NE4 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document.

10 a) Notwithstanding details on the submitted Drainage Layout plan (Drawing No. A9283-1500 Rev – P04) no development shall take place until details of the location, extent and depth of all excavations for services (including but not limited to electricity, gas, water, drainage and telecommunications) in relation to trees on and adjacent to the site have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with details approved under this condition.

Reason: To safeguard the health of existing tree(s) which represent an important amenity feature.

11 a) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and a site specific arboricultural method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and

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construction - Recommendations) have been submitted to and approved in writing by the Local Planning Authority. The submitted tree protection plan and arboricultural method statement shall be based on and expand upon the principles set out in the Arboricultural Impact Assessment, Preliminary Method Statement and Preliminary Tree Protection Plan by PJC Consultancy Ltd dated 27th June 2024 (document ref. PJC/6597/24/01 Rev-), and, as indicated in that document, include details relating to (but not limited to) the detailed construction management/logistics plan/all aspects of demolition and construction site management and logistics, details of the methodologies and precautions to minimise/prevent damage to trees during installation of services, fences and works to hard standing.

b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

Reason: To safeguard the health of existing trees which represent an important amenity feature.

12 a) No site works (including temporary enabling works, site clearance and demolition) or development shall commence on site until a detailed tree felling/pruning specification (including details confirming which of the existing trees are to be retained) has been submitted to and approved in writing by the Local Planning Authority.

b) All tree felling and pruning works shall be carried out in full accordance with the approved specifications under this condition and in accordance with British Standard BS3998 (Tree work – Recommendations).

c) Any existing tree identified to be retained in the details submitted for the discharge of this condition which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To safeguard the health of existing trees which represent an important amenity feature and ensure a satisfactory appearance to the development.

13 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

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Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 174 of the National Planning Policy Framework.

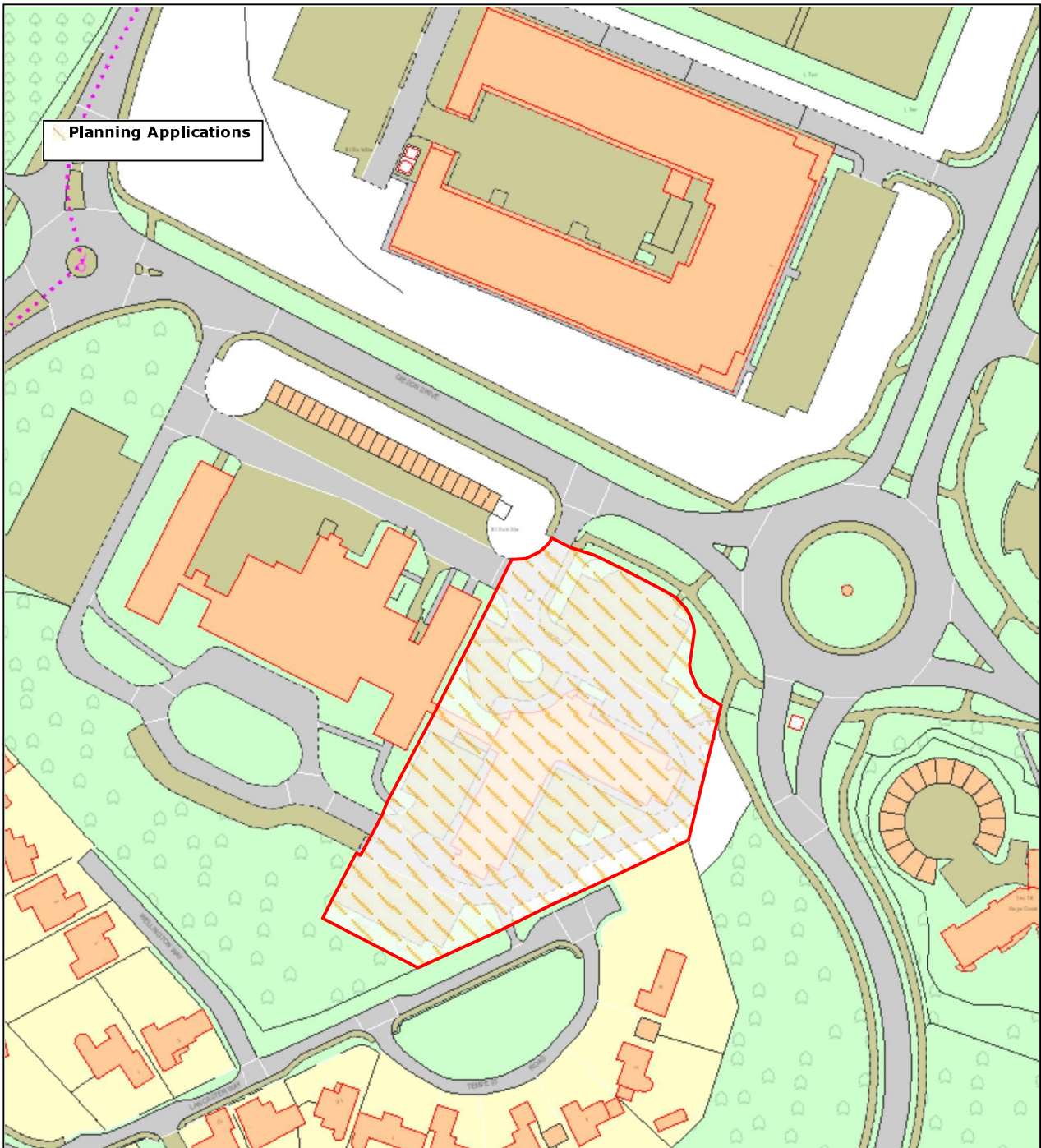
- 14 No development shall take place until the details of a surface water drainage strategy that demonstrates that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development has been submitted to and approved in writing by the Local Planning Authority. The drainage shall be implemented as approved.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts.

#### Informatives

- 1 The applicant is reminded that, under the Wildlife and Countryside Act 1981 (as amended), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act.
- 2 Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation/structures that may provide suitable nesting habitats should be carried out outside of the bird breeding season (1st March to 31st August inclusive) to avoid destroying or damaging bird nests in use or being built. If vegetation/structures need to be removed during the breeding season, mitigation measures need to be implemented. This includes examination by a suitably qualified and experienced ecologist immediately prior to starting work. If any nesting birds are found, works must cease until after the birds have finished nesting.
- 3 The applicant is reminded that the Biodiversity Gain plans required under the Conservation Covenant are required to be approved before development may be begun.

Contact: Robin Gilbert



**Planning Applications 24/01270/PA**

**Scale: 1:1250**



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Date: 9/10/2024 9:55

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**Kings Hill**  
Kings Hill

TM/24/01268/PA

**Location:** Gibson Building Gibson Drive Kings Hill West Malling ME19 4LZ

**Proposal:** Listed Building application: Proposed demolition of a modern corridor link between Gibson East and the Grade II Gibson West building, with restoration works to reinstate the original appearance of the east facade of the listed building

**Go to:** [Recommendation](#)

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## 1. Description of Proposal:

1.1 The application seeks listed building consent for the following works:

- Removal of the existing single storey corridor link between Gibson East and Gibson West.
- Reinstatement of the façade of Gibson West to its original condition at the junction with the removed corridor link.

1.2 Works to Gibson East only require listed building consent by virtue of the building being attached, via the single storey corridor link (proposed to be removed under this application), to the Grade II listed building of Gibson West.

1.3 A full application has also been submitted (24/01270), which in addition to the works set out above seeks full planning permission for the provision of a new single storey storage building, a timber clad covered refuse store, a cycle shelter (in the same location as existing) and the reconfiguration of the existing vehicle circulation route and (supplementary) parking (to allow the Gibson East to operate as a site independently of Gibson West). These works are also shown on the proposed plans provided in support of this application, but do not require listed building consent.

## 2. Reason for reporting to Committee:

2.1 Paragraph E8.7, Part 5 (Codes) of the Tonbridge and Malling Borough Council Constitution sets out that:

*‘Proposals for development submitted by the Council must be treated no differently to any other application.*

*To ensure that planning applications submitted by the Council are determined openly and transparently all applications for planning permission submitted by the Council will be determined by Full Council.’*

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2.2 As the application has been submitted by the Council's Property Service Team the application is required to be determined by Full Council in line with the adopted constitution.

### 3. The Site:

3.1 The application site is located in Kings Hill, to the south of Gibson Drive and east of Malling Road and host the Council offices. The site comprises the Gibson Building made up of Gibson East and Gibson West, which are adjoined via a single storey link.

3.2 The Gibson Building (Gibson West) was first listed as Grade II in 1999 and the Historic England list description describes the building as an

*'Officers' mess, now council offices. 1939, based on a type design by A Bulloch, architectural advisor to the Air Ministry's Directorate of Works and Buildings. Stretcher-bond brick to cavity walling with hipped plain tile roofs and brick stacks.*

*PLAN: central entrance/recreation block with services and dining room to rear, flanking accommodation wings attached at right angles and extending to rear.*

*EXTERIOR: Neo-Georgian style. The front elevation has 3-window fronts of 2-storey accommodation blocks flanking the single-storey central block of 5:3:5 bays, the 5-bay central porch broken forward and with semi-circular arched entries with similar arches over half-glazed inner doors with fanlights; tall 12/16-pane sashes to flanking recreation rooms, their juncture with the hall marked by tall stacks. The 3-window fronts to the accommodation wings, which have 6/6-pane sashes and 13-window outer elevations, each have a central stack with swept flanks set above a similar arched door with tile imposts.*

*INTERIOR: central block retains original plasterwork, including moulded cornicing, and joinery, including half-glazed doors, to hall and flanking recreation rooms; latter have bolection-moulded surrounds to chimneypieces. Dining room to rear has cornicing to ceiling, which is subdivided into panels. HISTORY: West Malling constitutes one of the stations built for Fighter Command and planned during the latter stages of the inter-war expansion of the RAF. In contrast to the post-1933 Luftwaffe, whose stations at home were solely designed for training purposes and whose principal role abroad was close army support, the inter-war RAF had eschewed temporary fabric and envisaged future wars as being fought from fixed and secure bases rebuilt in permanent materials. The first phase of this scheme, the principles of which were debated and established in the Salisbury Committee of March 1923, took place under the guiding hand of General Sir Hugh Trenchard, who formed the RAF as the world's first independent strategic air force in April 1918 and who ranks, along with America's Billy Mitchell and Italy's General Douhet, as the*



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most important advocate of the doctrine of offensive deterrence in the inter-war period, and one which was to determine the controversial policy of Bomber Command during the Second World War. His scheme involved the construction of offensive bomber bases in East Anglia and Oxfordshire, sited behind an 'aircraft fighting zone' some fifteen miles deep and stretching round London from Duxford near Cambridge to Salisbury Plain. It was the latter which accounted for the rebuilding of several bases around London which owed their origins to the First World War. Although political and financial factors had prevented the completion of Trenchard's scheme, it was the collapse of the Geneva disarmament talks, in 1933, which prompted the government to embark, from 1934, on its largest inter-war expansion of the air force, phased in order to ensure parity with the Luftwaffe and deployed with training and storage bases sited behind an eastern front facing Germany. A satellite of Biggin Hill within Fighter Command's strategically critical 11 Group, West Malling was opened in June 1940, although a series of raids in August 1940 rendered the airfield unservicable for much of the Battle of Britain. It reopened in October of that year, becoming a nightfighter station with Bristol Beaufighters in 1941, and later used by Mosquitos and Typhoons in offensive operations in northern Europe; it became a key station during Operation Diver' in 1944, the name given to the defence of the east and south-eastern coasts against the V1 bomb. The mess forms part of an exceptionally well-preserved group of buildings on the domestic site which are strongly representative of the neo-Georgian and Art Deco type designs characteristic of the 1930s expansion period. Whilst the design of Trenchard's stations displayed a stark utilitarian architecture which, apart from the Garden City inspiration for station married quarters, owed much to the army background of the designers who worked from the office of the Air Ministry's Directorate of Works and Buildings, it was the need to integrate the fundamental principle of dispersal against air attack which made airfield planning markedly different from the formal and more condensed layouts of naval or army barracks. This is exemplified, for example, in Trenchard's requirement for the crescent as opposed to previously linear planning of hangars, and the officers' mess designs which separated out the functions of mess and recreation rooms and accommodation in order to obviate the risk of a single run of bombs destroying a building and its occupants. It was in this context that Ramsey McDonald, as Prime Minister, had instructed that the Royal Fine Arts Commission be involved in airfield design, and that a process of consultation with the Air Ministry resulted in the creation of the new post of architectural advisor to the Director of Works and Buildings, first occupied by A Bulloch in October 1934, with many of the early (1934-5) building designs being specifically approved by the commissioners; afterwards, liason over layout and other matters was personally handled by Lutyens. The buildings erected for much of the 1930s Expansion Period were, as a consequence, more carefully proportioned than their predecessors, a clear distinction being made between neo-Georgian for domestic buildings and more stridently modern styles for technical buildings. From 1938, and coinciding with Bulloch's replacement by P M Stratton, new buildings and stations, including Middle Wallop and West Malling, made increasing use of concrete and flat roofs in order to

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*respectively speed up the building process and counter the effects of incendiary bombs.'*

- 3.3 The site takes vehicular access from Gibson Drive and has parking surrounding the building. In addition to the main entrance the site has pedestrian access points from Gibson Drive, Forest Way (to the northeast of the site) and Lancaster Way (to the east of the site).
- 3.4 Gibson West comprises the former mess building for the airfield, was built in 1939 and comprises a central single storey block and two linear two-storey (formerly accommodation) wings. The structures are stretcher bond brick clad with pitched plain tile roofs and timber sash windows throughout. The central area has been subject to various small extensions over the years. To the front of Gibson West lies a single storey row of garages, adjacent to Gibson Drive.
- 3.5 Gibson East comprises a more contemporary building (with plant on a reduced third floor) along with a single storey corridor link to Gibson West. It comprises two wings of office accommodation and a central core in an 'L' configuration, the building is brick clad with a profiled steel sheet pitched roof and horizontal strip windows. Both facades of the two wings are overlaid with a galvanised steel structure between ground and eaves level providing maintenance access and solar shading. Stairs located in the central core and at the ends of each wing are articulated and extend above the general eaves line. A number of windcatchers punctuate the building's roofscape providing natural ventilation to the accommodation.
- 3.6 The proposal site lies within a predominantly urban and built-up area with residential properties located to the immediate south and east (along Wellington Way, Lancaster and Tempest Road), an office/commercial building to the north (on the opposite side of Gibson Drive and the A228 (Malling Road) situated to the west. An area of ancient woodland lies within the most southern part of the site and buffers the site from neighbouring residential streets.

#### 4. Planning History (relevant):

Application No.	Proposal	Decision	Date
24/01270/PA	Refurbishment of Gibson East office building, comprising the removal of a corridor link to the grade II listed Gibson West building (and remedial works to the listed facade) minor changes to the external envelope of Gibson East (new external doors / windows and the addition of PV cells to the pitched roof), modifications to site parking and internal circulation, addition of a plant enclosure, single-	Pending Consideration	-

	storey external store, refuse store and cycle shelter.		
15/00873/LB	Listed Building Application: Demolition of 1960's extension constructed of asbestos cement panels, following advice of asbestos consultant regarding deteriorating condition of structure.	Approved	13/03/15
02/03003/LB	Listed Building Application: internal refurbishment of Council Chamber and ancillary areas, plus disabled access to these areas and associated external alterations.	Approved	14/03/03
02/03002/DR3	Alterations to the external appearance of the Council Offices to include provision of new lighting; provision of smokers' accommodation; provision of new front entrance steps; creation of new vehicular access to Bunker and provision of new access ramps.	Approved	25/02/03
00/02950/LB	Erection of demountable partitions within dining hall to form postroom.	Approved	15/02/01
00/02291/LB	Listed Building Application: erection of timber stud partition with new doorway to divide room 9 into 2 no. rooms.	Approved	05/12/00
99/02630/ORM	Amended design of "Link Corridor" to Gibson Building previously approved under application ref: TM/99/00413/DR3.	Approved	10/02/00
99/02624/ORM	Amendment to car parking layout and vehicular and pedestrian circulation routes within the site; including new permissive footpath between Tempest Road and Forest Way pursuant to consent ref; TM/99/00413/DR3 (new office building).	Approved	07/02/00
99/02599/LB	Listed Building Application: construction of enclosed corridor link to new adjacent office building and minor adaptations to create connection with existing building's circulation corridors.	Approved	25/01/00
99/01186/ORM	Amendment to parking provision in respect of consent ref: TM/99/00413/DR3 (new office building): delete 9 car parking spaces	Approved	02/08/99

	adjacent to the south eastern boundary and relocate to extended parking area to the south of the building.		
99/00413/DR3	Two storey office building with associated car parking and external works.	Approved	22/04/99
90/11228/OUT	Mixed use development , comprising business use, with ancillary storage and ancillary distribution (use class B1); residential (C3); Hotel/conference centre (C1); convenience retail (A1 and A3); financial and professional services (A2); Residential education and training facilities (C2) creche (D1) leisure (D2) sports and recreation facilities, open spaces and landscaping, new access on approx 647 acres with ancillary road works.	Approved	12/06/90

## 5. Consultees:

- 5.1 PC: No objection subject to no works commencing before 8 a.m. and finishing after 6 p.m. No works to take place at weekends and bank holidays.
- 5.2 Historic England: Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice.

- 5.3 Conservation Officer: The proposal, in respect of listed building application 24/01268/PA is relatively straight forward. The removal of the link and reinstatement of the façade brickwork and window would be considered to be a significant improvement and therefore I would raise no objections to the proposal from a heritage perspective. However, I would ask for additional information to make the paperwork complete on the application.

- There is no elevation looking from within the modern link back to the listed building to show the existing penetrations through the wall that will be made good when restoring the façade to its original format.
- There is no information on how the interface between the existing modern link and the listed building will be made good, for example, flashing cuts, mastic fillers between glass and wall, mortar between modern and old brickwork walls, floor to wall interface and below ground interfaces (foundations) etc.

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This information could be requested during the application process, or conditions placed up on any approval decision notice.

The proposal in respect of the Planning application 24/01270/PA includes new works to the unlisted building along with a number of ancillary structures being constructed. All of these alterations and structures are located in close proximity to the modern office building and will have only a limited impact to the setting of the listed building. This impact will not cause harm to the significance of the listed building and on that basis, I would raise no objections from a heritage perspective.

5.4 Private Reps + site and press notice: 1 letter has been received from a local resident raising the following, summarised, comments:

- The woodland between Wellington Way and the Council offices should be kept.
- The access and gate through the site is important and needs to be maintained.
- Regrettable that the listed building is not to be retained as Council offices and should be kept in the public domain.

*\*Officers note that this application is for listed building consent only and does not seek to alter the existing woodland, access points, or routes through the site. Ownership is not a material planning consideration.*

## **6. Determining Issues:**

### National Policy and Guidance

6.1 Prior to the consideration of the proposal, it should be noted that the Government has concluded a consultation into revisions to the NPPF. These revisions to the NPPF therefore do not carry any weight at this stage and the following discussion is based on the contents of the current December 2023 NPPF as well as policies and guidance listed below:

- National Planning Policy Framework (NPPF) 2023 (December)
- National Planning Practice Guidance (NPPG)
- Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

### Background Information

6.2 As a result of changes in working practices arising from the Covid pandemic, the Local Authority plans to consolidate the accommodation it requires in the more modern, Gibson East, building. Removing the corridor link would allow for the separating of the buildings and the creation of separate sites. The purpose of this application is therefore to obtain the necessary listed building consents to allow for the required works to be undertaken.

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### Impact upon the special architectural or historic interest of the Grade II listed building

- 6.3 Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires that in considering whether to grant planning permission for a development which affects a Listed Building or its setting or in considering whether to grant Listed Building consent for any works, the Local Planning Authority should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.4 Paragraph 205 of the NPPF states that *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'*
- 6.5 Paragraph 206 of the NPPF further advises: *'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification...'*
- 6.6 The most notable work which require listed building consent is the removal of the single storey corridor which links Gibson East and West. This proposal would result in the removal of a modern extension/addition to the listed building along with the reinstatement of the façade brickwork and window. This would be a significant improvement to the significance and setting of the listed building as it would restore the original character of the building and thus is considered to be acceptable.
- 6.7 The Conservation Officer has assessed the proposal and is in agreement that the removal of the link would restore the appearance and setting of Gibson West to that of the original individual building. The application, whilst showing the removal of the link does not provide specific details of the reinstatement of the listed building fabric will be made good once the demolition has been undertaken. These specific details can though be sought with an appropriately worded condition seeking the details prior to the commencement of the demolition of the link.
- 6.8 The comments of the Conservation Officer carry significant weight in the determination of this application. Their view that the works will not cause any harm to the significance of the listed building and will indeed improve the overall character and appearance of the building is agreed as an overall benefit to restoring the historical fabric of the building.

### Conclusion

- 6.9 Based upon the above, it is recommended that listed building consent is granted, subject to a condition to provide additional details of the reinstatement works.

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## 7. Recommendation:

### 7.1 Grant Listed Building Consent, subject to the following conditions:

- 1 The development to which this consent relates shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements of Section 18 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

02851 1000 S2 P07 Location Plan  
02851 1010 P06 Existing site plan  
02851 1030 P11 Proposed site plan  
02851 2302 S2 P04 Proposed elevation  
02851 2000 S2 P04 Site sections

Reason: To clarify which plans are approved.

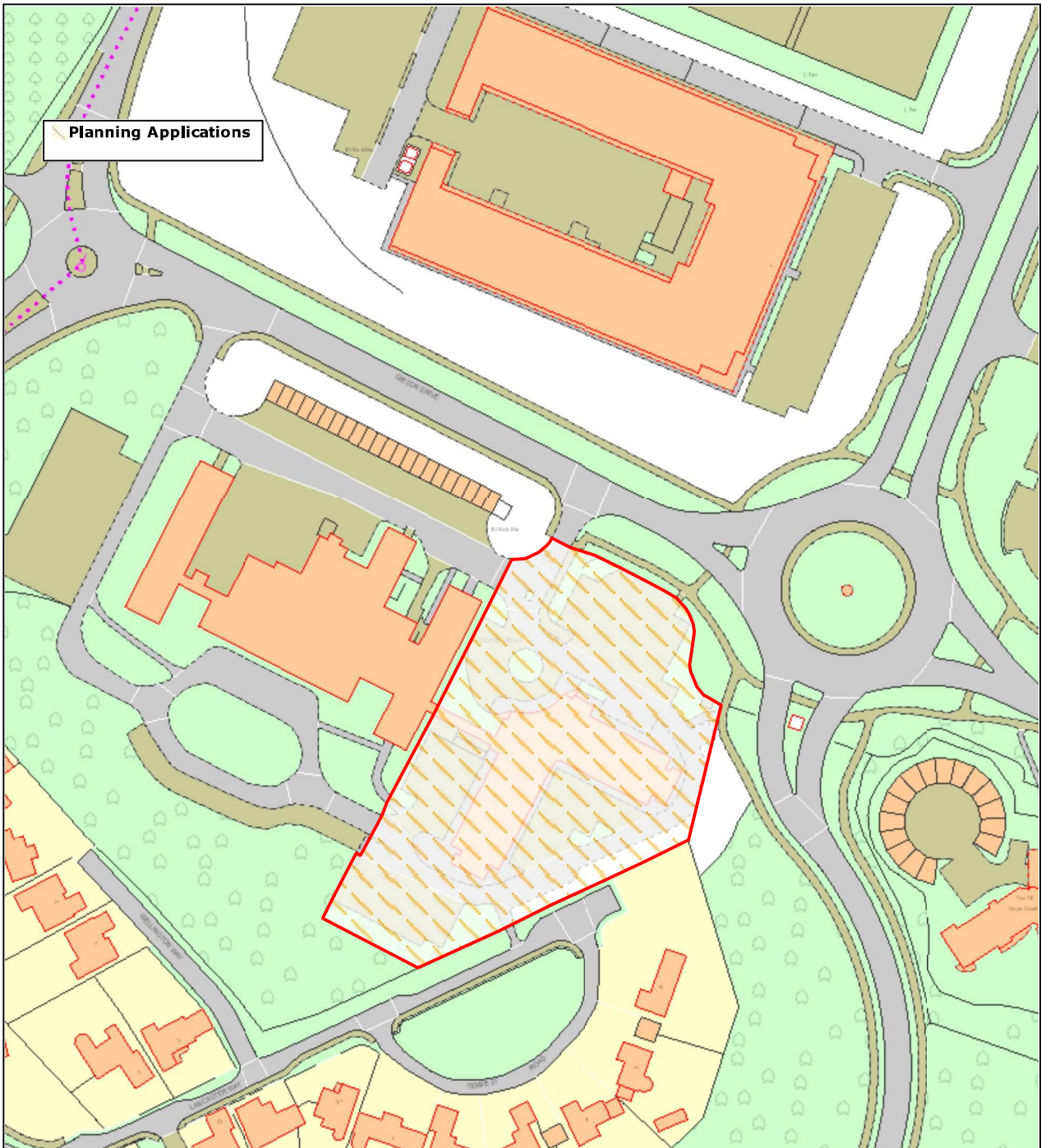
- 3 Prior to the commencement of the hereby approved works, full details and specification indicating how the existing punctuation of the east facing elevation of the Gibson West building will be made good shall be submitted to and approved by the Local Planning Authority. The details shall demonstrate how the façade will be restored to its original format and preserve its historic fabric and shall include, but not be limited to details on how the interface between the existing modern link and the listed building will be made good, for example, flashing cuts, mastic fillers between glass and wall, mortar between modern and old brickwork walls, floor to wall interface and below ground interfaces (foundations). Details shall also include material use. The works thereafter shall be carried out in strict accordance with the approved details.

Reason: These details are required pre-commencement to ensure the significance of the listed building is retained and preserved.

Contact: Robin Gilbert

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**Planning Applications 24/01268/PA**

**Scale: 1:1250**



Tonbridge & Malling Borough Council  
 Gibson Building, Gibson Dr  
 Kings Hill, West Malling  
 ME19 4LZ  
 Tel.: +44 1732 844522



Date: 9/10/2024 9:53

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Leader's Announcements

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## Council

22 October 2024

## Part 1 - Public

## Matters for Decision



Cabinet Member: Cllr M Boughton - Leader of the Borough Council  
Responsible Officer: Adrian Stanfield - Director of Central Services and Deputy Chief Executive  
Report Author: Allison Parris - Principal Democratic Services Officer

## Changes to Committee Appointments 2024/25

### 1 Summary and Purpose of Report

1.1 The Leader of the Borough Council is proposing a number of changes to the Conservative Group appointments to Committees, Scrutiny Select Committees, Panels and other Groups previously approved at Annual Council.

### 2 Corporate Strategy Priority Area

2.1 Efficient services for all our residents, maintaining an effective council.  
2.2 In order for the Borough Council to conduct its business effectively formal appointments reflect the determined political balance arrangements (where required) and ensures that meetings support effective decision making.

### 3 Recommendations

3.1 That the changes to appointments to Committees, Scrutiny Select Committees, Panels and other Groups be approved, as set out in Annex 1.  
3.2 That any consequential changes to the substitute appointments (if required) be approved, as set out in Annex 2.

### 4 Introduction and Background

4.1 Since the meeting of Annual Council in May 2024, the Leader has reviewed the Conservative Party appointments to a number of Committees, Scrutiny Select Committees, Panels and other Groups.  
4.2 The changes are intended to ensure that meetings are effective and take advantage of Councillors experience and interests.

## **5 Proposal**

- 5.1 The changes are detailed in Annex 1 which will be circulated in advance of the meeting.
- 5.2 Where required, the changes will reflect the political balance arrangements as approved by Annual Council.
- 5.3 If there are any consequential changes to the substitute appointments a revised list will be prepared and circulated in advance of the meeting as Annex 2.

## **6 Other Options**

- 6.1 The Council may opt to make no changes to the appointments approved by Annual Council.
- 6.2 However, for the reason set out in 4.2 the preferred option is to make the changes recommended by the Leader.

## **7 Financial and Value for Money Considerations**

- 7.1 There are no financial and value for money considerations arising from these proposals as no changes are recommended to Members Allowances.

## **8 Risk Assessment**

- 8.1 There is no significant risk arising from these proposals. However, it is necessary that the Borough Council has properly constituted Committees which support the decision-making process.

## **9 Legal Implications**

- 9.1 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. There is a requirement for committees of the Borough Council to be politically balanced where required to be.

## **10 Consultation and Communications**

- 10.1 No public consultation is required as appointments to committees of the Borough Council is the responsibility of Full Council.

## **11 Implementation**

- 11.1 Changes to the membership of the committees set out in the report will become effective immediately if approved by Members.

## **12 Cross Cutting Issues**

- 12.1 Climate Change and Biodiversity

12.1.1 Limited or low impact on emissions and environment.

12.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

12.2 Equalities and Diversity

12.2.1 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.

12.3 Other If Relevant

- None

Background Papers	None
Annexes (to be circulated in advance of the meeting)	Annex 1 – Proposed changes Annex 2 – Consequential changes to substitutes (if required)

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Details of appointments will be set out on Annex 1 and Annex 2 (if required) and circulated in advance of the meeting.

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## Council

22 October 2024

## Part 1 - Public

## Matters for Decision



Cabinet Member	N/A
Responsible Officer	Adrian Stanfield - Director of Central Services
Report Author	Allison Parris - Principal Democratic Services Officer

## Appointments to Outside Bodies – Tonbridge Town Lands and Richard Mylls Charity

### 1 Summary and Purpose of Report

- 1.1 Following a request from the Clerk to the Town Wardens, the Borough Council is asked to consider reappointments.

### 2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 Appointments to outside bodies contribute to the above priority area as a valuable tool in maintaining effective dialogue and supporting local community and charitable organisations.

### 3 Recommendations

- 3.1 That Mr Owen Baldock be re-appointed as the Borough Council representative to serve on Tonbridge Town Lands and Richard Mylls Charity for a further four year period up to October 2028.

### 4 Introduction and Background

- 4.1 Correspondence has been received from the Clerk to the Town Wardens (attached) asking the Borough Council to reappoint Mr Owen Baldock for a further four-year term until October 2026.
- 4.2 The terms of the Charity require the income to be applied for the benefit of the inhabitants of the former Urban District of Tonbridge and persons appointed as Town Wardens to be residents or to have extensive knowledge of the area. They may be, but need not be, a member of the Council.

## **5 Proposal**

5.1 The Charity has emphasised the value of having a person with a good knowledge of the local area and feel that Mr Baldock possesses an extensive knowledge of the work of the Charity and a good understanding of the district.

5.2 Mr Baldock has indicated his willingness to accept this nomination.

## **6 Other Options**

6.1 The other options considered were:-

- Nominate a new representative

6.2 In light of the comments made in paragraph 5.1 it is not considered that a new representative should be considered at this time.

## **7 Financial and Value for Money Considerations**

7.1 None arising from the proposals in this report.

## **8 Risk Assessment**

8.1 There is no significant risk arising from the proposals set out in the report.

## **9 Legal Implications**

9.1 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.

## **10 Consultation and Communications**

10.1 No public consultation is required as the proposals are the responsibility of the Borough Council.

## **11 Implementation**

11.1 If approved the Clerk to the Town Wardens will be notified the next working day and the appointment will come into immediate effect.

## **12 Cross Cutting Issues**

12.1 Climate Change and Biodiversity

12.1.1 Limited or low impact on emissions and environment.

12.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

12.2 There will be no additional implications for climate change and biodiversity arising from this report.

12.3 Equalities and Diversity

12.3.1 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.

12.4 Other If Relevant

- None

Background Papers	None
Annexes	Email correspondence

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**From:** [Karen Dobson](#)  
**To:** [Allison Parris](#)  
**Subject:** Tonbridge Town Lands and Richard Mylles Charity (TTL&RMC)  
**Date:** 01 October 2024 14:17:55

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Dear Allison

I would like to register Owen Baldock as wishing to renew his position as Trustee for TTL&RMC.

Please confirm your agreement to the renewal which will be voted upon at our next meeting.

If you need further information, please don't hesitate to contact me.

Kind regards.

Karen Dobson

Clerk to TTL&RMC

This email has been scanned by TMBC before delivery to your mailbox. Please click [here](#) to report this email as spam and help train the filter.

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## **Local Code of Corporate Governance**

### **Item AU 24/26 referred from Audit Committee of 22 July 2024**

The joint report of the Chief Executive and the Director of Central Services informed Members of the outcome of the annual review of the Local Code of Corporate Governance.

The Local Code was last reviewed in July 2023. The proposed changes to the Local Code were relatively minor in nature and the revised Code was attached as Annex 1 to the report.

During discussion, it was requested that litigation be included in future to demonstrate that checks were undertaken to ensure that procedures were being followed and were reviewed to ensure their effectiveness in determining the outcome.

In terms of the effectiveness of the internal audit service and Audit Committee, although it was recognised that the Annual Report of the Audit Committee reported the effectiveness of the Committee, it was suggested that consideration be given to Grant Thornton undertaking a review of the Committee's effectiveness.

**RECOMMENDED\***: That the amendments to the Local Code of Corporate Governance, as set out at Annex 1 to the report, be approved and commended to Council for adoption.

**\*Recommended to Council**

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**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AUDIT COMMITTEE**

**22 July 2024**

**Report of the Chief Executive and Director of Central Services**

**Part 1- Public**

**Matters for Recommendation to Council**

**1 LOCAL CODE OF CORPORATE GOVERNANCE**

**This report informs Members of the outcome of the annual review of the Local Code of Corporate Governance.**

**1.1 Introduction**

1.1.1 The Local Code of Corporate Governance was last reviewed by this Committee in July 2023.

1.1.2 There are no substantive changes proposed to the Code. The Code has been revised to reflect a small number of minor updates within the past year including the following:

(a) The Procurement Partnership Agreement entered into by the Council on 1 May 2024.

(b) The inclusion of reference to the Statutory Officers' Meetings

(c) The Climate Change Action Plan for 2023 – 2024

(d) A review of the arrangements for dealing with Members Code of Conduct complaints (agreed by Council in October 2023)

1.1.3 A revised Code is attached as **Annex 1**. Changes to the code are shown as tracked changes.

**1.2 Legal Implications**

1.2.1 Whilst there is no legal requirement for Councils to develop a Local Code of Corporate Governance, such a Code provides a public document that demonstrates how the Council ensures it operates in a proper way and in accordance with the law.

**1.3 Financial and Value for Money Considerations**

1.3.1 There are no financial and value for money considerations arising from the Code.

## 1.4 Risk Assessment

- 1.4.1 Adoption of a Local Code of Corporate Governance is seen as good practice in that it demonstrates how the Council ensures it operates in a proper way and in accordance with the law and as such is subject to annual review to ensure it remains fit for purpose. Not to do so may attract unwelcome criticism.

## 1.5 Equality Impact Assessment

- 1.5.1 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.

## 1.6 Recommendations

- 1.6.1 Members are asked to **approve** the amendments to the Local Code of Corporate Governance set out at **Annex 1** and **commend** it to Council for adoption.

Background papers:

contact: Joy Ukadike

CIPFA/SOLACE – “Delivering Good Governance in Local Government Framework 2016”

Damian Roberts  
Chief Executive

Adrian Stanfield  
Director of Central Services

Local Code of Corporate Governance	Supporting Evidence
<b>1. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.</b>	
<b>1.1 Behaving with Integrity</b>	
<p>Ensuring members and officers behave with integrity and lead a culture where acting in the public interest is visibly and consistently demonstrated thereby protecting the reputation of the organization</p>	<p>The Council has Codes of Conduct for both Members and Officers. The Member code is founded upon the seven Principles of Public Life (the Nolan Principles).</p> <p>The Members' code is enforced (where necessary) through the Council's Joint Standards Committee. The Officer code is enforced (where necessary) through disciplinary procedures.</p> <p>In addition the Council has:</p> <ul style="list-style-type: none"> <li>• An Equalities Policy</li> <li>• A protocol for member/ officer relations</li> <li>• A Declaration of Interest Register for Members and for staff</li> <li>• A Register of Gifts and Hospitality offered to Members and staff</li> <li>• Financial Procedure Rules</li> <li>• Contracts Procedure Rules</li> <li>• A publicised complaints procedure</li> <li>• A fraud-aware culture, and an anti-fraud and corruption policy which is reviewed and updated annually.</li> </ul>
<p>Ensuring members take the lead in establishing specific standard operating principles or values for the organization and its staff and that they are communicated and understood. These should build on the Seven Principles of Public Life</p>	<p>The Council's constitution sets out clearly the standard operating procedures, and any delegation of responsibility from Council (and Cabinet) and the decision making powers of the Council, Cabinet members, cabinet and the committees of the Council and the executive.</p> <p>The Council's Cabinet and Overview and Scrutiny Committee have established a Cabinet/ Scrutiny protocol which sets out the expectations that each body has of the other.</p> <p>The Seven Principles of Public Life are embedded within the Constitution and form part of the Members' Code of Conduct.</p>
<p>Demonstrating, communicating and embedding the standard operating principles or values through appropriate policies and processes which are reviewed</p>	<p>The Council's constitution clearly sets out the process for holding the executive to account through a system of reporting to the Council's Overview &amp; Scrutiny committee and the Scrutiny Select Committees.</p>

<p>on a regular basis to ensure that they are operating effectively</p>	<p>The Council has a Corporate Strategy for 2023 - 2027- which sets out an overarching vision for the Council.</p>
<p><b>1.2 Demonstrating Strong Commitment to Ethical Values</b></p>	
<p>Seeking to establish, monitor and maintain the organisation's ethical standards and performance</p>	<p>The Council has a number of policies and Codes which officers and members are expected to adhere to:</p> <ul style="list-style-type: none"> <li>• Codes of Conduct for Members and Officers</li> <li>• An Equalities Policy</li> <li>• A Declaration of Interest Register for Members and for staff</li> <li>• A Register of Gifts and Hospitality offered to Members and staff</li> <li>• Financial Procedure Rules</li> <li>• Contracts Procedure Rules</li> <li>• An anti-fraud and corruption policy</li> <li>• A Joint Standards Committee to promote and maintain high standards of conduct by Members. The arrangements for handling complaints under the Code were reviewed during 2023/24 with revised arrangements agreed by Council in October 2023.</li> </ul>
<p>Underpinning personal behaviour with ethical values and ensuring they permeate all aspects of the organisation's culture and operation</p>	<p>The Code of Conduct for Members is enforced through the Standards process.</p> <p>Where members of staff depart from the Officer Code of Conduct or other policies, these may be enforced through disciplinary measures. The Monitoring Officer and Deputy Monitoring Officer are available to provide advice to Members and staff on all aspects of standards of conduct and lawful and ethical behaviour.</p> <p>Professional officers are also accountable to their respective professional bodies and any applicable Codes of Conduct.</p>
<p>Developing and maintaining robust policies and procedures which place emphasis on agreed ethical values</p>	<p>The Council has robust arrangements in place to ensure that it does the right things, for the right people in a timely, inclusive, open, honest and accountable manner. These are monitored and publicized through:</p> <ul style="list-style-type: none"> <li>• The Council's performance reporting arrangements</li> <li>• Procedures for recruitment and training</li> <li>• Decision making practices (including requirements for the publication of officer decisions)</li> </ul> <ul style="list-style-type: none"> <li>• publication of decisions and committee meeting minutes</li> </ul>

	<ul style="list-style-type: none"> <li>Data transparency arrangements, such as the Council's Publication Scheme under the Freedom of Information Act 2000 and data published in accordance with the Local Government Transparency Code</li> </ul>
<p>Ensuring that external providers of services on behalf of the organization are required to act with integrity and in compliance with ethical standards expected by the organisation</p>	<p>The Council's Contracts Procedure Rules require standard terms to be included in all contracts, including provisions relating to bribery, equalities and fraud.</p>
<p><b>1.3 Respecting the Rule of Law</b></p>	
<p>Ensuring members of staff demonstrate a strong commitment to the rule of law as well as adhering to relevant laws and regulations</p>	<p>The Council actively recognises the requirements and responsibilities placed on it by law and will act to observe all specific legal requirements placed upon it when taking decisions.</p> <p>Training is provided to new members of staff appropriate to their roles, and ongoing training (particularly in relation to regulatory functions) is also provided on both an ad hoc and programmed basis.</p> <p>This is underpinned by a series of policies and processes to ensure that staff adhere to legal requirements including:</p> <ul style="list-style-type: none"> <li>Codes of Conduct for Members and Officers</li> <li>A Declaration of Interest Register for Members and for staff</li> <li>A Register of Gifts and Hospitality offered to Members and staff</li> <li>Financial Procedure Rules</li> <li>Contracts Procedure Rules</li> <li>An anti-fraud and corruption policy</li> </ul>
<p>Creating the conditions to ensure that the statutory officers, other key post holders and members are able to fulfil their responsibilities in accordance with legislative and regulatory requirements</p>	<p>Training is provided to new members upon election, and ongoing training (particularly in relation to regulatory functions) is also provided on both an ad hoc and programmed basis.</p> <p>The Council's Monitoring Officer (the Director of Central Services &amp; Deputy Chief Executive) and Deputy Monitoring Officer (the Head of Legal &amp; Democratic Services), both of whom are qualified Solicitors with current practising certificates are responsible for ensuring that the Council acts in accordance with the law and that</p>

	<p>decisions made by the Council, however made, are made lawfully.</p> <p>The Council has appointed Deputies to each of the statutory officer posts to ensure resilience and also to ensure that those officers can act in the event of a conflict of interest arising.</p> <p>The 3 Statutory Officers and their Deputies meet on a regular basis in order to review current and likely future issues that will raise ethical, political, financial, legal, staffing or other issues that may impact on their statutory duties.</p>
<p>Striving to optimize the use of the full powers available for the benefit of citizens, communities and other stakeholders</p>	<p>All departments are encouraged to work closely with the Council's legal team and where necessary to consult the Monitoring Officer to ensure that the most effective use is made of the Council's powers.</p> <p>Legal staff receive regular training and updates when new powers become available to the Council.</p> <p>The Council also strives to utilise its statutory powers to work in the public interest and to the full benefit of its citizens, particularly in relation to regulatory activity.</p> <p>All committee reports include a section to ensure any legal implications are fully analysed when making decisions.</p> <p>In addition, many committees (in particular where the Council is carrying out regulatory functions) sit with a legal advisor.</p>
<p>Dealing with breaches of legal and regulatory provisions effectively</p>	<p>Staff in enforcement roles are appropriately trained and (where necessary) professionally qualified in the relevant field.</p> <p>The Council has individual service enforcement policies which set out how breaches are to be investigated and enforced. The Council has also adopted a Corporate Enforcement Policy.</p> <p>Investigations are carried out with the assistance of legal advice where needed. Any prospective prosecution is assessed in accordance with the Code for Crown Prosecutors and considered by a senior lawyer before a decision is made.</p>



	<p>Enforcement staff are encouraged to work closely with the Council's legal team to ensure that the most effective use is made of the enforcement powers available to the Council.</p> <p>In committees where the Council is carrying out a regulatory function, the committee usually sits with a legal advisor.</p> <p>The Council has appointed a Data Protection Officer and Deputy Data Protection Officer, in accordance with GDPR, to ensure that following an internal investigation data breaches are reported to the ICO where necessary. The posts of Data Protection Officer and Deputy Data Protection Officer are currently undertaken by the Director of Central Services &amp; Deputy Chief Executive, and the Head of Legal &amp; Democratic Services.</p>
<p>Ensuring corruption and misuse of power are dealt with effectively</p>	<p>The Council takes corruption and misuse of power very seriously. The Council has an anti-fraud and corruption strategy and a whistleblowing policy in place.</p> <p>In addition, the Council has a Joint Standards Committee and Code of Conduct for Members which investigates complaints against members (both at Borough and Parish level).</p> <p>The Council's Monitoring Officer and Deputy Monitoring Officer are responsible for ensuring that the Council acts in accordance with the law.</p> <p>All staff are required to confirm their acceptance of all policies, including the anti-fraud and corruption and whistleblowing policies through netConsent. Such policies are ultimately enforceable through disciplinary measures.</p> <p>Internal audit also carry out programmed audits on matters such as corporate crime.</p>
<p><b>2. Ensuring openness and comprehensive stakeholder engagement</b></p>	
<p><b>2.1 Openness</b></p>	
<p>Ensuring an open culture through demonstrating, documenting and communicating the organization's commitment to openness</p>	<p>The Council follows both the mandatory and (where cost effective) recommended provisions of the Local Government Transparency Code for publication of information held by the Council, and has a detailed scheme of publication under the Freedom of Information Act. In addition, in relation to certain decisions made at officer level,</p>

	<p>the Council has implemented the requirements of the Openness in Local Government Regulations 2014.</p>
<p>Making decisions that are open about actions, plans, resource use, forecasts, outputs and outcomes. The presumption is for openness. If that is not the case, a justification for the reasoning for keeping a decision confidential should be provided</p>	<p>The Council has an adopted and published a Corporate Strategy for 2023-2027 which sets out the Council's vision for a 4-year period. It emphasises the three key values of innovation, transformation and delivery and is supplemented by a Corporate Strategy Action Plan and Key Performance Indicators.</p> <p>The Council's Constitution sets out clearly the decision- making powers of:</p> <ul style="list-style-type: none"> <li>• The Council</li> <li>• The Cabinet (including the Executive Leader and delegated decision-making to the Cabinet Portfolio Holders),</li> <li>• Other Council committees; and</li> <li>• powers delegated to officers and the limits of such delegation</li> </ul> <p>The Overview and Scrutiny Committee and the Scrutiny Select Committees are responsible for reviewing and scrutinizing decisions made by and performance of the cabinet, committees and officers. Decisions made by cabinet, committee or a cabinet member can be subjected to scrutiny via a call-in procedure allowing challenge within five working days of the decision being taken. Feedback from the Overview and Scrutiny Committee/ Scrutiny Select Committees, Cabinet, and other Committees is taken into account and given due consideration in the decision-making process.</p> <p>Forthcoming key decisions are published in advance at regular intervals. All Member meetings held by the Council are open to the public, unless the items being discussed are considered to be private under the Local Government Act 1972; these may include staffing and legal matters and those of a contractual nature. Where such an exemption applies, it is recorded in the relevant report and minute.</p>
<p>Providing clear reasoning and evidence for decisions in both public records and explanations to stakeholders and being explicit about the criteria, rationale and considerations used. In due course, ensuring that the impact and consequences of those decisions are clear.</p>	<p>Reports to members set out all relevant considerations in order to ensure that any decision taken is rational and lawful. In addition, reports of certain officer level decisions are required to be published under the Openness in Local Government Regulations 2014.</p>

Using formal and informal consultation and engagement to determine the most appropriate and effective interventions/ courses of action.	The Council carries out consultation where this is a legal requirement.
<b>2.2. Engaging comprehensively with institutional stakeholders</b>	
Effectively engaging with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are successfully achieved and sustainably.	<p>The Council's Corporate Strategy 2023-2027 outlines the means by which local stakeholders (including institutional stakeholders) will be engaged and how constructive, challenging relationships will be built.</p> <p>The Council has Committees with cross-party representation to ensure effective and robust discussion of issues.</p> <p>The Council has a Parish Partnership Panel, the Tonbridge Community Forum and a Joint Transportation Board which ensure that the Council can effectively engage with external stakeholders, including institutional stakeholders such as Parish Councils and the County Council.</p> <p>The Council also has an Overview and Scrutiny Committee and three Scrutiny Select Committees to scrutinise decisions made (or which are due to be made) by Cabinet, and which has the ability to make recommendations (which could include recommendations on stakeholder engagement) to Cabinet.</p>
Developing formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively	<p>The Council seeks to utilise Shared Service and Joint Working arrangements (where appropriate) which are intended to share resources with neighbouring authorities where these will improve efficiency and economic sustainability.</p> <p>Outside of such formal arrangements, Council officers have access to Kent-wide service groups such as Kent Chief Executives and Kent Chief Planners which allow for joint sharing of good practice and knowhow.</p>
Ensuring that partnerships are built on trust, a shared commitment to change, a culture that promotes and accepts challenge among partners and that the added value of partnership working is explicit	The informal Kent-wide service groups enable relationships to be built with other Kent authorities such that as and when partnership arrangements such as joint working are carried out, they are based on each organisations knowledge and trust of the other.
<b>2.3 Engaging with individual citizens and services users effectively.</b>	
Establishing a clear policy on the type of issues that the organization will meaningfully consult with or involve communities,	The Council is clear that it is ultimately accountable to the citizens of Tonbridge & Malling. The Council has a good understanding

<p>individual citizens, service users and other stakeholders to ensure that service (or other) provision is contributing towards the achievement of intended outcomes</p>	<p>of who lives, works and plays in the borough and has mechanisms to listen to and respond to their needs, aspirations and concerns.</p> <p>All consultations are published on the Council's website. When considering consultation responses, the Council's decision considers the merit of the responses being made, regardless of the nature of the stakeholder group. The Council carries out consultation when legally required to do so.</p> <p>All reports and decisions include an equalities impact assessment which takes into account whether a decision would have a disproportionate impact on a certain section of society.</p>
<p>Ensuring communication methods are effective and that members and officers are clear about their roles with regard to community engagement</p>	<p>All consultations are published on the Council's website, and where legally required, are advertised in a relevant newspaper.</p> <p>The Council's constitution sets out the roles of members, and (in particular) cabinet members and their roles with regard to community engagement.</p> <p>Public-facing staff receive training relevant to their roles to ensure that their community engagement roles are clear.</p>
<p>Encouraging, collecting and evaluating the views and experiences of communities, citizens, service users and organisations of different backgrounds including reference to future needs.</p>	<p>The Council has taken action to develop and support effective engagement opportunities with all groups of the local community:-</p> <ul style="list-style-type: none"> <li>• The Council engages with the Parishes and unparished areas through the Parish Partnership Panel and Tonbridge Community Forum</li> <li>• The Council promotes the TM Youth Forum that represents the views of young people living in Tonbridge and Malling</li> <li>• The Council supports the Tonbridge &amp; Malling Seniors' Forum (TAMS) which promotes and the needs of the older resident.</li> <li>• The Council actively uses complaints received to learn and improve services, whether through the internal complaints system or via the Ombudsman.</li> <li>• The Council operates a petition scheme whereby matters of significant local interest can be raised for discussion at</li> </ul>

	full Council.
Implementing effective feedback mechanisms in order to demonstrate how views have been taken into account.	<p>Consultation responses are reported upon to the relevant decision making person or body where that person or body has an opportunity to consider feedback received and how best to respond to such feedback.</p> <p>The Council also has in place a complaints procedure.</p>
Balancing feedback from more active stakeholder groups with other stakeholder groups to ensure inclusivity	When considering consultation responses, the Council's decision considers the merit of the responses being made, regardless of the nature of the stakeholder group.
Taking account of the impact of decisions on future generations of tax payers and service users.	All reports and decisions include an equalities impact assessment which takes into account whether a decision would have a disproportionate impact on a certain section of society. All reports also include a consideration of the financial implications (both short and long term) of matters which are being recommended for a decision.
<b>3. Defining outcomes in terms of sustainable economic, social and environmental benefits.</b>	
<b>3.1 Defining Outcomes</b>	
Having a clear vision, which is a clear formal statement of the organisation's purpose and intended outcomes containing appropriate performance indicators, which provide the basis for the organisation's overall strategy planning and other decisions	There is a clear statement of the organisation's purpose in the Tonbridge & Malling Borough Council Corporate Strategy 2023-2027. This document sets out the key priorities for the authority and how the Council will work with a range of partners and the local communities towards achieving the objectives.
Specifying the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer	<p>Committee reports all contain an assessment of risk of the options being presented for a decision. Additionally, the Audit Committee has a role in scrutinizing corporate risk.</p> <p>Where any decision is recommended, reports contain an analysis of the intended impact or changes for stakeholders and the timescale on which that is anticipated to happen. Decisions which may have a disproportionate impact on a certain section of society are subject to an Equalities Impact Assessment.</p>
Delivering defined outcomes on a sustainable basis within the resources that will be available	The Council's Medium Term Financial Strategy covers both revenue and capital budgets, and it is this strategy that underpins the budget setting process for the forthcoming year and over the

	<p>strategy period. The aim of the MTFS is to give us a realistic and sustainable plan that reflects the Council's priorities and takes us into the future. Alongside the MTFS sits a Savings and Transformation Strategy. Its purpose, to provide structure, focus and direction in addressing the significant financial challenge that lies ahead.</p>
<p>Identifying and managing risks to the achievement of outcomes</p>	<p>The Council has arrangements in place to effectively monitor and manage risks to its business through the risk management strategy and strategic and service risk registers.</p> <p>Committee reports all contain an assessment of risk of the options being presented for a decision. Additionally, the Audit Committee has a role in scrutinizing corporate risk.</p>
<p>Managing service users' expectations effectively with regard to determining priorities and making the best use of the available resources</p>	<p>The Council is accountable to the citizens of Tonbridge and Malling in delivering its duties and responsibilities. The Council manages relationships with partners and consults the public through a number of mechanisms, including regular reporting to members, partnership arrangements (supported by partnership agreements) and the provisions of the Council's constitution.</p>
<p><b>3.2. Sustainable economic, social and environmental benefits.</b></p>	
<p>Considering and balancing the combined economic, social and environmental impact of policies and plans when taking decisions about service provision</p>	<p>Value for money considerations are set out in all committee reports, and the Council's external auditors have consistently found that the Council does give value for money. The social impact of decisions is considered throughout the decision-making process, including the carrying out of an Equalities Impact Assessment where it is considered that a recommendation may have a disproportionate impact on a particular section of society.</p> <p>Where relevant, policies are subject to Strategic Environmental Impact Assessment prior to adoption.</p> <p>The Council adopted a Climate Change strategy for 2020-2030. Each year we produce a new climate change action plan and progress report to help meet the goals set out in our Climate Change The in-year action plans set out climate change targets for the Council for that year along with timetables for implementation.</p>

	All the action plans for previous years including the current year 4 of the Climate Change Action Plan for 2023/2024 are available on the council's website for public viewing.
Taking a longer-term view with regard to decision making, taking account of risk and acting transparently where there are potential conflicts between the organisation's intended outcomes and short-term factors such as the political cycle or financial constraints.	The Corporate Strategy, together with the Medium Term Financial Strategy and supported by the Savings and Transformation Strategy set out the long term high level objectives of the Council.
Determining the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs	Council, Committee and Overview and Scrutiny reports set out all relevant considerations to enable members to make decisions which are appropriate and lawful.
Ensuring fair access to services	The Council has an equalities policy which seeks to ensure fair access to the Council's services by all sections of society.
<b>4. Determining the interventions necessary to optimize the achievement of the intended outcomes</b>	
<b>4.1. Determining interventions.</b>	
Ensuring decision makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and associated risks, therefore ensuring best value is achieved however services are provided.	<p>Decision making mechanisms are set out in detail in the Council's constitution. Whether a decision is at council, cabinet or committee level it is informed by a report encompassing advice from relevant services across the Council.</p> <p>Where relevant, alternative options are presented within committee reports, with an assessment of the benefits and disadvantages of those options.</p> <p>The Council's enforcement policies will inform a decision where legal or regulatory action is an option and reports will detail the legal implications of such action.</p>
Considering feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources	Where appropriate, the Council carries out consultation with stakeholders, which is taken into account in the decision-making process. Consultations are published on the Council's website, or where statutory rules apply to such consultation those rules are followed.

<p>available including people, skills, land and assets and bearing in mind future impacts</p>	<p>In addition, the Council uses its complaints procedure to understand where services can be improved.</p>
<p><b>4.2 Planning Interventions</b></p>	
<p>Establishing and implementing robust planning and control cycles that cover strategic and operational plans, priorities and targets</p>	<p>Strategic and operational plans (such as the Corporate Strategy) are reviewed on a regular basis.</p> <p>Feedback from consultations is taken into account in the decision-making process and reported to the relevant committee, cabinet or Council meeting.</p> <p>The Savings &amp; Transformation Strategy (STS) has been prepared in order to support the achievement of the Council's Medium-Term Financial Strategy and direct resources in line with the Council's Corporate Strategy. The STS recognizes that there is no one simple solution to addressing the financial challenges, and that the Council needs to embrace transformation in a multitude of ways in order to deliver savings within an agreed timetable. The STS sets out a measured structure and framework for delivering the necessary savings through a series of themes; each theme having a deliverable target.</p>
<p>Engaging with internal and external stakeholders in determining how services and other courses of action should be delivered</p>	<p>The Corporate Strategy, medium term financial strategy and other key policies are set by cabinet or the Council following input from all service directors and the Chief Executive.</p>
<p>Considering and monitoring risks facing each partner when working collaboratively, including shared risks</p>	<p>Reports on proposals for shared services contain a risk assessment, and risks are mitigated through the shared service agreements.</p>
<p>Ensuring arrangements are flexible and agile so that mechanisms for delivering goods and services can be adapted to changing circumstances</p>	<p>The Council has an internal procurement officers' study group which meets to consider the Council's contracting arrangements.</p> <p>The Council's Contract Procedure Rules and standard contract terms are reviewed regularly to ensure they are up to date with current best practice.</p> <p>The Council has entered into a Procurement Partnership Agreement with Maidstone Borough Council &amp; Tunbridge Wells Borough Council for the creation of a single combined Procurement Service to ensure robust advice</p>



	and guidance is given to the council when procuring goods and services.
Establishing appropriate Key Performance Indicators as part of the planning process in order to identify how the performance of services and projects is to be measured.	Performance indicators are monitored within each service and reported to Management Team where appropriate.
Ensuring capacity exists to generate the information required to review service quality regularly	It is the responsibility of service directors and Management Team to ensure sufficient capacity exists.
Preparing budgets in accordance with objectives, strategies and the medium-term financial plan	<p>The Council's Medium Term Financial Strategy (MTFS) covers both revenue and capital budgets, and it is this Strategy that underpins the budget-setting process for the forthcoming year and over the strategy period.</p> <p>Budgetary control is undertaken on a monthly basis by services, who report known variations to Financial Services. These variations along with detailed monitoring of the Council's Salary Budget and Major Income Streams are reported to the Corporate Management Team and then onto Members via the Finance, Innovation and Property Advisory Board as part of the cycle of Councils meetings programme.</p>
Informing medium and long-term resource planning by drawing up realistic estimates for revenue and capital expenditure aimed at developing a sustainable funding strategy	<p>The Council's Medium Term Financial Strategy (MTFS) covers both revenue and capital budgets, and it is this Strategy that underpins the budget setting process for the forthcoming year and over the strategy period.</p> <p>The Strategy sets out the high level financial objectives the Council wishes to fulfil over the agreed time span. The Strategy also sets out, based on current financial information, not only the projected budgets for the period, but also the levels of council tax that are projected to be required to meet the Council's spending plans.</p> <p>The aim of the MTFS is to give us a realistic and sustainable plan that reflects the Council's priorities and takes us into the future. Underneath the Strategy sits detailed estimates formulated in conjunction with Services taking into account past outturn, current spending plans and likely future demand levels / pressures. It is acknowledged that circumstances will change and for this reason the Strategy needs to, and will, be kept under regular review.</p>

<b>4.3 Optimising achievement of intended outcomes</b>	
Ensuring the medium term financial strategy integrates and balances service priorities, affordability and other resource constraints	The medium-term financial strategy is aligned with the Corporate Strategy. Service priorities are aligned to the Corporate Strategy.
Ensuring the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer term	<p>The budget monitoring process considers both revenue and capital budgets.</p> <p>Budget for the following financial year and longer term financial planning through the MTFS takes account of the impacts for service delivery through potential changes in client base, housing need and levels.</p> <p>The MTFS takes into account changes in Government Funding where these are known. Where these factors are unknown these are judged by officers and shared and confirmed with Members.</p>
Ensuring the medium-term financial strategy sets the context for ongoing decisions on significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimizing resource usage	In considering the preparation of the Budget for the current and future financial years, Chief Officers are asked to identify potential growth issues and savings for future years that can be assessed and included with the MTFS. This may include changes in demand for services, including the growth in property, and proposed changes in fees and charges.
Ensuring the achievement of “social value” through service planning and commissioning	The Council has a Social Value Policy Statement. Whilst the issues of cost and quality remain of key concern, the concept of social value means that where appropriate, the Council can seek to achieve added social benefits in its procurement processes that may otherwise not have been achieved by other means.
<b>5. Developing the entity’s capacity, including the capability of its leadership and the individuals within it</b>	
<b>5.1. Developing the entity’s capacity</b>	
Improving resource use through appropriate application of techniques such as benchmarking and other options to determine how resources are allocated so that defined outcomes are achieved effectively and efficiently	<p>The Council works towards improving value for money through:</p> <ul style="list-style-type: none"> <li>• Exploration of innovative ways of working including potential for joint-working and shared services</li> <li>• Robust budgeting and financial monitoring arrangements including detailed reviews of budgets and potential</li> </ul>

	<p>savings opportunities</p> <ul style="list-style-type: none"> <li>• Internal and external audit</li> <li>• Publication of annual budget and accounts information</li> </ul>
Recognizing the benefits of partnerships and collaborative working where added value can be achieved	The Council works in partnerships with other authorities in Kent. A commitment to working in partnership is one of the Council's stated Corporate Objectives.
Developing and maintaining an effective workforce plan to enhance the strategic allocation of resources	<p>The Council has an extensive training programme for council officers including mandatory and voluntary training.</p> <p>The Council actively engages with its staff through:</p> <ul style="list-style-type: none"> <li>• Team meetings</li> <li>• Regular performance management meetings</li> <li>• The Joint Employee Consultative Committee</li> </ul> <p>The HR Strategy incorporates the Council's Workforce Development Plan</p> <p>The Council's digital strategy seeks to develop solutions which will increase the efficiency of the Council's resources.</p>
<b>5.2. Developing the capability of the entity's leadership and other individuals.</b>	
Developing protocols to ensure that elected and appointed leaders negotiate with each other regarding their respective roles early on in the relationship and that a shared understanding of roles and objectives is maintained	<p>The Council examines the capability of its people with governance responsibilities through appraisals, identifying any training gaps – the relevant training programmes are updated accordingly.</p> <p>The Cabinet and Overview and Scrutiny Committee have developed a Cabinet/Scrutiny protocol which sets out their respective roles.</p>
Publishing a statement that specifies the types of decisions that are delegated and those reserved for the collective decision making of the governing body	The Council's constitution sets out clearly the decision-making powers of the Council and its bodies and officers.
Ensuring the leader and the chief executive have clearly defined and distinctive leadership roles within a structure whereby the chief executive leads in implementing strategy and managing the delivery of services and other outputs set by members	The roles of the Leader of the Council and Chief Executive are clearly defined in the Council's Constitution.

and each provides a check and a balance for the other's authority	
Developing the capabilities of members and senior management to achieve effective leadership and to enable the organization to respond successfully to changing legal and policy demands as well as economic, political and environmental changes and risks.	The Council has a training programme for Members and holds regular training sessions (both on a programmed and ad hoc basis) for Members on a variety of topics: <ul style="list-style-type: none"> <li>• Induction training for all new members</li> <li>• Service-specific training, e.g. Community Safety</li> <li>• Committee-specific training, e.g. Audit Committee, Planning Committee, Joint Standards Committee</li> </ul>
Ensuring that there are structures in place to encourage public participation	Consultations are published on the Council's websites. In relation to decisions taken by the Council on planning matters, and certain matters under the Licensing Act 2003, members of the public are able to make both written and oral representations to the committee. The Council also operates a petition scheme.
Holding staff to account through regular performance reviews which take account of training or development needs	Staff have access to appropriate induction training, and ongoing training on both an ad hoc and programmed basis relevant to their roles. The annual appraisal process reviews staff performance and also identifies training needs. Staff training takes place both through internal and external provision as appropriate.
Ensuring arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing	The council has a Health and Wellbeing statement of intent recognizing that the Council's staff are its most valuable asset. The HR Strategy also recognizes the same. The Council has a Joint Employee Consultative Committee which enables employees to raise matters of concern, including health and wellbeing.
<b>6. Managing risks and performance through robust internal control and strong public financial management</b>	
<b>6.1. Managing risk</b>	
Recognizing that risk management is an integral part of all activities and must be considered in all aspects of decision making	Risk management practices are embedded within the organisation through the annual service and strategic planning processes, which is used to develop the Council's vision and objectives. This ensures that risks to the achievement of the Council's objectives are identified and managed

	<p>appropriately. Risks identified are scored on the basis of their likelihood and impact and existing controls and required actions to further mitigate risks are captured in risk registers. The framework sets out the responsibility of Officers leading on areas with partnership arrangements to ensure that the partner has an adequate risk management strategy and sufficient insurance cover to protect the interests of the Council.</p>
<p>Implementing robust and integrated risk management arrangements and ensuring that they are working effectively</p>	<p>The Council has arrangements in place to effectively monitor and manage risks to its business through the:</p> <ul style="list-style-type: none"> <li>• Risk Management Strategy</li> <li>• Strategic Risk Register</li> <li>• Service Risk Registers</li> <li>• Audit Committee role in scrutinising corporate risk</li> <li>• Consideration of risk in all Committee reports</li> <li>• Annual Governance Statement</li> </ul> <p>The strategic and service risk registers are updated regularly.</p> <p>Risks associated with decisions are set out on relevant committee, cabinet or council reports.</p> <p>The Council's standard report template requires Officers and Members to carry out a risk assessment of the action recommended in the report ensuring risk is considered in all decision-making of the authority. This assessment also covers legal, financial and value for money considerations and equality issues where relevant.</p>
<p>Ensuring that responsibilities for managing individual risks are clearly allocated.</p>	<p>The service risk registers clearly identify responsibilities for managing individual risks.</p>
<p><b>6.2. Managing performance.</b></p>	
<p>Making decisions based on relevant, clear and objective analysis and advice pointing out the implications and risks inherent in the organisation's financial, social and environmental position and outlook</p>	<p>The performance of the Council and its partners in achieving its objectives is monitored and measured by services and their respective Service Management Teams and subsequently Management Team and Members. Individual services are accountable to the Corporate Management Team for operational performance monitoring and measurement and are responsible for taking action to correct any adverse performance, in the first instance, as appropriate.</p>

<p>Ensuring an effective scrutiny or oversight function is in place which provides constructive challenge and debate on policies and objectives before, during and after decisions are made thereby enhancing the organisation's performance and that of any organization for which it is responsible (or for a committee system) encouraging effective and constructive challenge and debate on policies and objectives to support balanced and effective decision making</p>	<p>The overview and scrutiny committee and the three Scrutiny Select Committees ("SSCs") are responsible for reviewing and scrutinizing the decisions made (or due to be made) by cabinet members and by Cabinet collectively.</p> <p>The Overview and Scrutiny Committee and SSCs are also responsible for reviewing the performance of the Cabinet, Cabinet members, and Council Officers.</p> <p>Decisions made by Cabinet or by a Cabinet Member can be subjected to scrutiny via a call-in procedure allowing challenge within 5 working days of the decision being taken.</p>
<p>Providing members and senior management with regular reports on service delivery plans and on progress towards outcome achievement</p>	<p>The Council has in place committees &amp; Panels with cross-party representation to ensure effective and robust discussion of issues. Relevant committees and the executive are provided with information reports on a regular basis to provide progress reports on service delivery and outcomes.</p>
<p>Ensuring there is consistency between specification stages (such as budgets) and post-implementation reporting (e.g. financial statements)</p>	<p>The medium-term financial strategy is aligned with the Corporate Strategy. Service priorities are aligned to the Corporate Strategy, which ensures consistency between budget-setting and service delivery.</p> <p>Capital schemes are subject to evaluation prior to the approval for implementation; the criteria of the evaluations are set by Council.</p> <p>Following the scheme's completion a post implementation review will be prepared and shared with members in order to determine the accuracy of the initial evaluation and identify lessons to be learned and considered in future evaluations.</p>
<p><b>6.3 Robust internal control</b></p>	
<p>Ensuring effective counter-fraud and anti-corruption measures are in place</p>	<p>The Council has an effective Internal Audit service and Anti-Fraud service in place. The Council also has an Anti-Fraud and Corruption Policy and Whistleblowing Policy.</p>
<p>Ensuring additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor</p>	<p>The Council has in place arrangements to effectively monitor and manage risks to its business through the:</p> <ul style="list-style-type: none"> <li>• Risk management strategy</li> </ul>

	<ul style="list-style-type: none"> <li>• Strategic risk register</li> <li>• Service risk registers</li> </ul>
Establishing an audit committee or equivalent group/function which is independent of the executive and accountable to the governing body	The core functions of an audit committee as defined by <i>CIPFA's Audit Committees: Practical Guidance for Local Authorities</i> are fulfilled by the Council's Audit Committee. The Council's Constitution sets out the responsibility of the Audit Committee to provide independent assurance of the adequacy of the risk management framework and associated control environment. To do so, the Audit Committee has adopted a Risk Management Strategy that sets out the roles of Officers and Members in the identification and minimisation of risk. The Risk Register is a standing item at every Audit Committee meeting.
<b>6.4 Managing Data</b>	
Ensuring effective arrangements are in place for the safe collection, storage, use and sharing of data, including processes to safeguard personal data	<p>The Council maintains a number of local policies which support and embed information processes. These include</p> <ul style="list-style-type: none"> <li>• Data Protection policy</li> <li>• Information Security policy</li> <li>• Data Retention policy</li> <li>• Use of removable media policy</li> <li>• Remote access policy</li> <li>• Social media policy</li> <li>• Information Asset register</li> <li>• Information Governance Policy</li> </ul> <p>The Council has a Data Protection Officer, appointed in accordance with GDPR, with overall responsibility for ensuring the Council follows proper data protection practices. The DPO chairs the Council's Information Governance Group ("IGG") which meets regularly to discuss data protection and related matters within the Council, including data breaches.</p> <p>Individual services have representatives appointed to sit on the IGG and feed back into their services to raise and maintain awareness of the requirements of GDPR.</p>
Ensuring effective arrangements are in place and operating effectively when sharing data with other bodies	The Council is a signatory to the Kent & Medway Information Sharing Agreement, which prescribes the procedures that are to be followed when sharing data with other public sector bodies in Kent. The Data Protection Officer, or his appointed Deputy, attend the Kent & Medway Information Sharing Partnership, which seeks to share best practice under GDPR across all Kent authorities.

<p>Reviewing and auditing regularly the quality and accuracy of data used in decision making and performance monitoring</p>	<p>An annual risk-based Internal Audit Plan is prepared to determine the priorities of the internal audit activity, consistent with the organisation's goals. The Plan aims to ensure that sufficient audit assurance work is carried out to enable the Chief Audit Executive to deliver an opinion regarding the adequacy and effectiveness of the internal control arrangements within the Council. Each audit review will cover data quality and accuracy relevant to the subject area.</p>
<p><b>6.5 Strong public financial management</b></p>	
<p>Ensuring financial management supports both long-term achievement of outcomes and short-term financial and operational performance</p>	<p>The Council's Financial Procedure Rules support the provision of high quality financial advice. The Council also acts in consultation with stakeholders. The Council's Internal Audit Service provides assurance on the quality of financial and performance data reported.</p> <p>The ongoing budget-setting and monitoring process together with the Medium Term Financial Strategy supports the long-term achievement of outcomes and short-term financial and operational performance.</p>
<p>Ensuring well-developed financial management is integrated at all levels of planning and control, including management of financial risks and controls</p>	<p>Annual budgets are set with involvement from budget holders across all council services. The MTFS is set considering longer-term risks.</p>
<p><b>7. Implementing good practices in transparency, reporting, and audit to deliver effective accountability</b></p>	
<p><b>7.1 Implementing good practice in transparency</b></p>	
<p>Writing and communicating reports for the public and other stakeholders in a fair, balanced and understandable style appropriate to the intended audience and ensuring that they are easy to access and interrogate.</p>	<p>The Council has implemented the mandatory and (where cost effective) recommended principles set out in the Local Government Transparency Code. The Council has set up a steering group which meets to discuss changes to the code and its ongoing implementation.</p> <p>Reports for both historic and prospective meetings of the Council and its committees and boards are made available to the public through the Council's website.</p> <p>Where possible, reports are written in a public-facing and non-technical manner. All reports (save those which are exempt from publication for reasons set out in the Local Government Act 1972) are made public and</p>



	can be accessed through the Council's website.
Striking a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny while not being too onerous to provide and for users to understand	Where possible, reports are written in a public-facing and non-technical manner. All reports (save those which are exempt as discussed above) are made public and can be accessed through the Council's website.
<b>7.2 Implementing good practice in reporting</b>	
Reporting at least annually on performance, value for money and stewardship of resources to stakeholders in a timely and understandable way	<p>Annual Statement of Accounts report the Council's financial performance against the original estimate set for that financial year. The statement is prepared in accordance with the CIPFA Code for Local Authority Accounting.</p> <p>Included within the financial statements will be a judgement from the Council's external auditors on value for money and adequate use of resources.</p> <p>Included within the financial statements is the Annual Governance Statement. This is approved by Members and signed by the Chief Executive and Leader of the Council and provides evidence on the Council's adherence to the Code of Corporate Governance.</p>
Ensuring members and senior management own the results reported	The Annual Governance Statement is approved by the leader and Chief Executive, and the financial statements are considered and approved by Management Team and the Audit Committee.
Ensuring robust arrangements for assessing the extent to which the principles contained in the framework have been applied and publishing the results on this assessment, including an action plan for improvement and evidence to demonstrate good governance (the annual governance statement)	Compliance is reviewed on an annual basis and reported to Audit Committee.
Ensuring that the framework is applied to jointly managed or shared service organisations as appropriate	Where appropriate, the principles will be applied to jointly managed or shared services.
Ensuring that performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparisons with other, similar, organisations.	Performance information is included as part of the budget-setting process.

<b>7.3 Assurance and effective accountability</b>	
Ensuring that recommendations for corrective action made by external audit are acted upon	Responsibility for acting upon recommendations from external audit rests with the relevant service, and is monitored through individual service management teams and the corporate management team.
Ensuring an effective internal audit service with direct access to members is in place, providing assurance with regard to governance arrangements and that recommendations are acted upon	The Council has an effective internal audit service, and an Audit Committee.
Welcoming peer challenge, reviews and inspections from regulatory bodies and implementing recommendations	The Council takes an active part in Peer Reviews, the most recent being the LGA Peer Review Challenge 2022. The Council has implemented the majority of recommendations arising from that exercise, with the remaining recommendations in progress.
Gaining assurance on risks associated with delivering services through third parties and that this is evidenced in the annual governance statement	Risks are picked up through the contract monitoring process and reported through Audit Committee. Service delivery and performance can be scrutinised through Overview and Scrutiny Committee or the relevant Scrutiny Select Committee
Ensuring that when working in partnership, arrangements for accountability are clear and the need for wider public accountability has been recognized and met	Such arrangements are subject to public reports to each authority in the partnership. The Contracts Procedure Rules also ensure that standard contract terms are imposed ensuring proper accountability.

## **Treasury Management Update and Annual Report for 2023/24**

### **Item AU 24/27 referred from Audit Committee of 22 July 2024**

The report of the Director of Finance and Transformation provided an update on treasury management activity undertaken during April to May of the current financial year. The treasury management outturn position for 2023/24 was also set out.

The report provided an assessment of the current economic situation and interest rate forecasts together with a commentary on investments derived from cash flow surpluses, core cash balances and other long term cash balances. A full list of investments held on 31 May 2024 was set out in Annex 1 to the report.

Members received an update on the Lothbury Property Trust, who had for several months been in negotiations to find a suitable merger to enable investors to continue to hold shares within the property market. Unfortunately the merger discussions did not provide the desired result and concluded with the termination of the Lothbury Property Trust on 30 May 2024. The first tranche in respect of TMBC's holdings had been paid back on 5 June 2024 and a further tranche on 5 July 2024. Additional funds would be distributed as and when assets were sold and dividends would continue to be paid on income generating assets whilst the fund was in the process of securing the sale of assets.

Member's attention was drawn to the Treasury Management Annual Report for 2023/24 as set out at Annex 4 which provided a summary of the investment performance. The combined performance of the Authority's investments exceeded the revised estimate by £866,137, and £1.272m when compared to the 2023/24 original estimates mainly due to the Bank Rate being held at 5.25% for longer than expected in 2023/24.

**RECOMMENDED\*:** That the following be commended to Council:

- (1) the action taken in respect of treasury management activity for April to May 2024 be endorsed; and
- (2) the 2023/24 outturn position be noted.

**\*Recommendation to Council**

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# TONBRIDGE & MALLING BOROUGH COUNCIL

## AUDIT COMMITTEE

22 July 2024

### Report of the Director of Finance and Transformation

#### Part 1- Public

#### Matters for Recommendation to Council

#### 1 TREASURY MANAGEMENT UPDATE AND ANNUAL REPORT FOR 2023/24

The report provides an update on treasury management activity undertaken during April to May of the current financial year. The treasury management outturn position for 2023/24 is also included in this report.

##### 1.1 Introduction

- 1.1.1 The CIPFA (Chartered Institute of Public Finance and Accountancy) Code of Practice for Treasury Management 2021 recommends that members be updated on treasury management activities at least quarterly. This report, therefore, ensures this Council is implementing best practice in accordance with the Code.
- 1.1.2 Following the Treasury Management training provided to Members in June 2023 the Chairman expressed an interest in externally managed funds being presented to the Committee.
- 1.1.3 Kelly Watson, Head of Local Government Relationships from CCLA attended Audit Committee in July 2023, presenting the LAPF Portfolio which included the fund performance and the sustainable investment outcomes.

##### 1.2 Economic Background

- 1.2.1 UK April inflation data disappointed to the upside with the annual CPI inflation falling from 3.2% to 2.3%, but this was above the Bank of England and consensus view of 2.1%, with services and core inflation (excluding energy, food, alcohol and tobacco) remaining at 5.9% and 3.9% respectively.
- 1.2.2 However, despite these upside surprises, the CPI measure of inflation is likely to fall close to or below 2% when next reported on 19 June, and based on Capital Economics' latest forecasts is likely to fall close to 1% within the next year. Indeed, Capital Economics also forecast RPI to fall close to zero over the same timeline.
- 1.2.3 Nonetheless, there remain several key factors that could act as a headwind to near-term rate cuts. The first of these is the stickiness of wage inflation. Average pay is increasing at close to 6% year on year, and the BoE will be keeping a close

eye on upcoming wage and employment data. In particular, it will be looking for a loosening in the labour market arising from a reduction in the near one million job vacancies, and an increase in unemployment (currently 4.3%).

- 1.2.4 Recent gilt market movements have been heavily influenced by the sentiment pertaining to US monetary policy. Again, inflation and labour data has proven challenging and the market's expectation for rate cuts has gradually reduced throughout the course of the year. In any event, if the BoE starts to cut rates before the US, it may mean that the medium and longer parts of the curve take longer to fully reflect any such action until the US yield curve shifts lower too. Given the potential inflationary upside risk to US treasuries depending on the outcome of the US Presidential Election in November (i.e. increased tariffs on imports from China) therein lies a further risk to yields remaining elevated for longer.
- 1.2.5 The upcoming General Election is not expected to have a significant impact on UK monetary policy. Both leading parties are aware of the public finance backdrop, and there is minimal leeway for further tax cuts or added spending without negatively impacting market sentiment.

### 1.3 Interest Rate Forecast

- 1.3.1 The Link Group's latest interest rate forecast below, updated following the Bank of England's Monetary Policy Committee (MPC) meeting on 9 May 2025, reflects the rates which have been kept on hold for several meetings but is now firmly in the camp of preparing the market for near-term interest rate cuts. The forecast assumes Bank Rate will see the first cut in September 2024, and a gradual reduction over the next two years to 3%.

Link - May 2024	Jun-24	Sep-24	Dec-24	Mar-25	Jun-25	Sep-25	Dec-25	Mar-26	Jun-26	Sep-26	Dec-26
	%	%	%	%	%	%	%	%	%	%	%
<b>Bank Rate</b>	5.25	5.00	4.50	4.00	3.50	3.25	3.25	3.25	3.25	3.00	3.00
<b>3 mth ave earnings</b>	5.30	5.00	4.50	4.00	3.50	3.30	3.30	3.30	3.30	3.00	3.00
<b>6 mth ave earnings</b>	5.30	4.90	4.40	3.90	3.50	3.30	3.30	3.30	3.30	3.10	3.10
<b>12 mth ave earnings</b>	5.10	4.80	4.30	3.80	3.50	3.40	3.40	3.40	3.40	3.20	3.30
<b>25yr PWLB</b>	5.30	5.20	5.00	4.80	4.70	4.50	4.50	4.40	4.40	4.40	4.30

Table 1

### 1.4 Investment Performance

- 1.4.1 In accordance with the CIPFA Code the Council's priorities, in order of importance, are to ensure security of capital; liquidity; and having satisfied both, to obtain an appropriate level of return which is consistent with the Council's risk appetite.

- 1.4.2 The Council's investments are derived from cash flow surpluses, core cash balances and other long term cash balances.
- 1.4.3 Cash flow surpluses are available on a temporary basis and the amount mainly dependent on the timing of council tax and business rates collected and their payment to precept authorities and government. Less significant cash flows relate to receipt of grants, payments to housing benefit recipients, suppliers and staff. Cash flow surpluses build up during a financial year and are spent by financial year end. Thus far in 2024/25 cash flow surpluses have averaged £18m per day.
- 1.4.4 The Authority also has £30m of core cash balances. These funds are for the most part available to invest for more than one year, albeit a proportion is usually transferred to cash flow towards the end of the financial year to top-up daily cash balances. Core cash includes the Council's capital and revenue reserves which are being consumed over time to meet capital expenditure and 'buy time' to enable the authority to deliver its revenue savings targets.
- 1.4.5 Cash flow and core cash balances also include sums to meet business rate appeals which are expected to be resolved in 2024/25 and future years.
- 1.4.6 Long term investments at the end of May 2024 comprised £5m in property fund investments.
- 1.4.7 Medium term investments at the end of May 2024 comprised £4.25m in multi-asset diversified income funds.
- 1.4.8 A full list of investments held on 31 May 2024 is provided at **[Annex 1]** and a copy of our lending list of 31 May is provided at **[Annex 2]**. The table below provides a summary of funds invested and interest / dividends earned at the end of May.

	Funds invested on 31 May 2024	Average duration to maturity	Weighted average rate of return	SONIA benchmark May 2024	Interest / dividends earned	Gross annualised return
	£m	Days	%	%	1 April to 31 May 2024 £	%
Cash flow	18.38	6	5.25	5.20	209,530	5.24
Core cash	30.00	128	5.57	5.16	284,800	5.59
<b>Sub-total</b>	<b>48.38</b>	<b>82</b>	<b>5.43</b>	<b>--</b>	<b>494,330</b>	<b>5.43</b>
Long term	5.00				32,400	3.89
Medium term	4.25				38,940	5.50
<b>Total</b>	<b>57.63</b>				<b>565,670</b>	<b>5.32</b>

Table 2

- 1.4.9 **Cash flow and Core cash Investments.** The SONIA one month average benchmark has remained static for several months now. In contrast, the three month average benchmark has started to shift. The downward trajectory of longer term investment rates on offer reflect market sentiment that interest rate reductions may be on the horizon. The investment portfolio will benefit from the higher rates previously secured in 2023/24, and investments will remain ahead of the investment curve for longer.
- 1.4.10 Interest earned of £494,304 to the end of May is £142,800 higher than the original estimate for the same period. The increase in income reflects the 5.25% bank rate which has been on hold for the sixth time in a row.
- 1.4.11 Bank offers are starting to pull back, reflecting the expected rate cuts now factored in for August/September of 0.25% and a further cut currently being factored into December (previously expected in Q1 of 2025). As a result, cash flow and core cash investment income will outperform the original budget. Further analysis will be carried out over the summer to refine the projections and the revised level of treasury investment income will be reported to members at a later date.
- 1.4.12 The Council takes advantage of Link's benchmarking service which enables performance to be gauged against Link's other local authority clients. An extract from the latest benchmarking data is provided in the form of a scatter graph at **[Annex 3]**. The graph shows the return (vertical scale) vs. the credit / duration risk (horizontal scale) associated with an authority's investments. At 31 March 2024 the Council's return at 5.57% (purple diamond) was above the local authority average of 5.04%. Based on the Council's exposure to credit / duration risk that return was above Link's predicted return (between the upper and lower boundary indicated by the diagonal lines). The Council's risk exposure was also consistent with other members within the benchmarking group.
- 1.4.13 **Long-term Investment.** £5m of the Council's expected longer term (10 years) cash balances has been invested in three externally managed property funds. These investments provide a stable annual income to meet the Council needs and provide capital growth over time.
- 1.4.14 Additional property fund investments could be made in the future where resources become available from asset disposals and other windfalls. However, in the near future it is likely that we will need to redeem these investments in order to provide funds for the re-build of the Angel Leisure Centre.
- 1.4.15 During the period 1 April 2024 to 31 May 2024 the £5m investment in property funds generated income from dividends of £32,400 which represents an annualised return of 3.89%. The investment figure excludes Lothbury Property Trust Fund which terminated on 30 May 2024 (see 1.4.19). Please note, the last published NAV (Net Asset Value) reports was 30 April 2024. Income for the remaining two funds is in line with the budget to the end of May.



1.4.16 Property funds issue and redeem primary units at a buy and sell price with the difference between the two prices reflecting the costs associated with buying and selling property (legal and other fees, stamp duty etc.). The price spread varies from fund to fund but is typically in the region of 8% (6% on entry to a fund and 2% on exit). Where units are traded on a secondary market the impact of the spread can be reduced and delays in the purchase or redemption of units avoided.

1.4.17 Current sale value (May 2024 data (\*LPT April 2024)) vs initial purchase price are as follows:

<b>Property fund</b>	Purchase price	Sale value at date of purchase	Sale value 31 May 2024	31 May sale value above (below) purchase price (c-a)
(Primary = units in the fund purchased from the fund manager. Secondary = units purchased from another investor at a discount. Date = first month the investment attracted dividends)	a	b	c	price (c-a)
	£	£	£	£
LAPF (Primary, July 2017)	1,000,000	922,200	874,700	(125,300)
Lothbury (Primary, July 2017) *	1,000,000	927,700	717,200	(282,800)
Hermes (Secondary, Oct 2017)	1,000,000	939,000	891,000	(109,000)
LAPF (Primary, June 2018)	1,000,000	922,200	838,600	(161,400)
Lothbury (Secondary, July 2018) *	1,000,000	973,000	703,400	(296,600)
<b>Total change in principal</b>	5,000,000	4,684,100	4,024,900	<b>(975,100)</b>
			<b>Total dividends received to March 2024</b>	<b>1,054,800</b>
			<b>Net benefit since inception</b>	<b>79,700</b>

Table 3

1.4.18 Since inception, the Council has received dividends from its property fund investments totalling £1,054,800. All property fund investments recorded capital depreciation in the period April 2024 to May 2024.

1.4.19 As Members have been previously advised, Lothbury Property Trust had, for several months, been in negotiations to find a suitable merger to enable investors to continue to hold shares within the property market. Unfortunately the merger discussions did not provide the desired result and concluded with the termination of the Lothbury Property Trust on 30 May 2024.

- 1.4.20 The first tranche to be paid back in respect of TMBC's holdings (0.17% of the fund) represents 43.9% of the 30 April 2024 Net Asset Value (NAV). I can confirm that a receipt of £633,998.53 was received on 5 June 2024.
- 1.4.21 A further tranche was received on 5 July 2024 in the sum of £146,569.55. Additional funds will be distributed as and when assets are sold. The target date to complete the sales process is Q4 2024, whilst ensuring best prices are achieved. Dividends will continue to be paid on income generating assets while the fund is in the process of securing the sale of such assets.
- 1.4.22 Members are reminded that higher yielding investments (e.g. property, bonds, and equities) have the potential to fluctuate in value, both up and down. It is this feature which makes them unsuitable for short term investment where certainty over value at maturity is a key criterion. The Council's property fund investments are not required to meet day to day spending commitments and will only be realised should a higher yielding opportunity be identified.
- 1.4.23 **Medium-term investment.** £4.25m of the Council's expected medium term cash balances together with new money derived from the sale of assets has been invested in externally managed diversified income funds. These investments will generate an annual income stream and will provide capital appreciation over time.
- 1.4.24 Additional multi asset fund investments could be made in the future where resources become available from asset disposals and other windfalls. However, as with the property funds, it is likely that in the near future investments will need to be redeemed in order to provide funds for the re-build of the Angel Leisure Centre.
- 1.4.25 During the period 1 April 2023 to 31 May 2024 the £4.25m investment in multi asset diversified income funds generated income from dividends of £38,940 which represents an annualised return of 5.50%. Income has performed some £8,360 above budget to the end of May.
- 1.4.26 Since inception the Council has received dividends of £492,700 from its multi-asset diversified income funds, which represents an annualised return of 4.69%.
- 1.4.27 As at 31 May, the value of multi asset diversified income funds stood at £3.868m compared to the initial capital investment of £4.250m. Capital values are expected to recover over the medium term.

## 1.5 Compliance with the Annual Investment Strategy

- 1.5.1 Throughout April to end of May 2024, all the requirements contained in the 2024/25 Annual Investment Strategy intended to limit the Council's exposure to investment risks (minimum sovereign and counterparty credit rating; durational limits; exposure limits in respect of counterparties, groups of related counterparty and sovereigns; and specified and non-specified investment limits) have been complied with. No borrowing was undertaken during April or May 2024.

1.5.2 The Council has also operated within the treasury limits and prudential indicators set out in the Annual Investment Strategy. The 2024/25 Prudential and Treasury Indicators will be included for review as part of the treasury management report to the September 2024 meeting of Audit Committee.

## 1.6 2023/24 Treasury Management Outturn

1.6.1 A detailed report covering treasury management activity for the last financial year was submitted to Cabinet on 6 July 2024 as an annex to the Revenue and Capital Outturn report for 2023/24. That annex is replicated in full and provided at **[Annex 4]** to this report. The role of this Committee is to act as scrutineer on behalf of full Council.

1.6.2 A summary of the investment performance included in Annex 4 is as follows:

	2023/24 Average balance £ m	Return %	2023/24 Interest/ dividends earned £	2023/24 Revised Estimate £	Variance Better (worse) £
Cash flow surplus	13.9	5.51	1,565,433	1,277,000	288,433
Core cash	32.0	5.39	1,641,582	1,103,000	538,582
Medium term investment	4.3	4.94	209,765	175,000	34,765
Long term investment	5.0	3.59	179,357	175,000	4,357
Total	55.2	5.28	3,596,137	2,730,000	866,137

Table 4

1.6.3 The combined performance of the Authority's investments exceeded the revised estimate by £866,137, and £1.272m when compared to the 2023/24 original estimates. The increase in investment returns is mainly due to the Bank Rate being held at 5.25% for longer than expected in 2023/24.

1.6.4 Income and expenditure attributed to the Treasury Management function for 2023/24 is provided at **[Annex 5]**. This shows the aggregate staff resource applied to treasury management remains less than one full time equivalent and that income exceeds costs by a significant margin. Income in future years forms part of the Council's Medium Term Financial Strategy and is subject to changes in the level of reserves and changes in Bank Rate. Expenditure in future years is expected to rise in-line with inflation.

## 1.7 Legal Implications

Under Section 151 of the Local Government Act 1972, the Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the

authority including securing effective arrangements for treasury management. In addition, Link are employed to provide independent advice on legislative and professional changes that impact on the treasury management function.

## **1.8 Financial and Value for Money Considerations**

- 1.8.1 Due to continuing domestic pressures including a tight labour market putting upward pressure on wages, and the continuing geo-political inflationary risks emanating from the prevailing Middle East crisis and the Russian invasion of Ukraine, Bank Rate continues to hold at 5.25%. The expectation for a 0.25% rate cut is oscillating between August and September with a further cut in December 2024.
- 1.8.2 Link's current forecast (updated May 2024) anticipates Bank Rate will reduce to 5.0% by September 2024 and steadily reduce to 3.0% by September 2026. The Bank Rate downward trajectory will be reflected in the market rates available to invest surplus cash, giving rise to a reduction in investment income going forward.
- 1.8.3 Investment income at the end of May 2024 (month two of the financial year) from cash flow surpluses and core cash investments is a favourable variance of £142,800 to the budget for the same period. Income from property funds at the end of May is in line with the budget and diversified income funds are exceeding the budget by some £8,360 for the same period. Investment income for the financial year as a whole from these sources is expected to outperform the original budget and will be reviewed at revised estimates.
- 1.8.4 Performance is monitored against a benchmark return and against other local authorities in Kent and the broader local authority pool via Link's benchmarking service.
- 1.8.5 Whilst the annual income stream from a property fund exhibits stability (circa 3-4% per annum net of management fees) capital values rise and fall with the cyclical nature of economic activity. During a downturn in the economy capital values may fall significantly. The duration of a property fund investment may need to be extended to avoid crystalizing a loss and as a consequence, the investment's duration cannot be determined with certainty.
- 1.8.6 Buying and selling property involves significant costs making property unsuitable for short term investment. Buying and selling costs are reflected in the entry fees (circa 6%) and exit fees (circa 2%) a property fund will charge unit holders. These fees are expected to be recouped over time through capital appreciation.
- 1.8.7 The money being applied to property fund investment from existing resources is expected to be available in perpetuity. Nevertheless, the Council's cash balances will continue to be monitored and due regard had to the potential for a fund to delay payment of redemption requests by up to twelve months. Funds will seek to minimise their own cash balances in favour of holding property and therefore manage redemption requests for the benefit of all fund participants. The Council

is only likely to seek redemption to pursue a higher yielding income opportunity, should one be identified.

1.8.8 The Lothbury Property Trust termination is expected to give rise to losses within the fund and capital investment will be distributed as and when the sales of assets take place. This could lead to a protracted winding up period of the fund to ensure best price is secured, and may not reflect the expected return based on April 2024 Net Asset Value. Dividends will continue to be paid out to shareholders while assets remain income generating.

1.8.9 Multi asset (diversified income) funds aim to limit risk by spreading investment across a broad range of asset classes (equities, bonds, property, cash). Nevertheless, the principal sum invested may fall as a consequence of adverse economic or market events. Multi asset funds are being used for medium-term investment implying but not limited to a five-year timeframe.

## 1.9 Risk Assessment

1.9.1 The application of best practice, including the regular reporting and scrutiny of treasury management activity, as identified by the CIPFA Code is considered an effective way of mitigating the risks associated with treasury management.

1.9.2 Treasury Management training was provided for all Members on 19 June 2023 by Link Group. LAPF (Local Authority Property Fund) held a session for Members on 24 July 2023, providing an investment portfolio update on the fund.

## 1.10 Equality Impact Assessment

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

## 1.11 Recommendations

1.11.1 Members are invited to **RECOMMEND** that Council:

- 1) Endorse the action taken by officers in respect of treasury management activity for April to May 2024.
- 2) Note the 2023/24 outturn position.

Background papers:

contact: Donna Riley

Link interest rate forecast (May 2024)

Link benchmarking data (March 2024)

Sharon Shelton

Director of Finance and Transformation

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## Tonbridge and Malling Borough Council - Investment summary 31 May 2024

Counterparty / type of investment	Sovereign	Fitch long term	Fitch short term	Link suggested post CDS duration limit	Investment						Cash Flow surpluses £	Core Cash balances £	Medium term investment balances £	Long term investment balances £
					Start date	End date	Duration at start	Amount invested £	Return %	Proportion of total %				
<b>Banks, Building Societies &amp; Other Financials</b>														
<b>Barclays Bank :</b> 95 day notice account	UK	A+	F1	6 months	23/07/2019	TBD	95 Days	3,000,000	5.30	5.21%				
<b>Close Brothers :</b> Fixed Term Deposit	UK	BBB+	F2	N/A	27/02/2024	27/11/2024	6 Months	3,000,000	5.35	5.21%			3,000,000	
<b>Handelbanken :</b> Fixed term deposit	UK	AA	F1+	1 year	17/01/2024	17/01/2025	1 Year	3,000,000	4.70	5.21%			3,000,000	
<b>HSBC Bank :</b> 31 day notice account	UK	AA-	F1+	1 year	02/12/2019	TBD	31 Days	3,000,000	5.25	5.21%	3,000,000			
<b>Lloyds Bank :</b> Certificate of Deposit	UK	A+	F1	6 months	12/07/2023	11/07/2024	1 Year	6,000,000	6.75	10.41%			3,000,000	
Certificate of Deposit					15/11/2023	14/11/2024	1 Year	3,000,000	5.66				3,000,000	
<b>National Westminster Bank :</b> Deposit account	UK	A+	F1	1 year	31/05/2024	03/06/2024	Overnight	3,050,000	3.25	5.29%	50,000			
Certificate of Deposit					06/02/2024	06/08/2024	6 months	3,000,000	5.31				3,000,000	
<b>Rabobank :</b> Certificate of Deposit	Netherlands	A+	F1	1 year	15/09/2023	17/06/2024	9 Months	6,000,000	5.88	10.41%			3,000,000	
Certificate of Deposit					03/11/2023	01/11/2024	12 months	3,000,000	5.62				3,000,000	
<b>Toronto Dominion Bank :</b> Certificate of Deposit	Canada	AA-	F1+	1 year	06/10/2023	04/10/2024	1 year	6,000,000	5.89	10.41%			3,000,000	
Certificate of Deposit					20/12/2023	19/12/2024	1 year	3,000,000	5.23				3,000,000	
<b>Money Market Funds</b>														
<b>Blackrock MMF</b> - shares/units held	N/A	AAA	mmf (Eq)	5 years	31/05/2024	03/06/2024	Overnight	0	5.19		-			
<b>BNP Paribas MMF</b> - shares/units held	N/A	AAA	mmf (Eq)	5 years	31/05/2024	03/06/2024	Overnight	8,000,000	5.25	13.88%	8,000,000			
<b>CCLA PSDF MMF</b> - shares/units held	N/A	AAA	mmf	5 years	31/05/2024	03/06/2024	Overnight	0	5.22		-			
<b>DWS Deutsche MMF</b> - shares/units held	N/A	AAA	mmf	5 years	31/05/2024	03/06/2024	Overnight	0	5.21		-			
<b>Federated MMF</b> - shares/units held	N/A	AAA	mmf	5 years	31/05/2024	03/06/2024	Overnight	7,331,000	5.26	12.72%	7,331,000			
<b>Morgan Stanley MMF</b> - shares/units held	N/A	AAA	mmf	5 years	31/05/2024	03/06/2024	Overnight	0	5.18		-			
<b>Property Funds</b>														
<b>Hermes Property Unit Trust :</b> Property fund units	N/A	N/A	N/A	N/A	29/09/2017	N/A	N/A	1,000,000	3.54	1.74%				1,000,000
<b>Local Authorities' Property Fund :</b> Property fund units	N/A	N/A	N/A	N/A	29/06/2017	N/A	N/A	2,000,000	4.13	3.47%				1,000,000
Property fund units					30/05/2018	N/A	N/A	1,000,000	5.14					1,000,000
<b>Lothbury Property Trust :</b> Property fund units	N/A	N/A	N/A	N/A	06/07/2017	N/A	N/A	2,000,000	2.89	3.47%				1,000,000
Property fund units					02/07/2018	N/A	N/A	1,000,000	2.89					1,000,000
<b>Multi Asset Funds</b>														
<b>Aegon</b> Multi Asset fund units	N/A	N/A	N/A	N/A	29/07/2021	N/A	N/A	1,750,000		3.04%				1,750,000
<b>Fidelity</b> Multi Asset fund units	N/A	N/A	N/A	N/A	12/08/2021	N/A	N/A	1,000,000		1.74%				1,000,000
<b>Ninety One</b> Multi Asset fund units	N/A	N/A	N/A	N/A	12/08/2021	N/A	N/A	1,500,000		2.60%				1,500,000
<b>Total invested</b>								<b>57,631,000</b>		<b>100.00%</b>	<b>18,381,000</b>	<b>30,000,000</b>	<b>4,250,000</b>	<b>5,000,000</b>

<b>Number of investments</b>	26	<b>Average investment value £</b> 2,217,000			
<b>Number of counter parties</b>	20	<b>Average counter party investment £</b> 2,882,000			
<b>Group exposures:</b>		<b>Core £</b>	<b>Cash £</b>	<b>Combined £</b>	<b>%</b>
<b>Royal Bank of Scotland + National Westminster (UK Nationalised MAX 20%)</b>		3,000,000	50,000	3,050,000	5.29
<b>Bank of Scotland + Lloyds (MAX 20%)</b>		6,000,000	-	6,000,000	10.41
				<b>£</b>	<b>%</b>
<b>Property Funds Total</b>				5,000,000	8.68
<b>Multi Asset Funds Total</b>				4,250,000	7.37

**Total non-specified investments should be less than 60% of Investment balances** 16.05%

**Notes:**  
Property fund returns are based on dividends distributed from the start of each investment. Capital appreciation / depreciation is recorded elsewhere. Last update December 2023.

**End date for notice accounts to be determined (TBD)**

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## Tonbridge and Malling Borough Council Lending List

Checked against Link's "Suggested Credit List" dated 31/05/24 Minimum investment criteria is Link's green duration band (100 days). Entry point broadly equates to Fitch A-, F1 unless UK nationalised.								
Counterparty	Sovereign	Sovereign rating [1]	Fitch long term	Fitch short term	UK classification	Exposure limit	Link duration based on [2]	
							Credit ratings	Post CDS
<b>UK Banks, Building Societies and other Financial Institutions :</b>								
Bank of Scotland (Group limit BOS & Lloyds £7m)	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Barclays Bank (Group Limit Barclays and Barclays UK £7m)	UK	AA-	A+	F1	Non-RF	£7m	6 months	6 months
Barclays Bank UK (Group Limit Barclays and Barclays UK £7m)	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Close Brothers Ltd	UK	AA-	BBB+	F2	Exempt	£7m	N/A	N/A
Goldman Sachs International Bank	UK	AA-	A+	F1	Exempt	£7m	6 months	6 months
Handelsbanken Plc (Group Limit with Svenska Handelsbanken AB £7m)	UK	AA-	AA	F1+	Exempt	£7m	1 year	1 year
HSBC UK Bank	UK	AA-	AA-	F1+	Ring-fenced	£7m	1 year	1 year
Lloyds Bank (Group limit BOS & Lloyds £7m)	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Santander UK	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Standard Chartered Bank	UK	AA-	A+	F1	Exempt	£7m	6 months	6 months
Coventry Building Society	UK	AA-	A-	F1	Exempt	£7m	100 days	100 days
Nationwide Building Society	UK	AA-	A	F1	Exempt	£7m	6 months	6 months
Skipton Building Society	UK	AA-	A-	F1	Exempt	£7m	6 months	6 months
National Westminster Bank (Group limit Nat West and RBS £7m). UK Nationalised.	UK	AA-	A+	F1	Ring-fenced	£7m	1 year	1 year
The Royal Bank of Scotland (Group limit Nat West and RBS £7m). UK Nationalised.	UK	AA-	A+	F1	Ring-fenced	£7m	1 year	1 year
UK Debt Management Office including Treasury Bills	UK	AA-	n/a	n/a	n/a	No limit	5 years	5 years
UK Treasury Sovereign Bonds (Gilts)	UK	AA-	n/a	n/a	n/a	£16m/£8m	5 years	5 years
UK Local Authority (per authority)	UK	AA-	n/a	n/a	n/a	£7m	5 years	5 years
<b>Non-UK Banks :</b>								
Australia & New Zealand Banking Group	Australia	AAA	AA-	F1+	n/a	£7m	1 year	1 year
Bank of Montreal	Canada	AA+	AA-	F1+	n/a	£7m	1 year	1 year
Toronto Dominion Bank	Canada	AA+	AA-	F1+	n/a	£7m	1 year	1 year
Royal Bank of Canada	Canada	AA+	AA-	F1+	n/a	£7m	1 year	1 year
Nordea Bank Abp	Finland	AA+	AA-	F1+	n/a	£7m	1 year	1 year
Rabobank (Cooperatieve Rabobank U.A.)	Netherlands	AAA	A+	F1	n/a	£7m	1 year	1 year
ING Bank	Netherlands	AAA	AA-	F1+	n/a	£7m	1 year	1 year
Development Bank of Singapore	Singapore	AAA	AA-	F1+	n/a	£7m	1 year	1 year
Svenska Handelsbanken AB (Group Limit with Handelsbanken Plc £7m)	Sweden	AAA	AA	F1+	n/a	£7m	1 year	1 year
[1] Reflects the lowest of the three rating agencies views (Fitch, Moody's and Standard and Poor's). Strategy requires non-UK sovereigns to be rated at least AA- and the UK rated at least A-. Non-UK sovereign limit of 20% or £7m per sovereign.								
[2] All deposits overnight unless otherwise approved in advance by the Director of Finance and Transformation AND Chief Financial Services Officer. If other than overnight duration for non-UK entities must not exceed Link's post CDS duration suggestion. For UK entities duration may be extended by up to three months based on credit ratings alone or six months if CDS is below average, subject to a maximum combined duration of 12 months.								

<b>Money Market Funds (Minimum investment criteria AAA) :</b>					
Fund Name	Moody	Fitch	S&P	Exposure Limit	Link credit worthiness
Blackrock Institutional Cash Series - Sterling Liquidity	AAA	-	AAA	£8m	5 years
BNP Paribas InstiCash - GBP	-	-	AAA	£8m	5 years
CCLA Public Sector Deposit Fund	-	AAA	-	£8m	5 years
DWS Deutsche Global Liquidity - Deutsche Managed Sterling	AAA	AAA	AAA	£8m	5 years
Federated Cash Management - Short Term Sterling Prime	-	AAA	AAA	£8m	5 years
Insight - Sterling Liquidity (Group limit IL & ILP of £7m)	-	AAA	AAA	£8m	5 years
Morgan Stanley Liquidity - Sterling	AAA	AAA	AAA	£8m	5 years

<b>Enhanced Cash Funds (Minimum investment criteria AAA) :</b>					
Fund Name	Moody	Fitch	S&P	Exposure Limit	Link credit worthiness
Insight - Sterling Liquidity Plus (Group limit IL & ILP £7m)	-	AAA	AA+	£3.5m	5 years

Approved by Director of Finance and Transformation  
31 May 2024

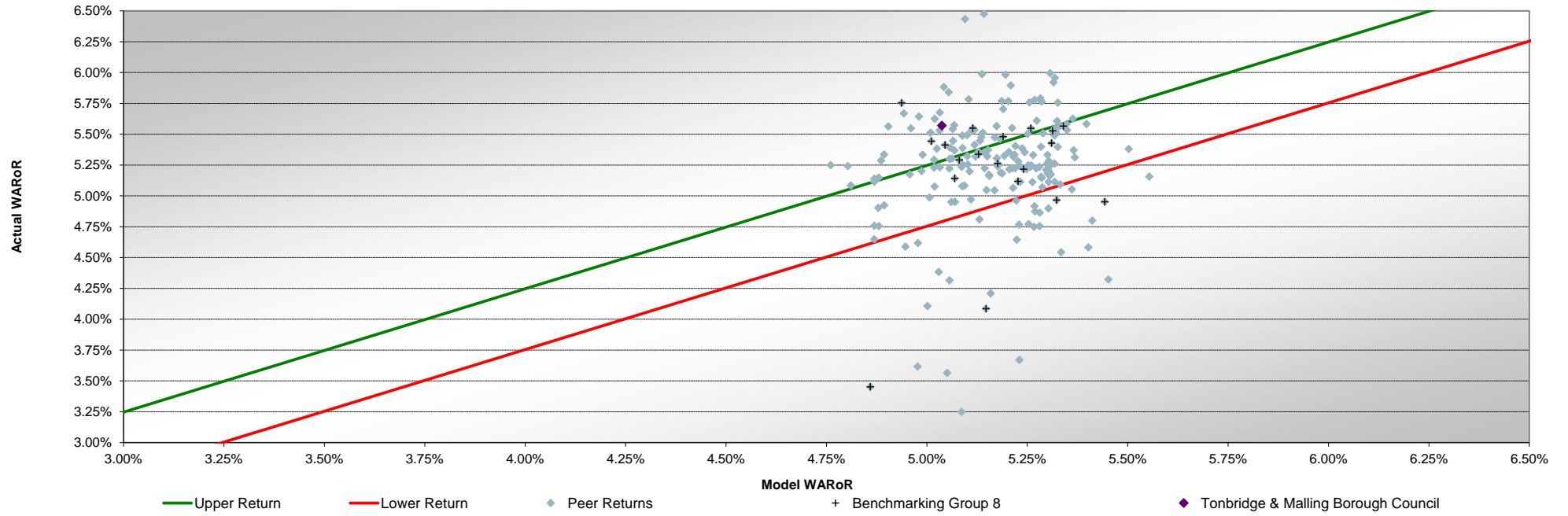
Australia and New Zealand Banking Group Ltd Fitch long term and short term ratings increased from A+ to AA- and from F1 to F1+. Toronto Dominion's long term rating outlook has changed from Stable to Negative. Suggested duration stays unchanged.

Note: Australia & New Zealand Banking Group added 17/05/2023  
Note: Close Brothers removed from Link's Suggested Credit List 12/02/2024. Although removed, Link have stated that the Fitch long term rating change from A- to BBB+ would have no impact on the bank's suggested duration and would remain at 6 months.

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Tonbridge & Malling Borough Council

Population Returns against Model Returns



	Actual WARoR	Model WARoR	Difference	Lower Bound	Upper Bound	Performance
Tonbridge & Malling Borough Council	5.57%	5.04%	0.53%	4.79%	5.28%	Above

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**Tonbridge and Malling Borough Council**

**Treasury Management Annual Report 2023/24**

**1.1 Introduction**

1.1.1 This Council is required by regulations issued under the Local Government Act 2003 to produce an annual treasury management review of activity and the actual prudential and treasury indicators for 2023/24. This report meets the requirements of both the CIPFA Code of Practice on Treasury Management (the Code) and the CIPFA Prudential Code for Capital Finance in Local Authorities, (the Prudential Code).

1.1.2 During 2023/24 the minimum reporting requirements were that Full Council should receive the following treasury reports:

- an annual strategy in advance of the year.
- a mid-year review; and treasury update report.
- an annual review following the end of the year describing the activity compared to the strategy (this report).

In addition, treasury management updates have been presented to each meeting of the Audit Committee throughout the 2023/24 financial year. Treasury performance is also included in the Financial Planning and Control reports to Cabinet and/or the Finance, Regeneration and Property Scrutiny Select Committee.

1.1.3 Changes in the regulatory environment place a much greater onus on Members for the review and scrutiny of treasury management policy and activities. This report is, therefore, important in that respect, as it provides details of the outturn position for treasury activities and highlights compliance with the Council's policies previously approved by Members.

1.1.4 This Council also confirms that it has complied with the requirement under the Code to give prior scrutiny to all of the above treasury management reports by the Audit Committee before they were reported to the Full Council. Member training on treasury management issues was undertaken during the year on the 19 June 2023 in order to support members' scrutiny role.

## 1.2 Treasury Position 31 March 2024

1.2.1 At the beginning and the end of 2023/24 the Council's debt and investment position was as follows:

	31 March 2023	Rate / Return	Average duration	31 March 2024	Rate / Return	Average duration
	£m	%	Days	£m	%	Days
Variable rate debt:						
Overdraft	0.0	-	-	0.0	-	-
<b>Total debt</b>	<b>0.0</b>	<b>-</b>	<b>-</b>	<b>0.0</b>	<b>-</b>	<b>-</b>
Fixed rate investments:						
Cash flow surpluses	0.0	-	-	0.0	-	-
Core cash	23.0	4.49	147	32.0	5.39	158
Variable rate investments:						
Cash flow surpluses	19.6	4.15	10	10.9	5.51	9
Core cash	3.0	4.30	95	3.0	5.25	95
Sub-total	45.6	4.33	85	45.9	5.40	122
Medium term investments:						
Multi-Asset Income Funds	4.3	4.10	-	4.3	4.94	-
Long term investments:						
Property Funds	5.0	3.44	-	5.0	3.59	-
<b>Total investments</b>	<b>54.9</b>	<b>2.60</b>	<b>-</b>	<b>55.2</b>	<b>5.28</b>	<b>-</b>

Table 1

1.2.2 There has been an upward movement in year due to reduction in Short Term Creditors including Government Grants received in advance being paid during 2023/24, which has been offset by the increase in Grants and Contributions in advance held in Long Term Liabilities.

## 1.3 The Strategy for 2023/24

1.3.1 The treasury management strategy for 2023/24 was based on the November 2022 forecast and assumed bank rates would increase to 4.50% in the short term and drop back to 2.50% in 2025/26. In actuality, interest rates peaked at 5.25% and remain elevated due to a very tight labour market putting upward pressure on wages, and continuing geo-political inflationary risks emanating from the prevailing Middle East crisis and the Russian invasion of Ukraine. Bank Rate is expected to remain at 5.25% in early 2024/25 before dropping back in late 2024 by 0.25%.

1.3.2 This has provided the Council with the challenge of proactively investing surplus cash and maintaining the appropriate balance between cash for liquidity purposes while pursuing opportunities to lock in deposits at favourable rates.

1.3.3 While the Council has taken a prudent approach to investing surplus monies, it is also fully appreciative of changes to regulatory requirements for financial

institutions in terms of additional capital and liquidity that came about in the aftermath of the Global Financial Crisis of 2008/09. These requirements have provided a far stronger basis for financial institutions, with annual stress tests by regulators evidencing how institutions are now far more able to cope with extreme stressed market and economic conditions.

#### 1.4 **Investment Rates in 2023/24**

1.4.1 Investment returns picked up throughout the course of 2023/24 as central banks, including the Bank of England, continued to respond to inflationary pressures that were not transitory, and realised that tighter monetary policy was called for.

1.4.2 Starting April at 4.25%, Bank Rate moved up in stepped increases of either 0.25% or 0.5%, reaching 5.25% by August. By the end of the financial year, no further increases were anticipated. Indeed, the market is pricing in a first cut in Bank Rate in either June or August 2024.

1.4.3 The upward sloping yield curve that prevailed throughout 2023/24 meant that the Council continued to be faced with the challenge of proactive investment of surplus cash, and this emphasised the need for a detailed working knowledge of cashflow projections so that the appropriate balance between maintaining cash for liquidity purposes, and “laddering” deposits on a rolling basis to lock in the increase in investment rates as duration was extended, became an on-going feature of the investment landscape.

1.4.4 With bond markets selling off, UK equity market valuations struggled to make progress, as did property funds, although there have been some spirited, if temporary, market rallies from time to time – including in November and December 2023. However, the more traditional investment options, such as specified investments (simple to understand, and less than a year in duration), have continued to be at the forefront of most local authority investment strategies, particularly given Money Market Funds have also provided decent returns in close proximity to Bank Rate for liquidity purposes. In the latter part of 2023/24, the local authority to local authority market lacked any meaningful measure of depth, forcing short-term investment rates above 7% in the last week of March.

1.4.5 Bank Rate and investment returns across durations of up to 12 months are depicted in the graphs below.

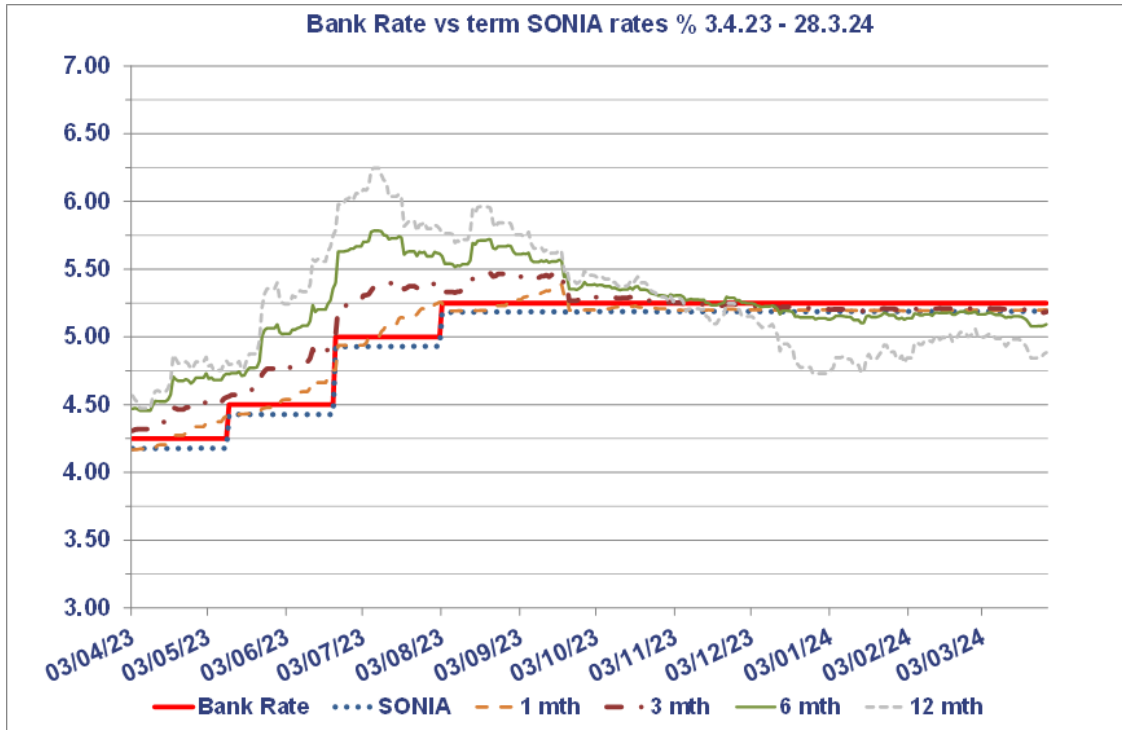


Table 2



## 1.5 Investment Outturn for 2023/24

- 1.5.1 The Council's investment policy sets out the approach for choosing investment counterparties and is based on credit ratings provided by the three main credit rating agencies. This is supplemented by additional market information including credit rating outlooks and credit default swap data (CDS). The 2023/24 Annual Investment Strategy was approved by Council in February 2023 and was subjected to a mid-year review in September 2023. In undertaking the review, no changes were made to the Council's minimum counter-party credit requirement (typically Fitch A-, F1 unless UK state owned) or counter-party exposure limits (maximum of 20% of funds per financial institution). Subject to constraints, discretion to extend investment duration for UK regulated financial institutions by up to six months over the Council's external treasury advisor's suggested duration was also retained.
- 1.5.2 **Cash flow investment.** In 2023/24 cash flow surpluses averaged £28.4m and earned an average rate of return of 5.51%. The benchmark used to compare performance was 5.19%. Cash flow surpluses arise from the timing difference between the receipt of monies (from council tax, business rates, grants, etc.) and its subsequent payment (to Government, precepting authorities, housing benefit recipients, suppliers, staff, etc.). Cash flow surpluses are required to meet regular payment obligations and are invested in bank deposit accounts and money market funds which allow next day access. The opportunity to invest for longer durations and generate additional yield is taken when cash flow surpluses permit.
- 1.5.3 **Core cash investment.** In 2023/24 core cash averaged £30.40m and earned an average rate of return of 5.39%. The benchmark used to compare performance was 5.20%. Core cash comprises the authority's revenue and capital reserves. Unlike cash flow, core cash is not required to meet regular payment obligations and is available to invest for longer durations including durations exceeding one year. This added flexibility allows core cash to generate a better return relative to cash flow surpluses.
- 1.5.4 **Medium-term investment.** In recent years multi asset (diversified income) funds have grown in popularity. Like property funds, multi asset funds aim to generate returns over and above inflation and thus preserve spending power.
- 1.5.5 A total of £3m was initially invested equally across three funds in July and August, with a further £1.25m invested in November 2021 across two of the funds with the proceeds from the sale of River Walk offices. Additional multi asset fund investments may be made in the future as resources become available from asset disposals and other windfalls.
- 1.5.6 In 2023/24 the investment in multi asset funds generated dividends of £209,765 which represents an annualised return of 4.94%.
- 1.5.7 As at 31 March 2024, the capital investment has depreciated in value by £488,046, an improved position from the prior year of £62,058. The value of multi asset diversified income funds at 31 March stood at £3.76m. Members are reminded that our multi asset diversified income funds are medium term

investments (5+ years) and the funds applied to them are not required to meet day to day spending commitments.

- 1.5.8 **Long-term investment.** Of the different types of long-term investment (equities, bonds, and commercial property), investment in property funds was considered best suited to meet the Council's more immediate funding need: a sustainable, stable income stream.
- 1.5.9 This does not however, preclude consideration of an alternative investment opportunity that meets the Council's strategic priorities and objectives, achieves value for money and delivers a financial return commensurate with the Council's risk appetite. Each such opportunity to be considered on a case-by-case basis as appropriate.
- 1.5.10 At the start of the year £5m was invested in property investment funds and no further sums were invested during the year. Investment was spread across three funds to ensure, as far as is possible, stability of annual income and capital growth over time. Additional property fund investments may be made in the future as resources become available from asset disposals and other windfalls.
- 1.5.11 In 2023/24 investment in property funds generated dividends of £179,357 which represents an annualised return of 3.59%.
- 1.5.12 Property funds issue and redeem primary units at a buy and sell price with the difference between the two prices reflecting the costs associated with buying and selling property (legal and other fees, stamp duty, etc.). The price spread varies from fund to fund but is typically in the region of 8% (6% on entry to a fund and 2% on exit). Where units are traded on a secondary market the impact of the spread can be reduced and delays in the purchase or redemption of units avoided. The table below compares the sale value of each investment if sold to the fund manager with the initial purchase price.

Property fund	Purchase price	Sale value at date of purchase	Sale value March 2024	March sale value above (below) purchase price
(Primary = units in the fund purchased from the fund manager. Secondary = units purchased from another investor at a discount. Date = first month the investment attracted dividends)	(a)	(b)	(c)	(c-a)
	£	£	£	£
LAPF (Primary, July 2017)	1,000,000	922,200	879,151	(120,849)
Lothbury (Primary, July 2017)	1,000,000	927,700	720,668	(279,332)
Hermes (Secondary, Oct 2017)	1,000,000	939,000	891,563	(108,437)
LAPF (Primary, June 2018)	1,000,000	922,200	842,929	(157,071)
Lothbury (Secondary, July 2018)	1,000,000	973,000	706,775	(293,225)
Total	5,000,000	4,684,100	4,041,086	(958,914)

Table 3

1.5.13 As at 31 March 2024, the capital investment has depreciated in value by £958,914. Members are reminded that our property fund investments are long-term (10 years) and the funds applied to them are not required to meet day to day spending commitments.

1.5.14 **Summary.** Investment performance for the year 2023/24 is summarised in the table below:

	2023/24 Average balance £ m	Return %	2023/24 Interest/ dividends earned £	2023/24 Revised Estimate £	Variance Better (worse) £
Cash flow surplus	13.9	5.51	1,565,433	1,277,000	288,433
Core cash	32.0	5.39	1,641,582	1,103,000	538,582
Medium term investment	4.3	4.94	209,765	175,000	34,765
Long term investment	5.0	3.59	179,357	175,000	4,357
Total	55.2	5.28	3,596,137	2,730,000	866,137

Table 4

1.5.15 The overall performance of the Authority's investments bettered the revised estimates by £866,137 (£1,272,000 when compared to the 2023/24 original estimates).

## 1.6 Compliance with the Annual Investment Strategy

1.6.1 The Annual Investment Strategy aims to limit the Council's exposure to investment risks by prescribing: minimum counterparty credit criteria; maximum exposure limits in respect of sovereigns, counterparties, and groups of related counterparties; the type of investment instrument that can be used; and investment duration limits. Throughout the period April 2023 to March 2024 the requirements set out in the Annual Investment Strategy for 2023/24, as approved by Council in February 2023, were complied with. No liquidity issues were experienced resulting in nil borrowing throughout 2023/24.

## 1.7 Treasury and Prudential Codes of Practice

1.7.1 Updates to both the Prudential Code and Treasury Management Code were published by the Chartered Institute of Public Finance and Accountancy (CIPFA) in December 2021 and uphold a key principle that borrowing primarily for return on investment is not permissible.

1.7.2 Also re-emphasised that the risks associated with investment in '**non-financial assets** which are held primarily for financial returns' are properly evaluated, reported, subject to scrutiny and managed over time. The Council has no material non-financial investments.

- 1.7.3 The requirements of both the Treasury Management and Prudential Codes of Practice published by CIPFA have been considered and reflected as appropriate in this annual review.

Financial Services  
June 2024

**Prudential and Treasury Indicators**

<b>1 Prudential Indicators</b>	2022/23 Actual £'000	2023/24 Original £'000	2023/24 Actual £'000
Capital expenditure	2,496	6,851	1,070
Ratio of financing costs to net revenue stream	-23.95%	-63.25%	-9.83%
Net borrowing requirement:			
Brought forward 1 April	nil	nil	nil
Carried forward 31 March	nil	nil	nil
In year borrowing requirement	nil	nil	nil
Capital financing requirement as at 31 March	nil	nil	nil
Annual change in capital financing requirement	nil	nil	nil
Incremental impact of capital investment decisions:			
Increase in Council Tax (Band D) per Annum	£0.06	£0.06	£0.06

<b>2 Treasury Management Indicators</b>	2022/23 Actual £'000	2023/24 Original £'000	2023/24 Actual £'000
Authorised limit for external debt:			
Borrowing	nil	7,000	nil
Other long-term liabilities	nil	nil	nil
Total	nil	7,000	nil
Operational boundary for external debt:			
Borrowing	nil	4,000	nil
Other long-term liabilities	nil	nil	nil
Total	nil	4,000	nil
Actual external debt:	nil	nil	nil
Upper limit for fixed rate exposure over one year at year end	nil	0 – 60%	nil
Upper limit for variable rate exposure under one year at the year end	19,620 (35.5%)	40 – 100%	10,916 (19.50%)
Upper limit for total principal sums invested for over 365 days	9,250 (16.7%)	60%	9,250 (16.7%)

<b>3 Maturity structure of new fixed rate borrowing during 2023/24</b>	Upper limit %	Lower limit %
Under 12 months	100	nil
Over 12 months	nil	nil

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Extract from Revenue & Capital Outturn Booklet presented to Cabinet - 8 July 2024. Costs attributed to banking arrangements and transfers in lieu of interest are excluded.

**DIRECTOR OF FINANCE & TRANSFORMATION**

	<b>ORIGINAL ESTIMATE £</b>	<b>2023/24 REVISED ESTIMATE £</b>	<b>PROVISIONAL OUTTURN £</b>
<b>4 <u>TREASURY MANAGEMENT &amp; BANKING ARRANGEMENTS</u></b>			
<b>Employees</b>			
Salaries	33,500	32,650	30,268
<b>Supplies &amp; Services</b>			
Treasury Advisor & Dealing Fees	12,100	17,000	17,323
	<hr/>	<hr/>	<hr/>
	45,600	49,650	47,591
<b>Less Income</b>			
Interest on:			
Cash Flow Investments	(526,000)	(1,277,000) a)	(1,565,433) b)
Core Cash Investments	(599,000)	(1,103,000) a)	(1,641,582) b)
Property Fund Investments	(180,000)	(175,000)	(179,357)
Multi Asset Income Fund Investments	(153,000)	(175,000)	(209,765) c)
Other Miscellaneous Interest	-	(29,400)	(29,397)
	<hr/>	<hr/>	<hr/>
	(1,458,000)	(2,759,400)	(3,625,534)
	<hr/>	<hr/>	<hr/>
<b><u>Sub-total</u></b>	(1,412,400)	(2,709,750)	(3,577,943)
<b>Central, Departmental &amp; Technical Support Services</b>			
Central Salaries & Administration	11,950	12,350	12,215
Information Technology Expenses	900	1,350	1,028
Departmental Administrative Expenses	17,950	25,400	25,593
	<hr/>	<hr/>	<hr/>
<b><u>TO SUMMARY</u></b>	(1,381,600)	(2,670,650)	(3,539,107)
	<hr/>	<hr/>	<hr/>
<b>Full Time Equivalent Number of Staff (including Support Service Staff)</b>	0.91	0.91	

- a) Reflects impact of recent interest rate rises and higher cash balances.
- b) Performance of Cash and Core Cash above profile.
- c) Performance of Multi-Asset Diversified Income Funds above profile.

Notes relate to changes between 2023/24 original and revised estimates reported to Audit Committee January 2024 and have been added to the outturn presentation to aid understanding.

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## **Capital Works – Car Parks**

### **Item CB 24/90 referred from Cabinet of 3 September 2024**

Consideration was given to progressing a number of fast-track capital plan schemes to allow the implementation of the decisions taken by Cabinet on 30 April 2024 in respect of the new parking proposals throughout the borough.

The three schemes which were required to be transferred from List C to List A of the Capital Plan to enable the introduction of the new parking charges were as set out as follows:

- Bailey Bridge East Car Park Improvements, Aylesford;
- Introduction of Automatic Number Plate Recognition (ANPR); and
- Parking Amendments to Car Parks and On-Street Parking.

It was noted that a fast track capital plan evaluation had been completed for each of the above schemes, as set out in Annexes 1, 2 and 3, and a more detailed project plan would be put together for each of the schemes to set out their respective milestones and timetables in due course.

Particular reference was made to implications for the blue badge holders following the implementation of ANPR enforcement and, in response to questions received and further clarification on the limitation of the technology, the Cabinet Member for Transformation and Infrastructure confirmed that arrangements would be made to enable residents with a blue badge to register their car for free parking in the car parks where ANPR would be introduced to provide access convenience to disabled vehicle users. This was supported by the Cabinet and other Members.

In addition, the benefits of introducing ANPR technology which supported both RingGo and cash payment methods and reflected charge based on actual length of stay were acknowledged. Contactless payment would continue to be investigated, although the challenge around internet connection requirement of the contactless payment machines was recognised.

In response to questions raised by Members on targets set for the schemes to enable measurement of success following implementation, it was explained that these would be set out in the detailed project plans, which would be subject to a post implementation review in 12 months' time to assess the impact of the schemes.

Due regard was given to the policy, financial and value for money considerations and the legal implications and the necessity to fast track the capital plan schemes to enable the implementation of the decisions within the financial year was acknowledged.

**RECOMMENDED\*:** That

- (1) the three fast track capital schemes, shown in Annexes 1, 2 & 3, be transferred to List A of the capital planning this financial year to enable the introduction of new parking charges, subject to an amendment in respect of

the Automatic Number Plate Recognition (ANPR) scheme (attached at Annex 2) to reflect that arrangements would be made to enable residents with a blue badge to register to park free of charge at the car parks where ANPR enforcement would be implemented;

- (2) capital funding of £530,000 for the capital works be met from the revenue reserve from capital schemes;
- (3) authority be granted to the Director of Central Services/Deputy Chief Executive to submit a planning application for the scheme in the Bailey Bridge East car park, Aylesford; and
- (4) revenue funding of £15,000 be included in the revised revenue estimates to appoint external consultants to assist in the design of the schemes.

**\*Recommended to Council**

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

03 September 2024

### Joint Report of the Director of Street Scene, Leisure & Technical Services and Director of Finance & Transformation

#### Part 1- Public

#### Matters for Recommendation to Council

## 1 CAPITAL WORKS – CAR PARKS

### 1.1 Introduction

1.1.1 At the Cabinet Meeting on 30 April 2024, Cabinet made a number of decisions relating to parking proposals throughout the Borough. To allow the new charges to be implemented a number of fast-track capital plan schemes are required to be progressed to allow delivery this financial year.

1.1.2 There are three schemes that are currently held on List C of the Capital Plan. These are;

- Bailey Bridge East Car Park Improvements, Aylesford.
- Introduction of Automatic Number Plate Recognition (ANPR).
- Parking Amendments to Car Parks and On-Street Parking.

1.1.3 A fast track capital plan evaluation has been completed for each of the schemes and are shown in **Annexes 1, 2 & 3**.

### 1.2 Legal Implications

1.2.1 The schemes have been developed to allow the implementation of the decisions taken at the Cabinet meeting on 30 April 2024. Procurement will be undertaken in accordance with the Council's Procurement rules with the assistance of the Mid Kent Procurement Partnership.

1.2.2 A planning application will be required for the scheme at Aylesford and Cabinet's approval to submit the application is sought.

### 1.3 Financial and Value for Money Considerations

1.3.1 Cabinet will note from Annexes 1,2 and 3 that the total cost of the capital schemes proposed is £530,000 which can be funded from the revenue reserve from capital

schemes. Revenue funding of £15,000 is also required for external support to progress design work.

1.3.2 The aim of the new parking charges is to balance the management of parking to meet the needs of all users, optimise the availability of parking, maximise income subject to market conditions and provide consistency across the Council's parking assets in a fair commercial and efficient manner.

1.3.3 It is worthy of note that many of the Council's car parks represent a significant asset in terms of resale and for development. It is essential given the context of the Medium Term Financial Strategy that the Council seeks to ensure that the assets are managed in the most economically advantageous manner.

## 1.4 Risk Assessment

1.4.1 The capital plan schemes need to be fast-tracked to allow the delivery of the decisions already taken by Cabinet within financial year. Without the capital works the new parking charges cannot be delivered.

## 1.5 Equality Impact Assessment

1.5.1 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.

## 1.6 Policy Considerations

1.6.1 Asset Management

1.6.2 Community

1.6.3 Procurement

## 1.7 Recommendations

1.7.1 **CABINET** is requested to recommend to **COUNCIL** that;

- i) The three fast track capital schemes shown in **Annexes 1, 2 & 3** be transferred to List A of the capital planning this financial year to enable the introduction of new parking charges;
- ii) Capital funding of £530,000 for the capital works be met from the revenue reserve from capital schemes;
- iii) Authority be granted to the Director of Central Services/Deputy Chief Executive to submit a planning application for the scheme in the Bailey Bridge East car park Aylesford ; and
- iv) Revenue funding of £15,000 be included in the revised revenue estimates to appoint external consultants to assist in the design of the schemes.

Background papers:

contact: Andy Edwards

Nil

Robert Styles  
Director of Street Scene, Leisure & Technical Services

Sharon Shelton  
Director of Finance and Transformation

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## CAPITAL PLAN LIST C – EVALUATIONS

Project <b>Technical Services: Bailey Bridge East Car Park Improvements</b>			
1	<b>Specification:</b>		
	(i)	<b>Purpose of the scheme</b>	Improvement works to facilitate introduction of pay and display charges and formalise existing parking arrangements.
	(ii)	<b>Relevance to National / Council's Objectives</b>	(a) National: N/A (b) Council: Increase parking revenue to meet growing costs Management of car park to address local parking issues. Upgrade car park to meet required standard of provision.
	(iii)	<b>Targets for judging success</b>	(a) Generate additional income from car park. (b) Increased number of available spaces within car park. (c) Car park upgraded to meet standard required.
2	<b>Description of Project / Design Issues:</b> Formalisation of existing grass overflow area in Bailey Bridge East car park with appropriate new surface and marked parking bays. Additional car park lighting to be added, together with extension of existing CCTV system, new pay and display machines and associated signage to make car park suitable for the introduction of new charges. Surface of car park area to be evaluated and considered in liaison with local Members and Cabinet Member. Project will require planning approval.		
3	<b>Milestones / Risks</b> Works to be completed in advance of new charges being introduced. Project to be procured in accordance with contract procurement rules. Receipt of planning approval.		
4	<b>Consultation:</b> Proposed new charges were subject to formal public consultation and approval by Cabinet. Design of car park considered in liaison with local Members.  The EA have been consulted with regards FRAP (Flood Risk Activity Permit) and have confirmed it is not required for site subject to the existing ground levels not changing adjacent to flood bund.		

**CAPITAL PLAN LIST C – EVALUATIONS**

5	<b>Capital Cost:</b> £300,000.00					
6	<b>Profiling of Expenditure</b>					
	<b>2023/24 (£'000)</b>	<b>2024/25 (£'000)</b>	<b>2025/26 (£'000)</b>	<b>2026/27 (£'000)</b>	<b>2027/28 (£'000)</b>	<b>2028/29 (£'000)</b>
		£300				
7	<b>Capital Renewals Impact:</b> P&D machines every 10 years and proposed value £6k Lighting lanterns every 10 years and proposed value £5k Lighting columns every 20 years and proposed value £10k CCTV assets every 10 years and proposed value £10k					
8	<b>Revenue Impact:</b> Revenue budget for parking income estimated to increase by £18,559 net of Vat per annum. Pay back on expenditure of 16.2 years. One-off revenue spend of £10k to employ consultant for detailed design and tender document preparation. 4% of capital value will equate to £12,000 of lost interest.					
9	<b>Partnership Funding:</b> N/A					
10	<b>Project Monitoring / Post Implementation Review:</b> Project will be overseen by the Council's Engineering Manager. Post implementation review 12 months after completion.					
11	<b>Screening for equality impacts:</b>					
	<b>Question</b>			<b>Answer</b>	<b>Explanation of impacts</b>	
	a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?			No	Parking available for everyone to use.	
	b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?			Yes	The increased parking will allow more people to access facilities and amenities in the local community.	
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?			n/a			



**CAPITAL PLAN LIST C – EVALUATIONS**

	12	<b>Recommendation:</b> Fast-Track Transfer to List A of the Capital Plan for implementation in current financial year and allocation of funding of £10k in revised revenue budget for consultancy support.
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## CAPITAL PLAN LIST C – EVALUATIONS

Project <b>Technical Services: Introduction of Automatic Number Plate Recognition (ANPR)</b>						
1	<b>Specification:</b>					
	(i)	<b>Purpose of the scheme</b>	Trial of ANPR parking management in two of the Council's car parks (to include Haysden Country Park Tonbridge and Western Road Borough Green car parks subject to assessment) to protect revenue and better manage the car park.			
	(ii)	<b>Relevance to National / Council's Objectives</b>	(a)	National:	N/A	
			(b)	Council:	Potential additional revenue from better management of parking restrictions. Transformation project in terms of potential future operational arrangements.	
	(iii)	<b>Targets for judging success</b>	(a)	Monitor income		
			(b)	Monitor and compare parking enforcement resources		
2	<b>Description of Project / Design Issues:</b> Introduce and manage the operation of an ANPR system in two Council car parks. This will include the installation of required equipment (new entry/exit point camera, barrier, payment point and signage), management of the system and collection of revenue. The project will enable an assessment of whether the more widespread introduction of ANPR across other Council's car parks should be considered. This may be achieved by using a third party to deliver and manage the project on our behalf.					
3	<b>Milestones / Risks</b> Installation of new system and review success of trial after 12 months. Scheme will be delivered in accordance with Council's contract procedure rules.					
4	<b>Consultation:</b> None					
5	<b>Capital Cost:</b> £70,000.					
6	<b>Profiling of Expenditure</b>					
		<b>2023/24 (£'000)</b>	<b>2024/25 (£'000)</b>	<b>2025/26 (£'000)</b>	<b>2026/27 (£'000)</b>	<b>2027/28 (£'000)</b>
			<b>£70</b>			

**CAPITAL PLAN LIST C – EVALUATIONS**

7	<p><b>Capital Renewals Impact:</b>                  Barrier every 3-5 years and proposed value £8k                  Pay point every 7-10 years and proposed value £12k                  ANPR camera and associated equipment every 5-7 years and proposed value £10k                  Camera posts every 20 years and proposed value £5k                  Signage to comply with current regulations every 3 years and proposed value of £2k</p> <p>Capital renewal costs have been provided for two new sites.</p>														
8	<p><b>Revenue Impact:</b>                  One-off revenue spend of £5k to create options report and the production of a specification to seek quotations.                  4% of capital value of £70k will equate to £2,800 of lost interest.                  Additional new fees added for the operation and management of the ANPR system.                  Increase maintenance costs due to vandalism or damage.</p>														
9	<p><b>Partnership Funding:</b>                  N/A</p>														
10	<p><b>Project Monitoring / Post Implementation Review:</b>                  Post implementation review 12 months after completion. The project will be overseen by the Council’s Engineering Manager.</p>														
11	<p><b>Screening for equality impacts:</b></p> <table border="1" data-bbox="304 927 2094 1390"> <thead> <tr> <th data-bbox="304 927 1285 963">Question</th> <th data-bbox="1285 927 1453 963">Answer</th> <th data-bbox="1453 927 2094 963">Explanation of impacts</th> </tr> </thead> <tbody> <tr> <td data-bbox="304 963 1285 1134"> <p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?</p> </td> <td data-bbox="1285 963 1453 1134">Yes</td> <td data-bbox="1453 963 2094 1134">Currently disabled drivers with a blue badge, can park for free using their blue badge. If we move to numberplate enforcement, these blue badges can’t be identified and they will need to pay at the ANPR sites.</td> </tr> <tr> <td data-bbox="304 1134 1285 1203"> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?</p> </td> <td data-bbox="1285 1134 1453 1203">Yes</td> <td data-bbox="1453 1134 2094 1203">The same enforcement and charges will be encountered by all users.</td> </tr> <tr> <td data-bbox="304 1203 1285 1390"> <p>c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?</p> </td> <td data-bbox="1285 1203 1453 1390">n/a</td> <td data-bbox="1453 1203 2094 1390"></td> </tr> </tbody> </table>			Question	Answer	Explanation of impacts	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?</p>	Yes	Currently disabled drivers with a blue badge, can park for free using their blue badge. If we move to numberplate enforcement, these blue badges can’t be identified and they will need to pay at the ANPR sites.	<p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?</p>	Yes	The same enforcement and charges will be encountered by all users.	<p>c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?</p>	n/a	
Question	Answer	Explanation of impacts													
<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?</p>	Yes	Currently disabled drivers with a blue badge, can park for free using their blue badge. If we move to numberplate enforcement, these blue badges can’t be identified and they will need to pay at the ANPR sites.													
<p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?</p>	Yes	The same enforcement and charges will be encountered by all users.													
<p>c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?</p>	n/a														

**CAPITAL PLAN LIST C – EVALUATIONS**

	12	<b>Recommendation:</b> Fast-Track Transfer to List A of the Capital Plan for implementation in current financial year and provision of revenue funding of £5k for external consultancy support.
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## CAPITAL PLAN LIST C – EVALUATIONS

Project <b>Technical Services: Parking amendments to Car Parks and On-Street Parking</b>			
1	<b>Specification:</b>		
	(i)	<b>Purpose of the scheme</b>	Upgrade car parks and on-street parking sites to a standard suitable for introduction of pay and display charges.
	(ii)	<b>Relevance to National / Council's Objectives</b>	(a) National: N/A (b) Council: Increase parking revenue. Management of the parking to address local parking issues. Upgrade car park and on-street parking to meet required standard of provision.
	(iii)	<b>Targets for judging success</b>	(a) Income generation. (b) Number of available parking spaces available for public use (c) Parking upgraded to meet standard required.
2	<b>Description of Project / Design Issues:</b> Works to make existing car parks and on-street parking suitable for introduction of pay and display charges.  <b>Tonbridge Castle Gateway car park</b> - New pay and display machine and associated signage. <b>West Malling on-street parking in High Street and Swan Street</b> - New pay & display machines and associated signage. <b>Avebury Avenue Tonbridge on-street parking</b> - Removal and repurposing of low use existing pay and display machines and make good the area. <b>Baily Bridge West Aylesford car park</b> - Drainage improvement works to prevent flooding, new pay & display machines, and associated signage. <b>Martin Square car park</b> - Installation of new passive CCTV system, new pay & display machines, and associated signage. <b>West Malling short stay car park</b> - New pay and display machines and associated signage due to age of machines.		
3	<b>Milestones / Risks</b> Works completed in advance of charges being introduced. Works will be overseen by Engineering Manager. Works will be progressed in accordance with Council's contract procedure rules.		

**CAPITAL PLAN LIST C – EVALUATIONS**

4	<b>Consultation:</b> Proposed new charges were subject to formal public consultation and approved by Cabinet. The proposals will not require planning approval.					
5	<b>Capital Cost:</b> £160,000.00					
6	<b>Profiling of Expenditure</b>					
	<b>2023/24 (£'000)</b>	<b>2024/25 (£'000)</b>	<b>2025/26 (£'000)</b>	<b>2026/27 (£'000)</b>	<b>2027/28 (£'000)</b>	<b>2028/29 (£'000)</b>
		<b>£160</b>				
7	<b>Capital Renewals Impact:</b> P&D machines every 10 years and proposed value £96k Signage and posts every 10 years and proposed value £7.5k CCTV assets every 10 years and proposed value £25-30k					
8	<b>Revenue Impact:</b> Revenue budget for parking income estimated to increase by £59,906 net of Vat per annum. Pay back on expenditure of 2.7 years. 4% of capital value will equate to £6,400 of lost interest.					
9	<b>Partnership Funding:</b> N/A					
10	<b>Project Monitoring / Post Implementation Review:</b> Post implementation review 12 months after completion.					
11	<b>Screening for equality impacts:</b>					
	<b>Question</b>			<b>Answer</b>	<b>Explanation of impacts</b>	
	a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?			No	Parking available for everyone to use.	
	b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?			Yes	The management of this parking will allow more people to access facilities and amenities in the local communities.	
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?			n/a			



**CAPITAL PLAN LIST C – EVALUATIONS**

	12	<b>Recommendation:</b> Fast-Track Transfer to List A of the Capital Plan for implementation in current financial year.
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## **Local Authority Housing Fund**

### **Item CB 24/98 referred from Cabinet of 3 September 2024**

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

The report presented details in respect of Round 3 of the Local Authority Housing Fund (LAHF) which, following a change in criteria and match funding arrangements, was now considered a suitable funding opportunity for the Borough Council. This grant opportunity would support the delivery of temporary accommodation and homes for use under the Afghan Citizens Resettlement Scheme.

A Memorandum of Understanding (attached at Annex 1) detailed the number of units to be delivered and the grant funding requirements.

Cabinet had due regard to the delivery approach presented, the risk assessment, policy, financial and value for money considerations and the legal implications.

**RESOLVED:** That

- (1) acceptance of the Local Authority Housing Fund Round 3 funding be approved;
- (2) authority be delegated to the Director of Planning, Housing and Environmental Health, in consultation with the Director of Finance and Transformation and the Cabinet Member for Finance and Housing, to sign the Memorandum of Understanding (attached at Annex 1); and
- (3) the Director of Planning, Housing and Environmental Health liaise with the Director of Finance and Transformation, and relevant Cabinet Members, to enable the Borough Council to move forward with acquisition within the funds set out in the Capital Plan (as set out in (4) below) once a suitable property has been identified.

(Agreed by Cabinet under Decision Notice D240091CAB)

**RECOMMENDED\*:** That

- (4) it be recommended to Full Council that the Capital Plan be updated to include an allowance of up to £400,000 (to be funded from Temporary Accommodation Reserve and/or s106 contributions) as the Borough Council's contribution to the Year 1 property acquisition.

**\*Recommendation to Council**

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# Agenda Item 18

Recommendation GP 24/25 of the General Purposes Committee of 9 October 2024 is to follow and will be circulated in advance of the meeting.

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**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**GENERAL PURPOSES COMMITTEE**

**09 October 2024**

**Report of the Director of Central Services & Deputy Chief Executive**

**Part 1 – Public**

**Matters for Recommendation to Council**

**1 THE REGULATION OF INVESTIGATORY POWERS ACT 2000 – REVISIONS TO SURVEILLANCE GUIDANCE**

**This report asks Members to consider minor changes to the Council's guidance on surveillance.**

**1.1 Introduction**

1.1.1 In order to ensure that the Borough Council is able carry out its enforcement activities in a lawful manner, we conduct regular reviews of our policies and procedures.

1.1.2 As a matter of policy, Tonbridge and Malling Borough Council seeks to carry out enforcement activity by overt means. The result of this is that covert activity is undertaken only as a last resort. For example, when investigating complaints of noise nuisance through the use of a monitoring device, officers will advise the alleged perpetrator of our intention to install noise monitoring equipment.

1.1.3 No use has been made of the covert surveillance powers available to the Borough Council under the Regulation of Investigatory Powers Act 2000 since 2010.

1.1.4 The Council's adopted surveillance guidance was last approved by Members in 2018. A review has therefore been undertaken to ensure that it remains fit for purpose. The proposed changes are minor in nature and reflect changes in staffing, changes to the identity of the supervisory body (now the Investigatory Powers Commissioner) together with updated links to the relevant guidance. No substantive changes are proposed.

1.1.5 A copy of the updated guidance is attached as **Annex 1**.

**1.2 Financial and Value for Money Considerations**

1.2.1 The operation of the surveillance policy has negligible financial impact upon the Council.

### 1.3 Risk Assessment

- 1.3.1 Authorisations under RIPA provide lawful authority for the Council to carry out covert surveillance, subject to the approval of a Magistrate. Failure to comply with the requirements of the Act may render the enforcement activity unlawful, and lead to the exclusion of evidence obtained through surveillance.

### 1.4 Policy Considerations

- 1.4.1 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.

### 1.5 Recommendations

- 1.5.1 The Committee is asked to recommend to Council that the revised surveillance guidance at **Annex 1 be APPROVED.**

None

contact: Adrian Stanfield  
Director of Central Services &  
Deputy Chief Executive



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# Corporate Surveillance Guidance

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# CORPORATE SURVEILLANCE GUIDANCE

## THE REGULATION OF INVESTIGATORY POWERS ACT 2000

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# 1. Introduction

## 1.1 Summary

The Regulation of Investigatory Powers Act 2000 ('RIPA') brought into force the regulation of covert investigation by a number of bodies, including local authorities. RIPA regulates a number of investigative procedures, the most of recent of which is the access to communications data. This document is intended to provide officers with guidance on the use of covert surveillance, Covert Human Intelligence Sources ('Sources') and the obtaining and disclosure of communications data under RIPA. Officers must take into account any Codes of Practice issued under RIPA a copy of RIPA is available at this link: [Regulation of Investigatory Powers Act 2000 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

The Code of Practice is available here: [Covert surveillance code of practice - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Regard should also be had to any guidance issued by the Investigatory Powers Commissioners' Office

All forms are available online on the Home Office website as follows: [-RIPA forms - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

**It is the policy of TMBC that use of covert surveillance, where available, is a measure of last resort to be considered only when all other avenues have been exhausted.**

**If you are considering the use of directed surveillance, or Covert Human Intelligence Sources please contact the Director of Central Services at the earliest possible opportunity for advice.**

## 1.2 Background

The Human Rights Act 1998 requires the Council, and organisations working on its behalf, pursuant to Article 8 of the European Convention, to respect the private and family life of citizens, his home and his correspondence. The European Convention did not, however, make this an absolute right, but a qualified right. Accordingly, in certain circumstances, the Council may interfere in the citizen's right mentioned above, if such interference is:

- (a) in accordance with the law
- (b) necessary (as defined in this document); and
- (c) proportionate (as defined in this document)

RIPA provides a statutory mechanism for authorising certain types of surveillance. It seeks to ensure that any interference with an individual's right under Article 8 of the European Convention is necessary and proportionate. In doing so, RIPA seeks to

ensure both the public interest and the human rights of individuals are suitably balanced.

If the correct procedures are not followed, evidence may be disallowed by the courts, a complaint of maladministration could be made to the Ombudsman, and/or the council could be ordered to pay compensation. It is essential, therefore, that all involved with RIPA comply with this document and any further guidance that may be issued, from time to time, by the Director of Central Services.

Each officer of the Council with responsibilities for the conduct of investigations, shall, before carrying out any investigation involving RIPA, undertake appropriate training to ensure that investigations and operations that he/she carries out will be conducted lawfully.

### 1.3 Review

RIPA and this document are important for the effective and efficient operation of the Council's actions with regard to surveillance. This document will, therefore be kept under review by the Director of Central Services. Authorising Officers must bring any suggestions for continuous improvement of this document to the attention of the Director of Central Services at the earliest possible opportunity.

### 1.4 Scope

RIPA covers the authorisation of directed surveillance, the authorisation of sources and the authorisation of the obtaining of communications data. Communications data includes information relating to the use of a postal service or telecommunications system but does not include the contents of the communication itself, contents of e-mails or interaction with websites. An authorisation under RIPA will provide lawful authority for the investigating officer to carry out surveillance.

In terms of monitoring e-mails and internet usage, it is important to recognise the interplay and overlap with the Council's e-mail and internet policies and guidance, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 and the Data Protection Act 2018. RIPA forms should be used where **relevant** and they will only be relevant where the **criteria** listed on the forms are fully met.

## 2. General

### 2.1 Definition of Surveillance

'Surveillance' includes:

- a) monitoring, observing or listening to persons, their movements, their conversations or their other activities or communication;

- b) recording anything monitored, observed or listened to in the course of surveillance; and
- c) surveillance by or with the assistance of a surveillance device.

Surveillance includes the interception of postal and telephone communications where the sender or recipient consents to the reading of or listening to or recording of the communication. This is a form of directed surveillance.

## **2.2 Confidential Material**

Particular care should be taken in cases where the subject of the investigation or operation might reasonably expect a high degree of privacy, or where confidential information is involved. Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material.

Applications in which the surveillance is likely to result in the acquisition of confidential material will only be considered in exceptional and compelling circumstances with full regard to the proportionality issues this raises.

The Authorising Officer shall give the fullest consideration to any cases where the subject of the surveillance might reasonably expect a high degree of privacy, for instance in his or her home.

Where a likely consequence of surveillance would result in the acquisition of confidential material, the investigating officer must seek authority from the Chief Executive, or, in her absence, the Director of Central Services.

# **3. Directed and Intrusive Surveillance**

## **3.1 Directed Surveillance**

Directed surveillance is surveillance which is covert, but not intrusive, and undertaken:

- a) for the purposes of a specific investigation or specific operation;
- b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and
- c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under RIPA to be sought for the carrying out of the surveillance.

## **3.2 Intrusive Surveillance**

That surveillance becomes intrusive if the covert surveillance:

- a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
- b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

RIPA further defines intrusive and directed surveillance as surveillance which:-

- a) is carried out by means of a surveillance device in relation to anything taking place on any residential premises or in any private vehicle; but
- b) is carried out without that device being present on the premises or in the vehicle, is not intrusive unless the device is such that it consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle

Therefore directed surveillance turns into intrusive surveillance if it is carried out involving anything that occurs on residential premises or any private vehicle and involves the presence of someone on the premises or in the vehicle or is carried out by means of a surveillance device.

If the device is not on the premises or in the vehicle, it is only intrusive surveillance if it consistently produces information of the same quality as if it were.

Where surveillance is carried out by a device designed or adapted principally for the purpose of providing information about the location of a vehicle, the activity is directed surveillance.

Commercial premises and vehicles are therefore excluded from intrusive surveillance.

Currently, local authorities are not authorised to carry out intrusive surveillance.

## 4. Identifying Directed Surveillance

**Ask yourself the following questions:**

### 4.1 Is the surveillance covert?

Covert surveillance is any surveillance that is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place.

If your activities are not hidden from the subjects of your investigation, you are not within the RIPA framework at all. In many cases, Officers will be behaving in the same way as a normal member of the public (eg in the case of most test purchases), and/or will be going about Council business openly (eg a market inspector walking through markets).

Similarly, surveillance will be overt if the subject has been told it will happen (eg where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where an entertainment licence is issued subject to conditions, and the licensee is told that officers may visit without notice or identifying themselves to the owner/proprietor to check that conditions are being met.

It should be noted that if the same outcome can be achieved by overt means then those means need to be fully explored in the first instance. Covert surveillance must only be undertaken when there is no less invasive way of achieving the outcome.

#### **4.2 Is the surveillance for the purposes of a specific investigation or a specific operation?**

Although, the provisions of the Act do not normally cover the use of overt CCTV surveillance systems, since members of the public are aware that such systems are in use, there may be occasions when public authorities use overt CCTV systems for the purposes of a specific investigation or operation. For example, if the CCTV cameras are targeting a particular known offender. In such cases, authorisation for directed surveillance may be necessary.

#### **4.3 Is the surveillance in such a manner that is likely to result in the obtaining of private information about a person?**

Private information includes any information relating to a person's private or family life. The concept of private information should be broadly interpreted to include an individual's private or personal relationship with others. It includes an individual's business and family relationships. Family life itself should be treated as extending beyond the formal relationships created by marriage.

#### **4.4 Is the surveillance otherwise than by way of an immediate response to events or circumstances where it is not reasonably practicable to get authorisation?**

Directed surveillance does not include covert surveillance carried out by way of an immediate response to events or circumstances which, by their very nature, could not have been foreseen. For example, a police officer would not require an authorisation to conceal himself and observe a suspicious person that he came across in the course of a patrol.

However, if as a result of that immediate response, you undertake a specific investigation you will need authorisation.

## **5. Covert Human Intelligence Sources**

### **5.1 Definition**

A person is a source if:



- a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);
- b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or
- c) he covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

A source may include those referred to as agents, informants and officers working undercover.

A purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if, the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.

A relationship is used covertly, and information obtained is disclosed covertly, if and only if it is used or disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

The use of a source involves inducing, asking or assisting a person to engage in the conduct of a source, or to obtain information by means of the conduct of such a source.

This covers the use of professional witnesses to obtain information and evidence. For example, it will include professional witnesses retained by the Council to pose as tenants to obtain information and evidence against alleged nuisance perpetrators.

Carrying out test purchases will not require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information and, therefore, the purchaser will not normally be a CHIS. For example, authorisation would not normally be required for test purchases carried out in the ordinary course of business (eg walking into a shop and purchasing a product over the counter). By contrast, developing a relationship with a person in the shop, to obtain information about any breaches of legislation will require authorisation as a CHIS. Similarly, using mobile hidden recording devices or CCTV cameras to record what is going on in the shop will require authorisation as directed surveillance.

The Code of Practice states that the provisions of RIPA are not intended to apply in circumstances where members of the public volunteer information to the police or other authorities, as part of their normal civic duties, or to contact numbers set up to receive information (such as Crimestoppers, Customs Confidential, the Anti Terrorist Hotline, or the Security Service Public Telephone Number). Members of the public acting in this way would not generally be regarded as sources.

If there is an allegation of a noise nuisance a request to the complainant to keep a diary of times and dates that the nuisance takes place would not constitute use of a CHIS.

However, if a public volunteer was asked to obtain further information such as additional details of lifestyle, vehicle registrations etc then that person could become a CHIS.

***Although an authorisation under RIPA will provide lawful authority for the use of a source it is the policy of this Council that the use of a CHIS is not permitted. If there is any doubt that there is the potential for a person to become a CHIS then guidance should be sought from the Chief Executive, Director of Central Services or the Audit & Counter-fraud Manager before any action is taken.***

## 5A. Social Media

### 5A.1 Guidelines for the use of Social Media in Conducting Investigations

These Guidelines apply to all forms of social media including but not limited to Facebook, Twitter and LinkedIn:

For Facebook and Twitter, officers are to use their real name, but the account set up using their own TMBC email addresses. Personal facebook accounts must not be used.

These profiles are to be "overt" and "sterile": overt, in that there is no attempt to disguise the fact that the profile is the officer in question and identified with a TMBC email address; and sterile, in that *no content* is to be entered onto that profile. You must not make friend requests or use messaging or chat features. In twitter, you must not "follow", tweet, re-tweet or message.

All security settings must be engaged at the most secure setting.

Only information available on the public profile of a target or known associate may be accessed. No attempt must be made to access any private information such as that only viewable by "friends".

We do not consider that a single or occasional visit to a public profile or page amounts to directed surveillance. It is the electronic equivalent to a "drive past". However, officers must consider whether an operation will require continuous systematic monitoring of a profile. In this instance, a Directed Surveillance Authorisation (DSA) may be required.

Officers need to maintain awareness that a program of continuous or regular monitoring of a profile or social media account may amount to Directed Surveillance requiring a DSA. Targeted monitoring to "keep an eye" on a person of interest should be avoided. Advice should be sought at the earliest possible opportunity if there are concerns that proposed social media-based investigation might become Directed Surveillance.

In line with our existing policy, a DSA will only be considered in the event that all overt methods have been exhausted.

## 6. Communications Data

### 6.1 Definition

This covers any conduct in relation to a postal service or telecommunications system for obtaining communications data and the disclosure to any person of such data. For these purposes, communications data includes information relating to the use of a postal service or telecommunications system but does not include the contents of the communication itself, content of emails or interaction with websites.

Communications data includes subscribers details, names and addresses and telephone numbers of those contacted, billing addresses, account information, web addresses visited etc.

Two types of data (Customer Data or Service Data) are available to local authorities and, when making an application for obtaining or disclosing such data, the applicant must specify exactly which type of information is required from within each of the subscriber data and service use data.

a) Customer data – (Subscriber data, RIPA s21(4))

Customer data is the most basic. It is data about users of communication services.

This data includes:

- Name of subscriber
- Addresses for billing, delivery, installation
- Contact telephone number(s)
- Abstract personal records provided by the subscriber (e.g. demographic information)
- Subscribers' account information – bill payment arrangements, including bank, credit/debit card details
- Other services the customer subscribes to.

b) Service data – (Service Use data, RIPA s21(4)(b))

This relates to the use of the service provider's services by the customer, and includes:

- The periods during which the customer used the service(s)
- Information about the provision and use of forwarding and re-direction services by postal and telecommunications service providers

- 'Activity', including itemised records of telephone calls (numbers called), internet connections, dates and times/duration of calls, text messages sent
- Information about the connection, disconnection and reconnection of services
- Information about the provision of conference calling, call messaging, call waiting and call barring telecommunications services
- Records of postal items, such as records of registered, recorded or special delivery postal items, records of parcel consignment, delivery and collection
- 'Top-up' details for prepay mobile phones – credit/debit card, voucher/e-top up details

A third type of data (traffic data) is not accessible to local authorities.

## 7. Management/ Authorisation Procedure

### 7.1 Management Structure

The Senior Responsible Officer for RIPA compliance is Adrian Stanfield, Director of Central Services and Deputy Chief Executive. This officer is responsible for

- the integrity of the process in place within Tonbridge and Malling Borough Council to authorise directed surveillance and the use of a CHIS
- compliance with RIPA
- engagement with the Investigatory Powers Commissioner's Office and inspectors when they conduct their inspections, and
- where necessary, overseeing the implementation of any post-inspection action plans recommended or approved by a Commissioner.
- ensuring all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Investigatory Powers Commissioner's Office.

Day to day responsibility for RIPA compliance will fall to Joy Ukadike, Head of Legal & Democratic Services & RIPA Co-ordinating Officer. She will be responsible for

- maintenance of the Central Record of Authorisations
- collation of RIPA authorisations, reviews, renewals and cancellations
- oversight of the RIPA process/ RIPA training
- raising RIPA awareness within the Council

## **7.2 Authorisations**

Authorisation is required for the use of directed surveillance, for the conduct and use of sources and for the conduct in relation to a postal service or telecommunication system and the disclosure to any person of such data.

Any officer who undertakes investigations on behalf of the Council shall seek authorisation in writing for any directed surveillance or for the conduct and use of any source.

Any officer wishing to engage in conduct in relation to a postal service and telecommunication system for obtaining communications data and the disclosure to any person of such data must also seek authorisation, the procedure and procedure of which differs slightly and is outlined in paragraph 7.6.

## **7.3 Who can give Authorisations?**

By law, the 'Authorising Officer' for local authority purposes is any Director, Head of Service, service manager or equivalent.

The use of RIPA is seen as a last resort when all other forms of investigation have been undertaken. Therefore the number of applications made by officers of this Council will be minimal. Except in cases involving juveniles, or cases which are sensitive or confidential, an authority to undertake surveillance will only be given by the Director of Central Services, Director of Finance and Transformation, Director of Planning, Housing and Environmental Health or Director of Street Scene, Leisure & Technical Services. ] and should be sought from the member of Management Team responsible for the service concerned with the RIPA application.

For cases involving juveniles, or cases which are sensitive or confidential, authorisation may only be given by the Chief Executive (see 7.5.2 below).

It will be the responsibility of Authorising Officers who have been duly certified to ensure their relevant members of staff are also suitably trained as 'applicants' so as to avoid common mistakes appearing on forms for RIPA authorisations.

Training will be given, or approved by the Director of Central Services, before Authorising Officers are certified to sign any RIPA forms. A certificate of training will be provided to the individual and a central register of all those individuals who have undergone training or a one-to-one meeting with the Director of Central Services on such matters, will be kept by the Director of Central Services.

Authorising Officers will also ensure that staff who report to them follow this guidance document and do not undertake or carry out any form of surveillance without first obtaining the relevant authorisations in compliance with this document.

Authorising Officers must also ensure that, when sending copies of any forms to the Director of Central Services, the same are sent in sealed envelopes and marked 'Strictly Private and Confidential'.

Any equipment to be used in any approved surveillance must be properly controlled, recorded and maintained for audit purposes.

Contact details for the Authorising Officers:

Chief Executive, Damian Roberts ext 6002

Director of Central Services, Adrian Stanfield ext 6346

Director of Finance and Transformation, Sharon Shelton ext 6092

Director of Planning, Housing and Environmental Health, Eleanor Hoyle ext 6256

Director of Street Scene, Leisure and Technical Services, Robert Styles ext 6160

#### **7.4 Grounds for Authorisation – the 'necessary & proportionate' test**

An Authorising Officer has a number of obligations within the provisions of the Act, which must be met before carrying out any form of surveillance.

An Authorising Officer shall not grant an authorisation for the carrying out of directed surveillance, or for the use of a source or for the obtaining or disclosing of communications data unless he believes:

- a) that an authorisation is necessary and
- b) the authorised investigation is proportionate to what is sought to be achieved by carrying it out

For local authority investigations, authorisation is "**necessary**" in the circumstances of the particular case only if it is for the purpose of

- (i) preventing or detecting crime\* (Directed Surveillance);
- (ii) preventing or detecting crime or preventing disorder (CHIS)

\*Authorising Officers within local authorities are restricted from authorising the carrying out of Directed Surveillance unless it is for the purpose of preventing or detecting a criminal offence and meets the following additional conditions –

- the criminal offence which is sought to be prevented or detected is punishable, on summary conviction or on indictment, by a maximum term of at least 6 months imprisonment; or
- would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. These offences all relate to the sale of tobacco or alcohol to underage children.

Conduct is not deemed “**proportionate**” if the pursuance of the legitimate aim listed above will not justify the interference if the means used to achieve the aim are excessive in the circumstances. Any conduct must meet the objective in question and must not be arbitrary or unfair nor must the impact on any individuals or group be too severe. The conduct must also be the least invasive method of achieving the end and the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation must be assessed and taken into account (see Collateral Intrusion below).

Careful consideration needs to be made by authorising officers of all of these points. Such consideration needs to be demonstrated on the authorisation form in the relevant parts. Authorising Officers must exercise their minds every time they are asked to sign a form. They must never sign or rubber stamp the form without thinking about their personal and the Council’s responsibilities. Any boxes not needed on the form/s must be clearly marked as being ‘not applicable’ or a line put through the same. Great care must also be taken to ensure accurate information is used and inserted in the correct boxes. Reasons for any refusal of an application must also be kept on the form and retained for future audits.

Authorising officers should not be responsible for authorising investigations or operations in which they are directly involved.

### **Collateral Intrusion**

Before authorising investigative procedures, the Authorising Officer shall also take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation (collateral intrusion). The investigating officer shall take measures, wherever practicable, to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation or operation.

An application for an authorisation shall include an assessment of the risk of any collateral intrusion. The Authorising Officer shall take this into account, when considering the proportionality of the surveillance.

Where an operation unexpectedly interferes with the privacy of individuals who were not the subject of surveillance or covered by the authorisation in some other way, the investigating officer should immediately inform the Authorising Officer.

## **7.5 Approval of Magistrate**

- 7.5.1 An internal authorisation for Directed Surveillance or the deployment of a CHIS will not take effect until such time (if any) as a Magistrate has made an order approving it. An approval is also required for the renewal of an authorisation to use either of these techniques.

The approval of a Magistrate can only be given if the Magistrate is satisfied that

- a) There were reasonable grounds for the authorising officer approving the application to believe that the Directed Surveillance or deployment of a CHIS was necessary and proportionate and that there remain reasonable grounds for believing so;
- b) The authorising officer was of the correct seniority within the organisation i.e. a Director, Head of Service, Service Manager or equivalent.
- c) The granting of the authorisation was for the prescribed purpose i.e. preventing or detecting a criminal offence (and satisfies the Serious Offence Test for Directed Surveillance (see paragraph 7.4 above))
- d) Any other conditions set out in any order under Part 2 of RIPA are satisfied (none at present).

7.5.2 In addition to the above, where the authorisation is for the deployment of a CHIS, the Magistrate must be satisfied that:

- a) The provisions of section 29(5) of RIPA have been complied with. This requires the Borough Council to ensure that there are officers in place to carry out roles relating to the handling and management of the CHIS as well as the keeping of records (as per the Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000/2725)).
- b) Where the CHIS is under 16 or 18 years of age, the requirements of the Regulation of Investigatory Powers (Juveniles) Order 2000 (SI 2000/2793) have been satisfied. This sets out rules about parental consent, meetings, risk assessments and the duration of the authorisation. Note that the authorisation of such persons to act as a CHIS must come from the Chief Executive.
- c) Where the application is for the renewal of a CHIS authorisation, a review has been carried out by the Borough Council and the magistrate has considered the results of the review.

It is best practice, as set out in paragraph 292 of the OSC Procedures and Guidance 2016, that the Authorising Officer should attend the Magistrates' Court to support the application and field any questions from the bench. There is no need to give notice to either the subject of the authorisation or their legal representatives.

## **7.6 Special Procedure for Authorisation of and Issuing of Notices in respect of Communications Data**

7.6.1 The Act provides two different ways of authorising access to communications data; through an authorisation under Section 22(3) and by a notice under Section 22(4). An authorisation would allow the authority to collect or retrieve the data itself. A notice is given to a postal or telecommunications operator and requires that operator to collect or retrieve the data and provide it to the authority serving the notice. An



Authorising Officer (known as the 'Designated Person') decides whether or not an authorisation should be granted or a notice given.

7.6.2 In order to illustrate, a Section 22(3) authorisation may be appropriate where:

- the postal or telecommunications operator is not capable of collecting or retrieving the communications data;
- it is believed the investigation may be prejudiced if the postal or telecommunications operator is asked to collect the data itself;
- there is a prior agreement in place between the authority and the postal or telecommunications operator as to the appropriate mechanisms for the disclosure of data.

7.6.3 Applications for the obtaining and disclosure of communications data may only be made by officers of the Council. Reference should be made to the process map at Appendix 1 for guidance as to the process to be followed.

7.6.4 Notices and, where appropriate, authorisations for communications data must be channelled through single points of contact ("SPoCs") in the authority. The SPoC for Tonbridge and Malling Borough Council is James Flannery, Audit & Counter-fraud Manager. The SPoC is able to advise authorising officers as to whether an authorisation or notice is appropriate.

7.6.5 The SPoC:

- a) where appropriate, assesses whether access to the communications data is reasonably practical for the postal or telecommunications operator;
- b) advises applicants and authorising officers on the practicalities of accessing different types of communications data from different postal or telecommunications operators;
- c) provides safeguards for authentication;
- d) assesses the cost and resource implications to both the authorisation and postal or telecommunications operator.

7.6.6 Applications to obtain communications data should be made on the standard form and submitted in the first instance to the Spoc, and if appropriate will forward the application to the Designated Person for either the authorisation of conduct or the issuing of a notice.

7.6.7 An internal authorisation or notice to obtain communications data will not take effect until such time (if any) as a Magistrate has made an order approving it. An approval is also required for the renewal of an authorisation or notice.

The approval of a Magistrate can only be given if the Magistrate is satisfied that

- a) There were reasonable grounds for the Designated Person to believe that obtaining communications data was necessary and proportionate and that there

remain reasonable grounds for believing so;

b) The Designated Person was of the correct seniority within the organisation i.e. a Director, Head of Service, Service Manager or equivalent;

c) The granting or renewal of the application was for the prescribed type of communications data to be acquired for the prescribed purpose (i.e. subscriber and service use data) to be acquired only for the purpose of preventing or detecting crime or preventing disorder);

d) Any other conditions set out in any order under Chapter 2 of Part 1 of RIPA are satisfied (none at present).

7.6.8 If approved by a Magistrate, the Designated Person will return the authorisation or notice to the SPoC who will then liaise with the postal / telecommunications company. The disclosure of data under a notice will only be made to the Designated Person or to the Council's SPoC.

7.6.9 Communications data, and all copies, extracts and summaries of it must be handled and stored securely. The requirements of the Data Protection Act 1998 and the principles of the Criminal Procedure and Investigations Act 1996 must be strictly followed.

## 7.7 Standard Forms

Other than urgent grants or renewals for which oral authorisations are acceptable, authorisations must be in writing.

Standard forms for seeking directed surveillance and source authorisations are available online from the Home Office website as follows: -

<http://security.homeoffice.gov.uk/ripa/publication-search/ripa-forms/>

## 8. Activities by other Public Authorities

8.1 The investigating officer shall make enquiries of other public authorities e.g. the police or DWP whether they are carrying out similar activities if he considers that there is such a possibility in order to ensure that there is no conflict between the activities of this Council and those other public authorities.

## 9. Joint Investigations

9.1 When some other agency has been instructed on behalf of the Council to undertake any action under RIPA, this document and the forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements. They must be made aware explicitly what they are authorised to do.

When some other agency (eg police, His Majesties Revenues & Customs (HMRC), The Department for Work and Pensions etc):

- (a) wish to use the Borough Council's resources (eg CCTV surveillance systems), that agency must use its own RIPA procedures and, before any officer agrees to allow the Council's resources to be used for the other agency's purposes, he must obtain a copy of that agency's RIPA form for the record and/or relevant extracts from the same which are sufficient for the purposes of protecting the Council and the use of its resources
- (b) wish to use the Council's premises for their own RIPA action, the officer should, normally, co-operate with the same, unless there are security or other good operational or managerial reasons as to why the Council's premises should not be used for the agency's activities. In such cases, the Council's own RIPA forms should not be used as the Council is only assisting and not being involved in the RIPA activity of the external agency.

In terms of (a), if the police or other agency wish to use the Council's resources for general surveillance, as opposed to specific RIPA authorisations, an appropriate letter requesting the proposed use, remit, duration, details of who will be undertaking the general surveillance and the purpose of it must be obtained from the police or other agency before any Council resources are made available for the proposed use.

## 10. Duration, Renewals and Cancellation of Authorisations

### 10.1 Duration

Authorisations must be reviewed in the time stated and cancelled once no longer needed.

An authorisation, once judicially approved will expire after a period of seventy-two hours, beginning with the time when the grant of the authorisation or, as the case may be, its latest renewal takes effect;

In the case of a CHIS, 12 months from the grant of authorisation

However, whether the surveillance is carried out/conducted or not in the relevant period, does not mean that the authorisation is spent. Authorisations do not expire, they have to be reviewed, or cancelled if no longer required.

### 10.2 Reviews

The Authorising Officer shall undertake regular reviews of authorisations to assess the need for the surveillance to continue. The results of a review should be recorded on

the central record of authorisations. Where the surveillance provides access to confidential information or involves collateral intrusion the officer should conduct frequent reviews.

Standard review forms for directed surveillance are attached at Appendix 5.

### 10.3 Renewals

Authorisations may be renewed more than once, if necessary, and the renewal should be kept/recorded as part of the central record of authorisations. **Please note that renewals require the approval of a Magistrate (see paragraph 7.5).**

Authorisations can be renewed in writing shortly before the maximum period has expired. An authorisation cannot be renewed after it has expired. The authorising officer must consider the matter afresh, including taking into account the benefits of the surveillance to date and any collateral intrusion that has occurred. The renewal will begin on the day when the authorisation would have expired.

The Authorising Officer who granted or last renewed the authorisation must cancel it if he is satisfied that the investigative procedure no longer meets the criteria upon which it was authorised.

Standard renewal forms for the authorisation of directed surveillance are available from the Home Office website as follows: -

<http://security.homeoffice.gov.uk/ripa/publication-search/ripa-forms/>

### 10.4 Cancellations

An Authorising Officer shall cancel a notice or authorisation as soon as it is no longer necessary, or the conduct is no longer proportionate to what is sought to be achieved. The duty to cancel a notice falls on the authorising officer who issued it.

In the case of a notice issued in respect of communications data, the relevant postal or telecommunications operator will be informed of the cancellation.

Standard cancellation forms for the authorisation of directed surveillance are available from the Home Office website as follows: -

<http://security.homeoffice.gov.uk/ripa/publication-search/ripa-forms/>

## 11. Records

The Council must keep a detailed record of all authorisations, reviews, renewals, cancellations and rejections in departments and a central register of all such forms will be maintained by the Director of Central Services. Each new application placed in the central register will be given a Unique Reference Number (URN).

In relation to communications data, the designated SPoC will retain the forms and the Director of Central Services will have access to such forms as and when required.

### **11.1 Central record of all Authorisations**

The Director of Central Services shall hold and monitor a centrally retrievable record of all authorisations. The Authorising Officer must notify and forward to the Director of Central Services whenever a notice or authorisation is granted, renewed or cancelled to ensure that the records are regularly updated. The record will be made available to the relevant Commissioner or an Inspector from the Investigatory Powers Commissioner's Office. These records will be retained for a period of at least three years from the ending of the authorisation. A record will be kept of the dates on which the authorisation notice is started and cancelled.

### **11.2 Central record of Authorisations and Notices**

Authorising Officers must forward details of each form to the Director of Central Services for the central record, within 1 week of the authorisation, review, renewal, cancellation or rejection. The Director of Central Services will monitor the same and give appropriate guidance, from time to time, or amend this document as necessary. The record shall contain the following information:

- a) the type of authorisation or notice
- b) the date the authorisation or notice was given;
- c) name and rank/grade of the authorising officer;
- d) the unique reference number (URN) of the investigation or operation;
- e) the title of the investigation or operation, including a brief description and names of subjects, if known;
- f) whether the urgency provisions were used, and if so why;
- g) if the authorisation or notice is renewed, when it was renewed and who authorised the renewal, including the name and rank/grade of the authorising officer;
- h) whether the investigation or operation is likely to result in obtaining confidential information;
- i) the date the authorisation or notice was cancelled.

### **11.3 Records maintained in the Service**

The Relevant Manager shall maintain the following documentation, which need not form part of the centrally retrievable record:

- a) a copy of the application and a copy of the authorisation or notice together with any supplementary documentation and notification of the approval given by the authorising officer;

- b) a record of the period over which the surveillance has taken place;
- c) the frequency of reviews prescribed by the authorising officer;
- d) a record of the result of each review of the authorisation or notice;
- e) a copy of any renewal of an authorisation or notice, together with the supporting documentation submitted when the renewal was requested;
- f) the date and time when any instruction was given by the authorising officer.
- g) the unique reference number for the authorisation (URN)

Each form must have a URN. The authorising officers will issue the relevant URN to applicants. The cross-referencing of each URN takes place within the form for audit purposes. Rejected forms will also have URN's.

## 12. Retention and Destruction

- 12.1 Material obtained from properly authorised surveillance or a source may be used in other investigations. Arrangements shall be in place for the handling, storage and destruction of material obtained through the use of covert surveillance, a source or the obtaining or disclosure of communications data. Authorising Officers must ensure compliance with the appropriate data protection requirements and any relevant Corporate Procedures relating to the handling and storage of material.
- 12.2 Where the product of surveillance could be relevant to pending or future proceedings, it should be retained in accordance with established disclosure requirements for a suitable period and subject to review.

## 13. Consequences of ignoring RIPA

- 13.1 RIPA states that if authorisation confers entitlement to engage in a certain conduct and the conduct is in accordance with the authorisation, **then it shall be lawful for all purposes.**

Where there is interference with the right to respect for private and family life guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority, the consequence of not obtaining an authorisation under RIPA may be that the action is unlawful by virtue of section 6 of the Human Rights Act 1998.

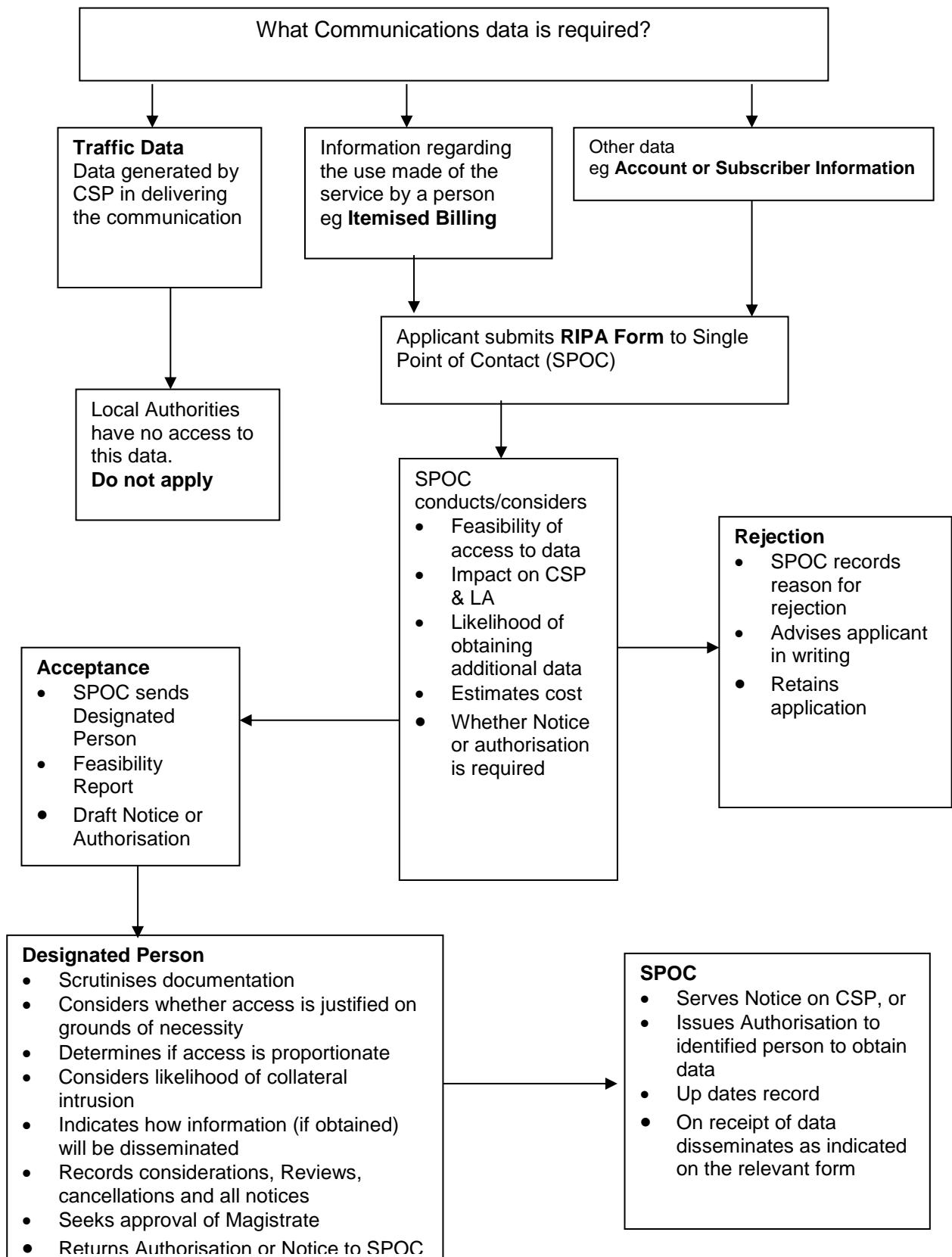
Officers shall seek an authorisation where the directed surveillance, the use of a source or the obtaining or disclosure of communications data is likely to interfere with a person's Article 8 rights to privacy by obtaining private information about that person, whether or not that person is the subject of the investigation or operation. Obtaining an authorisation will ensure that the action is carried out in accordance with law and subject to stringent safeguards against abuse.

## 14. Scrutiny of Investigatory Bodies

- 14.1 The Investigatory Powers Commissioner's Office has been established under RIPA to facilitate independent scrutiny of the use of RIPA powers by the investigatory bodies that are subject to it. The Commissioners will inspect Councils to ensure compliance with RIPA and can audit/review the Council's policies and procedures, and individual authorisations. Further detail can be found at [www.surveillancecommissioners.gov.uk](http://www.surveillancecommissioners.gov.uk)
- 14.2 There is also a statutory complaints system welcomed by the Council. The Investigatory Powers Tribunal has been established under RIPA to deal with complaints from members of the public about the use or conduct by public authorities of these powers. The Tribunal is separate from the OSC. The Council welcomes this external scrutiny. It expects its officers to co-operate fully with these statutory bodies and to bring forward any proposals for improvement that may follow on from an inspection report or a Tribunal hearing.

**IF IN DOUBT ADVICE MUST BE SOUGHT FROM  
THE DIRECTOR OF CENTRAL SERVICES**

Process Map for Accessing Communications Data







## Specific Guidance to Investigators

Before authorisation for surveillance can be sought the Investigating Officer must have exhausted all possible means of obtaining the evidence that is required.

1. When the Investigating Officer feels that surveillance is the only option available they should discuss the case with the Investigation Manager. If in the opinion of the Investigation Manager surveillance is the only option left he will authorise the Investigating Officer to reconnoitre the area in which the surveillance is to take place. (The vernacular term for this is 'a drive by', but any reconnaissance must be far more thorough than simply driving past to 'have a look').
2. The fact that permission for reconnaissance has been given must be recorded on the case notes.
3. During the reconnaissance the Investigating Officer should be:
  - a) looking for the best vantage points to set up the observation post taking into account 'ten to two' vision of the subject, ease of following, etc.
  - b) making careful and detailed notes concerning Collateral Intrusion and how this can be avoided and minimised.
  - c) checking if material of a confidential nature may be obtained and how this can be avoided.
  - d) as best practice the Investigating Officer should draw a plan of the area, marking all the relevant details.
4. The Investigating Officer will then complete an Application for Directed Surveillance form.
5. This form is then to be checked by either the Chief Internal Auditor or the Investigation Manager, who will then pass the form to the relevant service Director (or Chief Executive where required) for authorisation.
6. The relevant Director (or Chief Executive where required) will apply the Surveillance Code of Practice and determine if authorisation should be given.
7. Once authorisation has been given the Co-ordinating Officer will log this fact on the Control Matrix. There after the Co-ordinating Officer will maintain the Matrix and apply the required controls.
8. A copy of the authorisation and all the accompanying paperwork will be sent, in a secure manner, to the Council's Director of Central Services. An application will then be made to the Magistrates Court for approval of the authorisation.
9. If approved by the Magistrates Court, the Director of Central Services will notify the Investigating Officer and Authorising Officer and provide a copy of the approval for their records. This will be recorded on the Control Matrix by the Co-ordinating Officer.
10. The Investigating Officer will conduct the surveillance in accordance with all legislation and codes of practice they are required to follow.
11. On starting the surveillance the Investigating Officer will make a note in their QB50 (or equivalent notebook) that they are starting surveillance. They will then keep a record of the

surveillance – they will follow the points set out in the mnemonic ADVOKATE<sup>1</sup> and the requirements of R v Turnbull<sup>2</sup>. At the end of the surveillance they will make a note in their QB50 that the surveillance has ended.

12. At the earliest opportunity the Investigating Officer will have their surveillance record signed by the Investigation Manager who will ensure the various requirements have been met.
13. The surveillance record will be kept as evidence.
14. If a renewal of the authorisation is required the Investigating Officer will discuss the matter with the Investigation Manager. If in the opinion of Investigation Manager a renewal is justified then a Renewal Application form will be completed and processed – note that the authorisation of a renewal application will also require the approval of the Magistrates Court before it comes into effect.
15. If the need for surveillance ends before the expiry date either by the Investigating Officer reporting this fact, or if this is the opinion of the Investigation Manager when reviewing the operation, then a cancellation form must be completed.
16. Once an operation has been cancelled surveillance must cease. If, for any reason, there is a need to commence surveillance again then fresh authorisation must be sought.
17. ALL details and evidence obtained must be retained in line with current legislation. Needless to say evidence that disproves an allegation must be treated with the same regard as that which does prove the allegation.

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<sup>1</sup> Amount of time, Distance, Visibility, Obstructions, Known or seen before, Any reason to remember, Timelapse between first and subsquence description, Errors between 1st description and actual appearance

<sup>2</sup> [1977] QB 224

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# Agenda Item 19

Recommendation GP 24/27 (6) of the General Purposes Committee of 9 October 2024 is to follow and will be circulated in advance of the meeting.

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# Agenda Item 20

To receive and note the Minutes of meetings of Cabinet and Committees as set out in the Minute Book (attached as a supplement).

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