

TONBRIDGE AND MALLING BOROUGH COUNCIL

HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

MINUTES

Tuesday, 15th July, 2025

Present: Cllr D W King (Chair), Cllr Mrs S Bell (Vice-Chair), Cllr G C Bridge, Cllr R W Dalton, Cllr P M Hickmott, Cllr M A J Hood, Cllr R W G Oliver, Cllr W E Palmer, Cllr K B Tanner, Cllr D Thornewell, Cllr C J Williams, Cllr R I B Cannon (substitute) and Cllr F A Hoskins (substitute)

Councillors A G Bennison, Mrs M Tatton, M Taylor, R P Betts*, M D Boughton*, L Chapman*, S Crisp*, Mrs A S Oakley* and M R Rhodes* were also present pursuant to Council Procedure Rule No 15.21.

(*participated via MS Teams)

Apologies for absence were received from Councillors D A S Davis and R V Roud.

HP 25/27 NOTIFICATION OF SUBSTITUTE MEMBERS

Notification of substitute Members were recorded as set out below:

- Councillor R Cannon substituted for Councillor D Davis
- Councillor F Hoskins substituted for Councillor R Roud

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

HP 25/28 DECLARATIONS OF INTEREST

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

HP 25/29 MINUTES

RESOLVED: That the notes of the meeting of the Housing and Planning Scrutiny Select Committee held on 20 May 2025 be approved as a correct record and signed by the Chair.

**HP 25/30 KENT DOWNS NATIONAL LANDSCAPE - OUTSIDE BODY
UPDATE**

Representatives from the Kent Downs National Landscape, one of the Borough Council's outside bodies, provided Members with an overview of their organisation, particularly their role in planning.

Formerly known as Areas of Outstanding Natural Beauty, National Landscapes were nationally statutorily designated landscapes, on a par with National Parks, both aiming to conserve and enhance natural beauty.

Kent Downs National Landscape was in partnership with 12 local authorities, with Tonbridge and Malling Borough Council being one of them and having a Member representative and an officer representative sitting on their Advisory Committee.

During the presentation, particular reference was made to a statutory Kent Downs Management Plan, required under Section 89 of the Countryside and Rights of Way Act 2000, which Kent Downs National Landscape was seeking to deliver in consultation with all the local authorities in the area in the next 18 months.

Despite their limited role in Planning, Kent Downs National Landscape mainly focused on inputs to Local Plans and other strategies, including providing consultation responses, guidance documents and training. A further explanation was provided in respect of the Section 85 duty under the Countryside and Right of Way Act 2000 and how it should be complied with by the decision maker within the context of their Local Plans and Enforcement function.

Members welcomed the introduction and raised questions over the weight that was given to the response from the National Landscape in the determination of a planning application. It was recognised that, although not being a statutory consultee and having statutory planning function, the National Landscape would always seek to influence and advise on potential harm and their response was a key consideration taken into account by the Local Planning Authority, especially their advice provided on statutory requirements.

MATTERS FOR RECOMMENDATION TO THE CABINET

**HP 25/31 PROPOSAL FOR MONTHLY MEMBER BRIEFING SESSIONS ON
PRE-APPLICATION DEVELOPMENT PROPOSALS**

Consideration was given to a proposal to establish regular, officer-chaired briefing sessions for Members, providing early visibility of major development proposals progressing through the pre-application

process. The aim was to enhance Member engagement while maintaining the confidentiality and integrity of the planning process.

As highlighted to Members, this new category of early Member engagement session service was intended solely for major and strategic development proposals and, in order to be eligible for participation, a scheme must fall within one of the qualifying categories and must either be currently undergoing or had recently completed one of the Council's formal pre-application services. Detailed qualifying criteria and proposed fees were set out in Section 4 of the report and in Annex 1 attached to the report.

Furthermore, within the proposal there was provision for an optional follow-up session, subject to a discounted fee, which could provide an opportunity for a revised scheme to be presented, demonstrating how the earlier Member feedback had been taken into account in the design development process.

Following a benchmarking exercise, the cost of presentation to Members for each scheme was proposed to be £1000 for an initial presentation and £500 for each follow-up presentation, and it was noted that these were compliant with the relevant legislation under the Local Government Act 2003.

A proposed structure and details of the operation of the sessions were set out in Section 5 of the report. With regard to the membership for these sessions, given that there was scope for all Members to be invited so that they could have a strategic oversight of the developments within the borough, particularly in the case of a planning application in one planning committee area having impact on another area, Members supported that invitation of the sessions be sent to all Members.

In addition, Members were reminded that information shared during these sessions should not be disclosed to the public at this stage and that they should keep an open mind throughout the session. In response to concerns raised by Members in respect of the risk of pre-determination, it was clarified that as Members were not making decisions at these sessions but only providing advice based on their local knowledge, pre-determination was not considered an issue within this proposal.

Members welcomed the introduction of this early-stage engagement opportunity, which would allow them to raise key planning issues, highlight local sensitivities, with the potential to influence the direction of development while changes could still be readily accommodated.

Finally, due regard was given to the finance and value for money consideration, the risk assessment and the legal implications outlined in the report.

It was proposed by Councillor King (Chair), seconded by Councillor Dalton and the Housing and Planning Scrutiny Select Committee

RECOMMENDED*: That the proposed approach to Council, indicating support for the establishment of monthly briefing sessions and the introduction of the proposed fees, which would supplement the existing pre-application services and as set out in Annex 1, be endorsed.

***Recommended to Cabinet**

**HP 25/32 HERITAGE INFORMATION AND ADVICE TO SUPPORT THE
LOCAL PLAN INCLUDING INFORMATION IN RELATION TO
CONSERVATION AREAS**

The report of the Director of Planning, Housing and Environmental Health set out the approach the Council should take in relation to obtaining heritage information and evidence to support the emerging Local Plan, including progressing work on Conservation Area Statements and Appraisals. In doing so, the report also considered advice from the Heritage Strategy [Annex 2], which was produced in 2024 to support the Local Plan.

Members acknowledged that information and evidence on heritage matters, including Conservation Area Statements / Appraisals, would provide information to help inform future change, development and design with regard to the sensitivities of the borough's historic environment and its unique character, ensuring that development could make a positive contribution to local character and distinctiveness as set out in paragraph 203 of the National Planning Policy Framework.

Careful consideration was given to a Conservation Area Appraisal / Statement Priority List, attached at Annex 1, which set out each Conservation Area within the borough, the size of the Conservation Area and whether a Conservation Area Appraisal already existed and the date of the Appraisal, where one had been undertaken previously. It was noted that out of the 60 Conservations Areas within the borough, 20 Areas had an Appraisal that detailed the aspects of their character which made them significant, although 16 of these were published between 2001 and 2011, and the remaining 40 Areas did not currently have a Statement or Appraisal at all.

Members appreciated that obtaining full Conservation Area Appraisals, either new or updated, for 60 Conservation Areas was not achievable within the Local Plan timetable given the deadline to submit a plan by December 2026. Therefore, a list of priority areas for which Conservation Area Statements were required to be obtained to support the emerging Local Plan were proposed in a table under paragraph 7.5.3 of the report.

Furthermore, Members recognised that where a Conservation Area Statement was prepared, it would be necessary to progress full Conservation Area Appraisals as well, as Conservation Area Statements were only a temporary measure to ensure that information was available in the absence of a full Conservation Area Appraisal, particularly for those Conservation Areas identified in Phase A and Phase B as set out in Annex 1. Therefore, an additional cost would be incurred should Members support producing Conservation Area Statements for all Conservation Areas that did not currently have a Conservation Area Appraisal rather than focusing on producing full Conservation Area Appraisals where necessary in the identified priority order. However, on the grounds of treating all Conservation Areas equally and ensuring up-to-date information, albeit in a brief form, was available for all the Conservation Areas to support the Local Plan process and development management functions, it was proposed by Councillor King (Chair) and seconded by Councillor Palmer that option (a) under paragraph 3.1.5 of the report be agreed by the Committee. Following a formal vote, there was majority support for the proposal.

Reference was also made to a draft Settlement Hierarchy [Annex 3], which set out the emerging settlement hierarchy and settlements considered to be sustainable.

Finally, due regard was given to the finance and value for money consideration, the risk assessment and the legal implications outlined in the report.

RECOMMENDED*: That

- (1) the approach set out within this paper to progressing heritage information and evidence to support the Local Plan, be agreed;
- (2) the approach to progressing Conservation Area Statements for those areas considered to be a priority to support the Local Plan, as set out in Table 3 under paragraph 7.5.3 of the report, be agreed;
- (3) it be noted that, as part of the evidence gathering approach for the Local Plan, work would be progressed in relation to identifying any heritage issues as relevant to potential site allocations within the Local Plan process to ensure that sufficient information was provided at each key stage of the Local Plan process;
- (4) the priority in progressing the additional work between the various Conservation Areas as set out in Annex 1, be agreed;
- (5) short Conservation Area Statements be produced for all Conservation Areas that did not currently have a Conservation Area Appraisal as a starting point to ensure that information was

available for all Conservation Areas in the borough; it be noted that this would be at extra cost and would take both financial and staffing resource away from progressing full Conservation Area Appraisals for those that did not currently have one or where Appraisals required a review and update; and

- (6) it be noted that the Heritage Strategy, attached at Annex 2, would be made publicly available follow this meeting of the Housing and Planning Scrutiny Select Committee on 15 July 2025.

***Recommended to Cabinet**

HP 25/33 DEVELOPMENT OF A HOMELESSNESS AND ROUGH SLEEPING STRATEGY

(Decision Notice D250083MEM)

The report of the Director of Planning, Housing and Environmental Health outlined a proposal to develop a standalone Homelessness and Rough Sleeping Strategy, as required under the Homelessness Act 2021 and within the context of a UK wide housing crisis, setting out how the Council would continue to tackle this increase in demand, and to ensure homelessness was prevented at the earliest opportunity and a range of housing options were available for those who had lost their homes.

The proposed approach of undertaking a comprehensive evidence base review of the challenges faced at a national, regional and local levels by the district, involving key stakeholders including Members and key partners, which would then be used to inform the development of a draft strategy and an associated action plan, was supported by Members.

In addition, the proposed timetable leading to the adoption of the strategy by Cabinet on 3 March 2026, following consideration of a draft strategy by the Scrutiny Select Committee on 2 December 2025 before undertaking a public consultation in December 2025 / January 2026, was noted.

Finally, Members were pleased to note that a contract to deliver the Rough Sleeper Prevention and Recovery Services for the borough had been awarded to Porchlight until the end of the financial year pending further grant funding from the Government.

It was proposed by Councillor King (Chair), seconded by Councillor Dalton and the Housing and Planning Scrutiny Select Committee

RECOMMENDED*: That

- (1) the approach to the development of a draft Homelessness and Rough Sleeping Strategy for consultation, be endorsed;
- (2) the engagement of key stakeholders, including Members and key partners, to assist and inform the development of the draft strategy, be agreed; and
- (3) the proposed timetable which aimed to present a draft strategy to Housing and Planning Scrutiny Select Committee on 2 December 2025 with a final draft following consultation to be presented to Cabinet on 3 March 2026, be agreed.

***Decision taken by Cabinet Member for Housing, Environment and Economy**

HP 25/34 SPORTS FACILITIES EVIDENCE

The report of the Director of Planning, Housing and Environmental Health outlined the Council's emerging approach to maintaining and enhancing sports facilities in the borough through the adoption of the Indoor Sports Facilities Strategy [Annex 1] and the Playing Pitches and Outdoor Sports Facilities Strategy [Annex 2], which were evidence base progressed as part of the Local Plan process to ensure delivery of sustainable development to support existing and new communities.

It was noted that Sport England Guidance for progressing indoor sports strategies and playing pitch strategies provided a five-stage approach to assessments, of which Stage E provided an opportunity for monitoring and review of the assessments undertaken. In addition to accounting for increased housing need in support of the Local Plan process, Stage E also provided an opportunity to understand supply and demand changes in sports provision. There are a number of sports related developments under consideration in the borough at present, as outlined under paragraph 4.4 of the report.

Due regard was given to the proposal to adopt both Strategies as the Council's current policy position on Sports Facilities, in order to maximise the Council's ability to support and develop key facilities across the borough as well as to inform the negotiation of s106 agreement where development would impact on facility use and might therefore drive a requirement for a contribution towards enhancement or replacement.

Both the Indoor Sports Facilities Strategy and the Playing Pitches and Outdoor Sports Facilities Strategy were well received by Members, although concerns were raised in respect of the challenges faced by local sports clubs and teams in securing suitable facilities and the lack of support that the Borough Council was able to provide due to not having provision to deliver sports activities. It was hoped that adoption of the

strategies as the Council's policy position on sports facilities would facilitate the sports clubs and teams in seeking to meet their facility needs, and their views and comments received as part of the evidence base exercise through consultants during the Stage E review would be welcomed, however, the Borough Council would not be resourced to undertake a separate engagement exercise for an individual piece of evidence, which was acknowledged by Members.

It was proposed by Councillor King (Chair), seconded by Councillor Bell and the Housing and Planning Scrutiny Select Committee

RECOMMENDED*: That

- (1) the Indoor Sports Facilities Strategy, set out in Annex 1, and the Playing Pitches and Outdoor Sports Facilities Strategy, set out in Annex 2, be endorsed and adopted as the Council's current policy position on sports facilities, subject to careful consideration of comments received from local sports teams; and
- (2) the authority to publish Stage E reviews of these strategy reports to update the position to help inform the Local Plan and other Council workstreams, be delegated to the Director of Planning, Housing & Environmental Health, in consultation with the Cabinet Members for Planning and Community Services.

***Recommended to Cabinet**

HP 25/35 PLANNING TECHNICAL CONSULTATION RESPONSES

(Decision Notice D250084MEM)

The report of the Director of Planning, Housing and Environmental Health provided an update on the technical consultations that had been published by the Ministry of Housing, Communities and Local Government, relating to improving transparency and monitoring of building out of schemes and to proposed reforms to Planning Committees, including their size and which types of application could be considered by those committees.

It was noted that the response to the "Implementing measures to improve Build Out transparency: Technical consultation", attached at Annex 1, was submitted under delegated powers of the Director of Planning, Housing and Environmental Health, in consultation with the Cabinet Member for Planning, due to the timescales involved. The fact that the Government was considering measures to ensure schemes were commenced and built out in a timely manner was welcomed by Members, although it was recognised that details around potential enforcement powers, in particular the power to decline to determine applications if a developer had failed to build out development

authorised by an earlier planning permission at a reasonable rate, were yet to be laid out by the Government.

The proposed draft response to the “Reform of Planning Committees: Technical Consultation” was set out at Annex 2. Members noted that this consultation proposed reforms to the size of Planning Committees, as well as suggesting that Members on a Planning Committee would be required to have a certified programme of training. It also considered a potential tiering scheme to determine which types of application would be able to be considered by a Planning Committee, if meeting certain locally set criteria, and which would be delegated to officers.

While appreciating the careful thought that had been given and efforts made by the Director of Planning, Housing and Environmental Health in drafting the response, Members had a lengthy discussion around the proposed response to a number of the questions in the consultation, and suggested strengthening the answers in respect of Question 2 (highlighting the exception of reserved matter approvals for both major and medium development categories from Tier A category), Question 3 (clarifying that Tonbridge and Malling should be in the ‘smaller Local Planning Authority’ category and therefore medium residential development should fall in Tier B), Question 5 (strengthening the application of exceptional circumstances in line with a mandate to be set by the Government to ensure consistency), Question 9 (highlighting confirmation of Tree Preservation Order should be included in Tier B as per the Council’s existing policy), Question 11 (accepting the application of exceptional circumstances with enforcement decisions being delegated in the main under Tier A), Question 12 (emphasising the objection of Members to the restrictions being considered by the Government in respect of setting a maximum number for planning committee members for national consistency and removing the reference of the size of planning committee being an acknowledged issue from the response) and Question 15 (expanding the response to capture the different views of Members on mandatory training).

In order to meet the deadline for submitting a response to the “Reform of Planning Committees: Technical consultation” by 23 July 2025, it was proposed by Councillor Williams and seconded by Councillor King (Chair) that the draft response be amended to reflect the comments made above and a final version agreed in consultation with the Cabinet Member for Planning and the Chair of the Housing and Planning Scrutiny Select Committee before submission to the Government. This motion was supported unanimously by the Committee.

RECOMMENDED*: That

- (1) the response to the “Implementing measures to improve Build Out transparency: Technical consultation”, which was submitted ahead of the 7 July 2025 deadline by the Director of Planning,

Housing & Environmental Health in consultation with the Cabinet Member for Planning, be noted; and

- (2) the draft response to the “Reform of Planning Committees: Technical consultation”, as set out in Annex 2, be amended to take into account comments made by Members at the Housing and Planning Scrutiny Select Committee on 15 July 2025, in consultation with the Cabinet Member for Planning and the Chair of the Housing and Planning Scrutiny Select Committee, and the submission of a revised final response by the 23 July 2025 deadline, be approved.

***Decision taken by Cabinet Member for Planning**

MATTERS SUBMITTED FOR INFORMATION

**HP 25/36 PROCEDURE ON AMENDMENTS TO PLANNING INCLUDING
RESERVED MATTERS APPLICATIONS - UPDATE**

The report of the Director of Planning, Housing and Environmental Health provided an update on implementation of the Procedure on making amendments to Planning including Reserved Matters applications, following approval for adoption by Cabinet on 7 January 2025.

Main scenarios where amendments could be accepted without a Planning Performance Agreement were set out in paragraph 4.5 of the report.

In general, Members welcomed the introduction of the revised procedure on amendments and recognised that, although having been applied at only one Area Planning Committee meeting so far, it had provided flexibility in securing improvements to a development scheme. Equally, officers were also, overall, supportive of the amended procedure given the greater discretion it presented, enabling constructive working with applicants to enhance the quality of proposals without requiring full resubmissions.

Given the discretionary nature of the amendment procedure, Members were reminded that officers were not obliged to accept all proposed changes, and significant or major amendments would be excluded from the process, ensuring that such proposals were appropriately channelled through formal pre-application discussions.

Finally, Members noted that implementation of the procedure would continue to be monitored in accordance with national guidance, taking into account any potential future changes to the planning policy or legislation, although a further report would only be brought back to the

Committee if the Procedure failed to meet its intended objectives or caused unintended negative consequences.

HP 25/37 OFFENCES UNDER THE TREE PRESERVATION LEGISLATION

The report of the Director of Planning, Housing and Environmental Health provided an overview of the offences under the tree preservation legislation, including the classification of such offences, distinguishing between summary offences and those triable either way and the potential penalties arising from non-compliance. Additionally, the report included information on the Felling Licence regime administered by the Forestry Commission, as well as the role of Kent Police's Wildlife Crime Unit in enforcing relevant legislation.

The detailed information provided in the report, including the enforcement work carried out by Planning officers in addressing tree related breaches, was greatly appreciated by Members.

In response to a query regarding replacement planting of removed, uprooted or destroyed trees protected under a Tree Preservation Order, it was clarified that in accordance with the legislation if the tree(s) were removed either in contravention of the Order or under specified exemptions, the Order would automatically apply to the replacement tree as it did to the original tree.

With regard to Members' desire for a complete review of all the areas protected under Tree Preservation Orders in order to establish which trees were protected when an Order was originally implemented, so as to provide updated evidence to support the emerging Local Plan, it was explained and acknowledged that the Council's Planning Services were not able to commit to such a request given their current resource allocation, however, consideration would be given to a Tree Preservation Order review if such opportunity arise in the future, for example, when the legislation would be introduced to allow local planning authorities to set their own planning application fees, within a framework of cost recovery.

HP 25/38 WORK PROGRAMME 2025/26

The Work Programme setting out matters to be scrutinised during 2025/26 was attached for information.

It was noted that the date of the next Committee meeting had been moved from 7 October to 21 October 2025 to accommodate preparation of the evidence base for the Local Plan. In addition, it was noted that an item on the agenda for the next meeting in respect of the work associated with the Private Sector offer had been deferred to the following meeting scheduled for 2 December 2025, in order that the Committee meeting in October 2025 could focus on the Local Plan.

Finally, Members were invited to suggest future matters by liaising with the Chair of the Committee.

MATTERS FOR CONSIDERATION IN PRIVATE

HP 25/39 EXCLUSION OF PRESS AND PUBLIC

There were no matters considered in private.

The meeting ended at 10.30 pm