

**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**PLANNING and TRANSPORTATION ADVISORY BOARD**

**08 September 2015**

**Report of the Director of Planning, Housing and Environmental Health**

**Part 1- Public**

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

**1 PLANNING REFORMS UPDATE**

**This report updates Members on the Government's ongoing programme of planning reforms, further amendments to national planning policy on affordable housing contributions and future proposals for further reforms.**

**1.1 Background**

- 1.1.1 Between 2010 and 2015 Government introduced a number of planning reforms, which have been taken into consideration locally in preparing the new Local Plan and also in terms of policy adjustments, most recently in respect of the thresholds and application of small scale affordable housing contributions, which was considered by this Board in March.
- 1.1.2 Following the General Election in May the new Government has set out proposals for further reforms, which this report summarises. In addition, a recent legal challenge by Reading and West Berkshire Councils has resulted in the amendments to the small scale affordable housing contributions being removed from the National Planning Practice Guidance, effectively returning to the situation as it was prior to the Ministerial Statement of the 28<sup>th</sup> November 2014.

**1.2 Revisions to the NPPG in respect of small scale affordable housing contributions.**

- 1.2.1 On 31<sup>st</sup> July the High Court found in favour of Reading and West Berkshire Councils who had challenged the Government's introduction of National Planning Practice Guidance in respect of thresholds for affordable housing contributions and also vacant building credit. The relevant sections in the NPPG have now been removed. In brief, the High Court found that the Government had acted inappropriately by introducing national planning policy in this way (i.e. in the form of a Ministerial Statement and through changes to the NPPG), which overrides policies in Local Plans that have been through the statutory processes. The Government should have observed the same principles or made the changes

through primary legislation. This could have significant implications for how the Government implements future planning reforms.

- 1.2.2 It is uncertain whether the Government will now pursue the same measures through primary legislation, but in the meantime the amendment to the adopted Policy CP17 in the Local Development Framework agreed by Cabinet on 24<sup>th</sup> March should also be reversed. Members will recall that this was to adopt a new threshold of 5 dwellings for the securing of affordable housing contributions for proposed developments in the Areas of Outstanding Natural Beauty only.

### **1.3 Future Reforms**

- 1.3.1 In May the Queen's Speech set out the new Government's priorities for new legislation for the current Parliament. The most relevant from a planning perspective is the Housing Bill, which will introduce new legislation for extending the Right to Buy to Housing Association tenants in England; the remaining provisions for implementing the Right to Build, to encourage self and custom builders; and the Starter Homes Initiative.
- 1.3.2 These changes will have implications for Local Planning Authorities ability to deliver and retain affordable housing and bring with them resource implications, particularly in respect of the new roles and responsibilities envisaged under the Right to Build, as previously outlined to this Board.
- 1.3.3 In July the Treasury published a document entitled 'Fixing the Foundations – Creating a More Prosperous Nation'. The report is wide ranging and addresses many aspects of the economy, including at Chapter 9 a section on 'Planning Freedoms and More Houses to Buy'.
- 1.3.4 A raft of measures are proposed including:
- Streamlining the process of preparing and length of Local Plans;
  - Encouraging Local Planning Authorities to produce Local Plans by 2017;
  - Provisions for the Government to intervene and arrange for Plans to be written if there are extended delays;
  - New proposals to improve cooperation between Local Planning Authorities through the Duty to Cooperate;
  - Further measures promoting the use of brownfield land;
  - Exploring the potential for higher density development around commuter hubs;
  - Tightening the planning performance regime; and

- Bringing forward the Starter Homes Initiative.

1.3.5 In the light of the recent High Court ruling on the use of Ministerial Statements and NPPG to introduce national policy, these measures may take some time to come into force.

## **1.4 Legal Implications**

1.4.1 There are no legal implications arising directly from this report other than those already addressed in the body of this report.

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

1.5.1 There are no direct financial implications arising from this report. Returning to Policy CP17 as adopted has the potential to deliver more affordable housing contributions in rural areas.

## **1.6 Risk Assessment**

1.6.1 Now that the Government has removed the amendments to the NPPG to reflect the High Court decision, failing to return to the previous policy stance carries the risk of leaving the Council's planning policy contrary to National Planning Guidance.

## **1.7 Equality Impact Assessment**

1.7.1 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper directly impact on end users. The impact has been analysed and varies between groups of people. The results of this analysis are set out immediately below.

1.7.2 The affordable housing policy as currently worded may discriminate against those on lower incomes in rural areas seeking to access affordable housing as fewer contributions can be sought than in the adopted version of Policy CP17.

## **1.8 Recommendations**

1.8.1 That the content of this report be noted and that Cabinet be recommended to reinstate Policy CP17 as adopted in the Tonbridge and Malling Local Development Framework Core Strategy (September 2007).

The Director of Planning, Housing and Environmental Health confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and policy Framework.

Background papers:

Item PE 15/3 'Planning Reforms Update'

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