

TONBRIDGE & MALLING BOROUGH COUNCIL
PLANNING and TRANSPORTATION ADVISORY BOARD

12 January 2016

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

Part 1- Public

Matters for Information

1 LOCAL PLAN PROGRAMME AND PROGRESS

This report provides an update on Local Plan progress including the assessments of the sites submitted as part of the Call for Sites exercise, the programme for preparing the Plan and Duty to Cooperate issues.

1.1 Local Plan Progress

1.1.1 Since the last meeting of the Board in September, significant progress has been made in meeting with external consultees and infrastructure providers as part of the technical assessments of the sites submitted under the Call for Sites exercise, which closed on the 1st September.

1.1.2 Members will recall that the purpose of these assessments is to confirm whether the sites that have been proposed for meeting future needs over the plan period are suitable, available and achievable in accordance with National Planning Practice Guidance (NPPG), which can be summarised as follows:

1.1.3 Suitability

1.1.4 The suitability assessment involves considering the site and the uses proposed or alternatively any other uses that the site could deliver. The assessment is guided by local development plan policies (existing and emerging) and National policy.

1.1.5 Other relevant factors in determining a site's suitability include:

- Physical limitations or problems such as access, infrastructure, ground conditions, flood risk, hazardous risks, pollution or contamination;
- Potential impacts including the effect upon landscapes, nature and heritage conservation;
- The appropriateness and likely market attractiveness for the type of development proposed;

- Environmental and amenity impacts that may be experienced by future occupiers and neighbouring areas.

1.1.6 Availability

- 1.1.7 A site is considered available for development, when, on the best information available (confirmed by the call for sites and information from land owners and legal searches where appropriate), there is confidence that there are no legal or ownership problems, such as unresolved multiple ownerships, ransom strips tenancies or operational requirements of landowners. This will often mean that the land is controlled by a developer or landowner who has expressed an intention to develop, or the landowner has expressed an intention to sell.
- 1.1.8 Because persons do not need to have an interest in the land to make planning applications, the existence of a planning permission does not necessarily mean that the site is available.
- 1.1.9 Where potential problems have been identified, an assessment will need to be made as to how and when they can realistically be overcome. Consideration should also be given to the delivery record of the developers or landowners putting forward sites, and whether the planning background of a site shows a history of unimplemented permissions.

1.1.10 Achievability

- 1.1.11 A site is considered achievable for development where there is a reasonable prospect that the particular type of development will be developed on the site at a particular point in time. This is essentially a judgement about the economic viability of a site, and the capacity of the developer to complete the development over a certain period.
- 1.1.12 An important consideration for assessing the viability of a site is the development potential. The outline of a site does not necessarily mean that all of the area within is developable as there might be physical constraints or part of the site might be needed to provide infrastructure, such as a new school for example. The nature and scale of development will be another factor when considering development potential and viability.
- 1.1.13 Where constraints have been identified, the assessment should consider what action would be needed to remove them (along with when and how this could be undertaken and the likelihood of sites/broad locations being delivered). Actions might include the need for investment in new infrastructure, dealing with fragmented land ownership, environmental improvement, or a need to review development plan policy.
- 1.1.14 When these assessments have been completed sites that meet the criteria can be included in the Strategic Land Availability Assessment and published as part of the Local Plan evidence base. Inclusion in the SLAA does not mean that a site will

be allocated in the Local Plan. That will be determined as part of the preferred development strategy, which will start to emerge as part of the Issues and Options stage accompanied by public consultations in the spring.

1.2 Local Plan Programme

- 1.2.1 Work is continuing on the assessments and these are currently on schedule to be completed in the spring in accordance with the Local Plan programme.
- 1.2.2 However, there remain a number of factors beyond the Council's control that may yet have an impact on the timetable. This includes the contribution of key infrastructure providers and statutory consultees to the assessment process and the ongoing Government Planning reforms, which are continuously changing aspects of Local Plan work and are the subject of another report on this agenda.
- 1.2.3 Meetings have now been held with all of the main infrastructure providers and statutory consultees and information on the submitted sites has been shared. Their responses could have important implications for the tests outlined earlier in this report, for example, if a site requires major investment in strategic infrastructure to deliver new homes or jobs during the plan period, this may make it unviable. Similarly, some of the statutory consultees may have emerging information on constraints that may reduce the developable area of a site, for example the Environment Agency in respect of flood risk.
- 1.2.4 Some of those consulted in this way have had experience of providing this information and have the in house capacity to respond in time. Others are less prepared for this task and some, (for example Highways England) are seeking additional studies to be carried out before coming to a view. Officers are discussing practical ways forward in respect of highway matters with Kent Highways.
- 1.2.5 Another risk to the Local Plan programme is the continuing planning reform agenda. One example of how this might impact on the programme is in respect of the revisions to the Planning Policy for Traveller Sites (PPTS) published in August 2015. One of the amendments was to change the planning definition of Traveller to demonstrate evidence of a nomadic lifestyle either now or in the future.
- 1.2.6 Gypsy and Traveller Accommodation Assessments (GTAA's) form part of the Local Plan evidence base and identify future needs for pitches for Traveller families and plots for Travelling Show People. The GTAA for Tonbridge and Malling was prepared by Salford University in 2012 based on a methodology that reflected the PPTS as published in March of that year. The change to the definition in August last year means that the GTAA is no longer in accordance with national policy.
- 1.2.7 The Government has not yet announced when it will reissue new guidance for preparing GTAA's and in the meantime Local Planning Authorities face a stark choice of either continuing with their current GTAA's, which may now represent an

over estimate of need, or revising their GTAA in the absence of new guidance at an additional cost and delay.

- 1.2.8 The Government has also made it clear that it wishes to see all future needs addressed in Local Plans, rather than through separate Development Plan Documents. It has also stated that Local Plans should be prepared as soon as practicably possible and ideally no later than 2017, so Local Planning Authorities will have to interpret the new PPTS as best they can.
- 1.2.9 Swale Borough Council has recently suggested an approach through its Local Plan Examination, which was praised by the Inspector although with the caveat that this is in the absence of new guidance on GTAAs and has not been tested. Swale revisited the survey data from their original GTAA and has taken a view on whether some of those respondents had ceased travelling or not. This has resulted in a downward revision of the need for additional pitches.
- 1.2.10 Following the Inspector's comments at the Swale Examination, the Kent Planning Officers Group submitted a letter to the DCLG seeking an opinion on how best to proceed. It is hoped that the Swale Inspector's report and a response from the DCLG may clarify the approach to be adopted in the Tonbridge and Malling Local Plan. This illustrates the challenges faced by plan makers during ongoing planning reforms.

1.3 Duty to Cooperate

- 1.3.1 Officers and Members have continued to meet and maintain a dialogue with neighbouring authorities regularly to update on Local Plan progress and discuss relevant cross boundary issues in accordance with the Duty. To date no neighbouring Local Authority has formally asked whether Tonbridge and Malling could accommodate any unmet need for general housing or employment.
- 1.3.2 However, related to the issue of assessing the needs of Gypsies and Travellers discussed in the previous section, Maidstone Borough Council have formally asked their neighbours, including Tonbridge and Malling, if they can meet some of their unmet need.
- 1.3.3 Maidstone revisited their GTAA survey findings in the light of the revised definition for Travellers, but concluded that the original need (for 187 pitches between 2011-31) represents the best assessment available, whilst recognising that actual needs may be lower. This has resulted in a shortfall of 45 pitches.
- 1.3.4 I have responded initially by simply saying that it is not possible, at the current time, to confirm whether there may or may not be any allocations for this type of development in the emerging Tonbridge and Malling Local Plan. As noted in section 1.2.10 above, clarification of how best to assess future needs in the light of the changes to the PPTS is awaited and this may result in a lower need than in the current GTAA.

1.3.5 Similarly, until the assessments of Call for Sites submissions are completed, it is too early to confirm whether any may be suitable for future Gypsy and Traveller accommodation.

1.3.6 Maidstone Borough Council will be taking a report to their Strategic Planning, Sustainability and Transport Committee on the 13th January seeking approval to consult on a submission version of their Local Plan (Regulation 19). This may explain why the request has been made at this time (i.e. to demonstrate that all avenues have been explored).

1.4 Summary and Conclusions

1.4.1 This report provides Members with an update on progress made in relation to the Local Plan and sets out in some more detail the process for the technical assessments of the sites submitted, which is ongoing.

1.4.2 It is anticipated that the work will be completed in accordance with the programme for the Local Plan, which coincides with an Issues and Options public consultation in the spring. There are challenges to keeping to the programme including inputs from external consultees and continuing reforms to the planning system and some of these have been explained in the report.

1.4.3 The Local Plan is being prepared in accordance with the Duty to Cooperate. The first formal request from a neighbouring authority in respect of unmet Gypsy and Traveller need from Maidstone Borough Council was received in December.

1.5 Legal Implications

1.5.1 Local Planning Authorities are required to prepare and keep up to date a development plan for their area. Failure to do so may leave the Council's planning decision at risk of appeal.

1.6 Financial and Value for Money Considerations

1.6.1 There are no financial and value for money considerations arising from this information report.

Background papers:

Nil

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