

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

**05 December 2017**

**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 LOCAL PLAN: DUTY TO COOPERATE**

**This report seeks endorsement of a response to the recent Sevenoaks District Council Local Plan consultation required by Regulation 18 of the Town and Country Planning Regulations and provides an update of other matters relating to the Duty.**

**1.1 Introduction**

1.1.1 The Duty to Cooperate requires Local Planning Authorities and other Duty to Cooperate bodies to work collaboratively to address cross boundary issues in preparing their Local Plans. During the summer Sevenoaks District Council published an Issues and Options consultation on their Local Plan and invited comments. Annex 1 to this report sets out the detailed response to Sevenoaks District Council sent on the 4<sup>th</sup> October before the consultation deadline for endorsement.

1.1.2 In addition to Local Plan preparation, we are continuing to work with neighbouring Authorities and Kent County Council over various cross boundary matters, which contribute to meeting the Duty.

1.1.3 The recent DCLG consultation 'Planning for the Right Homes in the Right Places' sought views on a proposal to introduce new Statements of Common Ground, which will complement the Duty to Cooperate process. Once introduced these will be a more formal record of what the relevant cross boundary issues are and how they will be addressed. A response to the proposals is set out in more detail in an earlier report on this agenda.

**1.2 Sevenoaks Local Plan Consultation Response**

1.2.1 The response to the Issues and Options consultation welcomes the fact that Sevenoaks District Council have used the same consultants to prepare their objectively assessed needs for new housing (G L Hearn and partners), which is not dissimilar to that for Tonbridge and Malling (620 and 696 per year

respectively). However, the proposed strategy for meeting future needs differs insofar as the Local Plan is proposing no releases of Green Belt land. The document acknowledges that some releases may be included later in the process if exceptional circumstances can be made by those promoting the sites.

- 1.2.2 Even with the proposed releases the conclusion is that Sevenoaks will be a significant way adrift from meeting its identified housing needs.
- 1.2.3 The approach taken by Tonbridge and Malling is as far as possible to try to meet housing needs where they arise in the relevant Housing Market Area, which results in making the case for Green Belt releases in the West Kent Housing Market Area. The National Planning Policy Framework allows Local Planning Authorities to explore this possibility when Local Plans are prepared.
- 1.2.4 The issue for the Duty to Cooperate is that should Sevenoaks District subsequently approach T&M to take on some of its unmet housing need, would that be a fair and proportionate way forward if one Authority had not explored every opportunity before making the request.
- 1.2.5 This has been relayed to Sevenoaks District in the response attached at Annex 1.
- 1.2.6 If the standardised methodology for assessing housing need proposed in the recent DCLG consultation is introduced next spring, the issue of taking on unmet need may become academic. This is explained further in another report on this agenda.

### **1.3 Statements of Common Ground**

- 1.3.1 Should the proposal to introduce Statements of Common Ground be introduced next spring with the publication of the revised NPPF, the Government expects draft Statements to be prepared within 6 months and final versions agreed within 12 months. The Statements will become additional tests of soundness for Local Plans to be considered by Inspectors prior to Local Plan Inquiries commencing.
- 1.3.2 Since the tests of soundness cannot be amended retrospectively once Inspectors have received a submitted Local Plan they will be very important considerations for Local Planning Authorities preparing their Local Plans in future.
- 1.3.3 While the Duty to Cooperate has often been described as 'not a duty to agree', the new Statements of Common Ground are in effect an agreement between Authorities on how to address cross boundary issues, including, but not exclusively, unmet housing need.
- 1.3.4 The Planning Advisory Service has invited Tonbridge and Malling, Tunbridge Wells and Sevenoaks Councils to become a Statement of Common Ground pilot, which would provide access to a facilitator to prepare draft statements by next spring and final versions by the autumn of 2018. This is currently being considered by the three Authorities.

## **1.4 Legal Implications**

- 1.4.1 The Duty to Cooperate has to met in order for Local Plans to found sound at Local Plan inquiries. Failure to do so usually results in the Local Plan process being halted while the matter is addressed. This has resulted in delays in other Local Plan process across the country and the Government is introducing Statements of Common Ground to try and resolve this issue.

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

- 1.5.1 There are no financial implications arising from the response to Sevenoaks District Council's Local Plan Regulation 18 consultation. There may be some value for money benefits from taking up the offer from PAS to become a DCLG pilot study. This is a task that will have to be addressed once the NPPF is republished next spring, has the benefit of an additional resource in the form of the offered facilitation and will help the three West Kent Authorities fulfil the Duty to Cooperate.

## **1.6 Risk Assessment**

- 1.6.1 Failure to demonstrate that the Duty to Cooperate has been met can lead to Local Plan processes being stalled or taken back a stage resulting in delays and costs.

## **1.7 Recommendations**

- 1.7.1 That the contents of the report be noted and that the response at Annex 1 be recommended for endorsement.

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:

Nil

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