

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

03 September 2018

### Report of the Chairman of Planning and Transportation Advisory Board and the Director of Central Services and Monitoring Officer

#### Part 1 – Public

#### Non- Key Decision

#### 1 PLANNING AND TRANSPORTATION ADVISORY BOARD – 24 JULY - VOTING

##### 1.1 Background

1.1.1 The Council is progressing the adoption of the new Local Plan under the Town & Country Planning (Local Planning) (England) Regulations 2012 (“the Local Plan Regulations”).

1.1.2 As part of that process towards adoption, the draft Plan is currently progressing through a number of the Council’s Advisory Boards and Committees as follows:

- Planning and Transportation Advisory Board (“PTAB”) 5 June 2018
- PTAB 24 July 2018
- Cabinet 3 September 2018
- Full Council 12 September 2018

1.1.3 Previously the plan has been considered by PTAB at earlier stages of the plan making process, including the approval of the Regulation 18 consultation document, “The Way Forward”.

1.1.4 At PTAB on 24 July 2018 there were 13 voting members of the Board present along with a large number of other members (18) who were not eligible to vote.

1.1.5 Following the debate, a vote was taken on the following recommendation: *“subject to any further clarification and updates from officers as required in the interim, the revised draft of the Local Plan at Appendix 1 be recommended to Cabinet for its consideration”*

- 1.1.6 The vote recorded at the meeting was 5 in favour of the recommendation, 5 against and 3 abstentions- totalling 13 votes cast. The Chair has a casting vote and voted in favour of the recommendation. It was then announced by the Chair that the recommendation had been approved.
- 1.1.7 The Chair then closed the meeting.
- 1.1.8 However, reflecting on the vote immediately following the meeting and over following days, doubts emerged over the voting. A review and recollection of events by those officers present at the meeting concluded that the most likely turn of events was that a non-voting member attempted to vote when they were not eligible to do so. The committee clerk present at the meeting contacted a number of the voting members the following morning to clarify how they had voted. It became apparent that the correct vote was in all probability 4 in favour, 5 against and 3 abstentions (one of the voting members having left the room prior to the vote).
- 1.1.9 Consequently, the proper outcome of the vote at PTAB is that the recommendation - to recommend the draft plan to Cabinet for consideration - was defeated.
- 1.1.10 This experience has caused some thought to be given to the detailed arrangements for meetings and voting, and I will be undertaking a review in due course in order to ensure greater clarity and guard against similar situations occurring.

## **1.2 Legal Implications**

- 1.2.1 Constitutionally, PTAB is an advisory board which advises Cabinet. The role of Cabinet is to formulate the budget and policy framework of the Council, of which the development plan forms part. Thus it is Cabinet and subsequently full Council which are the decision making bodies in relation to the Local Plan process, although Cabinet should take into account the views expressed by PTAB, including the proper outcome of the vote on the 24<sup>th</sup> July.
- 1.2.2 Having considered the legal and constitutional issues in detail and with the benefit of Counsel's advice, it is constitutionally proper for the consideration of the Local Plan by Cabinet to go ahead as planned, albeit with the correct vote of the PTAB meeting noted by Cabinet in reviewing the minutes of that meeting.
- 1.2.3 It remains the case that the Cabinet has the responsibility to formulate the Local Plan and make a recommendation to the Council.

## **1.3 Recommendation**

- 1.3.1 Cabinet is recommended to:

- (i) **NOTE** the contents of this report;
- (ii) **RESOLVE** to consider the draft local plan (agenda item 5) in the context of the discussion and advice presented in this report.

contact: Kevin Toogood

Dave Davis  
Chairman of Planning and Transportation Advisory Board

Adrian Stanfield  
Director of Central Services and Monitoring Officer