

TONBRIDGE & MALLING BOROUGH COUNCIL
PLANNING and TRANSPORTATION ADVISORY BOARD

03 March 2020

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Information

1 PLANNING CONDITIONS

Summary

This report seeks to provide an update on how Development Management will seek impose planning conditions on planning permissions, through the use of a comprehensive, published compendium in the interests of good and consistent decision making. The use of the compendium as a tool for decision making purposes could have a positive financial impact on the Council as it will improve service efficiency and ensure a consistency in approaches wherever possible.

1.1 Introduction

1.1.1 When used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating identified adverse effects. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.

1.2 Statutory and Policy Tests

1.2.1 The main powers for imposing conditions are contained in sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990. Powers to impose conditions on appeal are also given to the Secretaries of State or their Inspectors by sections 77, 79, 177, and Schedule 6 of the Act.

1.2.2 Section 70(1) (a) of the Act enables the local planning authority in granting planning permission to impose "such conditions as they think fit". This power must always be interpreted in light of material considerations such as the National Planning Policy Framework, the supporting planning practice guidance on the use of conditions, and any relevant case law.

1.2.3 In all cases, planning conditions must be fairly and reasonably related to the development proposed. Paragraph 55 of the National Planning Policy Framework (2019) makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

1.3 The Compendium

1.3.1 In order to ensure planning conditions were being used in an appropriate and consistent manner in our decision making across the Borough, an officer working group has been established, tasked with reviewing all existing model conditions used for decision making purposes and compiling a new compendium of model conditions to be used going forward. These are specifically designed to assist planning officers in dealing with applications in an efficient and consistent manner. They seek to cover most of the circumstances where conditions will be needed, but the compendium is not intended to be exhaustive. Some cases will require one or more of the standard conditions to be amended, or a completely new “non-standard” condition to be drawn up, often in conjunction with technical and statutory consultees. Some of the standard conditions require text to be inserted or deleted, depending on the particular circumstances of the case.

1.3.2 The compendium in its finalised form is attached as an Annex to this report for information and it is intended to be published on the Council’s website with a view to increasing transparency and engagement with those using the service.

1.4 Future updates

1.4.1 Given the need for conditions to meet specific tests which are prescribed in legislation and policy, it will be necessary to periodically review the published conditions to ensure ongoing compliance. It is anticipated that such a review would be required initially upon adoption of the Local Plan and the Borough Climate Change Strategy. Members will be periodically advised of this as the circumstances require.

1.5 Legal Implications

1.5.1 The ongoing work set out above will ensure that planning decisions will continue to meet all statutory duties and requirements.

1.6 Financial and Value for Money Considerations

1.6.1 N/A

1.7 Risk Assessment

1.7.1 N/A

1.8 Equality Impact Assessment

1.8.1 No issues raised.

1.9 Recommendations

1.9.1 That the contents of the report be **NOTED**.

Background papers:

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Annex 1: Planning Conditions Compendium

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