

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

**28 July 2020**

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

**Part 1- Public**

**Matters for Information**

**1 LOCAL PLAN UPDATE**

**This report provides an update of the progress of preparing the Local Plan including new provisional dates for the first phase of Examination Hearings that were postponed due to the Coronavirus restrictions in March.**

**1.1 Progress since the last Board meeting on 3<sup>rd</sup> March 2020**

- 1.1.1 Members will recall that at the last Board meeting dates for the first phase of the Local Plan Examination hearings had recently been confirmed by our Local Plan Inspectors starting on the 19<sup>th</sup> May for 5 sitting days ending on 25<sup>th</sup> June. The Local Plan timetable had been revised to reflect this and recommended for approval at the same meeting.
- 1.1.2 On the 18<sup>th</sup> March the Planning Policy Team started working from home following the Prime Minister's advice that people should work from home if they could due to the advance of the Coronavirus pandemic. On the 23<sup>rd</sup> March the Government introduced even more restrictions, reiterating the working from home message, prohibiting unnecessary journeys and gatherings of people beyond individual households.
- 1.1.3 The Inspectors contacted the Council on the 25<sup>th</sup> March to formally postpone the hearing sessions in May and June due the restrictions. The deadlines for submitting statements were also postponed. Officers then made arrangements to update the Local Plan Examination webpages and to contact all of those wishing to be kept informed about the Local Plan. All members were also sent an update of the situation by email.
- 1.1.4 Officers have maintained regular contact with the Inspectors via the Programme Officer while the Government and Planning Inspectorate have been assessing the situation. On the 13<sup>th</sup> May the Secretary of State made a Ministerial Written Statement about virtual working and planning, which encouraged the use of virtual technology to restart those planning processes that had been put on hold due to the restrictions in March.

1.1.5 The Statement noted that:

“Local planning authorities and the Planning Inspectorate... should ensure that it continues to operate effectively to support economic recovery. Moving to digital events and processes will be critical. This means adapting to working virtually, including virtual hearings and events (such as using video-conferencing and/or telephone) and making documents available for inspection online. The Government expects everyone involved in the planning process to engage proactively.

The Government considers that the current legislative framework allows for virtual hearings. It is confident that processes can be put in place in the vast majority of cases to allow for the participation of all parties. The Government recognises that the method by which hearings and events are conducted is a matter for the Inspectorate, operating in accordance with their legal obligations, and it expects these arrangements to be made as the default method of operation in the vast majority of cases. The Government recognises that in exceptional circumstances it may not be fair to proceed virtually and that alternative arrangements may be needed. These alternative arrangements should be taken forward speedily, where possible, taking into account the Government’s guidance on social distancing.

The Government expects opportunities for virtual hearings and processes to be maximised. It will draw from current and emerging practice to inform policy and process in the longer term.”

1.1.6 In response the Inspectors considered whether the hearings could proceed either virtually or as a more traditional arrangement in a venue with social distancing and live streaming. In June, they requested that the website be updated once more with provisional dates for the rearranged phase one hearing sessions starting on 6<sup>th</sup> October and reissued the Matter Issues and Questions and some guidance notes.

1.1.7 The webpages were duly updated on the 25<sup>th</sup> June, although the guidance notes were not finalised until 29<sup>th</sup> reflecting the fact that Government guidance is constantly changing in managing the coronavirus restrictions. Once again, emails and letters were sent to all contacts on the mailing list and all members advised accordingly.

1.1.8 Currently the arrangements are that a final decision on the format of the hearings will be taken nearer the opening session in October taking into consideration the latest guidance on social distancing and the responses of those confirming that they wish to participate, which will be the subject of a questionnaire from the Programme Officer later this month. The Inspectors may also take into consideration other examples of virtual hearings, such as the South Oxfordshire District Council Local Plan Hearing due to start on 14<sup>th</sup> July for 4 weeks.

- 1.1.9 In the meantime progress has been made in preparing the Council's statements for the first phase of the examination, responding to the 70 questions that will form the basis of the discussion at the hearing sessions in October and November. These are still being finalised and will be submitted by the new deadlines confirmed in June as 10<sup>th</sup> September for the October sessions and 12<sup>th</sup> October for the November sessions.
- 1.1.10 To confirm the new provisional dates for the phase one hearings are:
- Tuesday 6<sup>th</sup> to Thursday 8<sup>th</sup> October;
- Tuesday 13<sup>th</sup> to Wednesday 14<sup>th</sup> October;
- Tuesday 3<sup>rd</sup> to Thursday 5<sup>th</sup> November; and
- Tuesday 10<sup>th</sup> to Wednesday 11<sup>th</sup> November.
- 1.1.11 Assuming there are no further postponements and the Inspectors are satisfied with the Council's responses to the first phase hearings, the next stage will be to prepare for the second phase of hearings, likely to take place early in 2021. These sessions will focus on the site allocations and other policies in the draft Plan. As with the first phase, the Inspectors will prepare Matter Issues and Questions prior to the next round of hearing sessions.
- 1.1.12 The revised Local Plan timetable recommended by the Board on 3<sup>rd</sup> March showed the phase one hearings starting in May, which had just been confirmed at the time. The impact of the coronavirus pandemic, which is beyond anyone's control, has so far resulted in a delay of 5 months. There may be an opportunity to make up some time during 2021, but a simple rolling forward of the estimated adoption date by 5 months from November 2021 would push this to April 2022.
- 1.1.13 It is clear from this update covering the last 4 months that there are many unforeseen factors at play that have delayed and continue to affect the Local Plan timetable. This has been recognised in the Addendum to the Council's Corporate Plan prepared in response to the coronavirus restrictions and recently agreed by Cabinet. It may be prudent therefore to review this again and if necessary update the timetable at the next scheduled Board meeting in November.

## **1.2 Next Steps**

- 1.2.1 Officers will continue to liaise with the Inspectors in their consideration of the options for holding the phase one hearings either as a fully virtual option or a more traditional format with social distancing and livestreaming. Members and those wishing to be kept informed of the Local Plan's progress will be updated as appropriate.

- 1.2.2 The Council will continue to prepare and update if necessary its statements and submit these to the Examination by the new deadlines of 10<sup>th</sup> September and 12<sup>th</sup> October.

### **1.3 Local Plan Progress in Neighbouring Authorities**

#### **1.3.1 Sevenoaks**

- 1.3.2 At the Board meeting in March it was reported that Sevenoaks District Council was awaiting the final report of their Inspector. This was received on 6<sup>th</sup> March and can be found on the District Council's website here:

[https://www.sevenoaks.gov.uk/downloads/download/789/sevenoaks\\_final\\_report](https://www.sevenoaks.gov.uk/downloads/download/789/sevenoaks_final_report)

- 1.3.3 This confirmed that the Inspector found that the duty to cooperate had not been met and that the Local Plan as submitted was not sound and should be withdrawn.

- 1.3.4 Sevenoaks District Council then challenged the Inspector's decision and on 2<sup>nd</sup> June the High Court ruled that there were sufficient grounds for the Judicial Review to be heard. At the time of writing this report no date had been published for the case to be heard. The timetable for the Sevenoaks Local Plan is effectively on hold while this process is carried out.

#### **1.3.5 Tunbridge Wells**

- 1.3.6 The timetable for the Tunbridge Wells Local Plan has been revised since the March update. At that time the Borough Council anticipated being at Regulation 19 consultations in August this year, but a revised Local Development Scheme agreed in June now puts this stage at March 2021 with submission to the Secretary of State in July and Examination in November. The anticipated adoption date has slipped 6 months from December 2021 to June 2022.

- 1.3.7 The proposed design charrette for the Tudeley strategic site allocation, which was due to take place in March, was postponed on 10<sup>th</sup> March. Hadlow Estates are considering how the same exercise could be conducted virtually later this year, but no dates or details have been made available yet.

#### **1.3.8 Maidstone**

- 1.3.9 The Maidstone Local Plan timetable was due to be revised in March and a resolution was agreed by the Strategic Planning Infrastructure Committee on 10<sup>th</sup> March, but this was deferred when the meeting of the Full Council was postponed due the coronavirus pandemic.

- 1.3.10 The revised timetable proposed two further rounds of Regulation 18 consultations, one in October this year on future strategies for growth and one in February 2021 on more detailed policies. Regulation 19 was expected to take place in December 2021 with examination in June/July 2022 and adoption in October 2022.

1.3.11 It is understood that the Regulation 18b consultation anticipated for October 2020 is still expected to go ahead.

#### 1.3.12 The London Plan

1.3.13 The last update to the Board reported that the Mayor had issued an intent to publish the London Plan and that a deadline for a response from the Secretary of State had been extended to 16<sup>th</sup> March.

1.3.14 The Secretary of State responded on the 13<sup>th</sup> March, criticising the Plan for, among other things, the lack of anticipated housing delivery. The Secretary of State also exercised his right to issue a Direction for changes to the Plan addressing the issues raised. The Mayor responded on the 24<sup>th</sup> April seeking further discussions and proposing further amendments to the Direction. The Plan is effectively on hold while the Secretary of State and the Mayor agree a form of wording.

#### 1.3.15 Gravesham and Medway Local Plans and the Kent Minerals and Waste Local Plan

1.3.16 Progress on these plans was also reported to the Board in March, but there has been no change to the timetables or status of these Plans based on their website. If further information becomes available before the Board meets on the 28<sup>th</sup> July a verbal update will be provided.

### **1.4 Legal Implications**

1.4.1 The Inspectors are aware of the requirement to allow those wishing to participate in the Local Plan hearings to be heard and their decision on the format will take this into account. This will be informed in part by the responses to the questionnaire referred to in paragraph 1.1.8 of this report.

1.4.2 Any arrangements for a fully virtual hearing will be made in accordance with the requirements of the General Data Protection Regulations (GDPR) 2018.

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

1.5.1 There may be additional costs for the hearings depending on the final arrangements. For example, a traditional face to face hearing with social distancing may require extra sessions to be held to ensure that all those wishing to participate on a particular session have the opportunity to do so. There may also be costs associated with any live streaming equipment to compensate for the lack of a public gallery.

1.5.2 Conversely, a fully virtual hearing may represent a cost saving, for example, for the hire of a suitable venue.

## **1.6 Risk Assessment**

- 1.6.1 Any delay in the Local Plan process carries the risk of the Council's adopted policies becoming more out of date. It also extends the period of time before the Council can re-establish a 5 year housing land supply.

Background papers:

Nil

contact: Ian Bailey  
Planning Policy Manager

Eleanor Hoyle  
Director of Planning, Housing and Environmental Health