

Tonbridge and Malling Borough Council

# Statement of Community Involvement (SCI)

July 2022

(SCI)

**Contents**

• Introduction	2
• Getting Involved	2
• Why We Consult	2
• Who We Consult	3
• General Data Protection Regulations	3
• Circumstances Outside of Our Control	4
• Plan Making	
○ When We Will Consult	4
○ Duty to Cooperate	6
○ Supplementary Planning Documents	6
○ How We Will Consult on Draft Plans	7
○ Sustainability Appraisal	8
○ How Your Comments Help	8
• Development Management	
○ Planning Applications	9
○ Environmental Impact Assessment Consultation Procedures	9
○ Permitted Development	10
○ Planning Performance Agreements	11
○ Pre-Application Advice	11
○ Planning Committee	11
○ Planning Appeals	12
○ Tree Matters	12
○ Planning Enforcement	14

(SCI)

## **Introduction**

Tonbridge and Malling Borough Council (TMBC) want to encourage more people to engage in planning for the future of the borough. We understand that in order to try and build consensus with local communities on how the borough should evolve over time, people need to be given the opportunity to be involved in the planning process from the earliest stages.

The Council has prepared this Statement of Community Involvement (SCI) to make sure that we effectively engage our stakeholders and communities in both the development of local planning policy and in decisions on planning applications, by setting out how and when people can contribute.

The requirement to produce a SCI was first introduced in Section 18 of the Planning and Compulsory Purchase Act 2004 (as amended), and we adopted our first SCI in July 2005, and then a subsequent version in February 2015. However, since this time there have been several changes to the planning system including revisions to permitted development rights, some of which were introduced to increase the supply of housing, as well as in response to the Covid-19 pandemic, to provide more flexibility for retail uses. Therefore, we have taken the opportunity to update this document to reflect recent changes as well as developments in best practice and advances in digital technology.

Sometimes there are circumstances which are beyond the Council's control (such as the Covid-19 pandemic), which may result in variation to the engagement methods set out in this document, for example national or local lockdowns could prevent in person events taking place. Notwithstanding we are committed to ensuring that community views are heard as far as is practicable and in compliance with Government guidance.

## **Getting Involved**

There are two main areas of planning that this statement covers:

1. Plan Making / Planning Policy (Local Plans and Supplementary Planning Documents) – these set the policy framework against which planning applications are assessed; and
2. Development Management (Planning Applications) – most types of development require a planning application to be submitted and approved. Anyone can comment on a planning application.

Planning applications are determined in accordance with the adopted development plan; therefore, it is important for interested parties to get involved with the preparation of local planning policy as well as specific planning applications.

## **Why We Consult**

A key influence upon Plan making and decision taking is consultation. Community engagement is vital for us to achieve our vision for the borough.

The Localism Act 2011 places engagement with local communities at the heart of the planning system. Methods of engagement are based upon the Government's

(SCI)

statutory requirements as set out in the Development Management Procedure Order (DMPO) 2015.

### **Who We Consult**

We must consult with certain organisations as set out in in the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). These include specific consultation bodies - those who may have an interest in the content of a draft Local Plan; general consultation bodies – as considered appropriate by the Council and other stakeholders, including residents and business representatives with an interest the borough. We may keep separate databases related to these 3 groups to make it easier for us to consult appropriately.

When undertaking consultations on planning applications, the Council will identify the relevant consultee groups on a case-by-case basis. Guidance on what constitutes 'material considerations' as part of the determination of planning applications is outlined on the Council's website: <https://www.tmbc.gov.uk/planning-applications-appeals/check-planning-comments-can-consider>.

TMBC is committed to engaging with hard-to-reach groups, and we will seek to make the planning process accessible to everybody, including (but not limited to) those with a language barrier, those less physically able, those on low incomes, those with limited or no access to the internet, and the elderly. We will provide paper copies of documents and send letters where appropriate, to ensure that we reach out successfully to the whole community.

### **General Data Protection Regulations (GDPR)**

We may keep separate databases to make it easier for us to consult with specific groups appropriately. We have current databases of consultees who have either previously commented upon, or expressed an interest in being involved in the production of our planning policy documents. Databases are kept up to date and used to keep registered individuals, organisations and groups informed on the production of any planning policy documents.

In order to accord with the requirements of the General Data Protection Regulations (GDPR) 2018, those wishing to be contacted in relation to community engagement and updates to the Local Plan, must register with TMBC by emailing [localplan@tmbc.gov.uk](mailto:localplan@tmbc.gov.uk) or writing to us using the address below, in order to be added to our databases so that they may receive notifications.

Tonbridge and Malling Borough Council  
Gibson Building  
Gibson Drive  
Kings Hill  
West Malling  
Kent  
ME19 4LZ  
01732 876266

(SCI)

In compliance with GDPR, contact details cannot be shared with other departments within TMBC so it is vital that those wishing to be consulted have contacted us as above.

### **Circumstances Outside of Our Control**

The planning system's response to the Covid-19 pandemic is embedded within the Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020.

If national or local lockdowns are re-imposed during the lifetime of this SCI, physical, in-person consultation events or engagement may not be permitted. In such circumstances, we would look to maximise engagement by using some of the following measures, to ensure inclusivity and engagement especially with hard-to-reach groups:

- Placing adverts
- Sending letters and hard copies of presentations/information
- Using social media (Twitter - @TMBC\_Kent, Facebook - 'Tonbridge and Malling', Instagram - @tmbc.kent)
- Placing information at noticeboards owned by the Council and parish councils
- Use of virtual meetings and workshops on Zoom or Microsoft Teams
- Use of video presentations and explainer videos to communicate key messages about what we are doing and sharing these via our website and social media platforms
- Digital/interactive consultations utilising specific software
- Providing documents on our website and hard copies only for those without internet access

We may also look to extend consultation periods to ensure that everyone has their say, if we feel that circumstances beyond our control have impacted on how the community gains access to consultation information.

### **Plan Making**

#### **When We Will Consult**

The Local Plan is a single document that once adopted will contain all of the Council's planning policies. These policies must be supported by evidence, comply with national planning policy and be subject to a process of sustainability appraisal.

There are a number of stages in the production of the Local Plan during which the local community and stakeholders can get involved (see table below). The Local Development Scheme (LDS) sets out these key stages and the detailed timetable for production. The LDS can be viewed on the [TMBC website](#).

(SCI)

<b>Key Stages</b>	<b>Town and Country Planning (Local Plan) (England) Regulations 2012 (as amended)</b>	<b>Consultation details</b>
Plan Preparation	Regulation 18	A period of on-going consultation with communities and stakeholders, including at least one formal public consultation period for a minimum of 6 weeks on an issues and options draft of the Plan.
Plan Publication	Regulation 19	Statutory public consultation period of 6 weeks on the draft Plan. This is effectively the final stage when representations can be made to the Council.
Submission of Plan to Secretary of State	Regulation 22	A copy of the proposed Local Plan and associated documents are submitted to the Secretary of State for examination.
Independent Examination	Regulation 24	An Independent Inspector is appointed to examine the soundness of the Plan. At this stage, the Council cannot consider new formal representations. However, opportunities exist for additional statements to be made to the Inspector to elaborate on representations previously made under Regulation 19. Those parties who made representations under Regulation 19 may also be invited by the Inspector to participate in Hearing Sessions.
Receipt of Inspector's report, Main Modifications and adoption,	Regulations 25 & 26	The Inspector writes a report of the examination and decides what changes (if any) need to be made. Once this report is received, the Council have to amend the plan in line with the recommendations. It is this version of the Plan that will be adopted.

(SCI)

### Duty To Cooperate

In relation to Plan making, the government introduced a Duty to Cooperate in the Localism Act 2011; many of the consultees required under the Duty to Cooperate are already included in the list of 'statutory consultees' and 'general consultation bodies'.

This Duty to Cooperate is not defined as consultation, but ensures that we work with neighbouring authorities and other public bodies to address strategic issues that affect Local Plans and cross boundary matters such as roads and secondary education provision. This will ensure that infrastructure providers are involved in decisions about how the borough may change over time, and are able to incorporate this into their own plans and strategies for the provision of their services. This is important as the planning system does not have control over all infrastructure and services, and is therefore reliant on partner organisations. We will report on how the Council has met the Duty to Cooperate in our Annual Monitoring Report (AMR).

### Supplementary Planning Documents

A Supplementary Planning Document (SPD) is a document which can be used to add further detail to policies in a Local Plan. They can be used to provide additional guidance on the development of a specific site or on a particular issue. SPDs are a material consideration in determining planning applications, but do not form part of the development plan. The following table provides an overview of the preparation stages:

<b>Key Stages</b>	<b>Town and Country Planning (Local Plan) (England) Regulations 2012 (as amended)</b>	<b>Consultation details</b>
Consultation on draft SPD	Regulation 12	A copy of the proposed SPD is made available for public consultation for a period of 4-6 weeks.
Adoption	Regulation 14	Following public consultation, the draft SPD may be amended to take into account issues raised before being adopted by the Council.

The National Planning Policy Framework (updated July 2021) states that SPDs should only be produced where they can help applicants make successful applications or aid infrastructure delivery and should not be used to add unnecessarily to the financial burdens on development.

(SCI)

### How We Will Consult on Draft Plans

Local Authorities are required to publish all consultation documents on their website and make copies available at the Council offices, in the case of Tonbridge and Malling this is the Gibson Building, Kings Hill and Gateway at Tonbridge Castle; as well as all libraries in the Borough (unless this is unachievable due to national or local lockdowns associated with the Covid-19 pandemic).

We recognise the value in going beyond these measures and including more of the community in the planning policy process in order to best reflect local needs and priorities, and to maximise engagement. To reflect this, we will apply the following general principles to consultations where appropriate:

- We will work with parish councils and elected Members to achieve consensus
- We will make full use of community information networks, including local publications to disseminate information and seek views
- We will seek views of interested and affected parties as early as possible
- We will continue to co-operate with neighbouring boroughs and public bodies to ensure that strategic matters are appropriately addressed
- Involvement will be open to all regardless of gender, faith, race, disability, sexual orientation, age etc
- We will consult local community and voluntary bodies
- We will choose consultation processes which balance appropriately cost and time constraints, community impact and available resources
- We will publish all consultation documents and response forms on the website
- We will seek to maximise the use of electronic communication methods when contacting stakeholders and the community
- Consultation publications will be clear and concise and avoid unnecessary jargon, without understating the complexities of any decisions; and
- We will inform those who respond to a consultation of any outcomes and of later stages in the process.

Depending on what TMBC is consulting on, the type of consultation method may vary. We may therefore look to utilise any of the following specific methods of consultation:

- Notify everyone on our consultation databases by email and/or letter
- Publish adverts in the local press and local publications
- Use social media (Twitter @TMBC\_Kent, Facebook 'Tonbridge and Malling', Instagram @tmbc.kent)
- Hold public meetings or in-person consultation events/exhibitions
- Use our website to publish information
- Hold video conferences or meetings via Zoom or Microsoft Teams
- Hold workshops online or in-person
- Publish video guides/presentations or explainer videos to communicate key messages about what we are doing and share these via our website, social media and on request
- Publish leaflets and updates (hard copy and digital)
- Send letters and information

(SCI)

- Place notices on Council owned boards and those owned by parish councils and libraries
- Hold targeted workshops or meetings with identified groups (including those considered hard-to-reach)
- Digital/interactive consultations utilising specific software
- Make hard copies of documents available (unless made impracticable by national or local lockdowns as discussed).
- Providing documents on our website and hard copies for those without internet access (for planning policy consultations only).

Arrangements will be made to make all documents available in alternative formats such as braille, should this be required. Assistance for those whose first language is not English will be provided, including, where appropriate the use of Language Line.

### **Sustainability Appraisal**

Local Authorities must undertake a Sustainability Appraisal (SA) of their Local Plan. Sustainability Appraisal (SA) aims to ensure that the policies and proposals reflect the principles of sustainable development. An SA Scoping Report was prepared at the start of Local Plan preparation, and further SA work will be undertaken whilst preparing each stage of the Local Plan. A Final SA Report will be published and consulted on alongside the Local Plan Publication Stage (Reg 19).

### **How Your Comments Help**

The information we obtain through community and stakeholder engagement will be used to inform our decisions and shape the documents we produce. We acknowledge that an important part of community involvement is to report back to those who have taken the time to get involved. Whilst we welcome and encourage comments, it can be difficult to find solutions that satisfy all stakeholders, but we do listen and seriously consider all comments and suggestions that are put forward in response to consultations.

Following a period of consultation, a summary report will be produced outlining all representations received. This is a formal stage of the Local Plan process, and a consultation report will be submitted to the Planning Inspectorate with the draft Plan for independent examination (Reg 22).

### **Development Management**

Development Management is a statutory decision-making function, responsible for the granting and refusing of planning permission for development and enforcing against breaches of planning control. It is an enabling function to achieve well-designed homes, places of work, and important infrastructure such as new transport facilities and schools.

(SCI)

## Planning Applications

Where applicable, planning applications should be accompanied by a document setting out what consultation has been carried out by the applicant, including details of public involvement and how this might have influenced the planning application proposals.

Once an application has been submitted, validated and entered onto the Planning Register, the consultation process will commence and representations will be invited in accordance with the relevant legislation (Article 13 of the Town and Country Planning (Development Management Procedures) (England) Order 2010 as amended). These requirements vary according to the type of development proposed and any particular designations applicable to the application site.

Planning applications are public documents and can be viewed on the [Council's website](#). In addition, the Council publishes a weekly list of planning applications received. This is also published on the [Council's website](#) and can be viewed in person at the Council's offices by prior appointment.

All planning application decisions are published on the Council's website along with the reasons for the decision. All comments received on an individual planning application, including those from statutory consultees, are posted on the Council's website as soon as possible after they are received.

Applications can be inspected at any time on the website, as well as via public access computers during normal office hours at the following premises:

- Gibson Building, Gibson Drive, Kings Hill, ME19 4LZ
- Tonbridge Castle, Castle Street, Tonbridge, TN9 1BG

If you have an interest in a particular area, application or site history, you can set up an account on our website and receive relevant email updates by selecting your area of interest or the 'track' option. A Weekly List of all applications is produced and is available on the website.

The statutory publicity for planning applications is undertaken by the notification of adjoining neighbours and where relevant the posting of a yellow 'Planning Notice' on or adjoining each application site. The posting of a notice is intended to advise immediate neighbours and the public generally of a current application. The initial statutory period of notification is 21 days. The requirements are different for EiA's (see below).

## Environmental Impact Assessment Consultation Procedures

The process of Environmental Impact Assessment (EiA) in the context of town and country planning in England is governed by the [Town and Country Planning \(Environmental Impact Assessment\) Regulations 2017 \(the '2017 Regulations'\)](#). These regulations apply to development which is given planning permission under Part III of the Town and Country Planning Act 1990.

The aim of EiA is to protect the environment by ensuring that a local planning authority when deciding whether to grant planning permission for a project, which is likely to have significant effects on the environment, does so in the full knowledge of

(SCI)

the likely significant effects, and takes this into account in the decision-making process.

The Environmental Statement (and the application for development to which it relates) must be publicised electronically and by public notice. The statutory consultation bodies and the public must be given an opportunity to give their views about the proposed development and the Environmental Statement.

The planning application and the Environmental Statement should be publicised in accordance with the procedures set out in [article 15](#) and [article 16](#) of, and [Schedule 3](#) to the Town and Country Planning (Development Management Procedure) (England) Order 2015. [Schedule 3](#) to the Order contains the appropriate form for the notices to be published in the local press and posted on site, which must:

- state that a copy of the Environmental Statement is included in the documents which will be open to inspection by the public and give the address where the documents can be inspected free of charge
- give an address in the locality where copies of the Environmental Statement may be obtained
- state that a copy may be obtained at that address while stocks last and the amount of any charge to be made for supplying a copy
- give details of a website maintained by or on behalf of the authority on which the environmental statement and the other documents have been made available; and
- state the latest date by which any written representations about the application should be made to the local planning authority (being a date not less than 30 days later than the date on which the notice is published).

Copies of the Environmental Statement and the application must be sent to those consultation bodies that have not received one directly from the applicant.

Any particular persons or bodies (including non-governmental organisations promoting environmental protection) whom the local planning authority is aware are likely to be affected by, or have an interest in, the application, but are unlikely to become aware of it through a site notice or local advertisement, should be sent equivalent information to that publicised in the newspaper notice, so that they may obtain a copy of the Environmental Statement and comment or make representations if they wish.

The local planning authority must send a copy of the Environmental Statement and planning application to the Secretary of State within 14 days of receipt.

The Environmental Statement must be placed on Part I of the planning register, as should any related screening or scoping opinion or direction as soon as possible after publication.

### **Permitted Development**

'Permitted development rights' cover certain types of work which do not need planning permission. It is legislated by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The Order sets out the circumstances under which permitted development does, or does not, apply. Prior Approval is required to be obtained first from the Council.

(SCI)

Permitted development rights do not apply to flats, maisonettes or other buildings. Furthermore, commercial properties have different permitted development rights, and rights are more restricted in Conservation Areas and Areas of Outstanding Natural Beauty.

### **Planning Performance Agreements**

Planning Performance Agreements (PPA's) were proposed in the Planning White Paper (2007) as a means of speeding up the delivery of large-scale applications. They provide a framework for dealing with large scale planning applications in a collaborative way. Where used by prior agreement with the Council, the applicant must ensure that all pre-application community consultation is meaningful and relevant. The Council will also consult as part of the formal planning application process.

### **Pre-Application Advice**

The Council has a long-standing practise of encouraging developers to discuss their proposals with planning officers prior to submitting an application. This helps to confirm whether the principle of development is acceptable and to clarify the format, type and level of detail required to enable the Council to determine an application. Pre-application advice is currently provided on request and is subject to a fee, which will vary in scale, depending on the type of development proposed and the officer time required. More information on the Council's charging regime and the level of information required to enable the Council to provide a detailed response is available on the [TMBC website](#).

In many cases, the Council encourages applicants to enter into early engagement at the appropriate level with the local community and other interested parties as advocated by the National Planning Policy Framework (NPPF) (updated July 2021).

### **Planning Committee**

TMBC has 3 area planning committees. Each committee has been appointed to make decisions on planning applications and related matters and exercise all functions of the council as the Local Planning Authority relating to their respective wards as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000) except where recommended for approval in fundamental conflict with the plans and strategies which together comprise the Development Plan.

Whilst the determination of a planning application is not a 'quasi-judicial' process, it is a formal administrative process involving the application of policies with reference to legislation/case law.

To be able to speak at meetings of the planning committee, representors need to submit a formal comment to Planning Services at least two days before the meeting and register with Democratic Services by 5pm on the day before the meeting.

Those wishing to speak can email [committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk) who will be able to offer further guidance on the rules for public speaking.

(SCI)

Area 1 Planning Committee is for functions relating to town and country planning and development control for the Wards of Cage Green; Castle; Hadlow (that part within the parish of Hadlow); Higham; Hildenborough; Judd; Medway; Trench and Vauxhall.

Area 2 Planning Committee is for functions relating to town and country planning and development control for the Wards of Birling; Borough Green and Long Mill; Downs and Mereworth; East Peckham; Kings Hill; Leybourne and Ryarsh; Wateringbury; West Malling and Leybourne; West Peckham; Wrotham, Ightham and Stansted.

Area 3 Planning Committee is for functions relating to town and country planning and development control for the Wards of Aylesford North & Walderslade; Aylesford South; Burham & Wouldham; Ditton; East Malling; Larkfield North; Larkfield South; Snodland East & Ham Hill; and Snodland West & Holborough Lakes.

## **Planning Appeals**

You can appeal a planning decision if either:

- you disagree with it
- the decision was not made within eight weeks (13 weeks for a major development, such as 10 or more dwellings or a building of more than 1,000 square metres) or 16 weeks for EIA development

Applicants have the right to appeal against a refusal of a planning application or against any conditions imposed by the Council, or if the Council does not make a decision on an application within the statutory time frame. There are no provisions for third parties, including objectors, to appeal against a decision.

Find out how to appeal to the planning inspectorate against a planning decision on [www.gov.uk](http://www.gov.uk). The appeals process is managed by the Planning Inspectorate, in accordance with their published procedural guidelines. An appeal may be determined by written representations, an informal hearing or a public inquiry. Appeals determined by written representations involve an exchange of statements and may include a site visit by the Inspector. Informal hearings are a discussion between parties, chaired by an Inspector. Public inquiries are much more formal with parties usually using legal representation, and are often used for major planning application proposals.

## **Tree Matters**

### Background and procedures

In accordance with the national tree preservation legislation, trees can benefit from statutory protection by inclusion within a Tree Preservation Order (TPO) and/or by virtue of standing within a designated Conservation Area.

### Trees included within a TPO

TPOs can be issued by Local Planning Authorities and are made to protect trees that are of public amenity value. All types of tree, but not hedges, bushes or shrubs can be protected, and a TPO can protect anything from a single tree to all trees within a defined area or woodland. A TPO is a written order, which makes it a criminal

(SCI)

offence to cut down, top, lop, uproot, wilfully damage or destroy a tree protected by that order, or to cause or permit such actions, without the authority's permission.

In accordance with the legislation treatment of tree(s) which are included within a TPO requires the prior formal consent of the LPA (Tonbridge and Malling Borough Council). An application to undertake treatment to TPO tree(s) has an eight week target date (starting from the date on which the complete valid application was received by the LPA).

Applications to discharge conditions imposed as part of a TPO tree work consent (e.g. requiring details of proposed replacement planting) also have an eight week target date.

#### Trees that are not included within a TPO, but benefit from Conservation Area protection

Trees in a Conservation Area that are not protected by an Order (TPO) are protected by the provisions in section 211 of the Town and Country Planning Act 1990.

In accordance with the legislation where a tree is standing within a designated Conservation Area (but not included within a TPO) anyone wishing to undertake treatment to that tree should give the LPA six weeks' prior written Notice of the Intended tree work. Such written notice (known as a s211 Notice of Intent) has a six week statutory time period (starting from the date on which the complete valid Notice of Intent was received by the LPA).

Please note the legislation does include some specific exemptions from the usual application/six week notification procedures (such as for works to a tree which is completely dead). Where an exemption applies the LPA's consent to carry out works is not needed, but written notice of those works may need to be given to the LPA in accordance with the legislation. If the LPA receives clear evidence/subsequently becomes aware that proposed work subject of an application/notification benefits from exemption provisions/does not require the consent of the LPA we will advise the applicant/agent accordingly.

National guidance and information regarding TPOs and trees in conservation areas can be found in the National [Planning Practice Guidance](#).

#### Publication/notification of tree work applications and notices

As tree works are not development, the requirements of article 15 of the Development Management Procedure Order (as amended) do not apply to tree work applications and notices. However, details of tree work applications and notices that have been received by TMBC appear on the Council's website and can be [viewed by using the search facility](#).

Applications for work to TPO trees/the discharge of conditions imposed as part of a TPO tree work consent and Notices of Intent for work to trees benefitting solely from Conservation Area protection will appear on the Planning weekly list (which can also be accessed by using the link above, the list for a particular week remains visible on the website for twelve weeks). As noted above s211 Notices of Intent have a statutory time period which the LPA cannot amend, or extend and any representations about tree work that is subject of a such a Notice should be made in

(SCI)

sufficient time so that such comments can be taken into account before the expiry of the six week period.

In addition, for applications to undertake treatment to TPO trees the Council will usually undertake further public consultation by sending written notification to neighbouring properties (those with a boundary that abuts the application site, or - where there is a large site which has many adjacent properties - those with a boundary that abuts the application site closest to the subject trees). The Council may, if deemed appropriate for the specific TPO tree work application, undertake alternative/wider consultation which could include putting up a site notice or sending out further letters of consultation.

### **Planning Enforcement**

Local planning authorities have the power to take enforcement action against inappropriate development or breach of planning conditions. The Council will always attempt to negotiate a solution with concerned parties first but, should this not be possible, formal enforcement action may be taken. Action could be taken by the issuing of:

- An enforcement notice
- A stop notice
- A temporary stop notice
- A breach of condition notice.

If the breach is serious or of an urgent nature, an injunction may be sought.