

TONBRIDGE AND MALLING BOROUGH COUNCIL

CABINET

MINUTES

Wednesday, 7th September, 2022

Present: Cllr M D Boughton (Chair), Cllr R P Betts, Cllr V M C Branson, Cllr M A Coffin, Cllr D A S Davis, Cllr D Keers, Cllr P J Montague and Cllr K B Tanner

In attendance: Councillors D Lettington and Mrs A S Oakley were also present pursuant to Access to Information Rule No 23.

Virtual: Councillors Mrs J A Anderson, R I B Cannon, S A Hudson, W E Palmer, M R Rhodes and J L Sergison participated via MS Teams and joined the discussion when invited to do so by the Chair in accordance with Access to Information Rule No 23.

PART 1 - PUBLIC

CB 22/79 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct.

CB 22/80 MINUTES

RESOLVED: That the Minutes of the meeting of the Cabinet held on 5 July 2022 and the extraordinary of Cabinet held on 4 August 2022 be approved as a correct record and signed by the Chair.

MATTERS SUBMITTED FOR INFORMATION

CB 22/81 DECISIONS TAKEN BY CABINET MEMBERS

Details of the Decisions taken in accordance with the rules for the making of decisions by executive members, as set out in Part 4 of the Constitution, were presented for information.

Subsequent to the publication of the agenda, the following decisions had also been taken by Cabinet Members:

- D220074MEM – Medway Valley Partnership
- D220075MEM – Debts for Write Off – Council Tax
- D220076MEM – Debts for Write Off – Housing Benefit
- D220077MEM – Household Support Fund Addition Grant – Coats for Kids

- D220078MEM - Climate Change Officer

EXECUTIVE KEY DECISIONS - DECISIONS TAKEN IN ACCORDANCE WITH PART 3 OF THE CONSTITUTION

CB 22/82 STATEMENT OF COMMUNITY INVOLVEMENT

Decision Notice: D220079MEM

Consideration was given to the recommendations of the Housing and Planning Scrutiny Select Committee of 19 July 2022 (as set out at Minute Number HP 22/5).

Members attention was drawn to two amendments that had arisen since the meeting of the Housing and Planning Scrutiny Select Committee as detailed below:

(1) Page 7, first paragraph, to read:

'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 (unless this is unachievable due to national or local lockdowns associated with the Covid-19 pandemic).'

(2) Page 8, first sentence, to read:

'Place notices on Council owned boards and those owned by parish councils.'

Particular reference was made to the General Data Protection Regulations (GDPR), as set out on page 3 of the Statement, and the requirement for those wishing to be contacted in relation to community engagement and updates to the Local Plan to register with the Borough Council. It was noted that people would be invited to register in a number of ways including the TMBC app, via email and in writing.

Finally, it was confirmed that there would be regular updates on the progress of the Local Plan, including the Duty to Co-operate, provided to the Housing and Planning Scrutiny Select Committee.

RESOLVED: That subject to the two amendments set out above, the Statement of Community Involvement be adopted for development management and planning policy purposes.

CB 22/83 REGULATION 18 LOCAL PLAN

Decision Notice: D220080CAB

Consideration was given to the recommendation of the Housing and Planning Scrutiny Select Committee meeting held on 6 September 2022 (as set out at Minute Number HP 22/12).

Further to the recommendation of the Scrutiny Select Committee, the Director of Planning, Housing and Environmental Health confirmed that the Members views in respect of the General Data Protection Rules (GDPR) would be given due regard as part of the consultation process and that the Urban Capacity Study specification and methodology would be circulated to Members under confidential cover as soon as possible. In addition, a number of factual points had been raised and these would be clarified and corrected if appropriate before the consultation was published.

Cabinet recorded appreciation to all those involved in preparing the Local Plan.

RESOLVED: That

- (1) the commencement of the Regulation 18 consultation on the draft Local Plan and Interim Sustainability Appraisal be approved;
- (2) authority be delegated to the Director of Planning, Housing and Environmental Health for any minor amendments, including typographical corrections, to the Regulation 18 consultation on the draft Local Plan; and
- (3) the publishing of evidence base documents, as set out in Annex 2 to the report, alongside the draft Local Plan be approved.

CB 22/84 HOUSING ALLOCATIONS SCHEME REVIEW

Decision Notice: D220081CAB

Consideration was given to a revised Housing Allocations Scheme which had been amended to reflect several significant changes in legislation including the introduction of the Homelessness Reduction Act 2017 and the Domestic Abuse Act 2021. The opportunity was also taken to ensure that the Tonbridge and Malling Borough Council Scheme was fit for purpose and legislatively correct.

Any changes to an allocations scheme required local authorities to engage with housing providers operating in the local area to ensure they had a reasonable opportunity to comment on the proposals. In addition, the guidance advised that when an alteration was made which reflected a major change of policy then the local authority had to notify those

affected by the changes and have the effect of that change brought to their attention.

Particular reference was made to the implementation of new IT systems used by Kent Homechoice Partnership for the administration of the Housing Register. As a result, it was proposed that the launch of the Housing Allocations Scheme was delayed until late Spring 2023 to co-ordinate with these changes.

After careful consideration of the legal implications, the financial and value for money considerations and the equality impact assessment the Cabinet

RESOLVED: That

- (1) the draft Housing Allocations Scheme (set out at Appendix B) be approved;
- (2) responsibility for agreeing and implementing the final version of the Scheme, following the required engagement, be delegated to the Director of Planning, Housing and Environmental Health in consultation with the Cabinet Member for Housing; and
- (3) the implementation of the new Scheme in line with the implementation of the new housing system, due to be launched in Spring 2023, be approved.

EXECUTIVE NON-KEY DECISIONS - DECISIONS TAKEN IN ACCORDANCE WITH PART 3 OF THE CONSTITUTION

CB 22/85 HIGHWAY OFFICER ATTENDANCE AT TMBC AREA PLANNING COMMITTEES

Decision Notice: D220082CAB

Consideration was given to the recommendations of the Housing and Planning Scrutiny Select Committee meeting held on 19 July 2022 (as set out at Minute Number HP 22/6).

RESOLVED: That

- (1) the contents of the report presented to the Scrutiny Select Committee be noted;
- (2) the concerns of Members with not having an agreed protocol in place be set out and relayed to the County Cabinet Member for Highways and Transport; and
- (3) a Member and Senior Officer Group be established to liaise with Kent County Council with the aim to seek a compromise on an

agreed protocol, articulating a counter proposal from Tonbridge and Malling Borough Council

CB 22/86 EXECUTIVE SCRUTINY PROTOCOL

Decision Notice: D220083CAB

Consideration was given to the recommendation of the Overview and Scrutiny Committee meeting held on 7 July 2022 (as set out in Minute Number OS 22/24). Subsequent to this meeting, the Chair of the Overview and Scrutiny Committee had suggested a further amendment in respect of 'expectations of the Cabinet' (page 3 of the draft Protocol) and asked that a Cabinet Portfolio Holder attend in person when requested to do so.

Cabinet supported this request in principle but recognised that there were occasions when a Portfolio Holder might not be able to attend in person due to the short notice in respect of call-in of decisions and proposed that another Portfolio Holder or the Leader would attend in person when necessary.

The further change to the draft Protocol was proposed by Councillor Boughton, seconded by Councillor Coffin and agreed by Cabinet.

RESOLVED: That the draft Protocol (as set out at Annex 1 to the report) be approved, subject to the

- clarification of the wording of the Protocol with regard to access to key information (in accordance with paragraph 40 of the Statutory Guidance) in consultation with the Leader and Chair of the Overview and Scrutiny Committee; and
- amendment of 'expectations of Cabinet' so that the first paragraph read as follows:

'It is expected that Cabinet Portfolio Holders should attend meetings of the Overview and Scrutiny Committee in person, when requested, to present reports relevant to their portfolio and answer any relevant questions. Where a Portfolio Holder is unable to attend on a particular date it is expected that another Portfolio Holder or the Leader will attend on their behalf.'

CB 22/87 EAST PECKHAM ALLOTMENTS - COMPULSORY PURCHASE ORDER

Decision Notice: D220084MEM

Further to Decision Notice [D210040CAB](#) of 16 March 2021, the report of the Director of Central Services and Deputy Chief Executive advised that East Peckham Parish Council had secured alternative land for the

provision of allotments. Consequently, they no longer wished to pursue the Compulsory Purchase Order as previously agreed.

Cabinet considered whether to continue with the Compulsory Purchase Order to acquire the land as allotments to be administered by the Borough Council or to discontinue with making the Order.

Having had regard to the legal implications, the financial and value for money considerations and the risk assessment detailed in the report, the Cabinet

RESOLVED: That the making of a Compulsory Purchase Order under s.39(7) of the Small Holdings and Allotments Act 1908 in relation to land at Church Lane, East Peckham be discontinued.

CB 22/88 COVID-19 ADDITIONAL RELIEF FUND POLICY

Decision Notice: D220085CAB

The report outlined proposed changes to the current Covid-19 Additional Relief Fund and set out a number of options to maximise the amount of relief that could be awarded to local businesses.

It was noted that £329,672 of the original allocation provided by Government during the pandemic remained unspent and this would be returned when the deadline for award relief expired on 30 September 2022.

Careful consideration was given to the options set out in the report, together with the legal implications and the financial and value for money implications. Given the current economic climate, the Cabinet felt that local businesses could benefit from additional discretionary relief funding and on balance felt that a combination of Options B and C represented best value for money and financial support. This would provide businesses with grant funding totalling approximately £312,000.

RESOLVED: That Options B and C, to increase the rateable value limit to £109,999 and include advertising rights in the list of eligible properties, be progressed with immediate effect.

CB 22/89 SATURDAY FREIGHTER SERVICE

Decision Notice: D220086CAB

Following its temporary suspension, Cabinet considered the future of the Saturday Freighter Service. Consideration was also given to recommendation CE 22/5 (1) from the Communities and Environment Scrutiny Select Committee of 20 July 2022.

Careful consideration was given to the fact that the service did not encourage recycling; none of the waste collected, apart from electrical items, could be recycled; alternative disposal opportunities were now available to residents (as detailed in 1.3 of the report) including the recent opening of KCC's Household Waste Recycling Centre at Allington; environmental factors; that there appeared to be no correlation between the level of incidents of fly tipping and the continued suspension of the service and customer feedback.

Particular reference was made to the financial and value for money considerations (as detailed in 1.9 of the report) and it was recognised that the reinstatement of the service would impact on the income received by the Borough Council from the bookable bulky collection service and the recycling Performance Payments received from KCC. However, the impact of either of these elements was difficult to estimate.

It was also noted that a Saturday Freighter was not provided by other local authorities in Kent, with the exception of Tunbridge Wells Borough Council, and the service was discretionary.

On the grounds that alternative opportunities for the disposal of bulky items existed, that data suggested no correlation between increased fly tipping and the suspension of the service, that the service did not promote or incentivise residents to recycle and did not support the Borough Council's Climate Change Strategy and that the non-reinstatement of the service would deliver a saving compared to the current budget provision Councillor Betts proposed, seconded by Councillor Tanner, that the recommendation of the Scrutiny Select Committee be supported.

RESOLVED: That the recommendation of the Communities and Environment Scrutiny Select Committee to remove the Saturday Freighter Service be approved.

CB 22/90 EXCLUSION OF PRESS AND PUBLIC

The Chairman moved, it was seconded and

RESOLVED: That as public discussion would disclose exempt information, the following matters be considered in private.

EXECUTIVE KEY DECISION

CB 22/91 HOUSEHOLD BULKY REFUSE COLLECTION SERVICE

(Reasons: LGA 1972 Schedule 12A Paragraph 3 – Financial or business affairs of any particular person)

Decision Notice: D220087CAB

The report set out options for fees and charges for the provision of services in respect of household bulky refuse and fridge/freezer collections and suggested a marketing campaign for the Service.

After careful consideration of the financial and value money implications, the risk and equality impact assessments and to provide support to those on lower incomes Councillor Boughton proposed, seconded by Councillor Betts, that option 3 (to reduce the cost of concessionary fees) be implemented within the current financial year.

Concern was also expressed about the rate of inflation and the implications in respect of the contractor subsidy and Cabinet agreed that the contract should be increased in line with inflation from April 2023.

RESOLVED: That

- (1) the concessionary fee for those in receipt of Council Tax Reduction be reduced to £12 per annum and the level of concessionary collections be reduced to two per year and implemented within 2022/23; and
- (2) the subsidy fee levied should be increased in line with the projected contract indexation, as per inflation, levels from 1 April 2023.

EXECUTIVE NON KEY DECISION

CB 22/92 GIBSON BUILDING - HIGH LEVEL OPTIONS FOR LONG TERM OFFICER ACCOMMODATION

(Reasons: LGA 1972 Sch 12A Paragraphs 3 and 5 – Financial or business affairs of any particular person and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.)

Decision Notice: D220088CAB

The report provided an update on progress with reviewing the Borough Council's office accommodation requirements. Consideration was also given to the recommendations of the Finance, Regeneration and Property Scrutiny Select Committee of 26 July 2022.

RESOLVED: That

- (1) the options set out in the report to the Finance, Regeneration and Property Scrutiny Select Committee be noted;
- (2) the view that the main offices of the Borough Council should continue to be located in Kings Hill be supported;

- (3) the view that the co-location arrangement with Kent Police should continue, if a suitable solution was identified be supported;
- (4) Officers be instructed to progress the further actions recommended by Counsel in respect of the removal of covenants (as set out in Annex 2 to the report);
- (5) Officers be asked to carry out further investigation into the feasibility of Option 4 (as detailed in the report), including negotiating a settlement with Kent County Council on the alteration/removal of the covenants; and
- (6) a further progress report be presented to the Finance, Regeneration and Property Scrutiny Select Committee in due course.

The meeting ended at 8.40 pm