

TONBRIDGE & MALLING BOROUGH COUNCIL
HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

06 December 2022

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

1 IGN3 AND SPG4 UPDATE AND WAY FORWARD WITH LOCAL PLAN

1.1 Introduction

- 1.1.1 At the meeting of the Housing and Planning Scrutiny Select Committee on 19 July 2022 members requested that Carports, Garages and Interim Guidance Note three (IGN3) be included on the work programme for the committee. In informal consultation with the Members who made this request and with the Cabinet Member for Strategic Planning & Infrastructure, officers have refined the scope of this report, which seeks to set out the current framework and policy around parking standards within TMBC. The report also sets out a current high level interim position to assess development management applications and seeks to review possible options around updating the standards and providing recommendations to support a new parking standards policy within the new Local Plan. The policy would commit to producing a Supplementary Planning Document either as a stand-alone document on parking or including a document on Design guides/codes which could include parking standards but would also include more general design quality standards following adoption of the Local Plan.
- 1.1.2 There are two related but distinct matters for Members to consider in this report. The first is the current position relating to development management (both applications and enforcement) and the second is the longer term consideration of how we better shape parking provision, particularly on large scale development sites, utilising lessons learnt from existing developments.

1.2 Current Legal and Policy Framework and Background

- 1.2.1 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise as set out in Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004).
- 1.2.2 In relation to decisions, applications are assessed against the TMBC Development Plan adopted in 2007 as part of the Local Development Framework. The important material considerations comprise of the National Planning Policy Framework, July 2021 (“NPPF”) and the Planning Practise Guidance (“PPG”).

- 1.2.3 Paragraph 11 of the NPPF requires that “plans and decisions should apply a presumption in favour of sustainable development” where “plans should promote a sustainable pattern of development that seeks to ...align growth and infrastructure, improve the environment, mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects”.
- 1.2.4 For decision making, the NPPF requires that planning authorities approve development proposals which “accord with an up-to-date development plan without delay”.
- 1.2.5 In relation to the Development Plan, policy SQ8 of the TMBC Managing Development and Environment DPD sets out several criteria for development in relation to parking as follows:
1. Before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development is in place or is certain to be provided.
 2. Development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.
 3. Development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted.
 4. Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.
 5. Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures, and these must be provided before the development is used or occupied.
- 1.2.6 Points 2 and 4 above are most relevant as they deal with harm to highway safety and compliance with parking standards which are said will be set out in a Supplementary Planning Document. The pre-ambble to this policy in paragraph 6.4.22 confirms that parking standards will be set out in a Supplementary Planning Document however in the meantime, “the Council will continue to apply the standards set out in SPG4 to the Kent and Medway Structure Plan.
- 1.2.7 A Supplementary Planning Document (as referred to in the policy) was not adopted by the Council (as this requires a statutory process to be followed), however the Council adopted Interim Guidance Note 3 (IGN3) for planning purposes as set out below. The adopted policy position therefore as set out by SQ8 is that the “Council will continue to apply the standards set out in SPG4”, with IGN3 being adopted for development management purposes.

1.2.8 The Council has therefore two documents adopted for decision-making purposes in relation to car parking which include:

- Kent County Council Interim Guidance Note 3: Residential Parking Standards (applicable to residential development)
- Supplementary Planning Guidance 4: Kent Vehicle Parking Standards (SPG4) (applicable to all other development types and includes design guidance)

1.2.9 In addition to this, on 18 November 2014, the Planning and Transportation Advisory Board adopted a revised approach to the use of IGN3 when considering residential planning applications. The approach taken was that garages (and carports/car barns unless the right to enclose them for use as storage is removed by condition) would not form part of the supply side in any parking provision, irrespective of siting. **Annexes 1 and 2** outline the report to PTAB and subsequent record of the decision.

1.2.10 In August 2021, the Council released a position statement in relation to IGN3 as set out in **Annex 3**. In summary, this confirmed that TMBC would afford substantially less weight to IGN3 when assessing planning applications, this being since the evidence base which determined the number of parking spaces required for each dwellinghouse dated back to the 2001 census data and was therefore considered out of date. It was also considered that the standards were not informed by the latest national policy (the National Planning Policy Framework and associated material planning considerations such as the National Design Guide).

1.2.11 The position statement affirmed that assessments on parking schemes would focus on the following.

- Individual detail of the development in question
- Site specific circumstances, and
- Prevailing locational characteristics of any given case.

1.2.12 However, both SPG4 (and its evidence base) and IGN3 are aged. SPG4 was produced in July 2006 and IGN3 in November 2008. They both significantly pre-date the NPPF and the evidence base underpinning the documents is around 20 years old. Both documents are considered to carry less weight in decision making but are still material considerations in the overall planning assessment (and should be read together with the position statement).

1.3 Current high level interim position to assess development management applications and call-in procedures

- 1.3.1 The Interim high-level position for Development Management Purposes has been arrived at using the material considerations set out above and the revised approach and position statement of PTAB.
- 1.3.2 *Garages:* The 2021 position statement raised concerns with the quantities of parking spaces stated within IGN3 due to the dated evidence base. The assessment in IGN3 which states “*In areas without on-street controls, many people do not use garages, even if they have to park on the street as a result*” is still considered relevant. Additionally, the approach adopted by the decision of PTAB on 18 November 2014 which affirms that garages would not form part of the supply-side in any parking provision calculation, irrespective of siting.
- 1.3.3 The current interim position on garages for development management purposes therefore is that they are not regarded as parking spaces as they are predominantly not used for parking and commonly used for storage. This position would apply to both new estate development and proposals to convert garages.
- 1.3.4 *Converting or enclosing car ports:* IGN3 confirms that open car ports or car barns are acceptable at all locations subject to good design. This position is considered unaffected by the most recent position statement (August 2021) as it is not impacted by the dated evidence base. Additionally, the PTAB decision on 18 November 2014 determined that car barns subject to planning conditions precluding them from becoming enclosed, would count towards parking provision.
- 1.3.5 The current interim position on car ports or enclosing car ports for development management purposes is that on new housing estates car ports are accepted in line with parking space requirements set out in IGN3 and SPG4 and for proposals for the enclosure or conversion of car ports, will be considered acceptable where the number of off-street parking spaces within the curtilage of the site adhere to both the parking space quantity and space size standards as set out in IGN3 and SPG4.
- 1.3.6 Since the adoption of SPG4 and of IGN3 for development management purposes, officers and members have sought to apply parking policies consistently to ensure sufficient parking is available within the curtilage of dwellings to prevent obstruction or danger to highway safety. Whilst each application is assessed on its own individual merits, considering the locational circumstances of the development, some clear policy principles should be applied in line with the policy standards and any changes to these standards that have been adopted as material considerations.
- 1.3.7 It is recognised that some developments, an example being the Countryside scheme which was within Phase 3 of Kings Hill and which included Ruton Square, Vickers Grove and Pioneer Avenue permitted under application TM/17/01392/RM in 2017 did not meet the updated requirements as set out by the 18 November 2014 decision by PTAB. For this scheme, garages did form part of the approved parking strategy for the development in addition to car barns, in curtilage external

parking and communal parking. This was not in accordance with the PTAB decision. The decision to allow garages to form part of the development of this area in Kings Hill was taken by Area 2 Planning Committee with the eventual mix of car parking spaces supported by Kent Highways (negotiations improved the parking mix to include more carbarns/carports and fewer garage spaces). The committee report was however clear that parking spaces did not fully adhere to IGN3 and members would have been aware when making their decision.

- 1.3.8 It is therefore accepted that there have been instances of inconsistency in the application of IGN3/SPG4 and applying the PTAB decision from 2014. However, whilst the current policy position, position statement and Interim position seek to add consistency to the Council's decision-making process for the assessment of applications on parking grounds, there will inevitably be exceptions to the general rule. The important matter is to consider the planning merits of each case, considering the policy guidance and the position statement and assessing whether an appropriate level of car parking remains available for each dwelling.
- 1.3.9 The Development Management Officer Protocol on Member Call ins sets out that:
- Member for the relevant Ward in which the application site falls may require that the application be determined by the relevant Area Planning Committee provided that:
- (a) The request is made within 21 days of notification of the application to the Member; and
- (b) The request is made with reasoned justification on proper planning grounds as determined by the Director of Planning, Housing and Environmental Health in consultation with the relevant Area Planning Committee Chairman.
- 1.3.10 Given the issues set out above and with regard to the loss of garage space, the approach to be adopted will be that the loss of garage spaces will not be considered a material planning reason for cases to be called in to committee under the Protocol on Member call ins.

1.4 Options around updating the standards

- 1.4.1 Several options have been considered and assessed in relation IGN3 and SPG4 and whether a more up to date evidence base and set of parking standards and guidelines can be developed to replace these current aged guidance notes.
- 1.4.2 As stated above, both SPG4 and IGN3 are aged and both significantly pre-date the NPPF with the evidence base for the documents being 20 years old. Similarly, the evidence behind TMBC Managing Development and Environment DPD, principally policy SQ8 is almost 14 years old. Whilst policy SQ8 refers to development proposals complying with parking standards which will be set out in a Supplementary Planning Document (SPD), given the evidence base behind and the age of the DPD and the significant changes around national policy in the

NPPF, it is not advisable and indeed would be very unorthodox to develop new parking guidance on the back of this existing policy.

- 1.4.3 Any new or updated guidance which usually would take the form of an SPD (or if the previously cited planning reforms are progressed which propose replacing SPD's with Supplementary Plans (SP) and which would carry weight in decision making (material consideration) would need an up to date evidence base to support it. It would also require a policy which is consistent with national planning policy and must be in conformity with policies contained within the Local Plan/DPD. It is for this reason that any new or updated guidance for parking standards should be contained within a version of the plan which has the latest evidence base. This usually being a recently adopted or emerging Local Plan.
- 1.4.4 Paragraph 107 of the NPPF does allow for the setting of local parking standards for residential and non-residential development with policies considering, the accessibility of the development, the type, mix and use of the development, the availability of and opportunities for public transport, local car ownership levels and the needs to ensure an adequate provision of space for charging plug-in and other ultra low emission vehicles. This are all best addressed through a new high level parking policy and supporting SPD as set out below.
- 1.4.5 Paragraph 128 of the NPPF sets out how the vision for achieving well-designed places should be progressed. It requires Local Planning Authorities to prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code which reflect local character and design preferences. The Design guides and codes can be prepared at an area wide, neighbourhood or site-specific scale and can be produced either as part of a plan or as supplementary planning documents.

1.4.6 The options available to TMBC at this point in time are laid out in the table below;

Option	Outline	Delivery timescale
1. Do Nothing Scenario	This would retain IGN3 and SPG4 as existing together with the updated PTAB decision from 2014 and the Position Statement from 2021 which assesses parking schemes on those details as set out in 1.2.11 above. The Interim position in terms of assessing planning applications would also be retained. This would not address the concerns raised by members over the loss of off-street parking and the aged evidence base that sits behind SPG4 and IGN3.	Immediate
2. Request that KCC update SPG4 and IGN3	The evidence base and guidance documents were produced by KCC based on parking studies carried out almost 20 years ago and this evidence is now very aged. Councils who have progressed updated Local Plans have generally included a high-level parking policy with some committing to producing a more detailed parking Supplementary Parking Document with an up to date evidence base. This is then usually adopted as a material planning consideration and would be considered in conjunction with the adopted Local Plan (principally with reference to the parking policy).	Discussions have already taken place with KCC who have confirmed that at this time there are no plans to update SPG4 and IGN3.
3. Modify IGN3/SPG4 and update it	IGN3 was produced as part of the Kent Design Review for residential parking. As stated earlier in this report, it was produced in 2008 on the back of Planning Policy Statement 3 (PPS3) - Housing. SPG4 was produced in 2006 and supports policies of the now withdrawn Kent and Medway Structure Plan. The evidence base behind both is aged and significantly pre-dates the National Planning Policy Framework. Changes cannot be made to these guidance documents as these reflect the current policy position and are material planning considerations. A new evidence base would need to be commissioned which would need to include parking surveys. Essentially a new document would be required which would take the form of a Supplementary Planning Document which could be adopted as a material planning consideration.	As stated in 1.5.2, a new Supplementary Planning Document should not be produced on the back of policy SQ8 of the TMBC Managing Development and Environment DPD.

<p>4. TMBC includes a high level parking standards policy within the emerging Local Plan with a commitment to producing either a stand alone Supplementary Planning Document (or its replacement) on parking OR includes the design and layout of parking (including standards) within a comprehensive Design guide/code modelled on the National Model Design Code which also covers other matters on place making/shaping following adoption of the Local Plan</p>	<p>As part of the emerging Local Plan and following evidence gathered over the course of the emerging plan cycle, a high-level parking standards policy could be produced which would reference parking standards for both residential and non-residential development. Within the policy wording and pre-ample to the policy, TMBC would commit to producing a stand-alone SPD or its replacement (supplementary plans) which would support and expand upon the high-level policy. The SPD would be evidence based and would align with the approach to parking as detailed in the NPPF as well as providing guidance on high quality parking layouts, landscaping, design (including car port and car barns), parking for ultra-low emission vehicles, parking for disabled and cyclists as well as parking size dimensions and layouts. An example of a well detailed and informative Parking Standards SPD is included as Annex 4. Whilst commissioning work would need to be undertaken and a methodology worked up for the document, it is envisaged that similar themes as contained in Annex 4 document would be considered a requirement for a new supporting SPD to accompany a high-level parking policy in the emerging local plan.</p> <p>The requirements for a Supplementary Planning Document are set out in the Town and Country Planning (Local Planning) (England) Regulations 2012. Essentially there are four main stages to the SPD preparation. Preparation and informal consultation, formal consultation (four to six weeks), consideration of representations and completion of the final draft of the SPD and adoption of the SPD.</p> <p>The alternative option would be to include similar requirements as set out above within a comprehensive Design guide/code, modelled on the National Design Guide and National Model Design Code which could cover the design, layout and parking standards within a guide/code that would also cover design quality and standards across the borough.</p> <p>Detailed examination and consideration of the best options around Design guide/codes have not been undertaken at this early stage of plan preparation and therefore maintaining this should be explored.</p> <p>For the above reasons, option four is recommended.</p>	<p>The process would usually take between 12-18 months but could start to be progressed once the Council has certainty that the Local Plan will be adopted.</p> <p>If substantive objections were not received to the high-level policy at Reg 19, then this time frame could be shortened, however this would not be without risk and cost implications (see risk section below).</p>
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1.5 Legal Implications

- 1.5.1 Local Planning Authorities are required to prepare and keep up to date development plans for their area. The Planning and Compulsory Purchase 2004 (as amended) and The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) sets out the requirements and statutory process for the preparation of a Local Plan and Supplementary Planning Documents.

1.6 Financial and Value for Money Considerations

- 1.6.1 Each of the options have been reviewed to understand the financial impact. Option One is cost neutral. Options Two and Three have no direct financial implications as they are not considered feasible to take forward. Option Four (*TMBC includes a high level parking standards policy within the emerging Local Plan with a commitment to producing either a stand alone Supplementary Planning Document (or its replacement) on parking OR includes the design and layout of parking (including standards) within a comprehensive Design guide/code modelled on the National Model Design Code which also covers other matters on place making/shaping following adoption of the Local Plan*) will have direct financial and value for money considerations. It is difficult to estimate the costs of producing either a stand-alone SPD (or its replacement) on parking or including an SPD on Design guides/codes which could include parking standards but would also include more general design quality standards in line with the NPPF requirement. This would need to go out to the market for competitive tender and would depend on many variables.
- 1.6.2 Currently there is no budget for the preparation of an SPD around parking and these are usually costed between £50 to 80k, however, if parking standards were included within a design guide/code then the costs may increase. As set out in 1.4.5 above, the NPPF requires Local Planning Authorities to prepare design guides or codes either as part of a plan or as supplementary planning documents and it is envisaged that there would be economies of scale to undertake a design guide/code for the Borough which included parking standards. At this early stage in plan preparation, no decisions have been taken on how a design guide/code for the Borough will be taken forward, but it is likely that this will take the form of an SPD and not be included as part of the Plan.
- 1.6.3 This cost analysis does not currently take account of the officer time required to manage external consultants and refine studies into policy positions/run consultation exercises.
- 1.6.4 A recommendation on which SPD option to take forward cannot be given at this time until market testing has been undertaken but it is anticipated that work on either SPD option would not be undertaken until there was certainty around the adoption of the Local Plan. The costs therefore for undertaking this work whilst not budgeted for in the 2023/24 financial period could be budgeted for in the Local Plan budget in the financial year 2024/25. However, this would need to be considered in the overall financial context of the Local Plan, the budget for which is currently being reviewed. At the time that the budget setting was undertaken,

there was not an intention to progress an SPD on Parking Standards, or indeed any other SPDs, on a twin track timetable with the Local Plan, so this would likely represent an increase in budgetary requirements.

1.7 Risk Assessment

- 1.7.1 The preparation of the new local plan will provide the council with an up-to-date Local Plan on adoption (anticipated 2025). The commissioning of either a stand-alone SPD (or its replacement) on parking or including an SPD on Design guides/codes which could include parking standards but would also include more general design quality standards will address the current concerns over the aged evidence base to IGN3 and SPG4 and comply with the requirements of the NPPF. The risk of not updating parking standards means relying on an increased aged evidence base which does not consider current conditions and locational factors. Not preparing for Design guides/codes in the Plan would fail the requirements of paragraph 128 of the NPPF and risk making the plan unsound. This risk can be mitigated by committing to producing an SPD following adoption of the Local Plan.
- 1.7.2 A report on the high-level summaries and statics of responses received, and key themes identified to the Regulation 18 consultation is also included on the Agenda for H&PSSC to consider. Due to the high number of consultation responses and the limited time between the closure of the consultation and preparation of both reports, it has only been possible to provide very high-level outputs for the results submitted through the consultation portal (Inovem). This includes those submitting answers to specific questions posed (1158 questionnaire responses) and any additional comments (1643 other comments) totalling 2801 responses but does not include the outputs from approximately 2000 individual responses (by email) and approximately 500 individual responses (by post).
- 1.7.3 Having reviewed the transport comments submitted through the consultation portal, there have been 32 comments made excluding questionnaire responses which directly relate to transport matters. Whilst a variety of transport matters are raised, including improving cycle ways and paths, improving bus services which are limited, matters relating to pollution and congestion, capacity of the road network to take further development and many more alike, there appear to be no specific comments made in relation to the lack of parking spaces and the resulting congestion as a consequence and whether this is seen as a high priority in the borough.
- 1.7.4 Whilst a large proportion of responses have not been analysed at this time, there is a risk that other areas of greater priority than parking matters may emerge through the analysis of the consultation responses and through the emerging Corporate Strategy (such as climate change and housing). These new priorities could become a greater focus for policy development. Any new priorities may require additional budget to develop and therefore by using additional unplanned expenditure now to produce an SPD on parking, may impact on any available future budget to address the new priorities.

- 1.7.5 Progressing an SPD now would require the commissioning of a new evidence base without understanding the emerging priority areas from the consultation. However, by future funding an SPD or as part of design code, which would come after the Local Plan is adopted, would ensure that any other priority areas are included.

1.8 Equality Impact Assessment

- 1.8.1 The decision recommended within this paper will have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on the end user.

1.9 Recommendation

- 1.9.1 H&PSSC is asked to **RECOMMEND** to Cabinet Option Four - TMBC includes a high-level parking standards policy within the emerging Local Plan with a commitment to producing either a stand-alone Supplementary Planning Document (or its replacement) on parking OR includes the design and layout of parking (including standards) within a comprehensive Design guide/code modelled on the National Model Design Code which also covers other matters on place making/shaping following adoption of the Local Plan.

with **delegated powers** granted to the Director of Planning, Housing and Environmental Health to determine the most appropriate option on the form the SPD should take.

- 1.9.2 Members **NOTE** the position on current development management matters and how they will be handled as set out in paragraph 1.3.

Background papers:

contact: James Bailey
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Annex 1 - PTAB report on revised approach to use of IGN3

Annex 2 - Record of Decision of Cabinet Member

Annex 3 - IGN3 Position Statement

Annex 4 - Swale SPG on Parking Standards

Eleanor Hoyle

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