

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, REGENERATION AND PROPERTY SCRUTINY SELECT COMMITTEE

13 June 2023

Report of the Director of Central Services & Deputy Chief Executive

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

1 TMBC OWNED SITES – LOCAL PLAN

1.1 Introduction

- 1.1.1 As Members will be aware, the Council, acting as the Local Planning Authority (LPA), is preparing its new Local Plan and toward the end of last year undertook its Regulation 18 consultation.
- 1.1.2 As part of that process there are several ways potential development sites can be identified, including the Urban Capacity Study (UCS). Details of the UCS can be found on the Council's website under the Regulation 18 consultation evidence base [Local Plan \(Regulation 18\) consultation evidence base – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tmbc.gov.uk/Local-Plan-Regulation-18-consultation-evidence-base)
- 1.1.3 Members will be aware that potential development sites can be brought forward through the planning approval process and do not specifically require allocation in the local plan to do so. There are specific benefits of allocation within the local plan, however at this stage no decisions on particular sites for inclusion have yet been made by the Council as LPA. The planning policy team are at this stage seeking to understand availability of sites which have been identified through the UCS.
- 1.1.4 At its meeting on 14th March 2023, this Committee considered a report relating to 12 TMBC owned sites which were identified by the UCS (a copy of the meeting agenda, where the report and annexes can be viewed, can be found here [Agenda for Finance, Regeneration and Property Scrutiny Select Committee on Tuesday, 14th March, 2023, 7.30 pm \(tmbc.gov.uk\)](https://www.tmbc.gov.uk/Agenda-for-Finance-Regeneration-and-Property-Scrutiny-Select-Committee-on-Tuesday-14th-March-2023-7.30-pm)).
- 1.1.5 The report included sites where it had been quickly identified there were existing restrictions or specific characteristics which meant future development was considered unlikely. The Committee recommended to Cabinet the sites listed should be considered unavailable for development. Cabinet endorsed the Committee's recommendation at their meeting on 4th April 2023 (Decision No.D230035CAB).

- 1.1.6 The 14th March 2023 stated officers were analysing the remaining sites and a future report would be presented to the Committee with the findings.

1.2 TMBC Owned Sites

- 1.2.1 The Council as LPA has written to all landowners whose sites were identified in the UCS, which of course includes itself as landowner, seeking additional information about those sites.
- 1.2.2 Officers from several Services have input comments into the proforma supplied by the LPA to assist Members in deciding whether the sites should be considered available for development, which can be found at **Annex A**.
- 1.2.3 The information provided under the heading 'URBAN CAPACITY STUDY INFORMATION' has been populated by the study. The 'OPTIMISED RESIDENTIAL CAPACITY' figure is the number of residential units the software calculated as being suitable for the area based on the characteristics of the site.
- 1.2.4 Outlined below is some additional information which Members may find helpful in reaching a recommendation.

1.3 Housing Targets

- 1.3.1 The housing need figure generated by the government's standard method which features in the Council's Local Plan (Regulation 18) is 839 dwellings per annum. For the period up to 2040, this is over 15,000 homes (gross). This is a significant housing need, and in order to reduce the pressure for greenfield releases beyond existing settlements, opportunities within built-up areas with good proximity to local services need to be fully explored.

1.4 MDEDPD

- 1.4.1 The Managing Development and the Environmental Development Plan Document (MDEDPD) forms part of the Council's Local Development Framework and is used, amongst other things, to assess and determine planning applications for development. The MDEDPD was adopted in April 2010. The Plan can be found on the Council's website here [Managing development and the environment – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tonbridgeandmallingsborough.gov.uk/Managing-development-and-the-environment)
- 1.4.2 A number of the sites identified in the UCS are included in the MDEDPD under Policy Annex OS1A – Open Spaces to be Protected. Reference to this is included in the proforma at Annex A for each applicable site.
- 1.4.3 Members should note that where a site benefits from protection under the MDEDPD it would represent a significant hurdle to future development in terms of obtaining planning permission, however it does not automatically mean any form of development would be deemed to be unacceptable. For example, in the instance where a site had a number of other important factors or characteristics

which made future development appealing, these may outweigh the protection the MDEDPD affords it.

1.5 Biodiversity Net Gain (BNG)

- 1.5.1 Under the Environment Act 2021, all planning permissions granted in England will have to deliver 10% BNG to be calculated using the DEFRA Biodiversity Metric and that habitat managed for at least 30 years. BNG requirements will apply to most sites from November 2023, with small sites included from April 2024. Whilst further detailed guidance is awaited from DEFRA, to meet BNG requirements developers will need to assess the biodiversity and its condition on sites, and submit plans that will deliver a 10% increase.
- 1.5.2 In general, it will be more costly and technically challenging to increase biodiversity on a site that is currently green space and on which the development will remove mature trees and hedgerows, compared to a site that has already been developed.
- 1.5.3 The UCS TMBC owned sites include both undeveloped (e.g. open green spaces) as well as developed sites (e.g. car parks). If sites are sold for development it is likely that the differential costs and challenges of biodiversity assessments, improvements and long-term maintenance between types of sites would increase the tendency towards 'brownfield first' developments, over sites that are currently green spaces.

1.6 Interim Sustainability Appraisal

- 1.6.1 Included in the Council's Regulation 18 consultation was the Interim Sustainability Appraisal, which includes an assessment of alternative site options for the sites identified by the UCS. A full copy of the report can be found on the Council's website here ([Interim Sustainability Appraisal – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tonbridgeandmalling.gov.uk/interim-sustainability-appraisal)).
- 1.6.2 The proformas for each of the Council owned sites which are the subject of this report have been extracted and can be found at **Annex B**. The sites are in the same order as in Annex A.
- 1.6.3 For each site 14 sustainability appraisal objectives were individually assessed and scored by the UCS software. Scores for each objective range from Significant Negative to Significant Positive. Members may find these scores helpful when arriving at recommendations for each site.

1.7 Local Lettings Policy

- 1.7.1 The Council has nomination rights to affordable housing in the borough and as per our agreed policy position, will seek to agree local lettings plans (LLP) with providers of affordable housing on new housing developments and if needed for

specific reasons in existing provision and communities, e.g. anti-social behaviour in a particular area containing affordable homes.

- 1.7.2 The Council has agreed to seek to prioritise affordable home ownership homes, such as shared ownership, for local households and will make arrangements to support this where appropriate. The main priorities for use of local lettings plans are to give top priority for households with a local connection to the immediate area of the development and to achieve 50 per cent of first lets to households who are economically active. Each LLP is considered, developed and agreed in its own right so the aims, objectives and criteria may vary.
- 1.7.3 Any housing developed on Council owned land could therefore have an LLP in place to help manage lettings on the site, providing a direct benefit to the local community.

1.8 Tonbridge Town Centre

- 1.8.1 Members will be aware the Council is currently reviewing its land and property assets within Tonbridge town centre. The surface car parks around the Sainsbury's and Angel Centre site have been captured by the UCS however it was noted the Angel Centre itself was not included by the software, on the basis it is an existing, occupied building.
- 1.8.2 For completeness, if Members recommend the inclusion of the surface car parks in the area it is also recommended the Angel Centre itself is included.

1.9 Legal Implications

- 1.9.1 The matters raised in this report are considered to be routine, uncontroversial or not legally complex and a legal opinion has not been sought on these proposals.
- 1.9.2 As part of the Local Plan process, the Council is no different to any other landowner and therefore, all suitable sites need to be submitted to the Local Planning Authority if they are to be considered as part of the formal consultation. It is important that the Council through the Local Plan process can demonstrate that it has considered all available sites for development. The Council has to be seen to be following due process in relation to the submission of sites for possible allocation in the Local Plan and so the considerations in this report are appropriate in relation to Council owned sites.

1.10 Financial and Value for Money Considerations

- 1.10.1 In deciding whether sites could be made available for development, or not, within the life of the Local Plan, the Council will not actually be deciding to develop the sites, that is, the decision to bring a site forward for development will be the subject of a separate decision. It is therefore felt there are no financial or value for money considerations at this stage.

1.11 Risk Assessment

1.11.1 If all of the sites within the built-up areas are rejected, there is likely to be greater pressure for greenfield releases outside of settlement confines to help address our assessed needs for housing through the Local Plan process.

1.12 Equality Impact Assessment

1.12.1 Based on the fact this decision is linked to whether the sites should be made available for development in the future, not to develop the sites now, it is considered the decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.12.2 Should a site be brought forward to development in the future then at that stage an equality impact assessment would be undertaken.

1.13 Policy Considerations

1.13.1 Asset Management.

1.14 Recommendations

1.14.1 It is **RECOMMENDED** to Cabinet that;

1.14.2 Members' views on sites which are considered to be available/unavailable for development be taken into account in formally responding to the letter from the LPA regarding TMBC owned sites identified in the Urban Capacity Study.

Background papers:

contact: Stuart Edwards

Nil

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