

**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**OVERVIEW AND SCRUTINY COMMITTEE**

**01 August 2023**

**Report of the Scrutiny Officer**

**Part 1- Public**

**1 CALL IN - DECISION NOTICE – D230061CAB – TMBC OWNED SITES – LOCAL PLAN**

**The above decision (attached at Annex 1) has been called in. In accordance with “Call In” procedure, five members of the Overview and Scrutiny Committee have raised a valid “Call In” in respect of this decision.**

**1.1 Background**

1.1.1 On 7 July 2023 Cabinet Decision Notice D230061CAB was published relating to TMBC Owned Sites identified in the urban capacity study.

1.1.2 In accordance with Overview and Scrutiny – Cabinet Protocol, requests for Call In can be made by any five Members of the Overview and Scrutiny Committee. In this case, Councillors Hood, Hines, Cope, Hoskins and Thornewell, have made this request. The grounds of the call-in request (dated 10 July 2023) are set out below:-

*“I wish to call in the decision by Cabinet to make available three sites 59554, 59555 and 59572 for consideration by the LPA in respect of the forthcoming Regulation 18 of the Local Plan making process to the Overview and Scrutiny Committee.*

*The rationale for including these sites but discounting the other non-car park sites is incomprehensible and actually contradictory to the reasoning used by the HPSSC and Cabinet. I wish to limit the call in to the three sites I have specified.*

*The views of local members had been acknowledged by members in all other sites considered by H&PSSC. Green Group members actually abstained on the vote regarding 59469 as the local members voted to include the land in their ward and we respected their decision which has just been reversed now that they have changed their minds.*

*We believe the decision to include these sites is contradictory to;*

*CP1-3 The need for development will be balanced against the need to protect and enhance the natural and built environment. In selecting locations for development and determining applications the quality of the natural and historic environment, the countryside, residential amenity and land, air and water quality will be preserved and, wherever possible enhanced.*

*CP24-4 The Council will seek to protect, and wherever possible, enhance, existing open spaces, including the provision of public art and ensure that new open space is made to meet the future needs of the Borough.*

*CP26-3 Proposals for development that will result in the loss of whole or part of sites and premises currently or last used for the provision of community or recreation, leisure or cultural facilities will only be proposed in the LDF or otherwise permitted if:*

- A. An alternative facility of equivalent or better quality and scale to meet identified need is either available, or will be satisfactorily provided at an equally accessible location.*
- B. A significant enhancement to the nature and quality of an existing facility will result from the development or part of that facility or*
- C. the applicant has proved, the satisfaction of the council that for the foreseeable future there is likely to be an absence of need or adequate support for the facility.*

*The sites listed in respect of this call in would deliver only 8, 7 and 13 units of housing respectively and the loss of these sites to their communities is unacceptable to deliver such a minuscule number of new properties. Many of the other sites rejected at this stage would have delivered many more units and there is no logic for the inclusion of these in the next Regulation 18 consultation.*

*These sites are identified as amenity spaces to be protected within MDEDPD, they are home to a considerable number of mature trees and some benefited from recent work to increase biodiversity. It is incomprehensible that a council that has declared a Climate Emergency would decide as a landowner to follow a course of action which would have such a detrimental effect on biodiversity.*

*This call in is supported by Cllrs Hood, Hines, Cope, Hoskins and Thornewell”*

- 1.1.3 Pending further consideration by the Overview and Scrutiny Committee at this meeting, the decision at Annex 1 stands deferred.
- 1.1.4 If having considered the decision, the Overview and Scrutiny Committee wishes to make recommendations to the Cabinet, then it may refer it back to the Cabinet for reconsideration, setting out in writing the nature of those recommendations. If referred to the Cabinet they shall then reconsider it, amending the decision or not, before adopting a final decision.

- 1.1.5 If following a call in of the decision, the Overview and Scrutiny Committee does not refer the matter back to the Cabinet, the decision shall take effect on the date of this Overview and Scrutiny Committee i.e., 1 August 2023. Members of the Committee will note that the call-in request is limited to 3 sites only within the decision of Cabinet, although the entire decision currently stands deferred. For clarity, the Committee is asked to confirm that no recommendations are made in respect of all other sites within decision notice D230061CAB.
- 1.1.6 In accordance with paragraph 15(h) of the Overview and Scrutiny Procedure Rules, Cabinet can be required to reconsider any particular decision only once. No further call-ins are permitted of that particular decision.

## **1.2 Legal Implications**

- 1.2.1 In compliance with Overview and Scrutiny Procedure rules, a meeting has convened within five working days of the initial “Call In” request.
- 1.2.2 The appropriate legal references relating to the TMBC Owned Sites are set out in the initial Report to Cabinet (Annex 2)

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

- 1.3.1 As set out in the Report to Finance, Regeneration and Property Scrutiny Select Committee (Annex 2)

## **1.4 Risk Assessment**

- 1.4.1 As set out in (Annex 2)

## **1.5 Equality Impact Assessment**

- 1.5.1 As set out in (Annex 2)

## **1.6 Policy Considerations**

- 1.6.1 As set out in (Annex 2)

## **1.7 Recommendations**

- 1.7.1 Members to **CONSIDER** the decision by Cabinet to make available three sites 59554, 59555 and 59572 for consideration by the LPA in respect of the forthcoming Regulation 18 of the Local Plan making process, set out in Decision Notice D230061CAB dated 7 July 2023 and the request for call-in, and:
- 1.7.2 Following further consideration, if Members remain concerned about any aspects of the decision **REFER** the decision in respect of sites 59554, 59555 and 59572 back to Cabinet for reconsideration.

- 1.7.3 In light of the call-in request being limited to sites 59554, 59555 and 59572, **CONFIRM** that no recommendations are made to Cabinet in respect of all other sites identified in the notice and that the decision in respect of these other sites may be implemented immediately.

Background papers:

contact: Gill Fox

Nil

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Chief Executive