

TONBRIDGE AND MALLING BOROUGH COUNCIL

HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

MINUTES

Tuesday, 26th September, 2023

Present: Cllr D A S Davis (Chair), Cllr D W King (Vice-Chair), Cllr L Athwal, Cllr Mrs S Bell, Cllr G C Bridge, Cllr R W Dalton, Cllr D Harman, Cllr P M Hickmott, Cllr M A J Hood, Cllr W E Palmer, Cllr R V Roud, Cllr D Thornewell and Cllr S A Hudson (substitute)

In attendance: Cllr A G Bennison was also present pursuant to Council Procedure Rule No 15.21.

Virtual Cllrs M D Boughton, M A Coffin, D Keers, M R Rhodes, K B Tanner and M Taylor participated via MS Teams and joined the discussion when invited by the Chair in accordance with Council Procedure Rule No 15.1.

An apology for absence was received from Councillor A Mehmet

(Note: Cllr Mehmet submitted apologies for in-person attendance and participated via MS Teams when invited to so. However, he was unable to vote on or propose any motions)

HP 23/24 NOTIFICATION OF SUBSTITUTE MEMBERS

Notification of substitute Members were recorded as set out below:

- Cllr S Hudson substitute for Cllr A Mehmet

In accordance with Council Procedure Rules 17.5 to 17.9 these Councillors had the same rights as the ordinary member of the committee for whom they were substituting.

HP 23/25 DECLARATIONS OF INTEREST

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

HP 23/26 MINUTES

RESOLVED: That the notes of the meeting of the Housing and Planning Scrutiny Select Committee held on 18 July 2023 be approved as a correct record and signed by the Chair.

MATTERS FOR RECOMMENDATION TO THE CABINET

HP 23/27 BIODIVERSITY NET GAIN PROTOCOL

The report of the Director of Planning, Housing and Environmental Health presented a Protocol to provide guidance for applicants, agents and decision makers on how biodiversity net gain would be taken into account within the development process.

Biodiversity Net Gain (BNG) was an approach to development and/or land management that aimed to leave the natural environment in a measurably better state than it was beforehand. Under the Environment Act 2021 all major planning permissions granted in England would have to deliver 10% BNG from November 2023. However, applying BNG to smaller sites had been delayed until April 2024. Further detailed guidance from Government was expected to clarify a range of outstanding issues.

The Borough Council's adopted Development Plan did not contain a policy on BNG and although the emerging Local Plan would include a policy setting out its approach this would not be adopted by November 2023.

Members attention was drawn to the Kent BNG Register developed by the Kent Wildlife Trust, in collaboration with Kent County Council and District Councils, to establish an online forum where landowners could identify local land available for purchase for BNG units and where applicants could search for available opportunities. This was currently being test and was due to be operational from November 2023. Whilst other habitat banks were available the aim of the Kent BNG Register was to identify local opportunities.

Finally, it was reported that DEFRA had allocated a series of grants to allow local authorities to prepare for BNG. Between 2021/22 and 2023/24 the Borough Council had been awarded £63,661 of which £53,614 was ring fenced for BNG.

Consideration was given to the Protocol attached at Annex 1, the financial and value for money and legal implications and it was noted that not having an adopted local approach to BNG represented a higher risk that off site measures associated with development within Tonbridge and Malling could be delivered outside of the borough.

Members welcomed the principle of a BNG Protocol and noted that a number of inconsistencies had been raised with DEFRA for clarification and/or correction; noted the potential for the Borough Council to 'land bank' sites for BNG and recognised that better management of habitat types would improve biodiversity net gain. Officers also addressed points related to legal agreements, monitoring and enforcement and

advised that the Protocol would be kept under review pending further guidance from Government.

The Cabinet Member for Planning indicated that bio-diversity net gain and green infrastructure remained very important and the introduction of a Protocol started to address these issues. There was also some reassurance around allocating land for BNG use which offered some protection for 30 years.

RECOMMENDED:* That

- (1) the Biodiversity Net Gain Protocol (attached at Annex 1) be approved for decision making purposes; and
- (2) authority be delegated to the Director of Planning, Housing and Environmental Health in consultation with the Cabinet Member for Planning, to make any minor amendments or updates to the Protocol in response to updates from Government.

***Referred to Cabinet**

HP 23/28 RESPONSE TO THE PLAN MAKING REFORMS IMPLEMENTATION CONSULTATION

(Decision Notice D230082MEM)

Consideration was given to the Borough Council's response to the Government's latest consultation on plan-making reforms. A proposed response to be submitted by the deadline of 18 October 2023 was set out at Annex 1.

The consultation provided further detail around the proposed 30 month plan-making process, including new proposals for a 4 month period prior to commencement, 2 set periods of consultation and engagement and a 3 staged gateway assessment process for local plans.

Attention was drawn to the confirmation of the transitional arrangements for plan-making as proposed within the December 2022 consultation, subject to the Levelling Up and Regeneration Bill receiving Royal Assent in Spring 2024. The Government had not yet published the NPPF reforms so amendments to the approach to housing numbers and the Green Belt remained unconfirmed. However, as the Government were proposing the same transitional arrangements the Borough Council would need to undertake Regulation 18B and Regulation 19 consultation and submit its Local Plan before June 2025.

Members supported the proposed response to the Consultation, particularly in respect of question 41 related to transitional arrangements

and expressed disappointment that final guidance had still not been provided.

RECOMMENDED*: That

- (1) the proposed response to the plan-making reforms consultation, set out at Annex 1 be approved and submitted by the 18 October 2023;
- (2) authority be delegated to the Director of Planning, Housing and Environmental Health, in liaison with the Cabinet Member for Planning, to approve any necessary further minor changes to the proposed consultation response that might be required for reasons of clarity or presentation.
- (3) the position regarding transitional arrangements for plan-making be noted.

***Decision taken by Cabinet Member**

HP 23/29 RESPONSE TO THE 'FREIGHT, LOGISTICS AND THE PLANNING SYSTEM: CALL FOR EVIDENCE' CONSULTATION

(Decision Notice D230083MEM)

Consideration was given to the Borough Council's response to the Government's 'Freight, Logistics and the Planning System: Call for Evidence' consultation. A proposed response to be submitted by the deadline of 6 October was set out at Annex 1.

The consultation sought views of the efficacy of local plans and planning policies in relation to planning for freight and logistics. Questions were also posed in relation to engagement between these sectors and local planning authorities and the decision making process.

RECOMMENDED*: that:

- (1) the proposed response to the Freight and Logistics Call for Evidence, as set out at Annex 1, be approved and submitted by 6 October; and
- (2) authority be delegated to the Director of Planning, Housing and Environmental Health, in liaison with Cabinet Member for Planning, to approve any necessary further minor changes to the consultation response that might be required for reasons of clarity or presentation.

***Decision taken by Cabinet Member**

MATTERS SUBMITTED FOR INFORMATION

HP 23/30 KEY PERFORMANCE INDICATORS

Members received a list of Key Performance Indicators (KPIs) that were relevant to the committee. A baseline covering April to June 2022 had been used, with the data for January to March 2023 representing the most up-to-date available statistics. The KPIs would be monitored on a quarterly-annual basis and would be made available on an ongoing basis.

In advance of receiving the KPIs, which identified an improving trend in development management (as set out in 1.1.3), the Cabinet Member for Finance and Housing provided an update on the implementation of Agile software which would replace Uniform. The new system would streamline service delivery and provide an improved experience for residents. The 'go live' date for Agile was Wednesday 3 October and Members were advised that there would be a delay in processing and managing applications whilst the new system bedded in. It was also noted that the use of Uniform would finish on Thursday 28 September.

As a result of the new system there would be changes to internal processes as there were issues around GDPR, redaction and publishing comments of 3rd party consultees. Concern was expressed that parish councils would not receive sufficient information or notice in a timely manner due to the new system. However, it was hoped that these could be addressed by implementing minor changes to existing protocols. The Cabinet Member for Finance and Housing committed to circulating a more detailed update in advance of the 'go live' date.

HP 23/31 WORK PROGRAMME 2023/24

The Work Programme setting out matters to be scrutinised during 2023/24 was attached for information and Cllr Mehmet was thanked for suggesting the item in respect of appeals and costs awards.

Members were invited to suggest future matters by liaising with the Chair of the Committee.

MATTERS FOR CONSIDERATION IN PRIVATE

HP 23/32 EXCLUSION OF PRESS AND PUBLIC

There were no matters considered in private.

The meeting ended at 8.45 pm