

# **TONBRIDGE AND MALLING BOROUGH COUNCIL**

## **COUNCIL MEETING**

### **MINUTES**

**Tuesday, 24th October, 2023**

At the meeting of the Tonbridge and Malling Borough Council held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 24th October, 2023

**Present:** His Worship the Mayor (Councillor J R S Lark), the Deputy Mayor (Councillor S M Hammond), Cllr L Athwal, Cllr B Banks, Cllr K Barton, Cllr Mrs S Bell, Cllr A G Bennison, Cllr R P Betts, Cllr T Bishop, Cllr M D Boughton, Cllr G C Bridge, Cllr C Brown, Cllr R I B Cannon, Cllr J Clokey, Cllr M A Coffin, Cllr A Cope, Cllr R W Dalton, Cllr D A S Davis, Cllr D Harman, Cllr P M Hickmott, Cllr G B Hines, Cllr M A J Hood, Cllr F A Hoskins, Cllr S A Hudson, Cllr D Keers, Cllr W J Mallard, Cllr A McDermott, Cllr A Mehmet, Cllr D W King, Cllr Mrs A S Oakley, Cllr R W G Oliver, Cllr W E Palmer, Cllr M R Rhodes, Cllr R V Roud, Cllr K B Tanner, Cllr Mrs M Tatton, Cllr M Taylor, Cllr D Thornewell, Cllr K S Tunstall and Cllr C J Williams

Apologies for absence were received from Councillors P Boxall, Mrs T Dean and B A Parry

### **PART 1 - PUBLIC**

#### **C 23/76 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct. However, for reasons of transparency Cllr Clokey advised of a potential conflict of interest in agenda item 17 (Treasury Management Update) on the grounds of his employment with a treasury management company. As this was not considered a Disclosable Pecuniary or Other Significant Interest there was no requirement for Cllr Clokey to withdraw from the meeting.

#### **C 23/77 MINUTES**

**RESOLVED:** That the Minutes of the proceedings of the meeting of the Council held on 11 July 2023 be approved as a correct record and signed by the Mayor.

#### **C 23/78 MAYOR'S ANNOUNCEMENTS**

The Mayor advised of a number of engagements attended since the last meeting of Council and made particular reference to the following civic/charity events:

- Tonbridge Lions Musical Memories Event
- Tonbridge Lions Historic Car Tour
- Vintage Motor Cycle Club's International West Kent Run at The Friars
- 5th Anniversary of Feast
- The East Malling Centre's Community Development Grant Fund Site Visit
- Ightham Mote's Garden Party
- Friends of Mill Stream Sunflower Competition
- Tonbridge in Bloom Awards
- Music @ Malling Festival Launch
- Chairman of KCC's HMS Kent Ceremonial March of the Freedom of the County of Kent
- Dedication of Shrine Markers at Rochester Cathedral
- TAMS Seniors Information Day
- Communigrow Family Workshop
- Opening of the new Centenary Homes by HRH The Princess Royal

Upcoming civic events included the Tonbridge Armistice Day and Remembrance Sunday Services on 11 and 12 November 2023 respectively

In closing, the Mayor thanked the Deputy Mayor for attending a number of events on their behalf.

**C 23/79      TM/23/00364/FL - 1A CROFT CLOSE, TONBRIDGE**

Consideration was given to the report of the Director of Planning, Housing and Environmental Health in relation to permanent planning permission for a new bungalow to the rear of 15 Estridge Way (revision to TM/20/00862/FL). This was a retrospective application seeking to regularise works already undertaken.

The application had been adjourned for determination by the full Council in accordance with Council Procedure Rule No 15.25 following consideration by the Area 1 Planning Committee on 27 July 2023.

In order to facilitate the proper consideration of the application, the Council agreed to suspend its own procedure rules and resolved itself into a committee to which rules relating to a planning committee were applied.

In reaching its decision, the Council had regard to the reports considered by the Area 1 Planning Committee on 22 June and 27 July 2023, including the report of the Director of Central Services and Monitoring Officer which contained exempt information (LGA 1972 Sch 12A Paragraph 5 – Information in respect of which a claim to legal

professional privilege could be maintained in legal proceedings). Members of the public addressed the meeting where the required notice had been given and their comments were taken into account by the Council when determining the application (speakers listed below).

Local Members reiterated concerns in respect of the materials used for the roof of the building and its distinctiveness was considered a harmful feature of the character and appearance of the street scene. Cllr King proposed that the application be refused on the grounds set out below, seconded by Cllr Hood and following a formal vote it was

**RESOLVED:** That planning permission be REFUSED for the following reason:

- (1) The metal clad roof would be contextually inappropriate, out of keeping with local materials and distinctiveness and represented an alien and discordant feature in contrast to the adjacent dwellings and harmful to the character and appearance of the street scene, in conflict with policies CP24 of the Tonbridge and Malling Core Strategy and SQ1 of the Managing Development and the Environment Development Plan Document and Paragraph 130 of the National Planning Policy Framework.

[Speakers: L Hamilton, N Coomber and D Parkinson – members of the public; and S King on behalf of the applicant]

**C 23/80 QUESTIONS FROM THE PUBLIC PURSUANT TO COUNCIL PROCEDURE RULE NO 5.6**

No questions were received from members of the public pursuant to Council Procedure Rule No 5.6.

**C 23/81 QUESTIONS FROM MEMBERS PURSUANT TO COUNCIL PROCEDURE RULE NO 5.5**

In accordance with Council Procedure Rule No. 5.5 a number of questions had been submitted by Members. Written responses had been provided by the relevant Cabinet Members and the questions and answers had been tabled and circulated in advance of the meeting as set out in the Annex attached to the Minutes.

**C 23/82 MOTION SUBMITTED UNDER COUNCIL PROCEDURE RULE NO 5.27**

Consideration was given to a Notice of Motion (23/04) pursuant to Council Procedure Rule No. 5.7 submitted by Councillor G Bridge and seconded by Councillor M Tatton on behalf of the Tonbridge and Malling Liberal Democrat Group in relation to Disability and Equalities as set out in the annex attached to the Minutes.

The Motion asked Council to:

- Recognise the difficulties some residents within and visitors to the Borough faced in accessing every-day services and facilities due to disability, additional need, and other disadvantage including financial inequality;
- Appoint a Councillor as a Disability & Equalities Champion to raise the profile and needs of those with disabilities, additional needs and inequalities within Tonbridge and Malling. The Disability & Equalities Champion to actively engage with disability and welfare groups and charities and interested individuals to ensure their voice of experience was heard and taken into account in decision making;
- If there was no existing mechanism, the Borough Council to develop a Register of disability and welfare groups and charities within the Borough and a system for consulting those groups on matters that affect them and those they represent;
- Demonstrate its commitment to further developing its understanding and approach to disability and equality needs within the Borough by inviting interested groups from the Register to give presentations and information sessions for Councillors, similar to the Tonbridge Dementia Friendly Tonbridge Community session, to support Cllrs to feel informed and equipped with respect to the challenges faced by those within our community who have disabilities, additional needs or who face inequality.

Members recognised the importance of supporting those with disabilities and experiencing inequality. However, concern was expressed about the introduction of a register that might prove too prescriptive and remove the Borough Councils flexibility around advocating for those groups not entered onto a formal register.

Councillor M Coffin proposed, seconded by Councillor M Boughton, an amendment to the Motion as follows (removal of bullet point 3 and amended bullet point 4):

- Recognise the difficulties some residents within and visitors to our Borough face in accessing every-day services and facilities due to disability, additional need, and other disadvantage including financial inequality;
- Appoint a Councillor as a Disability & Equalities Champion to raise the profile and needs of those with disabilities, additional needs and inequalities within Tonbridge and Malling. The Disability & Equalities Champion will actively engage with disability and welfare groups and charities and interested

individuals to ensure their voice of experience is heard and taken into account in decision making;

- Demonstrate its commitment to further developing its understanding and approach to disability and equality needs within the Borough by inviting interested groups through the Disability and Equalities Champion to give presentations and information sessions for Councillors, similar to the Tonbridge Dementia Friendly Tonbridge Community session, to support Cllrs to feel informed and equipped with respect to the challenges faced by those within our community who have disabilities, additional needs or who face inequality.

The aim of the proposed amendment was not to diminish the value of the original motion but to offer a practical solution that the Borough Council could deliver. The Disabilities and Equalities Champion would be encouraged to develop and create effective relationships with relevant groups.

Members signified consent to this amendment and it was

**RESOLVED:** That the Notice of Motion (as amended) proposed by Councillor M Coffin and seconded by Councillor M Boughton be approved.

## **C 23/83 LEADER'S ANNOUNCEMENTS**

The Leader's announcements focused on the key themes of innovation, transformation and delivery as set out in the recently adopted Corporate Strategy. Good progress continued to be made on these areas as evidenced by the number of successful events and activities hosted in Tonbridge and Malling, including Farmers and Artisan Markets, Food and Drink Festivals and the upcoming Christmas event and trail at Tonbridge Castle.

Support for local businesses continued with a number of grants being offered. The Leader was pleased to announce that the next round of the Shopfront Improvement Scheme would commence in 2024 and the maximum amount of grant funding had increased to £5,000.

The recent opening of Bellingham Way in New Hythe had provided traffic relief along the A20 corridor by providing a direct link between Aylesford and Larkfield. This was greatly welcomed together with the positive investment introduced in the north of the Borough with the Panattoni development.

The Borough Council had also taken measures to address unauthorised traveller encampments by installing knee rail fencing at a number of sites. This demonstrated a willingness to react to issues raised by residents and/or communities.

Reference was made to the Borough Councils commitment to climate change and the recent initiative undertaken with the Woodland Trust to create new hedgerow boundaries at Leybourne Lakes Country Park.

Following proposals from the General Purposes Committee in respect of recruitment initiatives, a recent campaign in Planning Services had been successful and a number of vacancies had been filled. In future, consideration would be given to the introduction of a 'recruitment and retention' policy aimed to support, develop and recognise staff.

Finally, the Leader reminded Members of the challenging financial situation and advised that £500,000 of savings were required by the end of the financial year. Options for increasing and generating income as well as identifying savings would be considered and Groups were invited to offer their own ideas as part of the budget setting process. A collaborative approach to setting priorities for the Borough Council would continue to be adopted.

The message continued to be that Tonbridge and Malling was a great place to live, work and invest and that the Borough Council were there to support its residents and communities.

Full Leader's announcements were available on the Borough Council [YouTube channel](#)

## **MATTERS FOR DECISION**

### **C 23/84    DISABLED FACILITIES GRANT FUNDING**

The report of the Director of Planning, Housing and Environmental Health advised that within the Borough Council's Capital Plan for 2023/24 there was no spend allocated to discretionary Disabled Facilities Grants (DFGs) and approval was sought for a virement of £150,000 from the mandatory to the discretionary DFG.

There were 5 cases currently being processed by the Borough Council where works were above the mandatory threshold and the virement would be used to support these cases. Members were advised that the works being carried out fell under the mandatory element of DFG and had been assessed as being necessary and appropriate to meet the needs of the disabled occupant, which in all 5 cases were children. It was considered reasonable and practicable to carry out the relevant works having regard to the age and condition of the dwelling.

Careful consideration was given to the legal, financial and value for money implications detailed in the report and it was noted that the £150,000 proposed funding for virement was already available in the existing mandatory DFG budget and new funding was not required. It was also noted that the mandatory DFG was funded from the Better Care Fund.

**RESOLVED:** That the virement of £150,000 from the mandatory DFG budget for the 2023/24 financial year to the discretionary DFG budget on the Capital Plan be approved.

#### **C 23/85 CHANGES TO THE CONSTITUTION**

Consideration was given to recommended changes to the Constitution in respect of Committee Procedure Rule 15.25 and the inclusion of the Executive/Scrutiny Protocol as an Annex.

The proposed change to Rule 15.25 (Part 4 of the Constitution) was intended to remove confusion around a 'minded-to' determination and required a vote to be taken if a Planning Committee was 'minded to determine an application in a way or on grounds which the Director does not consider can be substantiated'. Clarity had also been provided on when an application should stand adjourned to Council for determination and related to the 'risk of significant costs being awarded'. Members were advised that costs of £5,000+ would represent a significant cost. The changes were detailed in 1.1.4 of the report.

Following a meeting of Overview and Scrutiny Committee of 14 September 2023 it was recommended that the Executive/Scrutiny Protocol be published to the website as an Annex to the Constitution. This was supported by Cabinet on 3 October 2023. Council were invited to approve the inclusion of the Protocol as an Annex as detailed in 1.2.3.

**RESOLVED:** That the Monitoring Officer be authorised to amend the Constitution as set out in paragraphs 1.1.4 and 1.2.3 of the report.

#### **C 23/86 REVIEW OF ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS**

Consideration was given to the recommendations of the Joint Standards Committee of 12 July 2023 in respect of revisions to existing arrangements for dealing with Code of Conduct complaints. Due regard had been given to the legal implications, risk and equality impact assessments arising from the changes.

**RESOLVED:** That the revised arrangements for dealing with Code of Conduct complaints under the Localism Act 2011 (attached at Annex 1) be adopted.

#### **C 23/87 LOCAL CODE OF CORPORATE GOVERNANCE**

Consideration was given to the recommendations of the Audit Committee of 24 July 2023 in respect of the annual review of the Local Code of Corporate Governance. Proposed amendments to the Code were relatively minor with no significant activity having taken place since July 2022 that impacted upon corporate governance arrangements.

However, the Audit Committee had recommended that section 3.2 of the Code be reviewed to incorporate a reference to the Climate Change Action Plan for 2023/24.

**RESOLVED:** That the proposed amendments (set out at Annex 1) be approved and the Local Code of Corporate Governance be adopted; subject to further review of section 3.2 to reference the Climate Change Action Plan 2023/24.

#### **C 23/88 COUNCIL TAX DISCOUNT**

Consideration was given to the recommendations of the Cabinet of 3 October 2023 in respect of council tax discount applied to uninhabitable properties. Due regard had been given to both the financial and non-financial considerations, legal implications and risk and equality impact assessments should a change be made to the 100% discount currently offered by the Borough Council.

The position of neighbouring authorities in respect of this discount was also noted.

**RESOLVED:** That the percentage of the current period of 12 months 100% council tax discount for 'uninhabitable' properties be reduced to 0% with effect from 1 April 2024.

#### **C 23/89 AUDITOR'S ANNUAL REPORT 2022/23**

Consideration was given to the recommendations of the Cabinet of 3 October 2023 in respect of the Auditors Annual Report 2022/23. Due regard had been given to the recommendations of the Audit Committee of 25 September 2023.

The Chair of the Audit Committee recorded appreciation to Officers for their commitment and hard work which had ensured that the Borough Council was one of a few local authorities to 'close down' their accounts in a timely fashion.

**RESOLVED:** That

- (1) the Auditors Annual Report (attached at Annex 1) for 2022/23 be approved;
- (2) the key recommendations made in respect of 'performance management' and 'procurement' be noted and the management of comments endorsed;
- (3) the management of comments to the improvement recommendations be noted and endorsed; and



- (4) the Audit Committee receive a progress report on the key recommendations made in respect of 'performance management' and 'procurement' at a future meeting

#### **C 23/90 TREASURY MANAGEMENT UPDATE**

Consideration was given to the recommendations of the Cabinet of 3 October 2023 in respect of Treasury Management. Due regard had been given to the recommendations of the Audit Committees of 24 July and 25 September 2023 respectively.

**RESOLVED:** That

- (1) the action taken in respect of treasury management activity for the period April to July be endorsed;
- (2) the 2022/23 outturn position be noted;
- (3) the Audit Committee's appreciation of the work undertaken by officers in treasury management be noted; and
- (4) the existing parameters intended to limit the Borough Council's exposure to investment risks (as set out in Annex 5 of the report presented to the Audit Committee on 25 September 2023) be retained.

#### **C 23/91 FEEDBACK FROM CONSULTATION ON THE HACKNEY CARRIAGE AND PRIVATE HIRE POLICY 2023-2028**

Consideration was given to the recommendations of the Licensing and Appeals Committee of 27 September 2023 in respect of the consultation on the Hackney Carriage and Private Hire Policy 2023-28.

Due regard was given to the responses submitted, the legal implications and risk assessment. The requirement for the Borough Council to review and adopt a new Policy was also noted.

**RESOLVED:** That

- (1) the following proposed changes to the Hackney Carriage and Private Hire Policy, as set out in Annex 1, be approved:
  - payment by credit/debit card be accepted for all Hackney Carriage journeys;
  - the Disclosure and Barring Service (DBS) checks be outsourced to an external third party, where a driver does not hold an online account update service;

- the length of time for lost property to be kept be reduced from 12 months to 2 months;
  - for any Hackney Carriage driver failing to take a passenger on a journey, regardless of distance, or charging more than the fare shown on the metre when taking payment by credit/debit card, 9 penalty points and a two-week suspension be imposed on their TMBC driving licence, and subsequent offences be referred to the Licensing and Appeals Committee;
  - membership of the Chauffeurs Guild as mechanism to bypass the requirement to take the knowledge test be removed;
  - colour restriction for designated wheelchair accessible vehicles (WAV) be removed; and
  - a higher than 50 percent Manufacturer tint for back passenger windows be allowed for plate exempt vehicles undertaking Chauffeur work.
- (2) further investigation work by Officers in respect of the following areas, as identified in the proposed changes to the Hackney Carriage and Private Hire Policy, as set out in Annex 1, be undertaken and reported to a future meeting of the Committee:
- CCTV in all licensed vehicles (Hackney Carriage and Private Hire);
  - Colour restriction of a Hackney Carriage Vehicle; and
  - Drivers badge for school runs only with specially defined plate.
- (3) the revised Hackney Carriage and Private Hire Licensing Policy 2023 – 2028, attached at Annex 4, be approved with the above agreed changes detailed in Recommendation (1) incorporated.

**C 23/92 APPOINTMENTS TO OUTSIDE BODIES - TONBRIDGE UNITED CHARITY**

The Tonbridge United Charity had requested that former councillor Vivian Branson be formally endorsed as the Borough Council's outside body appointment to their organisation. This role had been held by former Councillor Branson until the local elections in May 2023 and was considered a much valued appointment by the Charity.

It was noted that there was no requirement for the appointment to be a member of the Borough Council and the Charity had emphasised the value of retaining a person with experience of their aims and role.

Members supported this appointment pending any outcomes of the ongoing scrutiny review into outside bodies.

**RESOLVED:** That Vivian Branson be appointed as the Borough Council representative to serve on Tonbridge United Charity for a further four year period up to October 2027.

### **MATTERS FOR INFORMATION**

#### **C 23/93 OVERVIEW AND SCRUTINY - ANNUAL REPORT**

The report of the Chair of the Overview and Scrutiny Committee provided a summary of the work undertaken during the past year which was welcomed and noted by Members.

#### **C 23/94 MINUTES OF CABINET AND COMMITTEES**

The Minutes of meetings of the Cabinet and Committees for the period June – October 2023, as set out in the Minute Book (Volume 3) (attached as a supplement) were received and noted.

Any recommendations to the Council from Cabinet or Committees were resolved elsewhere on the agenda.

#### **C 23/95 SEALING OF DOCUMENTS**

**RESOLVED:** That authority be given for the Common Seal of the Council to be affixed to any instrument to give effect to a decision of the Council incorporated into these Minutes and proceedings.

The meeting ended at 9.45 pm