

TONBRIDGE & MALLING BOROUGH COUNCIL
HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

21 May 2024

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

1 LOCAL PLAN – DUTY TO COOPERATE UPDATE

The Duty to Cooperate (DtC) is a legal requirement on local planning authorities to engage with other relevant authorities and bodies constructively, actively and on an ongoing basis in relation to strategic planning matters. This report provides an update on duty to cooperate, partnership working and reporting.

1.1 Background

- 1.1.1 The National Planning Policy Framework (NPPF) 2023 states that “*Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries*” (paragraph 24). As such local planning authorities should collaborate to identify the relevant strategic matters which they need to address in their Local Plans.
- 1.1.2 The government consider that effective and on-going joint working between is integral to the production of a positively prepared and justified Local Plan spatial strategy. It is intended that joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.
- 1.1.3 The Planning Advisory Service has prepared a simple guide to strategic planning and the DtC, this can be found at Annex 1.
- 1.1.4 The Levelling Up and Regeneration Act will facilitate the ending of the duty, to be replaced with a new alignment policy which is subject to further detail to be made available through secondary legislation and guidance. At this time no further detail has been published regarding this, until this legislation gains royal ascent the duty will remain.

1.2 Duty to Cooperate Update

- 1.2.1 To demonstrate effective and on-going joint working, it is good practice for local authorities to keep an accurate record of meetings undertaken with neighbouring authorities and other bodies. These will inform the preparation of statements of

common ground later in the plan making process, which will document the cross-boundary matters identified and progress made in cooperating to address these. It should be noted that the duty to cooperate is not a duty to agree. Should there be differences of opinion or position between parties, these will also be recorded in the statements of common ground.

- 1.2.2 A DtC record of engagement has been prepared (Annex 2), this provides a summary of contact between TMBC and neighbouring authorities from July 2021, the point at which the council recommenced plan making. It is not intended to be an exhaustive list of all engagement and partnership work that has been undertaken. This will be extended as required to include other public bodies as the Local Plan progresses through the next stages of public consultation.
- 1.2.3 The following provides a summary of the current strategic planning position with regard to each adjacent authority highlighting any known cross-boundary matters. All neighbouring authorities and other public bodies will be invited to comment on the TMBC Local Plan Regulation 18b once published. Further DtC meetings will be arranged by officers as required.

Planning Authority	Current Local Plan Status	Comments
Gravesham Borough Council	Preparing a Local Plan review. The regulation 18 stage 2 consultation closed in December 2020. The regulation 19 consultation is awaited.	<p>TMBC responded to the Gravesham regulation 18 stage 2 consultation in December 2020. Based on the development needs as well as the location and distribution of potential development set out in the consultation, it was not considered that there would be significant cross-boundary impacts upon Tonbridge and Malling.</p> <p>Concern was however expressed regarding the potential expansion and infilling of villages which could contribute towards growth in traffic on local roads, particularly the A227. In addition to potential impacts upon the Kent Downs national landscape and North Downs Woodland SAC.</p> <p>Tonbridge and Malling don't share a housing market area with Gravesham, as such it is less likely to be asked to assist Gravesham should it be unable to fully meet its housing need.</p>
Maidstone Borough Council	<p>The appointed Inspector's Final Report on the new Maidstone Local Plan was delivered to the Council on 8 March 2024, this signified the formal closure of their Examination.</p> <p>The Maidstone</p>	<p>TMBC responded to the Inspector's consultation in February 2024 on some additional technical documents, including an M2 Junction 3 Transport Assessment. In doing so we expressed concern regarding the scheme of mitigation proposed by MBC for the junction, requesting that officers be included in further discussions by MBC regarding this matter.</p> <p>There are known junction capacity issues at these linked junctions which have cross-boundary significance. TMBC is supporting a</p>

	Borough Local Plan Review 2021-2038 was adopted on 20 March 2024.	more substantial scheme for Blue Bell Hill, including M2 junction upgrades that is being pursued by KCC. This is subject to a 'Large Local Major Schemes' bid to the DfT.
Medway Council	Preparing a new Local Plan. Similar timescale to TMBC, with regulation 18b consultation expected June/July 2024.	<p>DtC meeting held between officers in March 2024 to discuss the timing of forthcoming Local Plan consultations. Officers agreed to collaborate once respective details regarding draft site allocations and evidence base documents are published.</p> <p>Medway Council are using the Kent VISUM transport model to undertake scenario and sensitivity testing.</p>
Tunbridge Wells Borough Council	<p>Public consultation on Tunbridge Wells Borough Council's response to the Inspector's initial findings letter on the Examination of their new Local Plan was extended to 12 April 2024.</p> <p>Examination ongoing, Inspector's report and adoption anticipated late 2024.</p>	<p>TMBC responded to this consultation in February 2024, supporting the reduction in the scale of proposed growth east of Paddock Wood by 1000 dwellings, and the deletion of the Tudeley Village allocation from the submitted Plan.</p> <p>Notwithstanding TMBC's support for the proposed policy changes, the council remains concerned about the cross-boundary traffic impacts of growth upon the A228 north of Paddock Wood and the B2017 west of Paddock Wood, which links with the A26 at Woodgate Way, Tonbridge.</p> <p>Additional growth places further pressure upon the local road network which will be taken into consideration as officers prepare transport evidence to support the new TMBC Local Plan.</p>
Sevenoaks District Council	Preparing a new Local Plan. The regulation 18, part 2 consultation closed in January 2024. Regulation 19 consultation anticipated summer 2024.	<p>TMBC responded to the to the Sevenoaks Local Plan regulation 18 (part 2) consultation in December 2023. Support was expressed for development strategy options 2 and 3 as these either meet or exceed the projected need over the Local Plan period. Further clarity was requested regarding the spatial distribution of growth so that consideration could be given to any cross-boundary implications.</p> <p>Given the landscape constraints within Tonbridge and Malling especially within the west of the borough that is within the West Kent HMA (shared with Sevenoaks and Tunbridge Wells), it was expressed that TMBC was unlikely to be able to assist with any unmet need should this arise.</p> <p>TMBC and SDC have commissioned aligned Green Belt and transport evidence to support plan making.</p>

1.3 Legal Implications

1.3.1 The duty to cooperate is a legal test that is considered at the initial stage of Local Plan Examination (legal compliance). It can't be retrofitted should the appointed Inspector(s) consider that based upon the evidence submitted, the local planning authority has failed to demonstrate that it has met the duty. A failure to meet the duty would put at risk the progression of the Local Plan through the Examination process.

1.4 Financial and Value for Money Considerations

1.4.1 It is important that accurate DtC records are maintained to ensure that the authority is successful in meeting this legal duty. Failure to do could result in failing the duty which would put at risk the Local Plan process, resulting in expensive reworking of the timetable due to the staff time and consultant resources this would involve.

1.5 Equality Impact Assessment

1.5.1 The matters discussed in this report have low or no direct relevance to the substance of the Equality Act 2010. An Equalities Impact Assessment is being undertaken alongside the preparation of the next stages of the Local Plan.

1.6 Risk Assessment

1.6.1 As reported at the March 2024 meeting of this committee, the duty to cooperate is identified on the Local Plan risk register. The policy team will continue to take a robust approach to the recording of relevant meetings, maintain the monitoring grid and apply a legal compliance checklist/assessment in advance of submitting the Local Plan to the Secretary of State for Examination.

1.7 Recommendations

1.7.1 HPSSC is asked to recommend to Cabinet:

(1) NOTE the contents of the report.

Background papers:

Annex 1 – Planning Advisory Service, Simple Guide to Strategic Planning and the DtC
Annex 2 - DtC Record of Engagement

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