

Overview and Scrutiny

20 June 2016

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Final report of the Infrastructure Provision Task and Finish Group

Final Decision-Maker	Overview and Scrutiny Committee
Portfolio Holder(s)	Planning and Transportation Portfolio Holder, Councillor Alan McDermott
Lead Director	Director of Planning and Environment, Jonathan MacDonald
Head of Service	Jane Lynch, Head of Planning
Lead Officer/Report Author	Scrutiny and Performance officer, Nick Peeters
Classification	Non-exempt
Wards affected	All Wards

This report makes the following recommendations to the final decision-maker:

1. That Members note the report of the Infrastructure Provision Task and Finish Group; and
2. That the specific recommendations included in the report are included for discussion in formulating policy for the new Local Plan.

This report relates to the following Five Year Plan Key Objectives:

- A Confident Borough

5.2 of the Five Year Plan refers to Key Settlements and says the Borough Council is keen to work with town and parish councils to develop proposals for housing, retail, employment, tourism and community facilities as well as key infrastructure (broadband and flood mitigation) where required.

- A Prosperous Borough

Our focus on the areas of change, improving local infrastructure and the building of new homes and schools will provide for a strong and resilient borough for the future

Timetable

Meeting	Date
Overview and Scrutiny	20 June 2016

Final report of the Infrastructure Provision Task and Finish Group

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 At its meeting on 7 August 2015, the Overview and Scrutiny Committee discussed a report on infrastructure in the borough's growing towns and villages. Members considered the issues facing the borough, where potential development has been identified, particularly in relation to providing adequate infrastructure. The Committee was keen to find out how this would fit in to the emerging/developing/revised version of the Borough Council's Local Plan.
 - 1.2 Following discussion it was agreed that a task and finish group comprising Councillors: Dawlings, Ms Palmer, Rankin, Stewart and Woodward, be appointed to look at the issues further.
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2. BACKGROUND

- 2.1 Over the last five years, in Paddock Wood, there have been a number of instances of surcharging of the drainage system caused by the ingress of surface water into foul water drainage systems. Paddock Wood residents felt this was in large part due to inadequate infrastructure being put in place as development occurred. Concerns were also expressed by members representing Hawkhurst and Cranbook Parish Councils that traffic volumes generated by new development would have a negative effect upon the quality of life in those areas. Following submission of the Borough Council's Site Allocations Development Plan Document (SADPD), there is further concern that infrastructure will not be improved in advance of development and will fail to meet the needs of the new residents and worsen the problems experienced by existing residents. Specifically, it is thought that, the road network and the foul and surface water drainage system does not have the capacity to accommodate the level of housing forecast in the SADPD. The ward member for Paddock Wood, Councillor Stewart, asked that the issue be included on the Overview and Scrutiny Committee's work programme. It was subsequently agreed by Members that these and similar issues affect other areas of the borough and that there were additional areas of infrastructure provision that raised concern and increased opposition to new development, at a time when the borough is under pressure to allow ever increasing housing numbers.
- 2.2 The Task and Finish Group met on four occasions and looked at the various types of infrastructure that would be needed when considering development. Following the Group's initial meeting, Members agreed the following scope:
 - i. Identification of the point at which Infrastructure Providers input into housing and/or business development.
 - ii. How Infrastructure Providers manage existing networks and how the impact on those networks of additional development is measured/modelled.
 - iii. The assessment of infrastructure provision within the borough by providers and the submission of plans for future provision.

- iv. How the views of consultees (including non-statutory) are incorporated into planning conditions.
 - v. The process through which Infrastructure Providers engage with the Borough Council, as the local planning authority, both in respect of commenting on planning applications and inputting into preparation of local plan and other planning policy documents;
 - vi. The level of involvement by town and parish councils in regard to infrastructure provision and how this fits into the local plan preparation process;
 - vii. How Infrastructure Providers meet / provide infrastructure provision needs both in regard to deficiencies in current provision and additional needs arising from new development; and
 - viii. The level and type of communication and engagement undertaken by Infrastructure Providers when addressing the concerns raised by communities and town/parish councils.
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3. INFORMATION GATHERING

- 3.1 Following an initial meeting with the Planning Policy team leader, Adrian Tofts, the Group noted that there were many forms of infrastructure to consider and that some elements, such as electricity and telecommunications lay outside of the planning system. The Group also discussed the following issues:
- I. The different approaches taken by private and public providers of infrastructure.
 - II. The desire, on behalf of the Group, to see an early joined up approach taken by all infrastructure providers.
 - III. A need for infrastructure providers to communicate with residents at a local level
 - IV. The accruing in one area, of a significant number of low-level developments and the overall impact on infrastructure provision.
 - V. The different requirements needed for new developments, where there was no infrastructure, and upgrading/improving existing infrastructure to accommodate additional development.
 - VI. The ability for all stakeholders to input into the development of the Local Plan.
- 3.2 The Group met with representatives from Southern Water's Development and Surface Water Management teams and South East Water's Media and Water Resources Teams. The Group discussed the following points with the representatives:
- I. **The point at which the two companies became aware that infrastructure was needed** – Southern Water is a statutory consultee in the development of local plans and receives notification when additional infrastructure is needed; South East Water has a 25 year, forward-looking management plan (including population forecasts) and five-yearly business plans to manage short-term fluctuations in supply.
 - II. **Different types of infrastructure and funding streams** - Southern Water's provision is typically divided between 'strategic' and 'local' infrastructure and the initial requirements determine whether or not there is a statutory requirement. Funding levels for strategic infrastructure are agreed by the water industry regulator OFWAT over five-year periods. Attempts should be made to find out what amount of development in an area qualifies as 'strategic'. local infrastructure is provided on a site-by-site basis, with the costs built into consumer charges.

- III. **The impact of a large number of small developments on capacity and strategic overviews** – Southern Water looks at its Drainage Area Plans to accommodate future development and to allow for expected increases in housing numbers. However, individual studies on small developments are cost-prohibitive. An early indication of proposed development by local authorities is key in establishing the need for infrastructure and providing ‘planning certainty’. South East Water includes planning-buffers and provides infrastructure enhancements ahead of development. . It is not clear where this is happening in the borough.
- III. **Dealing with surface water run-off and overall responsibility for groundwater** – A key issue for Southern Water but also involving other agencies, such as the County Council and the Environment Agency, depending on the source of the surface water. Infrastructure provided by Southern Water allows for run-off from roads and developments but there is additional run-off from agricultural areas, railway lines and rivers. Southern Water is working with Kent County Council on a Surface Water Management Plan. Experience has shown that older developments are often constructed with combined systems that increase the strain on the foul drainage systems.
- IV. **Discussion with communities at a local level** – Southern Water Capital has a Public Relations team that consults with residents associations, town/parish councils and local MPs. South East Water holds drop-in sessions to take local views into account where development is identified. The point at which consultation takes place is determined by the size of the development. The question of consultation in Paddock Wood remains outstanding - Southern Water maintains that consultation took place; however, Paddock Wood Town Councillors have no knowledge of it being carried out.

3.3 The Group had a further meeting with Kent County Council’s (KCC) Flood Risk Manager. The Group highlighted some of the themes from its previous meeting with Southern and South East Water and discussed the following points:

- I. **Joined up working between the various organisations involved in dealing with flood mitigation and how a planning policy response could be provided** - KCC deals with rain-water, hail, snow, etc (falling water) before it enters the drainage system and it also looks at the provision of infrastructure and provides a statutory response where there are issues with surface water in major developments. Two thirds of applications received by KCC are high-level, outline proposals with little detail on flood mitigation.
- II. **Dealing with inadequate systems where the original conditions have been met** – system failures can be due to a number of factors including original calculations. KCC has undertaken a lot of work on historic, low level flood issues in Paddock Wood and this can be looked at as an example of successful intervention. Given time, KCC can deal with some of the broader issues around flooding in developments. However, the County Council does not have the authority to prevent the development and has no grounds upon which it can refuse to advise developers.
- III. **How are responses to flood issues coordinated?** - there is no formal partnership but one organisation may recognise a need for action and ask other partners for help in ‘identifying actions needed to reduce or remove the risk of flooding’. KCC

recognises concerns over the discharge of water from new developments and takes the position that there should be no increase in flood-risk.

- IV. **The promotion of sustainable drainage systems** – KCC would like to see more use of Sustainable Urban Drainage Systems (SUDS), as a more accessible method of attenuating run-off water. However, they are not popular with developers as they use more land, which reduces the number of houses that can be built.
- V. **How a planning policy response could be provided?** - to avoid later problems with infrastructure, it is essential that planning and building control permissions for developments are correctly executed. Improvements to planning policy, in areas such as the need to keep water-courses free and identifying key drainage flow routes, provision of best practice SUDS systems would help with many of the issues. There is scope for development of a policy regarding this in conjunction with KCC.

3.4 The Group's final meeting was attended by representatives from Kent County Council's Highways and Transportation Planning and Development Team. Following a presentation on the County Council's assessment of, and responses to planning applications, the following issues were discussed:

- I. **KCC's ability, as a statutory consultee, to affect outcomes through its responses** – the planning landscape has changed over the years and the National Planning Policy Framework is in favour of development; refusal should only be considered where the cumulative impact of a development is severe.
- II. **The ability of traffic surveys to monitor levels of congestion and be used to influence changes** – KCC has a database of results from traffic monitoring and is able to prioritise sites that need work. Travel plans for new developments can also include monitoring and sustainable targets which can be drawn on. KCC is mindful of congestion/traffic hotspots and would always be open to funding from other sources for future traffic surveys. Tunbridge Wells is at the limit of its capacity for car-trips.
- III. **Areas of funding and which are the most appropriate types to provide infrastructure** – KCC uses funding from Section 106 and Section 278 agreements and unilateral undertakings. Section 106 agreements are preferable in some cases to the Community Infrastructure Levy which is more suitable for large, borough-wide schemes. There are two studies on arterial routes in Tunbridge Wells (A264 and A26), including an outline costing report and funding identification. Additionally, if large amounts of funding are sought, a large amount of new development has to be accepted.
- IV. **Providing a strategic view of transport in the borough** – KCC has a local transport plan until 2016 which feeds into its 20 year transport delivery plan (Growth Without Gridlock). The ability to plan for transport delivery, strategically, is always preferable. Local plans will identify the cumulative effects of transport schemes. Providing strategic funding for town centre schemes in Tunbridge Wells is difficult as there is not enough new development.

The Environment Agency was unable to attend a meeting with the Group but provided email responses to a number of questions, which can be seen at appendix A to the report.

4. CONCLUSIONS

4.1 Following its meetings and communications with a number of infrastructure providers, the Group concluded that:

- I. There is little co-ordination of infrastructure provision between the different infrastructure providers. They do not appear to meet together to strategically plan implementation 'on the ground'.
 - I. A question remains over whether consultation is effectively undertaken by infrastructure providers and at an early enough stage for local communities to be able to influence outcomes.
 - II. Planning for provision appears to be reactive to planning applications rather than at the point of allocation of land for housing or commercial development.
 - III. There does not appear to be a joined up approach amongst the various organisations involved where foul and surface water mixes, or where there are flooding issues.
 - IV. A sharper focus and more strategic approach is needed in terms of planning engagement with South East Water and Southern Water, with the ability for planning to be able to challenge both organisations if there are concerns over the capacity of the network to cope with development.
 - V. The promotion of sustainable methods of dealing with drainage, such as SUDS, should be considered at a local level. There is also scope for the development of policy, in conjunction with the KCC Flood Risk Team, to address this.
 - VI. There is a frequent disconnect between, for example, traffic congestion as assessed by KCC Highways and that experienced by communities at the local level. This is then not taken into account at the point of the planning decision or during an appeal.
 - VII. Transport schemes in Tunbridge Wells develop incrementally and securing sufficient funding for large, borough-wide schemes that may alleviate congestion is difficult. Connectivity between areas of the borough and also between different types of transport appears to have been lost when, for example, local bus services have been reduced.
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4.2 Following the work of the Task and Finish Group, the members identified a number of areas where further work may be needed.

- I. **Southern Water** - We have yet to establish what quantum of development qualifies as strategic and therefore generates central funding, as opposed to relying on funds from consumer charges. There is feeling that, by considering each live application piecemeal rather than looking at the cumulative amount of development, the borough is being short changed in terms of the infrastructure that Southern Water provides.

Southern Water advised that there had been consultation with the local community in Paddock Wood regarding its plans for the proposed new development. Concerns have been raised that this has not taken place and a response has not yet been received from Southern Water to clarify what consultation, if any, took place.

- II. **South East Water** - Should be asked if they have any infrastructure enhancements planned for the borough area during current (or next) 25 year management plan.

5. RECOMMENDATIONS

5.1 The Task and Finish Group makes the following recommendations for the Overview and Scrutiny Committee's consideration:

- I. **Foul water drainage** – The Borough Council should ensure that it engages with Southern Water at the earliest stage of preparation of the new Local Plan, ie at draft strategy options consultation stage, so that the company can provide information about infrastructure needs and its own infrastructure plans to meet future needs, as soon as possible and prior to development allocations being agreed. This would ensure that consideration is given to the cumulative amount of development and that construction on the ground of such infrastructure is forward- planned, strategically, with a reduction in the negative impact on existing communities.

It appears from local experience that Southern Water's policy of regarding individual studies on small developments as cost prohibitive has resulted in foul water overflows that are unpleasant and potentially unhealthy for residents. The problem is worsened by the incursion of surface water into the foul drainage system and the borough should press Southern Water to undertake a comprehensive survey of areas where this happens and take actions to prevent the mixing of the two systems. It is this combination that has resulted in the overloading of the pumping stations in Paddock Wood, which is likely to continue until the problem is effectively addressed.

Critical locations where shared systems are likely to be an issue should be identified to the Borough Council by Southern Water as part of the early consultation engagement.

- II. **Surface water drainage** - Following discussions with Kent County Council regarding surface water, there is a clear opportunity to provide a more robust response to such issues through:

The Borough Council ensuring that it engages with all the relevant agencies that have a locus in surface water drainage matters at the earliest stage of preparation of the new Local Plan, ie at draft strategy options consultation stage, so that these bodies can provide information about infrastructure needs and infrastructure plans to meet future needs, as soon as possible and prior to development allocations being agreed. This would ensure that consideration is given to the cumulative amount of development and that construction on the ground of such infrastructure is forward-planned, strategically, with a reduction in the negative impact on existing communities.

Improved promotion and advice on the provision of SUDS, together with incorporation into policy, when necessary and appropriate, through the Local Plan Review, that developments both allocated and windfall incorporate SUDS provisions.

Improved monitoring of development sites where provision of improved surface water drainage systems is critical to the scheme and improved information and guidance on best practice re water course management and other flood prevention measures to the general public and land owners.

* There is scope for development of a policy regarding this in conjunction with KCC. It was suggested that Ashford Borough Councils adopted supplementary planning document should be looked at to inform this work - <http://www.ashford.gov.uk/sustainable-drainage-spd>

- III. **Highways** - To consider whether KCC is placing too great an emphasis on complying with the political pressure from the National Planning Policy Framework in favour of development, regardless of cost, by only opposing when the impact is severe. Also whether the funding provided to KCC by development is being balanced against the impact on traffic and whether this affects KCC's decision making. Consideration should also be given to whether traffic surveys should be conducted at hotspots not considered as problematic by KCC but concerning residents and also, who would fund the surveys.
- IV. **Environment Agency** – There should be greater promotion of developer engagement in pre-application consultation with the Environment Agency (EA) for all major development in areas of flood risk.

The Borough Council should pursue a Memorandum of Understanding as per the EA's response by email (see appendix A to the report).

Q. Is there any scope to develop a standardised system of conditions relating to development in areas at risk of flooding, in conjunction with the Local Planning Authority and Kent County Council, in accordance with the type of risk and category of flood risk zone?

A. The EA has a suite of legally tested flood risk planning conditions which can be drawn on when commenting on planning applications. However, as the nature of flood risk can vary from site to site, the EA applies the conditions differently, based on each site's individual characteristics. There are instances where a standardised approach to development in flood risk areas can work well, which tends to be in localised areas, where flood characteristics are similar and with the same types of development frequently come forward. The EA generally agrees to this type of approach with an LPA through a Memorandum of Understanding. The EA does not have an agreement in place currently with Tunbridge Wells Borough Council. However, if the Council wishes to explore whether this type of arrangement could work in Tunbridge Wells, further discussions could be held.

- V. **All infrastructure providers** – As part of the Local Plan Review work and at an appropriate stage in the process the Borough Council should facilitate all infrastructure providers meeting together to plan the construction of infrastructure on the ground as part of the necessary Infrastructure Delivery Plan which will accompany the new Local Plan.

Emerging Strategic Policy making through the Local Plan Review should fully consider the implications of cumulative levels of development and should promote a masterplan approach when appropriate in circumstances where development allocations are focused on a specific location and not on a piece meal basis. This is necessary because the proposed level of development, whether for housing, or economic purposes in the next plan period, is unprecedented. It needs to be more stringently planned in a borough so constrained by green belt and the areas of outstanding natural beauty, in order to prevent negative impact on the small areas where the development is possible. The Group considers the borough's position to be unique in this area.

6 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 The final report has been produced to inform the Overview and Scrutiny members of the work undertaken by the Task and Finish Group and to provide a number of recommendations for the Committee to consider
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7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Legal including Human Rights Act	There are no legal implications resulting from the recommendations in the report.	Estelle Culligan, Deputy Head of Mid-Kent Legal Partnership
Finance and other resources	There are no financial implications resulting from the recommendation in the report.	Jane Fineman, Financial Services Manager
Staffing establishment	There is no impact on staffing levels as a result of the recommendations in the report.	Nicky Carter, Human Resources Manager
Equalities	There is no apparent equality impact on end users resulting from the recommendation in the report	Sarah Lavallie, West Kent Equalities Officer

8. REPORT APPENDICES/BACKGROUND PAPERS

Appendix A – responses received from the Environment Agency