



Town Hall
Royal Tunbridge Wells

Friday, 16 March 2018

To the Members of the Tunbridge Wells Borough Council

I request your attendance at an extraordinary meeting of the Tunbridge Wells Borough Council to be held at the Council Chamber, Royal Tunbridge Wells, Kent TN1 1RS, on Monday, 26 March 2018, at 6.30 pm, when the following business is proposed to be transacted.

- 1 **Apologies for absence**
- 2 **Declarations of Interest**
To receive any declarations of interest by Members in items on the agenda.
For any advice on declarations of interest, please contact the Monitoring Officer before the meeting.
- 3 **Hawkhurst Neighbourhood Development Plan** (Pages 3 - 8)
- 4 **Planning Legal Agreements on behalf of Tunbridge Wells Borough Council** (Pages 9 - 12)
- 5 **Urgent Business**
To deal with any business the Mayor regards as urgent due to special circumstances.
- 6 **Common Seal of the Council**
To authorise the Common Seal of the Council to be affixed to any contract, minute, notice or other document arising out of the minutes, or pursuant to any delegation, authority or power conferred by the Council.

William Benson
Chief Executive

All visitors wishing to attend a public meeting at the Town Hall between the hours of **9.00am and 5.00pm** should report to reception via the side entrance in Monson Way. **After 5pm**, access will be via the front door on the corner of Crescent Road and Mount Pleasant Road, except for disabled access which will continue by use of an 'out of hours' button at the entrance in Monson Way

Notes on Procedure

- (1) A list of background papers appears at the end of each report, where appropriate, pursuant to the Local Government Act 1972, section 100D(i).
- (2) Members seeking factual information about agenda items are requested to contact the appropriate Service Manager prior to the meeting.
- (3) Members of the public and other stakeholders are required to register with the Democratic Services Officer if they wish to speak on an agenda item at a meeting. Places are limited to a maximum of four speakers per item. The deadline for registering to speak is 4.00 pm the last working day before the meeting. Each speaker will be given a maximum of 3 minutes to address the Council.
- (4) All meetings are open to the public except where confidential or exempt information is being discussed. The agenda will identify whether a meeting or part of a meeting is not open to the public. Meeting rooms have a maximum public capacity as follows:
Council Chamber: 100, Committee Room A: 20, Committee Room B: 10.
- (5) Please note that this meeting may be recorded or filmed by the Council for administrative purposes. Any other third party may also record or film meetings, unless exempt or confidential information is being considered, but are requested as a courtesy to others to give notice of this to the Democratic Services Officer before the meeting. The Council is not liable for any third party recordings.

Further details are available on the website (www.tunbridgewells.gov.uk) or from Democratic Services.

If you require this information in another format please contact us, call 01892 526121 or email committee@tunbridgewells.gov.uk

Accessibility into and within the Town Hall – There is a wheelchair accessible lift by the main staircase, giving access to the first floor where the committee rooms are situated. There are a few steps leading to the Council Chamber itself but there is a platform chairlift in the foyer.

Hearing Loop System – The Council Chamber and Committee Rooms A and B have been equipped with hearing induction loop systems. The Council Chamber also has a fully equipped audio-visual system.

Full Council

26 March 2018

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

Yes

Hawkhurst Neighbourhood Development Plan

| | |
|-----------------------------|--|
| Final Decision-Maker | Full Council |
| Portfolio Holder(s) | Councillor Alan McDermott – Portfolio Holder for Planning and Transportation |
| Lead Director | Lee Colyer – Director of Finance, Policy and Development |
| Head of Service | Karen Fossett – Head of Planning |
| Lead Officer/Author | Stephen Baughen – Building Control & Planning Policy Manager |
| Classification | Non-exempt |
| Wards affected | Hawkhurst and Sandhurst |

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

1. That the outcome of the Hawkhurst Neighbourhood Development Plan (HNDP) referendum be noted; and
2. That the Council “make” the Hawkhurst Neighbourhood Development Plan part of the local Development Plan for the Borough.

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

- A Prosperous Borough
- A Green Borough
- A Confident Borough

Hawkhurst Parish Council has progressed preparation of a new Neighbourhood Development Plan which will set out local objectives and policies for the parish for the period 2016 - 2033, including policies related to Housing / Design, Landscape / Environmental Protection, Access / Movement, and Community Infrastructure. The new Plan will be based on achieving sustainable development in the parish which accords with the Borough Council’s key corporate objectives.

Timetable

| Meeting | Date |
|----------------------------------|------------------|
| Management Board | 12 February 2018 |
| Discussion with Portfolio Holder | 12 February 2018 |
| Planning Policy Working Group | 20 February 2018 |
| Cabinet | 01 March 2018 |
| Full Council | 26 March 2018 |

Hawkhurst Neighbourhood Development Plan

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Following extensive preparation, including stages of public consultation, the Hawkhurst Neighbourhood Development Plan (HNDP) was subject to a referendum, held on 8 February, when the majority (91%) voted in favour of the Plan. This is the first neighbourhood plan in the Borough to reach this stage.
 - 1.2 The purpose of this report is to seek Council's formal approval to "make" the Hawkhurst Neighbourhood Development Plan as part of the Development Plan for the Borough as required by legislation.
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2. INTRODUCTION AND BACKGROUND

- 2.1 The Council has a statutory duty to assist communities during the preparation of Neighbourhood Development Plans and Orders and to take these plans through a process of examination and referendum. Currently nine NDPs are being prepared for parishes within the Borough.
 - 2.2 The HNDP is the most advanced and has been subject to the regulatory stages required under the Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012.
 - 2.3 The HNDP has been prepared for a designated Neighbourhood Area, which follows the Parish boundary and has a plan period from 2016 to 2035. The area was designated by the Borough Council in April 2014. Plan preparation by the Parish commenced shortly after this date.
 - 2.4 Having completed the various stages of preparation and consultation the HNDP was subject to a referendum on 8 February. The overall turnout was 35.3% with 1138 (91%) voting in favour and 111 (9%) voting against.
 - 2.5 Where a referendum results in a majority "yes" vote the local planning authority is required to "make" the neighbourhood plan within 8 weeks of the referendum outcome unless the plan would breach any EU obligations or any Convention rights.
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3. AVAILABLE OPTIONS

- 3.1 Option 1 Do Nothing: This is not a realistic option. The Council is legally required to "make" the Plan unless certain specific circumstances arise, which they do not in this case.
- 3.2 Option 2 Decide not to "make" the Plan: The Council has through its decision making processes considered the final Plan acceptable and made the decision to put it to a referendum.

- 3.3 Option 3 “Make “the Plan: The Council has through its decision making processes considered the final Plan acceptable and made the decision to put it to referendum. No circumstances have arisen which merit not making the Plan.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 It is recommended that the Hawkhurst Neighbourhood Development Plan be “made” for the reasons set out above at paragraph 3.3.
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5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 The HNDP has through its preparation been subject to various stages of public consultation in accordance with the relevant legislative requirements. At each stage the representations made have been carefully considered and the draft Plan revised and updated where considered appropriate and necessary.
- 5.2 The final stage of community engagement involved the referendum process itself.

RECOMMENDATION FROM CABINET ADVISORY BOARD

- 5.3 The Planning and Transportation Cabinet Advisory Board members were consulted on this issue from 12 - 19 February and raised no objections to the following recommendation:

That the recommendations set out in the report be supported.

RECOMMENDATION FROM CABINET

- 5.4 The Cabinet considered the report at its meeting on 1 March 2018 and resolved as follows:

That Full Council be recommended:

1. That the outcome of the Hawkhurst Neighbourhood Development Plan (HNDP) referendum be noted; and
 2. That the Council “make” the Hawkhurst Neighbourhood Development Plan part of the local Development Plan for the Borough.
-

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If the Plan is “made” the decision will be communicated by means of a formal decision statement posted on the Council’s website and confirmed to the Parish Council. All those making representations on the draft Plan previously will also be advised of the Borough Council’s decision.

- 6.2 A copy of the final Plan will be available on the Council's website and its status will be as part of the Development Plan.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

| Issue | Implications | Sign-off |
|---|---|---|
| Legal including Human Rights Act | The Council has a statutory duty to assist communities in the preparation of Neighbourhood Development Plans and Orders and to take plans through a process of Examination and Referendum. The relevant legislation is referred to in the body of the report. | Keith Trowell Interim Team Leader (Corporate Governance) 16.02.18 |
| Finance and other resources | This is the final stage in the preparation and "making" of the Plan. No financial or resource implications arise. | Jane Fineman Head of Finance and Procurement 12.02.18 |
| Staffing establishment | There are no staffing implications in "making" the Plan. | Report Author |
| Risk management | The process of preparing the draft Plan and the making of decisions by the Council has included the appropriate assessment of risks. | Report Author |
| Data Protection | There are no Data Protection issues arising from the "making" of the Plan. | Report Author |
| Environment and sustainability | The Neighbourhood Plan has been prepared on the basis of achieving sustainable development in the Parish. In order to meet the legal Basic Conditions test the Plan has to contribute to the achievement of sustainable development. | Report Author |
| Community safety | There are no community safety issues or effects in respect of crime and disorder. | Report Author |
| Health and Safety | There are no health and safety issues. | Report Author |
| Health and wellbeing | There are no health and well-being issues. | Report Author |
| Equalities | There are no equality issues. | Report Author |

8. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- Appendix A: Declaration of Result of Poll

9. BACKGROUND PAPERS

- Hawkhurst Neighbourhood Plan July 2106
http://www.tunbridgewells.gov.uk/_data/assets/pdf_file/0015/130812/01_Hawkhurst-Neighbourhood-Plan-Submission-Version.compressed.pdf

DECLARATION OF RESULT OF POLL

Tunbridge Wells Borough Council

Referendum on the Neighbourhood Plan for Hawkhurst

I, William Benson being the Counting Officer for Tunbridge Wells Borough Council at the referendum held on 8 February 2018, give notice that the votes recorded for each answer to the question were as follows:

| Question | | |
|---|----------------|------------|
| Do you want Tunbridge Wells Borough Council to use the Neighbourhood Plan for Hawkhurst to help it decide planning applications in the neighbourhood area? | | |
| | Votes Recorded | Percentage |
| Number cast in favour of a Yes | 1138 | 91 % |
| Number cast in favour of a No | 111 | 9 % |

| The number of ballot papers rejected was as follows: | Number of ballot papers |
|--|-------------------------|
| A want of an official mark | 0 |
| B voting for more answers than required | 0 |
| C writing or mark by which voter could be identified | 0 |
| D being unmarked or wholly void for uncertainty | 2 |
| E rejected in part | 0 |
| Total | 1,251 |

Electorate: 3539

Ballot Papers Issued: 1,251

Turnout: 35.3%

And I do hereby declare that more than half of those voting have voted **in favour of** the Neighbourhood Plan.

Dated 8 February 2018

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William Benson
Counting Officer

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Full Council

26 March 2018

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

Yes

Planning Legal Agreements on behalf of Tunbridge Wells Borough Council

| | |
|-----------------------------|--|
| Final Decision-Maker | Full Council |
| Portfolio Holder(s) | Councillor Alan McDermott – Portfolio Holder Planning and Transportation |
| Lead Director | Lee Colyer – Director of Finance, Policy and Development |
| Head of Service | Karen Fossett – Head of Planning |
| Lead Officer/Author | Karen Fossett – Head of Planning |
| Classification | Non-exempt |
| Wards affected | All |

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

That the Head of Planning, in consultation with the Portfolio Holder for Planning and Transportation and the Council's Monitoring Officer be delegated authority to explore options and (where appropriate) to agree arrangements with third party Local Planning Authorities (LPAs) to manage, administer and enforce unilateral undertakings (UUs) or S106 agreements, where it is considered advisable.

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

- A Prosperous Borough
- A Confident Borough

Timetable

| <i>Meeting</i> | <i>Date</i> |
|----------------------------------|--------------------|
| Management Board | 29 January 2018 |
| Discussion with Portfolio Holder | 29 January 2018 |
| Cabinet Advisory Board | 6 February 2018 |
| Cabinet | 01 March 2018 |
| Full Council | 26 March 2018 |

Planning Legal Agreements on behalf of Tunbridge Wells Borough Council

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 To secure a decision to enable another authority to act on behalf of TWBC should the need arise in relation to Planning Legal Agreements.
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2. INTRODUCTION AND BACKGROUND

- 2.1 As part of the process to consider and determine planning applications, it is often a requirement that a S106 legal agreement (S106)/Unilateral Undertaking (UU) is required to ensure that certain measures that are deemed necessary as part of the planning decision are secured.
- 2.2 Ordinarily, developers would enter into a S106 agreement with the Council but where the Council is landowner, applicant and LPA, it may not always be possible for the Council to enter into such S106/UU with itself.
- 2.3 Legal advice has been received that suggested one appropriate way forward in such circumstances would be for the Council (as applicant) to enter into the relevant legal agreement with another LPA.
-

3. AVAILABLE OPTIONS

- 3.1 If required, either KCC or another neighbouring Planning Authority could be requested and empowered to act on behalf of TWBC, providing that no conflict of interest transpires.
- 3.2 Postpone any decision until further legal advice is received.
- 3.3 Do nothing
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 That authority is given to the Head of Planning, in consultation with the Portfolio Holder for Planning and Transportation and the Council's Monitoring Officer, to agree arrangements with third party Local Planning Authorities (LPAs) to manage, administer and enforce unilateral undertakings (UUs) or S106 agreements, where it is considered advisable.
-

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

RECOMMENDATION FROM CABINET ADVISORY BOARD

- 5.1 The Finance and Governance Cabinet Advisory Board were consulted on this decision on 6 February 2018. During the discussion a minor amendment to the recommendation and the fact that the final decision would be taken by Full Council were taken into account. Both aspects are reflected in this report. The Board agreed the following recommendation:

That the recommendations be supported.

RECOMMENDATION FROM CABINET

- 5.2 The Cabinet considered the report at its meeting on 1 March 2018 and resolved as follows:

That Full Council be recommended:

That the Head of Planning, in consultation with the Portfolio Holder for Planning and Transportation and the Council's Monitoring Officer be delegated authority to explore options and (where appropriate) to agree arrangements with third party Local Planning Authorities (LPAs) to manage, administer and enforce unilateral undertakings (UUs) or S106 agreements, where it is considered advisable.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 Subject to approval being received, the Council will enter negotiations with other LPAs and secure the necessary permissions to allow them to manage, administer and enforce UUs or S106 agreements subject to there being no financial or reputational risks, or conflicts of interest.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

| Issue | Implications | Sign-off |
|---|---|--|
| Legal including Human Rights Act | <p>The recommendations within the report reflect advice received on the most appropriate measures for managing and enforcing legal obligations.</p> <p>The Local Government Act 1972, s101(a) enables a local authority to arrange for the discharge of any of their functions by a committee, a sub-committee or an officer of the authority; or (b) by any other local authority.</p> | Patricia Narebor Head of Mid Kent Legal Partnership |

| | | |
|---------------------------------------|--|---|
| | The Town and Country Planning act s106 provides that any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into an obligation restricting the development and/or operations or use of the land; and/or require sums to be paid. The recommendation will enable the Council to manage, administer and enforce unilateral undertakings (UUs) or S106 agreements, where it is considered advisable. | |
| Finance and other resources | Costs would be contained within existing budgets. | Lee Colyer, Director of Finance, Policy and Development |
| Staffing establishment | No staffing implications. | Karen Fossett, Head of Planning |
| Risk management | Reputational, financial, legal and professional risks would result without the authority requested. | |
| Data Protection | There are no new data protection risks. | |
| Environment and sustainability | These will be considered as part of a planning application. | |
| Community safety | There are no new community safety issues or effects in respect of crime and disorder. | |
| Health and Safety | There are no new health and safety issues. | |
| Health and wellbeing | There are no new health and well-being issues. | |
| Equalities | There are no new equality issues. | |

8. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- None
-

9. BACKGROUND PAPERS

- None