

CU M Taylor

Sheila Brookes

From: Kevin Toogood
Sent: 22 August 2018 10:23
To: Dave Davis; Jon Botten; Matthew Balfour; Sarah Barker; Peter Bolt; Vivian Branson; Mark Davis; Tom Edmondston-Low; Des Keers; Ann Kemp; Russell Lancaster; Mike Parry-Waller; Steve Perry; Roger Roud; Allan Sullivan; Mike Taylor
Cc: Adrian Stanfield; Steve Humphrey; Allison Parris; Claire Fox; Julie Beilby
Subject: Planning and Transportation Advisory Board 24 July 2018

Dear Councillors,

A number of you may be aware that questions were raised concerning the outcome of the vote at the Planning and Transportation Advisory Board ("PTAB") meeting of 24th July regarding the draft local plan. There were 13 voting members of PTAB present at the start of the meeting, in addition to 18 other members present but not members of the Board.

Three officers present at the meeting independently counted 5 votes in favour of the recommendation, 5 against and 3 abstentions. The Chair has a casting vote and voted in favour of the recommendation, and consequently announced that the recommendation had been approved. The meeting was then closed.

Immediately following the close of the meeting, a concern was raised regarding the vote. Committee services spoke to a number of PTAB members the following morning to clarify the vote taken, and it became apparent that the correct vote was 4 in favour, 5 against and 3 abstentions, as one of the PTAB members had left the room before the vote was taken. It seems likely that a hand was raised in error by a non-voting member attending the meeting, which was inadvertently counted as a vote in favour.

Consequently, the proper outcome of the vote at PTAB is that the recommendation- to recommend the draft plan to Cabinet for consideration- was defeated.

Constitutionally, PTAB is an advisory board which advises Cabinet. The role of Cabinet is to formulate the budget and policy framework of the Council, of which the development plan forms part. Thus it is Cabinet and subsequently full Council which are the decision making bodies in relation to the Local Plan process, although Cabinet should take into account the views expressed by PTAB, including the proper outcome of the vote on the 24th July.

Having considered the legal and constitutional issues in detail, and with the benefit of Counsel's advice, both Adrian and I are satisfied that it is constitutionally proper for the consideration of the Local Plan by Cabinet to go ahead as planned, with the correct vote of the PTAB meeting noted by Cabinet in reviewing the minutes of that meeting. There will be a report going to Cabinet which addresses this issue. The main report on the Local Plan to be made to Cabinet will address the key points debated by PTAB in the context of the key strategic issues for Members to consider at this stage of the process. It remains the case that the Cabinet has the responsibility to consider the Local Plan and make a recommendation to the Council.

Kind regards,

Kevin

Kevin Toogood

Principal Litigation Solicitor
Tonbridge and Malling Borough Council