

NOTICE OF MOTION – EXTRA-ORDINARY COUNCIL MEETING 2ND SEPTEMBER 2013

FURTHER BRIEFING NOTE TO FULL COUNCIL

The purpose of this note is to provide advice arising from review of the Further Opinion produced by Counsel to Boughton Monchelsea Parish Council dated 30th August 2013 and which was circulated to elected members on 1st September 2013.

This Council has sought its own advice from Counsel and this is attached for Members to consider.

At the heart of the matter is appropriate application of the NPPF and the significant detailed information available to inform officer judgements about the likelihood of windfalls occurring in the 5 years from 2012/13 to 2016/17.

The NPPF says that windfalls **may** be taken into account not that they must be taken into account.

When the calculations of land supply were undertaken prior to the March Cabinet officers had formed the view that there was not a compelling enough case for a provision to be made for wholly unexpected sites coming forward in the future. Our judgement on such an allowance has had regard to the Strategic Housing Land Availability Assessment not just historic experience. We do not believe that BMPC have brought forward compelling evidence. Nuggets of information were highlighted in the instructions to Counsel whereas officers have a fuller and more comprehensive understanding of the analysis that has been undertaken including for the Strategic Housing Land Availability Assessment in 2012/13. We do not believe that this information was included in the list of documents supplied to BMPC's Counsel.

Officers formed the view that provision should not be included for unexpected windfall sites because

- The policy context in Maidstone is changing as the Local Plan is developed and hence the next 5 years will not be comparable to the last 5 years
- In order to inform the content of the Local Plan extensive and detailed work has been undertaken to trawl potential sites that could become available for housing use and evaluate them. This has been achieved through the call for sites in 2009 and that which subsequently took place in 2012/13. To complement this officers have identified sites currently in other uses and which could conceivably become housing sites in the future and sites which currently have an employment designation and which could conceivably be considered for housing in the future (including Langley Park Farm) ie the likelihood of wholly unexpected sites coming forward and being developed within the 5 years is uncertain
- Windfalls on garden land cannot be included and hence any previous track record on this cannot be projected forward
- Preparation for the Local Plan has also included viability assessment and advice
- There has been extensive dialogue with housing providers

As indicated previously the Five Year Housing Supply is regularly reviewed which gives the opportunity to cast our minds over the material considerations again.

