



# **Tonbridge and Malling Borough Council Local Plan 2011-2031**

## **Regulation 19 Publication Version**

### **Representation Form**

*Tonbridge and Malling Borough Council respects your privacy and is committed to protecting your personal data. Further details of our Privacy Notice following the introduction of the General Data Protection Regulation can be found on our website: [www.tmbc.gov.uk/privacy-notice-localplan](http://www.tmbc.gov.uk/privacy-notice-localplan)*

# A



Ref:

*(For office use only)*

## Tonbridge and Malling Borough Council Local Plan 2011-2031 Regulation 19 Publication Version – Representation Form

Please return by **4pm on Monday 19<sup>th</sup> November 2018** to: [localplan@tmbc.gov.uk](mailto:localplan@tmbc.gov.uk) or by post to: Planning Policy Manager, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent ME19 4LZ

This form has two parts:

**Part A** – Personal Details

**Part B** – Your representation(s). Please fill in a separate sheet for each representation you wish to make. Please see guidance note at the back of the form for definitions and details.

	1. Personal Details *	2. Agent's Details (if applicable)
Title	MRS	
First Name	SARAH	
Last Name	HUSEYIN	
Job Title (where relevant)	PARISH CLERK	
Organisation representing (where relevant)	SHIPBOURNE PARISH COUNCIL	
Address Line 1	GABLE COTTAGE	
Address Line 2	ISMAYS ROAD	
Address Line 3	IGHTHAM	
Postal Town	SEVENOAKS	
Post Code	TN15 9BE	
Telephone Number	10732 886402	
Email Address	shipbourneparishcouncil@gmail.com	

*\* If an agent is appointed, please complete only the Title, Name and Organisation boxes above in 1 but complete the full contact details of the agent in 2.*

**Please note:** Where an email address is given, this will be used as the primary means of contact.

Would you like to hear from us in the future? *Please tick appropriate box*

I would like to be added to the database to receive updates of the Local Plan ✓

B



REF:  
  
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**Tonbridge and Malling Borough Council  
Local Plan 2011-2031**

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*Please note: Representations cannot be treated as confidential and will be published on our website alongside your name. If you are responding as an individual rather than a company or organisation, we will not publish your contact details (email / postal address and telephone numbers) or signatures online, however the original representations will be available for public viewing at our council office by prior appointment, as soon as reasonably practicable after the Local Plan and supporting documents have been submitted to the Secretary of State.*

**Part B – Please use a separate sheet for each representation**  
(Please note: Part A must also be completed)

Name or Organisation:

3. To which consultation document does this representation relate? Please tick appropriate box

Local Plan (inc. Policies Map)	<input checked="" type="checkbox"/>	Sustainability Appraisal	<input type="checkbox"/>	Habitat Regs Assessment	<input type="checkbox"/>
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4. Topic. Please select topic (also listed in guidance note) and then state policy/section

Topic	AONB				
Policy	LP12		Policy Map		
Paragraph	4.8.5		Sustainability Appraisal (SLAA ref number)		

5. Do you consider the Local Plan is:  
*Please tick appropriate box, see guidance note for definitions and details*

5. (1) Legally compliant	YES	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Don't Know	<input type="checkbox"/>
5. (2) Sound	YES	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Don't Know	<input type="checkbox"/>
4. (3) Compliant with the Duty to Co-operate	YES	<input type="checkbox"/>	No	<input type="checkbox"/>	Don't Know	<input type="checkbox"/>

6. Please provide details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the Duty to Cooperate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the Duty to Cooperate, please also use this box to set out your comments.

LP12 is not legally compliant or consistent with national policy. This makes the Local Plan unsound. A MAJOR MODIFICATION OF LP12 IS REQUIRED TO MAKE THE PLAN SOUND.

The plan is UNSOUND AND UNLAWFUL in relation to:

“Section 82, 84 and 85, of the Countryside and Rights of Way Act 2000 (CROW Act)

Section 82 : (1) Where it appears to the Countryside Agency (in this Part Designation of areas. referred to as “the Agency”) that an area which is in England but not in a National Park is of such outstanding natural beauty that it is desirable that the provisions of this Part relating to areas designated under this section should apply to it, the Agency may, FOR THE PURPOSE OF CONSERVING AND ENHANCING THE NATURAL BEAUTY OF THE AREA, by order designate the area for the purposes of this Part as an area of outstanding natural beauty.”

“Section 84 - (4) A local planning authority whose area consists of or includes the whole or any part of an area of outstanding natural beauty has power, subject to subsections (5) and (6), to take all such action as appears to them expedient for the accomplishment of the purpose of CONSERVING AND ENHANCING THE NATURAL BEAUTY OF THE AREA OF OUTSTANDING NATURAL BEAUTY or so much of it as is included in their area.”

“Section 85.—(1) In exercising or performing any functions in relation to, or so General duty of public bodies etc. as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the PURPOSE OF CONSERVING AND ENHANCING the natural beauty of the area of outstanding natural beauty.”

Policy LP12 (1) of the Reg. 19 LP Indicates that the AONB’s should be ‘CONSERVED OR WHERE POSSIBLE ENHANCED IN ACCORDANCE WITH THEIR LANDSCAPE SIGNIFICANCE.’

This should be deleted. It should read ‘AONBs should be conserved AND enhanced in accordance with the CROW Act 2000.

There is no ‘either or’ - or ‘where possible’. Development in the AONBs MUST CONSERVE AND ENHANCE to comply with the CROW Act. The Section 85 ‘duty of regard’ under the Crow Act requires conservation AND

enhancement, and in order to give 'great weight' to AONB under NPPF 2012 para. 115 both conservation AND enhancement are required. There is not an either-or option.

Shipbourne Parish is washed over by the Kent Downs AONB so this policy is important to the Parish.

(Continue on separate page/expand box if necessary)

7. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the matter you have identified at 6 above.

**Please note:** any non-compliance with the Duty to Cooperate is incapable of modification at examination.

*You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.*

A MAJOR modification is needed to policy LP12 to ensure the Local Plan is legally compliant and sound:

Proposed changes to LP12 to make the plan sound:

LP12. AREAS OF OUTSTANDING NATURAL BEAUTY.

1. There are 2 Areas of Outstanding Natural Beauty (AONBs) in the Borough, illustrated on the proposals map. AONBs are nationally designated landscapes and as such have the highest status of landscape protection. Great weight must be given to the conservation and enhancement of the Kent Downs and High Weald AONBs and their settings.
2. Major development within the AONBs will only be permitted in exceptional circumstances as set out in the NPPF or whatever represents the relevant national planning policy at the time the planning application is determined. If granted such development would need to comply with the requirements for other development within the AONB as set out in 3 below.
3. Other development within the AONBs and their settings will only be permitted provided that:
  - a) The development has regard to the relevant AONB Management Plan and any associated guidance.
  - b) The scale, layout, build and landscape design of development will be informed by landscape character and visual impact assessment.
  - c) The location, form, scale materials and design would conserve and enhance the special qualities and distinctive character of the landscape and its built environment;
  - d) The development would conserve AND enhance the special qualities, distinctive character and tranquillity of the AONB ;

e) The development complies with all other relevant policies in the Local Plan.

(Continue on separate page/expand box if necessary)

**Please note:** your representation should cover succinctly all the information, evidence and information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

**After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.**

8. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination? *Please tick appropriate box*

**NO**, I do not wish to participate at the oral examination

**YES**, I wish to participate at the oral examination

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

To ensure that a representative from Shipbourne Parish Council is part of the discussion around the changes to LP12 which are necessary to make the Local Plan legal and sound and protect the environment of the Parish.

(Continue on separate page/expand box if necessary)

**Please note:** the Inspector will determine the most appropriate procedure to hear those who have indicated that they wish to participate at the oral part of the examination.

Signature:

Date:



