

**STRATEGIC PLANNING,
SUSTAINABILTY &
TRANSPORTATION COMMITTEE**

**13th September
2016**

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

Yes

The Housing and Planning Act 2016

Final Decision-Maker	Strategic Planning, Sustainability & Transportation Committee
Lead Head of Service	Rob Jarman, Head of Planning & Development
Lead Officer and Report Author	Mark Egerton, Planning Policy Manager & Chris Smith, interim Planning Policy Manager.
Classification	Public
Wards affected	All

This report makes the following recommendations to this Committee:

1. That the Committee notes the Assent of the Housing and Planning Act 2016, its provisions and the need for regulations and secondary legislation before it fully comes into effect.
2. That the Committee agrees to the organisation of a future workshop for Councillors to be held when the details of secondary legislation are available

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all – the Housing and Planning Act changes national planning policies that directly impact on local planning policies (including the Local Plan and neighbourhood plans) and on the determination of planning applications that, in turn, influence the overall attractiveness of the Borough.
- Securing a successful economy for Maidstone Borough - the Housing and Planning Act changes national planning policies that directly impact on local planning policies (including the Local Plan and neighbourhood plans) and on the determination of planning applications that, in turn, influence the overall attractiveness of the Borough.

Timetable

Meeting	Date
Strategic Planning, Sustainability and Transport Committee	13 th September 2016

The Housing and Planning Act 2016

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report provides a brief overview of the Housing and Planning Act 2016.
 - 1.2 It outlines, for relevant Sections of the Act, the current situation about guidance, secondary legislation, regulations and if provisions are already in force or when they will come into force.
 - 1.3 It proposes holding a Members Workshop in the new year providing that all the Act's provisions are in force or timetabled.
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2. INTRODUCTION AND BACKGROUND

- 2.1 The Housing and Planning Act brings in a number of changes designed to meet the government's commitment to increase the supply of new homes. Following initial publication of the Housing and Planning Bill in October 2015 significant new provisions were added during its parliamentary passage.
- 2.2 At the same time, the Department for Communities and Local Government (DCLG) published technical consultations explaining how it envisaged the Act's provisions would be implemented through secondary legislation. Also, technical consultation on proposed changes to national planning policy took place between January and April 2016 and was reported to this Committee (8th March 2016). The DCLG is still considering the responses.
- 2.3 Some of the Act's provisions came into force on 12 May 2016. They included powers to pilot alternative provision of application processing, duties for councils to keep brownfield and self-build registers and scope to vary application fees in different areas.
- 2.4 Further Sections came into force on 12 July 2016 including parts of the planning permission in principle provisions and new rights to make applications direct to central government in areas of poor development management performance.
- 2.5 However, large swathes of the Act, including some of the provisions already in force, will only take effect once detailed regulations and secondary legislation are drawn up.
- 2.6 Starter Homes
Chapter 1 of the Act introduces new duties for councils to pursue the government's Starter Homes initiative. The Act introduces a general duty to promote Starter Homes through councils' planning functions. Specifically, councils must ensure that Starter Homes are delivered on "all reasonably sized sites" subject to a "general exemption" where this requirement would make schemes unviable. The Starter Homes provisions will come into force on a date to be prescribed by regulations.

2.7 Self-build and custom build

Chapter 2 introduces a duty for councils to grant planning permission for sufficient serviced plots sufficient to meet demand for self-build and custom housebuilding evidenced from council-compiled register of suitable plots. A response from DCLG following their technical consultation is still awaited and the provisions will come into force on a date to be prescribed by regulations.

2.8 Assessment of housing needs

Section 124 of the Act removes the duty on local authorities to assess the accommodation needs of gypsies and travellers in their area as a distinct category. Instead, it specifies that they should consider the needs of people "residing in or resorting to their district with respect to the provision of sites on which caravans can be stationed, or places on inland waterways where houseboats can be moored." The DCLG published **draft** guidance in March 2016 on how it expects local authorities to interpret this provision. The full guidance is awaited.

2.9 In the meantime, the current DCLG "Planning policy for traveller sites" (in conjunction with the National Planning Policy Framework (NPPF)) remains national planning policy.

2.10 Neighbourhood Planning

Sections 139 to 142 of the Act:

- Enhances the Secretary of State's default powers on neighbourhood planning.
- Includes powers to direct councils on requests to designate neighbourhood plan areas.
- Sets tighter timescales and deadlines for the neighbourhood planning process.

2.11 This Committee has already approved (18th April 2016) a revised protocol for Neighbourhood Planning that incorporates any relevant changes and implications arising from the Housing and Planning Act.

2.12 Local Planning

Sections 143 to 148 bring in new powers for the secretary of state to intervene in plan-making, reflecting the Government's commitment for all planning authorities to produce a local plan by May 2017. Details were given in the February 2016 DCLG technical consultation for which a response is still awaited. However, if current progress on the Local Plan is sustained then it should be adopted by May 2017.

2.13 Planning Permission in Principle

Section 150 paves the way for "planning permission in principle" (PPIP) to give developers more certainty about consent for "housing-led development", which could include an element of retail, community and commercial uses. Some subsections of this part of the Act came into force on 12 July but full implementation will require Regulations which are awaited.

2.14 Local brownfield land registers

Section 151 requires councils to compile and maintain registers of types of sites to be prescribed in regulations; it came into force on 12 May 2016. The results of the technical consultation (Jan to April 2016) are still awaited as are the consequent regulations.

2.15 Permitted Development

Section 152 gives the Secretary of State power to make further provision for operational development under the General permitted Development Order. Most of this section came into effect on 12 May 2016 but will not be enacted until secondary legislation is issued.

2.16 Poor performance regime extended

Section 153 gives developers the right to submit applications for minor development in areas where the LPA has a track record of very poor performance in the speed or quality of its decision making. It came into force on 12 July 2016 but secondary legislation is required.

2.17 Planning freedoms scheme

Section 154 introduces a "planning freedoms" scheme whereby councils, following local consultation, could be granted time-limited powers to "disapply or modify" national planning rules "in order to facilitate an increase in the amount of housing". Secondary legislation is required.

2.18 Information about financial benefits

Section 155 places a new duty on local authorities to consider the potential financial benefits of development proposals when considering whether to grant planning permission, with a view to persuading local people to voice support. These provisions will come into force on a date to be prescribed by regulations.

2.19 Variable Fee rates

Section 157 makes it easier for high planning application fee rates to be charged in some areas. This section came into force on 12 May 2016. The DCLG technical consultation said higher fees would need to be tied to improved performance.

2.20 Resolution of obligations disputes

Section 158 and Schedule 13 allow for the Secretary of State, following a request from an applicant or council, to bring in "an appointed person" to resolve issues holding up the completion of planning agreements. They will come into force on a date to be prescribed by regulations.

2.21 Enforcement of housing obligations

Section 159 empowers the Secretary of State to make regulation's imposing restrictions or conditions on the enforceability of planning obligations for affordable housing, or on prescribed descriptions of affordable housing. These provisions will come into force on a date to be prescribed by regulations.

2.22 Development consent for housing

Section 160 extends the Planning Act 2008's definition of nationally significant infrastructure projects (NSIPs) to proposals that include an associated housing element, thus making them eligible to be included in a

development consent order. A briefing note in Autumn 2015 suggested that “related housing” should comprise no more than 500 homes and should have a functional link with NSIP or be part of it. These provisions will come into force on a date to be prescribed by regulations and will be accompanied by further guidance.

2.23 Alternative housing providers

Sections 161 to 164 allow the Secretary of State to introduce regulations piloting “alternative provision” for processing planning applications. The procedure would give applicants the option to submit applications for processing, but not determination, by a “designated person” other than the local planning authority. These sections came into effect on 12 May 2016 but further regulations are needed to implement them.

2.24 Current Situation

Whilst the Housing and Planning Act received Royal Assent on 12 May 2016, much of the Act that may impact on the Council’s work has still to be implemented. In addition, much of the detail is sketchy and further guidance and responses to consultations are still awaited.

2.25 Members Workshop

A Member workshop is proposed, probably in the New Year, when more of the details of the Act are available and a greater understanding of the detailed implications for the Council is achieved. Such a workshop will be included in the future work programme of this Committee.

3. AVAILABLE OPTIONS

3.1 Note the Report and agree to hold a Members Workshop

3.2 Note the Report

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The Housing and Planning Act’s provisions will impact on Maidstone Borough Council’s Planning Policy, Development Management and Housing duties. Option 1 provides the best option for Councillors to receive up-to-date information about the Act.

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

5.1 The Government will fully implement the provisions within the Housing and Planning Act in due course

5.2 The Members workshop will be used to update Councillors on the confirmed details.

6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The Housing and Planning Act changes national planning policies that directly impact local planning policies (including the Local Plan and neighbourhood plans) and on the determination of planning applications that, in turn, influence the overall attractiveness of the Borough.	Head of Planning and Development
Risk Management	None identified, this a report for "information".	Head of Planning and Development
Financial	None identified	Section 151 Officer & Finance Team
Staffing	None identified	Head of Planning and Development
Legal		Legal Team
Equality Impact Needs Assessment	None identified	Policy & Information Manager
Environmental/Sustainable Development	None identified	Head of Planning and Development
Community Safety	None identified	Head of Planning and Development
Human Rights Act	None identified	Head of Planning and Development
Procurement	None identified	Head of Planning and Development & Section 151 Officer
Asset Management	None identified	Head of Planning and Development

7. REPORT APPENDICES

None

8. BACKGROUND PAPERS

Housing and Planning Act 2016

<http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>