

# STRATEGIC PLANNING, SUSTAINABILITY & TRANSPORTATION COMMITTEE

11 April 2017

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

**Yes**

## Housing White Paper

<b>Final Decision-Maker</b>	Strategic Planning, Sustainability & Transportation Committee
<b>Lead Head of Service</b>	Rob Jarman, Head of Planning & Development
<b>Lead Officer and Report Author</b>	Sarah Anderton, Principal Planning Officer (Spatial Policy)
<b>Classification</b>	Public
<b>Wards affected</b>	All

### This report makes the following recommendations to this Committee:

1. That the responses set out in the body of the report **be AGREED** as a basis for the Council's consultation response to the planning aspects of the Housing White Paper.

### This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all – the Housing White Paper's proposals will impact on the Council's planning and housing functions which themselves have a key role in delivering this priority.
- Securing a successful economy for Maidstone Borough -the Housing White Paper's proposals will impact on the Council's planning and housing functions which themselves have a key role in delivering this priority.

### Timetable

<b>Meeting</b>	<b>Date</b>
Strategic Planning, Sustainability & Transportation Committee	11 <sup>th</sup> April 2017

# Housing White Paper

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Housing White Paper 'Fixing our Broken Housing Market' sets out the Government's measures to address what it identifies as weaknesses in the operation of the housing market. The measures are numerous and broad ranging and, if confirmed, will primarily impact on the Council's Planning, and Housing functions. The White Paper confirms certain measures, consults on others and signals future consultation on further, select proposals. Consultation on the White Paper closes on 2<sup>nd</sup> May 2017.
- 1.2 The purpose of this report is to provide an overview of the White Paper's proposals which are most directly related to planning and to set out some main points which it is recommended form the basis for the Council's consultation response.

## 2. INTRODUCTION AND BACKGROUND

- 2.1 The Government published its Housing White Paper 'Fixing our Broken Housing Market' on 7<sup>th</sup> February 2017. It advances proposals on a number of fronts and its content has been described as 'evolution' rather than 'revolution'. Its four chapters are entitled 'Planning for the right homes in the right places', 'Building homes faster', 'Diversifying the market' and 'helping people now'.
- 2.2 The content of White Paper which is most pertinent to this Committee's remit falls within the following broad subject areas:
- Housing delivery
  - Diversifying and boosting housing supply
  - Local Plans
  - Affordable housing

### **Housing Delivery**

- 2.3 ***Housing Delivery Test***: This proposed test will measure whether housing completions in the local authority area have kept pace with requirements and imposes sanctions where delivery is below target. This new test is complementary to the 5 year housing land requirement as it measures actual, achieved completions whereas the 5 year supply measures the sufficiency of future housing supply. The new test will establish whether the number of homes being completed is below target and, if so, require that the reasons for this be identified and actions be taken to ensure that more housing land comes forward. The following phased approach is proposed:

<b>Date (from)</b>	<b>Delivery threshold (% of local authority's annual housing requirement)</b>	<b>Implication for local authority</b>
Nov 2017	Below 95%	Publish an action plan setting out the reasons and actions
	Below 85%	Plan for a 20% buffer on their five-year land supply
Nov 2018	Below 25%	Presumption in favour of sustainable development will apply
Nov 2019	Below 45%	
Nov 2020	Below 65%	

- 2.4 The calculation will be based on the completions as a percentage of the annual target and will be based on a three year rolling average. The first 3 year assessment period will be for the financial years 2014/15 to 16/17. The new test underlines that an authority's assessment of housing supply must be realistic in terms of the number and timing of new homes that will be built.
- 2.5 To support neighbourhood plans, the Written Ministerial Statement of December 2016 stated that the presumption in favour of sustainable development would not apply in areas with an approved neighbourhood plan which allocates land for housing provided that the local planning authority can demonstrate a 3 year housing land supply position (rather than the normal 5 year requirement). The White Paper would further amend this to only apply to neighbourhood plans which identify land for its share of housing need. In a further refinement, this protection in neighbourhood plan areas would be over-ridden by a failure of the housing delivery test (i.e. not meeting the 25%/45%/65% thresholds in the table above).
- 2.6 **Response:** The Council has very recently had its housing land supply position thoroughly tested through its Local Plan Examination. Having heard all the arguments, the Inspector indicated in his Interim Findings that a 5% buffer on the 5 year supply calculation is appropriate in Maidstone's case. He did not agree that the 'persistent under-delivery' that would require a 20% buffer had been demonstrated and opined that "it would be unreasonable to apply higher housing need figures retrospectively that were only identified as recently as 2014."
- 2.7 A similar principle should apply to the proposed Housing Delivery Test. There is some inevitable time lag before the housing site allocations in an up to date Local Plan generate an uplift in housing completions. It is unreasonable that an authority with a very up to date Local Plan could potentially be required to apply a 20% buffer (with a resulting risk to its 5 year land supply position) because the test relies on completion rates from earlier years. This could be particularly the case for authorities such as Maidstone where the Objectively Assessed Need for housing (OAN), which the Local Plan provides for in full, is substantially higher than the targets that previously applied.

- 2.8 This aspect of the delivery test could run counter to the Government's clear intention that that the planning system is plan-led and that an up to date local plan is the key way by which authorities have full control over the scale, nature and location of development in their areas. This could be addressed with the introduction of a transition period of up to 3 years from a Plan's adoption before the 20% buffer could be required.
- 2.9 In terms of the detail of the proposed test, it is agreed that this should be based on the housing target established in an up to date Local Plan. Also the principle that the test is introduced in a staged manner is welcomed. As local planning authorities do not generally have direct control over the construction of new homes and the rate at which this occurs it is also essential that the delivery test is applied in concert with actions to ensure developers implement consents promptly. Further guidance will be needed on what is meant by 'a neighbourhood plan's share of housing need' in circumstances where there is an up to date Local Plan in place which includes site allocations to meet OAN.
- 2.10 **5 year supply:** to curtail the scope for debate about the existence of a 5 year land supply at appeals, the NPPF will be amended to enable local planning authorities to have their position agreed on an annual basis and, once agreed, the position would stand for a year. The position would be prepared in consultation with developers and those who have a direct influence on the delivery of sites (e.g. infrastructure providers) and would be submitted to the Planning Inspectorate (PINS) for consideration. Guidance will also be prepared to set out more detail how the 5 year land supply should be calculated.
- 2.11 The facility for PINS to be able to agree an authority's 5 year land supply position is welcomed. This will help to avoid repeated debate on this point at appeals which is costly, time consuming and can result in contradictory conclusions which in turn brings uncertainty for anyone with an interest in the development process.
- 2.12 The White Paper consults specifically on whether authorities taking up this opportunity will be required to apply a 10% buffer to their supply calculation.
- 2.13 **Response:** It is not agreed that this facility should require a 10% buffer to be applied as standard. There is no particular justification for this to be applied and for authorities with an up to date Local Plan, the buffer percentage should be as determined through the detailed process of the Examination. It is considered that the assessment by PINS should seek to confirm both the robustness of the authorities' approach to the 5 year supply calculation and whether the authority has a 5 year supply in place. For the process to work successfully and to avoid delays, PINS will need to be adequately resourced to deliver an efficient service.
- 2.14 **Timescale for implementing consents:** The NPPF is proposed to be amended to state that the default period for implementation of a planning consent will reduce from 3 years to 2 years subject to deliverability and viability considerations.

- 2.15 **Response:** This proposal is supported. It should be expressed in the NPPF that an implementation date exceeding 2 years would be exceptional and should only be applied if it clearly justified for viability or deliverability reasons. This is considered to be important as a complementary measure to the other housing land supply requirements on local planning authorities, such as the requirement to meet OAN in full, the 5 year supply requirement and the new Housing Delivery test, to underline that the development industry will be expected to implement consents promptly.
- 2.16 **Information on build out rates/developers' track record:** Changes to the NPPF would state that the realistic prospect of a site's development and a developer's delivery record should become material considerations when determining planning applications for large scale housing sites. There could also be a duty on developers to provide actual/projected build out information on the planning application form and after consent is granted.
- 2.17 **Response:** Maidstone has a good rate of implementation of planning consents. In Maidstone, the proportion of consents which lapse without implementation is only about 2.1% of the dwellings permitted per year <sup>1</sup>. These rare cases include, for example, where a consent is sought simply as a valuation exercise. The research done when the Council's housing supply position is updated annually ensures such examples are excluded from the projected housing supply. The White Paper's proposal may act to discourage such valuation exercises in the future however it must be borne in mind that the fact that a site has an unimplemented consent does not necessarily indicate that a subsequent application would not be implemented. More information on build out rates would be welcomed as an aid to transparency.
- 2.18 With respect to a developer's delivery record, this needs to be refined to state whether it relates to delivery in the borough or elsewhere. The fact an application is submitted by a landowner or development company which will sell on a consented sites to others does not mean that the site is not suitable for consent; the local planning authority would instead need to take a realistic view of the timing of delivery. The developer providing actual /projected build out information would help with this.
- 2.19 **Appeal fees:** the White Paper seeks views on the suggestion that a fee could be introduced for lodging a planning appeal.
- 2.20 **Response:** Any fee should be graded according to the size of the development. The money raised should be ring-fenced to directly fund the work of PINS to speed up the processing of planning appeals.
- 2.21 The White Paper also announces that local planning authorities will be able to **increase planning application fees** by 20% from July 2017 provided they commit to invest the additional income in their planning departments. This is very much welcomed. There will be future consultation on a proposal to increase this by a further 20% 'for those authorities who are delivering the homes their communities need'. This should be open to authorities with an up to date Local Plan.

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<sup>1</sup> Based on 8 years' data

## **Diversifying and boosting housing supply**

- 2.22 **Small site allocations in Local Plans:** To diversify the supply of housing and in particular to encourage small/medium sized developers, local planning authorities will be expected to have policies that support small windfall sites. A further proposed NPPF change would direct that, in addition to a windfall site allowance, at least 10% of the housing sites allocated in local plans should be 0.5 hectare or less in size.
- 2.23 **Response:** It is generally agreed that having a range of different sizes of sites allocated in a Local Plan can help make the housing land supply more robust and reduce the risk of under-delivery.
- 2.24 **Housing densities:** Proposed amendments to the NPPF will require land to be used efficiently and will direct that building at lower densities should be avoided where there is a shortage of housing land. Plans and individual proposals should capitalise on the scope for higher density development in urban locations whilst also ensuring that appropriate account is taken of local character, accessibility and infrastructure capacity.
- 2.25 **Response:** National policy support to ensure the efficient use of land is welcomed; this is not in the NPPF currently. Local planning authorities should be left to set appropriate development densities in their Local Plans based on their local understanding of the area.
- 2.26 Also, and to note, the NPPF will be amended to give **great weight to the development of brownfield sites within settlements for housing**. It will be important that this does not over-ride local planning policies set out in an up to date Local Plan which ensure sufficient stock and future supply of employment and other commercial land.

## **Local Plans**

- 2.27 **Standardised housing need calculation:** The Government proposes that there should be a standardised methodology for calculating an authority's full OAN. This will help reduce the debate about the correct OAN figure during local plans' preparation and examination. Options for the proposed methodology (and what the justifiable reasons for diverting from it would be) will be the subject of future consultation. The White Paper indicates that for authorities without an up to date Local Plan, the 5 year supply calculation should be based on the OAN figure resulting from the new methodology from April 2018 onwards.
- 2.28 **Response:** It is crucial that the new approach should not disrupt the OAN agreed within adopted, up to date Local Plans. Overall, however, the introduction of a standardised methodology is welcomed as it will reduce the contention associated with establishing the OAN figure in the future. The methodology should provide for a consistent approach to in/out migration flows. In particular, South East authorities' population projections are strongly influenced by out-migration from London but the projections used by the Greater London Authority differ from those prepared on a national

basis by the Office of National Statistics. This results in uncertainty and much debate at Local Plan examinations about how out-migration should be attributed and the issue is currently being dealt with in an incremental and inconsistent basis in South East authorities' individual plans. This issue should be specifically addressed in the new guidance.

- 2.29 **Green Belt:** The options a local authority should fully explore before proposing to amend its Green Belt boundaries are to be set out in the NPPF. In addition to making effective use of brownfield and public land and optimising densities, Green Belt authorities would be required to approach other authorities to see if they could help meet their identified development requirement before considering the release of Green Belt land in their own areas to meet their housing needs.
- 2.30 **Response:** Elsewhere in the White Paper proposes that when a Green Belt Review is undertaken, this should look first at using previously developed land and/or land which surrounds transport hubs. It is considered that these avenues could represent highly sustainable options for meeting development needs within the authority area. They should precede approaches to other authorities particularly as relying on other authorities' plans at differing stages of preparation may not be as conducive to boosting housing land supply in a timely way. A Green Belt Review will necessarily test sites for their contribution to the five purposes of the Green Belt<sup>2</sup> to ensure development would not undermine the Green Belt's function.
- 2.31 **Proportionate evidence base guidance.** The White Paper is seeking views on how the NPPF could be amended to more clearly define what would constitute proportionate evidence to support a sound Local Plan.
- 2.32 **Response:** Clearer guidance on this point would be welcomed. The Examination process can be lengthy and costly and local planning authorities have to manage the risk of how much and to what depth evidence is prepared. Guidance on what would constitute a sufficient Sustainability Appraisal (SA) would be particularly valuable.
- 2.33 **Proportionate consultation and examination procedures.** The Government is requesting ideas for how to make consultation and examination procedures proportionate
- 2.34 **Response:** Imposing a duty on statutory agencies to engage at an early stage of the Plan making process and to provide the information needed to evidence the Plan could help to expedite the plan preparation process. Statutory agencies, including infrastructure providers, could be required to provide the evidence they hold which could impact on the preparation of a Plan as soon as it is available.
- 2.35 In addition to these consultation matters, the White Paper affirms that the **planning system will continue to be Plan-led**. Regulations will be put in place **to require Local Plans to be reviewed, in whole or in part, at least once every 5 years**. Linked to this are the provisions of the Neighbourhood Planning Bill currently before Parliament which will place a

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<sup>2</sup> NPPF paragraph 80

duty on local planning authorities to have a plan in place containing key strategic planning policies. Currently, there is no statutory duty on local planning authorities to prepare a Local Plan. With the established emphasis on the delivery of housing numbers (OAN and 5 year supply) and the emerging requirement that this is achieved consistently at the necessary rate (the new Housing Delivery Test), an up to date Local Plan containing detailed site allocations is instrumental in avoiding planning by appeal.

### **Affordable Housing**

2.36 **Definition of affordable housing and 10% affordable home ownership requirement.** The current NPPF definition of affordable housing includes social rented housing, affordable rented housing and intermediate housing (including shared equity homes). The definition is proposed to be expanded to encompass starter homes, discounted market sales housing and affordable private rent housing.

- a. **Starter homes** were introduced through the Housing and Planning Act 2016, which defines a starter homes as a new dwelling which is available for purchase by qualifying first-time buyers only, which is to be sold at a discount of at least 20% of the market value, and which is less than the price cap set (i.e. £250,000 outside of Greater London). An addition to the Act's definition is a proposal to limit a person's eligibility to purchase a starter home to those who have maximum household incomes of £80,000 a year or less (outside Greater London). Some or all of the discount will be repaid if the property is sold within 15 years. The White Paper explains that the income cap is to "make sure that starter homes are available to those that genuinely need support to purchase a new home, and the cap is in line with shared ownership products.
- b. **Discounted market sales housing** is sold at a discount of 20% below local market value and eligibility is determined with regard to local incomes and local house prices. Discounted market sales housing should include provisions to remain at a discount for future eligible occupants. (For starter homes secondary legislation is expected to introduce a sliding scale discount for re-sales),
- c. **Affordable private rent housing:** properties are made available for rent at 20% below market rent. Eligibility is determined through local incomes and local house prices, and the discount should remain in place for future eligible households, or alternative provision made. This product is most suited to Build to Rent Schemes, which are purpose built homes for private and affordable rented accommodation.

2.37 The government intends to amend the NPPF to introduce a clear policy expectation that housing sites deliver **a minimum of 10% affordable home ownership units on sites of 10+ units or greater than 0.5ha.** The Government considers that this strikes an appropriate balance between providing affordable homes for rent and helping people into home ownership. Also, to note, the requirement previously proposed by the

Government that 20% of homes on a site (above the defined thresholds) should be starter homes has not been carried forward into the White Paper.

2.38 **Response:** The proposals which widen the scope of affordable housing with a particular emphasis on affordable ownership products is welcomed but this will not meet the requirements of those in the most acute housing need. The Government should also indicate how it will support the delivery of products for those who will never be able to afford to buy their own homes. There also appears to be some overlap between the definitions being proposed and the distinction between similar products. This could be made clearer. This would include clarification about what products constitute as 'affordable home ownership' for the purposes of the 10% requirement which is being proposed. In addition it was a characteristic of affordable homes that they would remain affordable in perpetuity. There is a lack of detail in the White Paper as to how these homes will remain discounted in future years and until this point is clarified there is a concern that the homes will not remain affordable for future buyers.

2.39 **Exceptions sites.** Proposed changes to the NPPF would give stronger support for rural exceptions sites that provide local needs affordable housing to make clear that these should be considered positively even if an element of market housing is needed to cross-subsidise the affordable element.

2.40 **Response:** The positive policy support for exceptions sites is welcomed subject to the amended guidance making clear that any market housing element should be the minimum needed to achieve the required local needs housing.

### **Further Points for Noting**

2.41 The White Paper signals that the Government will announce its proposals for reforming (simplifying) the system for **developer contributions including the Community Infrastructure Levy (CIL)** as part of the Autumn Budget 2017. The White Paper also indicates that it will consult on standardised open book s106 agreements and increased transparency in the monitoring of the implementation of agreements.

2.42 **Funding for neighbourhood groups:** the White Paper also announces that Government will make additional funding available in 2018-20 to those preparing neighbourhood plans to support the process. The details of this funding are awaited.

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## **3. AVAILABLE OPTIONS**

3.1 Option A: the Committee could decide that no consultation response should be submitted.

3.2 Option B: the Committee could decide to submit a consultation response on the White Paper based on the content of the responses in the preceding section.

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#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Option B is the preferred option. Submitting a consultation response will ensure that the Council's viewpoint can be taken into account as the Government finalises its proposed changes to the planning system and policy.
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#### **5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 5.1 A Member workshop is booked for 20<sup>th</sup> April 2017 at which the content of the White Paper will be presented and discussed. Thereafter, it is proposed that the Chair and Vice Chair of the Strategic Planning, Sustainability and Transportation Committee and of the Communities, Housing and Environment Committee (to cover the Housing aspects) be asked to agree the Council's response to the White Paper consultation in order that this can be submitted by the 2<sup>nd</sup> May deadline.
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#### **6. CROSS-CUTTING ISSUES AND IMPLICATIONS**

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	The Housing White Paper's proposals will impact on the Council's planning and housing functions which themselves have a key role in delivering the Council's corporate priorities	Rob Jarman, Head of Planning & Development
<b>Risk Management</b>	This is a consultation process on national policy changes. The risk to the Council of responding to, or choosing not to respond to, the consultation is minimal.	Rob Jarman, Head of Planning & Development
<b>Financial</b>	The White Paper announces increases in planning application fees which will impact on the Council's income from this source.	[Section 151 Officer & Finance Team]
<b>Staffing</b>	The preparation of the consultation response can be accommodated within existing	Rob Jarman, Head of Planning &

	staff resources.	Development
<b>Legal</b>	There are no specific legal implications arising from this report.	Estelle Culligan, Interim Head of Legal Partnership
<b>Equality Impact Needs Assessment</b>	There are no specific EIA requirements arising from this report	[Policy & Information Manager]
<b>Environmental/Sustainable Development</b>	Changes to national planning policy will directly impact on the delivery of sustainable development in the borough through the development management process and the formulation of local planning policy.	Rob Jarman, Head of Planning & Development
<b>Community Safety</b>	There are no specific impacts arising from this report.	Rob Jarman, Head of Planning & Development
<b>Human Rights Act</b>	There are no specific impacts arising from this report.	Rob Jarman, Head of Planning & Development
<b>Procurement</b>	There are no specific impacts arising from this report.	[Head of Service & Section 151 Officer]
<b>Asset Management</b>	There are no specific impacts arising from this report.	Rob Jarman, Head of Planning & Development

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## 7. BACKGROUND PAPERS

The Housing White Paper can be viewed here:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/590464/Fixing\\_our\\_broken\\_housing\\_market\\_-\\_print\\_ready\\_version.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/590464/Fixing_our_broken_housing_market_-_print_ready_version.pdf)