

## **CABINET**

**12 MAY 2009**

### **SUSTAINABLE COMMUNITIES ACT 2007**

Portfolio Holder: Councillor Janice Bamber, Customer First and Corporate Services

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#### **Summary**

This report details the proposals in the Sustainable Communities Act 2007 and considers the case for the Council to make proposals pursuant to the provisions of the Act.

#### **1. Budget and Policy Framework**

- 1.1 The Sustainable Communities Act 2007 introduces new powers which are consistent with the Council Plan, specifically community engagement and involvement.
- 1.2 The decision whether to put forward any proposals under Section 2 of the Sustainable Communities Act 2007 is a matter for Cabinet.
- 1.3 There are no budgetary implications arising from deciding whether or not to make proposals pursuant to the Act. However costs will be incurred in establishing mechanisms to engage with the public, process proposals and administer the community panels.

#### **2. Background**

##### The Sustainable Communities Act 2007

- 2.1 The Sustainable Communities Act gives government a legal duty “to assist local authorities in promoting the sustainability of local communities”. The Act was sponsored and promoted by the LGA and its main aim is to give local people more say over improving their community, encouraging the economic, social or environmental wellbeing including civic and political activity.

- 2.2 The Act also enables a local authority, or authorities by joining together, to request the transfer of functions from government or government agencies such as the Health Authority or Regional Development Agency to themselves.
- 2.3 On 14 October 2008 Hazel Blears wrote to and invited all councils to put forward proposals for consideration under the first 'round' of the Sustainable Communities Act 2007. The proposals must promote the sustainability of local communities, for example supporting the local economy, increasing social inclusion or promoting involvement in local democracy, and require some form of action from central government such as changes to legislation or a strengthening of existing powers to tackle a local problem or achieve a better outcome for local people.
- 2.4 Under the Act, the Secretary of State must make arrangement for the production of local spending reports containing information on the expenditure of local authorities, government departments and other public bodies. This will help councils to determine a final set of priorities or decide whether to push for the transfer of functions.
- 2.5 This is not a centrally imposed duty as local authorities can select not to seek or submit proposal(s).
- 2.6 Under the Act any individual or group can put forward a proposal. However, the expectation is that most proposals will come from community organisations, local branches of national organisations, parish councils, neighbourhood forums, residents and tenants associations, local strategic partnerships and other partnership bodies.
- 2.7 If councils choose to make a proposal following a consultation with the communities they represent, they will need to agree what these local proposals are, and test these with a representative community panel drawn from all sections of society to determine which would be most appropriate to submit. Guidance on establishing a panel can be found in Appendix A.
- 2.8 The guidance states the "Government does not regard the Act as a route of agreeing additional public expenditure, either at national or local level" so additional resourcing cannot be assumed. However, the guidance does suggest functions and funding could be transferred from government or government agencies to local authorities if a strong and compelling case can be made.
- 2.9 All proposals, whether submitted by an individual council or a cluster, will then go through a selection process. The Local Government Association (LGA) was appointed as selector in February 2008 and has a role in "short-listing" proposals to be submitted to government for consideration although clear guidance on their criteria has not yet been forthcoming. The Secretary of State will decide which proposals should be implemented.

- 2.10 The outcome of the proposals may not be known for several months and actual change could take a year or more if proposals involve changes to legislation or the transfer of responsibility and funds.
- 2.11 Proposals from the first invitation must be sent to the Local Government Association (LGA) by **31 July 2009**.
- 2.12 Each year the Government will be asking local councils to submit ideas and proposals. Therefore, councils that did not choose to use the Act by submitting proposals in the first round will have the chance to do so when the Government invites councils to submit proposals for the next round which commences in October 2009.

#### Existing engagement and involvement in Medway

- 2.13 Medway has been actively engaged in promoting sustainable communities and successfully achieving many of the aims in the Act, through the Council's physical, economic and social regeneration projects, delivered for the community by Council teams, the Medway Renaissance Partnership, the Economic Skills Partnership and through other Local Strategic Partnership thematic groups. The Council has also been encouraging more public participation and working closely with partners to improve the well-being of Medway.
- 2.14 During 2009/10 the Council and the LSP will be redeveloping the Community Plan to give a long-term shared partnership strategic framework. This new sustainable community strategy will be developed to sit alongside the new Local Development Framework.
- 2.15 The Council is also currently refreshing the membership of its Citizen's Panel (a representative panel of 1500 Medway residents). The panel could be used as the vehicle to prioritise any potential submissions to Government. This approach would ensure that Medway's response to the Sustainable Communities Act is developed as part of the Council's strategic thinking and not as an add-on. This would be a proportionate response given that no proposals have been submitted from community groups or individuals.

### **3. Options**

3.1 The following sets out some options for Cabinet to consider:

3.1.1 Take no action at the present time to make proposals pursuant to the Act:

Local authorities are not under a legal duty to participate and Medway could benefit and learn from the experience of other Councils.

3.1.2 Review the decision to make proposals if relevant issues are identified in the coming months that result in a proposal being developed:

The process of redeveloping the community strategy as set out in 2.14 above will involve significant consultation with stakeholders, partners and the community. If there are issues that are important to the community which are not currently in the power of the Council these could be suitable for submission to Government as part of the next round of Sustainable Community Act proposals.

3.1.3 Review the decision to make proposals if a proposal is suggested that might benefit from a concerted approach with other authorities:

Although there is a suggestion within the guidance that proposals jointly supported by many authorities simultaneously will receive greater consideration there is the opportunity for individual authorities to do this. Therefore there could be benefits in putting together a proposal if there are issues that are of significant concern locally that could be improved by new legislation or strengthened powers. As negotiations of our Multi Area Agreement (MAA) progress such issues may be identified.

3.1.4 To make proposals to the LGA as the selecting body

- a) This would require the council to develop processes to assess and manage the proposals, to agree a representative panel of local people to work with, develop and reach agreement on proposals that meet the criteria under the Act. As mentioned in 2.15 above, the newly refreshed Citizens Panel could be used for this purpose. However, this will not be in place until July 2009.
- b) Dependent upon the number of proposals received, the Council would have to consider establishing a small team to manage the process and its outcomes. The approximate cost for a team of two would be £60,000 based on a principal officer and administrative support. Additional funding would need to be found as this expenditure could not be contained within existing service budgets, and there is no capacity to take on this additional workload.

- c) It should be noted that given the work involved in establishing new procedures to manage the requirements of the Act, it is unlikely that the Council would be able to submit proposals to the LGA by the deadline of 31 July 2009.

#### **4. Advice and Analysis**

- 4.1 Provisions within the Act indicate that making proposals pursuant to the Act could provide the opportunity for the Council to seek and develop further freedoms and flexibilities from government. It should be noted however that whilst local public service agreement negotiations included the provision to seek freedoms and flexibilities from government, neither this Council or others were successful in negotiating meaningful freedoms and flexibilities.
- 4.2 The Act requires the Secretary of State to make arrangements for the production of local spending reports. These reports will enable local authorities, their partners and communities to take better informed decisions about the priorities they choose to pursue to promote the sustainability of the local community. They will also enable local people and local authorities to identify which function (and funding) they might propose should be transferred from one body to another.
- 4.4 Members are advised that making proposals pursuant to the Act could generate a number of proposals that would impact on the Council's existing systems and resources, including the establishment of processes to assess and manage the proposals from initial submission to taking forward the proposals onwards to the LGA as Selector with no guarantee of success.
- 4.5 The Government have stated that there is no specific budget to distribute under the Act. Although proposals could be made to government, which would require new funding, generally proposals under the Act will need to be resourced from existing public funds.
- 4.6 The additional workload would require a small team to be established to manage the process and its outcomes. As there is no capacity to take this on within existing resources additional funding would need to be identified.
- 4.7 Members are also advised that research has shown that a number of proposals submitted under the Act did not meet the criteria and fell within the local authority to manage under their powers. They have had to consider how to manage the expectation that the Council would take action on these proposals.
- 4.8 The outcome of the proposals may not be known for several months and actual change could take a year or more if proposals involve changes to legislation or the transfer of responsibility and funds.

- 4.9 The value of the Act is recognised as a tool to encourage local communities to come forward with ideas and proposals to promote the sustainability of their local area. To date the council has not received any proposals and in light of the existing mechanisms for engagement and involvement in Medway it is recommended that the use of the Act is considered if relevant issues are identified in the coming months that result in a proposal being developed either from the community or from local authorities together.

## **5. Risk Management**

- 5.1 The risk of not making or seeking proposals would be that the Council could be seen as not fully supporting efforts to empower local communities and encourage more people to take part in local decision making, albeit the Council has a range of effective consultation mechanisms in place. The risk rating therefore is low.
- 5.2 The risk of making or seeking proposals would be that a volume of submissions could be generated which will require resources to assess and support to the submission stage with the potential to raise public expectations with no guarantee of success. The risk rating therefore is high.

## **6. Consultation**

- 6.1 No formal consultation has yet been undertaken in Medway. However, two questions about the Act were raised at Council and Cuxton Parish Council, two individuals and the Women's Institute have written to the Council asking us to opt-in to the provisions of the Act, although no proposals have been brought forward at this time.

## **7. Financial and legal implications**

### **7.1 Financial implications:**

Costs will be incurred in establishing mechanisms to engage with the public, process proposals and administer the community panels. Additional funding would need to be found as this expenditure could not be contained within existing service budgets, and there is no capacity to take on this additional workload.

### **7.2 Legal implications**

The Council is not under a duty to submit proposals in response to the Secretary of State's invitation. If the Council wishes to submit proposals it cannot do so unless the Council has had regard to the matters set out in the Schedule to the Sustainable Communities Act 2007 and has consulted the panel set up in accordance with the Sustainable Communities Regulations 2008.

## **8. Recommendation**

### **8.1 That Cabinet**

- a) agrees to the use of the Act as a tool to improve the sustainability of local communities in Medway if relevant issues are identified in the coming months that result in a proposal being developed either from the community or from local authorities together.
- b) in the event of actions arising from (a) above, agrees to a further report to come to Cabinet which will finalise the process of assessing proposals to use the Act, in the context of meeting Medway's priorities.

## **9. Suggested reasons for decision**

- 9.1 To strengthen community engagement in the context of the work we are already undertaking and Council priorities.

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**Appendices:** Appendix A – Guidance on establishing a panel, the proposals and matters for Local Authorities to consider as specified in the Schedule to the Sustainable Communities Act

### **Background papers**

- Sustainable Communities Act 2007: A Guide
- Secretary of State's formal invitation to Local Authorities to submit proposals under the Act

**SUSTAINABLE COMMUNITIES ACT****1. Guidance on the Act on establishing a panel and consultation**

The regulations require local authorities, before making any proposals, to establish or recognise one or more panels of representatives of local people and to consult them about each proposal. The guidance states that for the purposes of this Act, “representatives” means a balanced selection of the individuals, groups or organisations the authority considers likely to be affected by, or have an interest in the proposal.

- The term “representative” does not refer to formally elected or nominated members of the community.
- The intention behind section 5(5)(a) of the Act is to ensure that panels of representatives include people from under-represented groups. The regulations state that “under-represented groups” means those groups of local people who in the opinion of a local authority are under-represented in civic and political activity in the authority’s area. Local authorities are best placed to know which groups are under-represented in their area and how best to engage with them.
- The guidance states that local authorities will want to consult parish councils in their area.

**2. Proposals that are likely to succeed:**

The purpose of proposals is to identify issues on which central government can act to assist councils and communities to promote the sustainability of local communities and the Government will consider favourably proposals which meet this test. It follows from this that proposals are more likely to succeed if they are specific about the action required of central government and also are not already within the powers of local authorities.

As with all public policies, the Government will assess proposals taking into account their broad cost-benefit, including in relation to areas or groups that may be wider than those putting forward the proposal, together with the impact on specific groups. This will include the likely costs of making arrangements which are specific to a particular area or group, against the economies of scale which arise from more uniform approaches. Proposals which meet these test are more likely to succeed.

There are established processes for settling the levels and distribution of public sector resources. The Government does not regard the Act as a route for agreeing additional public expenditure, either at national or local level, and so a particularly strong case will need to be made in support of any proposals that require this.



**3. Before making proposals a local authority must consider the matters specified in the Schedule to the Act:**

- Provision of local services;
- The extent to which the volume and value of goods and services that are –
  - a. offered for sale; or
  - b. procured by public bodies and are produced within 30 miles (or any lesser distance as may be specified by a local authority in respect of its area) of their place of sale or of the boundary of the public body;
- The rate of increase in the growth and marketing of organic forms of food production and the local food economy,
- Measures to promote reasonable access by all local people to a supply of food that is adequate in terms of both amount and nutritional value,
- The number of local jobs,
- Measures to conserve energy and increase the quantity of energy supplies which are produced from sustainable sources within a 30 mile radius of the region in which they are consumed,
- Measures taken to reduce the level of road traffic including, but not restricted to, local public transport provision, measures to promote walking and cycling and measures to decrease the amount of product miles,
- The increase in social inclusion, including and increase in involvement in local democracy,
- Measures to increase mutual aid and other community projects,
- Measures designed to decrease emissions of greenhouse gases,
- Measures designed to increase community health and well being,
- Planning policies which would assist with the purposes of this Act, including new arrangements provision of affordable housing, and
- Measure to increase the use of local waste materials for the benefit of the community.