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Dear Ms Bennet,

## PLANNING PERFORMANCE AND PLANNING CONTRIBUTIONS: CONSULTATION

### Planning Contributions

**Question 5: Is the Government's objective of aiding the delivery of small scale housing sites and expanding the self build housing market supported by:**

- the introduction of a 10-unit and 1000 square metres gross floor space threshold for section 106 affordable housing contributions; and
- the exclusion of domestic extensions and annexes from making section 106 affordable housing contributions?

### Background

Sevenoaks District Council (SDC) does not seek affordable housing contributions from extensions and annexes, where they do not create an additional dwelling, and so does not object to the second part of this proposal. However, it does strongly object to the proposal that national policy should state that affordable housing provision or contributions create a disproportionate burden for developments of 10 units or less and a maximum of 1,000 square metres gross floor space. This, as is clearly the intention, would almost certainly prevent local authorities from securing affordable housing provision or contributions from schemes below this threshold.

Sevenoaks District is a mostly rural district, with 93% of the area designated as Green Belt and approximately 60% within an Area of Outstanding Natural Beauty. These designations seriously limit the scope for new development and the Council's experience is that a significant proportion of new housing development is provided on smaller sites (frequently below 10 dwellings). For a variety of reasons, including its high quality environment and excellent transport links, Sevenoaks District is a highly desirable place to live and experiences relatively high house prices as a result. The affordability of housing in the District is, therefore, a key challenge.

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As part of the preparation of the Council's Core Strategy, it commissioned an Affordable Housing Viability Assessment that concluded that different levels of affordable housing could be sought depending on the total number of units being provided. Through Core Strategy Policy SP3, on-site provision is sought on all developments of 5 dwellings or more (with the percentage dependent on the total number of dwellings) and a financial contribution to improving off-site provision is sought on developments of less than 5 units that involve a net gain. The Council's policy offers developers the opportunity to provide viability evidence to show why the development would not be viable with the required level of affordable housing and to negotiate a lower (including nil) provision/contribution. This is an approach that was found sound by a SoS appointed Inspector when the Council's Core Strategy was examined in 2010/11. The Council's Affordable Housing SPD, which explains how the Council implements its affordable housing policy, is attached at appendix A. An example (without confidential details) of how the Council assesses viability evidence submitted by developers is set out in appendix B.

The Council's recent CIL Viability Assessment (2012) shows that the overall approach to securing affordable housing provision/contributions continues to be broadly viable and that this can be done alongside the implementation of a CIL charge. The examiner that considered the Council's CIL Charging Schedule found this evidence, and the Charging Schedule overall, to be sound (the Inspector's Report is included at appendix C). Given that this decision was made after the publication of the NPPF, it supports the Council's view that the Core Strategy affordable housing policy is NPPF-compliant.

#### Development in Sevenoaks District

Sevenoaks District regularly achieves its Core Strategy annual average housing target and has a very healthy 5 year housing land supply when judged against it, as its latest Authority Monitoring Report (appendix D) shows. The adoption of the Core Strategy affordable housing policy in 2011 has had a negligible impact on this.

As noted above, the development of smaller sites play a significant contribution in the delivery of the Council's adopted housing target. Since 2006/7, the percentage split of net additional dwellings completed on developments of 10 units or less and 11 units or more is as follows:

Year	Completions on sites of 10 units or Less	% Completions on sites of 10 units or less	Completions on sites of 11 units or more	% Completions on sites of 11 units or more	Total
2006/7	69	49%	72	51%	141
2007/8	107	41%	154	59%	261
2008/9	135	47%	155	53%	290
2009/10	72	34%	141	66%	213
2010/11	94	33%	187	67%	281
2011/12	80	46%	94	54%	174

2012/13	80	57%	61	43%	141
<b>Total</b>	<b>637</b>	<b>42%</b>	<b>864</b>	<b>58%</b>	<b>1501</b>

This analysis shows that housing development in the District frequently significantly exceeds the Core Strategy average annual target (165 dwellings per annum). In 2012/13 the number of completions was been below this but this was due to a high number of demolitions ('losses') on sites that are to be developed in 2013/14. The analysis also shows that completions on sites of 10 units or less constitute a significant proportion of the total number of number of completed units. The number of completions on these sites has fluctuated over the Council's plan period and it can be seen that this number has not fallen in a manner that can be attributed to the introduction of the Council Core Strategy affordable housing policy in 2011.

In Sevenoaks District, overall levels of housing delivery are considered to be highly dependent on the implementation timetables and build out rates of developers on large sites. The high delivery rates in the period 2007/8 to 2010/11 coincided with the development of the 214 dwelling Horton Kirby Paper Mills development (SE/05/02000). The Council expects delivery rates to increase significantly again from 2013/14 when completions on the 500 dwelling West Kent Cold Store development (SE/09/02635) start to make a significant contribution. It is worth noting, in the context of question 7, that both of these large developments are being undertaken on previously developed sites with a substantial amount of existing floorspace.

The implementation of the Government's proposed threshold would have the effect of preventing Sevenoaks District Council securing any contribution towards affordable housing from a significant proportion of its new housing developments, undermining the Council's aspirations to tackle housing affordability issues. It is also clear that the threshold is unnecessary in Sevenoaks District. The Council is able to meet its adopted housing targets and implement an evidence-based and flexible affordable housing policy.

#### Contributions to Affordable Housing Provision in Sevenoaks District

Affordable housing contributions are increasing in Sevenoaks District as those developments permitted after the adoption of the Core Strategy constitute an increasing proportion of annual completions. In the last three financial years, the following contributions have been secured:

2011/12	=	£206,144.00
2012/13	=	£356,032.39
2013/14	=	£1,289,334.43

These figures are substantial and are being used to make an important contribution towards affordable housing provision, including through:

- funding to support the rural housing enabler service to secure development of rural exception site housing;

- increasing affordable housing supply within permitted developments where lower levels of provision have been agreed due to viability considerations.
- setting up a DIY Shared Ownership scheme with a local housing association (this initiative levered in significant funding from the housing association partner);
- refurbishment of existing stock, including through energy efficiency / fuel poverty initiatives;
- tackling under-occupation in the social housing stock through the recruitment of an Under Occupation Officer (this initiative was match funded by the main housing association partner) and the enhancement of the “Small is Beautiful” downsizing incentive scheme; and
- re-use of unoccupied housing, including through the Council’s ‘Homesteading’ scheme where eligible applicants are offered a loan to help them buy, refurbish and live in an empty property for a set period.

Affordable Housing contributions and the projects that they can deliver are crucial in an area with as limited opportunities for new development as Sevenoaks District. Without the affordable housing funding that the Council is able to secure from developments of 10 units or less, these projects will need to stop and a crucial element of our housing strategy lost.

#### Viability in Sevenoaks District

As is noted above, the Council’s approach to securing affordable housing is justified by an Affordable Housing Viability Assessment carried out during the preparation of the Core Strategy. The CIL Viability Assessment reconsidered the impact of the affordable housing policy and found that development remains broadly viable with it and that a CIL charge can also be applied. It has also been noted that the Council’s affordable housing policy is sufficiently flexible to allow developers to make a case that development would not be viable with the required level of affordable housing. This local flexibility in itself should be sufficient to indicate that the Government’s proposed blanket approach is unnecessary and unreasonable. However, there is also benefit in considering whether these smaller developments really need the support that they are being offered by the Government.

The Council submitted a ‘Summary of Evidence and Proposals’ document to its CIL examination, which considered how frequently it was agreed that the affordable housing contributions/provision that would ordinarily be required could be reduced on the basis of viability. This section of the document is reproduced at appendix E. The analysis considered the period 22 February 2011 (the adoption of the Core Strategy) to 31 March 2013 (the end of the last AMR monitoring period). It showed that affordable housing contributions or provision was secured on 78 permissions, with the required contribution or provision waived on viability grounds on 5 sites. On 18 sites, a lower affordable housing contribution or provision was accepted by the Council on viability grounds. Provision was secured in accordance with policy SP3 on 72% of the planning permissions to which it was applied in this period. As can be seen from appendix E, the vast majority of these planning permissions are for sites of less than 10 units.

In addition to this, the Council has granted 40 planning permissions in 2013/14 for developments that would make a financial contribution to affordable housing or include on site provision. The list of planning permissions is set out in appendix F. It can be seen, again, that the vast majority of these planning permissions are for sites of less than 10 units. It should also be noted that significant sums have been negotiated on some small developments, for example £147,246 for the development of 1 house in Sevenoaks (SE/13/02315/FUL). If it had of been the case that viability was of concern to the developer then there would have been considerable scope for negotiating a reduced contribution (in accordance with the Council's policy) rather than simply requiring a nil contribution, as is the Government's intention.

The analysis from the Council's sound CIL evidence (appendix E) shows that in the vast majority of cases it is not necessary for Sevenoaks District Council to agree reduced affordable housing contributions. In addition, the evidence from 2013/14 (appendix F) shows that the Council continues to grant planning permissions with s106 agreements that secure affordable housing provision or contributions. Together, these undermine the Government's suggestion that affordable housing provision or contributions create a disproportionate burden on these smaller developments.

### Localism

SDC considers that the adoption of this policy would directly contradict two of the Government's previous, much publicised, planning-related reforms.

Firstly, the suggestion that this will be published as an additional policy statement is clearly contrary to the Government's clear aim of setting out all national planning policy in the succinct NPPF. Adding additional policy documents to the NPPF will start the process of increasing the complexity of national planning policy once again. The Government is encouraged to implement changes to national policy through reviews of the NPPF rather than in a piecemeal fashion.

Secondly, and most importantly, the implementation of this top-down policy is clearly contrary to the principles of localism in the context of Sevenoaks District, where a sound and flexible affordable housing policy is operating effectively without compromising housing delivery or viability.

### Summary and Recommendation

NPPF paragraph 173 already requires local authorities to have regard to viability in plan-making and decision taking. However, should the Government decide that a further policy statement on affordable housing contributions must be made outside of the NPPF then SDC suggests that the following additions should be made to the proposal:

*'before any request for affordable housing contributions can be considered as part of a section 106 planning obligations agreement, authorities will have to have regard to national policy that, unless an adopted local plan policy, supported by appropriate whole plan (or CIL) viability evidence, indicates otherwise, such*

charges are considered to create a disproportionate burden for development falling below a combined 10-unit and maximum of 1,000 square metres gross floor space threshold'.

In summary, Sevenoaks District Council makes this proposal for the following reasons (set out in greater detail earlier in this response):

- It is an issue that is better determined by local authorities (subject to independent examinations) through the plan making process, given that they know their local housing markets and housing delivery constraints better than Government;
- It is unnecessary to impose an inflexible threshold in Sevenoaks District, where the development of small sites continues to come forward because they remain viable with an affordable housing contribution;
- It would severely limit the ability of constrained areas, such as Sevenoaks District, to deliver affordable housing, despite the Council's recognition of this as a key issue;
- It would be better to introduce any changes in national planning policy through a review of the NPPF; and
- It would be clearly contrary to the principles of localism to impose this top-down policy change.

**Question 6: Should the proposed exemption apply beyond affordable housing to other tariff style contributions based on standard formulae?**

The forthcoming limitations on pooling s106 contributions (as part of the CIL legislation) are likely to prevent local authorities securing contributions to infrastructure through standard tariffs from small developments. If the proposed affordable housing exemption were to be agreed (against the wishes of Sevenoaks District Council) there would be no need to extend it beyond affordable housing. However, this proposal in itself would not impact significantly on Sevenoaks District Council.

**Question 7: We would like your views on the impact on the Government's policy objectives to incentivise brownfield development through proposed national policy change. This would reduce the financial burden on developers by requiring that affordable housing contributions should not be sought where buildings are brought back into any use – other than proportionately for any increase in floor space.**

Sevenoaks District Council is opposed to the Government's approach to CIL that only allows increases in 'in-use' floorspace to be charged, regardless of the existing and proposed use of the buildings. It appears self-evident to this Council that, for example, flats would place a greater demand on infrastructure than a warehouse, creating a likely need for additional school, library, GP, hospital, open space and transport facilities, amongst others. The critical issue is the use of the buildings, which this part of the CIL legislation completely overlooks. Rather than incentivise brownfield development, the Government's approach will see planning applications for change of use or redevelopment of brownfield sites resisted by local communities, who will see that local authorities have no way of securing the infrastructure needed to support development.

The Council encourages the Government to reconsider its damaging position on CIL and opposes the proposal to extend this approach to affordable housing.

The proposal to extend the 'incentive' so that developers would only have to make affordable housing contributions or provision on brownfield sites where there is an increase in floorspace is unnecessary and will reduce opportunities for securing affordable housing. Much of the Council's response to question 5 is also relevant to this proposal. The Council's sound and viability-dependent affordable housing policy does not differentiate between previously developed and greenfield land. This is supported by an Affordable Housing Viability Study and a CIL Viability Assessment, which take into account the nature of developments likely to come forward in the District.

Due to the constraints on development in Sevenoaks District, there is pressure for land to be recycled for more productive uses (in accordance with the 5 purposes of the Green Belt). Much of the development that comes forward in Sevenoaks District is on previously developed land (PDL). In 2012/13, over 70% of the dwellings completed were on PDL. Developments on PDL, therefore, make an important contribution towards affordable housing provision in Sevenoaks District, either through on-site provision or through contributions to off-site provision. It is also noted, in the Council's response to question 5, that development on PDL sites with a substantial amount of built floorspace contribute significantly to housing development rates in the District. The Council expects this to continue, given the nature of the site allocations included in its draft Allocations and Development Management Plan, which is currently being examined by the Planning Inspectorate. The Council's affordable housing policy has not prevented it from meeting adopted housing targets.

Sevenoaks District Council considers that a combination of the proposed 10 unit threshold and the restriction on requiring provision or contributions from brownfield developments will have a catastrophic effect on the delivery of affordable housing in the District. For the same reasons set out in its response to question 5 of this consultation, the Council considers that if the Government does consider this approach to be appropriate then it must draft any policy to exclude from its coverage any local authorities that have an adopted local plan policy supported by viability evidence.

### Planning Performance

Sevenoaks District Council notes the proposed change in the 'planning performance' section of the document that would allow developers, if they wish, to apply directly to the Secretary of State if a local authority determined less than 40% of its major applications within a 13 week (or 16 week for EIA applications) from October 2014. The Council believes that planning applications are best determined by local authorities and considers that the on-going support currently offered to address the problems that may lead local authorities to fall below this threshold must continue. The Council's recent experience of applications called in (or considered for call in) by the Secretary of State is that there have been considerable delays in issuing decisions. The Council urges the Secretary of State (SoS) to address reasons for these delays at CLG alongside this consultation.

SDC has no comments to make on the detailed questions on planning performance.



Cllr Ian Bosley

Local Planning and Environment Portfolio Holder

