DCLG Technical Consultation

Neighbourhood Planning

Question 1.1: Do you agree that regulations should require an application for a neighbourhood area designation to be determined by a prescribed date? We are interested in the views of local planning authorities on the impact this proposal may have on them.

This proposal would introduce a statutory time limit of 10 weeks (70 days) to determine a valid application for a neighbourhood area designation.

SDC has a proactive approach to neighbourhood planning, with currently six neighbourhood plan area designations in the District (2014) and more councils in the early stages of preparing plans. Whilst the Council supports the Government's objective of ensuring that town and parish councils or neighbourhood fora do not experience unnecessary delay in the early stages of preparing neighbourhood plans, it believes that the change in regulation is unnecessary. In many circumstances, town and parish councils are able to undertake a significant amount of background work on their neighbourhood plan before designating their areas. Therefore, delays in designation do not result in delays in preparation.

SDC has in the past delayed starting consultations on neighbourhood areas, following discussion with the town and parish council, in order that consultation is carried out alongside a local plan consultation. This approach reduces the time and money that councils expend arranging consultations.

SDC has previously given its relevant advisory committee the opportunity to debate a neighbourhood area designation after consultation but before a decision is made by the Portfolio Holder. Whilst it would no longer be able to do this if the proposed time limit were to be introduced, the majority of previous designations of town/parish council boundaries have proved so uncontroversial that this is unlikely to significantly harm the process. However, the Council has received objections to the designation of neighbourhood areas by town and parish councils that did require further debate and negotiation. This concerned a parish council that was seeking to define its existing area as a neighbourhood area despite the fact that SDC was considering an application for a new parish council to be formed in part of its area in 2015. The Council took the decision to defer the decision on the neighbourhood area until the decision on the proposal for the new parish council was made by a meeting of SDC's Full Council, whilst working to find a compromise solution between all parties. If the proposed time limit were to be introduced, with financial penalties for Local Planning Authorities (LPAs), then the Council would have no choice but to simply reject the proposed neighbourhood area, if this circumstance were to arise again.

Question 1.2: If a prescribed date is supported do you agree that this should apply only where:

• the boundaries of the neighbourhood area applied for coincide with those of an existing parish or electoral ward; and
• there is no existing designation or outstanding application for designation, for all or part of the area for which a new designation is sought?

If the Government is minded to introduce a prescribed date for local authorities determining neighbourhood area designations then it should only apply where the town and parish council proposes to designate their existing boundaries and these are not subject to change under any proposal or agreement.

Question 1.3: If a date is prescribed, do you agree that this should be 10 weeks (70 days) after a valid application is made? If you do not agree, is there an alternative time period that you would propose?

SDC does not support the introduction of a prescribed date for determining neighbourhood area designations.

Question 1.4: Do you support our proposal not to change the period of six weeks in which representations can be made on an application for a neighbourhood area to be designated? If you do not, do you think this period should be shorter? What alternative time period would you propose?

SDC agrees that there should continue to be a six-week consultation period on proposed neighbourhood area designations.

Question 1.5: We are interested in views on whether there are other stages in the neighbourhood planning process where time limits may be beneficial. Where time limits are considered beneficial, we would also welcome views on what might be an appropriate time period for local planning authority decision taking at each stage.

There are no additional time limits that SDC would like to suggest as part of the neighbourhood planning process, as the majority of neighbourhood plan-making is out of local authority control. It is the role of the town/parish councils or neighbourhood forums, to determine appropriate timetables to enable preparation of their plan.

Question 1.6: Do you support the removal of the requirement in regulations for a minimum of six weeks consultation and publicity before a neighbourhood plan or Order is submitted to a local planning authority?

The consultation document proposes the removal of the statutory 6 weeks of consultation carried out by town and parish councils prior to submission to the LPA. There would still be a requirement for the LPA to undertake pre-submission consultation to allow representations to be gathered, prior to formal submission and examination by the Planning Inspectorate.

Subject to the introduction of a 'basic condition' whereby the Inspector must be satisfied that consultation has been appropriate (as proposed elsewhere in the consultation

document), the Council supports the proposal to remove this requirement. Its removal would provide the town and parish council with the flexibility to decide on the best approach to consultation for it and its community. The proposal would also make the neighbourhood planning regulations more consistent with the local planning regulations in this respect. SDC concurs with the Government that early experience suggests that town and parish councils are very committed to consultation in preparing neighbourhood plans.

Question 1.7: Do you agree that responsibility for publicising a proposed neighbourhood plan or Order, inviting representations and notifying consultation bodies ahead of independent examination should remain with a local planning authority? If you do not agree, what alternative proposals do you suggest, recognising the need to ensure that the process is open, transparent and robust?

SDC believe that responsibility for the publication of the Neighbourhood Plan prior to examination and the collection of representations should remain with the local authority, simply due to the expertise that local authorities have in preparing and running these formal consultations. Given that LPAs are more likely to have databases of consultees and consultation software, for example, it is likely that LPAs will be able to undertake this formal consultation more efficiently. The regulations could allow for a local authority to defer this to the town and parish council, if both agree.

Question 1.8: Do you agree that regulations should require those preparing a neighbourhood plan proposal to consult the owners of sites they consider may be affected by the neighbourhood plan as part of the site assessment process? If you do not agree, is there an alternative approach that you would suggest that can achieve our objective?

SDC supports the proposal of land owners being consulted upon site allocations that may be affected by the preparation of the Neighbourhood Plan. SDC would suggest that, as neighbourhood plans will be part of the development plan, the same 'deliverability' tests that apply to local plan documents should apply to neighbourhood plans, as a 'basic condition'. This would save time and money being invested by town and parish councils, the local community and LPAs in plans that are unlikely to be deliverable.

Question 1.9: If regulations required those preparing a neighbourhood plan proposal to consult the owners of sites they consider may be affected by the neighbourhood plan as part of the site assessment process, what would be the estimated cost of that requirement to you or your organisation? Are there other material impacts that the requirement might have on you or your organisation? We are also interested in your views on how such consultation could be undertaken and for examples of successful approaches that may have been taken.

No comments.

Question 1.10: Do you agree with the introduction of a new statutory requirement (basic condition) to test the nature and adequacy of the consultation undertaken during the

preparation of a neighbourhood plan or Order? If you do not agree, is there an alternative approach that you would suggest that can achieve our objective?

As noted previously, the Government proposes to introduce a 'basic condition' that would see Inspectors test the nature and adequacy of consultation undertaken in the preparation of a Neighbourhood Plan.

SDC supports this proposal. It is considered to be a more effective and flexible approach than prescribing the minimum period that town and parish councils need to consult for. See also SDC's response to question 1.6.

Question 1.11: Do you agree that it should be a statutory requirement that either: a statement of reasons; an environmental report, or an explanation of why the plan is not subject to the requirements of the Strategic Environmental Assessment Directive must accompany a neighbourhood plan proposal when it is submitted to a local planning authority?

SDC supports the proposal. This is important to reduce the risk of plans being found unsound or being subject to legal challenge.

Question 1.12: Aside from the proposals put forward in this consultation document are there alternative or further measures that would improve the understanding of how the Environmental Assessment of Plans and Programmes Regulations 2004 apply to neighbourhood plans? If there are such measures, should they be introduced through changes to existing guidance, policy or new legislation?

No comments.

Question 1.13: We would like your views on what further steps we and others could take to meet the Government's objective to see more communities taking up their right to produce a neighbourhood plan or neighbourhood development order. We are particularly interested in hearing views on:
• stages in the process that are considered disproportionate to the purpose, or any unnecessary requirements that could be removed
• how the shared insights from early adopters could support and speed up the progress of others
• whether communities need to be supported differently
• innovative ways in which communities are funding, or could fund, their neighbourhood planning activities.

SDC notes that town and parish councils are currently not able to bid for neighbourhood planning grants because the committed funding from Government has been spent. This funding has proved to be very beneficial to town and parish councils preparing neighbourhood plans and has allowed some to appoint consultants to help them in this, which has led to good progress being made. The 'my community rights' website notes that a new support programme is likely to be available from April 2015. The Council considers that funding must continue to be made available to enable town and parish councils to bring forward meaningful plans, which have a good chance of being found

sound and of being supported by local communities. The Government should give significant weight to the views of town and parish councils that are preparing neighbourhood plans on whether existing funding arrangements are sufficient before determining the support that will be available from April 2015.

Question 1.14: Any additional comments.

From the situation referred to in its response to question 1.1, the Council is aware of the lack of consideration in the neighbourhood planning regulations to the impacts of changes to town and parish council boundaries. In situations where town and parish boundaries are changed, a mechanism is needed to decide whether neighbourhood plans that cover the area subject to the change continue or begin to apply or whether they should be revoked for an area that is no longer part of the parish that was covered by a neighbourhood plan. SDC suggests that this should be for the town and parish council to decide, following consultation with the community, landowners and the LPA. Alternatively the town and parish council could apply to the Secretary of State. It should not require a new examination and referendum.

Reducing planning regulations to support housing, high streets and growth

Question 2.1: Do you agree that there should be permitted development rights for (i) light industrial (B1(c)) buildings and (ii) storage and distribution (B8) buildings to change to residential (C3) use?

SDC does not agree. Paragraph 2.28 of the consultation document states that the aim of this proposal is to make the best use of existing underused light industrial, storage and distribution buildings to create much needed new homes, but the proposal allows change of use of all such buildings whether they are underused or not. The National Planning Policy Framework (NPPF) states that, in drawing up Local Plan, amongst other things, local planning authorities should:

- "proactively drive and support sustainable economic development to deliver homes, businesses and industrial units" (para 17);
- "set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth";
- "set criteria, or identify strategic sites, for local inward investment to match the strategy and to meet anticipated needs over the plan period"; and
- "support existing business sectors, taking account of whether they are expanding or contracting" (para 21).

At the same time, paragraphs 22 and 51 of the NPPF encourage local authorities to permit changes (and redevelopment) from B class uses to residential use where there are not strong economic reasons to protect the existing use.

SDC has prepared up-to-date policies that encourage the protection, regeneration and intensification of employment land (to provide for the assessed requirements of the local economy) but allow conversion to residential where new evidence shows that there is no

reasonable prospect of the use of the land for business purposes. It is right that SDC is given the opportunity to implement its locally-set, NPPF-compliant policies without permitted development rights regulations being imposed in a top-down manner from Government.

Sevenoaks is an area of high residential values with a high proportion of outward commuting (54% was recorded in the 2011 Census) to neighbouring major areas of employment, namely London. It is the opinion of the Council that employment land needs to be safeguarded to ensure a balance of land uses within the District, to expand local employment and the reduce the reliance on commuting to other employment centres. The substantial differences between high residential land values and lower business land values result in a clear incentive for developers to undertake the change of use proposed. As such, whilst the Government claims that it is targeting vacant or under-occupied B1c and B8 units through this proposal, without any effective qualification limiting the provision to vacant or under-occupied premises, fully occupied prime and relatively modern business units are also at risk of loss. Certainly, this would be the case until the supply of B1c and B8 premises are so depleted that rental values increase dramatically. Evidence on the difference between residential and office values, as well as the impact on the local economy and employment, was a key factor in SDC being granted exemptions from the B1a to C3 PD rights.

Lost commercial land in Sevenoaks District would be very difficult to replace due to the constraints that exist in the District, with 93% designated within the Metropolitan Green Belt, and around 60% of the District designated within Areas of Outstanding Natural Beauty (High Weald or the Kent Downs). The Council notes that a prior approval requirement to consider 'the potential impact of the significant loss of the most strategically important (B1c and B8) accommodation' is not proposed to be introduced along with this change. Despite SDC's misgivings about this test in terms of office accommodation, the Council considers that if the B1c and B8 proposal is to be introduced then this test should also apply.

SDC notes that the Government has previously consulted on and rejected a similar proposal. The Council responded to oppose the proposal and submitted the concerns of the Kent and Medway Federation of Small Businesses, which the Council consulted as part of the process. These were that 'the proposal threatens the supply of "oven-ready" commercial premises', that safeguards need to be in place to protect commercial land and that the relaxation in planning rules will push up commercial rents.

As well as the harm that the proposal will do to local and national economies through cumulative impact, a major weakness of it is that by removing the need for planning permission to undertake these changes of use, the Government will remove local authorities' ability to secure affordable housing through s106 agreements.

The consultation states that any prior approval would have to take into account of the impact of a new residential use on an already existing and established industrial/employment area. Whilst the Council agrees that this is an important

consideration, it appears to be something of a token gesture to protect the operation of employment land in this way when the very extension of the PD rights to allow the loss of B1c and B8 uses will do more damage to local employment areas than amenity concerns ever will. The living conditions of new residents also need to be considered when these changes of use occur. It is the view of SDC that there is a significant risk that the development of residential units through this proposal would lead to dwellings out of place in terms of design, in unsuitable locations and with potential significant negative impacts on residential amenity.

It is SDC's view that the development management process is the appropriate mechanism for considering the numerous issues that need to be taken into account when one of these changes of use are proposed. The Government should consider how it can revise the NPPF to give greater support for conversions from B1(c) and B8 uses to C3, where local authorities do not have up-to-date policies.

Question 2.2: Should the new permitted development right (i) include a limit on the amount of floor space that can change use to residential (ii) apply in Article 1(5) land i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites and (iii) should other issues be considered as part of the prior approval, for example the impact of the proposed residential use on neighbouring employment uses?

SDC would be in favour of a limit on the size of unit (in terms of floorspace) that could qualify for the B1(c) or B8 to C3 change of use.

The permitted development right should not apply on Article 1(5) land (i.e. within a National Park, the Broads, an AONB, a conservation area or a World Heritage Site). Insufficient evidence is required of developers through the prior approval process to enable local authorities to conclude that the proposed conversion will not have an unacceptable impact on these designations, which local authorities have a statutory responsibility to consider.

As stated above, the living conditions of new residents also need to be considered when these changes of use occur. It is the view of SDC that there is a significant risk that the development of residential units through this proposal would lead to dwellings out of place in terms of design, in unsuitable locations and with potential significant negative impacts on residential amenity.

Question 2.3: Do you agree that there should be permitted development rights, as proposed, for laundrettes, amusement arcades/centres, casinos and nightclubs to change use to residential (C3) use and to carry out building work directly related to the change of use?

While SDC recognises that valuable housing could be provided for through this proposal, within the urban area, it does not envisage that this change will have as much impact as other change of use proposals. In some areas laundrettes may also be a valued local service that helps the community meet its day to day needs. If that were the case, the

NPPF (para 70) would suggest that local authorities resist their loss. The Council questions whether the conversion of laundrettes to residential use is likely to have any significant impact on the delivery of new housing and whether there is any benefit in making this change.

As with other changes of use made through permitted development rights, local authorities would not be able to seek affordable housing provision or contributions. As a result, SDC would suggest that the Government seeks to achieve the ambitions driving this proposal through policy amendments rather than permitted development rights. It is important to ensure that any change of use leads to a suitable habitable environment, in terms of the building and its relationship with surrounding buildings/uses. If the Government is minded to introduce this change then these factors should be open for local planning authorities to consider through the prior approval process. To aid the clarity of permitted development rights and the Use Classes Order, SDC would also suggest that these uses are given their own use class, if this change is implemented.

Question 2.4: Should the new permitted development right include (i) a limit on the amount of floor space that can change use to residential and (ii) a prior approval in respect of design and external appearance?

The Council has no comment on the floor space limit but does consider that a prior approval condition should apply in terms of design and external appearance.

Question 2.5: Do you agree that there should be a permitted development right from May 2016 to allow change of use from offices (B1(a)) to residential (C3)?

SDC has expressed concerns that extending the permitted development rights to allow changes of B1a Offices to C3 Residential would result in harm to the local economy, reduce opportunities to seek affordable housing and result in legitimate planning concerns not being properly considered in previous consultations published in 2011 and 2013. The Council's response to the 2011 consultation included the concerns of the Kent and Medway Federation of Small Businesses, which the Council consulted as part of the process of preparing its response. These concerns were that 'the proposal threatens the supply of "oven-ready" commercial premises', that safeguards need to be in place to protect commercial land and that the relaxation in planning rules will push up commercial rents.

SDC was successful in securing exemptions for three areas of its District from these PD rights, where the Government accepted that the loss would have a significant adverse impact on the local economy. Part of the Council's argument was that a clear financial incentive exists for landowners to undertake this change of use, regardless of whether a building is in use or not, because of the difference between land in office and residential uses. The Council is disappointed that the Government is proposing this change without any apparent evidence on the effects of the three year trial period.

The Council notes that paragraph 2.38 of the consultation document states that the aim of this proposal is to make the best use of existing underused offices to create much

needed new homes, but the proposal allows change of use of all such buildings whether they are underused or not.

The consultation document proposes that the existing permitted development right becomes permanent at the earliest opportunity after May 2016, which is the expiry date of the existing temporary permitted development right. SDC is concerned that, over time, this will lead to a significant reduction in the supply of commercial space and lead to increases in business rents. SDC is unconvinced that the prior approval process is an appropriate mechanism to consider 'the potential impact of the significant loss of the most strategically important office accommodation'. In Paragraph 2.14 of the consultation document, it states that the 'prior approval' process applies where 'the principle of development has already been established'. The issue of how important a strategic office site is for the local economy is clearly an issue of principle rather than a detailed consideration. A local authority requires evidence to be able to make this judgement. There is a danger that by considering this issue through the prior approval process the burden of proof will shift from the applicant to the local authority without the planning application fees to support the production of evidence (or the consideration of evidence submitted by applicants). A local planning authority may also find it very difficult to show that the loss of individual office developments meet this test but be concerned about the cumulative impact of the loss of offices on the local economy. There is a significant risk that the prior approval test will be unable to take this into account. The Council suggests that, given its importance, the Government needs to consult on the exact wording of the 'loss of important office accommodation' test, prior to any introduction of this permitted development right. The Council is disappointed that the Government proposes to scrap the exemptions that the Council has previously secured before local authorities have had the opportunity to determine whether or not the proposed prior approval test offers more or less protection.

Since March 2013, SDC has received 18 prior approval notices for office to residential conversions. The two most significant proposals are in dated but well located office blocks, which, with refurbishment, could have proved to be attractive to businesses in an improving market. The combined amount of office floor space that the two, well located, office blocks provide is over 10,000 square metres. These two sites are allocated under SDC's emerging ADMP to be retained as employment sites, which provides approximately 130,000 sq m of office space. Once lost, there will be no opportunity to replace these offices on alternative allocated sites.

Also, Sevenoaks District Council will not be able to secure much needed affordable housing through the PD with prior approval process. This would impact on, not just the local housing market, but have a combined impact on national affordable housing delivery.

As noted in its response to the light industry and warehousing to residential use proposal, SDC has prepared up-to-date policies that encourage the protection, regeneration and intensification of employment land (to provide for the assessed requirements of the local economy) but allow conversion to residential where new

evidence shows that there is no reasonable prospect of the use of the land for business purposes. It is right that SDC is given the opportunity to implement its locally-set, NPPF-compliant policies without permitted development rights regulations being imposed in a top-down manner from Government.

SDC believes that there is a need to protect the provision of office space within the District in order to ensure a sustainable economy and balanced land use agenda. SDC suggest the Government should consider how it can revise the NPPF to give greater support for conversions from B1(a) to C3, where local authorities do not have up-to-date policies.

Question 2.6: Do you have suggestions for the definition of the prior approval required to allow local planning authorities to consider the impact of the significant loss of the most strategically important office accommodation within the local area?

If the Government is minded to introduce this change then SDC would suggest that any site allocated in a local plan adopted following the publication of the Planning and Compulsory Purchase Act 2004 should be exempt.

Given that the Government's stated objective is to make use of under-used offices an additional test could also rule out occupied premises. A length of time could be specified over which a building must be vacant and marketed for B1a use. For CIL, the Government defines a building as being in use if part of it has been in continuous lawful use for 6 months over the past 3 years. This test could also be used in the PD rights. This would have a beneficial impact in that CIL could be sought where a developer is able to convert offices to new dwellings without the need for planning permission, offsetting some of the impact that the development will have on local infrastructure.

As noted above, the Council suggests that, given its importance, the Government needs to consult on the exact wording of the 'loss of important office accommodation' test, prior to any introduction of this permitted development right.

Question 2.7: Do you agree that the permitted development rights allowing larger extensions for dwelling houses should be made permanent?

SDC objects to this proposal for the following reasons:

- 92% of the District is Green Belt and the Council have spent considerable time and effort protecting the Green Belt from inappropriate development. The NPPF classes disproportionate extension to existing buildings as inappropriate and the scale of extension allowed under the prior approval process can be disproportionate under Green belt policy. By allowing this amendment to the GDPO permanently would lead to a considerable impact on the openness of the Green Belt as it would allow disproportionate extensions to dwellings which would be entirely inappropriate and not in accordance with the National Planning Policy Framework which seeks to protect the Green Belt and prevent disproportionate additions over and above the size of the original house. If the provisions are

made permanent the Council therefore considers that Green belts should be excluded.

- In built up areas the Council is concerned that the size of extensions allowed under prior approval with only very limited opportunity for the Council to consider impact could also result in disproportionate development and could have a damaging effect on amenity and space standards.
- Rather than develop the prior approval applications, agents and applicants are attempting to use what could be built under the prior approval process as a negotiating tool to justify large extensions on existing dwellings in the Green Belt in locations they prefer to ones they could build as permitted development.
- The cost savings to householders are unclear. In speaking to developers and agents they would spend thousands of pounds in submitting an application, to get the plans drawn up – which is still required by building regulations and to implement the scheme. A planning application costing just over £100 is unlikely to be a significant addition to the cost or hold up a development.
- We have not received a significant number of applications to extend properties under the prior approval process and therefore it does not appear that property owners are using this process.
- This process does not allow other interested parties, for example Parish and Town Councils to be involved in the process.
- SDC considers that the proposals should not be made permanent until an impact assessment is carried out by the Government on the operation of the existing temporary provisions. This would enable a proper evidence-based decision to be made.
- The Council do not consider that the prior approval process achieves what it was set out for – to maintain greater flexibility for homeowners. We have received a number of applications for a Lawful development Certificate under Class A of the General Permitted Development Order to extend a dwelling house to the larger sizes laid out, which we cannot grant as they have not gone through the Prior Approval process. In addition to this, even though applicants have gone through the prior approval process, in order for the Local Authority to be able to formally confirm whether planning permission is not required and that it meets all aspects of the GPDO the applicant still needs to apply for a Lawful Development Certificate. In addition to this as only limited information is submitted with a prior approval it is not always possible to determine whether the proposal falls within all other aspects of the GDPO, which allows mistakes to be made. All of the above means that the applicant has to submit a number of applications and makes the process very complicated and also could lead to a number of mistakes being made. SDC would therefore suggest that the process is not flexible and does not meet the aims of the Government for this process.

It is suggested that, if the Government is minded to introduce this power on a permanent basis, rather than have a prior approval process that the impact of development is considered through the process of submitting a planning application or that it forms part

of the GDPO where a Lawful Development Certificate is required. This will make the process more simple, it would be easier to assess the lawfulness of what is being proposed and it would be easier for Sevenoaks District council to advise applicants and agents.

Flexibilities for High Street Uses

Question 2.8: Do you agree that the shops (A1) use class should be broadened to incorporate the majority of uses currently within the financial and professional services (A2) use class?

This proposal is not supported. SDC believes in the need for town centres to offer a range of shops and services and has prepared local plan policies (which are currently being examined) that seek to balance the need for flexibility with the need to protect the facilities that draw people into town centres.

By widening the A1 class to include the majority of uses from A2 use class, it is possible that the amount of what is currently considered A1 shop floor space will reduce. Because they are more likely to be competing for the smaller premises in less prime locations, this would have an adverse impact on small and independent retailers, which are important to the retail character of town centres in the District as it ensures diversity on the High Street. Any emerging policy should be compliant to paragraph 23 of the NPPF, as local authorities should "recognise town centres as the heart of their communities [...] based on a clear definition of primary and secondary frontages in designated centres".

SDC's emerging policies sets out to enhance and protect "primary retail frontages" (A1 Class Use) for local economic hubs within the District; Sevenoaks (Policy TLC1) and Swanley (Policy TLC2) will have 70% of its ground floor Primary Frontages maintained in A1 use, while Edenbridge (Policy TLC3) will have 45% of its ground floor Primary Frontages maintained in A1 use. The policies provide flexibility for changes of use within primary frontages but seek to protect an important core of the shops that act as a key draw to the town centres. SDC has had regard to the NPPF in preparing these policies, as has the Inspector in considering their soundness.

In addition, Policy TLC4 of SDC's ADMP states that any change in A1 units will not have an adverse impact on the day to day needs of communities in village centres or neighbourhoods, which in conjunction with paragraph 28 of the NPPF which seeks to preserve and retain the services available to rural communities.

Within both town and village centres it is important to ensure, as much as possible, that the shops and services that allow the community to meet its day to day needs (as in para 70 of the NPPF) are not lost. Whilst banks and estate agents may contribute to meeting local needs, this change would reduce local planning authorities' ability to resist the loss of small convenience stores, for example.

It is the opinion of the Council, that its policies for town centres are proportionate to the retail needs of the population. If the proposed expansion of the A1 Class is legislated, it

could reduce the ability of town centres to provide a "diverse retail offer" and for "the individuality of town centres" to be protected, as is stated as an ambition of Government policy in paragraph 23 of the NPPF. SDC believes that the Government should aim to achieve its ambitions for greater flexibility in town centre uses through amendments to the NPPF, if necessary. These could encourage LPAs to support changes from certain A2 uses subject to certain criteria.

Question 2.9: Do you agree that a planning application should be required for any change of use to a betting shop or a pay day loan shop?

This proposal is supported. If SDC's suggestion that the remaining A2 uses are not moved into the A1 use class then the same restrictions could be imposed on betting shops and payday loan shops by removing them from the Use Classes Order (making them Sui Generis) and developing policies in the NPPF.

Question 2.10: Do you have suggestions for the definition of pay day loan shops, or on the type of activities undertaken, that the regulations should capture?

No comments.

Question 2.11: Do you agree that there should be permitted development rights for (i) A1 and A2 premises and (ii) laundrettes, amusement arcades/ centres, casinos and nightclubs to change use to restaurants and cafés (A3)?

The amendment proposes a size threshold of 150 square metres

The Council agrees that restaurants and cafes are an important part of the mix of uses that town centres offer. However, it is concerned that this proposal could lead to the loss of facilities that help communities to meet their day to day needs. This could include the loss of convenience stores and banks, for example, in town and local centres. SDC is also concerned that the proposal could reduce the 'diverse retail offer' that town centres provide, which is a key part of what attracts people to them. SDC believes that the Government should aim to achieve its ambitions for greater flexibility in town centre uses through amendments to the NPPF, if necessary.

While SDC welcomes the use of a neighbour notification scheme, there is an ongoing concern regarding the impact and loss of amenity of residents that are not immediate neighbours of the site. Therefore, SDC feel that the use of a neighbour notification scheme is not strong enough to notify neighbours, and should be re-examined to accommodate residents in the wider surrounding area.

Question 2.12: Do you agree that there should be permitted development rights for A1 and A2 uses, laundrettes, amusement arcades/centres and nightclubs to change use to assembly and leisure (D2)?

The proposed amendment does not include a size threshold.

The Council is concerned that this proposal could lead to the loss of facilities that help communities to meet their day to day needs. This could include the loss of convenience stores, banks and laundrettes, for example, in town and local centres. SDC is also concerned that the proposal could reduce the 'diverse retail offer' that town centres provide, which is a key part of what attracts people to them. SDC believes that the Government should aim to achieve its ambitions for greater flexibility in town centre uses through amendments to the NPPF, if necessary.

SDC notes that there is no proposal for a neighbour notification scheme for this proposal. Despite its misgivings about the adequacy of the neighbour notification scheme, SDC suggests that it should, as a minimum means of protecting residential amenity, be introduced alongside this proposal including consideration of the impact on non-immediate neighbours through the development management process.

Question 2.13: Do you agree that there should be a permitted development right for an ancillary building within the curtilage of an existing shop?

The proposals are subject to a 4m height limit, a cumulative gross floor space of 20 sq. m, exclusion of land within 2m of a boundary or 5m to the boundary with a highway and exclusion of Article 1(5) land and listed buildings. Design, siting and external appearance are subject to prior approval.

The Council does not object to this proposal provided the limitations proposed in the consultation document are included.

Question 2.14: Do you agree that there should be a permitted development right to extend loading bays for existing shops?

The proposals would allow the installation of new loading bay doors and new loading ramps to existing shops and a 20% limit on the increased size of a loading bay. Article 1(5) land and listed buildings are excluded.

The Council does not object to this proposal in principle but considers that the restrictions on development within 2m of a boundary and 5m of a boundary fronting a highway proposed for ancillary buildings should also apply. For loading bay doors design and external appearance should be subject to prior approval.

Question 2.15: Do you agree that the permitted development right allowing shops to build internal mezzanine floors should be increased from 200 square metres?

The development of mezzanine floors allows the retailer to expand and increase the amount of stock available without having to make significant alterations or extensions to the footprint of the premises. SDC supports the proposal in relation to town centres. It considers that different size limits could be introduced in defined town centres (larger) than out of town centre locations (smaller), as defined in local plans. This would prevent large increases in retail floorspace in non-town centre locations that could harm the

vitality and viability of town centres being developed without the need for planning permission.

Question 2.16: Do you agree that parking policy should be strengthened to tackle on-street parking problems by restricting powers to set maximum parking standards?

The Council agrees that there is a case for strengthening parking policy to tackle on street parking but considers this should be addressed by reviewing the relevant section of the NPPF. Paragraph 32 of the NPPF states that 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'. This gives little basis for preventing development that makes inadequate provision for parking below that required by local parking standards.

The consultation asks whether local authorities are stopping builders from providing sufficient parking space to meet market demand. In the Council's experience the issue is that some developers are seeking to make inadequate on site provision for parking rather than Councils seeking to restrict the provision they make.

Film & Television

Question 2.17: Do you agree that there should be a new permitted development right for commercial film and television production?

The Council supports the proposal to remove planning restrictions on filming activities, subject to the proposed conditions which include a prior approval process covering highways and transport, a travel plan, noise and light.

Solar Panels on Commercial Properties

Question 2.18: Do you agree that there should be a permitted development right for the installation of solar PV up to 1MW on the roof of non-domestic buildings?

Sevenoaks District Council raises no objection to this proposal provided that the legislation is clear and as laid out in the consultation that there are conditions in place in order to minimise glare and to restrict the protrusion of the panel beyond the roof slope. In addition, the Sevenoaks District has approximately 60% of its area designated as an Area of Outstanding Natural Beauty. The Council's support for the proposal is subject to the new rights not being extended to Article 1(5) land, which include Areas of Outstanding Natural Beauty.

It is also suggests that some consideration needs to be given where the solar panels are proposed on a structure within a specified distance to the boundary of neighbouring properties. This would give an opportunity for Local Planning Authorities to be able to assess the impact on neighbouring amenity. This is because placing solar panels on large properties close to the boundary with neighbouring residential use has a potential to have a detrimental impact which needs to be considered and not just allowed under the new proposed process.

In addition, this legislation should only allow for the solar panels themselves and should not cover any additional equipment which would have the potential to have a detrimental impact on neighbouring residents by way of noise or due to the size or location of the unit.

Extensions to Business Premises

Question 2.19: Do you agree that the permitted development rights allowing larger extensions for shops, financial and professional services, offices, industrial and warehouse buildings should be made permanent?

The Council is concerned that it is proposed to make these permitted development rights permanent without any review of the effectiveness of the proposal to establish whether the temporary extension of permitted development rights has resulted in any increase in development or development taking place with harmful impacts that would suggest that the scale of development involved should still require planning permission.

Should the change be made permanent it considers that the exclusion from the permitted development right of extensions within two metres of a boundary with a dwelling house applicable to shops and financial services should also apply to offices, industrial and warehousing buildings

Waste Management Facilities

No comment

Equipment Housing for Sewerage Undertakers

No comment

Question 2.22: Do you have any other comments or suggestions for extending permitted development rights?

The proposed changes to the Use Classes Order and the permitted development rights concerning changes of use are 'blunt instruments' that fail to take account of varying local circumstances, such as land values, housing requirements, land supply and commuting patterns. In this regard, they are clearly contrary to the principles of localism, which the Government has previously championed. Nevertheless, SDC can understand that some local authorities have not been successful in putting in place local plans to address these issues at a local level. Instead of using permitted development rights regulations to relax the protection of business land and certain town centre uses, SDC considers that Government should consider whether the NPPF provides sufficient policy guidance to ensure the Government's objectives are delivered through local plans and development management..

SDC is also concerned that fees for prior approval applications are not commensurate with the amount of work that local authorities have to undertake to consider them. This

needs to be urgently addressed if the Government is going to increasingly rely on them to drive through planning reforms.

Question 2.23: Do you have any evidence regarding the costs or benefits of the proposed changes or new permitted development rights, including any evidence regarding the impact of the proposal on the number of new betting shops and pay day loan shops, and the costs and benefits, in particular new openings in premises that were formerly A2, A3, A4 or A5?

The Council has no evidence to put forward beyond the contents of its own responses. It does have a general concern that the Government has not itself made any systematic assessment of the implications of these changes for businesses or residents, including any assessment of the impacts, positive or negative of the temporary changes it now proposes to make permanent. As the government is promoting the changes which are extensive and wide ranging the Council considers that the onus is on the Government to fully assess their potential impacts. The consultation document contains no such assessment.

Article 4 Directions

Question 2.24 (a): Do you agree that where prior approval for permitted development has been given, but not yet implemented, it should not be removed by subsequent Article 4 Direction?

Sevenoaks District Council would object to the fact that if prior approval for permitted development rights has been given, this will not be removed by the serving of a subsequent Article 4 direction. This is because a Lawful Development Certificate (LDC) is only valid on the day that it is issued and there may be changes to the Legislation or circumstances that would mean that the development may no longer be lawful. It is also the view of SDC that the implementation of an Article 4 would affect the lawfulness of the development if it had not commenced. The proposed approach would be acceptable for planning applications which have a clear time frame for implementation.

In addition to the above SDC would also suggest that if the Government were to go ahead with this change that it is made clear in the primary legislation as, if this is not the case, the power would not override the requirements laid out in the Planning Act.

Sevenoaks District Council would also ask that this change to legislation be made clear on land registry documents as the Prior Approval process and also the Article 4 direction fall under separate legislation and the situation needs to be made clear to people buying or selling properties. SDC are concerned that although it appears that the Government are looking to support home owners this change could result in a more complicated process.

(b) Should the compensation regulations also cover the permitted development rights set out in the consultation?

As stated in your consultation, Article 4 directions should only be used in limited situations and where it is necessary to protect the local amenity or the wellbeing of an area. As the Local Authority would only place an article 4 on the land in these limited situations and also in the public interest it does not seem fair that compensation should be paid. SDC is concerned that Local Authorities would be deterred under this new process from issuing Article 4 directions for development that would cause considerable harm to the amenity or wellbeing of an area for fear of having to pay compensation.

Within the Sevenoaks District, there are a number of sites where land banking is occurring and where landowners are selling of the land in plots and in some situations this can involve manipulating more vulnerable members of society by assuring them that they can build their own property in the countryside. In some circumstances this process has been used to mask criminal activity and money laundering. Sevenoaks District Council are concerned that in carrying out their duty in protecting laid from being divided up and protecting the amenity of the area and the Green Belt by serving an Article 4 Direction that these land owners or agents could then benefit from some form of compensation which is not acceptable.

Sevenoaks District Council would like to suggest that if this process were to go ahead that only people or businesses who are affected by the Article 4 directions and who have objected as part of the serving of the Article 4 Direction should be allowed to claim compensation. This is because it does not seem appropriate that those who would be affected by the serving of the article 4 and have not made the Local Authority aware nor have they given the Local Authority the opportunity to amend the Article 4 or to make changes which could reduce the impact on them or the amount of compensation the Council would need to pay, could then apply for compensation in full once the Article 4 direction had been served and who has not been part of the process.

Sevenoaks District Council would also suggest that compensation is fixed and that the Council could also benefit from compensation if the claimant is unreasonable or does not sufficiently justify the claim or amount of compensation as it will involve large sums of money and to assess and process these claims.

<u>Improved Use of Planning Conditions</u>

Question 3.1: Do you have any general comments on our intention to introduce a deemed discharge for Planning Conditions?

Sevenoaks District Council is extremely concerned with the Government's intention to introduce a deemed discharge for planning conditions. This is because the Council only place conditions on planning applications that follow the tests set out in the recently published Practice Guide and they are therefore reasonable and necessary. It is important for Local Planning Authorities to have the appropriate time to assess the details submitted under these conditions and also ensure that they are in keeping with planning policy. Sometimes if there is a complex or controversial application or a large amount of information has been received, it may take some time for the Local Authority

to assess all the information submitted within a set timescale. There is already significant pressure on officers to deal with planning applications within an appropriate time scale and this request would place unnecessary pressure on Planning officers and would also result in details being deemed approved that are inappropriate and harmful to the amenity of the surrounding area.

Most importantly, a number of conditions are recommended by third parties, namely Ecologists, Tree Experts, Environment Agency, Archaeologists who work completely independently from Local Planning Authorities. The information received under the condition will need to be sent to them to be able to make comments. As a Local Planning Authority we do have Service Level Agreements in place to ensure that comments are received within specified timescales. However, it is not always possible for them to meet these timescales. We rely on the comments of these experts and if a decision needs to be made within a timescale set by the Government, Sevenoaks District Council is concerned that some of the details required by conditions will not be able to be adequately assessed by a qualified person, which is entirely inappropriate. In addition to this, by allowing deemed consent on applications to discharge planning conditions, could also mean that applicants could continue with work on their development that is actually in breach of other legislation that is managed by these third parties and this process of deemed consent does not provide a way of the applicants being made aware of this.

It is also the view of Sevenoaks District Council that this new process could also lead to a reduction in customer service as to meet timescales applications to discharge conditions maybe refused rather than being allowed the time for a discussion to take place between officers and amended plans being submitted.

Question 3.2: Do you agree with our proposal to exclude some types of conditions from the deemed discharge (e.g. conditions in areas of high flood risk)?

Sevenoaks District Council agrees that there should be certain types of conditions that should be excluded from those where there is a deemed discharge. It is also suggested that this list should be increased to deal with other conditions which if deemed discharged could have a considerable impact on the human and more likely environmental wellbeing.

Where we exclude a type of condition should we apply the exemption to all the conditions in the planning permission requiring discharge or only those relating to the reason for the exemption (e.g. those relating to flooding)?

Sevenoaks District Council would suggest that if we can apply an exception to conditions on a planning permission, that all the conditions in the planning permission should be exempt, this is because many conditions are interlinked. An example of this are details relating to flooding, which as well as needing to meet the requirements laid out by the Environment Agency, these details could also have an impact on the landscaping scheme or levels scheme also controlled by conditions. It would therefore be more appropriate to apply the exemption for all conditions.

Are there other types of conditions that you think should also be excluded?

It is suggested that the following are also excluded:

- any condition that requires assistance from a technical expert outside of the planning system. For example anything involving; ecology, trees, archaeology, flooding, drainage, viability or Highways as officers will not be able to make a decision in regard to technical issues.

- conditions relating to mechanical ventilation systems and flues as conditions are placed in regard to these issues mainly to stop noise emissions, which uncontrolled could have an unacceptable impact on local residents and businesses.

- conditions relating to noise and acoustic information as these will have considerable impact on amenity and local residents.

- any condition involving the submission of external materials or landscaping for development within sensitive areas for example Conservation Areas or Areas of Outstanding Natural Beauty as any details with deemed consent for any external works in these locations could have a considerable impact on the environmental wellbeing of the area.

Question 3.3: Do you agree with our proposal that a deemed discharge should be an applicant option activated by the serving of a notice, rather than applying automatically? If not, why?

It is considered that if the exemptions were accepted by the Government that the applicant serve notice on the Local Planning Authority to ensure that there is an adequate audit trail.

It is asked that this process be simple as it could have the potential to increase work load. It is considered that in trying to discharge conditions within the required time scale and all other planning applications, it would be too onerous on Local Authorities to also have to deal with applicants serving notice resulting in an additional amount of work.

One option that should be considered is what already occurs with planning applications where applicants and the Local Planning Authority can agree to an extension. This option may suit both parties in trying to achieve a resolution, rather then the Local Authority issuing a refusal to meet with the new timescales.

Question 3.4: Do you agree with our proposed timings for when a deemed discharge would be available to an applicant? If not, why? What alternative timing would you suggest?

SDC consider that 8 weeks would be more appropriate rather than 6 weeks. This is because this is the time given to deal with discharge of conditions at the current time

and there is no need to reduce this time scale as it is an appropriate timescale and a reduction in this would put unnecessary pressure on officers.

Question 3.5: We propose that (unless the type of condition is excluded) deemed discharge would be available for conditions in full or outline (not reserved matters) planning permissions under S.70, 73, and 73A of the Town and Country Planning Act 1990 (as amended).

Do you think that deemed discharge should be available for other types of consents such as advertisement consent, or planning permission granted by a local development order?

It is not agreed by SDC that deemed discharge should be available for conditions on outline applications, as agreed by the Government, as these cover more complex matters with multiple planning considerations than single issue planning conditions.

It is also not agreed that the deemed discharge should be available for other consents as a number of conditions on advertisement consents are clearly for public and highway safety and for amenity purposes. It would therefore not be appropriate that deemed consent would be appropriate for these types of applications.

Question 3.6: Do you agree that the time limit for the fee refund should be shortened from twelve weeks to eight weeks? If not, why?

Sevenoaks District Council does not agree that the return of the fee should be shortened from twelve weeks to eight weeks, as this would place unnecessary pressure on officers already having to deal with a high number of applications and different forms of applications. If applicants can get deemed consent for conditions after 8 weeks it is considered that this would be an appropriate way of encouraging local authorities to issue decisions faster rather than having to return money.

Question 3.7: Are there any instances where you consider that a return of the fee after eight weeks would not be appropriate? Why?

Sevenoaks District Council considers that the following instances would not be appropriate:

- where the Local Planning Authority has entered into discussions with the applicant and it is agreed in writing that a decision would not be issued in order to allow time for amendments to be discussed or an appropriate resolution to be reached.

- Where the condition involves submitting information to third parties as the timing for these is outside of the control of the Local Planning Authority.

Question 3.8: Do you agree there should be a requirement for local planning authorities to share draft conditions with applicants for major developments before they can make a decision on the application?

Sevenoaks District Council objects to the idea of sharing conditions with applicants for major development as it would involve a large amount of additional work to make this process formal. It is considered that this new process could lead to delays in issuing a decision especially where there is a disagreement. In particular, where the Local Authority, who acts in the public interest, will have different ambitions and interests to the applicant and some conditions that are essential on amenity or safety grounds or to meet a specific planning policy may result in some cost to the applicant, who is of course going to object. During the course of an application, Sevenoaks District Council works with applicants informally and they already make us aware of the timing triggers and the impact that some of the possible conditions would have on their development informally. It is considered that making this process more formal would actually hold up the applications.

In addition to this, if a planning application were to be determined by the Development Control Planning Committee, particularly if this is an overturn, there would not have been the opportunity to discuss conditions or make them available to the applicant. Any condition would then need to be made available to the applicant and would then need to be reported back to the committee to be agreed. This could result in significant delays on applications.

The appeal process is the right process to deal with this issue, as it allows applicants at that stage to put forward a case as to why the conditions meet the six tests in the National Planning Policy Framework and whether the time triggers and details required are appropriate.

Question 3.9: Do you agree that this requirement should be limited to major applications?

If this new process is agreed, SDC consider that it would be appropriate to limit this to major developments only.

Question 3.10: When do you consider it to be an appropriate time to share draft conditions:

- 10 days before a planning permissions is granted?
- 5 days before a planning permissions is granted? or
- another time?, please detail

Whilst SDC object to this process of sharing conditions, if the Government were minded to go ahead, it is not considered that it would be appropriate to specify when conditions should be shared. This is because the relevant time would be different for each application. Applications presented to the planning committee will need to consider the planning conditions earlier in the process than decisions delegated to officers.

It is recommend that a period of time be given for applicants to be able to consider the draft conditions but not a set time for example 10days before planning permission is granted to share them.

In addition to the above, SDC is also concerned that in sharing conditions with developers may disadvantage neighbouring residents who have objected to the development and it would give the false impression that schemes have been agreed before a decision is made.

Question 3.11: We have identified two possible options for dealing with late changes or additions to conditions – Option A or Option B. Which option do you prefer?

If neither, can you suggest another way of addressing this issue and if so please explain your alternative approach?

Requirement to justify the use of pre-commencement conditions

Option A – to allow late changes or additions to conditions without requiring those to be shared with the applicant. This would leave the discussion of any late changes to be dealt with through informal engagement between the local planning authority and the applicant;

• Option B – to require any subsequent changes or additions to conditions previously shared with the applicant to also be shared with the applicant before a final decision is made. While this would ensure all conditions are shared and gives the applicant a further period of time to consider the conditions, it runs the risk of adding complexity and delay into the process. To reduce the risk of delays, the applicant could chose not to see the conditions again, or shorten the time limit for the final decision.

If this process were to be agreed. SDC would prefer Option A. This is because this informal engagement already takes place.

Option B would add complexity and would also delay the process. Under the current constitution, if applications are determined by the planning committee, it is also not possible to make changes or add conditions without the consent of the Planning Committee, hence leading to long delays.

Question 3.12: Do you agree there should be an additional requirement for local planning authorities to justify the use of pre-commencement conditions?

The National Planning Policy Practice Guide already requires that conditions are relevant, necessary and relate to the development taking place. In addition to this, the Local Planning Authority already provides reasons for the conditions that they place on planning decisions and officers would normally justify the reason for most conditions within their report.

With all this in place, it is not considered necessary for there to be an additional requirement for LPAs to justify the use of pre-commencement conditions. It is much

easier to control development and enforce conditions if works have to be submitted before any development commences.

Question 3.13: Do you think that the proposed requirement for local planning authorities to justify the use of pre-commencement conditions should be expanded to apply to conditions that require further action to be undertaken by an applicant before an aspect of the development can go ahead?

SDC consider that it would onerous to have to justify the use of conditions before an aspect of the development can go ahead on each occasion. Whilst there are a number of different reasons why this sort of condition would be appropriate, it is normally to make it clear what is required by the applicant and to ensure that the development can be controlled and is easily enforceable. This means that the justification would be similar to each application and would therefore be an inefficient use of time to justify each of these conditions.

Question 3.14: What more could be done to ensure that conditions that require further action to be undertaken by an applicant before an aspect of the development can go ahead are appropriate and that the timing is suitable and properly justified?

One reason why Councils impose pre commencement conditions or other conditions requiring further action before commencements is because of a lack of information with the application. It would be helpful if the practice guide encouraged pre application discussions to include consideration of the information required to be included in the application so as to avoid the need for conditions requiring provision of further information before development commences.

Planning Application process improvements

Question 4.1: Do you agree with the proposed change to the requirements for consulting Natural England set out in Table 1 (note: table 1 proposes to remove a requirement for Natural England to be consulted where development is within 2km of a SSSI, as they are already consulted where developments would or may impact on SSSIs)? If not, please specify why.

SDC has no objection to this proposed change. It would however be helpful to have up to date online mapping to assist SDCs validation team.

Question 4.2: Do you agree with the proposed changes to the requirements for consulting the Highways Agency set out in Table 2 (note: table 2 proposes that the Highways Agency is consulted on any development that may impact on safety or queuing on a trunk road)? If not, please specify what change is of concern and why?

SDC have no objection to this proposed change as it will avoid unnecessary consultation. It is considered however that there should be a clause for any development that falls outside of the criteria but officers consider would have a significant impact on the road network, that the local authority could have an opportunity to discuss this form of

application with the Highways Agency. This would ensure that the number of consultations are reduced but would allow officers to seek advice on applications they considered necessary.

Question 4.3: Do you agree with the proposed changes to the requirements for consulting and notifying English Heritage set out in Table 3 (note: these are detailed changes that seek to streamline and simplify current arrangements and provide consistency)? If not, please specify what change is of concern and why?

No objection.

Do you agree with the proposed change to remove English Heritage's powers of Direction and authorisation in Greater London? If not, please explain why?

No comment.

Question 4.4: Do you agree with the proposed changes to the requirements for referring applications to the Secretary of State set out in Table 4 (note: these changes relate to the Secretary of State's involvement in applications considered by English Heritage)? If not, please specify what change is of concern and why.

No objection.

Question 4.5: Do you agree with the proposed minor changes to current arrangements for consultation/notification of other heritage bodies? If not, please specify what change is of concern and why.

No objection.

Question 4.6: Do you agree with the principle of statutory consultees making more frequent use of the existing flexibility not to be consulted at the application stage, in cases where technical issues were resolved at the pre-application stage? Do you have any comments on what specific measures would be necessary to facilitate more regular use of this flexibility?

SDC would be concerned if statutory consultees were consulted at pre-application stage but not at application stage for the following reasons:

- pre-application discussions are informal and not binding.

- a planning application is completely separate from pre-application discussions and SDC would be concerned that if a Statutory Consultees objected at pre-application stage whether they could rely on that objection at application stage.

- applicants are required to submit substantially more information at the application stage which could result in the statutory consultees coming to a different conclusion than at pre-application stage.

- It would take this process and discussions outside of the application process and could result in discussions taking place without the Local Authority's knowledge.

- Most importantly, some amendment to development which is required by a statutory consultee may make an application unacceptable in planning terms or could raise issues with other consultees. It is therefore completely inappropriate to allow discussions to take place with statutory consultee and the applicant separately and outside the planning application process. The planning application stage is where all the details and material has to be considered at the same time and where the case officer will balance all the views received before making a recommendation on an application.

- In addition the above by dealing with statutory bodies at the pre-application stage, where no public consultation has taken place, does not allow for the public and interested parties to be able to comment on any discussions that take place, which is entirely inappropriate.

Do you have any comments on what specific measures would be necessary to facilitate more regular use of this flexibility?

SDC consider that allowing this flexibility is completely unacceptable and whilst they understand the Government's intention of trying to be more flexible, it could lead to more problems at the application stage. It could also lead to statutory consultees not fully understanding what they are commenting on as there are no validation requirements for pre-application discussions.

Pre-applications are intended to be informal, by allowing this statutory consultees to formally comment on applications outside of the planning process could cause problems at the application stage which could be costly and more time consuming for applicants.

Question 4.7: How significant do you think the reduction in applications which statutory consultees are unnecessarily consulted on will be? Please provide evidence to support your answer.

A number of statutory consultees (SC) should now have a significant reduction in the number of applications they receive as they have now released and have trained people on standing advice which planning officers can follow.

Whilst it is acknowledged that in reducing the amount of applications which they comment on would allow SC to concentrate on the more sensitive and complex applications. SDC is concerned that by allowing more discussion to take place at the pre-application stage and for statutory consultees to make comments at that stage would not reduce the work but just mean that the work occurs at a different stage. In addition to this, if SC are allowed to enter into discussions this could actually increase the work load and time spent on assessing applications.

Question 4.8: In the interest of public safety, do you agree with the proposal requiring local planning authorities to notify railway infrastructure managers of planning applications within the vicinity of their railway, rather than making them formal statutory consultees with a duty to respond?

Question 4.9: Do you agree with notification being required when any part of a proposed development is within 10 metres of a railway? Do you agree that 10 metres is a suitable distance? Do you have a suggestion about a methodology for measuring the distance from a railway (such as whether to measure from the edge of the railway track or the boundary of railway land, and how this would include underground railway tunnels)?

No comment on these questions.

Question 4.10: Do you have any comments on the proposal to consolidate the Town and Country Planning (Development Management Procedure) Order 2010?

SDC supports this proposal. This will make the procedure order easier to understand for everyone.

Question 4.11: Do you have any suggestions on how each stage of the planning application process should be measured? What is your idea? What stage of the process does it relate to? Why should this stage be measured and what are the benefits of such information?

In order not to be onerous on Local Planning Authorities, SDC would suggest that any proposals should use information that is already collected by the authorities. For example, the time taken to deal with a pre-application enquiry and the time taken to discharge all the conditions on a planning application.

The time taken between the pre-application discussions and the submission of the application is outside the control of the local authority. Similarly it would not be appropriate for the Government to monitor the time taken between the date the application is determined and when applications for approval of details are submitted as this is also within the control of the applicant and would not accurately reflect the time SDC would have taken to deal with an application. As the pre-application discussions and discharge of conditions are the two elements that are within the control of the Local Planning Authority it would seem appropriate to monitor these elements.

Just measuring the process from end to end would not provide any meaningful figures regarding local authority performance as the progress of development schemes is delayed for a number of reasons; a great number of these are outside of the control of the Planning Authority.

Question 5.1

SDC does not consider that the existing thresholds for urban development were unnecessarily low as each case should be considered on its own merits, in some cases an urban development will have a considerable impact on the environment depending on

what is proposed and where. In other cases the same form of development may not. It is better to carry out a scoping opinion for a development that the Local Authority does not consider harmful than to change the thresholds and not be allowed to ask for an EIA where one would be necessary.

Question 5.2

As many of the environmental impacts can be considered through the planning process, SDC have no comment to make on the new thresholds.

Question 5.3

SDC have no comment to make in regard to this issue.

Amendment to Fees

Sevenoaks District Council has no comment to make in regard to the amendment to Fees.