

(For Democratic Services use)

Decision Number: 35 (2015/16)

Portfolio Holder Executive Decision Statement

The Local Authority (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012

Subject:

The Government released a consultation into "Technical Consultation on Implementation of Planning Changes". The proposals include (but not limited to) changes planning application fees, brownfield and small site registers, "permission in principle" and Local Plan preparation.

Details of Decision taken

To agree the wording and send the proposed response to the DCLG "Technical Consultation on Implementation of Planning Changes" consultation

Reason for Decision

To ensure that the Council's views on the proposals are taken into account.

All Documents considered:

SDC "Technical Consultation on Implementation of Planning Changes" response and consultation material [available from <https://www.gov.uk/government/consultations/implementation-of-planning-changes-technical-consultation>]

Details of any alternative options considered and rejected by the Member when making the Decision:

The Council could not have responded to the consultation. This was rejected as future decisions could impact the District.

Financial implications

None

However, the consultation refers to changes in planning application fees. While fees are set nationally, Members are advised to note this response and be aware that policy may change as a result of the outcome of the consultation.

Legal Implications and Risk Assessment Statement

None

Equality Impacts (Consideration of impacts under the Public Sector Equality Duty)

The decisions recommended through this paper have a remote or low relevance to

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the substance of the Equality Act. There is no perceived impact on end users.

Local Member (s), other Portfolio Holders and/or Directors/Heads of Service Consulted

Cllr R. Piper (Portfolio Holder for Planning)

Details of any conflicts of interest

a) declared by any executive member who is consulted by the Decision Taker

b) and any details of dispensations granted by the Chief Executive in respect of any declared conflict

Decision taken by:

Signed by Portfolio Holder

Date of Decision

14 / 04 / 2016.

Record made by:

Date of record:

15 / 4 / 16

Response to the Technical Consultation on Implementation of Planning Changes

Chapter 1: Changes to Planning Application Fees

Question 1.1: Do you agree with our proposal to adjust planning fees in line with inflation, but only in areas where the local planning authority is performing well? If not what alternative would you suggest?

Sevenoaks District Council agrees, in principle, that Local Planning Authorities should be rewarded and recognised for performing well. Also see our response to Question 1.2.

Question 1.2: Do you agree that national fee changes should not apply where a local planning authority is designated as under-performing, or would you propose an alternative means of linking fees to performance? And should there be a delay before any change of this type is applied?

The Council notes and concurs with parts of the response given by the Planning Officers Society (POS) as follows: Those authorities designated as under-performing should not have an increase in fees, although fee income should not be linked to performance in such a way that LPAs do not cover their basic costs. Fees should be made as simple as possible, with both a national fee and a lower fee for designated underperforming authorities being the only options available. This will help provide clarity for all applicants.

Question 1.3: Do you agree that additional flexibility over planning application fees should be allowed through deals, in return for higher standards of service or radical proposals for reform?

Sevenoaks District Council believes that the choice for applicant's of fast-track services would be acceptable in return for a proportionate fee. This will therefore mean that the cost of an application to an applicant would increase if they want this higher and faster standard of service. Rather than amending legislation SDC consider that local performance agreements would be sufficient. It is the view that handing approved providers applications to consider could lead to a greater amount of work for the local authority if, for example, a large amount of admin work and in particular if the local authority did not agree with the recommendation proposed. This could lead to the local authority having to re-write a report and recommendation causing delays in the process, resulting in duplication and possibly higher precepts.

In addition to this, if there a number of approved providers Sevenoaks District Council have serious concerns in regard to the consistency of work and also of decisions.

Question 1.4: Do you have a view on how any fast-track services could best operate, or on other options for radical service improvement?

Sevenoaks District Council consider that any fast track services should still be determined locally and not by parties who are not familiar with the District and our policies. Sevenoaks District Council would also wish to see that consultees are still given ample

opportunity to comment on applications and that there is time for their view to be considered.

Question 1.5: Do you have any other comments on these proposals, including the impact on business and other users of the system?

There is a danger that consistency may be undermined, should these proposals go ahead. Sevenoaks District Council would be concerned that there needs to be adequate guidance, funding and resources in place to be able to cope with all the suggested changes. In particular whatever reform is put in place that there needs to be an assurance in the way the application is handled and also in the consistency of decision making.

Chapter 2: Permission in principle

Question 2.1: Do you agree that the following should be qualifying documents capable of granting permission in principle?

- a) future local plans;
- b) future neighbourhood plans;
- c) brownfield registers.

Sevenoaks District Council do not believe that the existing system needs to be amended with the 'Permission in principle' approach appearing to replicate an applicant's ability to currently gain outline planning permission for a development. There is a danger that "permission in principle" will be given to hypothetical scenarios for development, based on a lack of evidence and proper justification for material considerations such as the form of development, the scheme's density, proposed layouts and number of units etc. Notwithstanding this the Council has the following comments:

- a) Through the plan-making process, it is important that LPAs positively plan for future growth and needs. This is achieved through the assessment and allocation of land to meet the requirements of growth across the Local Plan period (typically 20-25 years). These allocations can be for a variety of different uses, including (but not limited to) housing, employment, retail or mixed use developments. By allocating sites for future development within Local Plans, there is already the presumption that these sites will be brought forward for development to meet the requirements of growth. LPAs may wish to expand on the allocation by setting out policies and specific design guidance relative to the site, to ensure that delivery is achievable.

There is already a considerable amount of work that takes place to allocate sites and introducing a process where permission is granted in principle through the Local Plan would lead to considerably more work with a higher and more detailed number of assessments and consultations needed. The allocation of sites already takes into account physical constraints and broad issues and if needed can also be accompanied by a design guide. It is considered that the current process is therefore adequate and the details of each scheme and the granting of planning

permission can be dealt with at the planning application stage, where it is easier to deal with site specific issues and also conditions etc.

- b) Neighbourhood plans are drafted and written by the local community. Again whilst it may be appropriate here to put forward sites and raise a particular need for a particular development, Sevenoaks District Council would be nervous to allow planning permission to be agreed in principle through this process. This is because therefore a number of issues to be dealt with when dealing with a planning application and a number of professional surveys and appraisals that need to take place between the Local Planning Authority, the highways Authority and other statutory consultees and this may not be the best forum to go into so much detail. We would also be concerned as to the consistency in decisions as each Neighbourhood would have a different approach and would be dealt with at different stages.
- c) However, careful consideration should be given to permission in principle for brownfield registers, despite greater emphasis on building on brownfield land, LPAs and neighbourhood planning groups must go through a process of identifying, assessing and determining whether a site is suitable. This is commonly done through a Strategic Housing and Economic Land Availability Assessment (SHELAA). Where sites are deemed appropriate for development, those sites are then adopted and allocated as part of the plan-making process. Those sites that are not appropriate for development have credible reasons to why they are not allocated. Therefore, permission in principle is seen as a mechanism for developing the housebuilding agenda only. Suitable brownfield land for economic purposes and development should also be considered as part of this process.

Question 2.2: Do you agree that permission in principle on application should be available to minor development?

Sevenoaks District Council believes this opportunity already exists through the submission of an outline planning application.

Question 2.3: Do you agree that location, uses and amount of residential development should constitute 'in principle matters' that must be included in a permission in principle? Do you think any other matter should be included?

Sevenoaks District Council believes that the scale parameters of the development should also be provided as in principle matters in addition to those referred to. For larger schemes it is the view of Sevenoaks District Council that for larger schemes that other matters such as infrastructure should also be included.

Question 2.4: Do you have views on how best to ensure that the parameters of the technical details that need to be agreed are described at the permission in principle stage?

Sevenoaks District Council does not have a particular view on this point.

Question 2.5: Do you have views on our suggested approach to a) Environmental Impact Assessment, b) Habitats Directive or c) other sensitive sites?

Sevenoaks District Council does not have a particular view on points a and b, but due to the complex issues involved in sensitive sites for example those affecting heritage assets should not be able to be dealt with under this new system in any way.

Question 2.6: Do you agree with our proposals for community and other involvement?

Sevenoaks District Council believes that a full consultation should be carried out on both permission in principle applications and technical details consent submissions. Community input should not be different no matter what process an application is being determined under.

Question 2.7: Do you agree with our proposals for information requirements?

Sevenoaks District Council believes that an ownership certificate should be provided at the permission in principle stage to avoid an increase in speculative submissions.

Question 2.8: Do you have any views about the fee that should be set for a) a permission in principle application and b) a technical details consent application?

Sevenoaks District Council believes that fees should at least be equal to those that already exist in the fee schedule.

Question 2.9: Do you agree with our proposals for the expiry of on permission in principle on allocation and application? Do you have any views about whether we should allow for local variation to the duration of permission in principle?

Sevenoaks District Council believes that the procedures for timings appear complicated and that there is no need to be making these provisions when it is possible for an applicant to currently make an outline planning submission. Local variations are only likely to complicate matters further for applicants. The main issue is for sites where developers have permission but are not commencing works on the site. Sevenoaks District Council would welcome any approach which seeks to encourage developers to carry out development quicker for example penalties or increase in Council tax.

Question 2.10: Do you agree with our proposals for the maximum determination periods for a) permission in principle minor applications, and b) technical details consent for minor and major sites?

Sevenoaks District Council does not agree with the suggested determination dates. They are far too short and do not allow any time to carry out a proper assessment and also consultation on each application and therefore it does not allow for the full democratic process to be adhered to.

Chapter 3: Brownfield Register

Question 3.1: Do you agree with our proposals for identifying potential sites? Are there other sources of information that we should highlight?

It is considered appropriate that LPAs use Strategic Housing Land Availability Assessments (SHLAAs) to identify appropriate brownfield land for housing. Many LPAs consider brownfield land as priority development especially within Green Belt authorities such as SDC. LPAs conduct a “Call for Sites” exercise to determine the amount of available land within a local authority’s area, which can include a mixture of brownfield and greenfield land. This process would merely duplicate the work to create a brownfield-specific “SHLAA”.

Central public registers of land are also a useful tool for identifying brownfield land. Many public sector organisations are currently being encouraged to register any land that they own with a central database, at regional and national levels. This would identify land and other assets that could potentially facilitate greater development opportunities.

Question 3.2: Do you agree with our proposed criteria for assessing suitable sites? Are there other factors which you think should be considered?

The factors outlined in the consultation are reaffirming what is currently considered best practice for LPA to produce new or revised SHLAAs. The proposed criterion is broad, and appears to create the presumption that *all* brownfield sites will be included in brownfield registers, despite brownfield sites being ruled out for Local Plan allocation on particular grounds. SDC agrees that a site must be deliverable or developable given a period of time, but this process is current through the SHLAA and plan-making process. The minimum thresholds standards for development are based on a site to be brought forward with local planning-making. It is the view of Sevenoaks District Council that the 90% target is too prescriptive as in addition to housing there will also be a need to provide infrastructure and employment and each district will have a different need.

Question 3.3: Do you have any views on our suggested approach for addressing the requirements of Environmental Impact Assessment and Habitats Directives?

While EIA and Habitats Assessments might not be required on a large number of sites that come forward, the placing an additional function on the LPA when screening sites for the purposes of including sites onto the Register seems to be impractical as it is not currently required as part of the existing SHLAA process.

Question 3.4: Do you agree with our views on the application of the Strategic Environment Assessment Directive? Could the Department provide assistance in order to make any applicable requirements easier to meet?

The Regulations and Directives are clear on the requirements where applicable to development. Further guidance will be required to how this information should be recorded in the Register to determine whether permission in principle is given.

Question 3.5: Do you agree with our proposals on publicity and consultation requirements?

While SDC agrees in principle to allowing the community to be consulted on whether permission in principle should or should not be given to sites on the Register, greater clarification will be required on the timescales for consultation and decision making. As the Register should be regularly updated, it would be beneficial to know when the Register should be consulted on and how this would work (i.e. should the Register be consulted on once/twice a year, or should new additions automatically be consulted upon once they are added). Greater guidance on who should be consulted during this process (i.e. the status and purpose of statutory consultees) would be equally beneficial.

Question 3.6: Do you agree with the specific information we are proposing to require for each site?

The information that registers will be required to hold is information that should already be in the public domain, as part of the planning application process. This information would also be duplicated through the SHLAA process, however this would only occur providing the site was submitted to the LPA under that process. This information would be effectively duplicated, but would give a clear indication to what brownfield land is available in the District.

Question 3.7: Do you have any suggestions about how the data could be standardised and published in a transparent manner?

Sevenoaks District Council agrees in principle but have no specific response to the standardisation of data and publication.

Question 3.8: Do you agree with our proposed approach for keeping data up-to-date?

Keeping the register up-to-date is a positive approach to ensuring that there is a clear position of available brownfield sites within a local authority area.

Question 3.9: Do our proposals to drive progress provide a strong enough incentive to ensure the most effective use of local brownfield registers and permission in principle?

To maintain an up-to-date register of available brownfield land is useful, to ensure that viable and available sites are brought forward for development, before alternatives are considered (i.e. infill, urban extensions, development on greenfield/greenbelt land). Large sites may come forward as a result, but a majority of sites will be considered as small development, similar to those described as “windfall sites” within a LPA’s housing trajectory.

However, while SDC understands the importance of the housebuilding agenda set out by central Government, SDC stresses that suitable development should occur in the best suited locations; this should not be purely exclusive to residential development. Additional uses (i.e. employment and mixed use) must be considered in suitable locations should also be encouraged to ensure sustainable development as set out in NPPF para. 14.

Question 3.10: Are there further specific measures we should consider where local authorities fail to make sufficient progress, both in advance of 2020 and thereafter?

It is ill-advised to suggest possible special measures at this stage, prior to the scheme going live. The Government has recently announced a number of pilot brownfield register schemes across the country, with the aim of having every LPA maintaining a register in the coming years. SDC suggests that these pilot schemes form the basis for additional or special measures, should insufficient progress be made.

One issue that Sevenoaks District Council would wish to avoid is land banking and we would therefore encourage penalties for developers who do this. Evidence contained within Authority Monitoring Reports show that housing is being delivered. SDC is currently building on average 200-220 units a year, showing that delivery isn't impacted by refusing permissions but influenced by land banking.

Chapter 4: Small Sites Register

Question 4.1: Do you agree that for the small sites register, small sites should be between one and four plots in size?

It is widely accepted that a small development site is considered to be able to accommodate five units or more, as stated within the NPPG when assessing potential sites for residential development. Sites which could accommodate less than five units would normally be considered as "windfall" sites. Therefore, it is reasonable to assume that it would be appropriate to use the criteria proposed to determine small sites for this register.

Question 4.2: Do you agree that sites should just be entered on the small sites register when a local authority is aware of them without any need for a suitability assessment?

Regardless of scale or size of the development, it is important to screen and determine the appropriateness of sites which may be allocated for strategic development. While the register is to show available land for development, it must be proven to be appropriate, developable and/or deliverable. Therefore, SDC would suggest that a basic suitability assessment be completed to ensure that strategic considerations are accounted for. Further material considerations will be considered as part of the planning application process.

Question 4.3: Are there any categories of land which we should automatically exclude from the register? If so what are they?

Land that could be excluded from the Register should include the subdivision of gardens.

Question 4.4: Do you agree that location, size and contact details will be sufficient to make the small sites register useful? If not what additional information should be required?

The level of detail should be appropriate for the size of the site. Further guidance and regulations should be clear on the type of contact details should be made available (i.e. the landowner, agent, developer, the LPA). Basic planning constraints should also be included as part of the content for the register.

Chapter 5: Neighbourhood Planning

Question 5.1: Do you support our proposals for the circumstances in which a local planning authority must designate all of the neighbourhood area applied for?

As the Sevenoaks District is an entirely parished area, experience shows that parish and town councils are designating their whole parish/town area as a neighbourhood area. This is resulting in little conflict with neighbouring parishes, both within outside of the District's administrative boundary. However, it is still important to consult/publicise with residents on the extent of the neighbourhood area designation, as once adopted, the area's finalise Neighbourhood Plan will become a statutory local planning document.

Question 5.2: Do you agree with the proposed time periods for a local planning authority to designate a neighbourhood forum?

As neighbourhood area designations are coming through parish and town councils, the Council can not comment on the designation of neighbourhood forums.

Question 5.3: Do you agree with the proposed time period for the local planning authority to decide whether to send a plan or Order to referendum?

SDC considers that the 5 week time frame is sufficient, on the condition that where it is not possible to determine the recommendations an time extension is agreed with the town/parish council. However, it is worth noting that planning departments across England are facing large scale changes including proposals to "streamline" the planning system and how applications are dealt with. A number of LPAs may not have sufficient resources to determine whether an examiner's recommendations are brought forward to a referendum. A number of Local Plans are currently being reviewed/updated and therefore, the work load is greater.

Question 5.4: Do you agree with the suggested persons to be notified and invited to make representations when a local planning authority's proposed decision differs from the recommendation of the examiner?

The process of making further representations should not be limited just to the neighbourhood planning group and those who made representations. The Localism agenda supports the involvement of all members of the community. Therefore, it should be considered that the local authority's recommendations are consulted on widely, to include the wider community and statutory consultees.

Question 5.5: Do you agree with the proposed time periods where a local planning authority seeks further representations and makes a final decision?

The timescales proposed reflect the existing minimum requirements for regular consultation on local planning documents, and is an acceptable proposal.

Question 5.6: Do you agree with the proposed time period within which a referendum must be held?

While SDC agrees in principle, the proposals on holding a referendum should be flexible to allow sufficient time for publication, notification and organising a local referendum. Therefore it is welcomed that some exemptions have been considered as part of the process, but further guidance would be welcomed.

Question 5.7: Do you agree with the time period by which a neighbourhood plan or Order should be made following a successful referendum?

A statutory requirement to adopt Neighbourhood Plans and bring them into force following a local referendum should be fluid rather than enforcing a strict 8 week rule. Dependent a Local Authority's governance arrangements, it may be required for the local authority to formally adopt the Plan as it will form part of a Local Authority's Local Plan. The restriction of full adoption and enforcement of a Neighbourhood Plan within 8 weeks may not comply with governance structures and would mean that the document may not have been appropriately dealt with and considered. In order to comply with this, referendums should be encouraged to be organised in alignment with Council governance procedures which might hold up the process of adopting Neighbourhood Plans.

Question 5.8: What other measures could speed up or simplify the neighbourhood planning process?

N/A

Question 5.9: Do you agree with the proposed procedure to be followed where the Secretary of State may intervene to decide whether a neighbourhood plan or Order should be put to a referendum?

It is clear that further action is required to whether a neighbourhood plan should be taken to a local referendum on the grounds of the examiners report. The intervention of the Secretary of State must qualify on reasonable grounds. Therefore, any intervention requested by a neighbourhood planning group should be proportional and not used as a "threat" to a LPA to hurry the establishment of a local referendum and have the Neighbourhood Plan adopted as part of local planning policy.

Question 5.10: Do you agree that local planning authorities must notify and invite representations from designated neighbourhood forums where they consider they may have an interest in the preparation of a local plan?

Yes. The NPPF and NPPG advocate a wide, inclusive approach to local plan-making. During public consultation, local authorities try to include a number of stakeholders as well as

general members of the public. LPAs may have stakeholder mailing lists which include bodies such as charitable organisations, resident associations and the possibly neighbourhood planning forums/groups (where appropriate). Both the Local Plan and Neighbourhood Plan must be aligned in local and national planning policy and therefore it is a benefit to receive representations from these groups.

Chapter 6: Local Plans

Question 6.1: Do you agree with our proposed criteria for prioritising intervention in local plans?

Yes in principle as it is clear that plans need to be up to date. The purpose of a LDS is to illustrate the timetable that the local authority has set itself to produce an up-to-date Local Plan. In addition, the use of evidence that is supplied to the Planning Inspectorate is an appropriate benchmark, as it shows the dates of submission, examination and decisions for Local Plan documents. However, the plan-making process is full of variables and the Government must allow a degree of flexibility to its own criteria. The LDS is a useful tool, meaning that the rate of progress to a new Local Plan can be continually measured, against its own progress. Delays in preparation (i.e. production of evidence bases) can be out of the hands of local authorities (if commissioned to consultants), and can impact delivery of the Local Plan. Sevenoaks District Council, would therefore like it to be considered that the Government do not get involved in the preparation of the Local Plan if something has occurred outside of the LPA's control.

Question 6.2: Do you agree that decisions on prioritising intervention to arrange for a local plan to be written should take into consideration a) collaborative and strategic plan-making and b) neighbourhood planning?

The Government should be clearer on its expectations of collaborative and strategic plan-making. Under current planning legislation, local authorities have a "duty to cooperate" with neighbouring authorities, to establish common issues and how they may be solved through the plan-making process. In addition, a number of local authorities produce evidence bases together on common characteristics (i.e. employment, housing market areas, Greenbelt issues etc.). Despite local authorities producing Local Plans separately, this can be argued as collaborative working. Strategic plan-making appears to be primarily directed towards those areas with devolution proposals for wider city regions and other areas. However, there are differing levels of collaboration between local authorities as each local authority is predominantly working to its own timescales and may be at a different stage of plan-making to neighbouring authorities. It is unclear how the Government would intend to prioritise intervention on this basis. The implications of this measure could result in Government becoming regularly involved in Local Plans across the country, creating a "top-down" approach to local plan-making.

With regards to neighbourhood plans, these are local planning documents (once adopted), which feed into the Local Plan as additional guidance to managing development within a particular area. It is sensible to assume that for neighbourhood plans to come forward,

Local Plans should remain up-to-date to ensure that any potential neighbourhood plan complies with adopted local planning policy.

Question 6.3: Are there any other factors that you think the government should take into consideration?

N/A

Question 6.4: Do you agree that the Secretary of State should take exceptional circumstances submitted by local planning authorities into account when considering intervention?

Currently, the Secretary of State can intervene with a local authority's plan when it is submitted for independent examination. SDC appreciates that defining exceptional circumstances can be difficult and is therefore encouraged that the Government proposes tests to determine whether an issue is deemed as an exceptional circumstance. However, issues will be subjected to the Secretary of State's discretion to whether it is classified as an exceptional circumstance. Each local authority will pose individual problems, making it potentially difficult to apply a fair and balanced approach to all potential exceptional circumstances. Further guidance and clarification on these tests would be beneficial, should the proposal be taken forward.

Question 6.5: Is there any other information you think we should publish alongside what is stated above?

The amount of information described (i.e. dates for submission, examination and adoption; publication of stages achieved; dates of plan adoption etc.) is adequate to publish progress of Local Plans.

Question 6.6: Do you agree that the proposed information should be published on a six monthly basis?

The information should be kept up to date regularly. The proposal of publishing information every six months seems appropriate, as it allows adequate time for Local Plans to progress. It would allow better analysis of plan delivery, to show whether a local authority is in line with its LDS and the milestones that it has set.

Chapter 7: Expanding the approach to planning performance

Question 7.1: Do you agree that the threshold for designations involving applications for non-major development should be set initially at between 60-70% of decisions made on time, and between 10-20% of decisions overturned at appeal? If so what specific thresholds would you suggest?

Sevenoaks District Council believes that the threshold for deciding applications is reasonable but the threshold for appeal overturns for both non-major and major development should be 25% at the very least.

Question 7.2: Do you agree that the threshold for designations based on the quality of decisions on applications for major development should be reduced to 10% of decisions overturned at appeal?

Sevenoaks District Council believes that the threshold for deciding applications is reasonable but the threshold for appeal overturns for both non-major and major development should be 25% at the very least. 10% is a very low number and would be very difficult to meet. By having such a low number could lead to an increase in Local Authorities appealing against Inspectors decisions to the Courts which would result in more lengthy decisions and an increase in costs.

Question 7.3: Do you agree with our proposed approach to designation and de-designation, and in particular

(a) that the general approach should be the same for applications involving major and non-major development?

(b) performance in handling applications for major and non-major development should be assessed separately?

(c) in considering exceptional circumstances, we should take into account the extent to which any appeals involve decisions which authorities considered to be in line with an up-to-date plan, prior to confirming any designations based on the quality of decisions?

Sevenoaks District Council agrees with the proposed approach.

Question 7.4: Do you agree that the option to apply directly to the Secretary of State should not apply to applications for householder developments?

Sevenoaks District Council believes that there should be no increase in the work load of the Secretary of State to prevent further delays in the planning process.

Chapter 8: Testing competition in the processing of planning applications

Question 8.1: Who should be able to compete for the processing of planning applications and which applications could they compete for?

Sevenoaks District Council is concerned about the prospect of allowing other bodies to process planning applications. It believes that the consideration of planning applications by organisations outside of the Local Planning Authority will lead to other parties cutting corners to reduce costs in an attempt to increase their income through a perceived quicker turn around time in terms of deciding planning applications. It is also the case that the process will lead to an increase in the work load of the Local Planning Authority in having to reconsider applications where there is disagreement on for the recommendation provided. Notwithstanding this, if a trial is to go ahead then only organisations who agree to follow all current procedures should be included and only non-contentious, minor developments should be considered. Clarification would also be needed to establish liabilities; for example if an error is made during the processing of an application at

present members of the public have recourse to the Courts or the LGO (i.e. does the Local Planning Authority remain culpable if it has not been the processing organisation?).

Question 8.2: How should fee setting in competition test areas operate?

Sevenoaks District Council believes that fee setting should be equal to ensure that there is no bias towards any party setting a lower fee and that there is a fair comparison between services.

Question 8.3: What should applicants, approved providers and local planning authorities in test areas be able to do?

This section highlights the above concern of the Council with a Local Planning Authority having a short period of time to rectify any recommendation that they disagree with, increasing the workload on the Authority.

Whilst the list laid out in paragraph 8.13 would appear reasonable, in particular the fact that an approved provider would not be able to decide an application. Sevenoaks DC would question who would deal with any appeals in particular against the non-validation of an application? In addition to this, as SDC is already performing very well in regard to validation of applications, we would also wish it to be considered where it would not be appropriate to allow to be done by other bodies as it could actually delay the progress of an application.

SDC would therefore also like it to be considered that the tasks that an approved provider differ and suit each authority. For example, if the validation of applications is going well and is being carried out in a timely manner there would be no reason to hand this task over to an approved provider. However if a Local Authority for example is not finding time to write reports and there are delays in site visits maybe these tasks can be carried out by an approved provider.

Question 8.4: Do you have a view on how we could maintain appropriate high standards and performance during the testing of competition?

Sevenoaks District Council consider that the timings of reports are important. Legal tests as to the soundness of decisions should also be considered.

Question 8.5: What information would need to be shared between approved providers and local planning authorities, and what safeguards are needed to protect information?

Sevenoaks District Council again believes that this section highlights the fact that much of the work required to consider an application will be doubled up. All information relating to a planning application would need to be shared and any confidential information would need to be dealt with sensitively by any approved provider.

Question 8.6: Do you have any other comments on these proposals, including the impact on business and other users of the system?

Sevenoaks District Council does not believe that the proposals are appropriate and would lead to increased pressure on approved providers to increase their profits leading to increase their volume of work and pay. This would lead to higher costs to pay for the service and also if the proper process is not followed. Competition may drive up costs on planning services, to maintain a effective service and the maintain sufficient resources.

Chapter 9: Information about financial benefits

Question 9.1: Do you agree with these proposals for the range of benefits to be listed in planning reports?

Sevenoaks District Council believes that the inclusion of Section 106 payments within planning reports is correct since this relates directly to the planning application being considered. Planning applications are all judged on their own merit and the benefits agreed through a legal agreement should be open and transparent and should relate to the application and it would therefore be entirely appropriate for it to be considered as part of the appraisal in a planning report. Information on Council tax and business rates should already be available to the public from the Local Authority in question and so the inclusion of this information in planning reports would be unnecessary.

Question 9.2: Do you agree with these proposals for the information to be recorded, and are there any other matters that we should consider when preparing regulations to implement this measure?

Again, Sevenoaks District Council believes that the inclusion of payments relating to the Community Infrastructure Levy, government grants and Section 106 payments in planning reports is appropriate. Other payments are not directly related and judging what the payments towards Council tax and business rates would create further work for other departments within an a Local Authority and are not a material planning consideration.

Chapter 10: Section 106 dispute resolution

Question 10.1: Do you agree that the dispute resolution procedure should be able to apply to any planning application?

Sevenoaks District Council believes that the dispute resolution procedure should be applied to any planning application.

Question 10.2: Do you agree with the proposals about when a request for dispute resolution can be made?

Sevenoaks District Council agrees with the proposals about when a request for dispute resolution can be made.

Question 10.3: Do you agree with the proposals about what should be contained in a request?

Sevenoaks District Council agrees with the proposals about what should be contained in a request.

Question 10.4: Do you consider that another party to the section 106 agreement should be able to refer the matter for dispute resolution? If yes, should this be with the agreement of both the main parties?

Sevenoaks District Council believes that all parties to a Section 106 agreement should be able to refer the matter for dispute resolution but that this should be with the agreement of both the main parties.

Question 10.5: Do you agree that two weeks would be sufficient for the cooling off period?

Sevenoaks District Council agrees that two weeks would be sufficient for the cooling off period.

Question 10.6: What qualifications and experience do you consider the appointed person should have to enable them to be credible?

Sevenoaks District Council believes that the appointed person should have qualifications and experience appropriate to the matter of considering the content of Section 106 agreements this should include at least 5 years experience of working with and drafting Section 106 Agreement, it would also be preferable to have some form of legal qualification.

Question 10.7: Do you agree with the proposals for sharing fees? If not, what alternative arrangement would you support?

Sevenoaks District Council agrees with the proposals for sharing fees evenly.

Question 10.8: Do you have any comments on how long the appointed person should have to produce their report?

Sevenoaks District Council believes that four weeks would be sufficient time for an appointed person to produce a report.

Question 10.9: What matters do you think should and should not be taken into account by the appointed person?

Sevenoaks District Council believes that an appointed person should take account of all matters relevant to the consideration of the content of the agreement and should not look any other matters which are outside of those in dispute.

Question 10.10: Do you agree that the appointed person's report should be published on the local authority's website? Do you agree that there should be a mechanism for errors in the appointed person's report to be corrected by request?

Sevenoaks District Council agree that the appointed person's report should be published on the Local Authority's website and that there should be a mechanism for errors in the appointed person's report to be corrected by request.

Question 10.11: Do you have any comments about how long there should be following the dispute resolution process for a) completing any section 106 obligations and b) determining the planning application?

Sevenoaks District Council have no particular comments to make on these points.

Question 10.12: Are there any cases or circumstances where the consequences of the report, as set out in the Bill, should not apply?

Sevenoaks District Council does not believe that there are any cases or circumstances where the consequences of the report should not apply.

Question 10.13: What limitations do you consider appropriate, following the publication of the appointed person's report, to restrict the use of other obligations?

Sevenoaks District Council have no particular comments to make on this point.

Question 10.14: Are there any other steps that you consider that parties should be required to take in connection with the appointed person's report and are there any other matters that we should consider when preparing regulations to implement the dispute resolution process?

Sevenoaks District Council have no particular comments to make on these points.

Chapter 11: Permitted Development Rights for State-Funded Schools

Question 11.1: Do you have any views on our proposals to extend permitted development rights for state-funded schools, or whether other changes should be made? For example, should changes be made to the thresholds within which school buildings can be extended?

Generally, Sevenoaks District Council has no specific comments to make. However, we would expect that a buffer of at least 5 metres from the premises' curtilage be kept to preserve the amenity of surrounding properties as much as possible. In addition to this, we would also expect there to be sufficient space for sports facilities and recreational space for students.

Question 11.2: Do you consider that the existing prior approval provisions are adequate? Do you consider that other local impacts arise which should be considered in designing the right?

Sevenoaks District Council have no particular comments to make on this point.

Chapter 12: Changes to Statutory Consultation of Planning Applications

Question 12.1: What are the benefits and/or risks of setting a maximum period that a statutory consultee can request when seeking an extension of time to respond with comments to a planning application?

Sevenoaks District Council have no particular comments to make on this point.

Question 12.2: Where an extension of time to respond is requested by a statutory consultee, what do you consider should be the maximum additional time allowed? Please provide details.

Sevenoaks District Council considers that statutory Consultees should be given a full allowance to be able to make their comments. This should be at least 14 days.

Chapter 13: Public Sector Equality Duty

No further comments to raise.

