DCLG Technical Consultation on Planning

Comments by the London Forum of Amenity and Civic Societies

London Forum is a charity established by the Civic Trust which has been networking, supporting and representing over 100 civic and community groups in London for 25 years.

London Forum objects to the contents of many parts of the DCLG Technical Consultation because the proposals are contrary to some parts of the NPPF and against the spirit of localism. It is written in several places in the consultation document that communities have had the right given to them to determine more of what happens in their locality but the suggested changes take away a lot of their involvement.

Local Authorities should not be denied the right to decide what happens in their area and the permitted development rights remove their ability to reconfigure town centres for viability and to maintain a necessary supply of low cost office space for small and emerging enterprises and businesses.

From some parts of London, businesses have been driven out of the capital because the office building they were occupying has been or is to be converted to flats.

The Government has intervened, again, in the right of local authorities to decide where there should be protection against these changes by Article 4 Direction.

This top-down imposition of planning policies and interference in decision making is quite inappropriate and fails to recognise the differences that exist in various areas of England and which should be controlled by local government.

There is no evidence base presented to the public to support the Government's proposals.

The imposed permitted development rights are contrary to the policies of the London Plan which seeks to protect light industrial uses and facilities in town centres, also to maintain a stock of offices suitable for defined purposes. The flats being delivered by conversion of offices under permitted development are not of the type the local authorities intend to deliver. The same problem could arise from conversion of other properties.

Several of the social services that these proposals would cause to be lost are essential in some communities, particularly where people depend upon, say, laundrettes. House prices in London are so high that these proposals could result in the loss of too many facilities.

London Forum's comments cover each section of the proposed changes.

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London Forum's responses to 'Technical consultation' on planning changes Aug14

Section 1: Neighbourhood Planning

London Forum **welcomes** most of these changes to streamline neighbourhood planning, especially giving deadlines for local planning authorities to make their decisions.

However, the London Forum considers that DCLG has still not adjusted the model sufficiently to recognise the different circumstances in larger urban areas and, especially, London. It still does not recognise that neighbourhoods will be self-ascribed by residents - it is what they consider to be their community - and can be both larger and smaller than electoral wards. The simplicity or convenience of making them coterminous with wards denies local communities the desire to make the boundary whatever they consider to be their community, whether large or small.

In the response below, some consultation paragraphs are included with their numbers. Comments are included for ones where London Forum questions the content.

1.1 "Our reforms have already given significant new power to communities in deciding the scale, location and form of development in their areas."

That is not factual. Since the Localism Act, DCLG has taken away many powers of communities and local authorities to decide on local development by the top-down implementation of permitted development rights (PDR) which are harmful to the economy, town centres and the provision of low-cost homes for rent. In addition to PDR, the 'get-out-of-S.106-and-other-obligations' card that the then Minister, Nick Boles, dealt to developers to play on 'viability' grounds resulted in them offering half or less of the affordable housing needed and planned. That has been another big issue for the capital.

1.2 "Across England more than 1,000 communities have applied for a neighbourhood planning area to be designated."

The process has not been popular in London where local authorities have cooperated with communities in updating their Local Plan to include policies that meet the needs of communities for their neighbourhood. The London Plan forms part of the development plan for each London borough and their Local Plan should be all that is required in most areas to meet the expectations of residents. There are some exceptions, for example, where a neighbourhood is divided between two or three local authorities and residents want a consistent set of policies for it. Also, where a community wishes to influence the design of development and the improvement of local infrastructure.

It seems that Neighbourhood Plans are more likely to be useful to communities outside London where Local Plans may not be sufficiently developed to direct delivery of what communities want.

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.

Yes - there should be a time limit. There is no reason why a local planning authority should be able to frustrate progress on a neighbourhood plan. If the neighbourhood forum is not properly constituted or not representative of the neighbourhood that should not take long to reach a decision. With regard to a decision on the area, what constitutes the neighbourhood should be that regarded as the neighbourhood by the local community. Any objections by the authority to the area of the neighbourhood should be limited to determining competing claims for the same area and must be valid planning reasons. Any objections should be subject to scrutiny.

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?***

No - The configurations of wards are used for headcount purposes in elections and rarely relate to what people would consider to be their neighbourhood. In London neighbourhoods might range from two or three wards to just part of one ward. That has sometimes reduced the effectiveness of councillors in supporting the needs and aspirations of people in neighbourhoods and it is why residents seek through their Council's Local Plan the preparation of Area Action Plans as Development Planning Documents.

The time limit of the type proposed with the restrictions described will not help most of the groups of residents and/or businesses in London considering a Neighbourhood Plan due to the unlikelihood of a ward boundary relating to their neighbourhood area. The regulation might force people who wanted a fast response to propose boundaries that are not what they would consider to be the real neighbourhood. **London Forum considers that there should still be a deadline to prevent uncooperative Boroughs from stalling**.

The area of the neighbourhood should be defined by the local community - it should reflect their perception of what is their neighbourhood. In a London context, a community's definition of their neighbourhood may not be limited by borough boundaries, let alone electoral wards. This proposal would give a "fast track" for communities where electoral ward boundaries coincide with the community's perception of their area, but still leaves "non-conforming" communities with an open-ended process, allowing local planning authorities to procrastinate with no accountability to the local community.

Similarly, fast-tracking cases where there is a "gap" - no existing or competing designations - is reasonable - but again leaves those where there is competition in limbo.

London Forum suggests that there could be a time limit not only for making a decision, but also for alerting applicants that there are issues of concern. At the moment there is not only no deadline for making decisions, but no requirement to discuss any "reservations" that the local authority may have. The process needs to have deadlines for decisions but also a requirement to inform the neighbourhood forum of any problems/issues that concern them. There is also a need for greater transparency as to how decisions are made and the grounds for these decisions.

The regulation might force people who wanted a fast response to propose boundaries that are not what they would consider to be the real neighbourhood.

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

- ***there is no existing designation or outstanding application for designation, for all or part of the area for which a new designation is sought?***

Yes, because conflicting applications can take some time to negotiate a final designation.

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?

Yes. Ten weeks is a reasonable time for a response by the local authority to any proposal to designate a neighbourhood, providing the proposing organisation has met all the requirements for engagement of all those people, organisations, retailers and business affected and is properly constituted as a Neighbourhood Forum and has consulted all those who need to be engaged.

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?

Yes - six weeks is widely accepted as reasonable for local consultation.

1.18 "It is our longer-term intention to introduce measures whereby neighbourhood areas are automatically designated if a local planning authority does not take a decision within a specified time period."

1.19 "It is also our intention to keep under review the wider use of time limits within which local planning authorities must take certain decisions for neighbourhood planning."

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.

The proposal in para. 1.18 should have a reasonable period attached to it of three months, because there may be good reasons for a local authority taking some time to decide. In London the borough may have to consult the Mayor if the proposed neighbourhood relates to, or could affect, an area covered by an Opportunity Area Planning Framework or an Area of Intensification. There could be time taken in the Duty to Co-operate where the proposed neighbourhood area is in more than one borough.

The London Forum considers that the latter stages of the process - independent inspection and holding a referendum - are entirely under the local authority's control. If the local authority is unsympathetic or resistant to neighbourhood planning or to the content of the proposed neighbourhood plan, these latter stages can be protracted. **We support the setting of a timetable for these stages - from receipt of the draft plan to adoption**. **We consider that a six-month limit would be appropriate and workable.**

1.23 "Experience so far is that parish and town councils and designated neighbourhood forums have been undertaking effective, extensive and continuous consultation during the preparation of neighbourhood plan or Order proposals. It is therefore no longer considered necessary to prescribe in regulations a minimum period of pre-submission consultation and publicity. We therefore propose removing the current requirement for a minimum of six weeks of pre-submission consultation and publicity by those preparing a neighbourhood plan or Order."

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?

Yes, because, as in para. 122, "Once the neighbourhood plan or Order proposal is submitted to the local planning authority, that authority will then publicise the proposal for a further six weeks, and invite representations." The local authority will check that the Neighbourhood Forum has conducted its consultation as expected. It should not reject the submission unless the consultation was proven to be seriously flawed but should include in its own consultation any organisation or person of which the Neighbourhood Forum might not have been aware should have been consulted. That will cover the possible omission described in paras. 128/9.

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?

Yes, London Forum agrees, otherwise, as in para. 1.25, an additional administrative, and possibly financial, burden would be placed on those preparing neighbourhood plans and Orders.

Local authorities should maintain a list of all those organisations that should be consulted and contact them directly and by the use of social media, not relying on advertisements in newspapers, very few of which has survived, or are read, in London.

1.30 "Regulations already include a requirement to consult the owners and tenants of any of the land which is proposed to be developed under a neighbourhood development order proposal. We propose to introduce a similar requirement for neighbourhood plans so that where a neighbourhood plan is seeking to allocate specific sites for development, those preparing the neighbourhood plan should consult the owners of sites they consider may be affected by the neighbourhood plan as part of the site assessment process."

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?

Yes, but only when the plan contains specific site allocations for development, as in paragraph 130.

It may not be easy to find out who owns a site, so that consultation could start. If no consultation can take place, because no owner can be found to notify, and then consult, the whole plan will be stalled.

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.

The costs would be simply that of obtaining Land Registry details. A Neighbourhood Forum could not be blamed if they had no response from, say, an owner living overseas or when the land is registered elsewhere or no address is available. The Local Authority will have to cover that consultation requirement in its period of seeking representations to forward to the independent examiner.

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?

No. The Government should not burden a Neighbourhood Forum with additional tests and regulation for its consultation. In the past, the Government has tried to define from the centre the 'adequacy' of consultation and engagement processes undertaken at local level. That is no longer acceptable following the introduction of the Localism Act. When a Neighbourhood Plan, NDO or Right to Build proposal has been submitted, it is the responsibility of the local authority to consider the consultation applied up to that time as described in the statement described in para. 1.24 and to consult further, as required.

1.36 "To decide whether a proposed neighbourhood plan is likely to have significant environmental effects, it should be screened at an early stage against the criteria set out in Schedule 1 to the regulations and the statutory consultation bodies should be consulted."

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?

Yes, in order to clarify what is expected of a Neighbourhood Forum with recognition that they will not normally have the expertise or capacity to prepare a SEA and that this will need either consultancy input funded by the local authority or direct support from local authority staff. It may be necessary for the local authority to conduct further SEA after Plan or Order submission, if it considers that more work needs to be done.

Future guidance should make clear that certain "hurdles" are essentially due diligence issues that for the most part should be easy to comply with and should not be blown out of perspective. For example, being in general conformity with the strategic policies and proposals of the Local Plan, and in London with the London Plan, will seldom be a problem as the Local Plan, let alone the London Plan, will be silent about policies and proposals for the area of the neighbourhood plan. If they are not in general conformity - the local planning authority could identify the issue early on, but they need to understand their limited locus. The guidance may need to explain this with examples.

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?

Environmental assessment is a due diligence issue which for the vast majority of neighbourhood plans can be easily covered by scoping the liability. Very few plans will need this. The likely liability could be scoped in discussion with the local authority at an early stage. At a recent major neighbourhood planning event in Ealing only one neighbourhood plan in West Hampstead which involved major development as part of an Opportunity Area, which were not part of the neighbourhood plan proposals, were considered to need environmental assessment. These due diligence issues could be scoped early in the process so they are flagged up or dismissed early in the plan, rather than leaving it as looming threat or a nasty surprise near the end of the planning process.

There should be more explanation and guidance on the things to be taken into consideration in the EA. Many people would not understand the scope of the word 'environment' as in Schedule 2 item 6 of the regulation and not consider the impacts of demolition and building on air quality and the generation of noise, public health, the way other plans might be affected, the full implications of sustainability as described in the NPPF, the effect upon waste management or demand upon utility supplies, the cumulative effect of the policies in the Plan, any impact across its boundary, existing environmental issues, mitigation against such issues, effect on character, context and views, the reasons for selecting the alternatives dealt with and future monitoring.

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.

It is not necessary for the Government to "want to see more communities take forward neighbourhood planning in their areas." (Para. 1.38). Planning for neighbourhoods is the responsibility of every local authority and should be part of the Local Plan for an area. Communities should be encouraged and guided in participating in the preparation of those plans and local authorities should be required to engage local communities in such work and to be prepared to alter their Local Plan whenever required to include Supplementary Planning Documents such as Area Action Plans and Neighbourhood Development Orders when local communities point out the need for them. Relying upon Neighbourhood Plans to produce policies that should have been in the Local Plan is not a good way of achieving early completion of strategies, spatial plans and policies before developers have the opportunity to take the lead and determine by planning applications what will be built in an area and where.

There is a purpose in devising a Neighbourhood Plan where a neighbourhood is administered by more than one local authority or where a community wishes to define what will happen on matters that are not controlled by planning law such as maintenance of highways, parks and the public realm or the management of, say, the local night-time economy.

It remains early days in terms of assessing the real impact of adopted neighbourhood plans on local planning decisions, and the extent to which the neighbourhood planning process will result in 'better outcomes' and/or achievement of national objectives for sustainable development and a more responsive planning system.

To date, the process appears to be bringing positive results in terms of:

- wider public understanding of the planning system; and
- involvement of local residents in thinking about the future of their areas

It is not clear to what extent local authority planning departments are as yet accepting that neighbourhood planning has become a real and meaningful part of the national planning system, or are waiting to see whether current arrangements survive the outcome of the 2015 General Election. Nor is there much evidence of CLG taking action over individual councils who are proving unenthusiastic, or even obstructive, in supporting and progressing neighbourhood-planning initiatives.

Availability of funds and/or capacity to undertake the process remains a real issue for the future. On the positive side, early suggestions that neighbourhood plans would cost a minimum of around £40,000 to prepare have proved unfounded. Experience in RB Kensington & Chelsea has been that voluntary expertise can be tapped, and that the CLG/ Locality grants of up to £7,000 have proved adequate for the task.

For the future, and in a London context, it will be interesting to see the impact of CLG proposals for simplifying arrangements for Community Governance Reviews and the establishment of Parish/Community Councils. And for allowing neighbourhood forums with an adopted plan to trigger a Community Governance Review. The experience of the Queens Park Community Council, and the high level of interest in neighbourhood planning in the City of Westminster, are positive indications to date.

Again in a London context, dissemination and learning would benefit from a London-wide body taking a clear lead. This could be either the Mayor and GLA, London Councils, or the London Forum. The absence of any neighbourhood planning initiatives within a number of London Boroughs, and the reasons behind this, is an issue which could usefully be investigated.

Section 2: Reducing planning regulations to support housing, high streets and growth

The amendments proposed for "further reducing red tape and speeding up the planning system", would grant permitted development rights to allow:

- change of use from light industrial units, warehouses, storage units, offices and some sui generis uses to residential;
- more change of use within the high street, including a wider retail use class;
- some sui generis uses to restaurants and leisure uses;
- retailers to alter their premises;
- commercial filming;
- larger solar panels on commercial buildings;
- minor alterations within waste management facilities and for sewerage undertakers; and
- extensions to houses and business premises.

They would require a planning application for any change of use to a betting shop or pay-day loan shop and would limit the compensation payable where an Article 4 direction is made to remove these permitted development rights.

The Government is "increasing flexibility so that greater diversity can be brought to the high street." That is something that should be decided by boroughs, **not by individual property owners**.

Paragraph 2.13 mentions proportionality within the planning system, but fails to address the cumulative effect of small developments, likewise 2.14.

Permitted development rights with no prior approval by their nature are unable to deal with such inevitable consequences.

How does increasing flexibility bring diversity to the high street?

Increasing the flexibility is more likely to:

- strip key town centres uses out of the high street, such as offices, shops
- reduce the critical mass of economic activities in the town centre and reduce its vitality and viability.
- replace economic activities with housing which will reduce diversity

How will these changes promote economically-successful town centres?

With these proposals most town centre uses would be able to change use to housing. Rather than support a "town centre first" policy, the policy could deconstruct the agglomeration and supportive synergies that make town centres economically successful.

Paragraph 2.9: Consolidation of the GPDO is welcome.

Paragraph 2.10: There seems to be a **fundamental misunderstanding** - most retail premises are leased rather than owned by retailers. Any freedom to change use, therefore, will not be for the benefit of the retailer, but for the landlord to seek a different use/user. If the proposed changes are supposed to benefit retailers, it is clear that no impact analysis has been undertaken and most of this document is based purely on assertion.

The "grant of national planning permissions" denies local communities the ability to shape their own future. It removes both the ability to plan positively and limits local decision making. Prior approval would mean that that "the principle of the development has already been established" by the Government (para. 2.14), reducing local influence to assessing a limited range of impacts. Permitted development is a permission granted nationally by the Secretary of State (2.14).

For 'prior approval', in para. 2.14, the Government proposes that "local planning authorities should only consider specific planning issues such as visual amenity, highways and transport, traffic management, noise levels and flooding risks", not an adverse effect

on the local economy and the plans for the town centre nor the unsatisfactory living conditions for residents after conversion to a dwelling.
(It is presumed that the Government means "...should consider only...")

As part of the legal basis given for three-tier system, the Technical Consultation cites aspects of development which can be controlled by conditions. However, Section 3 proposes a much-reduced role for conditions. The fact that requirements under other regulations (e.g. building regulations, the Party Wall Act, habitats, species or environmental legislation) or consents, such as for listed buildings still stand, their use within the three-tier system should be clarified.

Paragraph 2.15: **Simplifying the planning system and reducing bureaucracy**:

The proposed changes will not be "a further step in simplifying the planning system" nor will they reduce bureaucracy. These proposals will make the planning system more complicated, less transparent and more confusing to most users and those most affected.

The Government states in para. 2.16 that "impacts .... can be controlled by standard conditions", but it would not be possible to apply those conditions to permitted development.

Para. 2.21 explains that local authorities can use Article 4 directions to withdraw permitted development rights. In reality, it is not easy for local authorities to "switch off or extend permitted development rights to meet their own particular circumstances" as suggested. It is clear from cases in London relating to LB Islington and LB Richmond upon Thames that the Government intervenes and decides in what parts of their borough they are allowed to apply such controls. That is contrary to the spirit of Localism and the involvement of communities and their local authority in decision making, but it is clear that London boroughs have been ordered by Government to amend the scope of their proposed Article 4 designations.

Compensation that may have to be paid to property owners objecting to an Article 4 Direction could be serious for any local authority, but the need for an Article 4 Direction is being caused only by the top-down imposition of Government-granted permitted development rights. **This is a change in Government policy and should not be introduced by the form used in this 'Technical Consultation'.**

The reminder that Article 4 Directions can be used to withdraw PD rights is welcome, but unless this can be used without incurring compensation it is not likely to effective except for single buildings, such as pubs.

Use Classes Order

Proposal A: Creating new homes from light industrial and warehouse buildings:

There is no explanation of why the Government does not believe that local authorities can manage changes in a plan-led manner by managing the types of conversions covered by the proposals.

In para. 2.28, the Government proposes "to make the best use of existing underused light industrial, storage and distribution buildings to create much needed new homes."
Changing permitted development rights will not tackle underused light industrial, storage and distribution buildings. Indeed, they may be the last ones to benefit - they are usually underused or, even, vacant because they are unattractive to the market. **As with offices and shops, the candidates for change of use are likely to be occupied, well located and readily convertible to housing** - some of the best-located offices, but also the premises of small businesses which can be easily converted.

Re paragraph 2.31, existing industrial/employment areas tend to be a cluster of uses seeking low-rent accommodation which the local planning authority is trying to support by retaining a supply of low-rent premises, especially to provide affordable workspace for SMEs. **If change of use were allowed to housing, these areas would soon disappear.**

There is no explanation of why the Government does not believe that local authorities can manage changes in a plan-led manner with full development control of the conversions covered by the proposals.

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?

No. **Local authorities should decide what B1(c) and B8 buildings to retain for planned local economic objectives and which ones should be changed in industrial areas to other business uses.** The word "underused" will encourage developers to buy properties and leave them empty or only partially used.

If properties could change use, the market would pick off the best-located, best condition, easiest to convert units. These would often be occupied units, not the "underused units" referred to in para 2.28. To suggest that this change could target vacant or underused units is disingenuous and misleading as the change could not be limited to "vacant or underused light industrial, storage and distribution buildings".

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?

(i) - The resultant dwelling(s) should have the space standards according to policy.
(ii) - **No** - they should be excluded.
(iii) - Any residential use within a defined industrial area or on part of a working wharf or boatyard must be subject to planning conditions for the provision of triple glazing, building orientation and other methods of reducing the potential for complaints by new occupants about noise, odours or other irritants which could lead to the harmful closure of nearby economic activities that it is important to retain. That is why B1(c) and B8 building conversions should not be permitted development. The potential loss of employment, and the wider impact on the pattern of employment uses in the vicinity should be taken into consideration.

If these proposals were to proceed,

- a limit would need to be set otherwise all the best units would stripped out of the industrial premises stock, with no prospect of replacing it;
- in London it would be good to exclude light industrial uses within conservation areas, such as working mews; and
- the gentrification of employment areas may put pressure on the remaining employment uses.

Proposal B: Creating new homes from sui generis uses:

Re paragraph 2.32, stripping out certain sui generis uses and converting them to housing would be a further drain on the diversity of both high streets and of residential areas.

2.35 "It is proposed to introduce a new permitted development right to allow some sui generis uses to convert to residential (C3) use, namely launderettes, amusement arcades/centres, casinos and nightclubs."

2.36 "As with the recent permitted development right for change of use from shops to residential, limited physical works will be allowed to provide for conversion as reasonably necessary, such as new frontage, windows and doors."

Question 2.3: Do you agree that there should be permitted development rights, as proposed, for launderettes, 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?

No. Such change of use should be under full local authority control after the submission of a planning application. It has to be made sure that the premises will provide housing with room standards, facilities and light to habitable rooms that meet guidelines and standards.

The making of "external modifications" (paras. 2.36 & 2.37) needs to be considered by the local authority to ensure they are suitable on a context and character basis, particularly in town centre frontages with design features that are valued but are not in conservation areas. Conditions for the use of materials and colours may be required. It cannot be left to the building owner to do as they wish.

The loss of **launderettes** could be serious in London as they are part of the essential infrastructure for those living in bed-sits, lodging in a house or occupying rented accommodation with limited facilities. The local authority must decide on their conversion, especially those that have policies which seek to protect from change of use as a "social and community" use.

Nightclubs can be an important part of the local night-time economy in order to meet policies for reducing the need to travel and to have town centres uses that meet the needs of all residents. The additional profit that can be made on the conversion of them and other entertainment centres to dwellings is a sufficient incentive for their loss in unacceptable quantities if conversion is permitted development. That would be contrary to policies of the Government and of the GLA for the development and management of viable night-time economy in town centres.

Amusement arcades/centres tend to be located within or just off high streets - it would be better if these returned to retail use.

Overall, none of these proposals would do much to increase the supply of housing, are likely to remove uses that are better located in town centres and therefore reduce the range of services provided.

Community participation in pre-application consultation and the determination of planning applications, as the Localism Act and other polices promote, has resulted in some good conversions of redundant amusement centres and nightclubs for additional housing. The existing planning processes that make such changes successful should not be withdrawn. These should remain local decisions.

The permitted development as proposed would cut across the right of Neighbourhood Forums and local authorities to plan what they decide is necessary for any location and town centre. The reconfiguring by local authorities in partnership with local businesses of town centre uses and the mix of available facilities could be seriously harmed by permitted conversion of shops and the properties covered by para. 2.37. The creation of adjusted, suitable sized units in high streets for future retail, business and service requirements would be defeated if any premises could become a home or flats as PDR without the local authority, London Mayoral Development Corporation, Enterprise Zone or BID activities being able to do anything about it.

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 proposed permitted development right should not be introduced. If the Government insists upon going ahead and removing the right of communities and local authorities to decide what should happen in their areas, then there must be extensive prior approval criteria. The limit on floor space, design both internally and externally, suitability of provided homes, affect on neighbouring properties, overloading of local infrastructure and transport, sustainability, impact on related businesses and the local economy, plus the viability of the town centre should be all matters for prior approval.

Proposal C: Office to residential permitted development rights

Re paragraph 2.38 - This is another disingenuous statement - the change is a blanket change that would affect <u>all</u> offices - it cannot target "underused" offices. Indeed, what are "underused offices"? There must be a requirement to test the status of targeted premises and any other use that could be made of them to meet infrastructure deficiencies.

Re paragraph 2.39 - Paragraph 51 of the NPPF is fundamentally different from the offices to residential PD rights. The former was about local planning authorities giving consent for change of use to residential - a local decision - whereas this is a nationally-imposed Central Government decision. This is exactly the sort of top-down planning that the Government said they were trying to abolish! Paragraph 51 provides a presumption in favour of change "provided that there are not strong economic reasons why such development would be inappropriate." A prior approval process fails to include that test and therefore does not conform with paragraph 51 of the NPPF, resulting in harm to town centres and to the office market, as RICS have concluded.

Re paragraph 2.40 - **London Forum considers that the criteria used for assessing whether to grant exemptions are still relevant - they need to cover both strategic exemptions and the likelihood of an adverse impact on the local economy due to the cumulative impact of such decisions.** A case-by-case approach only works for large developments, whereas the cumulative impact of the loss of many small units would not be covered by such an approach.

2.42 "To continue supporting the housing market, the Government proposes introducing an amended permitted development right for change of use from office to residential from May 2016. It will replace the existing right and the exemptions which apply to the current permitted development right **<u>will not be extended</u>** to apply to the new permitted development right."

2.43 "In support of this policy, we will be making an amendment to the existing permitted development right to extend the time for completion for developments with prior approval from 30 May 2016 to 30 May 2019."

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)?

<u>No. The London Forum is fundamentally opposed to this proposal.</u>

The impact of the current temporary permitted development right for change of use from offices to housing in London has not yet been assessed. The London Forum is aware that, despite the current exemptions which we strongly support, the current temporary "experiment" has not yet been assessed. We are aware of the impact it has already had in a significant number of London Boroughs, including Richmond, Barnet, Camden and Islington. Thriving businesses are being displaced and essential small-scale employment is being lost.

The permitted development has been operated for eighteen months and any office which was suitable for conversion and not in active and viable commercial use should have been proposed for conversion by now. Any further changes of use of offices from now on should be subject to full planning approval. **The current scheme should be withdrawn as soon as possible.**

There is no evidence or justification for this permitted development nor recognition of the harm caused already to local economies, town centres, rental costs and shortage of work space for small and emerging enterprises and for voluntary organisations, which has not been taken into account by Government.

The proposed extension to six years after the scheme commenced for completion of prior approval building conversions is unacceptable. Local authorities have been denied the right to influence the homes to be provided and the external appearance of the converted building. They have been prevented from securing any S.106 contributions for affordable housing or other items of area deficiency. To allow prior approvals made in 2013 to appear as unknown delivery of some kind of homes in 2019 would harm the ability of local authorities to control the appearance of areas and to know what type of housing and of what quality would be delivered eventually against their requirements year by year. Developments of new approved housing is not allowed to be deferred for six years and the Government and the GLA Mayor are trying to prevent delays in scheme commencement and completion.

The existing exemptions that local authorities and the Mayor of London were given should remain in place.

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 this policy is to continue, London Forum urges the Government to adopt the same tests for prior approval as has been used for the current exemptions - the "most strategically important office accommodation within the local area", but also "the likely substantial adverse economic consequences at the local authority level".
This allows the local authority to consider:

- the impact of any substantial reduction in the supply of office accommodation for SMEs, start-ups in a predominantly small-firm local economy (ie the cumulative impact of "premises drain" for SMEs and the voluntary sector; and
- the impact on the vitality and viability of the areas town centres.

The reasons put forward by those local authorities now granted exemption should provide such definitions. The serious harm to the economy of LB Richmond and other London boroughs by permiited conversion of offices to flats should be considered to compile any such definition. The report by RICS on 'Offices converted into homes drive up commercial shortages' should be taken into account. It is at:

http://www.rics.org/uk/knowledge/news-insight/news/offices-converted-into-residential-drives-up-commercial-shortages/

The prior approval consideration on the grounds of loss of strategically important office accommodation will not be useful if the Government tries to prevent local authorities applying it as they should, as many wanted to do who were not allowed exemption. LB Richmond is an example. **LPAs should have the flexibility to judge proposals against their potential impact on the sustainability and continued good health of the office function in their local economy, and not have to rely on Article 4 directions. Conservation areas should be excluded.**

Local authorities should be required to produce an annual monitoring review to enable the impact of these changes to be assessed.

The London Forum is very concerned that if the losses are predominantly in town centres, these losses of economic activity will reduce the critical mass of economic activity in those centres and reduce their economic vitality.

Town centre health checks, including monitoring change of use, will need to be done regularly to monitor the impact of the loss of office accommodation on the town centre, the local economy and the objectively-assessed need for premises for SMEs.

Finally, the definition for the prior approval condition seems extremely vague - what is "the most strategically important office accommodation"?

It is essential that the reference in paragraph 2.38 to "underused" offices is applied.
Prior approval should be possible only if it can be shown that there is no demand for the office space. The problem is that the yield from residential use is often greater than that from office use and the office rent demanded is based on residential return.

Proposal D: Extensions to dwellings

2.44 "We intend to retain the relaxation which makes it easier for homeowners to improve and extend their homes without unnecessary bureaucracy or costs."

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

No - no evidence has been provided on the extent of take-up and whether any problems have been experienced.

The development of rear extensions to houses could continue to be permitted providing it does not include a side extension and the Government removes the condition that "neighbours' consultation will continue not to be required for the existing permitted development right for a single-storey rear extension or conservatory that extend beyond the rear wall by four metres for a detached house and three metres for any other type of house"

It must be made more clear that permitted development requires application to local authorities for prior approval and for the light-touch neighbours' consultation scheme. Too many rear extensions of the kind that might be permitted have been commenced by householders without prior approval and then time-wasting enforcement action has had to be taken. It is important that all extensions have to be notified to the Local Authority so that any enforcement of building regulations, etc., is triggered.

The deadline to complete an extension using the existing temporary permitted development rights by May 2016 should **not** be removed. If the timescale is not retained and a short one applied to future prior approvals, it results in a neighbour finding it difficult to sell their property because a buyer might be uncertain about the final effects on outlook and amenity that the neighbouring extension might cause.

The exclusion of homes within a conservation area should be extended to homes on which an extension could adversely affect the setting of a listed building and to listed buildings themselves.

The environmental considerations of the loss of garden space and the removal of planting and trees in some cases have not been taken into account in the prior approval.

Supporting a mixed and vibrant high street

Re paragraph 2.48 - The London Forum supports the promotion of diverse and vibrant high streets and town centres, but is totally unconvinced that these proposals would achieve this, indeed the opposite is the most likely outcome. As with previous initiatives, making national, top-down changes aimed at revitalising run-down centres may have the reverse effect in places with a strong market, such as many parts of London. The best way to support a mixed and vibrant high street is to leave this to a local town centre partnership. **Government tinkering with the Use Classes Order is ill-targeted interference in what should be a local matter.**

Proposal E: Increasing flexibilities for high street uses

Re paragraph 2.51ff - Changing use more rapidly without the need for a planning application does not promote mixed and balanced, let alone vibrant high streets - it could produce the opposite. It could produce instability as owners, **not** retailers/occupiers, decide to pursue higher rents. This could produce a proliferation of whatever use appears to be fashionable, such as estate agents in smaller centres or further coffee shops, often removing diversity in such centres, as well as resulting in the closure of services the community values in pursuit of higher rents. Whilst in theory an Article 4 Direction could be used to control proliferation, it would be better not to generate the problem.

Re paragraph 2.54/59 - **The London Forum strongly welcomes the proposal to limit the proliferation of betting shops and pay-day loan shops, as well as the freedom for these to change easily to other A Use Class uses**.

Re paragraph 2.57 - **A 'wider use class" incorporating the majority of financial and professional services found in A2 is not a good idea as it could result in:**

- **the displacement of retail uses in the primary shopping area;**
- **an increase in the churn as banks, building societies and estate agents compete with shops for prime retail sites**
- **some local centres being taken over by A2 uses at the expense of local shops and services.**

Re paragraph 2.58 - As usual this consultation plays the "vacant shops" card. Why would A2 uses go to declining centres? If there is no market in these places, how would this "wider A1 class" help? If it is not needed here, why impose these changes everywhere? In strong markets this change could be destabilising in the short run and make for boring, less diverse, less vital centres - the reverse of what are the alleged aims. It is hard to equate this type of change with growth or even vital and viable centres. **Revitalising centres will involve a local strategy, not Government-sponsored free-for-all.**

2.59 "Betting shops are named within the A2 use class as 'betting offices'. This reflects their traditional offer of placing bets over the counter. However, the industry has grown and the offer to customers has changed significantly in particular through the offer of high stakes gaming machines (fixed odds betting terminals). Their expanded offer and greater prominence on the high street mean that their land use impact could now be considered to be different from other uses within the current A2. It is therefore proposed that betting shops (defined as holding a betting premises license under section 150 of Gambling Act 2005) will remain in the A2 use class and not benefit from the flexibilities."

2.61 "We propose that permitted development rights will enable the change of use to the wider retail (A1) class from betting shops and pay day loan shops (A2), restaurants and cafés (A3), drinking establishments (A4), and hot food takeaways (A5). The existing permitted development right to allow the change of use from A1 and A2 to a flexible use for a period of two years will remain, as will the right to allow for up to two flats above, and the change of use to residential (C3)."

2.62 "Building on this, the Government proposes to make changes to the General Permitted

Development Order 1995 to remove the existing permitted development rights to the A2 use class. This will allow local planning authorities to consider individual applications for planning permission and the associated comments from consultees."

2.63 "It is recognised that this proposal may add some costs and delay to business wishing to open new betting shops or pay day loan shops in premises that are currently within other use classes. While our overall aim is to simplify and streamline the planning system, we consider that this is an important way in which to support local communities and local planning authorities in shaping their local area."

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?

No - this has not been thought through. This could have major implications for smaller centres in areas where there are strong market pressures. DCLG's predecessor commissioned research in 2004 from Roger Tym and Partners to look at the likely impact of a similar proposal on a range of sizes of centres in different parts of the country. This came to the conclusion that district, but particularly local centres, could be adversely affected by A1 (shops) being displaced by A2 and A3 uses, by reducing the range of shops, diversity and choice in these centres. The main A2 "culprits" were estate agents and their impact on smaller centres. This was particularly true in London.

The London Forum considers that the proposal to broaden the shops use class would:

- **do little or nothing to tackle vacant shops;**
- **be a very crude tool that could damage smaller centres by reducing diversity and choice for the local community that it serves; and**
- **displace shops from the primary shopping area.**

LPAs would normally wish to maintain a vibrant and self-sustaining retail offer to potential shoppers by facilitating a continuous retail frontage, with as little intrusion from 'dead frontage' uses (eg solicitors' and/or accountant's offices). Similarly, banks, building societies, estate agents and the like should be spaced out and not allowed to predominate, to maintain continuous interest along the length of the retail frontage and to encourage footfall. Moreover, given the unimaginative way many high street properties are managed by landlords, the ability to pay high rents by the likes of multiples, estate agents and fast food outlets, bids up rental levels higher than many independent retailers can afford, leading to 'clone' high streets and a loss of the individuality and varied offer that originally drew people to the locality in the first place. This is not to suggest that the proposals under consideration would directly cause the changes noted above, but they would not help and might indeed make things worse.

In rent review/lease renewal valuation terms, where there are "open" lease user clauses, there is the potential to affect the viability of existing "protected" A1 uses if lettings of the existing categories of A2 and A3 uses can be cited as comparable transactions that have achieved higher rental values than the existing categories of A1 uses.

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?

Yes - the London Forum welcomes the proposal to make any change to a betting shop or pay-day loan shop require planning consent. Better still, betting shops should be classified as gambling, particularly since an increasing share of their income comes from gambling machines. In practice this would have the same requirement for consent to open any new outlet and would also benefit from Proposal F below.

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.

It is a pity that the Government is reducing by permitted development rights its pledge "To support local communities and local planning authorities in shaping their local area." as in para. 2.63.

Proposal F: Supporting a broader range of uses on the high street

The London Forum supports greater diversity, but proposals to merely alter the balance of uses and make them interchangeable will not achieve that. It could result in the displacement of shops from the primary shopping area, enabling A1 and A2, as well as certain sui generis uses, to change into cafes and restaurants without consent. This could destabilise the centre and even lead to a decline in its functions.

2.64 "We want to support communities in ensuring that our high streets flourish and reflect their expectations of the high street and town centres as locations for social and leisure activities as well as shopping."

2.67 "We propose to introduce a new permitted development right for the change of use from existing A1 and A2 use classes, and some sui generis uses, in use at the time of the Autumn Statement 2013 announcement, to restaurants and cafés (A3)"

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)?

(i) **NO - The London Forum does not see any need to impose these changes on to all high streets as it could reduce the retail function of the primary shopping area** (as defined in the Glossary of the NPPF). This could destabilise the centre and reduce the ability of a centre to manage its future.

(ii) **NO - The London Forum does not consider the freedom to turn a launderette into a café/restaurant is at all helpful - many local communities need launderettes as a community facility. This proposal puts them unnecessarily at risk.**

London Forum has responded to this question, in part, in its answer to question 2.3. The loss of some of the facilities that these uses supply could be important for the function of the town centre for its community. Controls by local authorities through planning applications are required for these changes. The loss of A1 retail outlets could be serious for the success of town centres. Their replacement by eating establishments must be **managed** by the local authority with the input of their communities. Several coffee outlets have defied the use class order by successfully claiming that because people can take away their products for consumption off-site, they are not operating an A3 usage. That has caused many town centres to lose the retail outlets they need. The increased permitted development rights would make that worse by decoupling the difference between A1 and A3, which is the principle that A1 provides goods and services over the counter.

The impact of the installation of additional air conditioning, vent pipes, food waste collection may have an adverse impact on residential amenity. It is essential that the "neighbourhood notification scheme" (para. 2.67, bullet 3) is extended to cover a **wider** area.

No premises offering part of the total services required locally should be allowed to convert to yet more cafés and restaurants unless the community and local authority agree. Many areas are oversupplied with such facilities, already. Too great a concentration of any uses is detrimental. The ability to manage the mix of uses should stay local rather than a nationally-imposed free-for-all that could destabilise both primary shopping areas and, in some ways more importantly, local neighbourhood centres, which could end up with a bunch of estate agents, restaurants and cafes and few shops and local services.

The intentions expressed in para. 2.64 for supporting communities in fulfilling their expectations of what they want in their high street or local centre is made meaningless by taking away the opportunity of the business community, the local authority and the resident community to shape the future of their town centre rather than being left to the vagaries of the property market, and for local communities to shape their local centres.

Again this is essentially a policy issue not a technical one - what kind of town centre/place do we want and what policy tools do we need to use to get there? Identifying the tools for the job and using them would be the most effective approach. Instead these measures are likely to remove some of the few tools we have to achieve the Government's declared aim - to secure economically-successful town centres and to promote healthy communities. Stripping out the diversity and choice, as well as stripping out a community facility like a launderette, is going in the wrong policy direction.

The Government's policy for delivering vital and viable town centres and for enabling local communities to secure <u>their</u> vision for their local centres cannot be secured by a Government imposed free-for-all.

Conservation areas should be excluded from any permitted development rights.

Proposal G: Supporting the diversification of leisure uses on the high street

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)?

D2 uses include cinemas, music and concert halls, bingo and dance halls, swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations.

NO - this is both unnecessary and academic - a reality check is needed. This is a non-runner. It merely makes the interpretation of the UCO even more complicated.

The origin of this proposal is attributed to Mary Portas' report where she remarked on the need for gyms to be seen as new social hubs and that some respondent had remarked on the difficulty of getting change of use to gyms in the high street. This was interpreted by the Portas Review team in BIS as a plea for liberalising the Use Classes Order. Seen in context that was not what Mary Portas was recommending.

In practice, gyms are not usually in competition with ground-floor high street shops as these premises are usually too small and because they cannot compete in terms of rent. This usually means that they use secondary frontages with larger premises or first-floor premises that cover several shops. There is seldom competition with shops for these types of premises. Para 2.70 refers to surplus retail space, but, as with offices, creating a freedom to change to D2 applies to <u>all</u> retail uses, not just "surplus" retail space. The **London Forum supports the idea of gyms as new social hubs, but considers that there is no evidence of a problem and that the NPPF already classifies health and fitness centres as a main town centre use. The proposed changes are unnecessary and largely inappropriate - it feels like dredging the bottom of the barrel.**

Indeed, most of the D2 uses require a large amount of space, much more than would be offered by A1, A2 and launderettes.

The extent of the D2 uses in any area should be determined by the local authority on the basis of where they want to encourage these uses as part of strategy for developing a critical mass of these uses to make the town centre a more attractive place. Random conversions could undermine that strategy to build up the town centre's cultural and sport and recreation offer.

Conservation areas should be excluded.

This proposal could cause harm to the balanced offer of a town centre and render it unable to supply the uses residents want, resulting in them traveling elsewhere to find them, increasing private car travel and reducing the viability of the town centre where they live. That would be harmful and contrary to NPPF paragraph 23, particularly in removing the intended right by policy of local authorities to:

- define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations;
- promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;
- retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;
- allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability; and
- set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres.

Proposal H: Expanding facilities for existing retailers

The main feature of the these proposals is to further strengthen the competitive position of out-of-centre supermarkets by enabling them to increase their trading floorspace in favour of storage for home delivery and "click-and-collect". This adaptation of the space could **accelerate or consolidate the losses from the High Street**. Taken together with the proposal for mezzanine floors these proposals will maintain and perhaps increase the flow of trade going out-of-town stores. These "technical changes" are **bad news** for the Government's supposed support for town centres – they represent a policy change.

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?

Yes, because collection of goods out of hours is beneficial and has been used by dry cleaners for some time. This proposal relates to how shopping is changing, but it still is likely to reinforce existing shopping patterns of going to out-of-centre supermarkets, as such "click-and-collect" facilities may be more difficult to provide in town centres.

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

No: The proposal for permitted development structures in front of existing retail premises is not supported. Nor is the installation of new loading bay doors and new loading ramps

in existing shops at the front of those shops. Each of those should require full planning permission.

Mezzanine floors

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?

NO: The purpose of this proposal is wrongly phrased. The vast majority of retail units are under 200 square for whom a 200sqm limit on mezzanine floors is doubly academic - they could not use that much even it were feasible to install a mezzanine floor - and the majority of those that are larger than 200 square metres have no scope for inserting a mezzanine floor of any size, let alone more than 200 square metres.

Very few retailers have taken up the existing "offer", and almost none these are likely to be in town centres. Mezzanine floors are only possible in high-ceiling, out-of-centre "sheds". As a result increasing the "freedom" to expand such stores by more than 200 square metres - which would be the result of this proposal - would undermine rather than support the town centre first policy. This is a poorly-conceived, evidence-free proposal based on unsubstantiated assertions. Where is the evidence that there are lots of town centre premises where mezzanine floors in excess of 200 square metres could be installed? There are no opportunities and therefore there is no need to do this, unless the Government is trying to promote out-of-centre retail development.

This proposal is totally contrary to the NPPPF: Section 2: Ensuring the vitality if town centres which throughout emphasises locating new retail floorspace in town centres.

Contrary to the description of this document, this, like a number of the other proposals, **is** a policy issue, **not** a technical issue. Like some of the other initiatives in this package there is a need to look at the likely policy outcomes rather than "simplifying" the processes. Above all **it needs a reality check**.

Maximum parking standards

If "Parking standards are now matters for local authorities." (Para. 2.77) why has DCLG intervened in the examination of the London Plan to challenge the car parking standards the Mayor believes are best for London?

Maximum car parking standards are not new nor were they introduced for the first time in London 2001 (PPG13). They have operated in London for over 40 years. The Greater London Development Plan (1976) (paras 5.8.16 to 5.8.22 and Table 4) set "normal maximum permission for parking" for:

- offices and shops with different levels for the Central Area, Inner Ring, more important suburban centres and in the remainder of Outer London.
- residential developments it set 1 space per dwelling, except for dwellings for the elderly. Exceptionally it could be greater. Where car ownership is low, particularly in Central and Inner London lower provision should be made. Less can also be provided where there are difficulties in providing parking (eg conversions)

In the 1980s, London Borough plans used the standard of a minimum of one off-street parking space per dwelling. For non-residential uses, especially offices, the plans used maximum parking standards to discourage car commuting which fitted with the emphasis on the GLDP's "preferred office locations" which tended to be in town centres or close to stations and fitted with a policy of trying to reduce car commuting.

By the 1990s London Boroughs' Unitary Development Plans used maximum parking

standards for offices, shops, hotels, leisure and various institutional uses, but still used minimum parking standards for residential uses. However, some Outer London Boroughs demanded more than one space per dweeling (in some cases as much as 5 spaces) resulting in increased land take per dwelling (ie lower densities) with a knock on effect on land and house prices, and increasing dependence on the car use and in the need for greater car ownership.

Following the demise of the Greater London Council in 1986, the London Boroughs worked collaboratively through the London Planning Advisory Committee (LPAC). Research by LPAC developed parking standards based on public transport accessibility levels, which was then taken up by Government Office for London in RPG3: Strategic Guidance for London Local Authorities in 1996. Maximum parking standards for employment generating uses were set for Central, Inner and Outer London (Table 6.1), with Boroughs required to "convert these into specific standards for different land uses with reference to the Use Classes Order, having regard to the characteristics of different parts of their area" (para 6.52).

Following the creation of the GLA in 2000, the Mayor's "Towards a London Plan" (2001) proposed maximum parking standards which are sensitive to the levels of public transport provision in different areas of London. New residential parking standards were developed as a by product of the Sustainable Residential Density Matrix which also related to the size and type of housing.

The second PPG13 in 2001 gave further impetus to developing parking standards for London. This was then put into the 2002 Draft London Plan and finally, after further development, adopted in the 2004 London Plan and repeated in the 2008 and 2011 London Plans.

Since 2011 the Outer London Commission has sought to make the London Plan parking standards more sensitive to suburban conditions. Following a review by TfL new maximum residential standards were developed for Outer London.

DCLG has commented that the approach to the provision of parking spaces for new development set out in the London Plan FALP 2014 does not reflect national policy. This relates solely to the maximum parking standards for residential development for which the Government abolished **national** planning policy guidance (PPG13 paras 46-52) in 2011. This is understandable in that a one-size-fits-all approach for the whole country does not provide sufficient flexibility to deal with the different requirements of dense urban areas and more suburban areas.

The London Forum strongly supports the use of maximum parking standards for both residential and non-residential developments, which are justified, supported by evidence and are essential for London.

This approach is entirely consistent with the NPPF in terms of:

- being well-researched - taking into account the factors listed in para 39 of the NPPF - in terms of accessibility; type, mix and use of development; public transport accessibility; car ownership levels; and the overall need to reduce the use of high-emission vehicles;
- supporting the right business in the right place the policy objectives of ensuring that developments which generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised (NPPF para 34);
- protecting and exploiting opportunities for the use of sustainable transport modes (para 35);
- recognising retail, leisure and office development as key town centre uses to be located in town centres wherever possible using a sequential approach (para 24). In the case of offices an alternative preferred location would be within 500m of public transport interchange (see NPPF Glossary: edge of centre).

- supporting these development decisions, travel plans (para 36) should be used to reduce the need travel by car, minimise journey lengths for employment, shopping, leisure education and other activities (para 38)

In summary, the London Plan parking standards, as currently proposed to be revised, are the best, most sophisticated, well-tested and locally-appropriate parking standards in England. As such they are well evidenced and have benefited from long-term experience of using maximum parking standards for both non-residential and residential development.

The London Forum would be very concerned if there were any proposal to leave the issue of residential parking standards to the Boroughs let alone return to minimum parking standards. More generous parking standards would:

- increase the land take per dwelling
- reduce the density of new residential development, and therefore
- increase the cost to the developer and the final consumer,
- increase the distances to services;
- increase dependency on the car; and
- undermine a policy of reducing the need to travel by car.

The London Forum considers that the DCLG comments are satisfied by the approach adopted in designing and revising the car parking standards. London has well-researched residential parking standards fully in line with the advice of the NPPF. London does not need advice from Central Government on parking standards as there does not seem to be very much appreciation of the special requirements of densely-developed urban areas with good public transport. London does not need the imposition of any further guidance on this matter. London has always been 50 years ahead of the curve.

On-street parking

Since 1966, on-street parking spaces have been controlled through controlled parking zones (CPZs) where kerb space is allocated for residents' parking and pay-and-display parking. Most of Inner London is covered by CPZs which effectively manage the issue of parking stress through the limit of available space for parking on street. Elsewhere parking tends to be controlled in town centres and close to certain railway stations. This management regime manages the limited space in favour of residents, with visitors having to use pay-and-display/metered spaces. In areas of parking stress new housing may need to be permit-free – to avoid any further pressure on on-street parking spaces which are already oversubscribed.

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?

Definitely not, because boroughs in London have successfully implemented conditions for car-free housing developments (except for disabled user provision) and prevented occupants purchasing permits to park in controlled parking zones around the development. This approach is appropriate where public transport services are excellent and is in accordance with London Plan policy 6.1 to reduce the need to travel.

The London Forum considers that the question is not relevant to London because:

- there is a major problem finding enough land for housing that people can afford - finding a house that a family can afford is more important than reverting to minimum parking standards that require more off-street parking than people either want or can afford, which even then may not be used for off-street parking;
- in areas of parking stress in Inner London, in town centres and close to stations, CPZs help manage the on-street parking. Car ownership and use

tends to be lower in these areas regardless of income as opportunities for off-street parking are limited. Additional off-street parking often results in the net loss of overall parking space due the removal of on-street parking spaces and can therefore be counterproductive; and

- maximum parking standards for non-residential uses are essential to encourage and reinforce the need for high trip-generating uses to locate in town centres or close to public transport interchanges. If developments, such as supermarkets, proposed seeking higher parking provision this means that they (deliberately?) cannot secure town centre sites and choose even more car-dependent locations. In London the lack of such sites and the high value of housing land generally precludes such development.

London Forum considers that there is no demonstrable need to restrict the powers to set maximum parking standards. Local authorities should be able to adopt standards that match their local needs, as proposed in paragraph 39 of the NPPF. There should not be a national prescription, but a recognition that there are very different requirements in different parts of the country, especially in London <u>and</u> within different parts of London, and in cities and larger towns.

PS: This section has nothing to do with any of the other themes in this document, even if it is slotted under "Expanded facilities for existing retailers". It is gratuitous with no link to the rest of the document.

Proposal I: Permitted development right for the film and television industries

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

No. The permitted development is un acceptable for "location filming inside existing buildings and outside on single sites of up to one hectare, which can be split between buildings and land, and the construction and removal of associated sets. The right will be for a maximum period of nine months in any rolling 27 month period and will include a prior approval."

Many conservation areas and areas of historic significance are used for filming under close control by local authorities to ensure no interference or inconvenience for residents and businesses. That control must continue as overnight storage of vehicles in streets can reduce residents' parking and cover shop frontages. The proposed maximum period of none months would create difficulties in many locations.

Proposal J: Solar PV panels for 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?

No, because of the inadequate considerations of appearance that the proposals contain.

Listed buildings, including locally listed ones, should be excluded.

Proposal K: 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?

No. Control should remain with local authorities by requiring planning applications for these developments, especially in high-density town centre locations. The London Forum does not consider that a two metre separation between buildings would not be appropriate. We note that conservation areas and World Heritage sites would be exempted.

There is a significant problem that conversions can be of poor design with an adverse impact on the local area which local authorities cannot control under PDR.

Permitted development rights for waste management facilities

Question 2.20: Do you agree that there should be a new permitted development right for waste management facilities to replace buildings, equipment and machinery?

We are concerned that the requisite high standards may not be routinely applied under the permitted development system. Therefore **we disagree**.

Equipment housings for sewerage undertakers

Question 2.21: Do you agree that permitted development rights for sewerage undertakers should be extended to include equipment housings?

The comparison with the water industry is misleading, although we have a dual system water disposal system, the toxicity of sewage and health dangers which ensue necessitate a stricter process at all points. Therefore we disagree.

Question 2.24: Do you agree
(i) that where prior approval for permitted development has been given, but not yet implemented, it should not be removed by subsequent Article 4 direction and (ii) should the compensation regulations also cover the permitted development rights set out in the consultation?

If a development requiring prior permission is unduly delayed permitted development rights should be able to be withdrawn. Local authorities also require certainty that there will not be unduly stringent costs incurred by the use of Article 4 directions.

(i) **No:** This proposition is not acceptable because there must always be a strong likelihood that the prior approval process would be completed before the sometimes complex procedure for setting up an Article 4 direction can be finalised.

(ii) The Government's permitted development changes are broad-brush and inflexible: it would be particularly harsh to penalise attempts to adjust permitted development changes in response to local circumstances by imposing compensation penalties.

SECTION 3 CONDITIONS

The statement that conditions are too numerous, overly restrictive and unnecessary is highly contentious. Conditions are frequently vital in assuring that development proposals respect their context and the wider good. All conditions are subject to the six tests set out in the NPPG and can be challenged in the courts. Given best practice they enable a positive and important contribution to raising the standards of the built environment to be made and allow the concerns of the community to be met.

The proposed changes are far too complicated and burdensome to LPAs. The proposals are one-sided in their concentration exclusively on putting forward a solution that unreasonably favours the developers' point of view (possibly a criticism that could be applied to much of the consultation document). For example, this section is silent on LPAs' problems in enforcing planning conditions, and lacks any discussion of possible penalties for non-compliance.

Issue 1: a tendency of local planning authorities to impose too many conditions at decision stage

As is acknowledged, the six conditions laid down by the NPPG already ensure that conditions are not onerous or frivolous. Pre-application meetings with the local authority are opportunities for discussion ensuring compliance with policy. Pre commencement conditions ensure that the requirements can be met. Existing Government guidance on the matter is sufficient. (3.10, 3.11) In the event of abuse the courts will strike out inappropriate conditions.

Issue 2: local planning authority delays in discharging conditions

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

We disagree. Local authority tardiness is a poor excuse for the introduction of deemed discharge as the process would penalise the public realm. Timely intervention through conditions, which have generally been discussed at pre application meetings go some way towards ensuring a high-quality townscape. There are few enough inducements to build above minimal permitted standards.

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)?

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)?

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

Conditions imposed on listed buildings, buildings of special merit or within a conservation area should certainly be exempt. But this introduces complexity and there seem **no imperative reasons for considering introducing the deemed discharge option.**

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?

The deemed discharge option, no matter how activated, would act as a default position in situations seen by the local authority as too routine or too difficult. The townscape and the community would be the losers. The quality of the built environment would suffer.

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?

Most local planning authorities have standard conditions that may need tailoring to the specific circumstances of the case. Time required by planners surely varies as between conditions, depending on size of development and complexity of condition. Whilst a 6-week rule might meet most cases, if a single rule is to apply it needs to be sufficient to cover the more extreme cases. What evidence has DCLG got? And whose fault were the delays? Often the delay is as much the fault of the applicant? How does a deadline help get agreement?

Question 3.8: Do you agree there should be a requirement for local planning authorities to share draft conditions with applicants for major developments?

Planning authorities should be expected to discuss proposed conditions with applicants, as is already common practice but be free to amend these as and when further information is received. Sharing of draft conditions with applicants seems sensible, but only provided it is also extended to appropriate third parties such as the local community.

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

No. Discussion of conditions with applicants should be/often is part of the application process. The local authority is the best judge of this and of the need to make late changes.

Question 3.11: two possible options for …late changes … to conditions - Option A or Option B. Which option do you prefer? … alternative approach? …
authorities to justify the use of pre-commencement conditions?

The detail of due process should be left to the local authority to decide in the light of their Plan and existing legislation and policy guidance.

Question 3.12: Do you agree there should be an additional requirement for local planning.

Existing legislation and local authority policy suffices.

Section 4 : Planning application process improvements

Part A : Statutory consultee involvement in the planning application process.

The proposals derive from a statement in the consultation paper, as follows: 'Statutory consultees report that in many cases they have no comment to make on the planning and listed building consent applications that they receive'. It does not necessarily follow that this is because there really are no comments to be made, but rather that a reduced complement of suitably qualified staff may mean that only the most serious cases can be commented on. In the case of English Heritage, only the most damaging proposals, or changes to the highest grades of heritage assets, warrant careful examination; this is because fewer experts can be employed, as a result of sustained real terms reductions in grant-in-aid since 1997. Whilst it is true that there would be a reduction in the regulatory burden if statutory consultees focus resources and technical expertise on those cases where they can add most value, this does not mean necessarily that other cases do not merit comment, but rather that the staff resources to do so are not forthcoming.

English Heritage: Article 16. Town and Country Planning (Development Management Procedure)(England) Order 2010. Listed Buildings Act, Listed Buildings Regulations and a series of Directions.

Table 3 changes.
English Heritage's power of direction in London is a hangover from the special expertise and an adequate complement of qualified staff in the Historic Buildings Division of the former Greater London Council, which was largely transferred to English Heritage on abolition. The loss of the power of direction as now proposed brings London into line with the rest of the country, which is broadly acceptable, even if it is due in part to the reduced circumstances in which English Heritage finds itself. As a matter of principle, however, where EH's responsibilities are proposed for transfer to LPAs, individual LAs should be required to confirm beforehand that they have proper access to expert advice. Many of them do not. The only real solution is to make the appointment of conservation officers a statutory requirement; in the meantime, implementation of the changes proposed present a real risk to the integrity of the historic environment. Alternatively, improvements in the funding of EH could provide the additional staff that would render the changes proposed unnecessary.

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? If not, please specify what change is of concern and why.

No objection.

Other heritage related consultations/notifications.

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.

Of the changes proposed, only the move to reduce referrals by limiting them to proposals affecting a 'substantial' part of a listed building, appears to be seriously misguided. Quite apart from the difficulty of defining 'substantial', any change requiring listed building consent must by definition affect the special interest of the building, and so be worthy of scrutiny by one of the National Amenity Societies.

The value of the pre-application process.

Whilst being wholly convinced as to the value of the pre-application process, part of the value of such arrangements is that the LA and the various consultees have an opportunity to engage with prospective applicants before the proposals are set in stone, thus potentially avoiding a collision course when the application is eventually submitted. It

follows therefore, that once consultees are confident that the submitted application follows faithfully what was agreed previously, then further formal notification would be unnecessary. In the interim, however, there would have to be some mechanism to reassure parties to the pre-application procedure. In some sense, such an arrangement is discussed in Para. 4.52, but in this case only in circumstances where the proposal as submitted had been deliberately amended. It follows therefore, that this process should be adapted to provide confirmation to parties to the pre-application process that the proposals agreed previously remained intact in all essentials.

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.

This question is somewhat disingenuous in that it assumes that the consultations no longer required were all unnecessary. As already indicated above, this ignores the fact that a proportion, at least, would still yield useful advice and comment, but cannot be handled by at least some of the statutory bodies involved due to a diminution of staff resources as a result of sustained real terms cuts in their core funding.

Part B : Proposal to notify railway infrastructure managers of planning applications for development near railways.

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?

It would be preferable for such bodies to become statutory consultees; otherwise, the proposals appear to be eminently sensible.

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)?

LPAs are quite capable of deciding which applications to consult on, based simply on the 'in the vicinity' criterion, without introducing any other complications. Development in the vicinity of underground tunnels should be included, for technical reasons at the very least.

Part C : Consolidation of the Town and Country Planning (Development Management Procedure) Order 2010.

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

The changes to the Order should reflect the substance of the comments received from respondents to the Technical Consultation, and not be a straightforward reiteration of the proposals set out in the Consultation.

Measurement of the end-to-end planning process.

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?

The process is complicated enough already without adding further elements to be

measured, bearing mind that these proposals appear to be yet another means of assessing LPA performance and pressurising already hard-pressed LA staff.

Section 5: Environmental Impact Assessment Thresholds

Identifying whether Schedule 2 projects should be subject to environmental impact assessment

Proposals for change

On balance, it is probably advisable to retain existing thresholds, on the assumption that it is preferable to look at the potential environmental effects and to find them acceptable, rather than be denied the opportunity of examining a screened out development proposal that would otherwise have been found to have an adverse environmental impact.

Question 5.1: Do you agree that the existing thresholds for urban development and industrial estate development which are outside of sensitive areas are unnecessarily low?

Yes - but there is a need to distinguish between extensive and intensive projects. Instead of focusing on site area alone, it needs to recognise large (in floorspace terms) developments that would generate a large amount of activity or emissions.

If thresholds are to be raised, then they must take account of potential cumulative impact of multiple applications (as indicated in the European directive, see p5.13, bullet 2) - many small developments can have a larger impact than one big one. There is also a need to take account of existing local conditions, eg if there is very high existing air pollution.

Question 5.2: Do you have any comments on where we propose to set the new thresholds?

In high-density areas, raising the Schedule 2 criteria and thresholds from 0.5 hectare to 5 hectares is playing with the **wrong indicator**. **It should also include an indicative criterion or threshold based on floorspace.**

Question 5.3: If you consider there is scope to raise the screening threshold for residential dwellings above our current proposal, or to raise thresholds for other Schedule 2 categories, what would you suggest and why?

The current Schedule 2 criteria and thresholds are express only in hectares, whereas the indicative criteria and thresholds could be raised for commercial floorspace, such as to **100,000sqm for offices or 50,000sqm for shopping centres, although for housing 1,000 dwellings still seems appropriate.**

In London, with the exception of the City of London and the Isle of Dogs, these criteria would trigger few cases.

Section 6: Improving the nationally-significant infrastructure planning regime

Making Changes to Development Consent Orders

6.8 "The 2008 Act and the 2011 Regulations do not provide any definition of a material or non-material change. There is also no guidance in place at present on what might constitute a non-material as opposed to a material change for a nationally significant infrastructure project."

6.9 "There was substantial support expressed in the consultation responses to the 2014 Review for providing advice on what would constitute a material or non-material change. Given the range of infrastructure projects that are consented through the 2008 Act, and the variety of changes that could theoretically be proposed for a single project, it is not possible to set out precise guidance on whether a change would be material or non-material in a particular case. Such decisions will inevitably depend on the circumstances of the specific case."

6.10 "However, there may be certain characteristics of a change that means there will be a greater likelihood of it being non-material, for example, if it does not involve:

- an update to the Environmental Statement (from that at the time the original Development Consent order was made) to take account of likely significant effects on the environment;
- a need for a Habitats Regulations Assessment, or the need for a new or additional licence in respect of European Protected Species;
- compulsory acquisition of any land that was not authorised through the existing Development Consent Order."

Question 6.1: Do you agree that the three characteristics set out in paragraph 6.10 are suitable for assessing whether a change to a Development Consent Order is more likely to be non-material? Are there any others that should be considered?

Each of the characteristics of change noted in Para. 6.10 would probably not be significant enough on their own to trigger a full-scale reconsideration of the terms of the Development Consent. Conversely, however, the presence of one of the characteristics of change would not of itself be sufficient to declare the changes proposed non material.

Question 6.2: Do you agree with:
(i) making publicising and consulting on a non-material change the responsibility of the applicant, rather than the Secretary of State?
(ii) the additional amendments (see above) to regulations proposed for handling non-material changes?

The changes proposed are acceptable but only if this is subject to clear (and appropriate) criteria.

Consultation and pre-application procedures.

Question 6.3: Do you agree with the proposals:
(i) to change the consultation requirements for a proposed application for a material change to a Development Consent Order?
(ii) to remove the requirement on an applicant to prepare a statement of community consultation for an application for a material change?
(iii) to remove the current requirement to publish a notice publicising a proposed application where an application for a material change is to be made?

Whilst it is agreed that a material change should not necessarily require a re-consultation of all those consulted previously, the changes proposed should still be publicised and the applicants required to provide a statement of community consultation, or equivalent, making clear precisely the identity of those re-consulted.

If the barriers to making subsequent changes are lowered, then the initial proposal may tend to understate the true intent, especially in respect of more sensitive aspects.

Our answer to (i) is 'Yes' but to (ii) and (iii) we respond 'No'.

Question 6.4: Do you agree with the proposal that there should be a new regulation allowing the Secretary of State to dispense with the need to hold an examination into an application for a material change?

Any new regulation drafted should make provision for challenges by previous consultees and the LPAs involved.

Statutory timetable.

Question 6.5: Do you agree with the proposal to reduce the statutory time periods set out in the 2011 Regulations to four months for the examination of an application for a material change, two months for the examining authority to produce a report and their recommendation and two months for the Secretary of State to reach a decision?

No objection.

Streamlining the consenting process.

Questions 6.7 to 6.11 - No comment.