1. **Purpose of Report**

1.1 To recommend a response to a consultation proposing new “Permitted Development” rights for a wide range of changes of use which currently require the submission of a planning application.

2. **Background**

2.1 As part of the Government’s de-regulatory agenda, a wide range of permitted changes of use and permitted extensions to buildings came into force on 30/05/2013. Most of these followed consultations in 2012 which were taken forward with no major changes arising from the consultation responses. The consultation on changes of use was reported to the Economic Development and Planning Policy Development Committee on 16/08/2013 and the one on extensions to dwellings and a range of commercial buildings to the Planning Control Committee on 19/12/2012. The training for Members of Planning Control which was delivered on 28/05/2013 provided an update on these matters.

2.2 This latest set of proposals involves further de-regulation of changes of use and associated minor alterations to buildings.

3. **The Proposals and Recommended Responses**

3.1 Creating new homes from old shops. This proposal aims to make it easier to change the use of a shop (A1) and financial and professional services use (A2) to residential (C3) in recognition that in some locations such uses are unlikely to survive the current challenges facing the retail sector. The proposal in detail is to provide a new “Permitted Development” right as follows:-

- It applies to change of use from A1 or A2 to C3.
- There would be an upper threshold of 150 square metres.
- It would allow conversion to a single dwelling house or a maximum of 4 flats but not to a house in multiple occupation (HMO).
• External modifications sufficient to allow the conversion would be included in the process.

• It would not apply in Conservation Areas, National Parks, Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest or to Listed Buildings/Ancient Monuments.

• “Prior Approval” would be required for design details to ensure compliance with Local Plan policies on design, materials and outlook.

• “Prior Approval” process also to include an assessment of the impact of the loss to the economic health of the town centre, the need to maintain essential local services and the potential impact on the local character of the area.

3.2 The Government is seeking views on the principle of permitting these changes of use and on the detail of the “Prior Approval” process.

3.3 **Recommended Comments**

A “Prior Approval” process currently applies in relation to some existing “Permitted Development” rights, for example telecom masts and the new provision to convert offices to residential use. The general thinking behind this process is that it is simpler than a normal planning application and that the Local Planning Authority’s role is to look at specific details rather than the principle. However in reality a range of relevant planning issues are considered in most cases and the consultation processes are similar to a normal planning application. The main difference in process is that the default position if the LPA does not issue a decision within the specified time of 56 days is an approval rather than in the case of a planning application potentially a deemed refusal.

So other than sending a message that change of use from A1/A2 to C3 can be an appropriate solution where there’s no realistic prospect of a retail or services use being viable, the new process would still allow the LPA to make a judgement on the key planning issues of impact on health of town centres, retention of essential local services and design. What it would not allow is the impact on demand for car parking spaces to be considered and no contribution to provision of affordable housing would be made unless the development was carried out by a Registered Provider.

What is unclear is whether the process is “trumped” by the requirements of the Habitat Regulations whereby, as competent authorities, LPAs must ensure that developments (including changes of use) do not result in an adverse impact on the integrity of a European protected site. In the case of the Cannock Chase Special Area of Conservation (SAC) the evidence shows that the “in combination” impact of a net increase of one or more dwellings within a zone of impact extending 15 kilometres from the boundary of the SAC would have an adverse impact unless appropriate mitigation is achieved. Pending adoption of the Local Plan and a subsequent
Supplementary Planning Document on this issue, the Council is currently operating an interim policy of seeking a financial contribution of £450 per dwelling towards mitigation. Legal advice is being sought as to whether this policy could apply to both the new “Prior Approval” process described here, the existing process currently operating in relation to change of use from offices to residential and the other proposals relating to “Permitted Development” for change of use of agricultural buildings to residential described below. An update will be provided at the meeting.

In summary officers’ advice is that no significant benefit is likely to be achieved by introducing this process over and above the normal planning application process. There could be potential problems with parking in some locations and such developments would be unlikely to make a contribution to delivery of affordable housing. The policy context for decision making on these matters is best left to individual LPAs who have a detailed understanding of the dynamics of their towns, village centres and local shops and are capable of making positive decisions to approve changes of use to residential in appropriate locations via the normal planning application process. The one potential advantage to applicants is that the fee for these applications would be likely to be a flat rate £80 rather than the current £385 per dwelling created. This of course would result in a loss of fee income to the Council and the lower fee would not cover the costs of processing such applications.

3.4 The place of banks on the high street. Banks and Building Societies generally fall within Use Class A2 (financial and professional services) and are a recognised and valued feature of most high streets. Current “Permitted Development” allows change of use from A2 to A1 retail but not the reverse. This arises from an era when these uses tended to have office like frontages which were considered to break up the retail character of a street. Nowadays a more retail-like approach is taken to the design of these premises. Examples of this in Cannock Town Centre include HSBC and the Cheltenham and Gloucester Building Society.

3.5 The proposal is to permit change of use from A1 to banks and building societies only within A2 but no other A2 uses such as betting shops. The Government is also considering whether they should impose an upper floorspace threshold.

3.6 Recommended Comments

Officers consider this proposal to be uncontroversial and worthy of support.

3.7 Re-use of redundant agricultural buildings for a dwelling house. The proposal here is a new “Permitted Development” right for an agricultural building to change to residential C3 with the following limitations:-

- allow up to 3 additional dwellings (including flats) to be converted on an agricultural unit which existed at the time that the intention to consult on this proposal was announced in the Budget Statement of 20/03/2013;

- have an upper threshold of 150 square metres for a single dwelling;
• enable the physical development necessary to allow for the conversion, and where appropriate the demolition and rebuild of the property on the same footprint;

• include prior approval for siting and design to ensure compliance with Local Plan policies on design, materials and outlook;

• include prior approval for transport and highways impact, noise impact, contamination and flooding risks to ensure that change of use only takes place in sustainable locations;

• apply to agricultural buildings constructed prior to 20/03/2013;

• apply in Conservation Areas, National Parks and Areas of Outstanding Natural Beauty but not to Listed Buildings, Ancient Monuments or in Sites of Special Scientific Interest.

3.8 To avoid a position where the existing “Permitted Development” right to construct new agricultural buildings could be exercised to provide a replacement for the building being converted to residential the farmer would have the option of either exercising the new right or the existing right. If the new right is exercised no new agricultural building could be constructed under PD for 10 years. In addition a farmer would not be able to exercise the new right if they used the existing PD right to construct the building after the publication of this consultation.

3.9 **Recommended Comments**

Officers consider that this proposal goes too far in two respects:-

• In allowing rebuilding of agricultural buildings it potentially means that, for example, an open sided barn could be replaced by a new brick and tile construction forming, say, a terrace of three dwellings in open countryside. Whilst the LPA could negotiate a high quality design it couldn’t refuse permission on the principle of urbanisation of the countryside.

• The application of this proposal to AONBs raises additional concerns about adverse impact on the landscape.

The same procedural point about “Prior Notification” processes being as complex as a planning application but with a much lower fee, the issue with protection of the Cannock Chase SAC and the lack of affordable housing contribution also apply to this proposal. Officers therefore recommend that this should not be supported and that such proposals should continue to be the subject of normal planning applications.

3.10 **Supporting working families to provide childcare.** The proposal is to replicate the new PD right which came into force on 30/05/2013 for change of use of offices (B1), hotels (C1),
residential institutions (C2), secure residential institutions (C2a) and assembly and leisure (D2) to state funded schools to be extended to nurseries providing childcare. There would be a “Prior Approval” process to deal with transport and highways impact, noise and contamination risks as with the existing system with state funded schools. All childcare providers would have to be on the early years register, deliver the Early Years Foundation stage and be regulated by Ofsted.

3.11 **Recommended Comments**

Having already introduced this process for schools, officers consider that extension to include nursery education raises no additional planning policy issues.

3.12 **Provision for children in rural areas.** In order to deal with difficulties in finding suitable buildings in rural areas for new providers to convert to schools the Government proposes to permit change of use of agricultural buildings to state funded schools and nurseries providing childcare and extensions to such buildings subject to a floorspace limit of 500 square metres and a “Prior Approval” process to deal with noise, transport, flooding and contamination issues. This extends the existing PD rights which took effect on 30/05/2013 which provided for change of use of agricultural buildings to commercial uses in classes A1, A2, A3, B1, B8, C1 and D2 which are also subject to “Prior Approval” processes.

3.13 **Recommended Comments**

Having already introduced this process for a wide range of commercial uses, officers consider that the extension to cover education raises no additional planning policy issues.

4. **Recommendations**

4.1 Members are invited to consider the officers’ comments above in making a response to the consultation.