Q7.14 What are the exceptional circumstances for the release of the site from the Green Belt?

1. In addition to the points raised by the Council in GBA1-GBA3, we note that SESO4 at 8.6ha is a large site, as are the Hobbs (SES02) and Lambs (SES03) industrial areas, both of which are also currently within the Green Belt. This situation in itself is one that we would regard as exceptional – namely that the largest existing employment sites in the District are all subject to Green Belt restrictions. Their designation as Strategic Employment Sites and consequent removal from the Green Belt proposes to address that unusual position. This is necessary to help deliver the aims of the Economic Proposition (5.29 TLPSV 2033), Spatial Objective SO1, and compliance with the Spatial Strategy (TLP01).

2. Importantly, failure to remove SES02 – SES04 from the Green Belt will render the sites liable to pressure for redevelopment for other uses, and without the protection afforded for continued employment use by the policies themselves. It is important to note that the ENA (2017) identified 11 employment sites for protection. The SESs within the Green Belt include 3 of those sites. Thus, it is exceptional that the largest key employment sites in the District are currently within the Green Belt. Failure to designate the sites, protect them for employment purposes and to remove them from the Green Belt not only adds unnecessary hurdles in terms of the need for proposals to comply with Green Belt policy, but also risks the loss of those sites to employment through potential redevelopment for other uses.

3. Secondly, the tile works was established in 1935, some time prior to the original Green Belt designation. While that use was originally related to the adjacent sandpits in the same ownership, using sand as a raw material, the cessation of tile manufacture at the site (which occurred after the current Local Plan was adopted) broke the relationship with the adjacent sandpit and introduces the potential to make more effective use of this previously developed site. This change is also part of the exceptional circumstances case in our view.

4. The existence of the Green Belt designation has proven to be a significant bar to proposals for redevelopment since the cessation of the tile manufacture in 2014. This is evidenced by the subsequent refusal of applications for the demolition of existing buildings and erection of four
class B8 commercial buildings (TA/2015/1217) on the grounds *inter alia* of inappropriate development in the Green Belt and more recently, the refusal in March this year of Application TA/2018/1792 for the erection of a single class B8 commercial building. This application was refused *solely* on the basis of inappropriate Green Belt development, contrary to officer recommendation.

5. A third planning application for partial redevelopment (TA/16/1036) was submitted in 2016 but was withdrawn following resistance from the planning authority.

6. These are the main planning applications to be submitted since the cessation of tile manufacturing. They clearly demonstrate that the Green Belt designation is the principal hurdle preventing redevelopment proposals coming forward on this large and long-standing employment site, contrary to the assertion by OLRG (ID765, respondent 960371) that there is "no evidence that the Green Belt has been a barrier to ongoing developments at the site".

**Q7.15 Is the proposed Green Belt boundary justified and consistent with national policy as set out in paragraph 85 of the Framework?**

7. The proposed Spatial Strategy (TLP01) requires that employment provision "*be focused towards existing employment sites through intensification and expansion*" and the removal of SES04 from the Green Belt is therefore consistent with the Local Plan strategy as required by the first bullet point of para. 85 NPPF (2012).

8. The openness of the site is significantly compromised by existing structures and land use, as acknowledged in GBA2 and contrary to the suggestion by OLRG that "*there is no harm to openness*" (ID765, respondent 960371). There is currently 11,512sqm of floorspace present in existing buildings on the site.

9. A Certificate of Lawfulness applied for by this firm and granted by Tandridge DC in 2013 (TA/2013/35) confirms the lawfulness of the retention of the majority of existing built structures. The position is described in the statement submitted with this application, which is provided (without the extensive Appendices) as Appendix A.

10. The ORLG also make various points about the status of the adjacent sandpit. The former tile works is not part of the same planning unit as the adjacent Moorhouse Sandpit (although the southern tip is - see further below).

11. In relation to the final bullet point under NPPF para 85 (requirement for clear boundaries), we are able to advise as agent to the landowner that the proposed site allocation boundary follows precisely the boundary of site leases which date originally from 1935 and are therefore well-established. The boundary is also secured by fencing. It is also visually contained by trees and vegetation as acknowledged in GBA3 (site assessment ENA8).
Q7.16 Does the allocation constitute major development within the Surrey Hills AONB? Would the proposed allocation conserve the landscape and scenic beauty of the AONB?

12. In our view the test in paragraph 116 of the NPPF 2012 relates to applications for planning permission rather than the formulation of policy. Whilst individually or collectively, a series of planning permissions granted on an allocated site might constitute major development, that is not inevitably the case. For example, whilst Tandridge officers determined that the application submitted in 2015 (TA/2015/1217) for 20,938sqm “could be considered ‘major’”, the most recent application determined in March 2019 for 5,595sqm of commercial floorspace with a maximum building height of 8.9m, was not. The site will remain within the AONB when removed from the green belt and allocated under SES04. It will be a matter for the decision maker taking into account the proposal and the local context, to assess whether the provisions of the Framework regarding major development in these areas will be engaged.

13. We consider that the proposed allocation does have the ability to deliver the conservation of the landscape and scenic beauty of the Surrey Hills AONB, by facilitating proposals which constitute an improvement on the existing appearance of the former tile works. This is a particularly utilitarian site, described by the Surrey AONB Unit in the context of the most recent application as one which currently “detracts from the landscape qualities of the AONB”.

Q7.17 To be effective and to be consistent with national policy as set out in paragraph 24 of the Framework, should the Policy be clear as to whether Use Class B1 (Offices) or other main town centre uses would be acceptable within the identified site boundary?

14. We note that the evidence produced by the Council does not recommend the intensification of sites for B1 (a) use at the key strategic employment sites. Rather the Council intends to direct such uses towards Oxted, Caterham or other sites with excellent access to labour supply and the SRN. We do not disagree with this approach. However, there may be a case for a modest element of B1 (a) floorspace where associated with other B-Class uses, so we would suggest it would be inappropriate to resist all such uses in principle. The site would not appear appropriate however for B1(a) –led redevelopment. We cannot see that the site would be appropriate for A-Class (town centre) uses.

Q7.18 Are the requirements for financial contributions as set out in v. consistent with national policy for planning obligations and conditions as set out in the Framework and are they justified?

15. The suggested contribution towards a junction improvement at A25/B269 is noted.

16. The need to assess this junction in the context of the most recent application on the proposed allocation site (TA/2018/1792) was scoped out as part of pre-application highways work with SCC. Highways impact was not a reason for refusal.
17. A previous application submitted in 2016 included a TA which assessed the impact of a scheme of 9,322sqm on a relevant junction and concluded that this did not merit an intervention (TA/16/1036).

18. A 2015 application for 20,938sqm of floor space included a highways reason for refusal on the basis of insufficient information on trip generation, but did not specifically identify the junction as in need of improvement to accommodate the scheme.

19. Much evidence was presented in the context of these applications to the traffic generated by the tile works use, noting the fact that an Established Use Certificate was previously granted over much of the site, for general industrial and warehousing use.

20. The Council’s IDP identifies site SES04 as the only potential site contributor to this improvement scheme, despite the fact that this junction (on the A-road connecting the main settlements in the District) will be impacted by various proposed other developments identified in the plan. Whilst an appropriate level of financial contribution from subsequent applications may be appropriate where it can be shown that the improvement is necessary to mitigate impact on the relevant junction, there is no evidence to suggest that such works are required to be delivered prior to the occupation of any new development within the SES04 policy area.

Q7.19 Are the proposed Modifications necessary for soundness?

21. There are two relevant Proposed Modifications (PMs), made in response to representations by Surrey County Council (SCC) and The Environment Agency (EA) respectively.

22. The representation by SCC dated 10th September 2018 in relation to the Regulation 19 Plan states:

“The southern tip of this site comprises a former mortar plant forming part of the Moorhouse Sandpits site which adjoins the south and east boundaries of the Moorhouse Tileworks Industrial Site. It is currently subject to an enforcement notice, upheld by the High Court, to implement a restoration condition. This southern tip of the site technically constitutes former mineral workings and therefore it is not previously developed land. A minor modification of the site boundary should be considered to exclude this part of the site from the allocation.”

23. The PM in response does not contemplate a change to the policy boundary but instead states that ‘any scheme will be required to make provision for low level woodland and other associated restorative elements on the relevant areas’.

24. The SCC representation fails to acknowledge the findings of the Inspector dealing with the enforcement Appeal in respect of the planning status of this land.
“Using the tests in Burdle v SSE [1972] 3 All ER 240, which were referred to by the appellant, it seems to me that there was a composite (mixed) use on the site rather than two separate planning units” (para 30 DL APP/B3600/C/14/3000220)

“...the appeal site did not become a separate planning unit but was part of a mixed or composite use of all of the land included in the 1949 permission.” (para 34 DL APP/B3600/C/14/3000220)

25. Furthermore, the Inspector's findings were endorsed by Lindblom, LJ in the Court of Appeal in connection with an application for leave to challenge the High Court decision.

26. The Lord Justice found that the Inspector was entitled to conclude that a mixed use of the planning unit had been created (see Order 17 Jan 2017 at Appendix B).

27. The enforcement notice addressed the use of the area identified by SCC in their representation. The findings of the Inspector and the Judge mean that the requirement to restore this area referred by SCC no longer applies to this area. The lawful use of this area for mixed use purposes (including for the manufacture of mortar - an industrial activity) is consequently ungoverned by the terms of the original minerals consent dating from 1949.

28. This area of land is properly included within the proposed site allocation. It is fenced off independently from the adjacent access road to the sandpit. It had been used since 1957 for mortar manufacture. Relevant planning permissions have been granted by Tandridge District Council as the relevant Planning Authority, rather than by Surrey County Council as minerals Planning Authority. The land in question is visually distinct from the sandpits and fenced separately from the sandpit access road. It has a much closer geographical and visual relationship with the former tile works.

29. As a result, we regard the first PM as unnecessary for soundness, given that the reason advanced by SCC that gave rise to the PM is incorrect.

30. We note the PM in relation to the Groundwater Source Protection Zone, put forward in response to representations from EA.

31. We note that the EA raised no objection to application TA/2018/1792 subject to appropriate planning conditions. However, we do consider the PM in this respect to be necessary for soundness.