

Public Document Pack



Executive Board Sub Committee

Thursday, 21 December 2006 at 10.00
a.m.
Municipal Building, Widnes

A handwritten signature in black ink that reads 'David W R'.

Chief Executive

SUB COMMITTEE MEMBERSHIP

Councillor Mike Wharton (Chairman)	Labour
Councillor Phil Harris	Labour
Councillor Steff Nelson	Labour

Please contact Gill Ferguson on 0151 471 7395 or e-mail gill.ferguson@halton.gov.uk for further information.

The next meeting of the Sub Committee is on Thursday, 11 January 2007

**ITEMS TO BE DEALT WITH
IN THE PRESENCE OF THE PRESS AND PUBLIC**

Part I

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Members are reminded of their responsibility to declare any personal or prejudicial interest which they have in any item of business on the agenda, no later than when that item is reached and (subject to certain exceptions in the Code of Conduct for Members) to leave the meeting prior to discussion and voting on the item	
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In accordance with the Health and Safety at Work Act the Council is required to notify those attending meetings of the fire evacuation procedures. A copy has previously been circulated to Members and instructions are located in all rooms within the Civic block.

REPORT TO: Executive Board Sub Committee

DATE: 21 December 2006

REPORTING OFFICER: Strategic Director, Health and Community

SUBJECT: The use of the Proceeds of Crime Act 2002 by the Consumer Protection Service

WARDS: Boroughwide

1.0 PURPOSE OF THE REPORT

- 1.1 To seek the Board's support for the use of the full 'confiscation regime' and 'offences' under the Proceeds of Crime Act 2002 by the Consumer Protection Service.

2.0 RECOMMENDATION: That

- (1) the use of the full 'confiscation regime' and 'offences' under the Proceeds of Crime Act 2002 by the Consumer Protection Service, as outlined below be, agreed; and**
- (2) Council be requested to agree the necessary Scheme of Delegation changes, as outlined in Section 4.1 below, in support of Recommendation (1) above.**

3.0 SUPPORTING INFORMATION

- 3.1 The Proceeds of Crime Act 2002 (POCA) was introduced by the Government because it recognised that leaving illicitly obtained assets in the hands of criminals was damaging to society in that such assets:
- provided the working capital for further crime, leading to a vicious circle of criminality,
 - enabled those criminals that were jailed to enjoy a life of luxury on their release, and often to run their criminal empires from behind bars, and
 - provided a lavish lifestyle for many criminals, and in doing so sent the wrong message that crime pays, particularly to young people.
- 3.2 In recent years, there has been concern within the Trading Standards profession that courts often imposed low financial penalties on defendants in trading standards prosecutions. In some instances defendants were able to pay immediately as fines were so low. This did nothing to deter future offending, was demoralising for investigators and such low penalties did not remove the financial means from offenders to

prevent them from continuing their criminality. Nor did it send a strong message to other would be offenders that 'crime does not pay'.

- 3.3 To address this concern, some consumer protection/trading standards services have worked in partnership with the Asset Recovery Agency to pursue asset recovery in appropriate cases. Nationally, this year, this arrangement has secured confiscation orders of nearly £1 million, linked to trading standards offences. The confiscation regime under the Proceeds of Crime Act has been successfully used in doorstep crime cases; car clocking cases and against rogue traders and counterfeiters. In recent weeks in the North West, three market traders have been ordered to pay over nearly £850,000 in assets following convictions of selling counterfeit goods and benefit fraud.
- 3.4 The Local Authority Coordinators of Regulatory Services (LACoRS) recognised that this was a powerful enforcement tool that supported the normal prosecution process, but was aware that the Asset Recovery Agency, the Regional Asset Recovery Teams and police forces could not provide all of the support that Trading Standards would need. It therefore secured funding from the Home Office for the training of a number of Trading Standards Officers in each region as "Accredited Financial Investigators" under Parts 2 and 8 of the POCA.
- 3.5 The Council's Consumer Protection Service now has an officer fully trained and accredited under the above provisions of the POCA, one of only 27 officers in local government as a whole, trained to undertake this work. This officer is now capable of using the provisions of the Act in certain criminal investigations where the person under investigation has benefited by over £5,000 from their criminal conduct.
- 3.6 An analysis of criminal investigations under taken by the Consumer Protection Service has revealed that since the introduction of the legislation, 13 local cases could have utilised the confiscation regime under the Act. Currently there are four cases under investigation that would merit financial investigation, one of which represents potential criminally acquired assets in excess of £200,000. However, LACoRS always intended that those local authority financial investigators trained in this way would offer their services within the region, and that requirement can be delivered via the Council permitting this officer to act for other local authority services on a chargeable, consultancy basis.
- 3.7 A "Recovered Assets Incentivisation Fund" (RAIF) has been developed by the Home Office to allow a percentage of confiscated assets to be returned to the agency undertaking the criminal investigation and/or confiscation work. This means that:
 - in confiscation cases where the Council were both the prosecutors of the criminal matter and the financial investigators under the terms of the scheme, there is potential for one third of the recovered assets to be handed back to the Council.

- where the Council's investigator undertakes financial investigation work for another local authority, the potential return would be one sixth of the recovered assets.
- 3.8 However, the Home Office has ring-fenced the use of what it calls "incentive monies" and has advised that it will monitor the use of such monies to assess issues of propriety and regularity. Annually, we will be expected to account for any use of incentive payments received by providing details of:
- how funds have been used
 - how much has been allocated to each initiative / project
 - how this has contributed to improving asset recovery performance or tackling crime
 - what are the particular asset recovery outcomes?
- 3.9 There will of course be no shortage of legitimate ideas for the use of such monies, including:
- recouping legitimate officer costs that are not covered by a specific agreement with a third party, and ploughing these costs back into the Consumer Protection Budget so that Halton's consumers do not lose out from our involvement in this work
 - directing some of the monies back into assets recovery work
 - directing some of the monies to support consumer protection criminal enforcement functions, including funding intelligence resources
- 3.10 The Safer Halton Policy and Performance Board received a similar agenda item to this on 14 November and fully supported the use of the provisions of the Proceeds of Crime Act, as detailed above.

4.0 POLICY IMPLICATIONS

- 4.1 The Council's scheme of delegation of officer powers requires amendment to include the Proceeds of Crime Act 2002. The Borough Solicitor should be the delegated person for instituting legal proceeds for the Council, whilst Trading Standards Officers / Consumer Protection Officers should be delegated as the investigating officers.
- 4.2 In agreeing to the above, the Council would be committing to undertake confiscation cases at Crown Court in consumer protection prosecutions where it can be shown that assets are available for confiscation.
- 4.3 The Council is being asked to permit the financial investigator to act on a chargeable consultative basis for other Local Authority services requiring the use of an Accredited Financial Investigator in appropriate cases.

5.0 OTHER IMPLICATIONS

- 5.1 There are positive financial implications associated with this work, which will support the Consumer Protection Service's move to an "external funding first" culture. However, receipt of incentive monies is likely to be

piecemeal and unpredictable and there are risks (see below). It will probably take up to three years to get a better idea of potential incentive funding streams. The Service will therefore undertake an annual review of incentive money received, and report the findings to this Board.

6.0 RISK ANALYSIS

- 6.1 If assets recovery work does prove to be an effective enforcement tool, more authorities may consider training their own officers as financial investigators. This may reduce the number of external referrals we receive over time. In addition, obtaining a confiscation order is one thing, obtaining the money is quite another as incentivisation monies will only be distributed when the order is satisfied.
- 6.2 There are risks for any criminal enforcer/investigator especially when dealing with the more unsavoury characters of society. The risks to the financial investigator will therefore be assessed in the usual way, though for the most part the financial investigation is a desktop exercise.

7.0 EQUALITY AND DIVERSITY ISSUES

- 7.1 There are no equality or diversity issues flowing from this report.

8.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

- 8.1 There are no background papers under the meaning of the Act.

REPORT TO: Executive Board Sub Committee

DATE: 21st December 2006

REPORTING OFFICER: Strategic Director, Environment

SUBJECT: Provision of Open Space Supplementary Planning Document - 2nd Revised Draft Public Consultation

WARDS: Borough wide

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek approval for the publication of paragraphs 5.8 & 5.9 of Revised Draft Supplementary Planning Document (SPD): Provision of Open Space, for the purposes of an additional 4 week public consultation to accommodate material changes to the document in light of responses received at the previous consultation stage.
- 1.2 A copy of the relevant section of the Provision of Open Space SPD can be found in **Appendix 1** with relevant changes highlighted.

2 RECOMMENDED: That

- 1) The relevant section of draft Supplementary Planning Document (SPD): Provision of Open Space be approved for the purposes of statutory public consultation for a period of 4 weeks;**
- 2) The comments received at the public consultation stage, as set out in the statement of consultation and responses to them are noted;**
- 3) The results of the public consultation exercise and consequent recommended modifications to the draft SPD be reported back to the Executive Board for resolution to adopt as a Supplementary Planning Document.**

3 SUPPORTING INFORMATION

- 3.1 In October 2006 the Local Development Scheme (LDS) for Halton was given formal approval by the Government Office for the North West (GONW). This document sets out the spatial planning policy priorities for the Council, for the next three years. The GONW also informed the Council that they did not intend to amend the content of the LDS.

- 3.2 Included within the LDS programme of works is the production of a Provision of Open Space SPD. The purpose of the Provision of Open Space SPD is to complement the Halton Unitary Development Plan (UDP) policies that recognise the importance of open space within the borough. Added to this it will provide a stimulus for the enhancement in quality, quantity and accessibility of all types of open space within Halton. The specific purpose of the SPD was reported to the board on the 20th July 2006 upon seeking approval for formal public consultation. Copies of this report are available from the planning and policy Division. Details are given below.
- 3.3 An informal draft of the Provision of Open Space SPD was circulated between 6th April 2006 and 20th April 2006 to a number of key stakeholders, for comments. This consultation stage was essentially concerned with seeking technical observations from individuals within organisations that would either use or potentially endorse the document once it becomes an adopted SPD. A list of those consulted, comments received and how these were taken into account is contained in the statement of consultation at **Appendix 2** of this report.
- 3.4 Another statutory requirement is that a scoping exercise must be undertaken to see if a Strategic Environment Assessment (SEA) is necessary to assess the environmental effects of the SPD. Between 29th September 2005 and 3rd November 2005 a Scoping Report was consulted upon in line with the relevant regulations, the conclusion was that a SEA was not required in relation to this SPD.
- 3.5 Upon gaining formal approval for public consultation from Exec Board Sub at the meeting of 20th July 2006, a Draft Provision of Open Space SPD was published for a six-week public consultation stage. This occurred from 27th July 2006 until 7th September 2006. A sustainability appraisal accompanied the SPD at this time and was also available for comments. The purpose of the SA is to independently assess the contribution that the Provision of Open Space SPD will make to achieve the social, economic and environmental objectives of sustainable development. It runs parallel to the production of the SPD and also refers back to the conclusion and responses received in relation to the Scoping Report. Copies of the Draft version of the SPD and its accompanying Sustainability Appraisal are available from the Councils Planning and Policy Division.
- 3.6 The responses received at this public consultation can be viewed in the statement of consultation attached to this report at **Appendix 2**, additionally the proposed changes to the SPD as a result of these comments are contained within the same report. With the exception of one set of responses, which will be discussed below, all comments received at the public consultation stage were supportive of the content of the document and all changes can be accommodated within the SPD without materially changing its content.

- 3.7 Paragraphs 5.8 & 5.9 in the draft version of the SPD related to a very specific set of development circumstances for the repayment of commuted sums. This was not an issue that was highlighted during the first internal partnership consultation period by any of those consulted. As a result of the comments made at the public consultation stage this policy has been simplified and may be perceived as a material change to the text. The changes have been proposed to make the SPD as flexible as possible, the original text within the draft SPD only described one situation and it was not a fair representation of current practice or what could happen in reality. The proposed new text for these two paragraphs can be seen in the SPD extract at **Appendix 1** of this report.
- 3.8 Consultation with the Government Office and the Council's Legal Services Division have led to the conclusion that the safest way to take forward the proposed changes is to undertake an additional 4 week public consultation on the two paragraphs, 5.8 & 5.9, hence the production of this report. It is not however necessary to make the whole document available for public consultation. By not undertaking this additional consultation phase there is a possibility the Council may be open to legal challenge relating to the correct procedure in the adoption of planning policy.
- 3.9 Upon completion of this proposed additional consultation period any comments received will be considered, appropriate changes made if necessary, and a report will be submitted to the Council's Executive Board recommending that the SPD be adopted.

4 POLICY IMPLICATIONS

- 4.1 The SPD has been produced to ensure that through its function as a Local Planning Authority, the Council: -
- a) Is in accordance with national and regional planning policy and advice.
 - b) Wherever possible meets the priorities of the community it serves, as set out in the Halton Community Strategy and Corporate Plan.
- 4.2 This SPD directly relates to a number of policies within the Halton Unitary Development Plan. It is particularly intended to provide further detail of what the Council expects in relation to H3, which provides the criteria for new Provision of Open Space.

5 OTHER IMPLICATIONS

- 5.1 No other known implications.

6 RISK ANALYSIS

6.1 No legal or financial risks to the Council can be identified so long as the statutory procedures for the preparation of SPDs are met.

7 EQUALITY AND DIVERSITY ISSUES

7.1 The adoption of the draft SPD does will not have any identifiable equality and diversity implications.

8 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

8.1 The alternative options considered with regard to the preparation of this document are set out in the SA Report.

9 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

<u>Document</u>	<u>Place of Inspection</u>	<u>Contact Officer</u>
Planning Policy Statement 12: Local Development Frameworks	Planning & Policy Division, Rutland House	Perran Baragwanath
Halton Unitary Development Plan, April 2005	Planning & Policy Division, Rutland House	Neil Macfarlane
Provision of Open Space SPD – Pre Production Scoping Report	Planning & Policy Division, Rutland House	Perran Baragwanath
Draft Supplementary Planning Document - Provision of Open Space (version 1)	Planning & Policy Division, Rutland House	Perran Baragwanath
Sustainability Appraisal	Planning & Policy Division, Rutland House	Perran Baragwanath
Statement of Consultation	Planning & Policy Division, Rutland House	Perran Baragwanath
Draft Supplementary Planning Document - Provision of Open Space (version 2)	Planning & Policy Division, Rutland House	Perran Baragwanath
Exec Board Sub Report 20 th July 2006	Planning & Policy Division, Rutland House	Perran Baragwanath

5.0 CALCULATING THE REQUIREMENT

5.1 All new residential development requires provision of open space as stated in UDP policy H3, this includes:

- Flats and maisonettes
- Additional dwellings gained through the redevelopment of an existing housing area
- Conversions of existing buildings
- Independent dwellings for students or the elderly.
- Permanent permissions for mobile homes.

5.2 Residential development that will not require open space contributions are defined as:

- Replacement of existing dwellings on a one for one basis
- Extensions and annexes within the curtilage of a main property for a dependent relative.
- Sheltered / special needs housing
- Temporary permissions for mobile homes.

5.3 To further clarify the above, there are three instances where it will be necessary to vary or waive a requirement for open space.

- Where the need for effective place-making, or a particular approach to urban design dictates the approach to provision. An example of this may be where it would be necessary or beneficial to provide a very high quality design to make the proposal more successful as opposed to an open space requirement.
- Where a residential development is so minimal as the costs of drawing up the Section 106 agreement would be higher than the commuted sum itself. The Council does however recognise

that the aggregate impacts of many small developments will have an impact upon open space requirements and so therefore retains discretion over whether to seek open space contributions. The current costs of drawing up a S.106 agreement are £200 + VAT (this may be subject to change).

- Where the developer can prove that any residential development will not result in an increased population to the local area because the occupants of new developments are migrants from within that same local area and the accommodation they vacate will not be used for residential purposes.

5.4 As a supplement to UDP policy H3, paragraph 10, the Council also recognises that the costs of providing open space can impinge on the overall costs of a development. Usually this requirement will not affect a proposal, however, where a proposal involves the development of a brownfield site where land remediation is necessary or where there are particular physical constraints, for example, the additional costs associated with providing open space can, in some instances reduce the quality of the end product. In instances such as this the Council may waive the requirement for open space in favour of improvements to the overall design of the development. In all cases it will be up to the developer to demonstrate, in broad financial terms, that the provision of open space is unsuitable for the case in question. The Council will then be able to make assessments on a case-by-case basis.

5.5 Where on site provision of open space is not possible, then financial contributions will be used to mitigate against a lack of on site provision. The scale of the contribution will be calculated using a formula that takes into account the size of the development, the type of dwellings and

the cost of providing (or enhancing) and maintaining open space.

- 5.6 Any financial contribution paid by the developer towards the provision or enhancement of open space will be the subject of a legal agreement specifying the amount of contribution, when it should be paid and how it will be spent.

OUTLINE APPLICATIONS

- 5.7 Where an application is received in outline and subsequently granted permission, the size and type of the proposed development is not known. The Council's position on the requirement of open space will be reserved through a clause in a legal agreement, so that when a detailed application is made, the estimated population of the development can be determined. In this instance an outline permission will state the maximum number of dwellings, and the clause will state all the other known variables.

OTHER PRINCIPLES

- 5.8 Financial contributions paid by developers will be based upon a legal agreement between the developer and the Council. This will specify the amount of the contribution, when it should be paid and how it will be spent. The agreement will also detail implications for repayment, where appropriate, should capital works not begin within an agreed timescale upon completion of the final dwelling in the scheme.

- 5.9 For larger developments the Council will be able to indicate exactly where any contributions made by developers will be spent. For smaller developments financial contributions will be insufficient to provide new open space or enhance existing open space on their own. In cases such as this contributions will be paid into a special ring fenced account based upon area forum

boundaries from which aggregate contributions will be used to make improvements within that area. Where this is the case it will not be possible for any legal agreement to indicate a time scale for repayment of commuted sums as monies will not be spent until several separate sums have been accumulated.

- 5.10 It may be appropriate to direct developer contributions to improve pedestrian and cycle access, instead of using contributions towards open space specifically. This is mentioned with particular reference to town centre developments where provision cannot be made on site and improvements to sustainable forms of transport will achieve other environmental targets.

MAKING THE CALCULATION

- 5.11 All planning applications for residential development must have their open space requirement assessed in terms of Quantity, Accessibility and Quality.
- 5.12 With reference to appendix B, each residential planning application will fall into one of the seven area forums that cover the borough. Each typology of open space has been quantified within each area forum.

QUANTITY

- 5.13 Assessments of quantity are made using area forum boundaries (shown in appendix B). A comparison is made between the current level of provision within the area forum the development falls in, and the local standards set in the Halton Open Space Assessment 2005. Where existing provision for any typology falls below the local standard, a deficiency exists.

ACCESSIBILITY

- 5.14 With reference to table 2 below, each typology of open space has been set an accessibility standard. It is now possible

to identify any development sites within the borough which fall outside the existing accessibility standards for open space. Major obstacles such as roads or waterways will be considered at this time.

5.15 By using the quantity and accessibility standards together it is possible to determine the priorities for open space provision. The basic principle is that those typologies deficient in quantity and outside accessibility standards take the highest priority for new provision.

HALTON BOROUGH COUNCIL

PROVISION OF OPEN SPACE

DRAFT

SUPPLEMENTARY PLANNING DOCUMENT

STATEMENT OF CONSULTATION

December 2006

Environmental & Regulatory Services
Environment Directorate
Halton Borough Council
Rutland House
Halton Lea
Runcorn
WA7 2GW

INTRODUCTION

Under the Planning and Compulsory Purchase Act 2004 it is a requirement to prepare and publish a Consultation Statement for a range of planning policy documents, including Supplementary Planning Documents (SPDs). This is a reflection of Government's desire to "strengthen community and stakeholder involvement in the development of local communities". In due course the Council will be adopting a Statement of Community Involvement (SCI), that will set out how the public will be consulted on new planning policy and significant planning applications. Once the SCI is adopted, all such planning documents will be required to conform with its provisions. This Consultation Statement has been prepared in advance of the SCI, but aims to reflect the intentions of Government planning guidance for reporting on community involvement in the plan making process.

This Statement of Consultation sets out the comments and representations made, and the response to them, in respect of Partnership Consultation Stage and the formal Public Participation Stage conducted by Halton Borough Council, in relation to the Provision of Open Space SPD. This Statement of Consultation has been produced in accordance with Regulation 17 (1) and 18 (4) of the Town and Country Planning (Local Development) (England) Regulations 2004.

The period of formal public participation on the draft Provision of Open Space SPD was conducted between 27th July 2006 and the 7th September. The document has been made available at various deposit locations throughout the Borough, along with a copy of the public notice of 'SPD matters and public participation' that was printed in the local newspapers, representations forms, the Sustainability Appraisal Report and an explanatory letter. Each of the aforementioned documents has also been made available on the Council website and in various formats upon request.

Statutory consultees (as outlined in Planning Policy Statement 12 - Local Development Frameworks, Appendix E) were consulted specifically via letter with an individual copy of the draft SPD attached. In addition those individuals on the Council's Local Development Framework consultation database that had requested to be informed of the publication of the draft SPD were also sent a covering explanatory letter, a copy of the public notice of SPD matters and public participation, and a representation form. Representations were considered between 7th September 2006 and 20th November 2006

Informal Partnership Consultation

Informal Consultation period: 6th April 2006 – 24th April 2006

Date of consideration of representations: 25th April 2006 – June 2006

Note - All paragraph references relate to the numbers as set out in the partnership consultation draft

Consultee	Date received	Comment	Response
Sport England North West		No Comments Received	
National Playing Fields Association		No Comments Received	
Nichola Mathers - CABE		No Comments Received	
Institute of Leisure & Amenity Management		No Comments Received	
Gary Collins – Economic Development		No Comments Received	
Steve Eccles - Transportation		No Comments Received	
Jerry Goacher – Property Services		No Comments Received	
Ian Grady – Chief Execs		No Comments Received	
Debbie Houghton – Strategic Policy		No Comments Received	
Ian Lifford – Landscape Services	24 th April 2006	<p>Verbal comments made.</p> <p>I am happy with document but maintenance costs need to be clarified and updated. We will provide you with a list of updated maintenance and provision costs in the coming weeks.</p> <p>Updated figures were received on 30th May 2006</p> <p>The attached table shows the proposed figures for inclusion in Appendix A of the SPD for the commuted sum calculation for future maintenance of the various typologies of open space.</p>	<p>Comments made have been noted and changes have been made to the draft SPD.</p> <p>Table 2 – Assessment of Provision and Costs, has been updated with new provision and maintenance costs. This table has also been moved from the appendices to the main body of the document.</p>

		<p>The figures have been calculated by examining the current maintenance costs of the various typologies on actual sites. As we discussed the other day the matter raised by John Hatton of incorporating a cost element for on-going site management (as opposed to maintenance), has been addressed by adding a 15% on-cost to the basic maintenance figure. The figures in the table attached have incorporated the 15% on-cost</p>	
Phillip Esseen – Landscape Services		No Comments Received	
Paul Wright – Landscape services		No Comments Received	
Tim Booth – Parks & Countryside		No Comments Received	
John Hatton - Leisure	18 th April 2006	<p>It reads very well and seems to be informed in the detail of open space provision.</p> <p>Just two points-</p> <ol style="list-style-type: none"> 1. Is the commuted sum for maintenance adequate it seems to cover 5 years only. What do we do then ? 2. If a piece of open space was to undergo major development or major new facilities were to be installed, the provision of staffing to patrol or have a base (as a ranger or a dedicated gardener in the park) in that area may be required. This is one of the most requested items by the public and contributes greatly to the site being used and to people feeling comfortable in open space. I don't know whether a size and scale could be floated as a trigger for a staff requirement. 	<p>The commuted establishment sum is for off site provision of open space and therefore we are only able to charge for a maximum of 5 years (as stated in planning guidance).</p> <p>Maintenance for the provision of open space on or adjoining any new development site will be subject to maintenance charges for a longer time scale. When the second draft of the SPD goes out for public consultation it will contain these new costs.</p>
Cllr Paul Nolan		No Comments Received	
Cllr Rob Polhill		No Comments Received	
Derek Sutton – Regeneration		No Comments Received	

Garry Taylor - Regeneration		No Comments Received	
Dick Tregae – Environment		No Comments Received	
John Tully - Executives		No Comments Received	
Phil Watts - Planning	24 th April 2006	Verbal Comments made: Can we incorporate some text that recognises the influence of open space requirements in developments on brownfield sites. These sites, in some cases can be particularly hard to develop and the additional cost of an open space S.106 can be off putting to a developer. We would therefore wish to see a policy that recognises this providing it can be demonstrated that the development has particular financial constraints which make open space requirements less important therefore enabling the development to proceed.	A new paragraph 5.4 has been inserted stating that the Council recognises the overall costs of making a development happen – especially if the development in question involves the remediation of a Brownfield site. Additionally the paragraph contains a caveat stating that developers must provide evidence, that financially, the provision of open space would make the scheme unworkable.
Cllr Tony McDermott		No Comments Received	
Cllr Phil Harris		No Comments Received	
Andrew Pannell - Planning		No Comments Received	
Elizabeth Beard – Development Control		No Comments Received	
Pat Bickerstaffe – Property Services		No Comments Received	

Public Consultation

Public participation period: 27th July 2006 - 7th September 2006

Date of consideration of representations: 7th September 2006 – 20th November 2006

Note - All paragraph references relate to the numbers as set out in the public consultation draft.

Additional text to an existing paragraph is highlighted by **bold italics**.

Consultee	Date Received	Comments	Response
J Brazendale - Health & Safety Executive	2 nd August 2006	<p>The hazardous instillations Directorate of the HSE has not considered the contents of the plan in detail on this occasion, however the following general comments are made as we find them applicable in most cases.</p> <p>There may be conflict between the development policies and the presence of any dangerous substance establishments or major accident hazard pipelines within the plan area. In your role as the hazardous substance authority under the planning (hazardous substances) act 1990 and the planning (control of major accident hazards) regulations 1999 and previous legislation, you should be aware of the location of these. Any proposed development should take these into account.</p> <p>You are strongly advised to consult the hazardous pipeline operators, to confirm the exact location and route of their pipelines in the area covered by the plan and to ensure your records are kept up to date.</p> <p>In view of the possible dangerous substance establishments in the area covered by the plan, it would be helpful to potential developers if the constraints likely to be imposed by their presence were indicated in a policy statement in the plan. If such a policy statement is not included in your plan, the paragraphs in the attached annex could form the basis of such a statement, which may avoid the submission of planning applications containing inappropriate proposals.</p> <p>In addition, we suggest that the</p>	<p>The Council appreciates the comments made by the Health & Safety Executive & welcomes their input into the planning process, however it is not considered appropriate for the Provision of Open Space SPD to discuss such issues as those relating to pipelines and hazardous substances. Instead these and other related issues will be dealt with in the Planning for Risk Supplementary Planning Document.</p> <p>In the mean time consultation with the HSE will occur in relation to planning applications affecting potentially hazardous sites.</p>

	<p>proposals maps be marked to show the locations of the dangerous substance establishments and hazardous pipelines consistently with paragraph 6.23 of department of environment circular PPG12.</p> <p>If you are aware of any significant development proposal within the plan which may be in conflict with the general policy mentioned above we would be pleased to consider such cases individually.</p> <p>Annex</p> <p>SUGGESTED GENERAL STATEMENT ON DANGEROUS SUBSTANCE ESTABLISHMENTS</p> <p>Certain sites and pipelines are designated as dangerous substance establishments by virtue of the quantities of hazardous substance present. The siting of such installations will be subject to planning controls, for example under planning (control of major accident hazards) Regulations 1999, with the objective, in the long term to maintain appropriate distances between establishments and residential areas and areas of public use. In accordance with DETR circular 04/2000 the local authority will consult the health and safety executive as appropriate about the siting of any proposed dangerous substance establishments.</p> <p>The area covered by this local plan already contains a number of dangerous substances establishments and major accident hazard pipelines. Whilst they are subject to stringent controls under existing health and safety legislation it is considered prudent to control the kinds of development permitted in the vicinity of these installations. For this reason the Planning Authority has been advised by the Health and Safety Executive of consultation distances for each of these installations. In determining whether or not to grant planning permission for a proposed development within these consultation distances the planning authority will consult the Health and Safety Executive about risks to the</p>	<p>Comments noted.</p> <p>The Council appreciates being provided with this explanatory text and will endeavour to make use of it when producing its Planning for Risk SPD.</p>
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		proposed development from the dangerous substance establishment in accordance with DETR circular 04/2000.	
English Partnerships C/O GVA Grimley	7 th September 2006	<p>The representation is made on behalf of our client, English Partnerships, who presently own circa 49 hectares of Greenfield residential land at Sandymoor (36 ha), and Wharford Farm (13ha) Runcorn.</p> <p>As you are aware, Halton Borough Council, English Partnerships and GVA Grimley are presently continuing to work in partnership to prepare a SPD for residential development at Sandymoor, Runcorn. An overarching Masterplan for the site has been prepared by Jon Rowland Urban Design, proposing the development of circa 1,600 residential units over the next 7-8 years. Upon adoption the SPD and accompanying design codes will be used to determine future planning applications at Sandymoor to control development, and in turn allow the local planning authority to secure a high standard of housing delivery.</p> <p>Open Space Provision – Guiding Principles</p> <p>As expressed in the draft Open Space SPD, new residential development will place an increased pressure on existing open space provision throughout the Borough and within the locality of each development site. English Partnerships therefore strongly supports the Council’s approach to new residential proposals being required to provide for one or all of the following:</p> <ol style="list-style-type: none"> 1. Open space on site, and where this is not possible; 2. Contributions for new provision; or 3. Enhancement of existing open space. <p>New residential development at Sandymoor will generate a substantial population increase within the immediate locality. In accordance with the draft SPD (development of</p>	<p>Comments noted.</p> <p>Comments welcomed.</p> <p>Comments noted.</p>

		<p>50 persons or greater), the Sandymoor Masterplan incorporates significant on site open space provision, in the form of the following:</p> <ul style="list-style-type: none"> • Recreational / Playing Pitches • Village green (formal area of green space • “The Ride” • Play areas (LEAP, NEAP) • Locations for Multi – Use Games Area <p>The aforementioned provision is in accordance with the requirements of UDP policies GE5, GE6, H3 and TP9. Considerable consultation has been undertaken with the Local Planning Authority, Stakeholders and the general public during the preparation of the Masterplan to understand the requirements for open space provision at Sandymoor, and an accompanying design statement has also been prepared.</p> <p>It is considered that this process should remain a requirement for all future major residential development proposals in the Borough.</p> <p>To create sustainable communities in line with national planning guidance, English Partnerships supports the Council’s policy stance requiring developers of residential sites comprising less than 50 persons to pay a commuted sum towards the enhancement of existing open space within the local area, or the provision of new facilities. Furthermore, the same applies to the requirement for developments of more than 50 persons to incorporate as much open space provision as possible within or adjacent to the site. This strategy will ensure that open space provision continues to be enhanced and developed throughout the Borough, in turn delivering considerable environmental and social benefits to the local community. It will also be important in instances whereby</p>	<p>The Council is aware that the S.106 agreements for Sandymoor have been set in place and, whilst not in accordance with the literal terms of the forthcoming SPD, the Council, as Local Planning Authority is satisfied that they do accord with the purpose of it.</p> <p>The SPD is not intended to be used retrospectively as regards Sandymoor as all agreements have been made prior to the drafting of the SPD.</p> <p>In conjunction with the Council’s adopted SCI and this SPD, the council wishes to maintain the stated procedure regarding compliance with UDP policy, consultation and the use of design statements.</p> <p>Comments welcomed.</p>
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		<p>existing open space provision is to be lost as a result of development that compensatory provision of an equal or improved quality is developed in advance of its loss.</p> <p>Having regard to Appendix A 'Greenway Network', the Sandymoor Masterplan proposes new residential development towards the south western boundary of the site adjacent to the Bridgewater canal. It is proposed that the existing tree planting adjacent to the Canal will be retained where possible and the surrounding area enhanced as part of the wider open space strategy. English Partnerships has already completed and executed an umbrella S.106 Agreement which will provide agreed contributions towards Public Open Space, Playing Fields and Greenways. These respect a capped amount per dwelling to specified schemes. Any additional dwellings to be provided through revised densities will also be subject to the contribution under the Sandymoor S.106, and as such can contribute to any wider scheme such as the Bridgewater Canal towpath. This will also contribute to English Partnerships wider aim of delivering a high quality living environment within Sandymoor and its surroundings.</p> <p>Conclusion</p> <p>English Partnerships wishes to express support for the Council's evident commitment to the enhancement and development of open space provision within the Borough as part of new residential development proposals, and regards this as fundamental to the delivery of high quality sustainable communities and neighbourhoods.</p>	<p>Comments noted. The Council is satisfied that the capped amount per dwelling which would be sought for any additional dwellings in the Sandymoor area will be sufficient to provide a high quality living environment with benefits for the wider area, including the Bridgewater way.</p> <p>Comments welcomed.</p>
<p>P Byrne – Local Planning Team Government Office for the North West</p>	<p>8th September 2006</p>	<p>The document makes good use of illustrations and is both accessible and helpful, however, we do have a few comments to make which are attached, as an annexe to this letter which I hope you will find helpful.</p> <p><u>MBC's Draft Supplementary Planning Document – Provision of</u></p>	<p>Comments welcomed.</p>

		<p><u>Open Space</u></p> <ol style="list-style-type: none"> 1. Your covering letter referred to an accompanying Sustainability Appraisal and it should be noted that the SPD should be screened for an Appropriate Assessment if this has not be done. Draft guidance in this respect is available on the DCLG website www.communities.gov.uk 2. It is important to ensure that the SPD conforms to the criteria set out in paragraphs 2.43 and 2.44 of PPS12. In particular, as the SPD supplements 'saved' policies within the current UDP, it would be helpful to make clear under the section headed 'Local Policy', that when these are replaced by policies within the Core Strategy DPD, the SPD will require a review. 3. Paragraph 2.3 refers to national policies affecting the SPD and it would be helpful either here, or in paragraph 5.9, to refer to Circular 05/2005 regarding planning obligations and the recently published 'Practice Guidance' which supplements it. 	<p>Comments noted. An appropriate assessment has been undertaken and is currently in a statutory consultation stage.</p> <p>Comments noted. This point will be raised within the SPD under the heading Local Policy with the following new paragraph 2.19: "All UDP policies are 'saved' and will be replaced in future years by Development Plan Document policies, for example as will be contained within the Core Strategy. At such a time as this occurs, the policies within this SPD will require review alongside the DPD policies to which they relate."</p> <p>Comments noted. Planning Circular 05/2005 will be added as additional National guidance as new paragraph 2.14: "Planning Circular 05/2005 clarifies the basis on which planning obligations should be assessed for their acceptability in policy terms and gives further guidance on the process of securing planning obligations. It further provides guidance on the fundamental principles of obligations stating that planning permission may not be bought or sold and thus provides five tests to assess their soundness. These are as follows;</p> <ol style="list-style-type: none"> i. Relevant to planning ii. Necessary to make the proposed development acceptable in planning terms; iii. Directly related to the proposed development; iv. Directly related in scale and kind to the proposed development; and v. Reasonable in all other respects."
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		Policies/SPD and details of where they can be found.	<p>section of the SPD (Appendix D) which will detail the local studies referenced within the document and details of where to find them.</p> <p>“Further details regarding the Halton Open Space Assessment 2005, The Community Strategy, The Corporate Plan, The State of The Borough Report and Halton’s Biodiversity Action Plan are all available in hard copy or electronic format and can be found on the Council’s website or by emailing the above address. Alternatively, postal addresses are provided overleaf if you wish to write to the authority.”</p>
Helen Barrett – Environment Agency	8 th September 2006	The Environment Agency fully supports the proposed supplementary planning document. Open spaces / green networks can provide habitats for many species as well as providing areas for recreational use. It can also reduce the impact of flooding by providing permeable areas and therefore reducing run off.	Comments welcomed.
Stephen Hedley – The Countryside Agency	7 th September 2006	<p>We do, of course, support the preparation of policies and guidance for the provision of open space which, of course, includes natural and semi-natural open space and green corridors as well as parks, play spaces, allotments and playing pitches.</p> <p>We appreciate that the SPD is meant to complement the UDP policies for greenspace and sets out the principles that should underlie open space provision and improvement. However, it does not itself set out the strategy for greenspace, or a summary of it, which would help to set the context for the SPD.</p>	<p>Comments Noted. The strategic context for the SPD is dictated by other higher level documents such as the UDP and forthcoming Core Strategy DPD. It will however be beneficial for the document if this context were mentioned in the early chapters. Additional text will be added to chapter 2 as a new paragraph under the heading Regional Policy, which will cover the wider strategic context of the SPD.</p> <p>“In addition to the Regional Spatial Strategy, a North West Green Infrastructure Guide has been produced to provide guidance on the implementation of the Regional Spatial Strategy. Essentially this document, still in a draft format, promotes the</p>

		<p>It is not clear from the SPD what the overall position is, and it would help in the explanation and implementation of the SPD if a summary of the main types and areas of any deficiency were included in the document - perhaps as an appendix.</p> <p>For information, you may wish to look at the web site devoted to green infrastructure planning in the North West at www.greeninfrastructurenw.org.uk where the <i>North West Green Infrastructure Guide – Consultation Draft</i>, to which we contributed with our partners, can be accessed.</p> <p>We are pleased to see the reference to the need for multi-functional green space. We have published, jointly with Groundwork, a vision for the countryside in and around towns, which aims to realise the potential of green spaces. As you may know, we have undertaken with St Helens Council, the Mersey Forest and other partners, a demonstration project to show how these principles can be reflected in planning policies and the programmes of other partners. The project report is now available from the Mersey Forest Team and I have enclosed a brief leaflet, <i>Green Infrastructure and Local Development of the Countryside in and around</i></p>	<p>draft format, promotes the conservation, improvement and utilisation of the natural environment to contribute to the delivery of the social, economic and environmental objectives of the region. To quote from the guide “<i>the region needs to be able to respond to environmental changes such as those being driven by climate change, as well as social and economic needs</i>”.</p> <p>The overall benefit of green infrastructure planning is to enable the evidence based design of environmental interventions that will assist in the delivery of local plans and strategies, including those being driven by PPG17.”</p> <p>No Change. The Council feels that stating the current levels of deficiency may in fact date the document as the level of open space provision will be assessed every couple of years.</p> <p>Comments welcomed and noted. This document will be referenced in chapter 2 in line with further strategic context, mentioned above.</p> <p>Comments Rejected. The comments made at this point are very much the type of steer that will be required for strategic planning documents such as the core strategy and other development plan documents.</p>
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		<p><i>Towns</i>, which summarises the approach.</p> <p>We are pleased to see the inclusion of advice on design of open spaces in section 6, and support the guidance that new spaces should have a character that reflects local context, is linked to surroundings and networks. Part of this consideration should be the landscape character (which includes 'townscape' character) of the area. We also support the preparation of design statements to guide the process</p>	<p>Comments welcomed.</p>
<p>Alan Hubbard – The National Trust</p>	<p>6th September 2006</p>	<p>In general terms the Trust welcomes the production of this document. The Trust is not in a position to comment upon the detailed mechanics and costings set out in the draft document, but would offer the following comments:</p> <p>Generally The current work on producing a NW Region-wide Green Infrastructure Guide is noted and might usefully be referred to within the Policy Background Section.</p> <p>Para 3.4 The health benefits of both access to open space and also the actual nature of the open space are important and it is correct that these are referred to in this SPD. It is noted that the National Trust has commissioned MORI research that has confirmed this importance, and in particular the value of rural spaces where people can 'get away from it all' and 'de-stress'. Attention is also drawn to the report entitled 'A Countryside for Health and Well Being: the Physical and Mental Health Benefits of Green Exercise' produced for the Countryside Recreation Network which similarly confirms the health benefits of access to green spaces.</p> <p>Para 4.2 The inclusion within the wider definition of open space of natural and semi-natural open space is noted and supported. In this context the key elements are considered to be a) that appropriate access is maintained and enhanced where necessary, and</p>	<p>Comments welcomed.</p> <p>Comments noted. This point has been raised by a the Countryside Agency and the document will be updated accordingly.</p> <p>Comments rejected. The Council feels that sufficient reference has been made within the SPD to the health benefits of open space to emphasise the necessary point but accepts relevance of the documents mentioned.</p> <p>Comments noted. In light of this comment the SPD will be enhanced at para 4.20 to enforce the issue raised regarding "ill considered development in the surrounding area" as this is not currently a strong enough point.</p>

		<p>b) that the value of such assets is not diminished by ill-considered development in the surrounding area.</p> <p>Para 4.3 c) This is indeed an important point, and one particular element of the improvement of existing open space should be the improvement of access to it, i.e. it can be of considerable benefit to provide new, safe, pedestrian/cycle links to existing established open spaces, especially those that have valued characteristics that might be locally distinctive, e.g. particular geological significance or ecological interest.</p>	<p>New text as follows: “In addition, developers should consider the negative implications from development on open spaces that adjoin a proposal site, and what mitigation or preventative measures can be taken to ensure that the open space continues to function in the most suitable manner. The UDP policies that afford protection to the boroughs open spaces can be found in chapter 3 - The Green Environment and can be found in the appendices to this document.”</p> <p>Comments welcomed and noted. Additional text will be added to the SPD para 4.3, to clarify that commuted sums may be used to enhance access to exiting open spaces as an alternative to actual open space provision, thereby increasing the flexibility of the document to development circumstances.</p> <p>“In certain cases it will be preferable to improve existing open space rather than seek new provision. <i>This can include improvements to access to it, i.e. providing new, safe pedestrian / cycle links.</i>”</p>
<p>David Hardman – United Utilities</p>	<p>6th September 2006</p>	<p>United Utilities does not allow building in the proximity of its underground/overhead utility services.</p> <p>Also, where we have utility services we usually require a maintenance strip to be left clear to allow repair or replacement at a later date.</p> <p>Separate sewerage systems are the most sustainable option and where there are limited opportunities for disposal of surface water, developers are required to construct sewer storage capacity.</p> <p>With some thought at early design stages of development the above requirements could usefully form part of open space requirements and you may wish to point this out in the document?</p>	<p>Comments noted.</p> <p>Comments noted.</p> <p>Comments noted.</p> <p>Comments welcomed. Additional text will be written to express the point made by United Utilities at paragraph 6.2.</p> <p>“It is also vital that developers</p>

			consider the requirements of utility services. Usual requirements are a maintenance strip for repair and replacement purposes, separate sewerage systems and opportunities for disposal of surface water. These features should, where possible, be designed into onsite provision of open space facilities.”
Development Control Section – Halton Borough Council	Verbal Comments made October 2006	The inclusion of Paragraph 5.4, whilst understandable, does provide the potential for developers to debate the requirement for open space on certain sites. In any instance the financial consequences of difficult site conditions and physical constraints should be factored into the price paid for the site, therefore the costs of subsequent open space requirements are irrelevant to developing a site.	The policy does supplement policy H3 of the UDP although not stated within the text, and is considered sufficiently important as it provides flexibility to the Council which is vital for certain circumstances. The onus is still on the developer to prove their case and the final decision will always rest with the local authority. In response to these comments the text in this paragraph will be expanded to make reference to policy H3, paragraph 10, which discusses this situation. “As a supplement to UDP policy H3, paragraph 10, the Council also recognises that the costs of providing open space can impinge on the overall costs of a development. Usually this requirement will not overly affect a proposal, however, where a proposal involves the development of a brownfield site where land remediation is necessary or where there are particular physical constraints, for example, the additional costs associated with providing open space.....”
John Tully – Legal Services Department Halton Borough Council	19 th September 2006	I had assumed that paras 5.6 and 5.10 of the draft SPD was agreed internally as a new way of working. Para 5.7 does not reflect current	Paragraph 5.6 makes reference to the facts that will be associated with any legal agreement. The final point which states “how it will be spent” merely relates to the typology (‘s) to which the payment relates. Paragraph 5.10 attempts to answer questions that will and have been asked regarding open space planning obligations and where monies will end up. Comments noted. Paragraph 5.7

		<p>practice. Where we have a an outline application the section 106 is basically the same as with a full application except that we add a clause stating that the actual figures shall be recalculated on the basis of the actual numbers of properties occupied.</p> <p>You should also be aware that changes are afoot in producing a general tariff system for Section 106's I suspect that the time scale is such that you will have to go with the present SPG (SPD) and that there will be a later Section 106 SPD to reflect the changes.</p> <p>I also note that in the draft we use the expressions "Planning Obligation" and "Section 106 agreement" interchangeably. Should we pick one or other throughout?</p> <p>The Draft SPD contains the principle that if money given under a section 106 is not spent within a given time (currently stated to be 5 years) it should be paid back.</p> <p>Why should this be the case? What is the consensus on this?</p>	<p>will be altered to read "clause" instead of "planning condition".</p> <p>"Where an application is received in outline and subsequently granted permission, the size and type of the proposed development is not known. The Council's position on the requirement of open space will be reserved through a clause in a legal agreement, so that when a detailed application is made, the estimated population of the development can be determined. In this instance an outline permission will state the maximum number of dwellings, and the clause will state all the other known variables."</p> <p>Comments noted. It is understood that the tariff system has not yet been confirmed and that should it be implemented this is some years away. It is therefore considered appropriate to have an SPD in place until such a time as changes are made.</p> <p>Comments noted. The document will be updated to use the term Planning Obligation throughout, except in one instance where the term "Section 106 Agreement" works better grammatically at paragraph 5.3.</p> <p>The "5 year rule" mentioned within the document is associated with commuted establishment sums which are calculated for provision of open space off site, over a maximum of 5 years. Since the majority of developments do not require an onsite maintenance payment, it was felt best to use the example of the commuted establishment sum.</p> <p>Further consideration of this issue has lead to a viewpoint that the text at paragraph 5.9 should be altered to increase the flexibility of potential repayment issues which in turn reflects the varying circumstances of developments within the borough.</p>
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			upon area forum boundaries from which aggregate contributions will be used to make improvements within that area. <i>Where this is the case it will not be possible for any legal agreement to indicate a time scale for repayment of commuted sums as monies will not be spent until several separate sums have been accumulated.</i>
Steven Broomhead – Northwest Regional Development Agency	29 th August 2006	The Agency does not wish to comment on the Draft SPD on the Provision of Open Space.	Comments Noted.
Janet Roberts – Bridgewater Way Canal Trust	11 th October 2006	<p>Many thanks for your recent consultation on the Supplementary Planning Document, Provision of Open Space produced by Halton Borough Council.</p> <p>On behalf of the Bridgewater Canal Trust I would like to confirm that the Trust is delighted to see that reference to the Bridgewater Way is now incorporated into the document as part of the planning process in Halton Borough Council. Specifically we commend, the Section 106 details and formula which have been included .These will assist both the development of the Bridgewater Way and its continuing maintenance.</p> <p>This is a helpful benchmark both for the project in Halton and for the other local authorities along the Bridgewater Way.</p> <p>The Trust looks forward to continuing to work in partnership on the project and towards its completion in Runcorn.</p>	Comments Welcomed.