

# Further Comments and/ or Requests from the Inspector Received by the Council Following the Production of the Schedule of Amendments

(Updated 01/09/08)

This document should be read in conjunction with the Schedule of Amendments, which is available on the Council's website at [http://www.westwiltshire.gov.uk/council\\_s-responses-inspectors-qs-during-public\\_exam290708.pdf](http://www.westwiltshire.gov.uk/council_s-responses-inspectors-qs-during-public_exam290708.pdf). The Schedule of Amendments contains a list of suggested changes (SC) to the submission draft of the Leisure and Recreation DPD. These changes are the Council's response to the Inspector's recommendations during and immediately following the Hearing session.

Many of these suggested changes were minor wording changes for clarification. However, the Inspector initially considered that four of the suggested changes should be subject to a further period of consultation because they either raised new issues or resulted in questions as to the soundness of the submitted document. The four changes in question were **12, 24, 34** and **35**. However, the Inspector has since advised the Council that Suggested Change **12** is no longer required (*please see below for further details*).

The Inspector has also suggested that it would be desirable, if not essential, to give an opportunity for public comment on all of the suggested changes.

## **\*Update on Suggested Change 12**

Suggested Change 12 refers to the wording of Policy LP3.

In the Submission Draft of the Leisure and Recreation DPD, Policy LP3 applies only to sites of low value. During the Hearing session, the Inspector recommended that Policy LP3 should be changed to apply to sites of low quality and/ or value. The Council accepted this recommendation and it then became Suggested Change 12 in the Schedule of Amendments.

However, the Inspector now considers that it is sound for Policy LP3 to apply **only** to sites of low value.

*(See below for Inspector's comment on Policy LP3, SC12 dated 28/08/08)*

Suggested Change	Comments from the Inspector
	<p>The following comments and/ or requests from the Inspector were received by the Council following the production of its Schedule of Amendments. Some of these comments relate to specific suggested changes (SCs) contained within that document, whereas others recommend minor changes to the submission draft of the Leisure and Recreation DPD.</p> <p>The following correspondence is listed in the order received by the Council. The dates refer to the actual day they were written by the Inspector. This list will be updated if there are any subsequent comments and/ or requests from the Inspector.</p> <p>The documents referred to in <i>italics</i> are all available on the Leisure and Recreation DPD Further Consultation web page, available at <a href="http://www.westwiltshire.gov.uk/index/planning/planning-policy/local-develop-framework/dpd-public-examination/dpd-further-consultation.htm">http://www.westwiltshire.gov.uk/index/planning/planning-policy/local-develop-framework/dpd-public-examination/dpd-further-consultation.htm</a>, under the sub-heading 'Other Documents'.</p>
<p><b>SC 12</b></p> <p><b>SC 24</b></p> <p><b>SC 34</b></p> <p><b>SC 35</b></p> <p><b>(12/08/08)</b></p>	<p>The Inspector acknowledges receipt of the Council's supplementary responses to the questions he posed during the hearing sessions between 15 &amp; 18 July 2008. Appendix 1 takes the form of a comprehensive list of suggested changes (SCs), many of which are in the form of minor wording changes for clarification which do not raise new issues or result in questions as to the soundness of the submitted document.</p> <p>However, this is not the case with all of the suggested changes. The Council will be aware that the Inspector is not able to recommend changes to make the DPD sound unless those changes themselves meet the tests of soundness. This means that he must be satisfied that there has been adequate public consultation and that further sustainability work has been carried out on any substantive new policy or text.</p> <p>The changes which fall into this second category are as follows (Inspector's comments in italics):-</p> <p><b>SC12.</b> Policy LP3, linked to SC40, new Appendix 3. <i>The submitted DPD policy LP3 refers only to low quality open spaces not to low quality and/or value. The additional wording brings many additional sites into the scope of the policy, i.e. those listed in Appendix 3 as high quality but low value. This is compounded by the omission of values for Pitches and Courts in the submitted version of Appendix 2.</i></p> <p><b>SC24.</b> <i>This may be the correction of an error but as it is locationally specific it may give rise to new issues.</i></p>

	<p><b>SC34.</b> <i>It may well be that the Play Strategy was part of the evidence base but the importation of the key objectives of the strategy into the DPD results in a substantially new policy.</i></p> <p><b>SC35.</b> <i>The new wording of policy WR1 with regard to the future of Westbury Sailing Lake represents a significant change which amounts to a reversal of the safeguarding of the facility stated in the submitted DPD.</i></p> <p>Where an alternative site has been advertised under Regulation 32 and been subject to sustainability appraisal it is open to the Inspector to recommend the suggested change, for example SC29 &amp; 32.</p> <p>The Inspector notes that this list does not incorporate all of the minor changes put forward by the Council in April 2008.</p> <p>The Inspector requires that suggested changes 12, 24, 34 and 35 be subject to a further public consultation period of 6 weeks and he suggests that it would be desirable, if not essential, to give an opportunity for public comment on all of the suggested changes. In addition, he asks that the Council undertake further sustainability work in the same period to ensure that should the changes be incorporated in the DPD that it satisfies the criteria for Sustainability Appraisal. The revised policy WR1 may pose a particular issue in this regard.</p> <p><i>Please read in conjunction with the document entitled 'Inspector's Request for Further Consultation'.</i></p>
<p><b>SC 40</b> <b>(12/08/08)</b></p>	<p>The Inspector has suggested that, as none of the sites listed in Appendix 2 or the new Appendix 3 have been shown on the submissions proposals map, it would be highly desirable if the sites could be represented on a map base for ease of public understanding during this further consultation. He would not, however, wish this specific request to delay the process of consultation.</p>
<p><b>SC 14</b> <b>(12/08/08)</b></p>	<p>During the hearings I drew attention to references in the submitted DPD to an intention to prepare Supplementary Planning Documents (SPDs) which are not listed in the current Local Development Scheme (LDS). I indicated that such references are inappropriate, particularly in view of the statement on page 49 of the DPD that the SPD would be developed by the end of 2008.</p> <p>The Council's response to this (suggested change 14) is to delete references to SPD and to any date and simply to state that guidance will be prepared in the future.</p>

	<p>I am concerned that this might be interpreted as a reference to non-statutory guidance. I cannot sanction such a reference because it would not comply with Regulation 6(1) of the 2004 Regulations. In particular, I draw the Council's attention to the fact that Regulation 6(1)(a)(iii) states "any document containing statements of any environmental, social or economic objectives which are relevant to the attainment of the development and use of land" must be specified as an LDD in a development plan scheme. IN other words, unless 6(1)(b) applies it must be a SPD.</p> <p>However, I am aware that the local development scheme will be reviewed by the new unitary Wiltshire Council. It would, therefore, be acceptable for the textual references to indicate that it is the intention to include an SPD in a future review of the LDS.</p> <p>If the Council would be agreeable to such a change this should be substituted for SC14 in the further public consultation I have requested.</p> <p>Please would the Council also clarify whether the reference on page 41 under Policy YP1 to an SPD to provide detailed standards for future play opportunities is a reference to the same SPD mentioned on pages 28, 38 and 49.</p> <p><i>(Please read in conjunction with the document entitled 'Further Inspector's Comment on Suggested Change No. 14')</i></p>
<p><b>SC 3</b> <b>(12/08/08)</b></p>	<p>During the hearings I drew attention to the fact that Regulation 6(1)(b) indicates that the "submission proposals map" is "an LDD which accompanies a DPD" and so should have been produced separately and not bound in to the DPD itself. Also, as it should show how the adopted proposals map is to be amended as a result of the submission of the DPD (Regulation 14(4) applies) is should have shown deletions as well as additions as the result of new policy.</p> <p>I accept that these omissions can be corrected at the time of adoption as indicated in suggested change 3. However, I consider it would be helpful if, as far as possible in view of the time constraints, additional map-based information could accompany the further consultation on the Council's suggested changes.</p> <p>As a minimum an amended "submission proposals map" should be prepared to illustrate the changes to the areas listed under Policy OS2, that is the replacement of the Lafarge site by Leigh Park and the amendments to the boundaries of the Woolmore Farm allocation agreed at the hearing to reflect the planning permission now granted.</p> <p>In addition, should I accept the suggested change to policy WR1 after further consultation and sustainability appraisal, I suggest that the site of Westbury Sailing Lake would also need to be shown on the proposals map.</p>

	<i>(Please read in conjunction with the document entitled 'Further Inspector's Comment on Submission Proposals Map')</i>
<b>SC 41</b> <b>(18/08/08)</b>	<p>I have just noticed that an error in the table of existing development plan policies to be superseded by the WW L&amp;R DPD has been carried through in the suggested replacement Appendix 6 on page 28 of the Council's suggested changes</p> <p>Early on I pointed out that policies R1, CA2 and CA3 had NOT been saved by the Secretary of State. Yet these 3 policies are still listed in the right hand column. R1 against LP1 and CA2&amp;3 against CR3. This requires correction before publication.</p> <p><i>(Please read in conjunction with the document entitled 'Further Inspector's Requests for WWDC')</i></p>
<b>SC 5 to 8 inc.</b> <b>(18/08/08)</b>	<p>In SCs 5-8 inc. the Council suggest additions to the text on page 9 of the DPD. However, these documents are already referenced in Appendix 4 of the DPD, pp. 84/5, with different wording. This appears to be an unnecessary duplication. Please would the Council clarify their intentions.</p> <p><i>(Please read in conjunction with the document entitled 'Further Inspector's Requests for WWDC')</i></p>
<b>DPD</b> <b>Table 1 on page 50</b> <b>(18/08/08)</b>	<p>There is no reference in the SCs to Table 1 on page 50 of the DPD. This appears to require updating. I will need to append any updated version to my report.</p> <p><i>(Please read in conjunction with the document entitled 'Further Inspector's Requests for WWDC')</i></p>

<p><b>SC 34</b> <b>(18/08/08)</b></p>	<p>I am concerned about the nature and format of the suggested replacement policy YP1. In particular the statement, also in the submitted DPD, that "further targets and indicators will be derived from this strategy". It might be expected that as the strategy has been published any additional, and appropriate, targets and indicators should be included in the DPD.</p> <p><i>(Please read in conjunction with the document entitled 'Further Inspector's Requests for WWDC')</i></p>
<p><b>DPD</b> <b>Table 2</b> <b>Pages 51-55</b> <b>(18/08/08)</b></p>	<p>Would the Council now be in a position to update Table 2 on pages 51 to 55? In particular there is a target for several of the policies which refer to halting the rising trend in obesity and then it says for source and frequency "to be determined". There are also some entries "to be developed" for policies WR3 and WR4. If it is not possible to do this, so be it. But it seems to me that as a variety of changes are being put forward this provides an opportunity to ensure that the document is as up-to-date as possible.</p>
<p><b>Response No.1 in Schedule of Amendments</b> <b>(19/08/08)</b></p>	<p>In view of the Council's response No.1 that they do not wish to add any targets from the Play Strategy to the DPD at this stage, is it appropriate to include the sentence "Further targets and indicators will be derived from this strategy" under Policy YP1?</p>
<p><b>Suggested Schedule(s) of changes</b> <b>(19/08/08)</b></p>	<p>The Inspector suggests preparing two schedules. The first should be advertised and include everything which requires further consultation (the changes giving rise to soundness issues). The second should be a comprehensive schedule of all minor changes and, therefore, would not require further consultation.</p>

<p><b>Policies LP1, LP2 and LP3</b>  (20/08/08)</p>	<p>Policies LP1 and LP2 suggest the Open Space and Pitch Strategy would be produced by the Council by 2008 but in LP3 it suggests this will be done in 2010 and I don't think this has been picked up in suggested changes thus far.</p>
<p><b>DPD Second table Page 13</b>  (19/08/08)</p>	<p>I recall it being agreed that the second table on page 13 needs correction to properly reflect the figures for shortfalls on page 12. A bowling green in Melksham was a case in point.</p>
<p><b>Policy LP1</b>  (20/08/08)</p>	<p>The Council have not suggested any change to the wording of Policy LP1 although in SC40, at the start of Appendix 2, there is additional wording which makes it clear that the policy applies to spaces of high value AND/OR high quality.</p> <p>It was agreed at the hearing that the policy might read AND/OR, as is stated in the text.</p> <p>For the sake of completeness the Council might feel that the policy should say "and/or". If so, I can accept it as a minor change for clarification. (i.e. it would be included in a schedule of minor changes, not subject to formal individual recommendation)</p>
<p><b>SC 15 to 23 inc.</b>  <b>DPD Page 28</b></p>	<p>Suggested change No. 26 is to substitute "planning obligation" for "agreement" in Policy LP4. To be consistent, should this not apply to all SCs 15 through 23?</p> <p>Also, should the wording in the first paragraph of page 28 (of the submission draft of the Leisure and Recreation DPD) be amended?</p>

<b>(20/08/08)</b>	
<b>Indoor Facilities Strategy</b>  <b>SC 33</b>  <b>Appendix 4</b>  <b>(22/08/08)</b>	<p>The Inspector was led to believe the above strategy was on hold until the unitary handover but SC33 suggests WWDC will implement in 2011 – Is this one of the highlighted strategies in the Cultural Services Project Plan (appendix 4)? If so, which one – he cannot seem to tally these up and is unsure of the anticipated delivery time, if you are able to clarify I'd be grateful.</p>
<b>DPD Introduction</b>  <b>(22/08/08)</b>	<p>Do the Council want to update the last paragraph in the "Purpose and Status" section and will they please include, as a minor correction, their intention to delete the "Background" section.</p>
<b>Appendices 2 and 3</b>  <b>Policies LP1 and LP3</b>  <b>(21/08/08)</b>	<p>The Inspector acknowledges receipt of third party written responses to the Council's supplementary paper following the hearings held on 15-18 July.</p> <p>Several of the respondents comment on the overlap between the sites listed in Appendices 2 and 3 and thus subject to both policies LP1 and LP3.</p> <p>It was clarified during the hearing that submission Policy LP1 applies to all spaces listed in Appendix 2 as of <i>either</i> high value <i>or</i> high quality <i>or</i> both. This is also made clear in the introduction to the revised Appendix 2 (SC40) and all sites listed there under have "high" in at least one column.</p> <p>Submission Policy LP3 applies only to sites of low <i>value</i>. Indeed, the heading for the policy states this. Consequently,</p>

	<p>only those sites listed in the original Appendix 2 as of low value will have been assumed by consultees to come within the scope of the policy. However, at the hearing the Council agreed that Policy LP3 should also apply to sites of low <i>quality</i> and this is put forward as SC12. This would significantly increase the number of sites brought within the terms of the policy (in itself a substantive change) and is highlighted by a comparison between the two replacement Appendices 2 and 3 in SC40. I note that the heading for Policy LP3 has not been changed in SC12 and the preface to the new Appendix 3 refers only to low value sites.</p> <p>It appears to be inconsistent to indicate, for any site, that it will be protected under LP1 but at the same time be subject to review under LP3. It appears to me that the table on page 84 of the Kit Campbell report is of relevance to this issue.</p> <p>I request that the Council “re-visit” this aspect in the light of these comments and advise within the timescale already set for further consultation.</p> <p><i>(Please read in conjunction with the document entitled ‘The Inspector’s Further Questions on Policies LP1 and LP3’)</i></p>
<p><b>Summary of Current Position from the Inspector</b> <b>(26/08/08)</b></p>	<p>It might be helpful if I summarise the position as I see it.</p> <p>On receipt of the Council's response statement to the various points raised during the hearing sessions I asked that this be copied to the other participants and placed on the website. I identified 4 changes of a substantive nature which I indicated should be subject to further public consultation (6 weeks) but suggested that the other changes might also be published, for completeness.</p> <p>Since then two things have occurred:</p> <ol style="list-style-type: none"> <li>1. I have been working through the suggested changes and noticed that they are not complete. They do not include those put forward by the Council in April 2008 and they will introduce inconsistencies within the text. I have suggested that the Council should go through the whole document systematically and suggest other minor changes to ensure there are no such inconsistencies. I then want a complete schedule of all minor changes. This is because, other than the correction of typos under the "slip rule", the Council can only make changes to the submitted DPD if I recommend them.</li> </ol>

	<p>2. I have also received comments from the participating representors. They make an important point about the overlap between open spaces listed under the suggested new appendices 2 and 3 which means that a quite large number of spaces would come under both and be subject to both policies LP1 and LP3. That is not logical and cannot be what was intended. I have suggested that a reference back to the Kit Campbell report would be of assistance. I have asked the Council to "revisit" these policies. Perhaps I should stress that, as there is to be a further round of consultation, it is open to the Council to suggest a re-wording or additions to either or both policies and the appendices in order to overcome this difficulty.</p> <p>I have also said that, if it assists in minimising delay, it will not be necessary to publicise the schedule of minor changes, other than on the web site.</p>
<p><b>SC 41 (replacement Appendix 5)  (27/08/08)</b></p>	<p>There is an error on the table to replace Appendix 5 of the DPD showing superseded policies.</p> <p>In the bottom part of the table dealing with superseded policies from the County Structure Plan, policies CA1 and CA4 are listed as superseding SP policies RTL3 and RTL4 respectively.</p> <p>There are no policies CA1 and CA4 in the DPD; those are the adopted local plan policies. I think these should read WR3 and WR4.</p>
<p><b>SC 41 (replacement Appendix 5)  (27/08/08)</b></p>	<p>Also, at the bottom of the same table it lists certain local plan policies which are to be "deleted without being replaced". Sorry, Council, but there is no power in Regulation 13(5) to do that. The policies have to remain saved unless they are superseded.</p>
<p><b>Policy LP3  SC 12  (28/08/08)</b></p>	<p>All good stuff and more or less as I expected. However, the issue I have raised about Policy LP3 and the inclusion of low quality as well as value sites impinges directly on SC12.</p> <p>Jim Sherry knows what the response has been from the matter 1 participants to that suggestion and I see no reason why he should not be made aware, by you, that I no longer consider it sound to apply Policy LP3 to other than low value sites (i.e. not high value but low quality).</p> <p>Thus the new Appendix 3 should only list low value sites. I am of a mind to add a paragraph to LP3 based upon the</p>

	<p>wording relating to sites of low value but high quality in the table on page 84 of the Kit Campell report. If necessary I will put this to them formally.</p> <p>I suppose at this late stage the consultation will have to go out as planned and I will sort this out when I get the responses back.</p> <p>It isn't particularly helpful to me to have a revised text of the DPD with all of the suggested changes on it. I really need a complete list individually numbered, SC1 etc. This is because I am including two appendices to my report. The first is all of the Council's suggested changes which I consider relate to soundness and so are formally recommended by me. The second is all of the other "minor" changes which I simply endorse to enable the Council to include them in the adopted DPD. So I would prefer a format more like the one they have already given me.</p>
<p><b>Policy LP3</b></p> <p><b>SC 12</b></p> <p><b>(29/08/08)</b></p>	<p>After seeking advice, I have decided that it would be appropriate to put my suggested revised wording for Policy LP3 to the Council for comment.</p> <p>Here it is:-</p> <p>I refer to the note I sent to the Council dated 21 August (copy attached) in which I ask for their further views on the interpretation and application of Policy LP3. I have raised this further question as the result of responses received from the representors who took part in the hearing on matter one.</p> <p>It seems to me that the point at issue is whether it is correct to apply Policy LP3 to spaces other than those categorised as of low value. In particular, whether it is considered appropriate to apply policy LP3 to sites of high value but low quality. If it is not, Policy LP3 would continue to apply to spaces which are ranked as of low value but high quality.</p> <p>I would appreciate the Council's view as to whether it would be appropriate to add wording within Policy LP3 to clarify the position of spaces in the high value/low quality category. I am open to suggestions on precise wording but one possibility would be to add a new third paragraph to state <b>“Sites of low value but high quality are protected under Policy LP1 but will also be reviewed under this policy to find ways of improving their value. Only if that is not possible will priorities (ii) or (iii) apply.”</b></p> <p><i>Please read in conjunction with the document entitled ‘Inspector’s Suggested Rewording of Policy LP3’</i></p>

<p><b>Further Consultation Paper</b></p> <p><b>(01/09/09)</b></p>	<p>The Inspector requests a hard copy of the Further Consultation Paper.</p>
<p><b>Schedule of Suggested Changes</b></p> <p><b>(03/09/08)</b></p>	<p>I am pleased to see from the web site that the Council initiated a further consultation on suggested changes 24, 34 and 35 on 1st September.</p> <p>However, I am concerned that the Council have published the original schedule of suggested changes as well. I accept that I initially suggested that these might be given publicity in parallel but that was before I realised that there were errors and omissions. Consequently, I had assumed that the Council would re-draft the schedule of minor changes and not give it publicity at this stage.</p> <p>There are two particular issues which arise:</p> <ol style="list-style-type: none"> <li>1. I had indicated that the inclusion of values for pitches and courts in revised Appendices 2 and 3 is new information and thus a substantive change requiring formal consultation. I suggest that the Council should supplement the consultation by drawing attention to this within the schedule and asking for representations on it. Ideally this would be on a separate form.</li> <li>2. The inclusion of SC12 in the schedule might well cause confusion with the consultation on revised Policy LP3 incorporating SC24. I had understood that SC12 was to be withdrawn.</li> </ol>