

Table of Comments received during HMO consultation August – November 2012**Appendix 5**

Respondent	Chapter/Paragraph	Comment	Sefton MBC Response
The Environment Agency	2.37 – 2.38	The SPD would appear to be pursuant with the NPPF with regards to flood risk/constraints and therefore agree with the contents.	Noted
Merseyside Fire and Rescue	All	No objections	Noted
Mr John Attwater	All	Proposals well thought out.	Noted
Mr John Attwater	All	Room sizes are <u>minimum</u> to allow reasonable space for occupants.	Noted – will change report to emphasise that these are minimums and not the expected standards.
Mr John Attwater	2.21 – 2.27	Trees and Greenspace contribution is excessive. The legal costs should be set out too.	The trees and greenspaces policy is existing policy in the Sefton Unitary Development Plan (UDP). The Council has not revoked this policy. The Community Infrastructure Levy (CIL) Regulations may phase out this policy in the medium term. The legal costs can vary from case to case so it is not possible to set out in the SPD what they are.
Neil Davies Service Manager, Sefton Council, Housing Strategy and investment.	1.2	Should consider inserting a comment to the effect that “The Council recognises there is a shortage of good quality affordable accommodation in the borough, particularly Southport”.	Agreed. Will amend accordingly on all three points.

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		Should mention how welfare reform could increase demand for single room flats. Should mention how HMOs can meet the needs of some people in housing needs.	
Neil Davies Service Manager, Sefton Council, Housing Strategy and investment.	After 1.7	After 1.7 you may want to consider saying that the Council will encourage provision of appropriate HMOs that comply with this SPD, and in particular would "prefer" the provision of new HMOs that provide self contained units, rather than those with shared kitchen or bathing facilities. The Council would encourage the provision of good quality HMOs, that meet the needs and aspirations of households.	Agreed. Will amend accordingly.
Neil Davies Service Manager, Sefton Council, Housing Strategy and investment.	2.1	Would state that these are minimum standards and we would encourage provision of accommodation that exceed these standards - particularly through provision of self contained units.	Agreed. Will amend.
Neil Davies Service Manager, Sefton Council, Housing Strategy and investment.	2.21 – 2.27	I noticed that the SPD includes an expectation of on-site provision of trees and green space, 'or' S106 contribution for these items [the latter being more likely with HMOs]. From a Strategic Housing point of view, we are more concerned with the provision of good quality, affordable accommodation. We are also seeking to introduce a Landlord Accreditation scheme, and get landlords to	The Trees and Greenspaces contributions are in the UDP as policy. Whilst in principle, the Council accept that in some instances meeting an identified affordable housing need may outweigh the need for Trees and Greenspace contributions, this will have to be considered on a case by case basis with individual applications.

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		<p>join, with membership conditions based upon physical property standards and good management, we will also look to enter into arrangements with accredited landlords to let their properties to clients from the councils waiting list, so in addition to the above standards we may also seek assurances that rents are kept affordable, or within LHA rates for benefits where we enter into any letting arrangements.</p> <p>Hence I wondered whether the SPD could include a 'trade-off' position?</p> <p>So, 'if or when' we introduce a LAcc scheme could Sefton, in lieu of trees and green space, if the landlord agreed to join a future L-accreditation scheme and also agree to let their properties [for a minimum period, say of 5 years?] at rents within LHA rates and to clients from the Councils waiting list [formal arrangements to be put in place], we would waive the other requirements?</p>	
NHS Sefton	All	<p>Sefton's Department of Public Health supports the identification of health impacts of local policies in order to facilitate improvements in health and wellbeing within the borough.</p> <p>Good quality housing is important for health</p>	Noted

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		<p>and wellbeing. There are a broad range of housing issues that impact on health such as ventilation and insulation, overcrowding, indoor air quality, property maintenance and external environments.</p> <p>Overall, the SPD has taken into consideration much of the physical impacts of HMOs and flats, both to potential residents and those living in neighbouring properties. Additionally wider issues such as the need for trees, green space and outdoor amenities are accounted for. There is consideration of environmental issues such as noise and transport.</p>	
NHS Sefton	All	Shopping facilities and energy usage are however not considered. Also the requirement for, and the potential impact on public services such as health care, child care, policing, schools has been omitted.	These issues will need to be considered within the Local Plan process, especially where there are areas where there is a concentration of changes of use to HMOs and flats.
NHS Sefton	All	<p>NHS Sefton also noted a number of areas that have been addressed by the SPD. These include:</p> <ul style="list-style-type: none"> • Biological factors • Personal/family circumstances and lifestyle • Social Environment • Physical Environment • Public Services 	Noted.
NHS Sefton	All	There are a few areas that NHS Sefton have	

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		said that the SPD hasn't covered. These include the following:	
		The overall age distribution in the population may be affected by changes in the availability of multiple occupancy housing	Noted. This is a strategic issue that would need to be considered in the Local Plan rather than an SPD.
		There is no specific consideration within the SPD of factors which may prevent or encourage risk-taking behaviour such as smoking, use of alcohol or substance misuse	There is no consideration in the SPD on alcohol, smoking or substance mis-use as these issues do not fall within the remit of the SPD.
		There is no discussion of increased energy usage associated with HMO, or of ensuring access to a range of quality shopping facilities.	Energy usage and access to a range of quality shopping facilities are not discussed within the SPD as it is not considered to be the appropriate tool for addressing these issues.
		There is no consideration within the documentation of ensuring the quality of access to health care, child care, policing, schools, or other public services. The document does not consider the impact on these services of increased HMOs.	This is beyond the remit of the SPD.
Planning and Development Consultants (on behalf of Mr Steve Latham)		Unless Sefton Council have adopted an Article 4 Designation Area removing permitted development rights that allow movement between C3 dwellings and C4 HMO (up to 6 residents) this guidance can only apply to Sui Generis HMO i.e. those with 7 or more tenants as change of use to C4 from C3 does not require planning permission.	Changes of Use from any Use Class other than C3 will require planning permission for a C4 HMO. Note will be added that these standards only apply where planning permission is required.
Planning and Development		ALL references to HMO and any standards or restrictions relating to them must specifically	Not the case. Changes of Use from any Use Class other than C3 will require planning

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Consultants (on behalf of Mr Steve Latham)		state that they apply to Sui Generis HMO only. Clearly none of these restrictions / standards relating to car parking, bins, noise insulation, type of property (terraced), building regs, impact on neighbours, size of windows / roof lights etc are relevant to a change between C3 and C4 and any suggestion that they do are misleading at best and ultravires as the planning department has no right to require such standards to be adhered to. C4 and C3 dwellings may provide en-suite accommodation within bedrooms and / or tea making facilities - kettles /toaster / microwave. Indeed many tenants / young people in families have some element of independence and many tenants introduce these into their rooms. This is especially the case where tenants / family members are older. This does not remove the use from C3 / C4.	permission for a C4 HMO. Note will be added The SPD will be referred to when it is considered works require the benefit of planning consent it is not the mechanism for determining whether works require planning consent.
Planning and Development Consultants (on behalf of Mr Steve Latham)		The guidance must make it clear that a sui generis HMO that has been established for 10 years is immune from enforcement action and effectively has consent. ALL reference to standards and restrictions outside of those required under the licensing of the property and relating to planning are not applicable. The planning department cannot apply policies retrospectively to established HMOs.	Noted

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		Indeed any self contained flats created over 4 years ago do not need express consent.	
Planning and Development Consultants (on behalf of Mr Steve Latham)		The SPD should explicitly relate to Sui Generis HMO and C3 Self Contained Flats which have not already become established. The council may request owners of property considering a mixture of shared/bedsit accommodation within C4 and self contained C3 units to discuss this development as the C3 element requires express consent.	Noted.
Planning and Development Consultants (on behalf of Mr Steve Latham)		As of 10 April 2010 all HMOs of 6 tenants became C4 dwellings. Any C3 dwelling altered to a C4 HMO since October 2010 did not and does not require express consent. A licence may be required and building regulations approval may be needed under separate legislation.	Noted
Planning and Development Consultants (on behalf of Mr Steve Latham)		As set out, HMO licensing is conducted under separate legislation by a different department and whilst planning permission is not required for C4 HMO, licensing may depend on the number of occupiers and number of floors. This distinction should be made clear.	Noted
Planning and Development Consultants (on behalf of Mr Steve Latham)		It is unhelpful to suggest that different standards for Sui Generis HMO development will be applied by the planning and licensing authorities. The opportunity should be taken to provide 1 set of guidelines in terms of room sizes and facilities.	Noted. The Planning, Building Regs and HMO licensing are different consent regimes based on differing legislation. Where possible and reasonable, this SPD tries to make the regulations consistent with other regimes. In some cases this is not possible or realistic.
Planning and		Permitted Development Rights (GPDO) relate	The SPD makes it clear that all occupiers

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Development Consultants (on behalf of Mr Steve Latham)		equally to C4 and C3 dwellings. Permission is not required for a range of development whether in C3 or C4 use at that time. PD rights do not apply to Sui Generis HMO properties as these are not dwellings. The PD rights allow roof lights in both C3 and C4 to serve living rooms.	should have ready access to a room with a satisfactory outlook. Therefore some rooms may use roof lights if they have a good outlook in at least one habitable room accessible to them.
Planning and Development Consultants (on behalf of Mr Steve Latham)		<p>Definitions should be set out. These terms are used throughout the document with varying meanings. A unit of accommodation is either a C4 HMO not requiring planning permission; Sui Generis HMO requiring planning permission unless established for 10 years; C3 dwelling; Bed Sit / Bedsitting rooms within C4 and Sui Generis HMOs; self contained flat.</p> <p><u>HMO</u> – A HMO may contain a mixture of rooms sharing all facilities and bedsitting rooms and bedsits. In terms of the housing act a property comprising a mixture of self contained flats and shared accommodation may be a licensable HMO.</p> <p><u>Bedsitting rooms</u> - These are included within the Housing Act definition of a HMO and apply to both C4 and sui generis uses as regards the planning act. Bedsitting rooms may contain ensuite accommodation or kitchen facilities. The test is self contained</p>	<p>Noted. The definitions will be explained more clearly in the first section.</p> <p>However the SPD cannot be overly prescriptive with definitions which may be amended or changed through amendments to legislations, case law etc.</p>

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		<p>providing ALL facilities. Tenants in HMOs may provide kettles, toasters, fridges, microwaves to supplement those facilities provided by the landlord in the shared kitchen. This does not make the room a self contained flat. Planning permission is not required to put ensuite accommodation into any HMOs to upgrade facilities and does not change its use.</p> <p><u>Bed Sit</u> - A bedsit is not a self contained flat - it has a higher standard of facilities not least with the trend for increasingly older tenants in HMOs, however the tenants still rely on all or some of the following communal kitchens, laundry, bathrooms, living rooms to provide all facilities. The main cooking facilities are provided in the main kitchen. A bedsit falls within the definition of C4 HMO and Sui Generis HMO and is not a self contained flat.</p> <p><u>Self Contained Flat</u> - A clear definition MUST be set out. A self contained flat / C3 dwelling provides in addition to living accommodation to the adopted standard, bathing facilities and kitchen facilities. Kitchen facilities must be defined - full cooking facilities - including a cooker, work surfaces, and sink as set out in licensing standards. A selection of any or all of the following: kettle, microwave, toaster,</p>	

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		<p>fridge does not constitute full cooking facilities. This is especially the case where a full communal Kitchen is provided. Other enforcement teams across the county have agreed that some facilities provided in addition to the main kitchen within individual rooms either by the tenant or the landlord does not move shared rooms / bedsitting rooms / bedsits into the category of a Self Contained Flat / C3 dwelling.</p> <p>A C3 self contained flat DOES NOT include bedsits. There is confusion throughout the document where the 2 separate uses appear to be used as interchangeable or meaning the same thing.</p>	
<p>Planning and Development Consultants (on behalf of Mr Steve Latham)</p>		<p><u>Policies and standards specific to sui generis HMO</u></p> <p>It appears that the council are requiring dramatically different standards of accommodation for shared houses over 7 people than is required under PD right for up to 6 residents. And indeed the legislation regarding C4 states that 7 or so tenants may not be a material change of use taking it</p>	<p><i>These standards are generally existing standards already set out in policies.</i> If an application requires permission then they will need to consider these standards.</p> <p>National government introduced C4 into the use classes order in the spirit of capturing the spirit of a shared house. Case law may determine in some cases that there is no material change between 6 or 7 tenants. Such a determination would be made on a case by</p>

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		<p>outside the C4 use class. The requirements for parking, noise insulation, bins, windows and use of roof lights etc over and above that for C3 / C4 dwellings would need to be demonstrated. The SPD fails to justify these increased standards when seeking to accommodate additional people in a HMO. Indeed PD rights for C4 and C3 allow accommodation in the roof with roof lights. The council may well find themselves in a situation where they are trying to justify that existing bedrooms with roof lights and 6 tenants in houses and smaller HMOs are somehow unacceptable once the number of tenants increases. There is no reference to windows in the licensing requirements which set standards of acceptable living accommodation. Building regulations does not prevent bedrooms and flats having roof lights.</p>	<p>case basis. Where it was determined that a development did require the benefit of planning consent then the LPA would be able to apply the standards as set out in the SPD. This would be entirely in accordance with the thrust to the use classes order which is set out to require LPA to assess planning applications for Sui Generis HMOs where necessary and apply any relevant policy standards</p>
<p>Planning and Development Consultants (on behalf of Mr Steve Latham)</p>	<p>Section 3.</p>	<p><u>Neighbour Amenity</u></p> <p>Sui Generis HMOs by definition relate to large properties that can accommodate 7+ tenants. These houses are also occupied typically by large families, have previously been altered into self contained flats, are used within C2 or are established HMOs. There are no grounds for assuming that an additional person or 2 above a C4 use</p>	<p>Disagree. It is a long established principle that HMOs can result in increased comings and goings and disturbance for neighbours. National government set the use classes order to distinguish between 6 or more tenants and therefore reflecting the case for potential greater noise and disturbance from such development, by virtue of the use classes order an LPA are then required to seek an application to consider the impact of any such</p>

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		suddenly generates more coming and going and 'at all times of night' is without grounds or evidence. Should there be areas of the District that have clusters of higher occupancy an article 4 designation ought to be considered. However most rational people and landlords understand that non student tenants live quietly and keep normal hours and there is little difference between 6 tenants and 7 or 8 or so. To suggest that tenants create more noise has not been borne out by appeal decisions where it is concluded that large families with younger and older members may indeed cause noise and nuisance irrespective of the neighbours.	development.
Planning and Development Consultants (on behalf of Mr Steve Latham)	3.6 – 3.11	There are no grounds to justify C4 use of terraced houses under the GPDO and prohibiting the use of very large terraced houses for sui generis HMO use.	UDP policy MD3 (b) provides the basis for this part of the SPD. The SPD indeed is more flexible, reflecting the circumstances described since the creation of the C4 use class.
Planning and Development Consultants (on behalf of Mr Steve Latham)		The implications of the changes to the national benefit system must be understood to provide a context for this legislation and SPD. In future benefit will no longer be paid for under occupation of houses. As such many large terraced houses will by necessity become large shared houses. Benefit tenants will have to find smaller unit accommodation and indeed those single people under 35 will be required to find shared accommodation.	Noted. The SPD will reference the change to housing benefits in section 1. Disagree that the SPD frustrates public and private landlords. In many areas it will make standards more flexible and responsive to circumstances and the proposed minimum size standards are both reasonable and will help provide clarity.

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		The proposed SPD further frustrates both private and public landlords in satisfying the increase in demand, need to alter larger houses and facilitate the Government's aim to bring properties back into full use. Within this context it is without grounds to assume that large terraced houses will have less occupiers either in terms of individuals or families than sui generis HMOs or that they will have less impact on neighbours.	
Planning and Development Consultants (on behalf of Mr Steve Latham)		There are no grounds for requiring Sui Generis HMO properties to provide noise insulation over and above that required between residential properties through the building regulation standards. There are no grounds for requiring this work without first, at the very least, conducting independent noise surveys to test the party wall. There are no grounds to require noise insulation works between rooms and neighbouring properties where there are 7 tenants but not 6 tenants (C4). Noise issues are dealt with under separate legislation under Environmental Health legislation.	If an application is considered to create extra noise and insulation is necessary then it is justified. Residential amenity is an important consideration. The planning application process will consult building control and environmental health on all such applications. The SPD has the benefit of setting out clear expectations which may be required of the developer. The consultation process will clearly identify what standard Building Control and Environmental Health will require. This process will provide certainty and clarity to the developer.
Planning and Development Consultants (on behalf of Mr Steve Latham)		Whilst the council's wish to provide guidance on the interpretation of recent legislation changes is welcomed, this must be soundly based.	Noted

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Mrs Mary-Jo Joyce and Mrs Juliet Edgar	All	Concerned about the draft SPD for the reasons of long experience of inadequate, dangerous and poor quality HMO accommodation that provides poor living conditions and can be dangerous.	The draft SPD seeks to provide a minimum size in order to prevent very poor accommodation being created.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar	1.2 & 2.1	Standards for HMOs have hardly changed over the years. The HMO should have a valuable contribution in improving standards especially as the changes to Housing Benefits may push more under 35s into HMOs.	Pushing up the standards would risk creating an unnecessary burden on development.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar		The SPD should be clear, precise and unambiguous. It isn't, It needs to be re-ordered, simplified and re-written as it is confusing, lacking in information, inaccessible and difficult to understand.	Noted. The SPD will be simplified and re-ordered where possible whilst recognising that this is a complex subject area.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar	1.1/1.2/1.3/2.9/2.19/2.23/2.31/2.34/2.35/3.5/3.9/3.11	Confusion on HMOs that may contain self-contained flats and flatted developments that are not HMOs. SPD should solely relate to HMOs and flats within HMOs.	The SPD gives minimum standards and will bring consistency to the decision making process. The SPD applies to both flats and HMOs.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar	1.4 – 1.7 and Appendix A	Definition and characteristics of HMOs is crucial across 1.4 – 1.7 and Appendix A. Should be together in one location. This should go at the front of the document and be clear and address the definition and main characteristics.	Agreed. The definition will be brought further forward to the top of the first section.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar		Whilst recognising the complexities of different regulations, why can't the Building Regulations/HMO Licensing, be considered as material considerations in determining	Building Regs and Licensing are separate regulations and so will not be used in determining applications. However this document does, where possible and realistic

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		HMO applications?	try and bring some consistency.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar		Why update standards to Merseyside HMO Licensing standards which are unacceptable? Why can't we come up with better twenty-first century standards?	The SPD needs to reflect current circumstances including the Governments growth agenda and also the changes to benefits. The size standards are minimum and not the sizes expected.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar	2.2 & 2.5	The advice that planning assessment is independent from other regs should be incorporated into an enlarged 1.8 "getting advice".	Noted.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar	Tables 1, 2 & 3	Totally confused by what is in those tables. Misleading and hard to understand.	The tables have been simplified to make them clearer to understand.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar	Section 2.	Suggest that Greenspace and trees should relate only to HMOs.	The trees and greenspace contribution provide an explanation on how the existing greenspace and trees policies (DQ3 and DQ4) and the Trees and Greenspace SPD work. The policy has not been altered.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar	3.6 & 3.7	Support 3.6 and against any relaxation shown in 3.7 re: party walls.	The SPD reflects changing circumstances.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar		Comment that HMRI was disastrous and resulted in a high number of demolitions of heritage assets that were justified by the high number of conversions, unstable population and the associations with criminal and anti-social behaviour.	Noted.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar		In the interests of transparency the other HMOs and flats, rules and regs are listed as references. Even better, perhaps a combined booklet should be produced for the Liverpool City Region.	Noted.

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Mrs Mary-Jo Joyce and Mrs Juliet Edgar		Appendix A – Use Classes is difficult to follow. Should clearly show the differences between different use classes.	Will update this section to make it clearer.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar		Acknowledge complexities with dealing with HMOs and believe that the SPD should be single focused and focused only on HMOs.	Noted.
Mrs Mary-Jo Joyce and Mrs Juliet Edgar		The SPD needs to be clear, phrased well and accessible to all. This is not.	Noted. The SPD will be simplified and re-ordered where possible whilst recognising that this is a complex subject area.