

Supplementary Planning Document

# Biodiversity, Trees and Landscape



Part A - Overview

December 2010

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# 1. About this series of SPDs

- 1.1 This series of Supplementary Planning Documents (SPDs) covers various issues relating to wildlife, biodiversity, trees and hedgerows and will consist of five parts; Part A: Overview, Part B: Biodiversity, Part C: Trees and Development, Part D: Protected Trees and Hedgerows, and Part E: Landscape. The contents of these documents are designed to provide guidance, information and advice in order to encourage a positive partnership between biodiversity, trees and development.
- 1.2 This SPD series should therefore be read by anyone seeking to develop land, which either contains or has the opportunity to contain biodiversity sites and/or trees. Those who simply need to prune or remove a protected tree or hedgerow may just wish to read Part D: Protected Trees and Hedgerows. Hertsmere Borough Council has a responsibility to take into account biodiversity, wildlife sites and trees when considering planning applications for development.
- 1.3 When adopted, the series of SPDs will be given weight in the determination of planning applications and subsequent appeals and it is therefore expected that applicants will follow the advice set out. Hertsmere Borough Council will endeavour to update this document as and when new information becomes available.
- 1.4 All parts of the SPD series are broadly interrelated and should be read in conjunction with the other documents, in most cases. For example, if you are planning to undertake development that could cause undue harm to trees (part C), it is quite possible that the trees could provide habitats for bats and therefore, the advice and information set out in the biodiversity SPD (part B) should also be adhered to before the submission of a planning application. Similarly, if landscaping conditions are attached to a planning permission (part E), there could also be scope for the creation of particular biodiversity habitats (part B).

## 2. Overview of the Parts of the SPD

- 2.1 An overview of the different parts of the series of SPDs is outlined below.
- 2.2 *Part A: Overview* (this part) provides an overview of the contents of the parts of the Supplementary Planning Documents. This part also includes an overview of the legislative and policy context of biodiversity, trees and hedgerows.
- 2.3 *Part B: Biodiversity* concentrates on creating a partnership between biodiversity and development through the planning system. The first part concentrates on processes within the planning system that can help create positive partnerships between biodiversity and development, whilst the second part concentrates on key habitats and species that should be taken into account when devising a development proposal.
- 2.4 *Part C: Trees & Development* focuses on the protection of trees (hedgerows and large shrubs) throughout the development process from the site appraisal stage to the aftercare phase. It is considered that the information in this part of the SPD series will lead to a greater level of tree care on development sites, a greater number of retained trees, improved landscape design, and greater efficiency within the planning process.
- 2.5 *Part D: Protected Trees & Hedgerows* provides information on the process of making Tree Preservation Orders, management of protected and hedgerows and information on applying for works for protected trees and hedgerows.
- 2.6 *Part E: Landscape* will be published in 2010. This part will give advice and details of the required standards for planting and landscaping schemes that require planning permission or for the purposes of discharging planning conditions. It will also be helpful to those that have to replace a protected tree they have felled or where Tree Replacement Notices have been issued.
- 2.7 Throughout the SPD series particular reference will be given to additional information resources and guidance documents. It is strongly advised that the information in these references are also considered.

### 3. Legislative and Policy context

- 3.1 This series of SPDs operates within a substantial legislative and policy context, which indicates the importance of these topics. The wider legislative and policy context has helped to guide the aims and objectives as set out within this SPD series.

#### **Legislative context**

- 3.2 *The Natural Environment and Rural Communities (NERC) Act (2006)*. Section 40 states that 'every public authority must, in exercising its functions, have regard, so far as consistent with proper exercise of those functions, to the purpose of conserving biodiversity'.
- 3.3 *Planning and Compulsory Purchase Act (2004) (as amended)* provides the statutory basis for the preparation of Supplementary Planning Documents.
- 3.4 *Countryside and Rights of Way Act (2000)* strengthens the legal protection offered by the Wildlife and Countryside Act (1981). Breaches of protected species legislation can often give rise to a criminal offence for which the penalties relating to protected species have increased, to a maximum fine of £5,000 and/or a custodial sentence of up to six months.
- 3.5 *Town and Country Planning (Trees) Regulations (1999) (as amended) by the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008* describe procedures relating to Tree Preservation Orders.
- 3.6 *Hedgerows Regulations (1997)* protects important hedgerows from removal. Various criteria specified in the regulations are used to identify important hedgerows for wildlife, landscape or historical reasons. Under these regulations it is against the law to remove or destroy certain hedgerows without permission from the Local Planning Authority.
- 3.7 *Habitats Regulations (1994) (as amended)* refers to species that are of E.C (European Community) interest such as bats or great crested newts whereby stricter protection is considered necessary. It is therefore an offence to harass or disturb the European Protected Species or damage, destroy or block access to a breeding site.
- 3.8 *Town and Country Planning Act (1990) (as amended)* provides Hertsmere Borough Council with a duty under section 197 of the Town and Country Planning Act 1990 to ensure, where appropriate, that adequate provision is made for the preservation and planting of trees by imposing planning conditions and making tree preservation orders (section 198).
- 3.9 *Wildlife and Countryside Act (1981) (as amended)* provides legal protection to various birds, animals and plants to prohibit killing, injuring or taking any of the various wildlife species mentioned in the legislation or damaging or disturbing any structure occupied by a protected species.
- 3.10 *The Anti-Social Behaviour Act (2005)*. Part 8 gives powers to local authorities to deal with complaints about evergreen high hedges causing loss of light to properties, thereby reducing enjoyment of the land. This Act also includes information on preventing hedge problems with good design and planning conditions.
- 3.11 *The Ancient Monuments and Archaeology Areas Act (1979)*. Paragraph 14.4 recognises the potential impact that disturbing or uprooting trees may have on archaeological remains.

Find out more about wildlife and biodiversity legislation at:

Office of Public Sector Information (OPSI) <http://www.legislation.gov.uk/>  
 Department for Environment, Food and Rural Affairs (DEFRA) <http://www.defra.gov.uk>  
 Joint Nature Conservation Committee (JNCC) <http://www.jncc.gov.uk>  
 Natural England <http://www.naturalengland.org.uk>  
 Hertfordshire archaeology: [www.heritagegateway.org.uk](http://www.heritagegateway.org.uk)

## **Policy context**

### **National Planning Policy**

- 3.12 The government provides statutory policy guidance through Planning Policy Guidance Notes, currently being replaced by emerging Planning Policy Statements.
- 3.13 *Planning Policy Statement 1: Delivering Sustainable Development* states that the planning system should facilitate and promote sustainable patterns of urban and rural development by, protecting and enhancing the natural and historic environment, the character of the countryside, and existing communities. Planning and planners should seek to maintain and improve the local environment and help to mitigate the effects of declining environmental quality through positive policies on issues such as design, conservation and the provision of public space. Where adverse impacts are unavoidable, planning authorities and developers should consider mitigation measures. The PPS further states that design which fails to exploit the opportunities available for improving the character and quality of an area should not be accepted.
- 3.14 *Planning and Climate Change – Supplement to Planning Policy Statement 1* recognises the adverse impact that climate change would have on Britain's biodiversity. This PPS also recognises the effectiveness of certain habitats, such as forests and other green areas and non-living reservoirs, acting as 'carbon sinks' thus helping to mitigate a changing climate.
- 3.15 *Planning Policy Statement 9: Biodiversity and Geological Conservation* advises that where significant harm to wildlife and geological features cannot be prevented, mitigated or compensated, development schemes should be refused. It specifically states that local authorities should indicate the location of designated sites of importance for biodiversity and geodiversity within their development plans, making clear distinctions between the hierarchy of international, national, regional and locally designated sites. It also refers to the need for the protection of ancient woodlands and other habitats and species of importance for the conservation of biodiversity within England. Circular 06/2005: Biodiversity and Geological Conservation should be read in conjunction with PPS9 states that the presence of protected species is a material consideration where the proposal is likely to harm protected species and that the presence of such species should be ascertained before permission is granted.
- 3.16 *Planning Policy Statement 12: Local Development Frameworks* requires that local policy be in general conformity to the regional spatial strategy. The document must also be founded on a credible evidence base and have due regard to the authority's Community Strategy and any other relevant plans, policies and strategies. Planning Policy Statement 12 (PPS12) also advises that Supplementary Planning Documents (SPDs) should be reviewed on a regular basis alongside reviews of development plan policies to which it relates.
- 3.17 *Planning Policy Statement 17: Planning for Open Space, Sport, and Recreation* sets out the policies needed to be taken into account by local planning authorities in the preparation of development plans (or their successors); they may also be material to decisions on individual planning applications. Planning Policy Statement 17 (PPS17) also emphasises the need for robust, locally set standards, based on assessment of needs and opportunities.

### **National Forest Policy**

- 3.18 England's Trees Woods and Forests (ETWF) Delivery Plan 2008-2012 highlights the contribution that trees make to social, environmental and economic objectives today and sets out a vision for their future role. The objective is that by 2020 more woods will be brought into sustainable woodland management, supplying raw materials for use in construction and for wood fuel, and we will have a healthier landscape for wildlife and an increase in people visiting woodlands. For the first time the Strategy covers the full spectrum - from extensive forests to street trees and hedgerows.

Copies of national Planning Policy Guidance notes and Statements can be obtained from:  
<http://www.communities.gov.uk>

### **Local Policy**

- 3.19 Local Policies describe Hertsmere's commitment to make a full contribution to national and regional objectives regarding the natural environment (including biodiversity, wildlife, trees and hedgerows).

#### *The Local Plan and the Local Development Framework*

- 3.20 This SPD has been prepared whilst the Council is in the process of replacing the Local Plan with a series of Development Plan Documents (DPDs) that will make up the Local Development Framework. In this interim period, this SPD should be read in conjunction with policies in both the saved Local Plan and the emerging Local Development Framework. The SPD expands on the following environmental policies as set out in the Hertsmere Local Plan (adopted 2003):
- Policy C7 (Watling Chase Community Forest)
  - Policy C8 (Watling Chase Community Forest)
  - Policy C9 (Landscape Conservation Areas)
  - Policy C10 (Landscape Character)
  - Policy E1 (Sites of Special Scientific Interest)
  - Policy E2 (Nature Conservation Sites – Protection)
  - Policy E3 (Species Protection)
  - Policy E4 (Features of Major Importance of Nature Conservation)
  - Policy E5 (Nature Conservation Sites – Management, Enhancement and Access)
  - Policy E6 (Nature Conservation Sites – Opportunities Arising from Development)
  - Policy E7 (Trees and Hedgerows – Protection and Retention)
  - Policy E8 (Trees, Hedgerows and Development)
- 3.21 The Revised Core Strategy Consultation Draft (December 2010) is part of the emerging Local Development Framework. The Revised Core Strategy sets out the strategic planning framework for the next fifteen years and was submitted to the Secretary of State in March 2009. The Revised Core Strategy currently has interim development control status.
- 3.22 The Revised Core Strategy Consultation Draft (December 2010) proposes 15 objectives for Hertsmere's Local Development Framework. Of the 15 objectives, four are identified as being of particular relevance to the Biodiversity and Trees SPD series:
- To protect the Green Belt (Core Strategy Objective 2).
  - To protect and enhance the environment in Hertsmere by addressing local causes and impacts of pollution (CS Objective 7).
  - To promote safe, healthy and inclusive communities, respecting the diverse needs of the whole Borough (CS Objective 9).
  - To protect and enhance local biodiversity within both developed and undeveloped areas (CS Objective 13).
- 3.23 Hertsmere Revised Core Strategy Policy CS 12: protection and enhancement of the natural environment is designed to complement the existing Local Plan policies that are mentioned in the previous paragraph. This strategic policy seeks to conserve and enhance the natural environment of the Borough, including biodiversity, landscape character and sites of ecological and geological value, in order to maintain and improve environmental quality.

Copies of Local Planning Documents are available from: <http://www.hertsmere.gov.uk/planning/>



### **Other publications**

- 3.24 Reference should also be made to the publications below and should be read in conjunction with this series of SPDs, as they too will be material considerations in determination of planning applications.
- 3.25 *Hertsmere's Planning and Design Guide (SPD, adopted November 2006)*. Part D of the guidance series provides guidelines on design considerations and criteria for new developments, including the use of domestic gardens to create diverse habitats. The SPD can be downloaded from <http://hertsmere.gov.uk/planning/>
- 3.26 *The UK Biodiversity Action Plan (BAP)* proposes targets to create wildlife habitats and restore species populations. The East of England Plan advises that local development documents should take account of BAP targets and priorities identified in county network maps. A 50-year vision for the wildlife and natural habitat of Hertfordshire is the Local BAP for Hertfordshire. The Local BAP works on the basis of partnership to identify local priorities and to determine the contribution they can make to the delivery of the national species and Habitat Action Plan targets. The guide can be downloaded from <http://enquire.hertscc.gov.uk/qol/2006/50yearvision.pdf>
- 3.27 *Working with the Grain of Nature* is the Biodiversity Strategy for England. This document sets out the Government's vision for conserving and enhancing biological diversity including woodland and forests. The strategy calls for comprehensive actions to conserve woodland biodiversity of all types, particularly ancient semi-natural woodlands, veteran trees and wood pasture. A copy can be obtained from <http://www.defra.gov.uk/wildlife-countryside/biodiversity/>
- 3.28 *No Trees, No Future. Trees in the urban realm* is a publication from the Trees and Design Action Group (TDAG), a multi-disciplinary group of individual professionals and organisations from both the private and public sectors collaborating in achieving increased awareness of the role of trees in the built environment. The Publication also includes guidelines on large tree species in new development, and assessing the value of Urban Trees. This document can be downloaded from <http://www.forestry.gov.uk/forestry/INFD-7KDEHU>
- 3.29 *The Hedgerows Regulations 1997, A guide to the law and good practice*, published by the Department of the Environment (now the Department for Communities and Local Government), this document offers detailed advice on protected hedgerows as defined within the 1997 Regulations.
- 3.30 *Trees in Towns 2*, a publication from the Department for Communities and Local Government based on a national survey of urban trees in the UK, and tree management practices in local authorities. Includes numerous case studies, and proposes ten targets for best practice. The executive summary can be downloaded from <http://www.communities.gov.uk/publications/planningandbuilding/treesintownsii>
- 3.31 *Tree Preservation Orders: A Guide to the Law and Good Practice*, first published by the Department for the Environment there was an addendum published in 2009 by the Department for Communities (the document is due to be updated in 2010). This document includes comprehensive advice on all aspects of Tree Preservation Orders, and trees growing in conservation area's. Both documents can be downloaded from <http://www.communities.gov.uk/planningandbuilding/planning/treeshighhedges/trees/>
- 3.32 *High Hedges Complaints: Prevention and Cure*, published by the Office of the Deputy Prime Minister (now the Department for Communities and Local Government), provides comprehensive advice on all aspects of handling and preventing complaints about evergreen hedges under the Anti-Social Behaviour Act (2005) relating to loss of light and enjoyment of property.
- 3.33 *Planning and Design for Outdoor Sport and Play* published by Fields in Trust (formerly the National Playing Fields Association), and supersedes all previous editions of the 'Six Acre Standard'. This document also includes a section on planning and design principles for local open space.

- 3.34 *Hertsmere Borough Council Arboricultural Guidance Note: Amenity Trees and Insurance Issues* – The Professional Framework provides detailed guidance on the Councils evidence requirements for assessing TPO applications and insurance claims where trees are alleged to be damaging property, the background and justification.
- 3.35 *Hertfordshire Building Futures*: This is a web-based guide designed to provide practical, user friendly guidance for planning officers, developers and the general public on how to make development in Hertfordshire more sustainable. It is advisable to read the 'Landscape and Biodiversity' module in conjunction with these documents which can be found here: [www.hertslink.org/buildingfutures](http://www.hertslink.org/buildingfutures).