



Trees and Development Supplementary Planning Document (SPD)

**Consultation Statement
March 2023**



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

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1. CONSULTATION STATEMENT

1.1 INTRODUCTION

- 1.1.1 The Council has prepared a RBKC Trees and Development Supplementary Planning Document (SPD) setting out requirements in relation to any proposed development with trees on or near the site and providing guidance on how to consider and successfully incorporate existing trees into a development. The SPD also provides guidance on new tree planting.

1.2 LEGISLATION, POLICY AND GUIDANCE CONTEXT

- 1.2.1. Regulation 12 (a) of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) sets out that before adopting a supplementary planning document, a LPA must:

(a) prepare a statement setting out —

(i) the persons the local planning authority consulted when preparing the supplementary planning document;

(ii) a summary of the main issues raised by those persons; and

(iii) how those issues have been addressed in the supplementary planning document;

1.3 (I) THE PERSONS THE LOCAL PLANNING AUTHORITY CONSULTED WHEN PREPARING THE SUPPLEMENTARY PLANNING DOCUMENT

- 1.3.1 The Council undertook an eight-week consultation on the Trees and Development SPD from 14 November 2022 to 9 January 2023.
- 1.3.2 We also organised and held a focus group pre-consultation meeting on 12 October 2022 with invitations extended to the Borough's principal residents' associations and the representatives of various trees consultancies that work in the Borough.
- 1.3.3 The Local Planning Authority has a Planning Policy consultation database which currently contains a total of approximately 2,900 consultees. The database includes 'general', 'specific', 'prescribed' and 'local' consultation bodies as required by legislation. The 'general consultation' bodies include voluntary bodies such as Kensington Society, Chelsea Society and Tenants and Residents Associations, bodies which represent the interests of different racial, ethnic or national groups such as London Gypsy and Traveller Unit, bodies representing religious groups such as Christ Church Kensington, bodies

representing the interests of disabled persons such as Action Disability Kensington and Chelsea and bodies which represent the interests of persons carrying out business in the Royal Borough such as KC Chamber of Commerce. A direct mail out was sent to all consultees on the Planning Policy database by email notifying them of the consultation and inviting comments. The documents were also available online under 'current consultations' on the planning pages of the Council's website and were open to anyone for comment. In addition to the Council's website, hard copies of the SPD were made available on request and were posted if practicable.

- 1.3.4 The 'specific' and 'prescribed' consultation bodies consulted included the Environment Agency; Natural England, Historic England, Highways England, the Clinical Commissioning Group, Thames Water and the Mayor of London (GLA).
- 1.3.5 The 'local' consultation bodies consulted included individual residents and persons carrying on business in the Royal Borough who signed up to the above database or visited the specific pages of the Council's website.
- 1.3.6 The draft SPD was made available for inspection and on request in line with Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Regulation requires a local planning authority to make documents available for public inspection at the authority's principal office and at such other places as the authority considers appropriate.

1.4 (II) A SUMMARY OF THE MAIN ISSUES RAISED BY THOSE PERSONS

- 1.4.1 With regard to the pre-consultation meeting one issue raised was whether the Council has a list of acceptable and suitable trees that can be referred to by those who wish to plant trees. Whilst this was thought to be a good idea it was considered that this was an issue for the Borough Tree Strategy rather than the SPD which deals more with procedure. There was also some discussion about native species as opposed to those which may be considered suitable for Kensington and Chelsea. The point was made that some native species, such as London Plane, do not provide good canopy cover.
- 1.4.2 A total of eighteen responses were received through the consultation method via letter, email or the on-line response form through the Council's planning consultation portal. However, most did not respond to every question in the response form and instead chose to respond to a select number of questions that were of particular interest to them.
- 1.4.3 Among the respondents were a significant number of industry experts, including, Natural England, Environment Agency and London Parks and Gardens.

Letters of Support

- 1.4.4 Almost all responses received were very supportive of the Draft SPD and its objectives. We received many comments agreeing with the general principles embedded in the Draft SPD. In addition, several industry bodies, including Hertfordshire and North London Environment Agency, Port of London Authority and TfL expressed their support for the Draft SPD and agreed with the requirements and standards it sets.
- 1.4.5 A number of respondents were supportive of provisions in the Draft SPD in principle but also expressed concern that the draft SPD does not go far enough to address wider issues related to trees and canopy cover, arguing that the Council should strengthen the SPDs' wording on trees protection and set a minimum 10% additional canopy cover requirement where possible.
- 1.4.6 Respondents also raised the following issues which are set out below:
- The guidance is too long and technical and needs to be made shorter and more amenable for general public consumption.
 - The SPD should set stronger targets and requirements in relation to trees retention and additional canopy cover.
 - The SDP could go further and consider making provision for Green Infrastructure (GI) and biodiversity and wider landscape enhancements within the development.
 - The SPD fails to emphasise that large, broad-leaved trees must be prioritised, and their numbers increased or provide a list of acceptable and suitable trees that can be referred to.
 - The SPD does not provide enough guidance on hard surfacing within RPAs.
 - The SPD does not provide guidance on private trees when not part of a development, for example in relation to pruning and felling.

Letters of objection

- 1.4.7 Only one objection was received in which the respondent disagreed with the principle of protecting **all** trees in the Borough, as currently set out in the Local Plan 2019 Policy CR6 and emerging Local Plan Policy GB18. The respondent has cited some circumstances where removal of trees can be either essential to ensure safe running of infrastructure or can be justified as it would allow to achieve the highest levels of sustainability on a site as a whole by promoting

sustainable and positive growth (brownfield sites development). However, as the principle of protecting all trees lies within the Local Plan Policy, it is outside of the remit of the Trees SPD to change this approach. Similar comment has been submitted by the respondent during the New Local Plan Review Regulation 19 Consultation in regard to emerging policy GB18. It was noted that the circumstances described above in practice would constitute material considerations when assessing the proposed scheme. However, the Council concluded that the suggestions are not considered appropriate for revised policy wording as they would weaken the draft policy. Therefore, no further action is taken.

1.5 (III) HOW THOSE ISSUES HAVE BEEN ADDRESSED IN THE SUPPLEMENTARY PLANNING DOCUMENT

- 1.5.1. There were a number of supportive comments which did not result in any substantive change to the Draft SPD, and the objection raised in relation to the protection of all trees approach could not be taken any further as outlined above.
- 1.5.2. Comments suggesting changes and amendments to the SPD were largely not taken further as they were considered to be covered by the document in its draft form or the existing Local Plan; would cause the SPD to no longer be in conformity with the Local Plan; or were beyond the scope of what planning can control. However, a new paragraph on Arboricultural Impact Assessment was added in response to the comments received. The table below sets out how each of the main issues raised in the consultation have been considered and addressed.

Issue	Action
<ul style="list-style-type: none"> The SPD does not set more ambitious targets for increasing canopy cover in areas of deficiency which would be in line with the London Urban Forest Plan. 	<ul style="list-style-type: none"> The increase in canopy cover is determined by the size of the land available, which is often limited in RBKC due to the modest size of many garden spaces. The SPD focuses on trees within the planning and development process. Issue of canopy cover is more appropriate to be addressed within RBKC's Tree Strategy, which is due to be revised in 2023-24.
<ul style="list-style-type: none"> The SPD does not set out clearly and rigorously defined and enforced Key Performance Indicators. 	<ul style="list-style-type: none"> Planning permissions contain planning conditions rather than Key Performance Indicators.
<ul style="list-style-type: none"> The SPD objectives seem to make no consideration of meaningful community consultation. 	<ul style="list-style-type: none"> The SPD is specifically designed to guide applicants in terms of RBKC's requirements relating to trees and development. Consultation is key part of all aspects of the planning application process, not just trees. How RBKC publicises planning applications can be found on RBKC's website.

<ul style="list-style-type: none"> The SPD could go further and consider making provision for Green Infrastructure (GI) and biodiversity and wider landscape enhancements within the development. 	<ul style="list-style-type: none"> The Trees and Development SPD is quite specific to trees and the planning process. RBKC's Greening SPD and Biodiversity Action Plan address other issues such as Green Infrastructure and Biodiversity in great detail.
<ul style="list-style-type: none"> The SPD should note that trees on the Transport for London Road Network (TLRN) have been deliberately planted and are owned and managed by TfL. TfL will need to be consulted when any developments affect trees or any other TfL assets. 	<ul style="list-style-type: none"> The footnote has been added in Section 3 of the SPD.
<ul style="list-style-type: none"> The SPD needs to emphasise that large, broad-leaved trees must be prioritised and their numbers increased. 	<ul style="list-style-type: none"> RBKC has for some years used the Forestry Commission's 'Right place, right tree' approach, to ensure that any new tree planting is sustainable. Larger semi mature trees are often planted as a condition of planning permission.
<ul style="list-style-type: none"> The SPD should provide more guidance on hard surfacing within RPAs, not just for the tree's sake but also to reduce run-off. 	<ul style="list-style-type: none"> Due to the general nature of development in RBKC, there is very little new hard surfacing within RPA's. However, in such instances RBKC will generally stipulate that a no dig cellular confinement system, or similar, is installed.
<ul style="list-style-type: none"> The SPD is too long and technical and needs to be made shorter and more amenable for general public consumption. 	<ul style="list-style-type: none"> The SPD is specifically designed to be used by arboriculturists, architects, planning consultants etc. and there is little scope to shorten it.
<ul style="list-style-type: none"> The SPD wording regarding trees retention should be strengthened, so applications take a 'trees-first' approach, prioritising tree retention, increased canopy cover (by 10% as a minimum, more in areas of low canopy cover), and enhanced blue-green environment at all stages of the design process. 	<ul style="list-style-type: none"> Stating a minimum 10% of canopy cover is not always feasible. Some residential gardens/courtyards in the borough are too small for any trees. RBKC arboriculturists ensure that revisions are made to tree planting schemes ensuring that sustainable tree planting schemes are implemented.
<ul style="list-style-type: none"> The SPD should enable developers suitable flexibility to remove low quality / amenity trees and bring forward high quality sustainable developments which improve the overall biodiversity of a site. 	<ul style="list-style-type: none"> The principle of protecting all trees lies within the Local Plan Policy, and therefore it is outside of the remit of the Trees SPD to change this approach. Similar comment has been submitted by the respondent during the New Local Plan Review Regulation 19 Consultation in regard to emerging policy GB18. It was noted that the circumstances described above in practice would constitute material considerations when assessing the proposed scheme. However, the Council concluded that the suggestions are not considered appropriate for revised policy wording as they would weaken the draft policy. Therefore, no further action is taken.
<ul style="list-style-type: none"> It would be useful if the SPD incorporated also a section covering the rules on private trees when not part of a development, for example in relation to 	<ul style="list-style-type: none"> The Trees and development SPD is supplementary to The Tree Strategy, which will be reviewed at some time in the future.

<p>pruning and felling. So that all matters related to trees would be covered in one document.</p>	
<ul style="list-style-type: none"> • The wording of the SPD needs to be strengthened and tightened throughout to make the intention clear and remove any potential loopholes. 	<ul style="list-style-type: none"> • The SPD is designed to ensure that developers are aware of RBKC policy and requirements for submitting planning applications in relation to trees. In addition to the SPD, the use of planning conditions and planning enforcement, when necessary, ensures that there are no loopholes in the system.
<ul style="list-style-type: none"> • The SPD could include a list of acceptable and suitable trees that can be referred to by tree planting designers. 	<ul style="list-style-type: none"> • Suitable trees are usually to be agreed between the applicant and the Council. However, the Council will consider creating a separate list available for public.