



# Involving People in Planning



## **Contents**

<b>1. Introduction</b>	<b>5</b>
The Purpose of this Document	5
Consultation Principles	6
Involvement in Planning	7
<b>2. Planning Applications</b>	<b>11</b>
Introduction	11
Pre-application	12
Application	15
Decision	19
Implementation	24
<b>3. Planning policy</b>	<b>28</b>
Introduction	28
Gathering Evidence and Issues and Options	30
Draft Policy	33
Decision	34
<b>4. Neighbourhood Planning</b>	<b>38</b>
Introduction	38
Set up	40
Preparing the Plan	42
Examination	43
Referendum	45
<b>Appendix A</b>	<b>47</b>
<b>Appendix B</b>	<b>49</b>
<b>Appendix C</b>	<b>51</b>



# 1. Introduction

## The Purpose of this Document

1.1 This is a ‘code of practice’ of how the Council involves people in planning. It sets out the opportunities people have – residents, businesses, landowners, and those who work in the borough – to engage at specific stages in the planning system. It is the Council’s Statement of Community Involvement.<sup>1</sup>

1.2 Planning decisions can affect people’s daily lives. It is important that people have the opportunity to be involved in those decisions. However, while the planning system is simple in concept, it is notoriously complex in detail. Working out how to get involved can be very confusing.

1.3 In broad terms, the planning system is there to manage development in the public interest.<sup>2</sup> Statute defines what is ‘development’. Planning policy – the ‘rule book’ – identifies what is in the public interest. It deals with physical changes, and with changes of use. Policy can be set nationally, by the Mayor of London, by the Council, or by neighbourhoods. The policy sets the context in which the Council then decides planning applications.

1.4 This document sets out the opportunities to get engaged in the different parts of the planning system. Chapter 2 deals with planning applications, Chapter 3 with planning policy prepared by the Council and Chapter 4 with Neighbourhood Plans.

1.5 The opportunities for involvement set out in this document are a mixture of those required by statute,<sup>3</sup> and those provided by

---

<sup>1</sup> For more information please see Appendix A

<sup>2</sup> For more information please see Appendix B

<sup>3</sup> For more information please see Appendix C

the Council as good practice. In addition to these opportunities, there is scope to request information under Freedom of Information.

1.6 This document cross references to where further information can be found. However, specific web-page references have not been used, because, as websites change, these references will become out of date. Instead, generic references for the websites have been used.

## Consultation Principles

1.7 The Statement of Consultation Principles<sup>4</sup> is designed to ensure that local people are clear about why the Council consults; how it will fulfil its commitment to maintaining effective consultation and what they can expect from the Council when they are being consulted. All Council consultation must follow these principles:

- Consultation will be timely, well planned and co-ordinated.
- Consultation will be inclusive and targeted to ensure that all relevant sections of the community have a chance to contribute.
- The quality of consultation will be high with appropriate and cost effective methods used.
- Results and use of results will be fed back to those involved in the consultation process.
- Results will be made available across the Council and to partner organisations
- Consultation will be genuine and open, and findings will be used alongside other relevant information to inform decisions, define policy and improve service provision.

---

<sup>4</sup> The Statement of Consultation Principles applies to the whole Council, and more information can be found on the Council's website

1.8 The Kensington and Chelsea Partnership's Community Strategy 2008-2018 also sets out the Partnership's ambition to improve the ways that partners inform, communicate with, consult and involve residents.<sup>5</sup> Partners include representatives from the business sector, the public sector (local health service, the police, the fire service, and the Council), the voluntary and community sector and the social housing sector.

## Involvement in Planning

1.9 In planning, where so many issues affect the day to day lives of residents, consultation needs to grow from a strong relationship between residents, businesses and the Council. Specific consultations are therefore built upon a platform of good ongoing relationships. A number of things are important to underpin this:

- Easy access to information
- Regular communication about general issues and concerns
- Clarity about how decisions are made.

1.10 The planning website is the main source of planning information. As a result of the consultation for the preparation of this document, the website has benefited from substantial investment. The ability to call up a map and find out information on a particular property or in a particular area has been significantly improved.<sup>6</sup>

1.11 Information on planning applications – including all live applications – can be found on the website. The records date back to 1948. Applications can be found using a number of different

---

<sup>5</sup> The Kensington and Chelsea Partnership's Community Strategy can be found on the Council's website

<sup>6</sup> These improvements are being implemented during 2013 and 2014

search criteria, including key words and addresses. The application number is not necessary, but this is the simplest method.

1.12 The website also has information on the Council's planning advice service,<sup>7</sup> as well as information on whether an application is needed, how to make a planning application, what happens once an application is made, how to comment on an application and how the application will be decided.

1.13 In addition to information on planning applications, the website also carries all the Council's planning policy documents, and those that are available for public comment.

1.14 There are a number of automated e-bulletin services available via the website. The website sets out how to sign up for these. They include:

- automated email alerts of all planning applications, and most other types of applications either in the whole borough or within a specific area. The Council encourages anyone who has an interest in planning, and particularly Residents' Associations, to make use of this service.
- Planning Direct, which is issued once a week, to keep people informed of other news in planning. It is through Planning Direct that we notify people of forthcoming consultations on policy documents, dates for meetings, as well as other news.

1.15 In order to provide for regular channels of communication, the Planning User Forum is usually held twice a year. This is chaired by the Executive Director of Planning and Borough Development.

---

<sup>7</sup> The Council's planning advice service allows applicants to get advice on their proposals before submitting an application. See the section 'Pre-application' later in this document.



Residents, businesses, landowners, planning consultants and architects are all welcome to attend the Forum. Dates of forthcoming meetings are publicised in Planning Direct. The Forum allows the Council to understand issues of concern, and for people to influence improvements to the planning service and the programme of policy development.

1.16 The Council appreciates that residents' associations and amenity societies form an important link between the Council and local people. Planning Team Leaders and the Senior Managers are happy to attend meetings of residents' associations to discuss issues of concern – although not individual live planning applications.

1.17 To keep in touch with many local businesses, the Council holds regular Retail Forums for the main 'town centres' of the Borough.

1.18 Local Ward Councillors are responsible for making sure the views and opinions of their constituents are heard. They can also provide support and information to the local community. To find out which ward you live in, and who your local Councillors are, visit the 'Council and Democracy' pages of the Council website.

1.19 Decisions are made by elected Councillors. Decisions on planning applications and on preparing policy are made in different ways.<sup>8</sup>

1.20 Decisions on planning applications are made by Committees, or by the Executive Director under powers delegated by the Council, set out in the Council's Constitution.

1.21 Decisions during the process of preparing policy are normally made by the Cabinet Member or by the Executive Director under powers delegated by the Council, again set out in

---

<sup>8</sup> The decision making process is set out by the Government in statute.

the Council's Constitution. Once the policy is finalised it is 'adopted' as Council policy. For the Local Plan, the decision to adopt is made by a meeting of the full Council. For supplementary planning documents the decision is made by the Cabinet Member or the Cabinet through a Key Decision.<sup>9</sup>

---

<sup>9</sup> The Council's Scrutiny process has the opportunity to scrutinise these decisions. Detailed information on Key Decisions and the Scrutiny process can be found in the Council's Constitution.

## 2. Planning Applications

### Introduction

2.1 The overall process of dealing with planning applications is called 'development management'. It used to be called 'development control'.

2.2 The Council's Development Management service handled over 7,000 applications and related pieces of work in 2012. This caseload rises year on year.

2.3 Planning applications are the most common form of application that the Council handles. But planning permission is not always needed. Some changes are not 'development'<sup>10</sup> and so fall outside of the scope of planning. For example, painting a house that is not in a conservation area. Other changes benefit from 'permitted development'.<sup>11</sup> These are changes that the Government believes will not be harmful, or that it wishes to encourage as it sees them as beneficial. For example, a garden wall or fence can normally be erected between back gardens up to 2m high without the need for permission.<sup>12</sup> Small extensions can also be built. It also deals with some changes of use.<sup>13</sup>

2.4 The Government sets a time period within which planning applications must be decided. For most applications this is 8 weeks, and the Government target is that 80% should be made within that time. Major applications<sup>14</sup> have a 13 week target. Other types of applications have different timescales.

---

<sup>10</sup> See Appendix B.

<sup>11</sup> See Appendix B

<sup>12</sup> This sentence says 'normally' because there are some situations – for example in the case of listed buildings – where this right does not apply.

<sup>13</sup> See Appendix B

<sup>14</sup> The Government defines major development as 10 or more dwellings or 10,000sq m or more of non-residential floorspace.

2.5 In addition to planning applications there are other types of applications. Applications relating to advertisements and listed buildings are dealt with under a different legal and regulatory framework to standard planning applications. Applications relating to trees and telecommunications use an approach called 'prior approvals'. For these applications the Council can only consider and only control the issues specified in the relevant regulations. This is a form of application that is becoming more common. It means that if the Council does not make a decision within a fixed time frame, the work can be carried out in any event.

2.6 Although there may be different types of application, they all follow the same basic process. There are four main stages:

- Pre-application
- Application
- Decision
- Implementation

2.7 Within these four stages, different types of application have different statutory requirements over consultation. Taking these variations into account, the Council has identified 6 opportunities for engagement in the application process. This is shown on diagram 1.

## Pre-application

2.8 This is the stage before a planning application is submitted, when the applicant is drawing up their proposal. There is no requirement for the applicant to consult neighbours or other parties who may be affected at this stage. However, the Council advises applicants to have early discussions with neighbours and other interested people because it is easier it is to accommodate their views before a scheme is finalised. Comments made at this stage

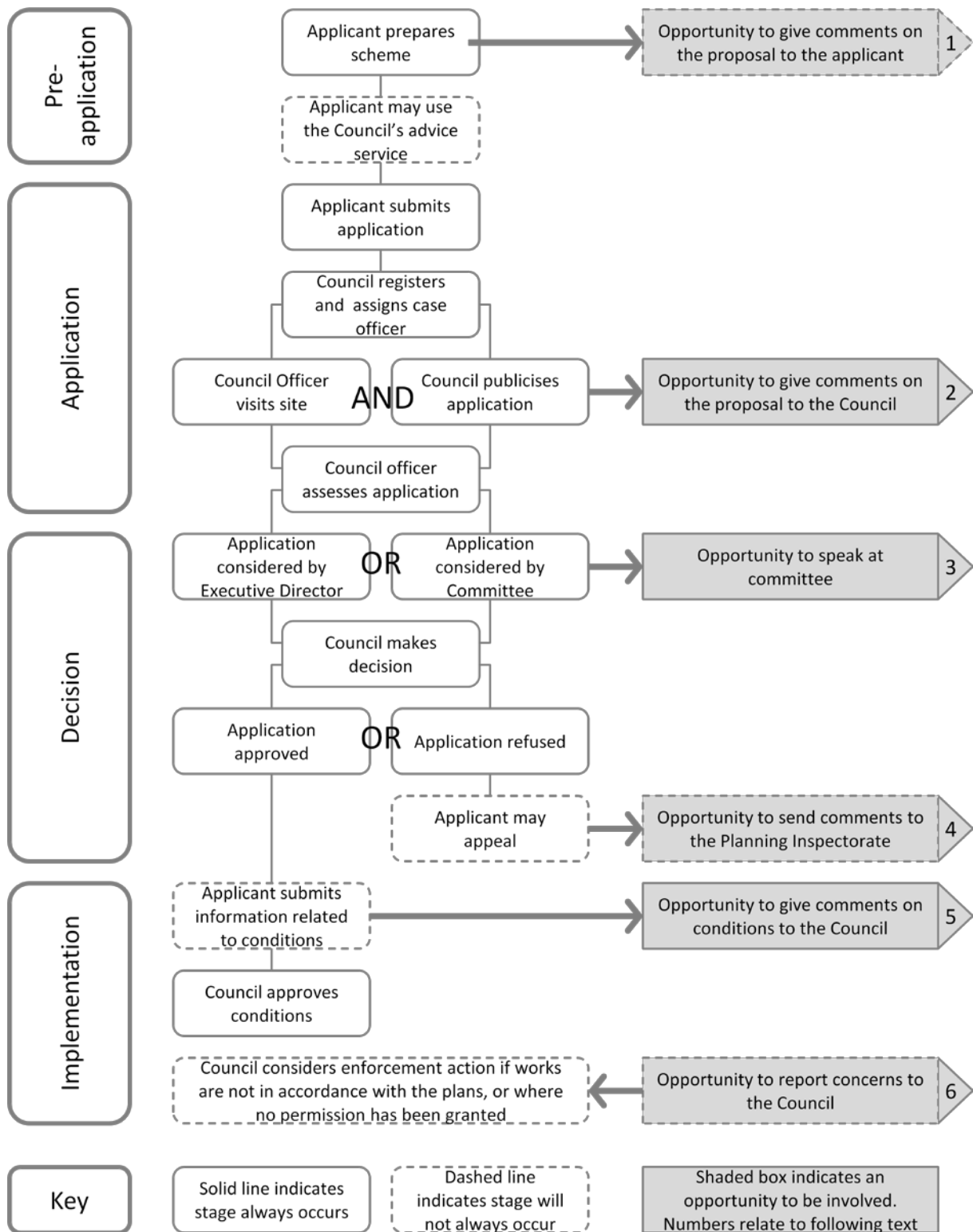


Diagram 1: Opportunities for involvement in planning applications

may well avoid objections being received when the application is submitted: people do not like to be invited to comment when it seems that the decisions have already been made.

2.9 The Council cannot require that this pre-application dialogue takes place. At this stage the responsibility is with the applicant to give opportunities for people to be involved. However, the Council strongly encourages the applicant to talk to neighbours and other people who may be interested in the proposal and to take account of their views wherever possible.

2.10 Being invited to be involved at this stage does not rule out the opportunity to comment again once a planning application is submitted.

2.11 The Council offers a planning Advice Service<sup>15</sup> that applicants may choose to use at this stage. Applicants pay a fee for the service which fully covers the service costs to avoid it being subsidised by the tax payer. It allows the Council to explain to the applicant what is and is not acceptable about their proposal. It does not prejudge any application which may be submitted later. It helps an applicant avoid investing considerable time and money in a proposal that would be unacceptable. It is confidential to the applicant at the time that the service is given.

### **Opportunity 1: pre-application**

2.12 The first opportunity for involvement is when those who intend to submit a planning application talk to their neighbours and other people who might be affected. It is the responsibility of the applicant to involve people at this pre-application stage: it is not the responsibility of the Council, nor can the Council insist that it takes place.

---

<sup>15</sup> More information on the planning Advice Service is available on the Council's website.

### *Finding out about the opportunity to be involved*

2.13 The applicant needs to decide whether to invite comments, who to invite, and how they will let people know. However, if neighbours hear that a householder is considering works, they may wish to take the initiative in approaching their neighbour to ask about his or her plans.

### *How to make comments*

2.14 Comments should be made to the applicant. The applicant needs to decide whether comments can be verbal or should be in writing, and how long they give for comments. It is, however, advisable to follow up any conversations in writing, to the applicant.

### *Matters that comments can cover*

2.15 It is up to the applicant to identify what matters can be covered.

### *How comments are taken into account*

2.16 The Council advises applicants to include information on the comments they have received, and how they have responded to them, as part of their planning application. The Council cannot, however, require the applicant to do this.

## Application

2.17 This is the stage when an application is submitted to the Council. At this stage it is the responsibility of the Council to ensure people have an opportunity to comment (sometimes called notification), and to take any comments received into account in assessing the application.

## **Opportunity 2: written comments on the application**

### *Finding out about the opportunity to be involved*

2.18 The Government sets the statutory requirements for publicising planning applications.<sup>16</sup> For most applications this is 21 days. This process is sometimes referred to as notification. The Council goes beyond these minimum standards. The Council publicises planning applications through:

- automated email alerts, for which people can register on the Council's website. (see Introduction).
- writing to the adjoining properties – these letters are referred to as 'neighbour notifications'. They are sent for planning applications and some prior approvals<sup>17</sup> and set out the description of the proposed development, and where to view the plans.
- placing site notices near to the site for major applications and for development affecting listed buildings, conservation areas and public rights of way or applications which are accompanied by an environmental statement.
- placing notices in the local paper, for the same types of applications as site notices.

2.19 Residents' associations and amenity societies may be able to keep their members informed of matters of concern to them. People interested in planning matters may want to join their local group. Many residents and amenity groups review planning applications in their area, and make comments to the Council. A register of tenants and residents' associations is available on the Council website.

---

<sup>16</sup> The requirements are set out in the Development Management Procedure (England) Order 2010 (SI 2184), and Circular 15/1992

<sup>17</sup> There are different types of application. See the introduction to this chapter.



### *How to make comments*

2.20 Comments must be made in writing, and should include the name and address of the person writing them.<sup>18</sup> This can be by letter, email or using the online comments form. The Council does not acknowledge letters, but comments submitted online or by email receive an automated response, confirming receipt. Comments received are placed in the public domain, and can be viewed by people including the applicant.

2.21 There are at least 21 days to make comments. The deadline is given in the neighbour notification letter, site notice, email alerts and on the website with the information on the application. A decision will not be made before this date. If comments are late, it is possible that the decision will have been taken, and thus the comments cannot be taken into account.

2.22 The full planning application – all the plans and any supporting documents – are all available on the Council website. Screens are available in the Town Hall Customer Services Centre for those who do not have a computer at home.

### *Matters that comments can cover*

2.23 Comments on planning applications can raise objection to the proposal, support it, or draw the planning officer's attention to a particular matter.

2.24 The Council is obliged to determine applications in accordance with local policies, unless there are other planning matters not covered in the policy that should over-ride the local

---

<sup>18</sup> It is advised that a name and address is included so that the proper weight can be attached to a letter – for example if the letter is from a neighbouring property that needs to be clear. Anonymous comments without addresses are given less weight.

policies. The phrase ‘material considerations’ or ‘material planning considerations’ is used to refer the relevant matters that can be taken into account.<sup>19</sup>

2.25 Comments should therefore focus on the relevant planning matters for instance:

- effect on daylight or privacy
- the effect on the character of the area;
- effect on trees or open spaces;
- flood risk;
- noise and disturbance (whether from people using the building or from permanently installed machinery); air pollution or smells (such as from a restaurant); traffic or road safety problems.

2.26 In deciding a planning application, the Council cannot take account of matters that are dealt with under other legislation. So for instance the following are not normally material planning considerations:

- Party wall matters, although the Council may seek reassurance before giving planning permission that the risk of damage can be kept to a minimum.
- Private issues between neighbours, e.g. boundary disputes; private rights of way; restrictive covenants, rights of light.
- Effect on the value of a neighbouring property or (in the case of commercial properties) on competition.

2.27 More advice and information about ‘material considerations’ can be found on the Royal Town Planning Institute’s website ([www.rtpi.org.uk](http://www.rtpi.org.uk)), and from the Planning Portal ([planningportal.gov.uk](http://planningportal.gov.uk)), a Government site that contains a wealth of information about planning. Search ‘material considerations’.

---

<sup>19</sup>See Appendix B

2.28 If the information is not clear or easily understood, contact the planning case officer who is dealing with the case. The name of the case officer will be shown on the website.

#### *How comments are taken into account*

2.29 Comments people make on an application are themselves a 'material consideration'. They are taken into account alongside all the other matters. An individual response is not provided to each comment. Instead, comments are summarised, and addressed, in the report that is written by a Council officer. This report sets out the matters relevant to the decision, and makes a recommendation.

2.30 The officer's report is the basis on which the decision is made, either by the Executive Director under delegated powers, or by the Committee, which is addressed in the next section.

## Decision

2.31 This is the stage when an application is decided: when it is granted permission, or when permission is refused.

2.32 Comments that are received on an application are taken into account by the planning officer who writes a report on behalf of the Executive Director that sets out the matters relevant to the decision. There are normally a number of different matters to be considered. Sometimes a proposal has a negative impact on some matters, but a positive impact on other matters. The officer weighs these before making the recommendation.

2.33 Decisions on applications are made by the Council's planning committees, or by the Executive Director of Planning and Borough Development.

2.34 The planning committees<sup>20</sup> meet on a regular basis. On average about 10% of the applications are decided by a Committee. A typical meeting would have about twelve cases, or a couple of large more complex applications. Applications that go to a planning committee are those that, for a variety of reasons, are regarded as more significant or controversial. All Committee meetings are open to the public, and there is an opportunity for public speaking (see below). The agenda of the Committee – including the officer’s reports on the applications the Committee is considering – is available five working days before the Committee meets.

2.35 The Committee will consider the report of the Executive Director. The Committee may, however, take a different view on the weight to give to different matters, and may therefore reach a different decision to that recommended.

2.36 All the other applications are decided by the Executive Director for Planning and Borough Development, under powers delegated to him in the Council’s constitution. These are known as ‘delegated’ decisions.

### **Opportunity 3: speaking at committee**

2.37 A note on Planning Committee and a guide to proceedings including speaking requests can be found on the website.

#### *Finding out about the opportunity to be involved*

2.38 For applications which go to Committee, the Council will write to people who commented on the application giving the date of the committee, and offering an opportunity to speak. People who did not comment on the application will not have an opportunity to speak at committee.

---

<sup>20</sup> Information on the committees, their chairmen, members, the dates of the meetings and agendas is available on the Council’s website.

### *How to make comments*

2.39 People who wish to speak need to register in advance of the Committee that they wish to do so. Information on how to register is given on the website, and in the letter mentioned above. People will be asked to identify if they are speaking in support of or in objection to the proposal. If objecting, the applicant will also be given an opportunity to speak.

2.40 For most applications the speaking time is three minutes. If more than one person wishes to object, the time is shared between them. The speakers need to work out between themselves how to share the time. The applicant, and anyone speaking in support of the application, are given the same amount of time as those objecting.

2.41 The Chairman will introduce the item. A council officer will then outline the application, and the recommendation. The Chairman will then invite those objecting to speak, followed by those in support. Ward Councillors<sup>21</sup> are also invited to speak.

2.42 The Chairman then opens the matter up for debate among the committee members. Sometimes further clarification is sought from the officers. Members of the Committee may propose a motion other than the recommendation. If they do, they will also offer the reasons in support of that motion.

2.43 The Chairman will then take a vote of the Committee, first on any proposed motion, then, if necessary, on the recommendation in the report.

---

<sup>21</sup> The Borough is divided into a number of Wards. Each ward is represented by 2 or 3 Councillors, also known as Members of the Council. The Committee will not have representation from all wards. Councillors representing wards in which the applications are located can speak at Committee, but cannot take part in the decision unless they are a member of the Committee.

2.44 The decisions made by the Committee are sent to the applicant and made available on the website.

*Matters that comments can cover*

2.45 The subject matter for public speaking is likely to be an abbreviation of the comments made on the application. It is an opportunity for people to get across their main points to the Committee. New matters cannot be raised at this stage, nor can new documents be tabled. All the matters and documentation on which the Committee will be basing their decision needs to have been submitted before the report is written and the recommendation made. See Opportunity 2 above.

*How comments are taken into account*

2.46 The committee will take what has been said into account when making its decision.

2.47 The Council publishes all decisions on its website, including any conditions.<sup>22</sup>

**Opportunity 4: participate in appeal**

2.48 If the Council refuses a planning application, the applicant has the right to appeal the decision to the Secretary of State for Communities and Local Government. The Planning Inspectorate, often referred to as PINS, handles the administration for planning appeals.<sup>23</sup> The Secretary of State appoints an Inspector to hear the appeal.

---

<sup>22</sup> Often planning applications are granted with conditions – matters that must be addressed either during construction, or before construction begins. This is explained further under Opportunity 5 below.

<sup>23</sup> The Planning Inspectorate is an Agency of Government, working to the Secretary of State for Communities and Local Government.

2.49 Not all appeals will give an opportunity to be involved. For small cases<sup>24</sup> the Planning Inspector will determine the appeal using the committee report together with representations made by interested persons at the time the Council considered the planning application.

2.50 For other types of appeal, additional reports are prepared by the Council and the applicant. Third parties<sup>25</sup> are also able to submit statements and reports. There are three types of these appeals: the Inspectorate decides which is the appropriate route for each case.

- Written representations – in these cases the inspector makes a decision based only on the written material
- Hearing – this is a meeting with all parties present, chaired by the Inspector, to allow the Inspector to clarify issues and to hear the views of the different parties
- Inquiry – this is a formal procedure, often with legal representation for the applicant and the Council, during which those presenting evidence are cross examined. Members of the public can appear at an Inquiry, and they must be prepared to be cross examined as part of the process.

2.51 Hearings and Inquiries are held in public. Any member of the public can attend and ask to speak.

2.52 Further information is available on the Planning Inspectorate website.

---

<sup>24</sup> This includes all householder applications. This is a Government classification. It is an application that is made by a householder for work such as an extension or roof light. In this Borough many basement applications are also householder applications. Other types of applications, in addition to householder applications, can also be dealt with under this streamlined system.

<sup>25</sup> Third Parties is the term used to identify those interested in an application that are not the Council nor the applicant.

*Finding out about the opportunity:*

2.53 If an appeal is lodged the Council will notify people who were initially notified of the planning application, and those who commented on the application.

*How to make comments*

2.54 Comments need to be made to the Planning Inspectorate, not the Council. Information on how to make comments on an appeal can be found on the Planning Inspectorate website. Comments made by people other than the applicant or the Council are called 'third party representations'.

*Matters that comments can cover*

2.55 As with planning applications, comments need to focus on planning matters, or 'material considerations'.<sup>26</sup>

*How comments are taken into account*

2.56 The Planning Inspector who is considering the case will take all relevant matters into account, including third party<sup>27</sup> comments – both those that were received in relation to the original applications and those received in relation to the appeal.

## Implementation

2.57 This stage is when work is close to, or is starting on site. There are two opportunities for involvement at this stage: conditions and enforcement.

### **Opportunity 5: conditions**

2.58 If planning permission is granted for a development, it is often subject to conditions. Most applications have standard conditions attached to ensure that development is carried out in a

---

<sup>26</sup> Material considerations is explained under Opportunity 2 in this chapter, above.

<sup>27</sup> Third party is the term given to those who are not the applicant nor the Council. Third parties do not themselves have the right of appeal.



timely fashion and in accordance with the approved plans. Conditions are used for a number of reasons. For example, conditions may require further details such as a sample of a material, or details of a specific element such as a skylight. The applicant then has to submit information to address these matters, for the Council to approve. This is sometimes called 'discharging conditions'.

#### *Finding out about the opportunity to be involved*

2.59 People can set up automated notifications of Conditions through the Council's website.

#### *How to make comments*

2.60 People can view the documents online, and comment in writing, preferably using the online comments form. There is no defined timescale, but conditions may be determined at any time following submission. To be certain of being taken into account, any comments need to be submitted very swiftly.

#### *Matters that comments can cover*

2.61 The comments must be restricted to those matters that are the subject of the condition. The applicant cannot make other changes to the application at this stage – they can deal only with the condition. It is not, therefore, an opportunity to revisit the principles of the case.

#### *How comments are taken into account*

2.62 Any comments submitted will be taken into account if they are received before a decision is taken on the condition. Decisions on conditions are nearly always taken by the Executive Director under delegated powers. Only very rarely are they decided by Committee.<sup>28</sup>

---

<sup>28</sup> See the Decision section for more information on decision making.

### **Opportunity 6: enforcement**

2.63 Sometimes people carry out development without asking for planning permission, or the development is materially different to the planning permission. This is unauthorised work. It is often referred to as a 'breach', and the Council will consider enforcement action. The Council serves an enforcement notice. Applicants can appeal against this. If the actions required by the enforcement notice are not carried out, the Council can prosecute. The Council has a track record of success in these cases.

2.64 The Council can take enforcement action against unauthorised work up to 4 years from the date it was carried out for physical works (this does not apply to Listed Buildings, where unauthorised works are a criminal offence), and up to 10 years for changes of use, and the failure to comply with conditions.

#### *Finding out about the opportunity to be involved*

2.65 For enforcement it is less a case of the Council informing people about enforcement cases, and more the other way around, by people reporting possible unauthorised work to the Council.

#### *How to make comments*

2.66 If you believe unauthorised work is being carried out, contact the enforcement team, either via the website, by email, or by phone. Phone PlanningLine 020 7361 3012 or email [planning@rbkc.gov.uk](mailto:planning@rbkc.gov.uk). The website has further information on how people can report matters that they think may need enforcement.

2.67 The content of the complaint, and the name and address of the person making the report is confidential. Anonymous reports of breaches of planning control cannot be investigated.

*Matters that comments can cover*

2.68 The enforcement team will need the address of the property where it is thought unauthorised works are taking place, the nature of the work, and an estimate of when the work was started.

*How comments are taken into account*

2.69 The enforcement team will investigate any report of unauthorised work. Action will be taken if it is expedient.<sup>29</sup> The Council will contact the person that reported the matter to keep them informed.

---

<sup>29</sup> The law requires the Council to assess if it is expedient to take enforcement action, before doing so. For example, if a change has been made without the relevant permission, but permission would have been granted, the appropriate course is a retrospective application, rather than enforcement.

## 3. Planning Policy

### Introduction

3.1 Planning applications are assessed against published planning policy. The purpose of these policies is to allow development to be managed in the public interest. It is important that the Council involves people in setting its planning policy. The regulations set a minimum standard for consultation.<sup>30</sup> The Council exceeds these by involving people early in the policy development process.

3.2 There are different levels of planning policy. The Government sets national policy in the National Planning Policy Framework (NPPF), and also in Circulars. Below this there is the Development Plan.<sup>31</sup> In London this is made up of London Plan, set by the Mayor, and the Council's Local Plan. The Council can also prepare supplementary planning documents (SPD). SPDs provide further detail than is appropriate in the Local Plan. They may be used for site specific issues, such as a development brief for a particular site or area, or for borough-wide thematic issues such as shopfronts.

3.3 The preparation of both the Local Plan and SPD follow the same basic process. There are three main stages:

- Gathering evidence and identifying issues
- Drafting policy
- Making the decision

3.4 Diagram 2 shows the opportunities for engagement at each stage..

---

<sup>30</sup> See the Town and Country Planning (Local Planning) (England) Regulations 2012, SI 2012 767

<sup>31</sup> See Appendix B

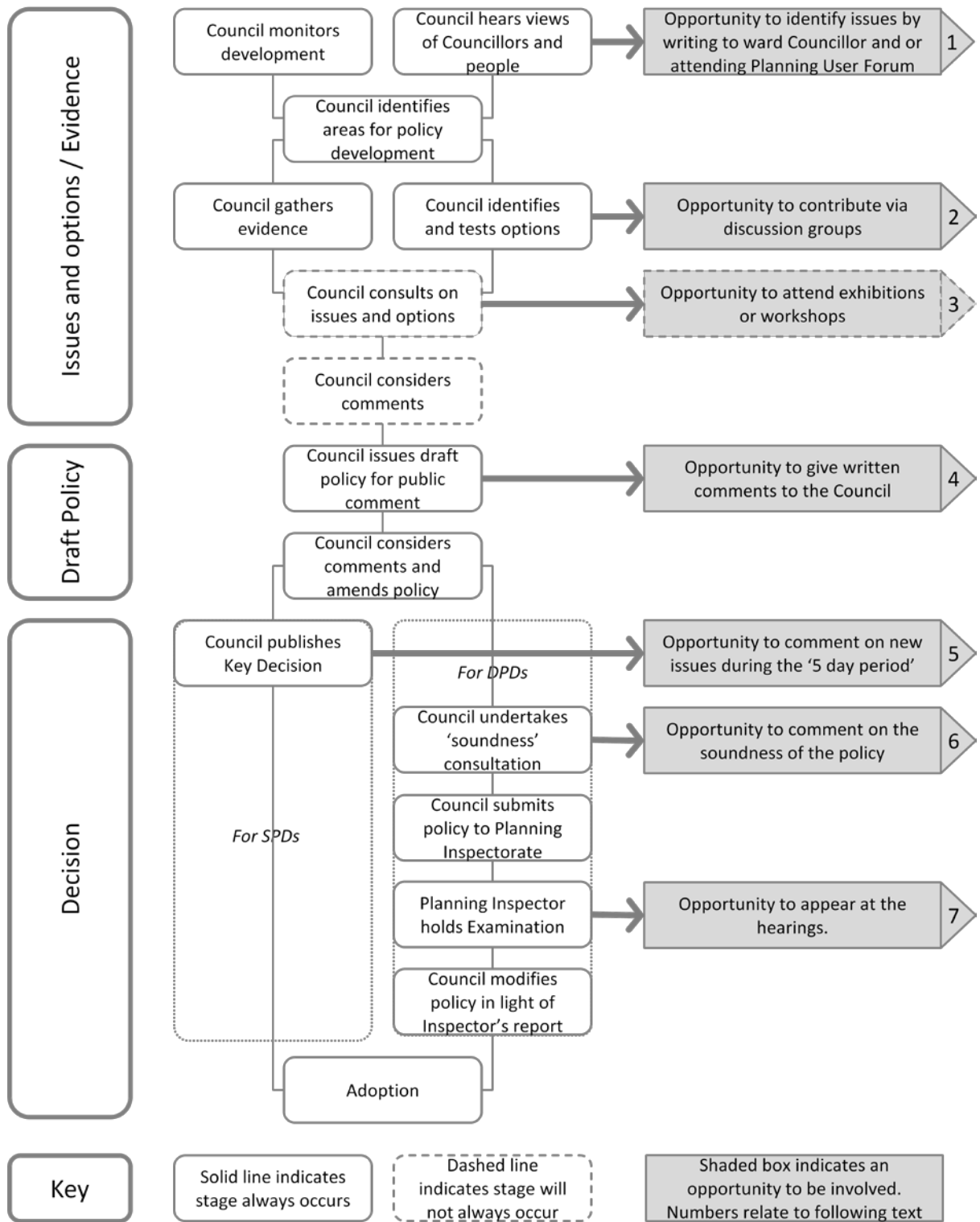


Diagram 2: Opportunities for involvement in planning policy

## Gathering evidence / Issues and Options

3.5 There are three opportunities for involvement at this stage: in identifying issues; through discussion groups, and, in some situations, by attending exhibitions and workshops.

### **Opportunity 1: identifying issues**

3.6 The Council needs to know what planning matters are of concern to residents so that, if possible, these can be addressed through changing planning policy. Local residents or businesses can write individually to their local Councillors to bring issues to their attention. Residents' groups and amenity associations may also want to raise issues with their Councillors.<sup>32</sup> Councillors will then raise these with the Cabinet Member or the Executive Director.

Another way the Council finds out about local issue is through the Planning User Forum. This is held twice a year. It provides a sounding board to foster early engagement between the Council and stakeholders, giving an opportunity for dialogue on all matters relating to planning in the Borough. It is aimed at those with an interest in planning – land owners, architects, agents, residents' associations and amenity societies – but it is open to anybody. It is chaired by the Executive Director of Planning and Borough Development

### *Finding out about the opportunity to be involved*

3.7 Anyone can raise a matter with a local Councillor. For those interested in attending the Forum, the dates are publicised via Planning Direct.<sup>33</sup>

---

<sup>32</sup> Information on Councillors, and the wards they represent, can be found on the Council's website.

<sup>33</sup> Planning Direct is a weekly bulletin issued by the Council. People can sign up to receive it via the Council's website.

#### *How to make comments*

3.8 Write to your local Councillor, or attend the Forum and participate in the discussions.

#### *Matters that comments can cover*

3.9 Issues that people believe need to be addressed.

#### *How comments are taken into account*

3.10 Comments will help to inform the priorities for new or revised policy.

### **Opportunity 2: Discussion Groups**

3.11 The Council will identify if an issue requires revision to existing policy or new policy. At this early stage people interested in the issue will be invited to a discussion group to talk the matter through. This discussion is likely to include the nature of any evidence that may be needed, and some of the different options for policy direction. If the subject is site or topic specific, the Council might invite specific residents or businesses whose input would be of particular value to that issue. This group would meet periodically through the policy preparation process.

#### *Finding out about the opportunity to be involved*

3.12 The discussion group will be publicised through 'Planning Direct'. People interested in joining a discussion group will be invited to put themselves forward. In cases where there is a lot of interest, the Council may need to select only a representative group of people to keep numbers manageable.

#### *How to make comments*

3.13 Comments can be made at the meeting of the group. A note will be made of the meeting recording who attended and the main points raised.

*Matters that comments can cover*

3.14 The discussion can be wide ranging, but focused on the particular issue.

*How comments are taken into account*

3.15 Notes of the discussion group will be kept, and be used to inform the proposed draft policy.

**Opportunity 3: exhibitions / workshops**

3.16 These will be used for more significant changes, probably to the Local Plan, or for site specific matters, and are less likely to be used for borough-wide SPDs.

*Finding out about the opportunity*

3.17 All opportunities to be involved in policy development will be advertised in Planning Direct (see Chapter 1). Additional publicity will depend on the nature of the project. For example, where the policy is site specific, leaflets will be distributed to local residents.

*How to make comments*

3.18 People can make comments at the events, and contribute to the discussion. There may also be questionnaires or web based discussions. The exact mechanisms will vary with the different events.

*Matters that comments can cover*

3.19 The comments need to be focused around the theme of the policy.

*How comments are taken into account*

3.20 A report recording the events will be prepared, and be used to inform the content of the draft policy.



## Draft Policy

### **Opportunity 4: written comments**

3.21 A draft of the proposed policy or guidance will always be made available for public comment, for at least 6 weeks. Hard copies will be placed in all the libraries and the document will also be available on the website. The Council can provide support for people who need to access documents and comment in languages other than English, or in Braille, large format or audio. Please contact Planning and Borough Development if this support is required. Sometimes comments made at this stage are referred to as 'representations'.

3.22 The draft policy will also be taken to a scrutiny committee,<sup>34</sup> during or close to the period that it is available for public comment. The agenda for the committee will be available on the Council's website 5 days before the meeting, and people can attend the meeting to listen to the discussion. The comments are taken into account before the policy is finalised.

#### *Finding out about the opportunity to be involved*

3.23 It will be publicised through Planning Direct, and information will be included on the website.

#### *How to make comments*

3.24 Comments need to be made in writing, either by letter, email, or preferably using the online comments form. All comments should include the name and address of the person writing them.<sup>35</sup> Comments need to be submitted by the stated deadline. If

---

<sup>34</sup> Most planning matters go to the Public Realm Scrutiny Committee. Information on the scrutiny committees and their function is available on the Council's website.

<sup>35</sup> It is advised that a name and address is included so that the proper weight can be attached to a letter – for example if the letter is from a neighbouring property that needs to be clear. Anonymous comments without addresses are given less weight.

comments are received late, it is possible that the analysis will already have taken place, and the comment may not be able to be taken into account. Once the consultation period is over, all comments received will be made public. This includes the name and organisation of the person making the comments, but not the address.

#### *Matters that comments can cover*

3.25 Comments need to focus on the subject of the policy document.

#### *How comments are taken into account*

3.26 All comments are entered into a database. Each comment is assessed to decide whether changes should be made to the policy. A response to comments is provided and made available on the Council's website once the Decision stage of the process is reached. A schedule of the comments, and the Council's responses, is provided to the decision maker – see below.

## Decision

3.27 The opportunities for involvement differ, depending on whether the policy is a supplementary planning document (SPD), which uses a key decision, or will form part of the Local Plan, in which case the soundness and examination process is followed.

#### **Opportunity 4: key decision**

3.28 For SPD, the decision is made by the Cabinet Member responsible for planning policy, or the Cabinet, through a key decision.<sup>36</sup> Before a key decision is confirmed, the proposed decision has to be in the public domain for 5 working days. For cabinet decisions this is 5 days before the meeting. For decisions

---

<sup>36</sup> See Introduction, Section 1 for an explanation of decision making.

made by the cabinet member, this is 5 days between the decision being proposed and being confirmed. This gives an opportunity for final comment.

#### *Finding out about the opportunity to be involved*

3.29 There is a forward plan of key decisions held by the Council. The key decision has to be on the forward plan at least 28 days in advance of the decision being taken. The forward plan is available on the Council's website. Planning Direct will also be used to let people know that a document is being put forward for a key decision.

#### *How to make comments*

3.30 Comments need to be made in writing and must include the name and address of the person writing them.

#### *Matters that comments can cover*

3.31 Comments need to address matters that have not previously been raised, as previous issues will already have been taken into account.

#### *How comments are taken into account*

3.32 Council officers will prepare a schedule of comments received during the five day period, and proposed responses, including recommendations to changes to the policy where necessary. This is provided to the Cabinet Member to be considered prior to the decision being confirmed.

### **Opportunity 5: soundness**

3.33 For changes to the Local Plan, Government regulations require that there is a consultation on the 'soundness' of the new policy. The tests of soundness are set out in the National Planning Policy Framework. They ensure that the policy is positive, justified, effective, and prepared in accordance with the regulations. Once this consultation is complete, the new policy can be submitted to

the Planning Inspectorate for examination. Alongside the new policy, the Council must also submit the comments received as part of the soundness consultation, and all the evidence which will have been prepared to justify the policy.

*Finding out about the opportunity to be involved*

3.34 The soundness consultation will be publicised through Planning Direct, and in other ways required by the regulations.

*How to make comments*

3.35 Comments need to be in writing. Comments need to specify which tests of soundness the policy succeeds or fails and must include the name and address of the person writing them. People who comment at this stage will be invited to participate in the examination (see below).

*Matters that comments can cover*

3.36 The comments need to focus on the extent to which the policy meets or fails the tests of soundness.

*How comments are taken into account*

All the comments are forwarded to the Planning Inspectorate, so that they can be taken into account at the examination.

**Opportunity 7: examination**

3.37 For changes to the Local Plan, the Government appoints a Planning Inspector to assess if the proposed changes are sound. The examination is arranged by the Planning Inspectorate.

*Finding out about the opportunity to be involved*

3.38 All those who commented at the 'soundness' stage (see above) will be contacted by the Planning Inspectorate and invited to participate in the examination.

*How to make comments*

3.39 This will be explained as part of the invitation to participate. There is an opportunity to put in some short written comments, and to appear at a hearing – if a hearing forms part of the examination.

*Matters that comments can cover*

3.40 These need to be focused on why the policy is not sound, as this is the matter that the Inspector will be considering.

*How comments are taken into account*

3.41 The Inspector takes all these comments into account before preparing a report. The Inspector may recommend that the Council changes the policy before it is adopted.

## 4. Neighbourhood Planning

### Introduction

A.1 A Neighbourhood Plan is produced by local people, not the Council. This gives people the opportunity to deal with planning issues local to their areas that may not be a priority for the Council.

A.2 A Neighbourhood Plan has the same status as the Council's Local Plan.<sup>37</sup> It therefore has to go through a rigorous process, and can only address planning issues.<sup>38</sup> Just as the Council is required to consult people when preparing its plans, the same is true of Neighbourhood Plans, so that they reflect the views of the whole community. The Council will offer support to groups that wish to prepare Neighbourhood Plans. The exact support will depend on the nature of the proposed plan.

A.3 More information on Neighbourhood Planning is available on the Council's website and on Gov.uk.

A.4 The process for preparing a Neighbourhood Plan goes through four stages:

- Set up,
- Preparing the plan,
- Examination and
- Referendum.

A.5 This is shown on Diagram 3.

---

<sup>37</sup> The Local Plan forms part of the Development Plan. See Chapter 1 and Appendix B.

<sup>38</sup> More information on what planning issues comprise is set out under the 'application' section of the Development Management chapter, above.

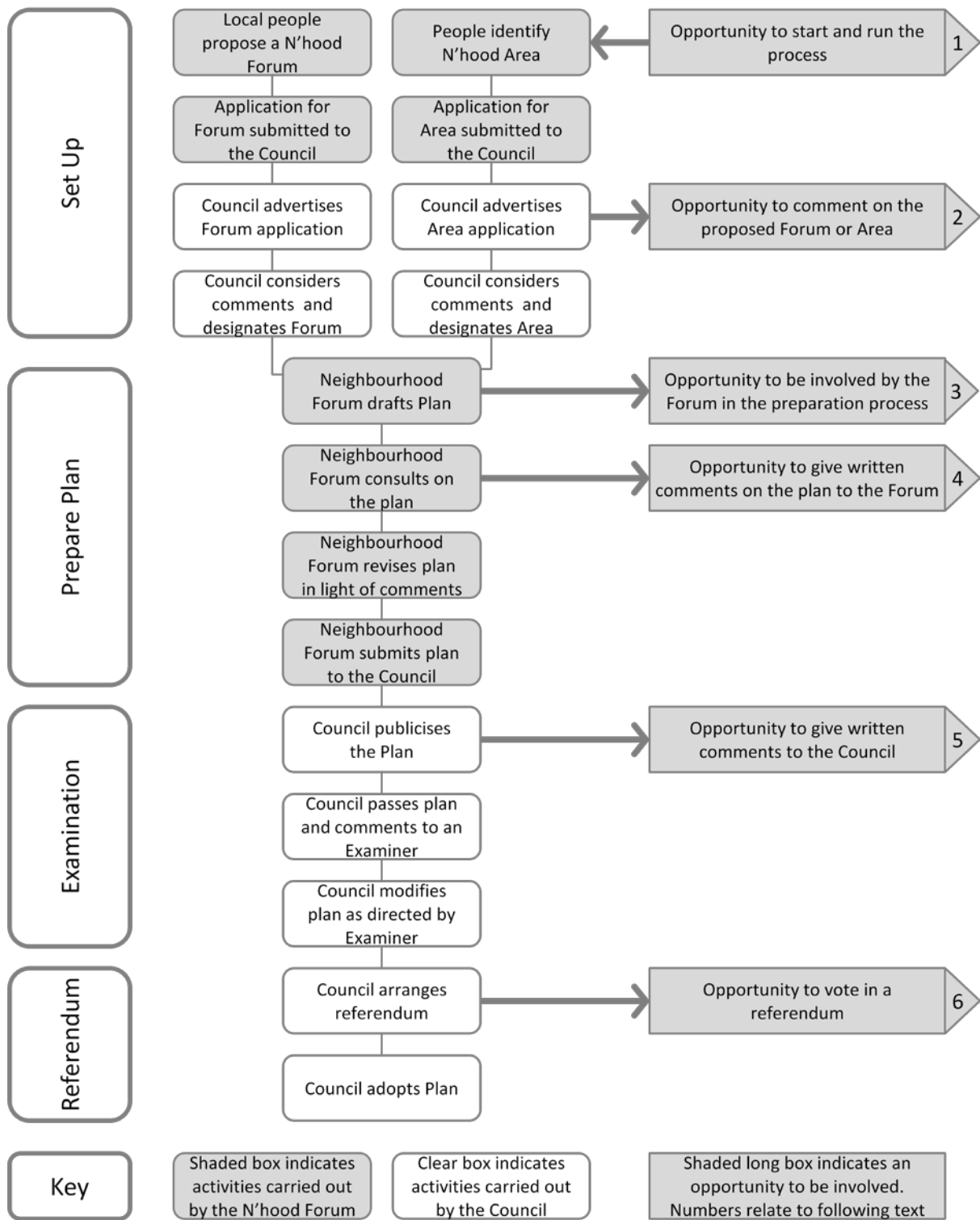


Diagram 3: Opportunities for involvement in neighbourhood planning

## Set Up

A.6 In order to prepare a Neighbourhood Plan, local people need to set up a Neighbourhood Forum, and propose the boundaries of a Neighbourhood Area.

### **Opportunity 1: Starting and running the process**

A.7 Neighbourhood Plans are prepared by local people, not the Council. The first opportunity for involvement is for local people to decide that they want to prepare a plan, and to put together an application for designation of a Neighbourhood Forum and Neighbourhood Area. These applications are submitted to the Council – see Opportunity 2 below.

#### *Finding out about the opportunity to be involved*

A.8 People can decide to establish a Neighbourhood Forum and Area at any stage. People initiate the process, and do not need to be invited to do so by the Council.

A.9 The extent of the Neighbourhood Area is for the group initiating the process to decide. It can be large or small, but representation on the Forum must extend across the whole area. Before deciding on the area, the group might like to think about the amount of work that will be involved in preparing the plan.

A.10 Neighbourhood Areas cannot overlap. A plan showing Neighbourhood Areas that have been designated in the Borough is available on the Council's website.

#### *How to make comments*

A.11 The local people who are initiating the process need to decide how to invite comments at this stage.



*Matters that comments can cover*

A.12 Comments at this stage would be related to the membership or constitution of the proposed Forum, and the appropriateness or extent of the proposed Area.

*How comments are taken into account*

A.13 The local people initiating the process need decide how to respond to comments.

**Opportunity 2: Written comments on proposed Forum and Area**

A.14 Once the Council has received an application to designate a Forum and or an Area it will check that the proposals conform to the regulations before publicising them. The local group can submit these applications together, or submit the Area application first.

*Finding out about the opportunity to be involved*

A.15 When the Council receives an application to designate a Forum or Area, it must make it available for public comment for six weeks. The Council will place the information on the website, and notify people through Planning Direct.

*How to make comments*

A.16 People need to submit written comments and must include the name and address of the person writing them. Comments need to be submitted to the Council by the stated deadline. If comments are received late, it is possible that the decision will already have been taken, and the comment cannot be taken into account.

*Matters that comments can cover*

A.17 Comments at this stage should be related to the membership or constitution of the proposed Forum, and the appropriateness or extent of the proposed Area.

*How comments are taken into account*

A.18 The Council will take comments into account, and discuss them with the Neighbourhood Forum. If necessary, the Council will modify the boundary of the Area and ask the Forum to consider modifying its constitution in response to the comments, prior to designation.

## Preparing the Plan

A.19 The Neighbourhood Forum is responsible for preparing the plan, and gathering any evidence that is needed to justify the policies of the plan.

### **Opportunity 3: involvement during preparation**

A.20 There is no requirement in the regulations for the Forum to involve local people in the preparation of the plan. However, it is strongly advisable. The plan may not be approved by the examiner (see Opportunity 5 below) unless involvement can be demonstrated.

*Finding out about the opportunity to be involved*

A.21 The Forum that is preparing the plan needs to decide how to publicise this.

*How to make comments*

A.22 The Forum that is preparing the plan needs to decide how to receive comments.

*Matters that comments can cover*

A.23 The Forum that is preparing the plan needs to decide what sort of comments to invite, but it is likely to cover what the Forum intends to include in the plan.

*How comments are taken into account*

A.24 The Forum that is preparing the plan needs to decide how to respond to comments received at this stage, before drafting the plan. The Forum will need to be able to demonstrate how it has taken comments into account.

**Opportunity 4: written comments**

A.25 Before the plan is finalised, the Forum must make the draft plan available for local people to comment on.

*Finding out about the opportunity to be involved*

A.26 The Forum that is preparing the plan needs to decide how to publicise the draft plan.

*How to make comments*

A.27 The Forum that is preparing the plan needs to decide how to receive comments. They are likely to require comments in writing.

*Matters that comments can cover*

A.28 People will have the opportunity to comment on the content of the draft plan.

*How comments are taken into account*

A.29 The Forum that is preparing the plan needs to decide how to respond to comments received at this stage, before finalising the plan. The Forum will need to be able to demonstrate how it has taken comments into account.

## Examination

**Opportunity 5: written comments**

A.30 Before the examination can take place, the Forum must submit the plan to the Council, and the Council must make it available for public comment for six weeks.

A.31 Any comments received are passed to the person appointed to carry out the examination. The Council appoints a suitable person.<sup>39</sup> The examination is normally dealt with by written representations. There may not, therefore, be an opportunity to appear at a hearing, unlike plans prepared by the Council (see Chapter 3).

*Finding out about the opportunity to be involved*

A.32 When the Council receives a draft plan, it will place it on the website, and notify people through Planning Direct.

*How to make comments*

A.33 People need to submit written comments and must include the name and address of the person writing them. Comments need to be submitted by the stated deadline. If comments are received late, it is possible that the plan will already have been submitted for examination, and the comment cannot to be taken into account.

*Matters that comments can cover*

A.34 Comments at this stage would relate to the content of the plan.

*How comments are taken into account*

A.35 The Council will pass all comments to the person appointed to examine the plan, to consider alongside the plan. The examiner will prepare a report and recommend if the plan can proceed to a referendum or not. The examiner may require to the plan. The Council must make these changes before the plan proceeds to the referendum.

---

<sup>39</sup> Unlike other planning policy documents, examinations for neighbourhood plans do not have to be carried out by a Planning Inspector on behalf of the Secretary of State.

# Referendum

## **Opportunity 6: referendum**

A.36 Unlike plans that the Council prepares, a Neighbourhood Plan has to be approved in a referendum before the Council can adopt it as policy. Those people on the electoral role living in the Area<sup>40</sup> will be able to vote, just like an election.

### *Finding out about the opportunity to be involved*

A.37 The Council will notify people through Planning Direct of the date and details of the referendum, and in accordance with the relevant regulations. Electoral services will dispatch polling cards, just as with any election.

### *How to make comments*

A.38 This is not a stage for making comments, but for making a decision whether people want the plan to be adopted.

### *Matters that comments can cover*

A.39 Comments cannot be made at this stage.

### *How comments are taken into account*

A.40 If the result of the referendum is a vote in favour of the plan,<sup>41</sup> the Council must adopt it as part of the Development Plan.<sup>42</sup>

A.41 The Council will notify people of the result of the referendum on the Council's website and via Planning Direct.

---

<sup>40</sup> Normally the Neighbourhood Area will be the same as the area for the referendum. There is provision in the regulations for the area of the referendum to be enlarged by the Council in certain circumstances.

<sup>41</sup> The vote is a 'simple majority' (over 50%) of those voting

<sup>42</sup> The Development Plan is the starting point in assessing planning applications. See the introduction to the Development Management chapter, above.



## Appendix A

A.1 Every Council is required to prepare a Statement of Community Involvement (SCI). This document is the SCI for the Royal Borough of Kensington and Chelsea.

A.2 A draft of this document, called Public Involvement in Planning, was first issued for consultation from 13 March to 27 April 2012. A second draft – Involving People in Planning – was issued from 12 June to 23 July 2012. A third draft was issued 6 December 2012 to 31 January 2013. This final draft has been considerably revised in the light of the comments received, and reviewed by a discussion group prior to adoption.

A.3 An SCI must set out how the public can be involved in applications and policy. It is also expected to set out involvement for development orders. However, there is no dedicated chapter on development orders in this document as these have not been used in the Royal Borough, and are unlikely to be used in the future. Should the Council prepare a development order, it will involve people early in the process, as well as that required by the regulations. Should a neighbourhood forum prepare a neighbourhood development order, the Council will encourage the early involvement of local people.

A.4 There is no requirement for an SCI to cover Neighbourhood Planning. It is included in this document as it provides further opportunities for people to be involved in planning.





## Appendix B

B.1 'Development' is defined in section 55 Town and Country Planning Act 1990. Works that are not development do not need planning permission. However, they may need other consents such as listed building, advertisement or tree works.

B.2 'Development' covers physical changes as well as changes of use.

B.3 In order to ensure that a planning application does not need to be submitted for every 'development', the Government sets out some changes that, in effect, already have planning permission. This is called 'permitted development', and is set out in the General Permitted Development Order.

B.4 Most change of use matters are dealt with through the Use Classes Order. This sets out different classes of use. For example, A1 is shops. Changes of use within that class – for example from an antiques shop to a fashion shop – are not development. Changes from one class to another are development, but some of these are 'permitted development'.

B.5 Up to date information on permitted development can be found on [Direct.gov.uk](http://Direct.gov.uk)

B.6 Planning applications must be determined in accordance with the 'Development Plan' unless material considerations indicate otherwise. This is section 38(6) of the Planning and Compulsory Purchase Act 2004. 'Material considerations' is explained in Chapter 2.

B.7 The Development Plan sets out policy.

B.8 The London Plan forms part of the Development Plan. This sets out the Mayor's policy.

B.9 Council policy is set in the Local Plan. This also forms part of the Development Plan. In RBKC the Core Strategy and the remaining parts of the Unitary Development Plan (UDP) will be renamed the Local Plan in 2014 or 2015, to align with new regulations.

B.10 Neighbourhood Plans (see Chapter 4) are prepared by a Neighbourhood Forum where there is no Parish. These plans also form part of the Development Plan.

B.11 The Development Plan (whether the London Plan, Council policy, or a Neighbourhood Plan) must be prepared in accordance with the policies set at a national level in the National Planning Policy Framework (NPPF). A copy of this can be found on [Direct.gov.uk](http://Direct.gov.uk) website.

B.12 In addition to the NPPF and the Development Plan The Council can also adopt Supplementary Planning Documents (SPD), which give further detail on policies in the Development Plan. SPD does not form part of the Development Plan – as the name suggests it is supplementary to it.

## **Appendix C**

C.1 There are statutory requirements in relation to publicising planning and related applications, as well as publicising the preparation of policy.

C.2 The way decisions are made by the Council is also set out in statute, and in the Council's Constitution. More information on how decisions are made for planning applications is set out in Chapter 2, and for policy is set out in Chapter 3.

C.3 Public bodies must disclose information under the Freedom of Information or Environmental Information Regulations unless there is a good reason for it to be withheld. These reasons are set out in statute. Further information can be found on the Council's website under Freedom of Information.

**Information from this document can be made available in alternative formats and in different languages. If you require further assistance please use the contact details below.**

#### **Arabic**

يمكن توفير المعلومات التي وردت في هذا المستند بصيغ بديلة ولغات أخرى. إذا كنت في حاجة إلى مزيد من المساعدة، الرجاء استخدام بيانات الاتصال الواردة أدناه.

#### **Farsi**

اطلاعات حاوی در این مدارک به صورتهای دیگر و به زبانهای مختلف در دسترس می باشد. در صورت نیاز به کمک بیشتر لطفاً از جزئیات تماس ذکر شده در ذیل استفاده کنید.

#### **French**

Les informations présentées dans ce document peuvent vous être fournies dans d'autres formats et d'autres langues. Si vous avez besoin d'une aide complémentaire, veuillez utiliser les coordonnées ci-dessous.

#### **Portuguese**

A informação presente neste documento pode ser disponibilizada em formatos alternativos e em línguas diferentes. Se desejar mais assistência, use por favor os contactos fornecidos abaixo.

#### **Somali**

Macluumaadka dokumentigan waxaa lagu heli karaa qaabab kale iyo luuqado kala duwan. Haddii aad u baahan tahay caawinaad intaas dhaafsiisan fadlan isticmaal xiriirka faahfaahinta hoose.

#### **Spanish**

La información en este documento puede facilitarse en formatos alternativos y en diferentes idiomas. Si necesita más ayuda por favor utilice la siguiente información de contacto.