

# Neighbourhood Planning Guidance

*A step-by-step guide for producing a Neighbourhood Plan and other options available through Neighbourhood Planning*

**Royal Borough of Kingston-upon-Thames**

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THE ROYAL BOROUGH OF  
**KINGSTON**  
UPON THAMES



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# 1. You and the planning system

## What is the planning system?

The statutory town and country planning system in England is designed to regulate and control the development of land and buildings in the public interest. The modern planning system was introduced by the Town and Country Planning Act of 1947. There have been a series of further Acts over the succeeding years, with the main ones in use today being:

- the four 1990 Acts;
- the Planning and Compulsory Purchase Acts of 1991 and 2004;
- the Planning Act of 2008; and
- the planning provisions of the Localism Act 2011 – which allows the creation of Neighbourhood Plans.

Supplementing the Acts are various Statutory Instruments, Ministerial Statements, and the National Planning Policy Framework (NPPF) and Planning Practice Guidance.

The Planning Acts have included a presumption in favour of development since 1947. Development is defined in the 1990 Act as “*the carrying out of building, engineering, mining or other operations in, on, over or under land*” (known as operational development) or “*the making of any material change of use of any buildings or other land*”. Not all development requires planning permission ~ hence the term ‘permitted development’.

Permitted development is the legal term for building works and uses as defined by the government (in the General Permitted Development Order and Use Classes Order) that can be undertaken without the need for express planning permission from the Council.

## How do you decide what gets planning permission?

If development requires express planning permission the proposer of the development needs to apply to the Council. The guiding principle in determining planning applications is that development should be permitted, having regard to the Development Plan and all other “*material considerations*”, unless the proposed development will “*cause demonstrable harm to interests of acknowledged importance*”.

‘Material considerations’ will include matters such as residential amenity, highway safety, traffic, noise, smell, design and appearance, conservation and listed buildings and any relevant planning comments made by consultees. In order to be material a consideration must relate to the use and development of land and to the planning merits of the development. Non-planning comments and the number of objections received are not material considerations.

The majority of decisions on planning applications are made by Council officers under what are called ‘delegated powers’. They make decisions, rather than an elected planning committee, provided that there are no complex issues, or the proposal is wholly acceptable in planning terms. It is also used for refusal when an application is clearly not in accordance with planning policies or practice.

Decisions which would otherwise be made under delegated powers can be called-in by elected Councillors for determination by the Council’s Development Control

Committee, or four Neighbourhood Committees, within a prescribed time and where the application raises issues of local importance.

We will issue a decision notice setting out the conditions under which the permission is issued and detailing the reasons for the decision (whether permission or refusal). Applicants have the right to appeal against the refusal of planning permission to the Planning Inspectorate. There are no third party rights of appeal in England, but if you believe that there has been maladministration you should complain to the Council.

## What is the 'Development Plan'?

The Development Plan – previously known as the Local Development Framework (LDF) – comprises statutory documents produced by Local planning Authorities that must be taken into account in determining planning applications. These include Development Plan Documents (DPDs) that are subjected to examination by a member of the Planning Inspectorate before being formally adopted by the Local Planning Authority.

DPDs need to be in general conformity with the NPPF, and at a regional level with the London Plan – the overarching strategic planning document for all London Boroughs.. In addition to these documents, the current DPDs in use in Kingston are:

- the Core Strategy;
- the Kingston Town Centre Area Action Plan (K+20);
- the Joint South London Waste Plan.

Planning permission must be granted in accordance with the Development Plan unless “material considerations” indicate otherwise, the Development Plan is important in determining what type of development can happen where and when.

The Development Plan identifies areas to be protected from development (like Green Belts and Metropolitan Open Land); assign sites for specific types of development (such as housing allocations); and sets out generic policies that apply to all planning applications of a particular type.

## What does this mean to me?

The government believes that local people and businesses should be at the heart of genuinely local decision-making. The Localism Act 2011 includes a large number of measures designed to give greater powers to Local Planning Authorities, like Kingston Council, local communities and local people.

One of the things that government is most keen about is that local communities should have more control over planning decisions.

The process of preparing Local Plans is one that involves a good deal of public consultation – this means that you have the opportunity to have your say on not only what happens in your neighbourhood, but also across the Borough as a whole. With planning applications, neighbours are consulted and have the opportunity to express their views before any decision is made.

However, not everybody feels that they have had an opportunity to get properly involved in local decisions. If you feel like that, you may want to consider getting involved in preparing a Neighbourhood Plan.

## What is a Neighbourhood Plan?

This is a plan that the community – rather than the Council – prepares for a small part of the Borough. You could prepare a Neighbourhood Plan with your neighbours and local community.

Once a Neighbourhood Plan is adopted, it will form part of the basis for determining planning applications within the area covered by the Neighbourhood Plan.

There are some basic processes that have to be followed if you want to get involved in preparing a Neighbourhood Plan. This guide is designed to help local Ward Councillors, residents and businesses understand the purposes and practicalities of preparing a Neighbourhood Plan.

## Is a Neighbourhood Plan the only solution?

No, but it may be the best solution. If there are no land-use planning elements to local concerns you might wish to consider preparing a non-statutory Neighbourhood Community Plan instead. If, alternatively, the community's concerns are that the planning regime in your neighbourhood is too restrictive and needs to be loosened you could consider preparing a Neighbourhood Development Order. For a range of alternatives see section 6.

However, a Neighbourhood Plan will assess the strengths, weaknesses, opportunities and threats to your neighbourhood. It means that you get the opportunity to shape what development happens in your neighbourhood. It can bring your local community together to play a role in shaping the future of your area.

It can bring together residents, businesses, local groups, landowners and developers to share ideas. The process should help people share ideas and build a consensus about what needs to be done in the area. It can also help create lasting partnerships both within and outside the community, for example with public service providers or local businesses.

Neighbourhood Plans are not compulsory. Unlike Local Plans, which the Council is required by law to prepare, Neighbourhood Plans are entirely voluntary. If there is enough interest from a community, and there is agreement about issues, a wish to create a Neighbourhood Forum (explained in section 2) and prepare a Neighbourhood Plan may emerge through discussions.

However, when discussing the issues, the local community may feel that their issues are not with the planning or development process but rather with other problems such as parking, litter, anti-social behaviour, how often the grass is cut on the local recreation ground, or how places are allocated at the local primary school. If this is the case, a Neighbourhood Community Plan – rather than a Neighbourhood Plan - may be the best way forward.

If planning issues are people's primary concerns, a Neighbourhood Plan offers communities an opportunity to include their own local planning priorities within the wider planning system.

Across most of England, the government intends that it is parish councils (sometimes styled as town councils or community councils) that will take on the responsibility of preparing Neighbourhood Development Plan. However, in parts of the country where there are no parish councils, like Kingston, groups will be able to take on that role,

subject to meeting certain conditions and getting the approval of their Local Planning Authority.

## Why should I get involved?

You don't have to. But if you have concerns, you need to express them. In the first instance, we suggest that you talk to your local Ward Councillors (a Ward is a discrete geographic part of the town). These are local people that are elected to represent you and your views.

There are 48 Ward Councillors on Kingston Council, which consist of 3 Councillors for each of the 16 Wards: Alexandra, Berrylands, Beverley, Canbury, Chessington North & Hook, Chessington South, Coombe Hill, Coombe Vale, Grove, Norbiton, Old Malden, St James, St Mark's, Surbiton Hill, Tolworth & Hook, and Tudor.

Details of how to get in touch with your local Ward Councillor, which parts of the Borough they represent and what they do, can be found on the Council website: [www.kingston.gov.uk/info/200267/Councillors](http://www.kingston.gov.uk/info/200267/Councillors).

They will be able to help you and advise you how to resolve local problems and issues.

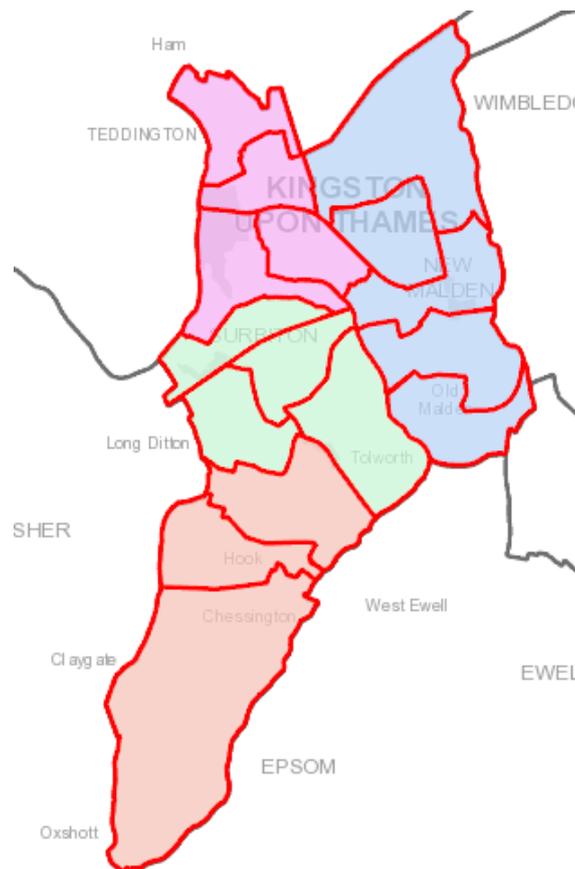


Figure 1 - Ward map of Kingston

On bigger issues, where matters lie beyond the control of the Council, you may want to contact your local London Assembly Member or local Member of Parliament.

## **Can I get my Ward Councillors involved in a Neighbourhood Plan for their area?**

Yes. The government does not require Councillors to be involved, but we suggest that it is advisable. Experience from the first Neighbourhood Planning projects across England in 2011 is that where elected Councillors are involved in a Neighbourhood Forum, they play a key role and can help progress the work significantly – giving it profile with the community and within the wider council; and helping to access resources for the work.

## 2. Forming a Neighbourhood Forum

### How do I get more involved in planning my neighbourhood?

Firstly, talk to your friends and neighbours. Do they share your concerns? Is there already a local group you could join? Is there sufficient common ground between you and your friends and neighbours to be able to work together to create a plan? Can you build a 'community of interest' that is representative of the wider community in the local area?

In order to prepare a Neighbourhood Plan the law requires that you must first become a Neighbourhood Forum. This section outlines the steps that you need to take to turn yourselves from a group into a properly constituted and recognised Neighbourhood Forum.

You should work closely with the community: the more people, the better. The involvement, throughout the process, of a broad range of local people and other stakeholders (like business-owners and landowners) will help make the Plan something that everyone believes in and supports.

The following is a list of people and organisations that you should consider approaching before you begin work on applying for Neighbourhood Forum status:

- Local residents
- Your elected Councillors
- Local community groups
- Local shop owners
- Other local business owners and/or their employees
- Local religious groups
- Headteachers or Boards of Governors of local schools
- General practitioners in your area
- Local landowners
- Estate agents active in the area (residential and commercial)
- Any developers that are building or have recently built in the neighbourhood

It will probably be a good idea to talk to officers from the Council (who determine planning applications, maintain parks and open spaces, etc...) about your thoughts. Why are things not the way that you would prefer them to be? Are there legal or practical obstacles to the things that you would like to change?

You may also want to talk to other public sector service providers, such as Transport for London (who are responsible for main roads) or Kingston Clinical Commissioning Group (who are responsible for healthcare).

Again, they may be able to help you to understand why things are the way that they are and point you to sources of information that might help you to shape your ideas.

### OK, we've got a group and we think that we want to prepare a Neighbourhood Plan: What are the first steps?

There are a group of you that share common views and you want to prepare a Neighbourhood Plan. You have identified the broad issues that you want to tackle and you have identified the area for which you wish to prepare a plan. You've talked to local people and stakeholders. You've got some basic 'facts at your fingertips' and

some thoughts about how you might tackle the planning issues that concern you. What do you do next?

Procedurally, there is no one right way to develop a Neighbourhood Plan. How you prepare your plan is a matter for you, although there are certain things that the law requires you to do.

This document offers advice on what to do and how to do it. But there is also advice available from a number of other sources (see section 7) and good practice is evolving all the time.

This document also tells you the things that you must do – the things that the law requires you to do. If you choose to ignore this advice, your work will be at risk of being wasted effort. The Council will not be able to adopt your Neighbourhood Plan if you do not do those things that the law requires. The Council has also prepared a Neighbourhood Planning Protocol that should also be referred to.

To find out more about what you need to do, it is suggested that you should consult the Neighbourhood Planning (England) Regulations 2012, which can be found via the Planning Portal website.

Things that **you must do** appear in green coloured boxes like these.

One of the first legal requirements is that you need to apply to the Council to create a Neighbourhood Forum and define an area for your Neighbourhood Plan. It is the Neighbourhood Forum that will be the legal entity charged with preparing the Neighbourhood Plan. Your group cannot prepare a Neighbourhood Plan unless you are first formally recognised by the Council as a Neighbourhood Forum.

## What are the requirements to become a Neighbourhood Forum?

The government has established minimum essential criteria that any group applying for permission to form a Neighbourhood Forum and prepare a Neighbourhood Plan must meet. The following are the minima that any group must demonstrate to the satisfaction of the Council:

- Must comprise at least 21 people who all either:
  - live in the Neighbourhood Area concerned; or
  - work in the Neighbourhood Area concerned; or
  - are local Councillors for the Neighbourhood Area concerned
- Must secure, or take reasonable steps to secure, that its membership includes at least one individual from within each of the above groups
- Membership is open to all of the above mentioned groups
- Membership is drawn from different places in the Neighbourhood Area and from different sections of the community
- The group must be representative of the character of the Neighbourhood Area
- The group must have a written constitution, including a definition of its objectives
- Those objectives must include furthering the economic, environmental and social well-being of the area in question
- Contact details for at least one member must be provided

The Council will set out additional criteria for Neighbourhood Forums through the Neighbourhood Planning Protocol. The Council may vary or rescind these criteria periodically and you are advised to contact the Planning Policy team to ensure that you are aware of the current requirements.

It is your responsibility to ensure that you meet these minimum criteria when you make your application to become a Neighbourhood Forum. If you and your group do not meet the statutory criteria, your application will be refused and you will not be able to prepare a Neighbourhood Plan.

You are, of course, free to amend your application and resubmit it when you are confident that you meet the essential criteria.

It is suggested that you talk to Council officers before you submit your application, to give you the best chance of getting approval first time. All such advice will be provided free of charge on a 'without prejudice' basis and in good faith.

It is also possible to propose to become a Neighbourhood Forum that straddles the Council boundary with our neighbouring Local Planning Authorities:

- Elmbridge Borough Council
- Epsom and Ewell Borough Council
- London Borough of Merton
- London Borough of Richmond upon Thames
- London Borough of Sutton
- London Borough of Wandsworth

- Mole Valley District Council

Should you decide to pursue this as an option you will need to make separate applications to each Local Planning Authority that the Neighbourhood Forum falls within, meeting the approval criteria of each.

## How will we determine your application to become a Neighbourhood Forum?

The Council will consider the information included within a Neighbourhood Forum application objectively.

We will publicise your application in such a way that it is likely to bring it to the attention of people who live, work or do business in the neighbourhood. People will then have not less than **six weeks** to make responses and representations. We will then consider the responses and representations that we receive.

The Council's decision making process will be set out in the Neighbourhood Planning Protocol.

Should your application be refused, you will not be able to call yourselves a Neighbourhood Forum and you will not be able to prepare your Neighbourhood Plan. We will endeavour to provide you (should you wish it) with advice on how to improve your application in order to gain approval if you re-submit it. Alternatively, you may wish to consider using other powers instead (see section 6 below).

## What happens if we approve your application?

You should be aware that we have the power to withdraw a group's Neighbourhood Forum status where we consider that it is no longer meeting the conditions or criteria set out in our Neighbourhood Planning Protocol. We will not take such a decision lightly and will give you the opportunity to correct any failings that we perceive might lead us to withdraw your Neighbourhood Forum status.

## How do we define our Neighbourhood Area?

The Neighbourhood Area is that part of the Borough for which you propose to prepare your Neighbourhood Plan. It is up to you to determine the area of the neighbourhood for which you wish to plan.

The law requires that you should make separate applications for designation as a Neighbourhood Forum and for the designation of your Neighbourhood Area. The Council's advice on how this process should be carried out will be set out in the Neighbourhood Planning Protocol.

There are certain criteria that you have to meet when you submit your Neighbourhood Area application to us:

- A map identifying your proposed Neighbourhood Plan area
- A statement identifying why you consider this to be an appropriate area for a Neighbourhood Plan
- A statement confirming that we have recognised you as a Neighbourhood Forum

We suggest that, for the purposes of clarity, the map that you submit should be an Ordnance Survey plan at not less than 1:10,000. On the plan that you submit to us, you should clearly outline the proposed Neighbourhood Plan area by a red line. If we cannot identify the area concerned, we will ask you to provide us with a better quality map.

The Council is unable to help you by supplying Ordnance Survey maps. Please contact them to confirm the availability of suitable plans for your purposes: see chapter 7 for contact details.

You can also buy suitable base maps via the government's Planning Portal website (which also provides a wide array of useful information about the planning and building control systems). Four suppliers are currently accredited: go to the Planning Portal website: <http://www.planningportal.gov.uk/planning/applications/plans>

Advice on the size of the Neighbourhood Area will be set out in the Council's Neighbourhood Planning Protocol.

If the area that you are proposing is primarily or wholly in business uses (shops, factories, offices), you should approach the Council about designating the area as a 'business area'. This is a significant designation because, when it comes to a referendum on your Neighbourhood Plan (see chapter 4), a parallel referendum will be held for non-domestic ratepayers if the area has been designated as a business area.

It is the Council's job to keep an overview of all the different requests to undertake a Neighbourhood Plan in Kingston. The Council will check that the suggested boundaries for different Neighbourhood Plans make sense and fit together. The Council will say could refuse and application if, for example, two or more proposed Neighbourhood Plan areas overlap. Should this be the case, the Council will encourage any community groups involved to see if they can find common ground and work together.

We will publicise your application on our website and in such a way that it is likely to bring it to the attention of people who live, work or do business in the neighbourhood. People will then have not less than **six weeks** to make responses and representations. We will then consider the responses and representations that we receive.

The Council is required to give a decision upon whether we will designate your Neighbourhood Area within **13 weeks** of the application (or 20 weeks if the Neighbourhood Area covers more than one Local Authority).

The Council's decision making process will be set out in the Neighbourhood Planning Protocol.

Once approved, you may not alter the Neighbourhood Plan area without first re-submitting a Neighbourhood Forum Application Form and seeking the Council's permission once more.

## How do you write a project plan?

The project plan links closely to the work programme. Your group must produce a programme of what work you think will need to be done throughout the plan-making process and how long this will take.

In particular it is worth thinking about:

- What needs to be done at each stage – publicity, meetings, surveys, events?
- What resources are needed to carry out these activities – people, funding, materials?
- How much time will be needed to achieve each stage of the programme?

The programme will help the group to focus and monitor its activity and to think about what funding may be required to develop the plan.

Project planning is a particular skill in itself. Indeed, there are specialist project management professionals who are in great demand by all types of commercial organisations across the World. There are also books and software on project planning available for you to use.

However, the Council will not require you to have used these techniques or to have a professional project manager as a part of your team. It will merely ask you to supply sufficient information to demonstrate that you have thought through all of the key issues in advance and are well equipped to take on the important task of producing a statutory Development Plan that will control people's use of land and buildings.

Your project plan will need to be credible and robust. We suggest that it should include:

- a work programme
- a budget for the next three-years
- a communications strategy
- a skills audit
- a capacity building strategy (where appropriate)

The Council will 'test' the robustness of your project plan as a part of its assessment of whether your group should be recognised as a Neighbourhood Forum.

Before submitting your project plan, you should ensure that it is approved by a simple majority of the membership of your group. This is probably most easily done at an Annual General Meeting or a Special General Meeting.

## **What should our work programme look like?**

Your work programme is a matter for you, but we would expect to see a programme that sets out tasks and milestones against a timeline.

The Council produces a work programme for the production of its own Local Plan, called the Local Development Scheme. You can find this on the Council's website. It may provide some useful ideas on how to present your work programme.

Using a project management technique known as critical path analysis is likely to be useful to you in: (i) determining what tasks needs to be done; (ii) establishing the order in which tasks need to be completed; (iii) identifying the prior completion of which tasks is vital before you can progress to the next task; and (iv) thereby establishing the entire length of the work programme.

You can either present your work programme as a critical path diagram or as a simplified Gantt chart. Using a Gantt chart to set out the work that you plan to

undertake and establish milestones for the completion of individual tasks may prove to be enough for the purposes of the Forum.

The Council will expect your work programme, as a minimum, to set milestones for the completion of particular tasks by particular dates and to establish the overall timetable for plan production through to adoption.

You will need to be realistic about how long it will take you to complete various tasks given the resources (money, people, skills, information, etc.) likely to be available to you. There has been an indication from Government that it believes that the process of developing a Neighbourhood Plan should take approximately one year. However, this may prove to be somewhat optimistic.

We suggest that you do not complete your work programme until you have established your budget, skills audit and capacity building strategy.

The establishment of milestones will enable you to monitor your progress as a Neighbourhood Forum. Missing milestones need not necessarily be problematic, but consistently failing to hit your milestones may suggest that your work programme is unduly optimistic and needs to be revised.

## What are our costs going to be?

Plans are likely to vary in costs, depending on the size of the area covered by the plan and the complexity of what is likely to be proposed. Your costs are likely to be reduced where local skills and expertise are tapped into.

Alternatively, sponsorship by one or more local companies, businesses or stakeholders may meet all or part of the costs. The government has suggested that land-owners and developers may be suitable sponsors. However, you may wish to consider what perception will be created in the wider world of a plan being paid for by a private company that may 'benefit' from the plan's proposals.

For reasons of propriety, Local Plans prepared by Councils are fully funded by the Local Planning Authority themselves.

Your costs in preparing a Neighbourhood Plan will vary, depending upon how much work you need, or decide, to do. They can be broken down into those expenses that you are required by law to incur and those that you may choose to avoid:

- Strategic Environmental Assessment Screening: £5,000
- Consultation: £5,000 - £10,000\*
- Maps: £1,000 - £5,000

- Strategic Environmental Assessment (if required): £10,000 - £30,000\*
- Appropriate Assessment (if required): £15,000\*
- Sustainability Appraisal: £10,000 - £15,000\*\*
- Other evidence studies (if required): £4,000 - £15,000
- Capacity building: £1,200 - £3,000
- Printing and/or web-site: £1,000 - £3,000

- Legal advice and representation: £1,500 - £5,000
- Contingency & miscellaneous expenses: Approx. 10% - 20% of budget

(\*costs estimated by the Department for Communities and Local Government in its impact assessment of Neighbourhood Plans and Community Right to Build, January 2011)

(\*\* if you are required to complete a Strategic Environmental Assessment then the Sustainability Appraisal could be completed within the SEA process – see Chapter 3 for more details)

We can only give estimates as to how much this work may cost (at 2012 prices unless otherwise stated). We suggest that if you employ any consultants that you ensure they charge you a pre-agreed fixed fee, with full or last partial payment only payable on receipt of the final piece of work.

We suggest that you prepare a budget for five years (or whatever shorter period you believe that it will take you to complete your Neighbourhood Plan), so that you can plan out what you will need to spend and when.

You may not need a chartered accountant to prepare your budget or maintain your accounts but someone with book-keeping skills would be helpful to you. What arrangements you make for financial record keeping or accounting is a matter for you. Be aware that a lack of financial transparency may undermine public confidence in the management of the Forum.

## How do we prepare a communications strategy?

A Neighbourhood Plan should be community led, with local people and/or businesses in the driving seat. The plan depends on strong local leadership and participation to be successful.

If the community are not supportive of the idea of a Neighbourhood Plan or its contents, right from the start, then it will be extremely difficult to produce a document that properly reflects their priorities and aspirations, and ultimately gets their support at a referendum.

The wider community must therefore be informed of your intentions and given the chance to get involved from the beginning.

This could be achieved by holding an initial public meeting to explain the intentions of developing a Neighbourhood Plan and to recruit community volunteers to join your Neighbourhood Forum (see below).

You could also write to local groups and businesses to notify them of your intentions and to identify the level of interest these groups may have in taking part in the Neighbourhood Plan (or maybe sponsoring it).

We suggest that the Forum considers appointing a steering committee to take charge of document preparation. The key to keeping the community on board is good publicity and communications at the beginning and throughout the process. We suggest that you identify the answers to the following questions when you prepare your communications strategy:

- **Why?** What are you trying to achieve? Are you communicating facts? Seeking open opinions and views? Wanting comments on specific proposals?
- **When?** What is the right time to ask these different types of questions?

- **How?** What is the best way of getting the type of answers that you are seeking? Public meetings? Mail-shots? E-mails? 1-2-1 meetings?
- **Where?** If you are going to hold meetings, where are you going to hold them? And at what time of day?
- **What?** How will you use the information that you gather? How will you analyse qualitative as well as quantitative responses?

Other important questions to ask yourself are: what is my audience? How much do they understand what we are doing? Can we use technical or non-technical language? What are the questions I would like to be asked?

We suggest that as a point of principle you should not consult people unless their input is going to genuinely influence the contents of the Neighbourhood Plan. Do not ask people questions to which you do not want to know the answer.

You can use this information to inform your communication strategy. This should set out how and when you mean to communicate with the wider community and other stakeholders.

Different ways of getting messages out to the community include:

- 'Walk and talk' with interested parties
- Writing or e-mailing all those that may have previously expressed an interest
- Putting up posters
- Delivering flyers/leaflets
- Using IT – Forum website, social media, e-mails
- Putting notices in Forum newsletters or magazines
- Contacting the local media

The Council has produced a Statement of Community Involvement about how it will involve people in plan preparation. This is on our website and you may find it helpful in giving you some ideas.

Your communications strategy need not be so long, but it should demonstrate that you have given some thought to how you are going to involve the local community. This will help you as you go through the plan-making process and help us to understand what you plan to do.

## **What is a skills audit? How does it relate to preparing a capacity building strategy?**

You will need to consider the full range of skills, knowledge and experience that you will require to produce the Neighbourhood Plan. Do you have the necessary skills? You do not necessarily need a professional town planner on-board, but you need to ensure that you can satisfactorily complete all of the statutory processes properly - or the independent examiner (see part 4) may find your plan 'unsound'.

The role of the chairperson of the Neighbourhood Forum will be key. A good chairperson is worth their weight in gold and will ensure that everything works smoothly. A poor chairperson will hobble the project. You will probably already have a chairperson if you are contemplating applying for Neighbourhood Forum status. But you should bear in mind that the skill-set necessary to be a successful chairperson

when a group is being set-up may not be the same as the skill-set needed for a successful chairperson once the actual planning work begins.

We suggest that you undertake a skills audit of your team members, identifying every individual's skills and interests (which may not be the same thing) and the amount of time they have available to work on your Neighbourhood Plan. Remember that some people are seasonal workers (teachers or agricultural workers for instance) or have particular busy periods during which they would not be able to work on the plan (for example, accountants tend to be particularly busy during audits and at their financial year-end).

Identify also those skills that people have an interest in learning and their willingness to spend time acquiring those skills.

Once you have completed your skills audit you can compare it against the tasks that you have identified in your work programme need undertaking (and the skills that they require). You should then be able to identify the skills gaps that you have i.e. what you need to know against what you actually know.

This should provide you with enough information to identify whether you need to take on consultants to undertake certain tasks for you or whether you can devise a capacity building strategy to give your own team members the skills that you need. Your capacity building strategy should show your skills audit and your identification of the skills gaps. It should also demonstrate how you plan to plug those gaps: for example, learning one-to-one from a skilled practitioner, focussed reading, distance learning, on-line courses, short or extended training courses, etc.).

### **Any tips on organisation?**

As you move onwards from this point to organise yourselves, you will need to ensure that not only do you have the right skills, but that your team is effective. Even if you have all of the skills that you need, if the Neighbourhood Forum is large it will not be effective if everybody tries to be involved in the whole process.

For this reason, we suggest that you form a steering committee of no more than 12 members. They should have oversight of the entire plan-making project and ensure that the project keeps to the milestones set in the project plan. The members of the steering committee will need to have the necessary co-ordinating and management skills to keep other people 'on track', coupled with a degree of tact and diplomacy to avoid frictions.

If the membership of your Neighbourhood Forum is large enough, you may wish to consider organising working groups or sub-committees of the steering committee. To these groups can be delegated specific tasks, which in turn can be delegated to identifiable individuals working to set timetables. By managing work in this way, the load is spread so that no-one person is overwhelmed.

There is advice available to you from various bodies and organisations which should be able to help you identify what skills may be missing from your team (see section 7). This advice may not be free and you may have to pay a fee.

### **How much planning legislation do we need to know?**

This is not entirely clear. However, it is reasonable to assume that – as the Neighbourhood Plan is going to become a part of the statutory Development Plan for

your area and will be used to determine planning applications – a reasonably high level of knowledge will be necessary.

Local Plans prepared by Local Planning Authorities, like the Council, are prepared by professionally qualified and experienced town planners. Usually they will have undertaken a minimum of four year's professional training and subsequent Continuing Professional Development.

Plainly, government does not expect Neighbourhood Forums to have that level of professional planning knowledge, experience or expertise.

You need to remember that it is the Neighbourhood Forum's responsibility to produce a robust and sound plan – it is not the responsibility of the Council. We can offer you advice and information but the Neighbourhood Plan is your responsibility alone.

It is suggested that a basic understanding of the theory, aims, intentions and principles underpinning local Development Plan-making should be held by the Neighbourhood Forum. This should be coupled with a good understanding of best practice guidance covering Neighbourhood Plan-making and an excellent understanding of the current legislation and relevant case law (i.e. decisions made in the courts and by the Planning Inspectorate which interpret the law).

## 3. Preparing your Neighbourhood Plan

### We have our permission to become a Neighbourhood Forum. What do we do now?

Let us quickly recap. You are a properly constituted group that shares common views. You hold an Annual General Meeting and other meetings of all your membership; you have at least three elected and accountable officers (usually a chairperson, secretary and treasurer). You have identified the broad issues that you want to tackle and you have identified the area for which you wish to prepare a Neighbourhood Plan.

You've held preliminary talks with local people and stakeholders. You've got some basic 'facts at your fingertips' and some thoughts about how you might tackle the planning issues that concern you.

You have been recognised by the Council as the Neighbourhood Forum for your discrete part of the town. You are now in a position to begin Neighbourhood Plan-making proper. Your work programme has already identified the tasks you want to undertake and the timescale within which you intend to complete them.

What you do is a matter for you, but we would suggest that certain key tasks are essential to your work:

- completing a Strategic Environmental Assessment screening
- undertaking a full Strategic Environmental Assessment (*if required*)
- deciding upon a vision and objectives
- formally consulting the community on your final draft plan
- considering whether you want to finally revise the draft plan in the light of public consultation
- sending your final draft plan to us for assessment prior to Examination

### What is a Strategic Environmental Assessment?

Strategic Environmental Assessment (SEA) is a way of including environmental considerations into plans. It ensures that environmental issues are fully integrated and addressed at the earliest appropriate stage of decision making.

SEA is a key component of sustainable development, establishing important methods for protecting the environment and extending opportunities for public participation in decision making.

Not all plans require a SEA to be completed but it will be necessary to 'screen' (or assess) a plan to ensure that it complies with European and national laws.

As a result of this 'screening' it may be determined that your plan might have significant environmental effects. If this is the case, a full SEA will be required. You will need to develop a SEA at the start of your plan-making process. We suggest that you seek expert professional advice about SEA. Getting your screening assessment wrong could catch you out at Examination.

## **What is the difference between SEA and Sustainability Appraisal?**

There is no legal requirement to undertake a Sustainability Appraisal (SA) on a Neighbourhood Plan but Government guidance states that a Neighbourhood Forum must demonstrate how its plan will contribute to achieving sustainable development. The findings of a SA can inform your decisions on the contents of your Neighbourhood Plan.

A SA looks at the possible economic, social and environmental impacts of an emerging plan, and should result in a plan that has the least negative impact possible on an area.

If completed, a SA will need to be incorporated in your plan-making process from the very beginning. It is important that the appraisal is started when work starts on the plan, so that emerging ideas, content and policies can be assessed, in order to inform the final plan.

Government guidance also encourages that both SEA and SA processes are undertaken together through a single process. This might save you time and money.

## **Do we have to undertake an Appropriate Assessment?**

An Appropriate Assessment (AA) considers the wider impacts of emerging policies and plans on European sites of ecological importance. An Appropriate Assessment will also only be relevant to your plan-making in very rare circumstances.

There are two European sites within or adjacent to the Borough – the scale (and possibly the location) of development that you propose may have a wider impact beyond your immediate area. The need for an AA should be considered throughout the process of developing your Neighbourhood Plan with consideration in detail being given when the scale and level of development proposed is known.

## **How do we know what to complete?**

You will not be able to rely on the work undertaken by the Council on SEA, SA or AA of its own Local Plan, especially if your proposals differ quantitatively or spatially from those of the Local Plan. The Council will not be able to undertake this work for you.

At the end of the process, when your plan is under Examination, it may be determined that these appraisals and assessments should have been completed. This might be because it is unclear how the plan arrived at certain decisions, or how it impacts on local issues of sustainability. This would lead you to revisit the structure of the plan and may cause significant delay. It may also increase the risk of a legal challenge at adoption.

We suggest that you appoint experienced sustainability consultants as one of your first decisions after being awarded Neighbourhood Forum status.

## **What information do we need?**

In order to help produce the vision and objectives for the area, you will need to get a clear picture of the community's characteristics and understand what are the issues

affecting the area. Of course, you already have an idea of the issues that concern you and you, therefore, already have some basic facts and figures. You can undertake this stage before you submit your Neighbourhood Forum application if you so wish.

The government is keen that evidence gathering is 'proportionate', although the term is not defined in planning legislation. Our suggestions are set out below. You may wish to do less evidence gathering than this, but if you do so your plan may be at risk of being found 'unsound' at examination if the examiner feels that you have not properly understood the issues in your neighbourhood or your proposals are ill-justified.

'Community profiling' will involve gathering statistical data to help build up a social profile of the community. 2011 Census data is currently the most comprehensive and widely used data source.

The Kingston Data website (<http://data.kingston.gov.uk>) is one of the best sources of collated data for the local area. However, you should be aware that information to fit your Neighbourhood Plan area exactly may not be available and you may have to 'best fit' information.

Alternatively, of course, you could consider undertaking original primary research to gather a social profile for your specific Neighbourhood Plan area. This can be time-consuming and expensive. We suggest that you talk to Council officers if you are interested in this as an option.

Other useful, local data may be available from the Council's Annual Monitoring Report (available on our website) and/or the Council's Planning Policy team.

It may also be useful to undertake an audit of all of the area's principal physical assets and take note of their condition. This might include community centres, shops, schools, religious institutions, pubs, GP surgeries, business premises, parks and open spaces, playing fields, sports facilities, trees, woodland, footpaths etc.

Please be aware that some of these properties do not lie in the public realm (viz, you are not entitled to free, unfettered access) and that you will need permission to enter on to private property.

A photographic record might be helpful to you. However, be conscious that whilst you are generally free to take photographs of anything from a public place, some individuals can be extremely affronted by such innocuous and lawful activity. Please be aware of when you are in a public place and when you are on private property when taking photographs: if you are on private property always obtain the landowner or occupier's permission first.

This photographic audit could be carried out by the Neighbourhood Forum, together with other volunteers, for example by organising a walk.

You may also want to know of any unimplemented planning permissions for major developments within your plan area, major planning applications yet to be determined or unexpired allocations made in the Local Plan. The Council's Planning Policy team may be able to assist you with this, subject to resources. This may help to shape your understanding of what development opportunities and challenges you face in the short term.

They will also hold records of how many and what type of permissions have historically been granted in your plan area. This will inform you what development pressures exist within your neighbourhood and whether they are intensifying, decreasing or changing

over time. In turn, this may be helpful to you in determining whether you want to promote or deter certain types of development.

If there are areas of undeveloped land within your plan area, you may want to know who owns them. The Council may already hold this knowledge in its Planning Policy or Assets teams. Alternatively, this information can be obtained on-line from the Land Registry for a fee at [https://eservices.landregistry.gov.uk/wps/portal/Property\\_Search](https://eservices.landregistry.gov.uk/wps/portal/Property_Search). If the Council is not already aware of the land-owners intentions for their land, you may wish to contact the land-owners and ask them about their aspirations.

It will also be important to gather information from any existing plans, strategies or studies that have a bearing on the community. These could include:

- Kingston Council planning documents, including the Core Strategy
- Conservation Area Appraisals, if all or a part of your plan area includes one of the Borough's Conservation Areas
- Other evidence documents, such as the Kingston Open Space Assessment Report.

It will also be important for the Neighbourhood Forum to establish contacts, and have initial discussions with, a range of stakeholders to understand whether there are any other aspirations for the area that have not yet been developed into a plan or strategy.

We suggest that it would be a good idea for the Forum to talk to:

- Local community groups and community centre management teams
- Local businesses, GPs, religious groups, head teachers
- Local landowners, estate agents and developers
- Officers at Kingston Council
- KingstonFirst
- Officers at the GLA
- Representatives from other organisations, e.g. Environment Agency, Historic England, Natural England

The data you accumulate will be your baseline data. This will give you economic, social and environmental data on your plan area at the outset (or baseline). In turn, this will provide you with a reference point against which to compare your plan proposals and future observations or results.

If a SEA and Appropriate Assessment is required, it is a statutory requirement to consult with:

- the Environment Agency
- Historic England and:
- Natural England.

Your appointed consultants will be able to advise you on the processes and procedures in place for this. If you decide to undertake a Sustainability Appraisal, you could also seek advice from the above statutory consultees.

## **OK, we have lots of information. What do we do with it?**

It is now important to analyse all of the factual information that you have gathered. How does it all relate together? What is it telling you? Does it confirm the information that you gathered and the views that you formed before you applied for

Neighbourhood Forum status? How do you reconcile data that may seem to point in different directions? What if the data is inconclusive?

Most of the data that you will have gathered thus far will be empirical and quantitative in nature. Most analysis will, thus, be mathematical in nature.

You will need to analyse any studies and decide what repercussions they have for the neighbourhood. Most studies will already have drawn their own conclusions: are they rational and reasonable? Has the study demonstratively used deductive reasoning? (i.e. worked from facts to conclusions; rather than worked backwards from a pre-determined conclusion and selectively sifted 'facts' to justify that conclusion ~ called inductive reasoning).

You will need to understand what implications the plans and strategies of others have for your plan: To what stage have their plans evolved? Do they involve the use of land or buildings? Do they have planning permission? Do they need planning permission?

Getting the analysis correct will help shape your vision and objectives. Therefore, it is important that you get it right. There may be more than one conclusion that can be drawn from a given range of facts: the weight and precedence to be given to facts will vary from person to person and from perspective to perspective.

It is, therefore, important not to become obsessive about seeking a single 'right answer'. By the same token you will have to recognise that the Forum's views are not the only legitimate or reasonable views that might exist. How do you reconcile them? You need to ensure that you draw reasonable and robustly defensible conclusions from your analysis.

As you sift and analyse your data, some questions for you to ask yourselves as a Neighbourhood Forum include:

- What are our strengths as a community?
- What do we do well?
- What do we do badly?
- What can we improve or change in the community?
- What facilities do we have?
- What are we missing?
- What opportunities exist in the area?
- What are the threats?
- What are the barriers? (environmental, physical, financial)
- Where do we want to take our community in the future?

At this point, you may wish to undertake a SWOT analysis: Strengths, Weaknesses, Opportunities and Threats. Conventionally these take the form of a simple matrix like the one below.

Strengths	Weaknesses
<b>Strong sense of community</b>	Pub not financially viable
<b>Clear direction for future agreed amongst residents</b>	Shop-keepers have different priorities
<b>Good mix of housing and people</b>	Young people need homes they can afford in neighbourhood
	Not a preferred area for home-buyers
Opportunities	Threats
<b>Council review of assets – sites may become available</b>	GPs new surgery may mean move out of neighbourhood
<b>GPs want to move to modern surgery</b>	Lack of suitable new housing sites
<b>Developer willing to build brownfield homes</b>	New homes unlikely to be affordable
<b>Council willing to invest in housing refurbishment &amp; improved on-street parking</b>	Planning applications for new housing falling

A SWOT analysis, such as the example above, is a useful way of summarising and tabulating your data to identify what issues you need, or want, to tackle in your Neighbourhood Plan. You seek to identify current positives and negatives together with your understanding of the good and bad things that are likely to happen in the future.

## How do we decide on our vision and objectives?

Hopefully, the facts and your analysis and interpretation of them should allow you to draw up a vision statement for your community, which forms the headline ‘point of principle’ for your Neighbourhood Plan.

As the Neighbourhood Plan will ultimately form part of the Development Plan (assuming it passes the Examination and referendum), it makes sense for the vision to cover the same time period as that of the Council’s new Local Plan

We suggest that the Neighbourhood Forum draft a vision statement, setting what it will be like to live and work in the area in 15 years time. It is important that the vision is, on the one hand, both aspirational and inspirational but, on the other hand, also realistic and deliverable.

A typical Neighbourhood Plan vision statement might include topics such as:

- What the area will look like
- What facilities there will be (e.g. parks, shops, schools)
- What the social and economic outlook for the area will be

Using the example of the SWOT analysis above, a vision statement derived from that might read:

By 2031 to become the best neighbourhood in Kingston, with a strong sense of community, a good mix of jobs and homes coupled with a range of local facilities within walking distance to support the whole community.

Moving beyond the vision, your objectives will be more specific and will set out how the vision will be achieved. For each element of the vision, there may be one or a number of objectives, depending on the different priorities of the community. Again using the example above, some objectives might be:

1. To build approximately 100 new homes over the next decade, offering a range of home types, including flats, small houses and larger family homes in an improved public realm.
2. About half of all new homes shall be affordable, of which about a 70% shall be available for affordable rent.
3. New housing provision will be made for elderly people to remain within the neighbourhood.
4. To retain, as far as is practicable, a community pub/shop/post office within the neighbourhood shopping centre.
5. To provide a new general practitioners' surgery on one of the surplus sites released by the Council.

Be aware that you are not allowed to incorporate policies on what the government terms 'excluded matters'. Essentially, these are proposals to do with minerals, waste management/disposal or any nationally important infrastructure projects. You may not include policies on waste or minerals matters nor may you make any proposal which conflicts with policies and proposals contained within the adopted Waste or Minerals Local Plans.

You need to remember that you must stay within what the Planning Acts allow you to do as a plan-making organisation. You cannot use the plan to take away development rights and freedoms that the government has given to everyone. So, for instance, you cannot use your plan to control shop-ownership (forbidding a change from a local retailer to a national chain-store) or changes of use within the same use class (such as from a post office to an internet café).

If you are unsure what the Planning Acts allow you to do, we suggest that you seek professional advice from an authoritative source.

You also need to acknowledge the willingness of stakeholders to invest and undertake the activities that you wish of them. There is little value in committing a party to a particular course of action that they have no intention of following.

## What is 'optioneering' and is this the time for us to do it?

Note that, at this point, you are primarily seeking to identify the basic principles that will underpin your plan. Details will follow at the next stage.

However, if you wish to do so you may choose to consult upon alternative options at this stage. This is often now called 'optioneering'.

The most likely things upon which you may wish to offer your community the opportunity to comment upon in terms of alternative options are allocations of land for new development or redevelopment. These are usually the most contentious part of any new plan.

To use the example above again, to achieve objective 5 you will need to identify one of several parcels of land being made available by the Council as the site for the new GP surgery.

It is up to you how you go about this identification process, but we suggest that you would wish to work closely with the GPs and the Council in these circumstances.

Let us assume that there are three sites which are objectively suitable: you may wish to consult the community at this point about which of the three sites they feel is best. You will need to produce maps (see section 2 above) and we suggest that you produce a SWOT analysis of each site.

Do not consult upon options which are not really open to you. All options must be viable, practicable and deliverable: any choices that are on offer must be genuinely available to the community. If, in this example, the GPs had already made their choice of which site they will develop, there is no point in consulting upon the options that they have already rejected.

### What else do we need to do at this point?

You should publish any relevant SEA, Appropriate Assessment or Sustainability Appraisal of your vision and objectives. This need not be unduly detailed or complex as you will carry out a more detailed appraisal when you publish your final draft plan. You will need to make these available for comment too.

If you decide to undertake optioneering, you will need to include in your overall Sustainability Appraisal an individual appraisal of each (site) option. Optioneering will, therefore, make appraisal a lengthier and more expensive process. You should allow time and money for this.

If required, you need to publish your SEA, Appropriate Assessment and Sustainability Appraisal of your vision, objectives and any options you wish to consult upon, at this point. These documents should be informing your vision, objectives and options. Failure to publish them at this point may mean that the Examiner finds your plan unsound.

You may also want to publish your evidence base ~ all of the information above and your analysis of what it means. This helps to demonstrate that your vision and objectives are well founded in facts.

However, it is important to remember that the government requires that the ambitions of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood Plans, therefore, must be in 'general conformity' with the strategic policies of the Local Plan. The term 'general conformity' is only loosely defined and should be taken as meaning "does not stray too far from, or offer a contrary position to..."

Thus if, for instance, one of the Local Plan's strategic policies were to say of your neighbourhood "*Main Street shall remain an area of mixed uses, including shops, homes and offices*" your Neighbourhood Plan should not propose that "*Main Street will become a housing area, with other - existing - uses being extinguished over the lifetime of this plan.*" This proposal could not be said to be in general conformity with the strategic policy.

To help you in making this judgement, we will set out clearly our strategic policies for the area in the emerging Local Plan. Neighbourhood Plans should reflect these policies and you should plan positively to support them.

Neighbourhoods will have the power to promote more development than is set out in the strategic policies of the Local Plan - but not less.

Outside these strategic elements, Neighbourhood Plans will be able to shape and direct development in their area, subject to the presumption in favour of sustainable development. Remember that when a Neighbourhood Plan is made, the policies it contains take precedence over existing policies in the Local Plan for that neighbourhood, where they are in conflict.

In line with government wishes, if our Local Plan and your Neighbourhood Plan are being prepared at the same time, we will leave it to you to prepare all of the non-strategic policies for the neighbourhood.

Check for conformity with strategic policies in emerging planning documents. It is important to talk to us, before you go out to consultation. Once you have drafted a vision and objectives, together with options (if you choose to do so), you must check that they are in 'general conformity with' (i.e. don't stray too far from, or offer a contrary position to) the strategic policies of the emerging Local Plan. We suggest that you seek the views of Council officers at this point.

Before consulting on your vision and objectives, we suggest that you should ensure that they are approved by a simple majority of the membership of your group. This is probably most easily done at an Annual General Meeting or a Special General Meeting.

### **So, now we need to check our draft vision, objectives and options with the community?**

Yes. Before progressing, it is essential to check that the community supports your draft vision, objectives and, if you have included them, options. Your communications strategy and your work programme will already have determined how you are going to do this.

There are a number of ways in which this community endorsement can be sought, including the following mechanisms for asking people for feedback:

- Delivering copies to all households and/or businesses
- Meetings with local interest groups
- Holding public meetings or drop-in events
- Taking out an advert in a local newspaper or providing a press release that signposts where the vision and objectives can be found
- Publishing information in a Forum newsletter/magazine
- Making a copy available on your Forum web-site

- Placing posters in the windows of shops, community buildings and/or libraries (and possibly also the Council's Customer Service Centre) but do NOT engage in fly-posting

We suggest that you use comments forms (hard copy or on-line) asking the questions to which you want the answers. But also always allow a free-form write-in box, so that people can make whatever comments that they want.

Always set a deadline for people to have comments back to you ~ and preferably stick to it. If you accept late comments you may open yourself to a subsequent legal challenge on grounds of fairness and transparency ("If I had known you were accepting representations after the deadline, I would have made comments. That's unfair").

## How do we handle these comments?

Before you start the public consultation, you will need to determine how you are going to gather and analyse the responses. This will largely now be qualitative data (opinions rather than facts),

We suggest that you keep the originals of all of the comments that you receive and that you draw-up a consultation report (we suggest in a tabular or matrix format) demonstrating how you have dealt with all of the comments and what changes you have decided to make as a consequence.

Following this analysis, amendments to the vision and objectives can be made before moving on to developing the detailed content of the plan.

Again, we suggest that the Forum holds a meeting of the membership to make a formal decision to amend the vision and objectives, and on the results of any pioneering exercise.

You may find that some of the feedback you receive from the community doesn't really relate to Neighbourhood Planning, e.g. concerns over litter, parking, anti-social behaviour, etc...

Whilst this may not be a subject for the Neighbourhood Plan, it will still be an important issue for the community and will, therefore, need to be dealt with via an alternative route. The Forum may wish to develop a separate action plan to deal with these wider issues.

## How do we develop our vision into planning policies?

Once the vision and objectives have been drafted and agreed, you can start to think about the detailed content of the Neighbourhood Plan.

The detailed content will include policies and a Proposals Map. The plan might be accompanied by a Sustainability Appraisal and, we would suggest, a consultation summary report.

The Government is clear that the intention of Neighbourhood Plans should be to set out policies on the development and use of land in a neighbourhood area.

The draft policies that are included within your Neighbourhood Plan should be based on:

- your analysis of the information assembled during evidence gathering;
- your Sustainability Appraisal results; and
- what the community and stakeholders told you during consultation on your vision and objectives

How you handle the results of your optioneering exercise, if you decided to hold one, is up to you. People will have a reasonable expectation that if you offered them a choice, that you will listen to them. But you should also bear in mind that planning is not a popularity contest – it is an objective, fact-based, regulatory system. Your decisions should not appear arbitrary or based on transient opinion.

Your policies should essentially seek to achieve the vision and objectives. For each objective that has been agreed, the Neighbourhood Forum should consider what policies could be put in place to try and achieve them. The Planning Advisory Service (PAS) provides some useful advice on how to frame policies (see section 7 for contact details).

Although this advice is specifically framed to assist district councils with their Local Plans, the basic principles are equally applicable to Neighbourhood Plans. Please note that PAS do not provide one-to-one advice to the general public.

Policies fall into one of two categories:

- Site-specific policies, which will probably identify or allocate sites for particular types and scales of development (e.g. new homes, employment, etc...)
- Generic policies, which apply across the plan area (e.g. local design standards or parking policies)

Formatting policies can be important. Wording such as “*development will be permitted...*” is generally regarded as clearer and more certain than wording such as “*development will be given favourable consideration...*”. Also, because of the presumption in favour of sustainable development, policies should generally be written with a positive phraseology i.e. “*development will be permitted if...*” rather than a negative phraseology “*development will be refused unless...*”

The aim of policies is to provide accuracy, clarity and certainty to all those that read them. They should also be capable of being used in the making of development management decisions. If your policy is badly phrased or uncertain in its interpretation, the Examiner may reject it.

## **What does a good site-specific policy comprise?**

Site-specific allocations, such as housing sites, will need to meet the necessary statutory requirements. For instance, any new housing sites will need to meet the three tests set by the government for Strategic Housing Land Availability Assessments (SHLAA) i.e. suitable, available and achievable. This will provide the information on which your plan-making judgement can be made about whether a site can be considered deliverable, developable or not currently developable for housing development.

Most obvious sites will already have been assessed through the Council’s SHLAA process, but new sites may emerge. Any new site will need to be capable of satisfying the Examiner that it meets the SHLAA tests.

These site-specific policies may also identify sites to be protected or enhanced, but may not include national-level designations (such as Areas of Outstanding Natural Beauty) or those for which the Council are responsible (such as Conservation Areas).

All site-specific policies must be shown, accurately, on an Ordnance Survey-based Proposals Map at a recognised and appropriate scale.

Today, most policies are written in a positive, conditional style.

You need to ensure that your policies are achievable. The Neighbourhood Forum should ensure that site-related policies have been drawn up only as the result of negotiations with the relevant landowners or site promoters.

## **Does the allocation of housing sites control where new housing can be built?**

This depends on whether the Local Planning Authority can demonstrate a five-year housing land supply, i.e. that it has sufficient deliverable sites to meet its housing need and any recent undersupply over the next five years. The National Planning Policy Framework states that relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot demonstrate a five-year housing land supply. This also applies to policies in the statutory plan which have been adopted or approved in relation to a Local Planning Authority area and to policies in Neighbourhood Plans.

If the Local Planning Authority cannot demonstrate a five-year housing land supply then the National Planning Practice Guidance suggests that where a Neighbourhood Plan is being brought forward ahead of a new Local Plan, community groups should consider allocating reserve sites to ensure that housing need is addressed. This can help minimise potential conflicts and ensure that policies in the Neighbourhood Plan are not overridden by a new Local Plan.

## **What does a good generic policy look like?**

Remember that not all development that happens in your neighbourhood will come from an allocation. Most development is either 'householder' development (small domestic proposals) or, if it is a larger development, is a 'windfall' (i.e. not previously anticipated). Generic policies are, therefore, necessary to deal with such proposals.

However, you do not need to 'reinvent the wheel' – the Council's emerging Local Plan will contain generic policies on most topics and they are adequate for the determination of planning applications in most instances. Only if you feel that Local Plan policies are inadequate need you consider drawing up your own generic policies.

Below is an example of a generic policy:

Planning permission for residential development on unallocated sites will be granted where:

- The site is on previously developed land or is a small underused urban site; and
- There is good access to local facilities; and
- The proposed development would not overburden existing infrastructure; and
- The proposals meet housing stock demand in the neighbourhood.

## What else do we need to know about policy writing?

You should note that the law requires that if there is any conflict between one of your policies and any other statement or information in the plan, the conflict will be resolved in favour of the policy.

Importantly, you will also need to be satisfied that the operation of your policies, in combination with those in the Council's Local Plan, will achieve your objectives.

Neighbourhood Forums should assess the likely cumulative impacts on development in their area of all existing and proposed local standards, supplementary planning documents and policies that support the Local Plan, when added to nationally required standards.

In order to be appropriate, the cumulative impact of these standards and policies should not put implementation of the overall Development Plan at serious risk, and – in the government's terms – “*should facilitate development throughout the economic cycle*”.

## Do we need a Proposals Map?

Yes. For site-specific policies, the Neighbourhood Plan will need to include a Proposals Map showing proposed precise site boundaries. The Proposals Map forms a part of the statutory Neighbourhood Plan and is generally resorted to as the definitive source to resolve any conflict between the written text of the plan and the map.

You must produce an accurate and definitive Ordnance Survey-based Proposals Map to accompany the written text of your Neighbourhood Plan.

It is, therefore, necessary to ensure that the Proposals Map is accurate – once it is approved it will be impossible to alter it.

All site-specific policies must be shown, accurately, on an Ordnance Survey-based Proposals Map at a recognised and appropriate scale. Your Proposals Map must cover the whole area of your plan: there must be no areas omitted nor none added.

You must not reproduce designations from the Local Plan on your Proposals Map. The area surrounding your neighbourhood should be greyed out in line with Ordnance Survey requirements. An appropriate watermark must be applied.

Once again, the Council is unable to help you by supplying Ordnance Survey maps. See section 7 for contact details of potential suppliers.

It is likely that a fee is payable to the map supplier at the time of purchase. Contact the Ordnance Survey or go to the Planning Portal website.

## What do we have to do to finalise our Neighbourhood Plan?

Before you finalise your policies and Proposals Map, you will need to ensure that your work has been informed by any SEA, Appropriate Assessment or Sustainability Appraisal.

At this stage, you will also need to produce a report on the Sustainability Appraisal process (and SEA and Appropriate Assessment if necessary), explaining why the policies included in the plan are the most appropriate ones.

Check for conformity with strategic policies in the Local Plan. Once you have finalised the proposed policies, you must check that they are in 'general conformity with' (i.e. don't stray too far from, or offer a contrary position to) the strategic policies of the Local Plan.

If there has been continued liaison with the Planning Policy team at Kingston Council, there should not be an issue with a lack of conformity.

## **Do we need to undertake another round of community consultation?**

Yes. You have now reached the final stage at which you can directly influence the contents of the plan. Before finalising the plan, the Neighbourhood Forum should check that residents, businesses and other parties are happy with the content of the plan.

Any completed SEA, Appropriate Assessment and Sustainability Appraisal report should also be made available for comment.

You must now publicise the existence of your plan "*...in a manner that is likely to bring it to the attention of people who live, work or carry on business in the... area*". You must tell people how to respond to this publicity and how to make representations by a specified date (not less than six weeks).

You must consult all of the Government's list of statutory consultees. You must also submit a copy of the plan to the Council.

The statutory consultees are:

- Greater London Authority
- Richmond, Wandsworth, Merton, Sutton, Epsom and Ewell, Mole Valley and Elmbridge Councils
- Claygate Parish Council
- Environment Agency
- Natural England
- Historic England
- Network Rail Infrastructure Limited
- The Highways Agency
- Transport for London
- Telecommunications operators
- Electricity and gas suppliers
- Water and sewerage providers
- Kingston Clinical Commissioning Group

- Voluntary bodies active in the neighbourhood
- Bodies which represent the interests of different racial, ethnic, national, religious or business groups in the neighbourhood
- Bodies which represent the interests of disabled persons in the neighbourhood

You must consult all of these bodies. If you have identified other groups that may be interested in your plan, you should also consider consulting those groups too.

The Neighbourhood Forum should also consult with any adjacent Neighbourhood Forum(s) in, or adjacent to, the Borough.

For the full names and addresses of all of the above organisations, please ask the Planning Policy team at the Council.

Your communications strategy and your work programme will already have determined how you are going to carry out this consultation. There are a number of ways in which this community endorsement can be sought, including the following mechanisms for asking people for feedback:

- Meetings with local interest groups
- Holding public meetings or drop-in events
- Taking out an advert in a local newspaper or providing a press release that signposts where the plan can be found
- Publishing information in a Neighbourhood Forum newsletter/magazine
- Making a copy available on your Neighbourhood Forum website
- Placing posters or other display materials in the windows of shops, community buildings and/or libraries (and possibly also the Council's Customer Service Centre) but do not engage in fly-posting

### **Is this a more formal process than our last consultation?**

Yes. You are now gathering views not only to assist you in finalising your plan but also to assist the Examiner when s/he looks at your plan (see chapter 4) and decides whether it can proceed to referendum and adoption.

We suggest that you use write-in comments forms (hard copy or on-line). This should ask people a series of questions to identify whether they are supporting, commenting upon or objecting to individual policies (i.e. one form per policy) and why. It will help the Examiner to know the following information:

- Name and address of the person completing the form
- Whether they are acting on someone else's behalf
- If so, the name and address of the person making comments
- Contact details (name, address, telephone, e-mail)
- Policy upon which they are making representations
- Whether they are supporting, commenting upon or objecting to the policy
- Reason for support/comment/objection

- The specific change that they would like to see made (if objecting)
- Whether they consider that the fault to which they object (if any) means that the Neighbourhood Plan does not conform with:
  - The strategic policies of the Local Plan
  - The National Planning Policy Framework
  - Relevant European Directives
  - Neighbouring Neighbourhood Plans

The law requires a deadline of at least **six weeks** for people to have comments back to you. You must publicise the end date for the consultation period. We strongly suggest that you stick to that deadline without wavering.

If you accept late comments you may open yourself to a challenge on grounds of fairness and transparency (“If I had known you were accepting representations after the deadline, I would have made comments. That’s unfair”).

## What do we do with these comments?

Before you start the public consultation, you need to be aware of what the statutory requirements are that cover this stage of the process. You are now gathering views not only to assist you in finalising your plan but also to assist the Examiner when s/he looks at your plan (see stage 4) and decides whether it can proceed to referendum and adoption.

We suggest that you keep the originals of all of the comments that you receive. We also suggest that when you draw-up your Consultation Statement you do it in a table, demonstrating how you have dealt with each objection and what changes you have decided to make as a consequence.

You will need to draw-up a Consultation Statement, demonstrating how you have dealt with all of the comments you have received and what changes you have decided to make as a consequence.

You will need to record details of the people and bodies that you consulted; and how you consulted them.

You will also need to summarise the main issues and concerns raised; and how you have addressed them.

You do not need to be concerned with expressions of support; or general comments (unless they can more accurately be described as objections): the Examiner is only going to be interested in investigating objections.

We would suggest that your table should record:

- Name of the person
- Policy upon which they are making representations
- Summary of reason for objection and an outline of the change that they would like to see made

- Whether they consider that the fault to which they object means that the Neighbourhood Plan does not conform with:
  - The strategic policies of the Local Plan
  - The National Planning Policy Framework
  - Relevant European Directives
  - Neighbouring Neighbourhood Plans
- Your response to the points made
- What action (if any) you propose to take.

Your analysis of the objections should allow you to determine what amendments to the Neighbourhood Plan you might wish to suggest to the Examiner (see stage 4).

You should keep any such changes to the minimum.

Hopefully, all of the community engagement that you have already undertaken, and your own closeness to the community, should ensure that you have fully anticipated the community's concerns and no such changes are necessary.

Again, we suggest that the Neighbourhood Forum holds a meeting of the membership to make a formal decision to confirm the responses to the representations received and any minor amendments to the plan which it wishes to recommend to the Examiner.

## 4. Getting your Neighbourhood Plan adopted

### How do we get our Neighbourhood Plan examined?

Once you have resolved how you wish to respond to the responses and representations you have received and determined what minor changes you might want to suggest to the Examiner, you should send your Neighbourhood Plan to the Planning Policy at the Council.

The documentation that you must send to us comprises:

- The final full text of the Neighbourhood Plan
- The Ordnance Survey-based Proposals Map
- A Consultation Statement
- Copies of the full representations that you received
- Where your plan is likely to have a significant effect on a European site (*either alone or in combination with other plans or projects*), the information submitted in accordance with Regulation 102a of the Conservation of Habitats and Species Regulations (2010)
- A statement explaining how the plan:
  - is in conformity with national policies and advice contained in guidance issued by the Secretary of State
  - contributes to the achievement of sustainable development
  - is in general conformity with the strategic policies contained in our Local Plan
  - does not breach, and is otherwise compatible with, European Union obligations
  - meets prescribed conditions and prescribed matters.

We suggest that you supply us with two hard copies and one electronic copy of each.

We also suggest that you supply us with:

- The schedule of all the proposed minor changes that you wish to suggest to the Examiner
- If completed, a copy of the SEA and Appropriate Assessment
- If an SEA is not completed, the Screening Statement
- If completed, a Sustainability Appraisal of the final draft plan
- A list of any documents that make-up your evidence base
- Your original letter from the Council confirming your designation as a Neighbourhood Forum
- Your application to become a Neighbourhood Forum and the map of the proposed neighbourhood area that you submitted
- A statement of whether you consider – should the plan be found ‘sound’ at Examination – that the area for the referendum (see below) should be limited solely to the area of the Neighbourhood Plan or whether it should be a larger area and, if so, what you feel that larger area should be
- Copies of the Forum’s resolutions at key stages since you received your authority to become a Neighbourhood Forum
- Contact details for the Chair and Secretary

You are handing your plan over to the Council, seeking our agreement to formally submit the plan for independent Examination.

You should be aware that your plan documentation needs to be in order. If it is not, your plan will not be permitted to proceed any further. The Council will conduct a detailed check of your documentation. If your documents are not in order it will have no choice but to stop the plan.

It is worth making the point that the Council’s role at this point is to determine whether you have done enough, and correctly, to agree to allow your plan to proceed to Examination.

This is largely a procedural judgement and not one based upon the merits of the contents of the plan (the Council may be an objector to your plan and may be on the list of individuals and organisations wishing to make representations to the Examiner, but that is an entirely separate judgement).

If your Neighbourhood Plan straddles the boundary between the Council and one or more of our neighbouring Local Planning Authorities, you will also have to apply to each of them to have your plan submitted for Examination. You should check with those councils what needs they have of your application materials, as they may vary from the Council’s requirements.

## What checks will the Council apply?

The Council will need to be satisfied that:

- (1) The plan has been prepared by an officially approved Neighbourhood Forum; and
- (2) All of the statutorily required information has been submitted and is in order; and
- (3) The plan is not a repeat proposal, which is defined as:
  - Either a plan which is the same as, or similar to, a plan which the Council has refused within the previous two years; **or**
  - A plan which is the same as, or similar to, a plan on which a referendum has been held and where 50% or less of those voting voted in favour of the plan; **and**
  - the Council considers that there has been no significant change in either national guidance or the strategic policies of the Local Plan.

The law requires that, if the Council is not satisfied that the Neighbourhood Forum's proposals meet criteria 1 or 2, it must refuse to submit the plan for examination and tell you in writing the reasons why your application has been refused.

Similarly, the law requires us to decline to consider the plan if we believe that criterion 3 is not met: again, we will write to you and tell you why your submission has been declined.

There is a subtle, but quite deliberate, distinction made by the law between 'refusing' a plan and 'declining' a plan. If a plan is refused under criteria 1 or 2 above it may be two years (under criterion 3) before you can re-submit it.

For that reason it is worthwhile ensuring that your paperwork is in order before handing it over to the Council: once we have it, there is no going back.

If the Council is happy that your submission documentation and your Neighbourhood Plan meets criteria 1 - 3, we will formally write to you to tell you that your plan will proceed to independent Examination.

The Examination is the next step towards getting your plan adopted.

## Who will appoint the independent Examiner?

Examinations of Local Plans have always been conducted by members of the Planning Inspectorate, appointed by the government.

However, it is the Council's statutory duty to decide who to appoint to undertake an Examination of your Neighbourhood Plan. This person need not be a member of the Planning Inspectorate but should be someone who:

- is independent of both the Council and the Neighbourhood Forum
- does not have any interest in any land within the Neighbourhood Plan area and who

- has appropriate qualifications and experience

If your plan passes the tests prescribed by law, we will write to you suggesting a name or names of people we believe meet the criteria to be an Examiner.

We will supply you with some details of the individual(s) that we suggest, confirming that they are independent of the Council and have no interest in any land within your plan area. We will also set out a short biography of the individual(s) concerned, including their qualifications and experience.

This should provide you with enough relevant information to be able to make an informed judgement.

We will ask you to confirm in writing that you agree to the appointment of a named individual to the role of the Examiner.

We suggest that your response should be the subject of a formal resolution of the Forum. If you refuse to accept (all of) the suggested candidate(s), we will expect you to give valid reasons for your rejection.

You and the Council need to be of the same mind as to the identity of the Examiner. The law requires that you must agree to the appointment of a named individual as the Examiner of your Neighbourhood Plan.

If we are unable to reach agreement, the Secretary of State for Communities and Local Government will appoint a person of her/his choice to be the Examiner.

Once appointed, the Examiner will write both to you and to us to confirm what arrangements s/he wishes to be put in place for the Examination. We will publish confirmation of the appointment of the Examiner and the arrangements that they have put in place on our website within 14 days of our receipt of the Examiner's letter.

## What paperwork will the Examiner get?

Whatever arrangements the Examiner wishes to put in place, she or he will need a range of paperwork in order to carry out their duties. The Examiner will get all of the materials that you have supplied us with, namely:

- The final full text of the Neighbourhood Plan
- The Ordnance Survey-based Proposals Map
- A Consultation Statement
- Copies of the full representations that you received
- Where your plan is likely to have a significant effect on a European site (*either alone or in combination with other plans or projects*), the information submitted in accordance with Regulation 102a of the Conservation of Habitats and Species Regulations (2010)
- A statement explaining how the plan:
  - is in conformity with national policies and advice contained in guidance issued by the Secretary of State
  - contributes to the achievement of sustainable development

- is in general conformity with the strategic policies contained in our Local Plan
- does not breach, and is otherwise compatible with, European Union obligations
- meets prescribed conditions and prescribed matters.

And, if you supplied it to us:

- The schedule of all the proposed minor changes that you wish to suggest to the Examiner
- If completed, a copy of the SEA and Appropriate Assessment
- If an SEA is not completed, the Screening Statement
- If completed, a Sustainability Appraisal of the final draft plan
- A list of any documents that make-up your evidence base
- Your original letter from the Council confirming your designation as a Neighbourhood Forum
- Your application to become a Neighbourhood Forum and the map of the proposed neighbourhood area that you submitted
- A statement of whether you consider – should the plan be found ‘sound’ at Examination – that the area for the referendum (see below) should be limited solely to the area of the Neighbourhood Plan or whether it should be a larger area and, if so, what you feel that larger area should be
- Copies of the Forum’s resolutions at key stages since you received your authority to become a Neighbourhood Forum
- Contact details for the Chair and Secretary

If we have not done so already, at this stage we will publish this information on our web-site. No other information will be supplied to the Examiner unless s/he asks for it. Ordinarily, we will add any additional paperwork on our web-site when it is supplied to the Examiner.

## How will the Examiner work?

Within 30 days of her/his receipt of the paperwork, the Examiner will write to the Council and the Neighbourhood Forum setting a date for the delivery of her/his report.

The main function of the Examination is to check that your Neighbourhood Plan conforms with:

- The strategic policies in the Local Plan
- The National Planning Policy Framework
- Relevant European Directives
- Neighbouring Neighbourhood Plans

With the benefit of the paperwork above, s/he will determine whether, in their view, your Neighbourhood Plan meets those statutory tests. The Examiner will work methodically and logically, reading all of the objections that you received during your final consultation - identifying which comments relate directly to the four issues above – and how you responded to those objections.

The Examiner will usually only consider written representations during the Examination. S/he will usually work remotely.

In the unlikely event that the Examiner decides that an oral hearing session is necessary, she or he will organise a public hearing at an appropriate local venue<sup>1</sup>. S/he will write to all of those parties from whom s/he wishes to hear evidence, advising them of the time and date of the hearing and the questions that s/he wishes to have answered. As you are the plan-making body, it is likely that you will be invited to attend and contribute to the debate.

Any such session will be held in public. Parties not invited to the hearing session will not be permitted to participate in the discussion but may listen to the debate.

Usually a hearing session will take the form of a relatively informal round table discussion, led by the Examiner. Adversarial cross-examination will not usually be acceptable in a round table hearing session. If, however, the Examiner feels that it is in the best interests of the adequate examination of a particular case or there is a need for a person to have a fair chance to put their case, s/he may allow questioning by another participating party.

In rare circumstances, perhaps where the issues are particularly contentious or there is a need to present detailed and complex evidence in a cogent and yet challengeable way, the Examiner may allow a more formal hearing session in court-room style. This will involve the interested parties: being treated as expert witnesses; being subjected to cross-examination by the other parties; and allowing for each party to sum up their arguments.

Occasionally, such formal hearing sessions may involve the use of planning solicitors or barristers to act as advocates and conduct the cross-examination.

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<sup>1</sup> This may be the Council's offices in Kingston; or a community hall or other suitable facility within the neighbourhood.

The Examiner will organise for her/himself any necessary unaccompanied visits to see the neighbourhood and the location of any site-specific policies. Occasionally, the Examiner may ask relevant parties<sup>2</sup> to accompany her/him on a site visit, to answer any questions that s/he still has after reading the written evidence.

## **At the end of the Examination, what happens?**

When the Examiner has completed their assessment of the issues, s/he will prepare a written report. S/he will make the report available in both hard copy and electronic formats to the Council and to the Neighbourhood Forum. The Examiner will not issue the report to any other party.

The Council will publish the Examiner's report on its web-site at the earliest opportunity after its receipt from the Examiner. People will be able to download copies of the report or ask for hard copies.

We will also take steps to make the existence of the report known to as many people as possible within the neighbourhood: in doing this we may enlist the help of the Neighbourhood Forum.

There will be no further opportunity for comments by either the general public or the Forum at this stage.

## **What might the Examiner's report say?**

Her/his report must address the statutory tests. It is entirely up to the Examiner what format their report takes and how long or short it is. However, it will address each of the tests and come to a clear conclusion about whether your plan is sound against each of those tests.

The report will conclude with one of the following alternative reasoned recommendations:

- the draft Neighbourhood Plan should proceed to a referendum;
- the draft Neighbourhood Plan should proceed to a referendum, but only subject to certain specified modifications;
- the draft Neighbourhood Plan should be refused.

Where modifications are recommended, detailed proposals for changes will be set out. All modifications will be limited to those matters necessary to ensure that your Neighbourhood Plan conforms with:

- The strategic policies in the Local Plan
- The National Planning Policy Framework
- Relevant European Directives
- Neighbouring Neighbourhood Plans

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<sup>2</sup> Usually, this would include a representative from the Forum; a representative from the Council; the land-owner; and/or any other affected or interested party who has made representations.

The Examiner may express a view about whether s/he thinks that their proposed modifications necessitate a new Sustainability Appraisal. Where the Examiner believes that the plan, with or without modifications, does not and cannot meet the four statutory tests, s/he is not allowed by law to recommend that it should be submitted to a referendum.

Where a referendum is recommended, the Examiner may advise that the area of the referendum is widened beyond the neighbourhood. This will be based upon her/his reading of the evidence and the importance of the issues raised. Again, reasons will be given for any such recommendation and the extended area identified on an Ordnance Survey-based map to a recognised scale.

## **So, now we go straight to the referendum?**

No. The Council has to formally consider the Examiner's report and the recommendations made within it. We will aim to do this within 90 days of our receipt of the Examiner's report, although this may be dependent upon the municipal calendar.

The law requires that we consider each of the recommendations (and the reasons for them) and decide what action to take in response to each recommendation. In essence, the Council needs to be satisfied that the Examiner has come to the right judgements in respect of the tests and in terms of any recommendations for modifications.

We may choose to accept or reject the report's recommendations and we can make modifications of our own if we wish, irrespective of the Examiner's recommended modifications.

However, any modifications that we make are limited to ensuring that the plan meets the statutory tests identified above. If we believe that the plan does not meet the statutory tests, and could not be modified to do so, we are required to refuse the plan.

We will assess whether a Sustainability Assessment is required due to any changes that we propose: if so, we will undertake this ourselves at our own expense.

We may extend the area of the referendum beyond the area of the Neighbourhood Plan, if we wish to do so, to include other areas (whether or not those areas fall wholly or partly inside the Borough). We will publish an Ordnance Survey-based map of any extended area.

## **What happens if you don't agree with the Examiner's report?**

All decisions about how the Council responds to the Examiner's report will be taken in public at our Executive. We will give written reasons for all of our decisions.

Once the decision has been taken we will write to the Neighbourhood Forum (and anyone else that the government requires us to contact) to advise you of our verdict.

If we have made a decision (other than about the area for the referendum) which differs from that recommended by the Examiner and the reason for the difference stems (wholly or partly) from one or more of:

- New evidence
- New facts

- A different view taken by us as to a particular fact

We will write to the Neighbourhood Forum (and anyone else that the government requires us to contact) to advise of our decision and invite representations.

We will set a deadline for comments be sent to us (usually a period of 6 weeks from a stated date) and, at the end of that period, we will formally consider at our Executive the views that we have received and determine how we intend to react to them.

If we consider it appropriate to do so, we may arrange for a new Examination and Examiner's report.

The area for the referendum is not open to representations either by the Neighbourhood Forum or anyone else.

In most instances, however, it is likely that we will simply accept the Examiner's recommendations.

If the plan (with or without modifications) meets the statutory tests and is not refused, the Council will resolve that a referendum (or referenda) will be held.

## How will the referendum be arranged?

The law requires that a referendum is required to gauge community support for the Neighbourhood Plan if the Council resolves that the plan should proceed to that stage. The Council's Electoral Services team will make the necessary arrangements for this to happen and the Council will bear the full costs of the referendum. We will contact you to advise you of what arrangements are being put in place for the referendum to occur.

The referendum will be open to any individual on the Electoral Register who is eligible to vote in the neighbourhood (the area covered by the plan). If the Council has resolved to extend the referendum area, voting will also take place in those adjacent areas.

If your Neighbourhood Plan area has been wholly or partly designated as a business area, a parallel identical referendum will be held for non-domestic ratepayers (businesses) in the referendum area.

Otherwise, people who live outside the plan area, or who are not on the Electoral Register within the plan area, will not be able to vote in the referendum.

We will publish an information statement on our website at least 28 days before the referendum. The information statement will include:

- the date on which the referendum will be held;
- the question to be asked in the referendum;
- a map of the referendum area;
- where the referendum area is not identical to the neighbourhood area, a map of the neighbourhood area;
- a description of persons entitled to vote in the referendum;
- the referendum expenses limit;
- confirmation that the referendum will be conducted in accordance with procedures similar to those used at local government elections;

- the address and times at which a copy of the specified documents can be inspected.

The specified documents that must be made available for inspection are:

- the draft Neighbourhood Plan;
- the report made by the independent examiner;
- a summary of representations;
- a statement that we are satisfied that the draft plan complies with legislation;
- a statement that sets out general information as to town and country planning and the referendum, prepared having regard to any guidance issued by the Secretary of State.

The law requires that the referendum question should be:

“Do you want Kingston Council to use the Neighbourhood Plan for *[insert name of neighbourhood area]* to help it decide planning applications in the neighbourhood area?”

Counting of the votes cast is likely to take place on the next working day after the vote has occurred. A majority of votes (over 50% of those voting) in favour of your plan is sufficient for it to succeed.

In Business Neighbourhood Areas, two separate referenda will be held in parallel on the same day. The first will be for residents and a second referendum will be held for businesses. Each business will have one vote. In this instance the outcome of the business and residents’ referenda will be considered separately. If both are in favour of the plan it will be adopted. If both reject the plan it won’t be adopted. Where the two outcomes conflict with each other, the decision about whether or not to adopt the plan will rest with us.

## **Our plan has not received 50%+ support. What happens next?**

Hopefully this will not happen because of all of your community engagement throughout the plan-making process. If, however, the plan receives the votes of less than 50% of the voters at the referendum, it will not be able to advance any further. The Council will formally resolve not to adopt the plan and it will not become a part of the statutory Development Plan for your neighbourhood. We will not use it as the basis for determining planning applications.

In the, hopefully unlikely, circumstance that your plan is rejected and you decide to re-shape it, you need to be careful to ensure that it is not a repeat proposal that will fall foul of the Regulations<sup>3</sup>.

You should be aware that we may decline to submit your new plan for Examination if we consider it to be the same as, or similar to, the plan on which the referendum has been held and there has been no significant change in either national guidance or the strategic policies of the Local Plan.

## **At what point will the Council adopt our Neighbourhood Plan?**

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<sup>3</sup> Town and Country Planning, Neighbourhood Planning (England) Regulations 2012

If your plan has received the support of more than 50% of voters at the referendum, Kingston Council will formally resolve to adopt your Neighbourhood Plan as soon as reasonably practicable.

Our constitution requires that documents that will form part of the statutory Development Plan for the Borough must be adopted by a vote of the whole Council. We would normally expect to be able to adopt the plan within 90 days of the referendum result but this will be dependent upon the date of the next scheduled Council meeting.

## **What will happen if there is a legal challenge to our plan?**

You should be aware that there is the possibility of legal challenge to the Council's decision to adopt your plan. Any application for what is called 'judicial review' can only be made on a point of law (i.e. that there is some procedural error or the content of the neighbourhood plan is not within the ambit of what is legally permitted) and not on a planning judgement.

If a challenge is made, it is likely that any challenger will seek what is called 'interim relief' from a judge: this will mean that the operation of all or a part of the plan may be suspended pending a full court hearing.

To get a formal hearing in the High Court would be likely to take more than six months from the start of proceedings and possibly up to a year and a decision could be given at a date some time after the hearing although decisions are normally given at its conclusion. A judge's legal decision is binding upon all parties. Should either party proceed to the Appeal Court or the Supreme Court, any legal challenge could take several years to resolve finally. The ultimate decision, at whatever point in the legal process it comes, could uphold the plan in its adopted form; or it could over-turn it in whole or in part.

The costs of fighting any legal battle over your Neighbourhood Plan (including any award of costs to the challenger) will normally be wholly borne by the Council, which would be the defendant to the action. You would be likely to be served with a copy of the proceedings as an "interested party" but would not be required to take part and would only exceptionally be liable for any costs, e.g. if the Council decided not to resist the challenge but you wished to do so in its place.

A judicial review is relatively unlikely but you should be aware that town planning is becoming a more litigious area and that challenges are becoming ever more common.

Once the Neighbourhood Plan has been adopted, it will become part of the statutory Development Plan against which relevant planning applications will be determined.

## 5. Implementing your Neighbourhood Plan

### Once adopted, what notice will you - or anyone else - take of our Neighbourhood Plan?

Local planning authorities (like Kingston Council) prepare general purpose Local Plans for the whole of their districts, whilst the Joint South London Waste Plan addresses the planning of waste management across Kingston, Merton, Sutton and Croydon. Together these form the statutory Development Plan for the Borough. Now that your Neighbourhood Plan has been adopted, it too will form a part of the Development Plan for your area.

The guiding principle in determining planning applications is that development should be permitted, having regard to the Development Plan and all other “*material considerations*”, unless the proposed development will “*cause demonstrable harm to interests of acknowledged importance*”.

As planning permission must generally be granted in accordance with the Development Plan, your Neighbourhood Plan means that the Council, the Planning Inspectorate and even the Secretary of State will have to take it into account when they determine planning applications in your neighbourhood.

Because the plan will help to shape development decisions in your neighbourhood, developers and prospective applicants for planning permission will need to take account of your plan, its policies and proposals. If they fail to do so, and propose something which is in conflict with your plan, their application is likely to be refused.

### Does the Forum now need to continue to exist?

No, once the plan is adopted the Forum could choose to voluntarily wind itself up. The government requires Neighbourhood Forums to be wound up after five years, whatever stage they have reached in the plan development process.

Neighbourhood Forums, unlike Parish Councils, are not statutory bodies and, therefore, have only a fixed term, rather than a permanent, existence. Also, not being statutory bodies they do not have the ability to levy a rate precept which would provide a regular and predictable income to, amongst other things, implement the Neighbourhood Plan.

The adoption of the plan should stimulate a debate within the Neighbourhood Forum about the future direction of the organisation. It was created for the purpose of writing and getting a Neighbourhood Plan adopted and, now that it has succeeded in that aim, it is legitimate to ask the question “What next?”

Whatever role the Forum sees for itself, if it decides to carry on, it will need to determine whether it needs to re-shape itself for its new role. The skills that are needed for the Forum’s new role could be radically different to those that were needed to prepare the plan. We suggest that you consider undertaking a new skills audit at this point (see chapter 2).

Implementation and monitoring could be two potential new roles for the Forum. You could monitor the Neighbourhood Plan, to check that progress is being made against

the community's objectives. If progress is not being made, you could lobby the Council and other bodies to encourage them to implement your proposals.

## Can't we be more pro-active about implementation?

For the most part, the active implementation of your plan will rely on (i) private landowners and developers, on the one hand, making planning applications; and (ii) the development management function of the Council, on the other hand, determining those applications in accordance with your plan.

You may wish to consider drawing up an implementation plan in conjunction with all of those stakeholders that can make a contribution to the achievement of the objectives of your plan. These might include:

- Landowners
- Estate agents
- Any developers active in the neighbourhood
- Infrastructure providers
- Kingston Council
- The Greater London Authority
- Transport for London
- Ward Councillors
- Environment Agency
- Historic English
- Natural England
- Local community groups
- Local shop owners
- Other local business owners and/or their employees
- Local residents

You will already know who are the people and organisations to talk to, as you will have been talking to them throughout the development of your plan.

A costed, timed and phased implementation plan may prove helpful both in monitoring and in encouraging stakeholders to proceed with implementation. If you wish to take a more pro-active role in the implementation of your plan it is likely that you will need to own land and/or have money to spend.

## Where would we get money from for this?

As noted above, Neighbourhood Forums, unlike Parish Councils, are not statutory bodies and, therefore, do not have the ability to levy a rate precept which would provide an income that could be used for a pro-active implementation programme.

You could consider traditional local sources of fund-raising from the public, e.g. appeals, or alternative sources of funding, e.g. internet-based crowdfunding. You may wish to approach local businesses for funding: as a general rule, they prefer to sponsor or contribute to specific projects that have a defined and visible outcome in the short- to medium-term.

Additionally, you may wish to consider what sources of charitable, government-sponsored or Lottery funding is available. There is an array of national, e.g. Locality.org, and regional funds, e.g. the Mayor of London's Space Hive fund, administered by a wide range of bodies and organisations, often with quite clear and

specific agendas that they follow. Each body will only fund certain types of projects (such as sports, or facilities for the elderly or bids that showcase culture), so you will need to select the bodies to which you apply quite carefully. They will only entertain bids if they meet certain criteria, which may vary from time to time.

All of these bodies will require a bid to be made, usually on a standardised application form, accompanied by some form of business case. There are usually more bids for funds than there are funds available, so you should be aware that you are bidding in a highly competitive market. Bids usually have to be made by a deadline and you may subsequently be asked to supply additional information. Accuracy, expertise, flair and imagination will be required if your bids are to be successful.

Some bodies have money freely available all year around; others run 'themed projects' on specific areas within their broader area of interest. Often these schemes run for, perhaps, only a few months before a new themed project begins. Timing is, therefore, crucial.

If you are successful in securing funding, you may be required to spend it within a specific timescale – which can sometimes be quite short. For this reason, fund-holders often prefer 'oven ready' projects (where all of the problems have already been de-risked by being identified and addressed; and all of the necessary permissions obtained) rather than speculative ones.

You may be able to gather money for an expensive project from a number of sources.

### **Does the Council have any money we could get?**

If you have – as suggested in chapter 1 – involved one or more of your local Ward Councillors in the Neighbourhood Forum from the outset, they should have been able to raise the profile of your Neighbourhood Plan and the importance of its objectives within the Council from the outset.

The Community Infrastructure Levy (CIL) is a levy that local authorities can choose to charge on new developments in their area. The money should be used to support development by funding infrastructure that the Council, local communities and neighbourhoods want.

The Council will engage with communities to identify local infrastructure priorities using existing communication methods. Neighbourhood Plans are an opportunity to identify the local infrastructure priorities and should consider how the neighbourhood allocation can be used to deliver the infrastructure in the plan area to address the demands of development. They should also have regard to the infrastructure needs of the wider area.

### **Would you serve a Compulsory Purchase Order to assist us?**

The Council has powers to compulsorily purchase land or buildings in the best interests of the planning of the area. However, this is a power that we use sparingly and only when acquisition by negotiation has failed.

If you need to buy land or buildings in order to enable a policy or proposal in your plan to be delivered, and you anticipate that a Compulsory Purchase Order (CPO) may be necessary, please talk to the Council at the earliest opportunity.

If we decide to proceed with a CPO on your behalf, and we may not, we will expect you to indemnify us for all of the costs associated with the CPO. This will include the costs of land acquisition, staff time, legal costs, etcetera...

You should be aware that a CPO is not guaranteed success and the process, even if it is successful, may be lengthy and costly. We would urge you to use every endeavour to acquire voluntarily and only to see a CPO as a final recourse.

## 6. Alternatives to a Neighbourhood Plan

### Is a Neighbourhood Plan the only solution?

No. If there are no broad-based land-use planning elements to local concerns you might wish to consider other alternatives. Depending upon what the community's interests are, any of the options below may be more appropriate than a Neighbourhood Plan.

If the community's concerns are that the planning regime in your neighbourhood is too restrictive and needs to be loosened you could consider preparing a **Neighbourhood Development Order**. This, effectively, extends what are called permitted development rights so that more types of development can happen in your neighbourhood without the need for express planning permission from the Council.

If a local community organisation wants to promote particular types of development in the neighbourhood, such as a new Gypsy and Traveller site, it may be appropriate to use a **Community Right to Build Order**. This power allows specific development on specific sites to occur without the need to apply for express planning permission from the Council. Any profits made as a result of Community Right to Build Orders must be distributed among the organisation's members.

If the concern is that assets and facilities that are important to the community are threatened with closure, the **Community Right to Bid** is designed to ensure that community organisations have a fair chance to bid to buy them. These facilities could include the neighbourhood shop or the last remaining pub in the area, the community centre, children's centre or a library.

If the local community feel that their issues are not with the planning or development process but rather with other problems: perhaps, parking, or litter, or anti-social behaviour. Or how often the grass gets cut on the local recreation ground, or how places are allocated at the local primary school. If this is the case, a **Neighbourhood Community Plan** – rather than a Neighbourhood Plan - may be the best way forward.

However, if planning issues are top of people's concerns, the Neighbourhood Plan offers communities an opportunity to include their own Local planning priorities within the wider statutory town planning system.

### What is a 'Neighbourhood Development Order'?

Neighbourhood Development Orders grant planning permission for specific types of development in a particular area. This could be either a particular development, or a particular class of development (for example retail or housing).

A number of types of development are excluded from Neighbourhood Development Orders, however. These include Nationally Significant Infrastructure Projects, development over a certain threshold, and development that would need an Environmental Impact Assessment.

It could be useful for Neighbourhood Development Orders to be linked to the Neighbourhood Plan for the area. For example, the plan could identify the need for a new GP surgery and a broad location. The Neighbourhood Development Order could then grant planning permission on a particular site or existing building where the GP surgery will be built.

## What do I need to do?

Neighbourhood Development Orders will grant planning permission, thereby getting rid of the need for a conventional planning application to the Council. However, Neighbourhood Development Orders will have to meet some minimum standards, and be approved by the community, before they can come into force.

First, the draft proposed Neighbourhood Development Order must be passed to the Council. We will check that it has been properly consulted upon, and that the development does not need an Environmental Impact Assessment.

Secondly, the draft proposed Neighbourhood Development Order will be assessed by an independent Examiner, who will check that it conforms to national and local planning policies. The independent Examiner will also check that the draft proposed Neighbourhood Development Order would not damage local heritage assets, such as Listed Buildings.

Thirdly, if the independent Examiner approves the Order, then a local referendum on whether the Neighbourhood Development Order should be adopted will be held. If a majority of those who vote in the referendum vote in favour of the Neighbourhood Development Order, then it will come into force.

Many of the processes that are required for a Neighbourhood Plan are also required for a Neighbourhood Development Order, and much of the advice in sections 2 – 4 above is equally applicable.

## What is a 'Community Right to Build Order'?

The Community Right to Build gives local communities the power to decide what is built on a particular site in their area without the need to apply for planning permission.

Community Right to Build Orders will be a special type of Neighbourhood Development Order. Unlike Neighbourhood Development Orders and Neighbourhood Plans, however, any local community organisation, not just a Neighbourhood Forum, will be able to create Community Right to Build Orders.

To be eligible to develop a Community Right to Build Order in a particular neighbourhood area at least one half of a community organisation's members must live in that neighbourhood area. The organisation must also exist to further the economic, environmental and social well-being of the area in question, and any profits made as a result of Community Right to Build Orders must be distributed among the organisation's members.

Development brought about by Community Right to Build Orders will be small scale, and will not be able to take place if it would need an Environmental Impact Assessment.

Community Right to Build Orders will be adopted in the same way as Neighbourhood Development Orders, where, subject to the Order meeting certain minimum standards, a local referendum will ultimately decide whether the proposed development should go ahead.

Whilst it will be for communities to identify suitable land, sources of finance and secure support for their proposals, there will be help and guidance available, and advice from people who already have experience of taking forward community-led schemes.

## Who will be able to use the new powers?

The Community Right to Build is a means by which like-minded people from the local area come together, with a shared vision of what they want to achieve in their community and how they can go about it.

Community organisations are able to take forward new local developments without the need to go through the normal planning application process, as long as the proposals meet certain criteria and there is community backing in a local referendum.

Communities will be free to use property developers, should they wish to do so, or enter into partnerships such as with a housing association to manage their homes.

## What developments can the powers be used for?

A wide range of plans could be approved where a community agrees. For example additional housing or Gypsy and Traveller pitches to meet the demand of future generations, new shops where communities want to offer low rent deals to local convenience stores, or new sports facilities.

## What do I need to do?

If you're interested in a community-led development you should talk to your neighbours to get an idea about what sort of development the whole community would want to see.

You may also want to talk to the Council, housing associations or other community groups. And you might find it useful to get advice from people who already have experience of taking forward community-led schemes. For details of who to contact go to section 7.

## What is the 'Community Right to Bid'?

The Community Right to Bid is designed to ensure that community organisations have a fair chance to bid to take over assets and facilities that are important to them if they are threatened with closure. These facilities could include their neighbourhood shop or the last remaining pub in the area, the community centre, children's centre or library.

The reason for closure of a community building or facility may affect the viability of a community ownership proposal: if, for instance, the business is generating insufficient income to cover its costs.

However, community ownership can allow the adoption of a different business model and, therefore, make the asset viable again (e.g. through the use of volunteers, access to charitable funding or community share investment, or through a more enterprising pattern of service provision) which would not be open to the current private or public sector owners/operators.

Not only will these powers help community groups to save facilities that are under threat, it is intended that this power should drive behavioural change, so that existing

owners of assets that are important to communities – including public bodies – see selling or transferring that asset to a community group as a viable, positive option.

The Community Right to Bid builds on continuing local authority asset transfer activity, by extending the scope to private as well as public assets, and giving communities (i) the initiative to identify assets of community value and (ii) the time to prepare to bid for them on the open market.

## How does the ‘Community Right to Bid’ work?

The Community Right to Bid entitles community groups to identify and nominate public or private assets of community value in their neighbourhood to be included by the Council on its list of assets of community value.

The provisions also introduce a six month window of opportunity for community groups, once a listed asset comes up for sale, in order to give them time to organise and fundraise, so putting them in a better position to compete with other potential buyers. It is important to note that nominating land to go on the list will not commit the nominating organisation to bid for it if it is put up for sale.

Some types of asset will be excluded from being listed, such as residential properties.

## What do I need to do?

Voluntary and community organisations can nominate an asset to be included on a ‘List of Assets of Community Value’ (‘the List’).

If the owner of a listed asset then wants to sell the asset, a six month moratorium period will be triggered during which the asset cannot be sold. This period gives community groups some time to develop a proposal and raise the required capital to bid for the property when it comes onto the open market at the end of the moratorium period.

## What is an ‘Asset of Community Value’?

A building or piece of land will be deemed to have community value if:

- The use of the land or building currently, or in the recent past, furthers the social well-being or cultural, recreational or sporting interests of the local community
- This use of the land or building will continue to further the social well-being or interests of the local community
- The use of the land or building to further social well-being or interests of the community must be its principle use, not a secondary or ancillary use.

## How do we get land or buildings on the List?

You must write to the Council to nominate an Asset of Community Value. We will determine the format of the List, any modifications made to any of the entries on the list and any removal of an entry from the list.

- In Kingston a community nomination must come from a locally connected voluntary or community body. The nomination has to be made for land or buildings in the nominee's local area
- if the Council deems that the asset has community value, it will add that asset to the List
- if the nomination is unsuccessful, the Council will notify the nominee in writing and provide an explanation as to why the nomination was unsuccessful
- the Council will notify the landowner, the occupier and the community nominee of any addition of an asset to, or removal from, the List
- a landowner can ask us to review the inclusion of the asset on the List and there will be a process for an appeal to an independent body
- the Council must also maintain a list of 'land unsuccessfully nominated by a community nomination'
- if land is included in the list of Assets of Community Value it will remain on that List for five years.
- The owner may be entitled to compensation if it suffers financial loss as a result of the listing. The right to compensation lies against the local authority rather than against the local body or group.

### Can we buy the Asset of Community Value immediately?

No, you can only buy an asset on the list when the owner comes to sell or dispose of their property. At this stage, they must inform us of their intention to sell. We will then notify the nominating community group and publicise in the local area that the asset has come up for sale, and amend the list to show this.

Locally connected voluntary or community bodies then have a period of six weeks to put forward their intention to bid for the asset. If such a group requests to be treated as a potential bidder within this initial period, the full window of opportunity period of six months will apply; if not, the owner may proceed with the sale at the end of the interim window of opportunity.

The full window of opportunity is designed to allow you time to put a bid together for the asset and will mean that the asset owner is unable to enter into a binding agreement to dispose of the asset until that period is over. During this period you will have to undertake fund-raising to make a commercially viable offer for the asset.

At the end of the six months' period, the landowner will be free to sell to any bidder: i.e. a community groups will not have preference. You should be aware that there will be no obligation to sell to a community group at any time.

Sales may be permitted during the window of opportunity period by any owner to an eligible community interest group. If more than one community interest group make a bid for an asset, it will be up to the asset owner to decide whom they will sell to.

## Can we save valued local services using the Community Right to Bid?

The Community Right to Bid scheme applies to physical assets only (that is, land and buildings), not services. Community groups are, therefore, able to nominate a building to be listed as an Asset of Community Value, but not the service that operates from within that building.

For example, a post office is a contractual service and whilst community groups may be able to nominate the building from which the postal service operates, this would not guarantee the continuation of the post office service. But that this could be something for the community to take on separately, if it so wished.

The Community Right to Challenge, also included in the Localism Act 2011, complements the Community Right to Bid by giving community groups the opportunity to express an interest in running services currently provided by local authorities, such as children's centres or libraries.

Communities seeking to buy a building or other land under the Community Right to Bid scheme will need to consider how they are going to access resources to maintain the asset. In the case of local authority services, such as children's centres or libraries, the prospect of a continuing income stream in the shape of a contract to deliver the service may, therefore, be very important.

You should also be aware that some types of land or buildings purchased under the Community Right to Bid will almost certainly have a restrictive covenant placed on them by the owner, which may limit how the property can be used, once it has been sold (for example, that a pub may not be used as a pub by the new owner).

## What is a Neighbourhood Community Plan?

Unlike Neighbourhood Development Orders, Community Right to Build, Community Right to Challenge and Community Right to Bid powers, a Neighbourhood Community Plan is an informal, non-statutory document that the community comes together to prepare.

Such a plan will not have statutory status or planning powers but it can address issues that a Neighbourhood Plan cannot: on-street parking, litter, anti-social behaviour, how often the grass gets cut on the local recreation ground, or how places are allocated at the local primary school.

## What do I need to do?

Because a Neighbourhood Community Plan is a non-statutory document, what it looks like, how it is constructed, what issues it addresses and the level of community involvement are all up to you. However, you may find the advice in section 2 about getting organised and in section 3 about evidence gathering and community involvement helpful to you.

The production of a Neighbourhood Community Plan is unencumbered by the numerous requirements set out in sections 2 - 5 above because the statutory spatial planning elements are not present.

## 7. Support and Advice

There are several sources of advice and support for local communities that are interested in preparing a Neighbourhood Plan. The Council neither recommends any source, nor guarantees the quality or applicability of any advice that you might receive from external sources.

The Council is obliged by law to provide some help to people to draw up their Neighbourhood Plans. This planning advice is free but may not be immediately available on demand due to limited staff resources.

- **The Royal Borough of Kingston upon Thames**  
Strategic Planning Team  
Tel: 020 8547 5002  
Email: [localplan@kingston.gov.uk](mailto:localplan@kingston.gov.uk)  
Website: [www.kingston.gov.uk/neighbourhoodplanning](http://www.kingston.gov.uk/neighbourhoodplanning)

The Planning Portal is a government-funded web-based gateway to town planning services and advice. You may find useful information posted here or hyperlinks to other information sources. This entirely web-based service is free and is available 24 hours.

- **The Planning Portal**  
Website: [www.planningportal.gov.uk](http://www.planningportal.gov.uk)

For advice, the Planning Advisory Service offers consultancy and peer support, learning events and online resources on a wide-range of planning topics. There is useful information freely available on their web-site but more tailored advice may have to be paid for. Please note that advice is not provided on a one-to-one basis to members of the general public.

- **The Planning Advisory Service**  
Website: [www.pas.gov.uk/neighbourhood-planning](http://www.pas.gov.uk/neighbourhood-planning)

Other sources of information and advice that may be assistance include:

- **Locality**  
Website: [www.locality.org.uk/projects/building-community/](http://www.locality.org.uk/projects/building-community/)
- **My Community**  
Website: [www.mycommunity.org.uk/programme/neighbourhood-planning/](http://www.mycommunity.org.uk/programme/neighbourhood-planning/)
- **Planning Aid**  
Website: [www.ourneighbourhoodplanning.org.uk/](http://www.ourneighbourhoodplanning.org.uk/)
- **Prince's Foundation**  
Website: <http://www.princes-foundation.org/what-we-do/projects/engage/clg-planning-scheme/supporting-communities-and-neighbourhoods-planning>

## Appendix 1: Glossary of planning terms

This section is not designed to provide an exhaustive, legally definitive or comprehensive anthology of all terminology used within the town and country planning process. Rather it is designed to provide short, non-technical summaries of the terms and acronyms most widely used in the preparation of Development Plans or in determining planning applications. More detailed and technical information can be sought from legally competent, authoritative and academic sources widely available in libraries and on the internet.

**Adoption:** The formal adoption, by Council, of a Local Plan or Development Plan Document following public examination and receipt of a positive report from the Planning Inspectorate is the final formal stage in the evolution of a statutory Local Plan. Once a plan is adopted it has full legal weight in the determination of planning applications.

**Allocation:** Formal identification of a land parcel for a specific use through a Development Plan. Most commonly associated with housing allocations.

**Amenity:** A positive element, or elements, that contribute to the overall character or enjoyment of an area. For example, open land, trees, historic buildings and the inter-relationship between them, or less tangible factors such as tranquillity.

**Ancillary use:** Where a building or plot of land is in a variety of uses (as defined by the Use Classes Order), the principal use will be the defined use of the land in planning law terms. For example, a furniture-making factory may have a production building, a storage building, offices, a staff restaurant and over-the-counter sales to the public. All of the other uses are ancillary to the predominant use of the planning unit – a factory falling within Use Class B2. If there is no one dominant use a mixed use will exist. Changes in the balance of uses in both instances may constitute a material change of use and, therefore, require planning permission.

**Annual Monitoring Report (AMR):** This measures how the council is progressing with the timetable set out in the Local Development Scheme. It also assesses the effectiveness of the various policies contained in the Development Plan Documents and monitors key indicators, such as house-building, employment land take-up, etc.

**Appeal:** Within a set time of a planning application being determined, or if the Council has failed to determine the application within the statutory timeframe, an aggrieved applicant may ask for a decision to be (re)considered by the Planning Inspectorate. The appeal may be conducted (i) in writing, (ii) by an informal discussion led by the Inspector or (iii) by a formal public inquiry, with cross-examination of witnesses and perhaps barristers to present the respective parties' cases. The Planning Inspectorate decision is binding (but may be challenged by judicial review).

**Application form:** Each planning application must be accompanied by a formal application form. These forms follow a national standard and include the name and address of the applicant, the location of the development and details of the proposal must be accompanied by: a signed ownership certificate; a plan of the proposal at an appropriate and recognised scale; and usually by a variety of other information e.g., Design and Access Statement. It may also be accompanied by an Environmental Impact Assessment.

**Approved plans:** A plan at a recognised scale that shows the development permitted by a grant of planning permission. Any significant variation in the built form from that shown on the approved plans may require a further planning application or may lead to enforcement action, which could include the demolition of the offending buildings or cessation of the aberrant use(s). See also 'Decision Notice'.

**Betterment:** The issue of to whom the increase in the value of land or buildings accrues as a result of a planning decision: the issue being 'should a private individual benefit from a public decision'. This has bedevilled the planning system since 1947 and no satisfactory result has ever been achieved. Currently, Section 106 agreements and the Community Infrastructure Levy represent the nearest that the English planning system has to a betterment tax.

**Biodiversity:** The 1992 United Nations Earth Summit defined biological diversity or biodiversity as "*the variability among living organisms from all sources, including, 'inter alia', terrestrial, marine, and other aquatic ecosystems, and the ecological complexes of which they are part: this includes diversity within species, between species and of ecosystems*". The term covers species diversity; ecosystem diversity; genetic diversity; and molecular diversity. Many industrial materials derive directly from biological sources. Biodiversity is also important to the security of resources such as water, timber, paper and food. As a result, biodiversity loss is considered to be a significant risk factor. Consequently, it is a pertinent consideration in planning matters.

**Blight:** The reduction, or perceived reduction, in value of a building or piece of land as the result of a planning decision.

**'Brownfield first':** A principle established by government in March 2000 (in PPG3) that says that brownfield land should be used for development before Greenfield sites are used. One of the key principles that underpins sustainable development in UK planning.

**Brownfield land:** Land which has been previously developed. Often associated with urban land but equally relates to previously developed land in the countryside and the Green Belt. May be contaminated by pollutants which require remediation before re-use and redevelopment occur. The precautionary principle may be applied to the need for, and scale of, remediation where former industrial land is to be re-used for housing.

**Brundtland Commission/definition:** The United Nations World Commission on Environment and Development, chaired by three-time Norwegian Prime Minister Gro Harlem Brundtland, whose 1987 report defined 'sustainable development' .

**Building control/regulations:** An entirely separate and distinct regime from planning, with its own procedures, fees and decision-making process. Many forms of development do not require express planning permission but will require building control approval. The national Building Regulations ensure that buildings are safe, fuel and energy efficient, reduce CO<sub>2</sub> emissions and provide access for people with disabilities. Building Control exists in both public and private sectors (the latter being known as Approved Inspectors), with the two sectors competing for business. Local authorities are required to provide a Building Control service for use by the public.

**Call-in:** Some planning applications must be notified to the Secretary of State to give her/him the opportunity to 'call-in' an application for her/his own determination. The Secretary of State also has powers to call-in any application and may direct us to hand it over to her/him. The application is considered at a public inquiry by one or more members of the Planning Inspectorate who make recommendations to the Secretary of State, who decides whether or not to allow the application.

**Campaign to Protect Rural England (CPRE):** A registered charity with over 60,000 members and supporters. Formed in 1926, the CPRE claims to be one of the longest running environmental groups. CPRE campaigns using its own research to lobby the public and all levels of government. Credited with being a prime mover in the creation of the Green Belt, National Parks, Areas of Outstanding Natural Beauty and the 'brownfield first' sequential test.

**Capacity study:** A study designed to identify what capacity or 'headroom' there is for a particular form of development. Uses population projections and other statistical data/assumptions to identify whether there is a gap between the current amount of provision and the level of provision projected as being necessary (usually at some point in the future). Most commonly associated with retail capacity studies, where a developer wants to show that there is the capacity for a new store that will not undermine existing stores. But see also 'Urban capacity study'.

**Carbon emissions/footprint:** See 'Greenhouse effect'.

**Carbon neutral:** Has a nil-net effect on carbon emissions. See also 'Greenhouse effect'.

**Carbon offsetting/trading:** A reduction in emissions of carbon dioxide or greenhouse gases made to compensate for, or to offset, an emission made elsewhere. There are two markets for carbon offsets. In the compliance market, companies, governments, or similar buy carbon offsets in order to comply with caps on the total amount of carbon dioxide they are allowed to emit. This market exists in order to achieve compliance with obligations under the Kyoto Protocol. In the voluntary market, individuals, companies, or governments purchase carbon offsets to mitigate their own greenhouse gas emissions. Offsets are typically achieved through financial support of projects that reduce the emission of greenhouse gases in the short- or long-term. The most common project is renewable energy, such as wind farms, biomass energy (burning biological material from living, or recently living organisms or solid municipal waste), or hydro-electric dams. Other examples include large-scale tree planting schemes in Third World countries.

**Change of use:** Planning permission is usually required to change the use of a building or land to another use class. Intensification of a use may constitute a change of use.

**Climate change:** See 'Greenhouse effect'.

**Community Infrastructure Levy (CIL):** A new means of securing planning obligations, currently being introduced by the government. CIL will be secured by the creation of new DPDs by each LPA, which set out how the levy is calculated and apportioning sums of money towards various infrastructure projects, which may be wider than of local significance. CIL will be a flat-rate 'roof tax' and, therefore, more predictable than individually negotiated Section 106 agreements.

**Comparison shopping:** Shopping for non-essential items, generally of a higher value (such as furniture and electrical goods) but also extends to clothing, books, cosmetics, etc... Comparison shopping has traditionally been conducted in town centres, but since the 1980s has also been carried out in retail [warehouse] parks and, most recently, on-line. See also: 'Convenience shopping' and 'Town centres first'.

**Compulsory Purchase Order (CPO):** An Order issued by the government, or a local authority, for the enforced acquisition of land or buildings for public interest purposes.

i.e. for the construction of a major road or the redevelopment of certain brownfield sites. The purchasing authority needs to be capable of demonstrating that they have tried to acquire the property by negotiation before a CPO can be issued. Most CPOs are preceded by a CPO Inquiry conducted by a member of the Planning Inspectorate, who will either confirm or reject the Order.

**Conditions:** Planning permission is usually granted subject to conditions, all of which must be complied with. Conditions should only be imposed when permission would otherwise have to be refused. It is the responsibility of the developer to ensure that the terms of all conditions are met.

**Conservation Area:** A defined area, designated by a local council, which is to be preserved or enhanced because of its special architectural or historic interest.

**Conservation Area consent:** Alterations to buildings (including total or substantial demolition), advertising and trees cannot be undertaken in conservation areas without permission from the council. No planning fee is charged for such applications but pre-application discussions attract a flat fee.

**Convenience shopping:** Shopping for goods of an essential day-to-day nature, such as food, newspapers, tobacco, etc... Most convenience shopping today is conducted in out-of-centre supermarkets and superstores. See also 'Comparison shopping'.

**Decision notice:** The official document, issued by the Local Planning Authority, Planning Inspectorate or the Secretary of State that grants or refuses planning permission. Development may not legally begin before the decision notice has been issued. Reasons for permitting or refusing development, and for any conditions imposed on permission, are always given. In conjunction with the approved plans, this is the definitive statement of the development that has been granted or refused permission.

**Delegation/delegated decision:** Decisions on planning applications where officers make decisions rather than an elected planning committee. The overwhelming majority of decisions are made in this way, provided that there are no complex issues, or the proposal is wholly acceptable in planning terms. It is also used for refusal when an application is clearly not in accordance with planning policies or practice. Decisions which would otherwise be made under delegated powers can be called-in by elected Councillors for determination by the Planning & Development Committee, within 28 days of the application's appearance on the weekly list and where the application raises issues of local importance.

**Demolition:** Requires planning permission only in certain circumstances (such as homes), but planning permission is normally required to rebuild on the site. Demolition of listed buildings requires Listed Building Consent and special provisions apply in conservation areas.

**Density:** In the case of residential development, a measurement of either the number of habitable rooms (any room used or intended to be used for sleeping, cooking, living or eating purposes i.e. NOT bathrooms, hallways, utility rooms) per hectare or the number of dwellings per hectare [dph]. With the increased emphasis on brownfield development over the last twenty years, housing densities have risen, leading to an increase in flatted developments and a reduction in terraced houses.

**Department for Communities and Local Government (DCLG):** Government department responsible for, *inter alia*, preparing primary and secondary legislation on

town planning and for preparing guidance to direct and assist in the day-to-day interpretation and operation of the statutory town planning system, such as the National Planning Policy Framework. Also determines called-in or recovered planning applications.

**Departure:** A proposed development that is not in accordance with the adopted Development Plan, but for which the Local Planning Authority proposes to grant planning permission subject to no intervention from the government.

**Design and Access Statement:** Prepared by applicants for planning permission. Describes the development and explains how the design was arrived at, what Local planning policies have been observed, how any public engagement has been reflected in the design, and how relevant principles of good design have contributed to the proposal. This document enables the lay public to understand how the finished proposal was arrived at, and acts as a check upon the quality of the decision-making process which led to that proposal by the developer concerned.

**Detailed application/'Details':** A planning application seeking full permission for a development proposal, with no matters reserved for later planning approval. Antithesis: outline application.

**Development:** Defined in the 1990 Act as "*the carrying out of building, engineering, mining or other operations in, on, over or under land*" (known as operational development) or "*the making of any material change of use of any buildings or other land*". Not all development requires planning permission ~ see 'Permitted development'.

**Development Brief:** See 'Masterplan'.

**Development Management:** The new name for development control. The act of determining planning applications (and similar) in conformity with the Development Plan and material considerations.

**Development Plan Document (DPD):** Statutory documents produced by LPAs that must be taken into account in determining planning applications. Currently, planning permission must be granted in accordance with these documents unless material considerations indicate otherwise. Local Plans must be subjected to examination by a member of the Planning Inspectorate before being adopted.

**Ecology:** The scientific study of the relations that living organisms have with respect to each other and their natural environment. Variables of interest to ecologists include the composition, distribution, amount (biomass), number, and changing states of organisms within and among ecosystems .

**Ecosystems:** Ecosystems are functional units in a given area consisting of: (i) living things, (ii) the non-living chemical and (iii) physical factors of their environment, all linked together through (iv) the nutrient cycle and by (v) energy flows. Central to the ecosystem concept is the idea that living organisms interact with every other element in their local environment. Ecosystems are sustained by the biodiversity within them. Because the impact of development on ecosystems and biodiversity can be unpredictable, even when assessed through an Environmental Impact Assessment, many people advocate the use of the precautionary principle when determining planning applications.

**Edge of centre:** A location that is within easy walking distance (often considered 200-300 metres) of the primary shopping area.

**Enabling development:** Development that is usually contrary to established planning policies but which is exceptionally permitted because it has been demonstrated to be necessary to generate funds to enable the conservation of a Listed Building or its setting and where the indirect benefit of the enabling development clearly outweighs any direct harm that it would cause.

**Enforcement:** The investigation and resolution of alleged breaches in planning control, usually undertaking development without permission or failing to observe conditions. An otherwise acceptable breach of planning control can be corrected by a retrospective planning application. Formal enforcement action, which could include issuing of an Enforcement Notice to require the demolition of any offending buildings/structures or cessation of any aberrant use(s), may only be undertaken if the development would not be permitted and it is considered “expedient” to take action. Can ultimately lead to action in the County Court against the defaulting party if negotiation and service of an Enforcement Notice fails to remedy the breach of planning control.

**Environment Agency (EA):** The organisation to protect and improve the environment and to promote sustainable development. Has a particular focus on climate change, water, land and air quality. Has roles as a regulator, operator, monitor and advisor. A key consultee.

**Environmental Impact Assessment (EIA):** Likely to be required for nationally defined large-scale developments. Undertaken by the developer when applying for planning permission, the EIA assesses the social, economic and environmental impacts of the development and identifies what remedial measures may be necessary to counter any negative impacts. Used as an informative to decision-making rather than a determinant of whether permission should be granted.

**Environmental Information Regulations 2005 (EIR):** Provide a statutory right of access to environmental information held by public authorities. Covers information about air, water, soil, land, flora and fauna, energy, noise, waste, emissions and information about decisions, policies and activities that affect the environment. Very similar provisions to Freedom of Information but with some notable differences. One is that requests can be made verbally. The exemptions from publication that can be claimed are, in many cases, narrower in their scope and application. As with FoI, public authorities have 20 working days from the receipt of a request to provide the information.

**Examination:** See ‘Public examination’.

**Express planning permission:** See ‘[Planning] permission’ and ‘Permitted development’.

**Fee:** Nationally set fees are required for a planning application to be determined. Locally-set fees are payable for pre-application discussions and advice. In both cases, the fees vary depending upon the scale and nature of the development being proposed. On average, planning application fees make-up about 4% of the total costs of development. The fee income is kept by the Council and offset against the costs of providing the planning service. There are limited exemptions from paying planning application fees, including householder applications by registered disabled persons.

**Fossil fuels:** Carbon-rich fuel (coal, oil and natural gas) formed from the remains of ancient animals and plants. Their combustion is considered to contribute to the 'greenhouse effect'.

**Freedom of Information (Fol) request:** The Freedom of Information Act 2000 creates a general right of access, on request, to information held by public authorities. On receipt of a freedom of information claim a public authority has two corresponding duties. First, a duty to inform a member of the public whether or not it holds the information requested, and second if it does hold that information, to communicate it to the person making that request. However, there are numerous exemptions. Some of these are absolute bars to disclosure; some are qualified. Most planning information is covered by the Environmental Information Regulations, rather than FOI.

**Full application:** See 'Detailed application'.

**General Permitted Development Order (GPDO):** The Town and Country Planning (General Permitted Development) Order 1995 allows for the extension of, or changes to, a property without the need for express planning permission, within certain guidelines. This includes small domestic extensions which comply with pre-determined measurements.

**Grampian-type condition:** A negative condition imposed on a planning permission barring development from happening until a particular action on another piece of land not owned by the applicant has been performed (usually highways works). Named after a court case in 1984 involving Grampian Regional Council.

**Greater London Authority:** The top-tier administrative body for Greater London. It consists of a directly elected executive Mayor of London, and an elected 25-member London Assembly with scrutiny powers.

**Green Belt:** National policy designations that help to contain development, protect the countryside and promote brownfield development, and assists in the urban renaissance. There is a general presumption against inappropriate development in the Green Belt.

**Greenfield land:** Land which has not previously been developed (hence antithesis: brownfield land). Most commonly associated with land in the countryside but could equally apply to an undeveloped site within an urban area.

**Greenhouse effect:** A process by which thermal radiation from Earth's surface is absorbed by atmospheric greenhouse gases, and is re-radiated in all directions, including back towards the surface. As a result, the surface temperature is higher than it would be if direct heating by solar radiation were the only warming mechanism. Since the beginning of the Industrial Revolution, the burning of fossil fuels (wood, coal, gas, oil) has contributed to the increase in carbon dioxide in the atmosphere from 280ppm to 390ppm. If this process continues, many ecosystems will be damaged and become uninhabitable for Mankind. As a part of sustainable development there is a current drive towards reducing carbon emissions. Hence terms such as "reducing the carbon footprint" and "zero carbon homes".

**Headroom:** See 'Capacity study'.

**Highways Agency:** See 'Highway Authority'.

**Highway Authority:** The Council are the Highway Authority for the Borough. They are charged with the statutory responsibility of adopting, maintaining, designing, making

safe and constructing all roads, footways and public rights of way other than trunk roads and motorways. A major consultee on planning applications and in the preparation of DPDs.

**Historic England:** The organisation responsible for overseeing the historic built environment of England, advising local authorities on such matters and acting on behalf of the government (the Department for Culture, Media and Sport) in matters such as registering listed buildings.

**Householder application:** A, generally smaller-scale, application to alter or enlarge a house, including works within the garden of a house which are not permitted development. Nationally these form the majority (60%) of the applications received by LPAs.

**Infrastructure deficit:** Infrastructure is the basic physical and organizational structures needed for the operation of a society. The term typically refers to the technical structures such as roads, water supply, sewers, gas and electrical grids, telecommunications, etc. Hence, if it is perceived that there is a shortfall in the infrastructure provision, there is said to be an infrastructure deficit.

**Inquiry:** See 'Appeal'.

**Judicial Review (JR):** A challenge to the High Court by any aggrieved and affected party against a [planning] decision made by, for instance, the Council, the Planning Inspectorate or the Secretary of State. Can only be made on points of law (viz, not planning judgments) and must be made "expeditiously" after the decision to be challenged has been made. This means that applications for JR must be made within 3 months, at most.

**Kyoto Protocol:** A United Nations sponsored protocol, signed in December 1997 and which came into force in February 2005, designed to reduce the four principal greenhouse gas emissions (cf 'Greenhouse effect'). The USA, Afghanistan, Andorra and South Sudan are the only countries that have declined to ratify the protocol. Countries are allowed to trade emissions with other countries to avoid reducing their own emissions. The protocol is due to end on 31 December 2012.

**Landbank:** A stock of land (for housing, for example) which has planning permission but has yet to be developed. Housebuilders commonly have considerable landbanks, which bolster their value on the Stock Exchange.

**Lawful Development Certificate (LDC):** A specialist type of application that determines: (i) whether the existing use of land or buildings is lawful for planning purposes or (ii) confirms that a proposal does not require express planning permission. Often necessary to confirm that the use, operation or activity named in it is lawful when land or property is placed on the market for sale. A fee is charged for an LDC. Is not the same as a planning permission. Sometimes used in enforcement cases.

**Listed Building:** A building or structure on the Statutory List of Buildings of Special Architectural or Historic Interest run by English Heritage . Listing began in 1950 and currently protects 500,000 across England and Wales. By reason of their significance, Listed Buildings fall into three categories of descending importance: Grade I, Grade II\* and Grade II, of which the majority - over 90% - are Grade II. A listed building may not be demolished, extended or altered without permission from the Local Planning Authority. No fee is charged for such Listed Building Consent but a flat fee is charged

for pre-application discussions. Enabling development may be contemplated in order to secure the preservation of a Listed Building.

**Local Development Scheme (LDS):** A project/programme document setting out milestones for the preparation of new plan documents. This is a statutory document.

**Local Plan:** A type of statutory DPD produced 1968 - 2004 and from 2012 onwards.

**Local Planning Authority (LPA):** A local authority charged by central Government with the statutory duty to prepare Development Plan documents and undertake other duties under the Planning Acts. District Councils, sometimes styled as Borough or City Councils, have planning powers for all development in their administrative areas with the exceptions of minerals and waste. County Councils have planning powers for minerals and waste proposals within their administrative areas.

**Major application:** Involves any one or more of the following: (i) mineral deposits; (ii) waste development; (iii) a site for 10 or more new homes or where the site area for new homes is 0.5ha or more; (iv) the provision of a building or buildings where the floorspace to be created is 1,000m<sup>2</sup> or more; or (v) any other development carried out on a site with an area of 1 hectare or more.

**Mayor of London:** The Mayor of London is an elected politician who, along with the London Assembly of 25 members, is accountable for the strategic government of Greater London. Has powers to call in major planning applications for determination.

**Masterplan:** Usually applied to a comprehensive written and/or cartographic representation of a potential development scheme. Sometimes a masterplan may be SPD or it may be submitted with a planning application. Alternatively, land-owners or developers often prepare masterplans to guide their own, or other party's, development. It is always best to inquire as to the status and intent of a masterplan in order to ascertain how much weight to place upon it.

**Material considerations:** Factors considered in the determination of applications for planning permission, alongside the statutory Development Plan. Includes residential amenity, highway safety, traffic, noise, smell, design and appearance, conservation and listed buildings and any relevant planning comments made by consultees. In order to be material a consideration must relate to the use and development of land and to the planning merits of the development in question. Non-planning comments and the number of objections received are not material considerations. What is considered to be material may be subject to appeal and/or judicial review but the weight to be attached to a material consideration is solely for the decision-maker and will not be challenged by the courts.

**Metropolitan Open Land (MOL):** Strategic open land within the urban area that contributes to the structure of London.

**Minerals Local Plan/LDF:** A statutory long-term Development Plan framework for mineral extraction and associated development (such as railheads and storage facilities). Covers oil, coal, gas, sand, gravel, crushed rock and chalk. All minerals planning powers reside with county or unitary councils (i.e. not with district councils) ~ both plan-preparation and development management.

**National Land Use Database (NLUD):** National database, compiled annually as a government initiative from various public sources (including local authorities), to provide information on the amount of brownfield land that may be available for development.

**National Planning Policy Framework (NPPF):** Succinctly sets out national government policy, advice and guidance. Until up-to-date Local Plans [or LDFs] are put in place, planning applications must be determined in accordance with the presumption in favour of sustainable development contained within the NPPF.

**Natural England:** The organisation responsible for ensuring that England's natural environment, including its land, flora and fauna, freshwater and marine environments, geology and soils, are protected and improved.

**Neighbourhood Plans:** Introduced in 2012 under the planning provisions of the Localism Act 2011. Parish Councils (or authorised Neighbourhood Forums in un-parished areas) will be able to prepare statutory Development Plan Documents against which planning applications will have to be assessed. Must be in general conformity with the strategic policies of the Local Plan. After public examination, if found sound must be subject to a local referendum before being adopted by the LPA.

**Net migration:** Takes into account natural change in the population (births and deaths) and also those people who have moved into, and out of, the locality. See also: 'Nil-net migration' and 'Population projections'.

**Nil-net migration:** Takes into account natural change in the population (births and deaths) but not those people who have moved into, and out of, the locality. In this model in-migrants are mathematically forced to equal out-migrants. A controversial basis for population projection modelling. See also: 'Net migration' and 'Population projections'.

**Non-determination:** If the council fails to make a decision on a planning application within the set time, the applicant may appeal to the Planning Inspectorate who then make the decision, rather than the council.

**Objections:** Representations received by the Local Planning Authority or any other determining body in respect of either a planning application or a Development Plan which opposes all or part of the proposals. In order for the objections to be considered and given weight they must raise legitimate planning matters (see 'Material considerations'). The number of objections received is not a legitimate ground for refusing planning permission.

**Off-setting:** Where the negative impact of a development or activity in one location is off-set or traded against a positive impact or activity implemented elsewhere, usually to obtain a nil-net effect. Most widely used in carbon trading but now spreading to the fields of biodiversity and ecology more generally.

**Outline application:** An application for planning permission primarily designed to establish that a development is acceptable in principle, subject to subsequent approval of detailed matters. Usually applies to major developments where it is either uncertain whether the proposal is in conformity with the Development Plan or where the scale of the development is such that it is inappropriate to be exact in every detail at the time of applying for planning permission.

**Out of centre:** In retailing terms, a location that is clearly separate from the primary shopping area of a town centre but not outside the urban area.

**Out of town:** In retailing terms, a location clearly outside the current urban boundary.

**Overbearing:** A term used to describe the impact of a development or building on its surroundings, particularly a neighbouring property, in terms of its scale, massing and general dominating effect.

**Over-development:** An often pejorative term describing an amount of development (for example, the quantity of buildings or intensity of use) that is considered excessive in terms of demands on infrastructure and services, or impact on local amenity and character.

**Overlooking:** A term used to describe the effect when a development or building affords an outlook over adjoining land or property, often causing loss of privacy.

**Overshadowing:** The effect of a development or building on the amount of natural light presently enjoyed by a neighbouring property, resulting in a shadow being cast over that neighbouring property.

**Performance targets:** Local planning Authorities have nationally set performance targets to meet, principally revolving around the time taken to determine different types of planning applications.

**Permitted development:** Building works and uses as defined by the General Permitted Development Order and Use Classes Order that can be undertaken without the need for express planning permission from the Local Planning Authority.

**Planning Acts:** The first Planning Act was in 1909 but the modern planning system was introduced by the Town and Country Planning Act of 1947. There have been a series of further Acts over the succeeding years, with the main ones in use today being the four 1990 Acts, the Planning and Compulsory Purchase Acts of 1991 and 2004, the Planning Act of 2008 and the planning provisions of the Localism Act 2011 (which are not being commenced until 2012). Supplementing the Acts are various circulars, statutory instruments (such as the Development Plans (England) Regulations), guidance notes, policy statements, ministerial announcements and, from 1 April 2012, the National Planning Policy Framework.

**Planning Advisory Service (PAS):** A part of the LG Group that advises Local planning Authorities how to improve their planning service. Includes peer review, best practice notes, etc...

**Planning Aid:** A government-subsidised service, offered by the RTPI, that provides free and independent advice and support to community groups and individuals unable to afford to employ a planning consultant.

**Planning application:** A planning application is necessary in order to secure express planning permission from the relevant Local Planning Authority for development that is not otherwise permitted development. See also 'Application form'.

**Planning for Real:** A term broadly, and inappropriately, used to refer to any consultation method involving creative exercises (for example, the use of maps and model buildings) to engage the public in plan-making and place-shaping. The term is commercially copyrighted and licensed: it should not be confused with similar consultation methodologies not provided by the copyrighted owners of the term.

**Planning gain/obligations:** Securing the delivery of community benefits by legal agreement following negotiation with applicants for planning permission, without which any development would be unacceptable. May include the physical construction of facilities, the provision of land or the payment of a fee in lieu of on-site provision. The

building of affordable housing and the payment of monies towards the provision of new school places are the most common examples. Also known as Section 106 agreements. May not be used to remedy existing infrastructure deficiencies: may only be used to meet the needs generated by the development being permitted. To be largely replaced by 2014 by the Community Infrastructure Levy .

**Planning Inspectorate (PINS):** The organisation that undertakes planning and enforcement appeals (usually against Local Planning Authority refusal of permission or non-determination of planning applications). Holds evidence-gathering, quasi-judicial examinations into both planning applications and Local Plans and DPDs. PINS decisions on planning applications are binding on all parties except Government, but all of its decisions may be overturned by the courts on limited technical grounds following judicial review.

**Planning Officers' Society (POS):** Body that represents senior professionals and managers of planning functions in the public sector serving the English Local planning Authorities. Provides advice, best practice and training opportunities.

**Planning permission:** The consent given by the Local Planning Authority, the Planning Inspectorate or the Secretary of State for development. Usually given with conditions and with a time limit for the beginning of development. May be subject to planning obligations. Reasons for permission will be given on the decision notice. Will be closely based on the information given in the planning application form and the ancillary information supplied by the applicant.

**Planning Portal:** A Government sponsored web-site from which much useful generic information about the statutory town and country planning and building control systems can be gathered. Most LPAs are connected to the Planning Portal via hyperlink, such that it acts as a 'one stop shop' for developers and the public wishing to gain access to the planning pages of their local authority's web-site. Many local authorities, including the Council, offer electronic submission of planning application and the payment of fees via the Planning Portal.

**Planning unit:** An identifiable parcel of land or (part of) a building usually identifiable by the coincidence of ownership, occupation and use to which a unique planning history (or permissions) attach. Can be a vexed question. A house would, for instance, usually be a planning unit. Its subdivision into two flats would create two new planning units and extinguish the previous planning history of the house.

**Population projections:** The principal basis of determining the future development needs of an area when preparing a Development Plan. A number of different models of population projection are available, including net-migration and nil-net migration. Alternatives to population-based projections are economic-derived models, although these are less widely used, projecting past performance, assessing affordable housing needs and policy-led models (in which planning policy constraints are overlaid, generally to constrain the housing requirement). The antithesis of using population projections or other demand-led projections as a basis for determining development levels is the urban capacity model.

**Pre-application discussions/fees:** An opportunity for councils and developers to work together to achieve developments that deliver benefits to the community and the economy. These discussions are provided for a fee, for officer time, but in the long-term they can save time, costs and frustration and optimise the potential of a site.

**Precautionary principle:** If an action or policy has a suspected risk of causing harm to the public or to the environment, in the absence of a scientific consensus that the

action or policy is harmful, the burden of proof that it is not harmful falls on those taking the action. The principle implies that there is a responsibility to protect the public from exposure to harm when scientific investigation has found a credible risk. These protections can be relaxed only if further scientific findings emerge that provide sound evidence that no harm will result. Underpins much EU environmental policy but the application of the precautionary principle is not enshrined in UK planning law.

**Presumption in favour of (sustainable) development:** The Planning Acts have included a presumption in favour of development since 1947, as this was part of the post-war 'quid pro quo' that saw land and property owners' rights to develop their property as they wished nationalised without compensation. The presumption was amended to include the term 'sustainable development' following the work of the UN's Brundtland Commission.

**Previously Developed Land (PDL):** See 'Brownfield land'.

**Primary Shopping Area (or Primary Shopping Frontage):** A designated area where the number of Use Class A1 shops is most concentrated in a town centre. Beyond the primary shopping area will lie secondary and tertiary shopping areas, where shop uses become more diluted by other A-use classes (such as pubs, restaurants, banks) and other town-centre type uses (such as assembly and leisure uses).

**Prior Approval:** A procedure where permission is deemed granted if the Local Planning Authority does not respond to the developer's application within a certain time. Often relating to telecommunication or agricultural developments.

**Public examination:** An interrogatory process led by one or more members of the Planning Inspectorate, held to examine the soundness of a DPD. For Neighbourhood Plans, appointed examiners need not be members of the Planning Inspectorate and their examinations will generally be conducted solely by way of written representations. Similar to an informal hearing: see 'Appeal'.

**Public [local] inquiry (PLI):** See 'Appeal'.

**Refusal of planning permission:** The guiding principle in determining planning applications is that development should be permitted, having regard to the Development Plan and all other material considerations, unless the proposed development will "*cause demonstrable harm to interests of acknowledged importance*". The person making the decision will issue a decision notice detailing the reasons for refusal. Within a set time, aggrieved applicants have the right to appeal against the refusal of planning permission.

**Retrospective planning application:** Occasionally a Local Planning Authority may receive, or in some enforcement cases encourage, those parties that have undertaken unauthorised development to submit a planning application to regularise the situation. Attempting to sell land or buildings upon which unauthorised development has occurred can lengthen the process and reduce the price received.

**Royal Town Planning Institute (RTPI):** Professional body representing town and country planners. Members of the RTPI must have a qualification recognised by the body and suitable post-qualification practical experience. Members are required to continually update their professional knowledge and skills by undertaking (and keeping a record of) Continuing Professional Development throughout their careers.

**Satellite dishes:** Do not require express planning permission, subject to certain caveats. Seek guidance from the Planning Portal.

**Saved policies:** Policies within a Development Plan that the Secretary of State has allowed to continue to have legal force, following passage of the 2004 Act, during the production of replacement Development Plan Documents.

**Secretary of State:** Head of the government's Department for Communities and Local Government or another government department.

**Section 106 agreements:** See 'Planning gain/obligations'.

**Sequential test:** The process of demonstrating that development is to occur on the most preferable location for the appropriate use. Most commonly associated with the 'town centres first' policy and the 'brown before green' test for housing development (wherein brownfield sites have to be used before Greenfield ones).

**Site Notice:** Statutory notice posted on, or close to, a development site for at least 21 days, providing public notice of the existence of a planning application on the site. Usually accompanied by the publication of the same notice in a newspaper circulating in the locality.

**Soundness, tests of:** At a public examination held by one or more members of the Planning Inspectorate, Local Plans will in future be checked against four tests of soundness [whether they have been positively prepared, are justified, effective and consistent with national policy] and whether the plan has been prepared in accordance with the duty to co-operate, legal and procedural requirements. Neighbourhood Plans will be tested against fewer tests. These criteria are established in the draft National Planning Policy Framework.

**Statement of Community Involvement (SCI):** This sets out the council's policy on involving the community in policy-making and major planning applications.

**Stop Notice:** Notice served by an LPA on a land-owner where there is a breach of planning control that requires to be stopped. Serving a stop notice must follow an enforcement notice. Does not come into force for three days and gives reasons why the stop notice is necessary.

**Strategic Environmental Assessment (SEA):** Required to be prepared for plans and policies under the terms of the European directive 2001/42/EC for "environmental assessment of certain plans and programmes". Undertaken in conjunction with the Sustainability Appraisal. All but the least important of planning documents now have to be subject to SA/SEA.

**Strategic Flood Risk Assessment (SFRA):** Study to provide a reference and policy document to inform the Local Plan; and to ensure that the Council meets its legal obligation to keep new development (especially housing) from being built in areas of (serious) flood risk.

**Strategic Housing Land Availability Assessment (SHLAA):** Study to determine the availability and viability of possible future housing sites. Usually undertaken every year.

**Strategic Housing Market Assessment (SHMA):** Study to provide evidence on the types of housing that are needed to meet current and future demand in the Borough. Used to inform both the Local Plan and development management decisions.

**Sui generis use:** A use in, and of, itself not falling within any Use Class. Any change of use requires express planning permission.

**Supplementary Planning Document (SPD):** There is no legal requirement to take these documents into account in determining planning applications, so their nature is to provide guidance to applicants wishing to develop land. The community will be involved in their preparation, but there is no independent examination of the document. Under the NPPF councils are discouraged from producing SPD unless it will speed up the development process and not add to the costs of development.

**Sustainability Appraisal (SA):** An assessment of the impact the proposals contained within a DPD would have on the environment, economy and society. It is carried out in conjunction with the Strategic Environmental Assessment.

**Sustainable Development:** Although there are several definitions in use, the one most widely applied in planning is the definition of the Brundtland Commission "*Our Common Future*", the United Nations World Commission on Environment and Development, published in 1987. This states that sustainable development is "*development that meets the needs of the present without compromising the ability of future generations to meet their own needs.*" The UK Sustainable Development Strategy *Securing the Future* set out five 'guiding principles' of sustainable development: *living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly.* These principles have been considered through the development of the National Planning Policy Framework.

**Sustainable Homes:** See 'Code for Sustainable Homes'.

**Television aerials:** See 'Satellite dishes'.

**Temporary Stop Notice:** Served by an LPA on a landowner where a breach of planning control needs to be stopped immediately. Lasts for 28 days, during which the LPA must decide whether to issue an Enforcement Notice. Must specify the activity to be halted. See also 'Stop Notice'.

**Third party rights of appeal:** The right of an aggrieved party, other than the applicant, to appeal to an independent body against the grant of planning permission by a Local Planning Authority. There are no third party rights of appeal in the UK. A judicial review of the decision (which could see the permission over-turned) or a complaint to the Local Government Ombudsman on the grounds of maladministration (which would not see the decision over-turned) are the usual means open to an aggrieved third party in the UK.

**Town and Country Planning Association (TCPA):** Founded by Sir Ebenezer Howard in 1899 to promote the idea of the Garden City, the TCPA is Britain's oldest charity concerned with planning, housing and the environment. Now a limited company with corporate and individual membership, it campaigns for the reform of the UK's planning system to make it more responsive to people's needs and aspirations and to promote sustainable development.

**'Town centres first':** A sequential locational test that developers and LPAs have to demonstrate has been followed in the placing of new shopping, leisure and office developments. The preferred order in the sequential test is: town centre; edge of centre; out of centre; out of town. Only if it can be clearly demonstrated that the development cannot be placed in a location higher in the preferential scale can the development be placed in a less favoured location lower in the hierarchy.

**Transport for London (TfL):** The organisation responsible for the day-to-day to operation of Greater London's public transport network, managing London's main roads and planning and building new infrastructure.

**Tree Preservation Order (TPO):** A means of securing the preservation of a single or a group of trees of acknowledged amenity value. A tree subject to a Tree Preservation Order may not normally be topped, lopped or felled without the consent of the Local Planning Authority. Trees on publicly owned land are not usually subject to TPOs as LPAs are considered to exercise good land husbandry.

**Ultra vires:** A Latin term meaning an action (usually of a Local Planning Authority, the Planning Inspectorate or the Secretary of State) which it is outside the legal power of the decision-maker to take. In planning, usually refers either to the issuing of a permission or the imposition of one or more conditions. Whether something is *ultra vires* will be determined by the courts through a judicial review.

**Unauthorised development:** Development that requires planning permission but which does not have it. Once unauthorised development comes to the attention of the Local Planning Authority an enforcement investigation will be begun. Unauthorised development can be regularised by a retrospective planning application in some instances or it may be beyond the time limits for enforcement action (four years for operational development or ten years for a change of use or breach of a planning condition). A Lawful Development Certificate is sometimes applied for to regularise the situation.

**Urban fringe:** The transitional zone between urban areas and the pure countryside, often characterised by 'horsiculture' (small paddocks) and other private leisure uses. It can provide a valuable resource for the provision of sport and recreation, particularly in situations where there is an absence of land within urban areas to make such provision. Commercial agriculture can be difficult to pursue in the urban fringe due to human influences (trespass, damage, attacks on animals) from the urban area.

**Use Classes [Order]:** Government statutory instrument that sets out broad classes of similar uses. Currently there are 15 different use classes. Within each class, planning permission is not required to change from one use to another e.g., changing from a butcher's shop to an internet café does not require planning permission as both fall within the same use class (A1 - shops). There are also certain changes of use from one class to another that do not require planning permission e.g., from a pub (class A4) to a shop (class A1).

**Validation:** The initial process carried out by the local planning authority upon receipt of a planning application. Checks are undertaken to ensure that all of the necessary information has been supplied with the application form and that the appropriate planning application fee has been paid. Only once this process has been completed will: an application be registered as valid; be given a unique reference number; allocated to a specific planning officer (known as the case officer) to process and determine; and be added on to the weekly list. The necessary consultation letters will be sent out only after validation is completed.

**Washing over:** Where a designation covers a parcel of land, most commonly associated with Green Belt designations where they 'wash over' villages and small settlements.

**Waste Plan:** A statutory long-term Development Plan Document for managing and disposing of waste. All waste planning powers reside with London Boroughs – both plan-preparation and development management.

**Weekly list:** A compendium of all new valid planning applications received by the Local Planning Authority in the preceding seven days. Gives limited details including the application reference number, the address of the development, a brief description of the proposals and the name of the case officer. Available to view free of charge or to purchase.

**Weight:** The weight to be attached to an issue in the determination of a planning application is a matter for the decision-maker and will not usually be challenged by the courts. See also 'Material considerations'.

**Zero-carbon homes:** Homes that are specifically designed (or adapted) to release nil-net carbon emissions. See also 'Greenhouse effect'.

If you would like to discuss any aspect of this document or Strategic Planning and Regeneration generally, then please ring the Strategic Planning Team on 020 8547 5002 or email us at localplan@kingston.gov.uk

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## ENGLISH

If you are unable to read this document because of disability or language, we can assist you. Please call the Kingston Council Helpline on 020 8547 5000 or ask someone to call on your behalf.

## KOREAN

귀하가 장애나 언어 때문에 이 문서를 읽을 수 없다면, 저희가 도와 드릴 수 있습니다. 킹스톤 카운슬의 전화 상담 서비스(전화번호: 020 8547 5000)로 전화 주시거나 귀하를 위해 누군가에게 전화해 달라고 부탁드립니다.

## FARSI

شما اگر به دلیل مشکل زبان و یا نقص عضو قادر به خواندن این سند نمیباشید، ما میتوانیم به شما یاری رسانیم. لطفاً به شماره تلفن کمکی 020 8547 5000 شهرداری کینگستون (Kingston) تماس حاصل نمائید و یا از کسی درخواست نمائید که به نیابت شما تماس بگیرد.

## POLISH

Jeśli nie są Państwo w stanie zapoznać się z treścią tego dokumentu z powodu niepełnosprawności lub nieznajomości języka, służymy pomocą. Prosimy o telefon na linię pomocy Kingston Council: 020 8547 5000 lub o poproszenie kogoś innego by zadzwonił w Państwa imieniu.

## TAMIL

இயலாமை அல்லது மொழி காரணமாக இத்தகவல் பத்திரத்தை உங்களால் படிக்க முடியாவிட்டால் நாம் உங்களுக்கு உதவி செய்ய முடியும். தயவுசெய்து கிங்ஸ்டன் நகரசபை உதவி அழைப்பிற்கு 020 8547 5000 என்ற தொலைபேசி எண்ணில் தொடர்பு கொள்ளவும் அல்லது உங்களுக்காக ஒருவரைத் தொடர்பு கொள்ளச் சொல்லவும்.