



Conservation and Design Policies: Local Plan Legal Compliance Checklist (April 2013)

This checklist has been updated for PAS by SNR Denton. It supersedes the previous checklist and is based on **Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012**. It should be used with the Soundness Self Assessment Checklist (also updated January 2013).

Remember that the evidence you provide to support your plan should be relevant and proportionate. Please don't use this checklist as a reason to assemble more than is needed.

Glossary:

"Act" means the **Planning and Compulsory Purchase Act 2004 (as amended)**

"NPPF" means the **National Planning Policy Framework** published March 2012

"Regulations" means the **Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012**

LDS means **Local Development Scheme**

SCI means **Statement of Community Involvement**

DPD means **Development Plan Document**

Stage one: The early stages

Where the 'possible evidence' column refers to a document that will not be complete until a later stage (for example, the sustainability appraisal report), documents that will contribute to that report are relevant at the earlier stages. This way, the submitted report provides the evidence at submission, with an audit trail back to its source.

In terms of legal compliance, the main issues for the early stage are in relation to:

- planning for community engagement
- planning the sustainability appraisal (including consultation with the statutory environment consultation bodies)
- identifying significant cross boundary and inter-authority issues
- ensuring that the plan rests on a credible evidence base, including meeting the Act's requirement for keeping matters affecting the development of the area under review.



Regulation 17 notes that a statement setting out which bodies and people the council invited to make representations under Regulation 18 is one of the proposed submission documents. In this tool, the term 'consultation statement' is used to describe this statement.

Section 33A of the Act (introduced by the Localism Act 2011) introduces a duty to cooperate as a mechanism to ensure that local planning authorities and other bodies engage with each other on issues which are likely to have a significant effect on more than one planning area. This pervades every stage of the plan preparation. A plan may be found unsound if a council cannot show that it has taken reasonable steps to comply with the duty.



Stage one: The beginning

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
|--|--|-----------------------------|---|--|
| 1. Is the DPD identified in the adopted LDS? Have you recorded the timetable for its production? | The Act section 15(2) and section 19(1) | NPPF para 153 | | Yes <ul style="list-style-type: none"> The LDS identified that the review of the conservation and design policies will be submitted to the Secretary of State for examination in April 2014. The timetable for production is recorded in the latest Annual Monitoring Report 2013 published in December 2013. Copy submitted to PINS. |
| 2. How will community engagement be programmed into the preparation of the DPD? | The Act section 19(3) Regulation 18 | NPPF paras 150, 155 and 157 | If the SCI is up-to-date, use that. If not set out any changes to community engagement as a result of changes in legislation. | <ul style="list-style-type: none"> The Statement of Community Involvement (Involving People in Planning) was adopted in January 2014. This sets out the Council's consultation procedure with regard to the production of development plan documents. The Council has met these requirements in the preparation of the submission conservation and design policies. The process of consultation of the policy has involved three separate periods of public consultation. In addition a soundness consultation was also undertaken on the publication policy. A public consultation event was held at each of the three consultation stages. These events were advertised through the Council's weekly |

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| | | | | <p>Planning Bulletin.</p> <ul style="list-style-type: none"> • A Conservation and Design Working group comprising a range of different interests was also formulated. The group met in May 2013 • Details of the consultation are set out in the Statement of Consultation (Regulation 22 consultation report) which has been submitted to PINS. |
| <p>3. Have you considered the appropriate bodies you should consult?</p> | <p>Regulation 18</p> | <p>NPPF paras 4.25 -4.26</p> | <p>Regulation 2 defines the general and specific consultation bodies.</p> <p>The possible evidence may duplicate each other. Only use what you need to.</p> | <ul style="list-style-type: none"> • Yes. • IPIP contains a full list of the bodies which the Council normally consults including specific consultation bodies. • The Council keep a database of consultees who have been notified at each stage of the consultation. This database includes the specific consultees and general consultees, such as amenity groups and key stakeholders as well as individuals, and others who have asked to be kept involved in the process. • The Council's Planning Bulletin is an electronic newsletter and goes out on a weekly basis. It contains details of consultations that have started and workshops. • A Regulation 22(c) consultation report setting out the consultation responses on the |

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| | | | | <p>draft policies for submission (January 2013) is included as part of the Submission documents.</p> <ul style="list-style-type: none"> • RBKC have also kept a database of all representations received which are submitted to PINS and will be available electronically as part of the submitted documents. • This is addressed as part of the Regulation 22 consultation report. |
| <p>4. How you will co-operate with other local planning authorities, including counties, and prescribed bodies, to identify and address any issues or strategic priorities that will have a significant impact on at least two planning areas?</p> | <p>The Act section 33A(1)(a) and (b), section 33A(3)(d) (e) & (4)</p> <p>The Act Section 20(5)(c)</p> <p>Regulation 4</p> | <p>NPPF paras 178 to 181 (which comprise the guidance referred to in the Act section 33A(7))</p> <p>Under NPPF Para 182, to be 'Effective' a plan should be based on effective joint working on cross-boundary strategic priorities.</p> | <p>Section 33A(4) defines a "strategic matter".</p> <p>Under section 33A(6) the required engagement includes considering joint approaches to the plan making activities (including the preparatory activities) and considering whether to agree joint local development documents under</p> | <p>With reference to the conservation and design policies, the Core Strategy identifies how RBKC will work with other bodies to identify and deliver strategic aims:</p> <ul style="list-style-type: none"> • The Council will work in partnership with Transport for London and the Council's Transportation and Highways department to encourage streetscape improvements which remove barriers and improve access for local residents; • The Planning and Borough Development Directorate will work in partnership with Natural England to help deliver improved Green Infrastructure; • The Planning and Borough Development Directorate will work in partnership with National Trails to help deliver the Thames |

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| | | Strategic priorities are listed at NPPF Para 156 | section 28. The bodies prescribed by section 33A(1)(c) are set out at Regulation 4(1). | Path Management Strategy for 2006 - 2011; <ul style="list-style-type: none"> • The Planning and Borough Development Directorate will work in partnership with British Waterways and the Port of London Authority to help deliver improved 'blue infrastructure'; • The Planning and Borough Development Directorate will continue to work in partnership with the City of Westminster to achieve a shared vision for Knightsbridge and investigate the possibility of implementing public realm improvements in Montpelier Street. |
| 5. How you will co-operate with any local enterprise partnerships (LEP) or local nature partnerships (LNP) to identify and address any issues or strategic priorities that will have a significant impact on at least two planning areas? | The Act section 33A(1)(c) and section 33A(9), section 33A(3)(d) and (e) The Act section 20(5)(c). Regulation 4 | NPPF paras 178 to 181 | Section 33A(4) defines a "strategic matter". Strategic priorities are listed at NPPF Para 156. Regulation 4(2) prescribes LEPs and LNPs for the purposes of section 33A(9). Under section | <ul style="list-style-type: none"> • Coordination with the LEP is not relevant to the policies in question here. • The Council recognises that the tidal Thames is a valued resource for biodiversity. As such we have consulted with both Natural England and the GLA, both bodies represented on the Thames Estuary Partnership Biodiversity Action Group. |

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
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| | | | 33A(6) the required engagement includes consulting on joint approaches to relevant activities. | |
| 6. Is baseline information being collected and evidence being gathered to keep the matters which affect the development of the area under review? | The Act section13 | NPPF paras 158 - 177 | | <ul style="list-style-type: none"> The Council has published an Annual Monitoring Report (now the Authority's Monitoring Report) , annually since 2005. The Council updated the monitoring indicators as part of the development of the Core Strategy. |
| 7. Is baseline information being collected and evidence being gathered to set the framework for the sustainability appraisal? | The Act section19(5) | NPPF paras 165 and 167 Strategic Environmental Assessment Guide, chapter 5 | | <p>Yes</p> <ul style="list-style-type: none"> The Sustainability report scoping document (October 2012) has been submitted to PINS. |
| 8. Have you consulted the statutory environment | Regulations 9 and 13 of The Environmental | NPPF paras 165 and 167 | The Strategic Environmental Assessment | <p>Yes</p> <ul style="list-style-type: none"> Each of the statutory environmental consultation bodies was consulted on the |



| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
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| <p>consultation bodies for five weeks on the scope and level of detail of the environmental information to be included in the sustainability appraisal report?</p> | <p>Assessment of Plans and Programmes Regulations 2004 No 1633.</p> | <p>SEA Guide chapter 3</p> | <p>consultation bodies are also amongst the 'specific consultation bodies' which are defined in Regulation 2).</p> | <p>scope of the policy. Evidence includes the initial scoping report that was undertaken at the beginning of the SA process.</p> <ul style="list-style-type: none"> • Copies of any responses received from the SA consultation bodies on the initial scoping which have been submitted to PINS. These include responses from Natural England; English Heritage and the Environment Agency. |



Stage two: Plan preparation - frontloading phase

Information assembled during this phase contributes to:

- showing that the procedures have been complied with
- demonstrating cooperation with statutory cooperation bodies
- developing alternatives and options and appraising them through sustainability appraisal and against evidence.

The council should record actions taken during this phase as they will be needed to show that the plan meets the legal requirements. They will also show that a realistic and reasonable approach has been taken to plan preparation.

Stage two: Plan preparation

| Activity | Legal requirement | Guidance reference | Additional notes | Possible evidence |
|--|--|-----------------------------|--|---|
| <p>1. Have you notified:</p> <ul style="list-style-type: none"> • the specific consultation bodies? • the general consultation bodies that have an interest in the subject of the DPD and invited them to make representations about its contents? | <p>Regulation 18(1) and (2)(a) (b)</p> | <p>NPPF paras 159 – 173</p> | <p>Specific and general consultation bodies are defined in Regulation 2.</p> | <p>Yes,</p> <ul style="list-style-type: none"> • Specific consultation bodies have been invited to make comments on the emerging policy at all stages of its formulation. • The Statement of Consultation and Summary of Consultation (Regulation 22 consultation report) documents submitted to PINS contain more details. • Reports on the representation received at each stage and the Council’s response to these representations have been submitted to PINS. • The LDF database and individual representations are available for inspection if required. |
| <p>2. Are you inviting representations from people resident or carrying out business in your area about the content of the DPD?</p> | <p>Regulation 18(1) and (2)(c)</p> | <p>NPPF paras 159 – 173</p> | | <p>Yes</p> <ul style="list-style-type: none"> • The LDF database has a list of residents and businesses carrying out work in the Royal Borough. Targeted emails/ letters were sent to everyone on the LDF database at key stages in the preparation of the policy. • The LDF database and individual representations are available for inspection if required. |

| Activity | Legal requirement | Guidance reference | Additional notes | Possible evidence |
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| | | | | <ul style="list-style-type: none"> The Council sends a weekly planning bulletin to about 1,170 subscribers. The planning bulletin subscribers include those on the LDF and TRA database, elected members, residents, and internal staff. The Council has submitted reports on the representations received during each stage of consultation including the Council's response to the representations to PINS. |
| 3. Are you engaging with stakeholders responsible for delivery of the strategy? | Regulation 18 | NPPF para 155 | NPPF paras 160-171 4.29 give examples of relevant bodies which should be consulted. | <ul style="list-style-type: none"> This question is not considered relevant to the submission conservation and design policies as they are primarily development management policies and the Council is responsible for the delivery of the strategy. There was extensive publicity and those who may have an interest had the opportunity to comment. English Heritage and Natural England have responded to consultations and are on the consultation database. |
| 4. Are you taking into account representations made? | Regulation 18(3) | NPPF para 155 | Evidence from participation is part of the justification. Show how you have taken representations into account. | <p>Yes</p> <ul style="list-style-type: none"> The Proposed Submission Responses report summarises the comments made at publication stage and the Council's response to the comments. (Regulation 20) Similar reports are submitted for the Issues and Options stage and the draft policies stage. (Regulation 18) |

| Activity | Legal requirement | Guidance reference | Additional notes | Possible evidence |
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| | | | | <ul style="list-style-type: none"> Further details are presented in the Statement of Consultation and Summary of Consultation (Regulation 22 consultation report) reports which have been submitted to PINS. |
| <p>5. Does the consultation contribute to the development and sustainability appraisal of alternatives?</p> | <p>The Act section 19(5)</p> <p>Regulations 12 and 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633</p> | <p>NPPF paras 165 – 168</p> <p>SEA Guide, chapter 3</p> | | <ul style="list-style-type: none"> The Sustainability Appraisal report appraised the alternative policy options. The decision as to which option was taken forward is outlined in the Policy formulation report. Where relevant this includes reference to the SA process. |
| <p>6. Is the participation:</p> <ul style="list-style-type: none"> following the principles set out in your SCI? integrating involvement with the sustainable community strategy? proportionate to | <p>The Act section 19(3)</p> | <p>NPPF para 155</p> | | <ul style="list-style-type: none"> SCI Yes, the Statement of Consultation (Involving People in Planning) and the Summary of Consultation (Regulation 22 consultation report) show the extent of the public consultation, and that it was carried out in accordance with the principles set out in our SCI. Community Strategy In the preparation of the Core Strategy, the |

| Activity | Legal requirement | Guidance reference | Additional notes | Possible evidence |
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| the scale of issues involved in the DPD? | | | | <p>Council has ensured that the key spatial objectives for the Borough are in harmony with the Sustainable Community Strategy. This is explicitly set out in Chapter 44 of the Core Strategy document.</p> <ul style="list-style-type: none"> • Participation proportionate The Statement of Consultation and Summary of Consultation (Regulation 22 consultation report) set out the nature of the consultation. Extensive consultation has been undertaken as part of formulating the policy. |
| <p>7. Are you keeping a record of:</p> <ul style="list-style-type: none"> • the individuals or bodies invited to make representations? • how this was done? • the main issues raised? | <p>The Act section 20(3)</p> <p>Regulation 17</p> | <p>NPPF paras 158 - 171</p> | <p>You will need to submit a statement of representations under Regulation 22 (1) (c): see Submission stage below.</p> <p>Regulation 35 deals with the availability of documents and the time of their removal.</p> | <ul style="list-style-type: none"> • The Statement of Consultation and Summary of Consultation Report (Regulation 22 consultation report) sets out the main issues raised at each stage, of the policy formulation. • An electronic record is kept of contacts on the LDF database who were directly contacted at the start of consultations. This can be provided for inspection if required. • Copies of all responses, at each stage of the documents have been kept, and are available for inspection. These have been included in the “Schedule of Representations” submitted to PINS. • The paper copies of the all responses received at each stage of consultation have |

| Activity | Legal requirement | Guidance reference | Additional notes | Possible evidence |
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| | | | | <p>been kept by the Council, and are available for inspection as required.</p> <ul style="list-style-type: none"> • Hard copies of all the representations received on the draft submission have been sent to PINS and available in all the Council's libraries. |
| <p>8. Are you inviting representations on issues that would have significant impacts on both your areas from another local planning authority? Or county issues from an affected county council that is not a planning authority? Or significant cross-boundary issues and strategic priorities of a body prescribed under Section 33A(1)(c)?</p> | <p>The Act section 33A(1)(a) (b) and (c), section 33A(3)(d) & (e) section 33A(4) section 33A(9)</p> <p>The Act section 20 (5)(c)</p> | <p>NPPF paras 178 to 181</p> | <p>Section 33A(3)(d) and (e) requires cooperation on significant cross-boundary issues before and during plan preparation.</p> <p>Section 33A(2) requires you to engage constructively, actively and on an ongoing basis.</p> | <ul style="list-style-type: none"> • The policies are largely dealing with issues that are contained within the borough boundary. • Our tri-borough colleagues in the neighbouring authorities of Westminster and Hammersmith and Fulham as well as our neighbours in Brent and Wandsworth have been consulted on all policies. Those relating to Building Heights and to views may be of relevance. No objections were received. |
| <p>9. Are you inviting representations on cross-boundary issues and strategic priorities from a local enterprise</p> | <p>The Act section 33A(1)(c) and Section 33A(9).</p> | <p>NPPF paras 178 to 181</p> | <p>Section 33A(3)(d) and (e) requires cooperation on significant cross-boundary issues</p> | <ul style="list-style-type: none"> • The question is not really relevant to the policies in question as none of the Conservation and Design policies would have significant cross boundary impacts. |

| Activity | Legal requirement | Guidance reference | Additional notes | Possible evidence |
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| partnership (LEP) or a local nature partnership (LNP)? | <p>The Act section 20(5) (c).</p> <p>Regulation 4</p> | | <p>before and during plan preparation.</p> <p>Section 33A(2) requires you to engage constructively, actively and on an ongoing basis.</p> | |
| 10. Are you developing a framework for monitoring the effects of the DPD? | <p>The Act section 35</p> <p>Regulation 34</p> <p>Regulation 17 of The Environmental Assessment of Plans and Programmes Regulations 2004 No1363</p> | <p>NPPF paras 165 - 1687</p> <p>SEA Guide, Chapter 5</p> | <p>It is a matter for each council to decide what to include in their monitoring reports while ensuring they are prepared in accordance with relevant UK and EU legislation” Chief Planning Officer letter 30 March 2011 withdrawing ODPM guidance.</p> | <p>Yes.</p> <ul style="list-style-type: none"> • Monitoring indicators have been developed for the relevant policies. Chapter 38 of the adopted Core Strategy sets out the detail how policies are normally monitored. • Our monitoring indicators will continue to be reported in our Annual Monitoring Reports. • The monitoring indicators are contained within the Core Strategy, but they will be sent as a separate document as part of the submission process. |



Stage three: Plan preparation - formulation phase

This stage has many legal matters, for process and content, to address. The council should be beginning to formulate the preferred strategy for the local plan or supplementary planning document with which the council chooses to address Regulation 18 requirements, using the information gathered and previous collaborative work with stakeholders.

Para 182 of the NPPF makes it clear that explicit consideration of alternatives is a key part of the plan making process.

You should evaluate the reasonable alternatives identified in 'stage two: frontloading phase – plan preparation' phase against the:

- completed body of information from evidence gathering
- results of sustainability appraisal
- findings from community participation
- findings from engagement with statutory cooperation bodies.

This may be written up as a preferred strategy report. The results of participation on the preferred strategy and an accompanying sustainability report will enable the council to gauge the community's response and receive additional evidence about the options. The council can then decide whether, and how, the preferred strategy and policies should be changed for publishing the finished DPD.

Alternatives developed from the evidence and engagement during the frontloading stage need to be appraised to decide on the preferred strategy. Participation will also need to be carried out on it.

These matters need to be considered, and dealt with, in good time, and not left until publication. Supporting documents will assist in providing evidence that decisions on alternatives and strategy are soundly based. These documents will, in due course, become part of the proposed submission documents in stage four.

The council should tell all parties that this is the main participation opportunity on the emerging plan.. The publication stage is a formal opportunity for anyone to comment on an aspect of the DPD's soundness, and to propose a change to the plan accordingly. The more effectively this message is put across, the lower the chance of late changes being brought forward following publication.

Stage three: Plan preparation – writing the plan

| Activity | Statutory requirement | Guidance reference | Additional notes | Evidence provided |
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| 1. Are you preparing reasonable alternatives for evaluation during the preparation of the DPD? | Regulation 12 (2) of The Environmental Assessment of Plans and Programmes Regulations 2004 No. 1633 | NPPF paras 152 - 182 SEA Guide, Chapter 5 | The sustainability appraisal report and supporting documents relevant to the preparation of the DPD are part of the proposed submission documents (see Regulation 17). | Yes. The different options and alternatives were examined by the SA. |
| 2. Have you assessed alternatives against: <ul style="list-style-type: none"> • consistency with national policy? • general conformity with the regional spatial strategy where still in force? | The Act section 19 (2), section 24 | NPPF para 151 | For London boroughs and local authorities where regional strategies are still in force general conformity is tested formally later but you need to consider it during preparation of the DPD. | Yes <ul style="list-style-type: none"> • The draft policies and the alternatives have been assessed against the planning policy of the NPPF (March 2012) and the preferred options that have been developed are considered the best option as they are generally in conformity with the relevant NPPF paragraphs • The Policy Formulation report submitted to PINS contains more details of the relevant NPPF sections considered particularly relevant to the policy. |
| 3. Are you having | The Act | | Where the regional | These documents are no longer relevant |

| Activity | Statutory requirement | Guidance reference | Additional notes | Evidence provided |
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| regard to (where relevant): <ul style="list-style-type: none"> • adjoining regional spatial strategies? • the spatial development strategy for London? • Planning Policy for Wales? • the National Planning Framework for Scotland? | sections 19 (2) and 24 (1) and (4) Regulation 10 and 21 | | strategy has been revoked you should record that fact. | and in any case would not have been relevant to these non-strategic policies. |
| 4. Are you co-operating with other local planning authorities including counties, to address significant cross boundary issues? Have you discussed doing joint local development documents? | The Act section 33A(2)(a) Section 33A(6)(a)(b) Section 20(5)(c) | NPPF paras 181 and 185 | . | This is not relevant to the policies in question as none of the Conservation and Design policies would have significant cross boundary impacts. |
| 5. Are you cooperating with a person prescribed for the purposes of Regulation 33A(1)(c) to address significant cross boundary issues including preparing joint approaches? | The Act section 33A(2)(a), section 33A(6)(a) The Act section | NPPF paras 181 and 182 | The bodies prescribed by The Act section 33A(1)(c) are set out at Regulation 4 (1). | This is not relevant to the policies in question as none of the Conservation and Design policies would have significant cross boundary impacts. |

| Activity | Statutory requirement | Guidance reference | Additional notes | Evidence provided |
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| | 20 (5) (c) Regulation 4 | | | |
| 6. Are you cooperating with having regard to the activities of the LEP and LNP? | The Act section 33A(2)(b) and section 33A(9). Regulation 4 (2) | NPPF para 181 and 182 | | <ul style="list-style-type: none"> • The Council recognises that the tidal Thames is a valued resource for biodiversity. As such we have consulted with both Natural England and the GLA, both bodies represented on the Thames Estuary Partnership Biodiversity Action Group. • The proposed policies will not be of relevance to the London Enterprise Panel, London's LEP. The parent body, the Greater London Authority, has been consulted but have made no comments on this matter. |
| 7. Are you having regard to: <ul style="list-style-type: none"> • your sustainable community strategy or of other authorities whose area comprises part of the area of the council? • any other local development | The Act section 19(2) | | | <p>Yes</p> <ul style="list-style-type: none"> • In the preparation of the Core Strategy, the Council has ensured that the key spatial objectives for the Borough are in harmony with the Sustainable Community Strategy. • The relationship between the Core Strategy and Community Strategy is set out in Chapter 44 of the Adopted Core |

| Activity | Statutory requirement | Guidance reference | Additional notes | Evidence provided |
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| documents adopted by the council? | | | | Strategy (December 2010). |
| <p>8. Do you have regard to other matters and relevant strategies relating to:</p> <ul style="list-style-type: none"> • resources • the local/regional economy • the local transport plan and transport facilities and services • waste strategies • hazardous substances | <p>The Act section19(2)</p> <p>Regulation 10</p> | | <p>As well as the matters and strategies listed in the Act and Regulations there are likely to be other matters identified in planning policy statements, regional and local strategies that you will need to have regard to in preparing the DPD.</p> | <p>This question is not considered relevant to the submission conservation and design policies as these are detailed development management policies.</p> |
| <p>9. Are you having regard to the need to include policies on mitigating and adapting to climate change?</p> | <p>The Act section19(1A)</p> | <p>NPPF paras 93 -108</p> | | <p>This is only a partial review of the policies within the Core Strategy. Those that relate directly to mitigating and adapting to climate change do not form part of this review. The proposed policy CL6 supports small-scale alterations and additions where these will not harm the character and appearance of the building. This would include the infrastructure needed for local energy production.</p> |
| <p>10. Have you undertaken the sustainability appraisal of</p> | <p>The Act section19(5)</p> | <p>NPPF para 182</p> | <p>Regulation13 of The Environmental</p> | <p>Yes</p> <ul style="list-style-type: none"> • The sustainability appraisal of |

| Activity | Statutory requirement | Guidance reference | Additional notes | Evidence provided |
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| alternatives, including consultation on the sustainability appraisal report? | Regulation 12 and 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633 | SEA Guide, Chapter 5 | Assessment of Plans and Programmes Regulations 2004 No 1633 sets out the consultation procedures. | alternatives was presented in the SEA/SA document. The Environment Agency, English Heritage and English Nature were consulted on the contents. |
| 11. Are you setting out reasons for any preferences between alternatives? | Regulation 8(2) | NPPF para 182 | This will include Information from the sustainability appraisal. | <p>Yes</p> <ul style="list-style-type: none"> The Policy Formulation Report and the Sustainability Appraisal set out the alternatives and explain why the preferred policy was selected. |
| <p>12. Have you taken into account any representations made on the content of the DPD and the sustainability appraisal?</p> <p>Are you keeping a record?</p> | <p>Regulations 17, 18(3) and 22 (1) (c) (iv)</p> <p>Regulation 13(4) of The Environmental Assessment of Plans and Programmes Regulations 2004 No 1633</p> | NPPF paras 150, 155, 157 and 159-171 | Records on the sustainability appraisal should also include recording any assessment made under the Habitats Directive. | <p>Yes</p> <ul style="list-style-type: none"> Please refer to the Statement of Consultation, Consultation Responses to Draft Policy and Consultation Responses to Publication Policies for details of representations made at each stage of the consultation and the Council's response. Individual representations at each stage of consultation are also available for inspection as required. A Statement of Consultation (Regulation |

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| | | | | <p>22 Consultation Report) has also been submitted to PINS.</p> <ul style="list-style-type: none"> All representations received on the publication Conservation and Design policy have also been submitted to PINS. |
| <p>13. Where sites are to be identified or areas for the application of policy in the DPD, are you preparing sufficient illustrative material to:</p> <ul style="list-style-type: none"> enable you to amend the currently adopted policies map? inform the community about the location of proposals? | <p>Regulations 5 (1)(b) and 9</p> | <p>NPPF para 157</p> | <p>Regulation 2 defines the terms 'submission' and 'adopted' proposals map.</p> <p>A map showing changes to the adopted policies map is part of the proposed submission documents defined in Regulation 17.</p> | <p>Not relevant to the policies</p> |
| <p>14. Are the participation arrangements compliant with the SCI?</p> | <p>The Act, section 19(3)</p> <p>Regulation 18</p> | <p>NPPF paras 150 and 155</p> | | <p>Yes</p> <ul style="list-style-type: none"> Compliant with IPIP (Jan 2014). The Regulation 22(c) Consultation Report on the Proposed Submission consultation is included and will be posted online. |



Stage four: Publication

Under Regulation 20, the period for formal representations takes place **before** the DPD is submitted for examination in accordance with a timetable set out in the statement of the representations procedure which is made available at the council's office and published on its website.

When moving towards publication stage, the council should consider the results of participation on the preferred strategy and sustainability appraisal report and decide whether to make any change to the preferred strategy. In the event that changes are required, the council will need to choose either to:

- do so and progress directly to publication

OR

- produce and consult on a revised preferred strategy.

The latter may be appropriate where the changes to the DPD bring in changed policy or proposals not previously covered in community participation and the sustainability appraisal. It avoids having to treat publication as if it were a consultation, which it is not. It also provides insurance in relation to compliance with the Strategic Environmental Assessment Regulations. Legally, during any participation on a revised preferred strategy, you should:

- comply with the requirements of the SCI
- update the sustainability appraisal report.

The council should then produce the DPD in the form in which it will be published. This includes removing material dealing with the evaluation of alternatives and the finalisation of the text. The council should be happy to adopt the DPD in this form, and satisfied that it is sound and fit for examination.

The six weeks publication period is the opportunity for those dissatisfied (or satisfied) with the DPD to make formal representations to the inspector about its soundness. Only people proposing a change to the plan can expect to be heard at examination.

The possibility of change under certain circumstances (which should be exceptional) is allowed for in the new procedures, and is described in 'stage five: submission'.



Stage four: Publication

| Activity | Statutory requirement | Guidance reference | Additional notes | Evidence provided |
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| 1. Have you prepared the sustainability appraisal report? | The Act section 19(5) Regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 No 1633 | NPPF paras 165 - 168 SEA Guide Chapter 5 | | Yes, The Sustainability Appraisal Report, February 2014 has been submitted to PINS. |
| 2. Have you made clear where and within what period representations must be made? | Regulation 17, 19, 20 and 35 | | The period must not be less than 6 weeks from when you publish under Regulations 19 and 35 (see below). | Yes We make it clear that the period of representations is 8 weeks (exceeding the requirements in the SCI). Details of this is given in: i. The Council's Website. ii. Letters sent to stakeholders (copies submitted). iii. Statement of Representation Procedure iv. The Publication document and the accompanying response form itself |
| 3. Have you made copies of the | Regulation 19(a) | | Regulation 17 gives | Yes • The document containing the publication |

| Activity | Statutory requirement | Guidance reference | Additional notes | Evidence provided |
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| following available for inspection: <ul style="list-style-type: none"> the proposed submission documents? the statement of the representations procedure? | | | definitions. | policies and reasoned justification, Sustainability Appraisal, Equalities Impact Assessment and all supporting documents are available on the Council's consultation portal website, libraries and planning reception. <ul style="list-style-type: none"> The statement of representation procedure is also available at the above locations. |
| 4. Have you published on your website: <ul style="list-style-type: none"> the proposed submission documents? the statement of the representations procedure? statement and details of where and when documents can be inspected? | Regulations 19 and 35 | | Regulations 2 and 17 give definitions. | Yes <ul style="list-style-type: none"> The publication Conservation and Design policy, Statement of Representations Procedure setting out where and when documents can be inspected is available on the Council's website. |
| 5. Have you sent to each of the specific consultation bodies | Regulation 19(b) | | Regulations 2 and 17 give | Yes <ul style="list-style-type: none"> A letter was sent to all of the specific |

| Activity | Statutory requirement | Guidance reference | Additional notes | Evidence provided |
|---|-------------------------|--------------------|---|---|
| <p>invited to make representations under Regulation 18(1):</p> <ul style="list-style-type: none"> • A copy of each of the proposed submission documents • The statement of the representations procedure? | | | <p>definitions.</p> | <p>consultation bodies inviting them to make representations including the link to the electronic copies of the publication basements policy and all supporting documents.</p> <ul style="list-style-type: none"> • Detailed guidance to making representations was also available alongside the draft policies and Sustainability Appraisal. In addition, the letter specified the consultation dates and where hard copies of all documents could be found. • A copy of the letter has been submitted to PINS. |
| <p>6. Have you sent to each of the general consultation bodies invited to make representations under Regulation 18(1):</p> <ul style="list-style-type: none"> • the statement of the representations procedure? • where and when the documents can be | <p>Regulation 19(b)</p> | | <p>Regulations 2 and 17 give definitions.</p> | <p>Yes</p> <ul style="list-style-type: none"> • A letter was sent to all of the general consultation bodies inviting them to make representations including the link to the electronic copies of the publication basements policy and all supporting documents. • Detailed guidance to making representations was also available alongside the draft policies and Sustainability Appraisal. In addition, the letter specified the consultation dates and where hard copies of all documents could be found. • A copy of the letter has been submitted to PINS. |

| Activity | Statutory requirement | Guidance reference | Additional notes | Evidence provided |
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| inspected? | | | | |
| 7. Have you requested the opinion of the Mayor of London (if a London Borough or Mayoral DC) on the general conformity of the DPD spatial development strategy? | The Act section 24 Regulation 21 | | The request must be made on the day you publish the documents under Regulation 19(a) and a response must be made within six weeks from the request (Regulation 21). | Yes, the same letter sent to the other specific consultation bodies was sent to the GLA. A copy of the letter from GLA confirming compliance with the London Plan policies has been submitted to PINS. |



Stage five: Submission

At the submission stage, the council should receive and collate any representations made at publication stage. You don't have to report these representations to councillors but there may be requirements deriving from other legislation, Standing Orders or council procedures that must be considered. Or you might just think it is a good idea to report on it anyway.

If they are reported it should be on the facts of the representations made, not the results of a consultation process by the council. They should not be treated as a consultation or an opportunity to make changes or answer representations. NB: under the 2012 Regulations there is no longer any requirement to give notice by local advertisement.

You should ensure you are in legal compliance with the SCI, the Habitats Directive and the Strategic Environmental Assessment Directive in any additional work. Any formal publication of additional or changed matters would need to allow at least a six-week period for representations to be made.

There are different approaches that could be taken to changes. You should be satisfied that you remain fully compliant with the legal requirements if any changes are made (and any consequential effects on the DPD as a whole).

Apart from notification of the examination, this tool does not deal with the legal requirements that need to be followed after submission.

Stage five: Submission

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
|--|-----------------------|--------------------|---|---|
| 1. Has the DPD been prepared in accordance with the LDS? Does the DPD's listing and description in the LDS match the | The Act section 19(1) | | The Act section 15(2) sets out the matters specified in the LDS. As at January 2013, no further matters are prescribed in the | <ul style="list-style-type: none"> The LDS identified that the review of the conservation and design policies will be submitted to the Secretary of State for examination in April 2014. |

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
|--|---|------------------------|--|--|
| document? Have the timescales set out in the LDS been met? | | | Regulations. | |
| 2. Has the DPD had regard to any sustainable community strategy for its area (like a county and district)? | The Act section 19(2) | NPPF para 182 | | <p>Yes</p> <ul style="list-style-type: none"> The draft policies been prepared with due regard to “The Royal Borough of Kensington and Chelsea Community Strategy 2008 – 2018: The Future of Our Community”. This is detailed further in Chapter 44 of the Core Strategy. |
| 3. Is the DPD in compliance with the SCI (where one exists)? Has the council carried out consultation as described in the SCI? | <p>The Act section 19(3)</p> <p>Regulation 22(1)(c)</p> | | <p>Before the SCI is formally amended to take into account the changes in the regulations, you may need to set out how the community engagement that you carried out met the regulations (as amended).</p> | <p>Yes</p> <p>The Core Strategy and the draft policies are in compliance with the Statement of Community Involvement (December 2007) and the updated SCI (Involving People in Planning) document, which was adopted in January 2014.</p> <p>Consultation was carried out in accordance with these documents.</p> |
| 4. Have you identified and addressed any issues which are likely to have a significant | The Act section 33A(1) and section 20(5) | NPPF paras 181 and 182 | Under NPPF para 182, the plan should be based on effective joint working on cross- | <ul style="list-style-type: none"> The policies are largely dealing with issues that are contained within the borough boundary. Our tri-borough colleagues in the |

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
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| <p>impact on at least two planning areas. In doing so, have you co-operated with other local planning authorities, county councils where they are not a planning authority, LEPs, LNPs and the prescribed bodies in identifying and addressing any strategic cross-boundary issues</p> <p>If you have not agreed on the approach is there a justification?</p> | | | <p>boundary strategic priorities to be found 'Effective'.</p> | <p>neighbouring authorities of Westminster and Hammersmith and Fulham as well as our neighbours in Brent and Wandsworth have been consulted on all policies. Those relating to Building Heights and to views may be of relevance. No objections were received.</p> |
| <p>5. Has the DPD been subject to sustainability appraisal? Has the council provided a final report of the findings of the appraisal?</p> | <p>The Act section 19(5)</p> <p>Regulation 22(1)(a)</p> | <p>NPPF para 165</p> <p>SEA Practical Guide, chapter 5</p> | | <p>Yes.</p> <ul style="list-style-type: none"> The Sustainability Appraisal, February 2014, has been submitted. |
| <p>6. Is the DPD to be submitted consistent</p> | <p>The Act section 19(2)</p> | <p>NPPF para</p> | | <p>Yes</p> |

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
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| with national policy? | and Schedule 8 | 151 | | <ul style="list-style-type: none"> The submission conservation and design policy is consistent with national policy. The Policy Formulation Report (submitted to PINS refers to the most relevant sections of the NPPF that the policy amplifies. The PAS Soundness self assessment checklist has been submitted. |
| <p>7. Does the DPD contain any policies or proposals that are not in general conformity with the regional strategy where it still exists?</p> <p>If yes, is there local justification?</p> <p>If the LPA is a London borough or a mayoral development corporation has it requested an opinion from the Mayor of London on the general conformity of the plan with the spatial</p> | <p>The Act section 24(1)(a) and 24(4)</p> <p>Regulation 21</p> | <p>NPPF para 218 footnote 41</p> | <p>In London the requirement is for general conformity with the spatial development strategy (The London Plan).</p> | <p>No.</p> <ul style="list-style-type: none"> The submission conservation and design policies are in general conformity with the London Plan. |

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
|--|--|----------------------|---|--|
| development strategy? | | | | |
| <p>8. Has the council published the prescribed documents, and made them available at their principal offices and their website?</p> <p>Has the council notified the relevant statutory and non-statutory bodies, and all persons invited to make representations on the plan?</p> <p>Does the DPD contain a list of superseded saved policies?</p> | <p>The Act section 20(2), 20(3) and 20(5)(b)</p> <p>Regulations 8 and 19</p> | <p>NPPF para 182</p> | <p>Requirements relating to publication of the prescribed documents are listed later in this table.</p> | <p>Yes</p> <ul style="list-style-type: none"> • The draft policies are in compliance with the Town and Country Planning (Local Planning) (England) Regulations 2012. Further steps will be undertaken once the draft policies have been submitted. • The Council has made the prescribed documents available in Kensington Town Hall and on the Council's website and will ensure that all documents are available shortly after submission. • A hardcopy of the local advertisement advising of Submission is no longer required by the latest regulations. • Relevant DPD bodies are being notified at the time of submission. • The Core Strategy contains a list of superseded UDP policies in Chapter 41 of the adopted Core Strategy. |
| <p>9. Are there any policies applying to sites or areas by reference to an Ordnance Survey map or to amend an adopted policies map?</p> | <p>Regulations 5(1) (b), 9 (1), 17 & 22(1)</p> | | | <p>Not applicable. These are borough-wide policies.</p> |

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
|---|--|--------------------|--|--|
| <p>If yes, have you prepared a submission policies map?</p> | | | | |
| <p>10. Is the DPD consistent with any other adopted DPDs for the area? If the DPD is intended to supersede any adopted development plan policies, does it state that fact and identify the superseded policies?</p> | <p>Regulation 8(3) and (4)</p> <p>Regulation 8(5)</p> | | <p>Development Plan is defined in Section 38 of the Act.</p> | <ul style="list-style-type: none"> • Yes the DPD is consistent with the Core Strategy and states clearly in the publication document where it supersedes the extant UDP policies. |
| <p>11. Have you prepared a statement setting out:</p> <ul style="list-style-type: none"> • Which bodies and persons were invited to make representations under Regulation 18? • How they were invited? • A summary of the main issues raised? • How the | <p>The Act section 20 (3)</p> <p>Regulation 22(1)(c)</p> | | <p>This will bring forward material from the Consultation statement (see Stage 2 above).</p> | <p>Yes.</p> <ul style="list-style-type: none"> • A consultation report has been prepared in line with Regulation 22 (c) of the Town and Country Planning (Local Planning) (England) regulations 2012. |

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
|---|--|--------------------|------------------|---|
| representations have been taken into account? | | | | |
| 12. Have you prepared a statement giving: <ul style="list-style-type: none"> • the number of representations made under Regulation 22? • a summary of the main issues raised? OR <ul style="list-style-type: none"> • that no representations were made? | The Act section 20(3) Regulation 22(1)(c) | | | A consultation report has been prepared in line with Regulation 22(c). It includes the number of representations made under Regulation 20. A hardcopy of this consultation report is submitted to the Inspector and it will be published on the website. A hard copy of all the representations has been submitted to PINS. |
| 13. Have you collected together all the representations made under Regulation 28? | The Act section 20(3) Regulation 22(1)(e) | | | Yes. Please see a schedule containing all the representations received as submitted to the Inspector. |
| 14. Have you assembled the relevant supporting documents? | The Act section 20(3) Regulation | | | All necessary evidence and records of decisions relevant to the DPD have been submitted to PINS. |

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
|--|--|--------------------|---|---|
| | 22(1)(g) | | | |
| 15. Has your council approved the DPD for submission? | The Act section 20 | | Check the LPA's constitution/standing orders for the authorisation process appropriate for the type of DPD. | Yes. The draft policies were approved for submission by a full meeting of the Council's elected members on 26 June 2013. See Report and appendices and Minutes. |
| 16. Have you sent the Secretary of State (the Planning Inspectorate) both a paper copy and an email of the following: <ul style="list-style-type: none"> the DPD? the submission policies map (unless there are no site allocation policies)? the documents prescribed in Regulation 22(1)? | The Act section 20(1) and 20(3) Regulations 22(1) and 22(2) | | Regulation 35 deals with the availability of documents and the time of their removal. Electronic copies of some of the representations and supporting documents may not be practicable. Regulation 35 deals with the availability of documents and the time of their removal. | Yes |
| 17. Have you made the following available at the same places where the proposed | Regulation 22(3) | | You should do this as soon as reasonably practicable after submission. | This will be undertaken after submission to PINS. Yes, they will be made available at the same places as the publication policy. |

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
|---|-------------------------------|--------------------|--|--|
| submission documents were to be seen: <ul style="list-style-type: none"> • The DPD? • The documents prescribed in Regulation 22(1)? | | | | |
| 18. On your website, have you published the: <ul style="list-style-type: none"> • DPD? • submission policies map? • sustainability appraisal report? • Regulation 22(1)(c) statement? • supporting documents (where practicable) ? • representations made under Regulation 20 (where practicable) ? | Regulation 22(3) and 35(1)(b) | | You should do this as soon as reasonably practicable after submission. | Yes. This will be undertaken after submission to PINS. |

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
|---|---------------------|--------------------|--|--|
| <ul style="list-style-type: none"> statement as to where and when the DPD and the documents are available? | | | | |
| <p>19. For each general consultation body invited to make representations under Regulation 18(1), have you sent:</p> <ul style="list-style-type: none"> notification that the documents prescribed in Regulation 22(3)(a)(i)-(iii) are available for inspection where and when they can be inspected? | Regulation 22(3)(b) | | You should do this as soon as reasonably practicable after submitting to the Secretary of State. | Yes. This will be undertaken after submission to PINS. |
| <p>20. Have you given notice to persons who have requested to be notified that submission has taken</p> | Regulation 22(3)(c) | | You should do this as soon as reasonably practicable after submitting to the Secretary of State. | Yes. This will be undertaken after submission to PINS. |

| Activity | Legal requirement | Guidance reference | Additional notes | Evidence provided |
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| place? | | | | |
| <p>21. If an examination is being held, at least six weeks before its opening has the Programme Officer:</p> <ul style="list-style-type: none"> • published the time and place of the examination and the name of the person appointed to carry out the examination on your website? • notified those who have made representations on the published DPD which have not been withdrawn of these details? | <p>The Act section 20</p> <p>Regulations 24 and 35</p> | | | <p>Yes. This will be undertaken at the appropriate time.</p> |