

The London Planning Guide



Campaign to Protect
Rural England
LONDON

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CPRE (the Campaign to Protect Rural England)

Founded in 1926, CPRE is one of England's oldest environmental organisations. The Town and Country Planning Act 1947 - the basis of the present planning system - and the creation of the Green Belt are among its early achievements. The latter reflects the role of urban areas in the protection of the countryside by preventing urban sprawl and encouraging urban regeneration.

In the 1990s, CPRE played a prominent role in the debate on the location of new development - particularly new housing - promoting urban regeneration as the alternative to further loss of rural land. CPRE's view that the future of urban and rural areas are closely linked is reflected in the conclusions of the Urban Task Force, the 2000 Urban White Paper, and Government planning policy guidance.

CPRE is a registered national charity. With 9 regional groups, a branch in every county, over 200 district groups and an influential national office in London, CPRE is a powerful combination of effective local action and strong national campaigning. We have over 59,000 supporters, with membership open to all. Our Patron is HM the Queen and our President is Sir Max Hastings.

CPRE London is the London Branch of CPRE. It has 1600 members, and volunteers working in six district groups. Working with other environmental and social interest groups, the Branch aims to protect and enhance the rural parts of Greater London (including the Green Belt) and also reduce the impact of urban out-migration from London on the countryside in other English regions. CPRE London seeks to ensure the most efficient use of previously-developed land and buildings to meet the city's need for housing and economic development in a way which provides a high quality living and working environment, with a particular emphasis on good urban design and the protection of urban open space.

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This guide is intended to encourage and help people engage with the land use planning system so as to help prevent inappropriate development and to encourage good development. It is intended as a first point of reference to assist you in dealing with the land use planning system. It assumes that you do not have any prior knowledge of the system. It is not intended to be a comprehensive text book, but will help you to get started, and offers directions to further help and information.

As a first step, you are advised to read the introductory Sections 1 & 2 which explain the basics of the planning system. You may then look under the various subsequent section headings and annexes for more detail on various aspects that are of particular relevance to you.

CPRE's *Planninghelp* website (<http://www.planninghelp.org.uk/>) is a very useful source of further information on many aspects of the planning system.

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1 WHY SHOULD I BE INTERESTED IN PLANNING?

When you are faced with a proposed development which will affect your life or the quality of your environment, the planning system provides the primary opportunity for you to influence whether or how that development takes place.

For example, you might be concerned about:

- a threat to build on local open space
- a valuable wildlife site that would be destroyed by a development scheme
- derelict land or buildings that should be put to better use
- the lack of affordable housing in development schemes
- a proposal to build a superstore which might increase traffic on local roads and put local shops out of business
- a plan to use a Thames-side site for a development which undermines the appearance of the river

A lot of development requires permission from the local authority ('planning permission'). Between 65,000 and 70,000 applications for planning permission are submitted in London each year. While the vast majority are for minor changes to existing buildings, such as roof extensions and garages, many will have a significant impact on the appearance of an area and the quality of life for those who live, work or visit there. The planning system can help you to conserve and enhance the quality of your neighbourhood.

The local authority's planning policies and decisions can affect London dramatically through for example:

- ensuring the protection of listed buildings and other structures of architectural interest;
- raising the architectural quality of new buildings;
- protecting open spaces and areas of wildlife interest;
- creating residential areas which contain the necessary facilities and services for local people; or
- reducing the number of traffic-generating developments which take place.

By getting involved in the planning process you can help shape the future of London.

This guide explains how by helping you to become familiar with the planning system and how to influence the way it works. This document will help you to ensure that the development taking place in your area is acceptable. It is especially written for people who have little or no prior knowledge of the planning system. It explains London's planning system and the role of local and central government.

2 THE PLANNING SYSTEM IN A NUTSHELL

2.1 What is planning?

This section provides an overview of how the planning system is organised and operates. Further details about specific elements are given in subsequent sections.

The purpose of the planning system is to serve the public interest and it provides local authorities with a legal basis for managing the scale and nature of built development within their areas.

When an individual or company wishes to undertake a 'development' – i.e. build or demolish something – permission is required. This must usually be sought from the local authority (the 'council'). This is *planning permission*. To gain planning permission, the proposed development must usually comply with the local authority's established planning policies as set out in the *development plan*. The *development plan* must, in turn, comply with national law and national policies. The planning system is therefore about managing the nature and pattern of development in accordance with national and local policies about what kind of development should and should not take place.

Management of the use of land can be considered to be at the heart of the planning system. It covers projects of all sizes: from minor additions to your own home, to the building of a new town. The various elements of the planning system, and how they work together, are described in more detail in the following sections of this guide.

Development: Under Section 55 of *the Town and Country Planning Act 1990*, development is defined as *'The carrying out of building, mining or other operations, on, over or under land'* (sometimes referred to as operational development) or *'the making of any material change in the use of any building or land'*.

The above definition of development has recently been extended by a new piece of planning legislation (*The Planning and Compulsory Purchase*

Act 2004) to include some building works that are undertaken **inside** a building.

Because planning permission should be granted only in accordance with national, local and regional planning policies, it is important to understand that planning applications should be refused only if there are sound planning reasons for doing so. This section explains briefly the process by which planning policies are developed and planning permission is granted. Greater detail about each stage in the process is given in the subsequent sections.

2.2 National legislation

The role of legislation is to establish the *procedures* by which the planning system operates, rather than the policies by which planning permission is granted or refused. The basic legal requirements are set out principally in the following Acts of Parliament:

- **The Town & Country Planning Act 1990 ('the 1990 Act');**
- **The Planning and Compensation Act 1991 ('the 1991 Act');** and
- **The Planning and Compulsory Purchase Act 2004 ('the 2004 Act').**

It is important to bear in mind that the later legislation often amends earlier legislation, so the 1990 Act does not stand alone, but must be read together with the 1991 and 2004 Acts. This is 'primary legislation'. Detailed procedures and requirements are set out in so-called 'secondary' legislation (e.g. the Town & Country Planning (General Permitted Development) Order, 1995).

Important provisions of planning legislation include:

- The requirements for local authorities to consult the public when making planning policies and in considering applications for planning permission ('planning applications');
- the need for planning authorities to

- produce a *development plan*, which sets out the authorities' policies;
- the need for planning permission to be granted only in accordance with national planning policies and the policies set out in the *development plan* (the 'plan-led' system); and
- The need for certain businesses to apply for a licence from the local authority before they may carry out certain activities (such as the commercial disposal of waste).

Some national planning legislation is put in place to incorporate the requirements of **European Directives and Regulations** into UK law. This European legislation (produced by the European Union) has been the source of a great deal of useful requirements, such as the requirements for local authorities to consider a report on the impact that major proposed developments may have on the environment.

Annex 1 sets out some of the most important provisions of national planning legislation.

An understanding of the provisions of the planning legislation will help you to ensure that planning decisions are being made according to the correct procedures, and to challenge the local authority if they are not.

2.3 National Planning Policy Guidance notes, Planning Policy Statements, Minerals Planning Guidance and Circulars

Local authority planning policy and decisions on individual planning applications is required to be made in accordance with established Government policy. Influencing local planning policy and decisions therefore requires reference to the established national policy framework. That framework consists of the following planning policy documents:

- **Planning Policy Guidance notes (PPGs)** are documents that set out national policy on how local authorities should deal with specific issues (such as housing, transport, retail and businesses developments, and green belts and nature conservation)

through the planning system. A number of PPGs are currently being reviewed and are being re-issued as **Planning Policy Statements (PPSs)**.

- **Mineral Planning Guidance Notes (MPGs)** sets out policies in respect of mineral workings such as quarries and mines (some of these are also being reviewed and rewritten).
- **Planning Circulars** are a range of short informal documents that help interpret and support guidance given in PPSs.

A complete list of PPGs, PPSs, MPGs and Circulars - current at the time of going to print - is given in Annex 2. An up to date list is provided on CPRE's *Planninghelp* website (address given above)

2.4 Regional Planning Guidance, Regional Spatial Strategies and the London Spatial Development Strategy (the 'London Plan')

England is divided up into nine administrative areas - regions - and London is one of the nine regions. The regions are made up of groups of local authorities, and the London region is made up of the 33 London Boroughs including the City of London. For each region except London, the Government has published Regional Planning Guidance (RPG) which sets out policies in respect of major planning issues within the region. Under the 2004 Act, RPGs are being replaced by statutory Regional Spatial Strategies (RSSs). RPGs were - and RSS is - prepared by the Regional Planning Body (usually called the Regional Assembly), which is comprised of representatives of the region's constituent local authorities. The planning policies of each of the local authorities in the region must be 'in general conformity' (i.e. generally comply) with the RSS. In London, the Mayor publishes a Spatial Development Strategy (SDS), which has a similar purpose. The Mayor calls the SDS the *London Plan*. The Mayor may also draw up sub-regional Strategies (for groups of London Boroughs). The requirements of the Mayor's plan-making activities is set out in the Greater London Authority Act 1999.

2.5 Development Plans and Local Development Frameworks

Prior to the 2004 Act, The planning policies of every county, district and unitary authority in England were required to be set out in a development plan. Prior to the 2004 Act, the development plan comprised:

County structure plans - which were prepared by county councils (i.e. not the London Boroughs) and set out **strategic** policies for the whole county;

Local Plans - which were prepared by district councils and set out detailed land use and development control policies for the whole district; these had to be in conformity to the Structure plan

Minerals Local Plans - which were prepared by County councils and set out policies for the whole County in respect of the siting and scale of operations for quarries and mines and the supply of aggregates. In London, the policies on minerals are contained in the UDP; and

Waste Local Plans - which were prepared by County councils and set out policies for the whole County in respect of the scale and location of facilities for the management of waste management facilities (such as landfill sites, waste incinerators and recycling plants). In London, the policies on waste are contained in the Unitary Development Plan (UDP).

In Metropolitan Borough councils (the unitary councils) and in London, the development plan was known as a **Unitary Development Plan (UDP)** - which was prepared by metropolitan borough councils (which usually cover exclusively urban areas) and which combined the roles of structure plans and local plans. In London, each of the 32 boroughs and the Corporation of London (which is the Planning Authority for the City of London) produced a UDP.

The 2004 Act changes the development plan system into one based on a **Local Development**

Frameworks (LDF). The existing development plans in each local authority area remain in place until the new LDF for that area is adopted. The LDF comprises a portfolio of documents called **Local Development Documents (LDDs)** and the statutory development plan now comprises the Regional Spatial Strategy (in London, the (Spatial Development Strategy) plus certain of the LDDs. The LDF must be in general conformity with the RSS and with national planning policy. Further details about LDFs are given in Section 6, below, and in the CPRE briefing: *The Planning And Compulsory Purchase Act 2004 - A CPRE Guide* (June 2004), as well as on CPRE's *Planninghelp* website.

2.6 Planning Briefs and Area Action Plans

Prior to the 2004 Act, some Local Planning Authorities (LPAs) produced a number of non-statutory plans and policies, together with the UDP to guide development. These included **site development briefs** or **planning briefs**.

These briefs might be drawn up for individual sites and used as a basis on which applications for future development of the site itself may be judged. They were usually subject to public consultation and gave local people and groups a chance to comment on how a site should be developed at an early stage. They were also useful in indicating to a potential developer the expectations for a given site.

It is important to be aware of any planning briefs and comment on them in the same way as for a planning application.

Under the 2004 Act, planning briefs may be incorporated within statutory **Area Action Plans** (one of the LDDs). Further details about these are given in Section 6, below, and in the CPRE briefing: *The Planning And Compulsory Purchase Act 2004 - A CPRE Guide* (June 2004).

2.7 Planning applications

Wherever a proposed development constitutes 'development' as defined in planning legislation, *planning permission* – may need to be sought from

the appropriate local authority. For this purpose, the appropriate local authority is referred to as the *Local Planning Authority (LPA)*. Most forms of built development require planning permission and section 7, below, explains the different kinds of planning permission in greater detail. The person or company applying for planning permission is the *developer or applicant*, and the formal request to the local authority for planning permission is the *planning application*. For a planning application to gain permission, it must usually be in line with the local authority's established planning policies as set out in a development plan¹. If the developer receives planning permission from the local authority, he may proceed with the development as long as all other legal requirements outside the planning system are complied with (such as waste management or water abstraction licensing). However, the grant of planning permission does not allow an applicant to ignore civil law (e.g. while an applicant doesn't need to own the land he/she applies to develop, he/she has no legal right to carry out the permission unless and until they do own the land).

Some kinds of development do not require a planning application. These are 'permitted development' and are defined in national legislation².

Further detail about the processing of planning applications is given below in Section 8, below.

2.8 Call-ins, recovered decisions, appeals and Mayoral Directions

Call-ins - If the Secretary of State considers that a planning application has significant implications that go beyond the local authority's area, then he may *call-in* the application, i.e. take it out of the hands of the local authority to be considered by the Planning Inspectorate at a public inquiry. Following the inquiry, the Secretary of State will determine the application after considering the inspector's report and recommendation.

Appeal against refusal - If a planning application is refused by the LPA, then the developer may appeal to the Secretary of State for the refusal to be overturned. The appeal is dealt with by the Planning Inspectorate by written representations, informal hearing or public inquiry. Objectors are able to have an input into the consideration of the appeal. Usually, following the appeal inquiry, the inspector will determine the application. Occasionally, however, that decision is 'recovered' by the Secretary of State and he will determine the application after considering the `s report and recommendation.

Appeal against non-determination - If the LPA fails to grant or refuse a planning application within eight weeks (thirteen weeks for major applications), the applicant may appeal to the Secretary of State on the grounds of *non-determination*. The Planning Inspectorate will then undertake an inquiry and the application will be determined in the same way as an appeal against refusal (see above).

Mayoral Direction - In London, the Mayor must be consulted by the boroughs on major planning applications that may have a significant impact across London, and he may direct the LPA to refuse those applications.

Further detail about planning appeals and inquiries is given below in section 7: *Planning applications*.

2.9 Judicial review

It may be possible to challenge in the High Court the legality of the process by which the application was determined. Judicial Review, however, is not concerned with the merits of the policy according to which the application was approved, and is therefore very rarely helpful (see the CPRE briefing: Judicial Review and planning decisions - October 2001).

1 This is the 'plan-led' system created by S.54A of the 1990 Act and is now enshrined under Section 38 of the Planning and Compulsory Purchase Act 2004.

2 Town and Country Planning (General Permitted Development) Order 1995 (SI 148).

2.10 Enforcement

Local planning authorities are responsible for ensuring that the development which takes place is in line with what was permitted and for ensuring that planning conditions are complied with. This is called 'enforcement'. If a development takes place without planning permission or if planning conditions are not complied with, then fines may be levied or, in extreme cases, the development may be demolished. Enforcement is, however, not compulsory and the limitations of local authorities' resources and commitment to enforcement often means that it is not carried out effectively or indeed at all in some cases. See CPRE briefing *Enforcement: quality control in planning*.

2.11 The Local Government Ombudsman

If you are unhappy about the council's handling of a planning application and feel that you have suffered an injustice, you can make a complaint to the Local Government Ombudsman (whose formal title is the *Commissioner for Local Administration in England*). This procedure can be applied in respect both of the actions of LPA officers and councillors.

The Ombudsman cannot change a decision by the LPA. Moreover, there is no legal requirement on the part of the LPA to take any action in respect of a ruling by the Ombudsman. However, many LPAs would be concerned to correct errors which an Ombudsman judged to be maladministration. See the CPRE briefing *The Local Government Ombudsman* (May 1999).

3 THE PLAYERS IN THE PLANNING SYSTEM

<p>Applicant</p> <p>Developer</p>	<ul style="list-style-type: none"> • The person (or organisation) that makes an application for planning permission. (Also known as the ‘first party’ to a planning application.) • The person (or organisation) that is responsible for undertaking the development for which planning permission has been granted (often the same person as the Applicant).
<p>Local Planning Authority (LPA)</p>	<p>The council from whom planning permission is sought. (Also known as the ‘second party’ to a planning application):</p> <ul style="list-style-type: none"> • prepares the relevant elements of the Development Plan (in London, the Unitary Development Plan (UDP) and, under the 2004 Act, prepares the Local Development Framework (LDF); • administers the planning system locally on a day-to-day basis by receiving and processing all planning applications and determining all those that are not called in by the Secretary of State; and • is responsible for the enforcement of planning regulations and planning conditions. (N.B. This is a discretionary power and not a statutory duty, i.e., the LPA can choose whether to enforce or not.) <p>In London, the LPA is usually the local London Borough (including the Corporation of London). The Government may also establish an Urban Development Corporation (such as the East London UDC) , which may become the LPA for its area.</p>
<p>Central Government (the ‘Secretary of State’)</p>	<p>At present, the powers of the Secretary of State are exercised by the Deputy Prime Minister. The relevant Government department is therefore the Office of the Deputy Prime Minister - ODPM. The Secretary of State:</p> <ul style="list-style-type: none"> • provides the overall framework of law, policies and guidance on how the planning system should operate; • publishes guidance to local authorities on the Government’s planning policies; • calls in major planning applications so that they can be examined by the Planning Inspectorate rather than the local authority. The planning inspector appointed by the Planning Inspectorate then either makes the decision or makes a recommendation to the Secretary of State, who takes the final decision; • acts as the final decision-maker on planning applications where an appeal is recovered or where the application is called in; • takes some planning decisions in its own right through its responsibility for major developments such as major roads, defence establishments, major ports and airports; and • may require modifications to the Mayor’s Spatial Development Strategy (the ‘<i>London Plan</i>’).

<p>Government Regional Office (GRO)</p>	<p>In London, this is the Government Office for London - GOL, which:</p> <ul style="list-style-type: none"> • represents the Secretary of State in all his functions in relation to individual planning applications, i.e. calling in applications, recovering appeals, determining applications following the inspector’s recommendation from an appeal.
<p>Planning inspector</p>	<ul style="list-style-type: none"> • considers appeals in respect of planning applications that have been refused or not determined by the LPA; and • examines the LDFs.
<p>Mayor of London</p>	<ul style="list-style-type: none"> • publishes strategic guidance on planning policies for the London Region (the Spatial Development Strategy, or ‘<i>London Plan</i>’); and • advises the LPAs on planning applications which may have an impact on London beyond the LPA’s area, and may intervene to direct refusal.
<p>High Court</p>	<ul style="list-style-type: none"> • undertakes Judicial Review of appeal decisions.

4 HOW LOCAL AUTHORITIES WORK

Because local authorities play such an important role in the planning system - setting local planning policy and taking decisions on individual planning applications - it is important to understand how they operate and how decisions are made.

We thank Friends of the Earth (FOE) for providing much of the following text from the Campaign Guides on waste incineration and landfill. More advice on lobbying councillors and council officers can be obtained from FOE, as well as from CPRE's *Planninghelp* website and booklet: *How to Respond to Planning Applications*. The campaign guides can be found on FOE's Internet site at <http://www.foe.co.uk/>.

What may conveniently be referred to in everyday speech as 'the council' could be any one of several different organisations, each with different powers, responsibilities and functions. This section is intended to help clarify the distinction between different kinds of councils and show how they are supposed to operate.

Outside London and some other metropolitan areas, there are three tiers of local authorities: the county councils and, below them, the district councils and, below them, parish or town councils. Each tier of authority has different functions and responsibilities. The county councils tend to have responsibility for the strategic functions of the county, such as education, waste disposal, highways, social services etc, while district councils have more local responsibility, such as leisure services, waste collection, building control, and planning. Depending on the nature of the planning application in question, the Local Planning Authority may be the district council or the county council. Town and parish councils are usually consultees on planning applications. In some metropolitan areas - such as the London Boroughs - the two tiers of local authority are combined into a single organization - a *Unitary* authority.

4.1 The structure of individual authorities

There are two basic systems by which local authorities in London set policy and make decisions: the classic *committee* system of local authority departments; and the newer *cabinet* system. Under both systems, the day-to-day running of the council is in the hands of paid staff known as 'officers' who work in different departments, each of which is headed by a chief officer. The departments tend to be either administrative (such as the legal, personnel and Chief Executive's departments) or actual service departments (such as planning and education). The overall head of the council officers is known as the Chief Executive. The chief officers and Chief Executive usually form a management team which ensures effective communications between the departments and develops an overall strategy for the authority.

Also under all systems, the major decisions of the council, such as decisions on the granting of planning permission, are made by committees of councillors who are elected by local residents. The councillors are the *members* of the authority. Each local authority is divided into a number of wards and each ward elects a number of councillors. Therefore the way in which you vote at a local election determines the way in which committees make major decisions. However, by no means all applications - especially minor applications - will go before a development control committee because the decision may be delegated to officers (see below).

4.1.1 The committee system

Under the committee system, all the major decisions are the responsibility of committees of elected councillors associated with each service department. Generally, there is a committee for each service department as well as an overall policy committee which deals with the wider issues. These are called standing committees. The committees can set up sub-committees, working parties or advisory committees to deal with specialised aspects of policy. These different

groups may have decision-making powers delegated by the main committee but more usually merely make recommendations. Sometimes, decision-making powers are delegated to officers (see schemes of delegation above).

Councillors are appointed to the various committees, with the size, composition and membership of the committee decided at the Annual Meetings. Each committee is served by a clerk from the Chief Executive's department and is advised by officers from the department to which the committee is attached. The role of officers is to prepare agenda papers and reports and advise committees, but the final decision rests with the councillors themselves.

Decisions taken by committees are subject to approval by the full council - i.e. a meeting of all the councillors - which can overturn them or refer the matters back to the committee for reconsideration.

Local authorities usually transact business in cycles of meetings. Each of the main committees and the full council will generally meet once during a cycle which is usually about one to two months long. Informal discussions are likely to take place before a matter reaches an agenda paper for a committee meeting. The Chairman of the committee and their deputies - who are usually members of the majority party - tend to have the most power and are usually involved in close discussions with chief officers about day to day issues and longer term policies.

The rules by which a council operates are detailed in its *Standing Orders* which are defined and approved by the full council.

4.1.2 The cabinet system

Under the Local Government Act 2000, an alternative system of local government - the cabinet system - was made possible. Under the cabinet system, responsibility for decision-

making is taken out of the hands of the committees and placed with a group of councillors known as the Cabinet. Some local authorities call the Cabinet by another name, such as "the Executive" or "the Strategy Committee". The Cabinet is comprised of councillors, each holding specific 'portfolios', i.e. having an interest in a specific area of policy across the range of the local authority's functions. The Cabinet may be led by the Mayor - a member of the local authority who has been directly elected by the public to perform that function. Cabinet meetings are chaired by the Mayor or the Leader of the council. A system similar to the committee system may exist in parallel to the cabinet system, but, in such cases, the committees are referred to as 'advisory panels' and serve principally to make recommendations to the Cabinet.

4.2 How committee decisions evolve

Before a proposal reaches an agenda paper at a committee meeting, there may have already been many stages of informal discussion. This may include pre-committee discussions between members of the committee of Cabinet (especially the Chairman) and council officers as well as discussions between councillors of a particular party. However, the first formal discussion comes at the committee meeting.

4.3 Getting information out of local authorities

The Local Government (Access to Information) Act 1985 gives the public rights to find out about council business and obtain key documents such as reports, minutes and background papers. More recently, additional rights of access have been added and a useful good practice guide has been published by the Government³.

With a few tightly defined exceptions, members of the public now have access to all council committee and council sub-committee meetings as well as to agendas, reports, minutes and

3 Making the planning system accessible to everyone: Good-practice guidance on access to and charging for planning information (ODPM, September 2004).

background papers. Agendas have to be published in advance and relevant documents made available to the public. However, there remains no definition of what constitutes a 'reasonable' fee for copying documents (with some authorities charging several pounds a sheet for photocopying!). The *Environmental Information Regulations 1992* give the public the right to see 'environmental' information held by the local authority. This includes information relating to monitoring, regulations and activities affecting the state of the environment.

Exceptions to this entitlement include information which is considered commercially confidential, prejudicial to national security, or still in the course of completion. These exceptions can be abused by the holder of information and it is often worth challenging a refusal. For more information, see the Friends of the Earth briefing *Using Your Right to Know*.

5 THE MAYOR'S *LONDON PLAN*

Detailed information about the content of the London Plan and the process by which it is developed is given in Annex 3.

London is unique in England in that it has a directly elected regional authority - the Greater London Authority (GLA) - which includes the Mayor of London. The other part of the GLA is the London Assembly, comprised of 25 elected members. The principal role of the Assembly is to hold the Mayor to account, but it has no executive powers other than to approve the Mayor's budget⁴. The GLA was set up under the *Greater London Authority Act, 1999* (the GLA Act). Under the GLA Act, the Mayor is required to produce and keep under review a 'Spatial Development Strategy' which:

*'must include a statement formulating the Mayor's strategy for spatial development in Greater London [and] his general policies in respect of the development and use of land in Greater London'*⁵

The Mayor has chosen to call his Spatial Development Strategy the *London Plan* and it is referred to as such in this guide. The first *London Plan* was published in 2003.

The Spatial Development Strategy should interpret the planning issues that are raised by all the other strategies of the Mayor. These other strategies include: the Transport Strategy; the Biodiversity Strategy; the Air Quality Strategy; the Economic Development Strategy; the Ambient Noise Strategy; and the Waste Strategy.

Borough LDFs are required to be in 'general conformity' with the Spatial Development Strategy. The precise meaning of 'general conformity' has yet to be tested at a planning appeal or in Court. Under the GLA Act, the Mayor has powers to direct the boroughs in respect of major planning applications so as to deliver the policies in the Spatial Development Strategy, and the Strategy is therefore a significant part of the planning system in London.

Under the legislation, the Mayor is required to consult Londoners and other interested parties (such as the London boroughs) on the proposed content of the Spatial Development Strategy.

⁴ More information about the structure and functions of the GLA can be found on the GLA website at <http://www.london.gov.uk>
⁵ Section 334.

6 LOCAL DEVELOPMENT FRAMEWORKS

Local Development Frameworks (LDFs) were introduced under the *Planning and Compulsory Purchase Act 2004* (the 2004 Act) and will eventually replace the former development plan system. LDFs comprise a portfolio of documents called **Local Development Documents (LDDs)** that set out planning policies for the LPA's area. There are two types of LDD within the LDF portfolio:

- **Development Plan Documents (DPDs):** These are the LDDs that are adopted as part of the **statutory** development plan. The statutory development plan comprises the DPDs together with the Regional Spatial Strategy (RSS) or, within London, the Spatial Development Strategy (the *London Plan*). DPDs will be subject to a statutory adoption process, including Examination-in-Public by a planning inspector.
- **Supplementary Planning Documents (SPDs):** These are non-statutory and may cover a wide range of issues (for example design issues) on which the Borough wishes to provide policy guidance supplementing the policies and proposals in the DPDs. Because they are not part of the statutory development plan, they will have less 'weight' in planning decisions. Also, because they are not part of the statutory development plan, SPDs are not subject to independent examination but are adopted by the LPA following public consultation.

The DPDs, which must be prepared by each borough by June 2007, include:

- a **core strategy** setting out the spatial vision, spatial objectives and core policies covering ten or more years;

- a **Proposals Map:** this is a reference map for the policies and proposals contained in the development plan; it will, for example, show which land is to be developed or conserved;
- **Site specific allocations of land:** these are required to ensure that development meets the vision set out in the core policies;
- where necessary, **Area Action Plans**, setting out detailed policies for particular parts of the Borough where extensive change is envisaged or conservation policies are needed; and
- Other DPDs, such as thematic documents dealing with for instance housing or employment

Also included in the LDF are:

- the **Statement of Community Involvement (SCI)** – This is a statutory document (but not part of the development plan) specifying how the LPA intends to involve the local community (see Section 7, below);
- the **Local Development Scheme (LDS)** setting out a timetable for the production of LDDs and specifying which LDDs will be produced
- any **local development orders** or **simplified planning zones**; and
- annual **monitoring report**.

Documents setting out generic development control policies can be either DPDs or SPDs but, DPDs carry more weight (i.e. authority).

Minerals and waste LDDs will form part of a separate minerals and waste development framework.

7 INFLUENCING THE LOCAL DEVELOPMENT FRAMEWORK

7.1 The plan preparation and consultation process

Before the process of producing the LDF gets underway, the LPA must produce a **Local Development Scheme (LDS)**. This has two key objectives:

- it is the starting off point for the local community to find out about the council's planning policies; and
- it outlines the details of, and the timetable for, producing the Local Development Framework.

All London Boroughs will have produce an LDS. You will need to acquire and familiarise yourself with the LDS if you want to understand what is going to happen and how the different documents relate to each other.

Early in the plan-making process, the LPA must produce a **Statement of Community Involvement (SCI)**. This document is crucial for people in the local community who want to have a say in the preparation of the LDF, because it sets out in detail how the council intends to consult, and whom it intends to consult in the plan-making process. The whole system of consultation is predicated on 'front loading'. That is, early and continuous involvement. There should therefore be no attempt to publish policy 'options' for the LDF before there has been thorough and widespread meaningful public involvement. If not, then the whole process can be challenged on those grounds alone.

The council must issue a draft of its SCI, and there will be a six-week public consultation period. You will need to check over the draft to ensure that you or your group is listed among the organisations who are going to be consulted. If it is not, you could write to the council asking them for your organisation to be added to the list. The council will probably try to resolve any disputes about who should be consulted, but if any objections remain unresolved there will be an

independent examination of the SCI. The inspector's decisions are binding on the LPA.

In preparing any Development Plan Document, the LPA must:

- submit the draft document to the Secretary of State (currently, this is the Deputy Prime Minister);
- advertise the consultation in a local paper;
- invite comments over a six-week period;
- make copies of the document available at their offices and in other appropriate places such as libraries;
- publish the document on the council's website; and
- send copies of the document to the bodies which need to be consulted.

It is essential that you set out clearly in writing your objections to anything you are concerned about in the draft, because the next stage is an independent examination of the document. Anybody who has made representations seeking a change in the document has a right to be heard at the independent examination. The inspector will then make decisions which are binding on the LPA.

For Supplementary Planning Documents, the procedure is the same, except that:

- the document does not have to be submitted to the Secretary of State;
- the consultation period may be only four weeks;
- there is no independent examination and
- the LPA can simply adopt the document after considering any representations received.

As well as the statutory consultation procedures set out above, many LPAs are likely to make arrangements for preliminary consultations on early drafts of the various documents. The purpose of this is to identify as early as possible where any disagreements are going to arise. The council will probably try to resolve as many of these issues as possible before getting into the

statutory process. You should try to take the maximum possible advantage of these preliminary consultations, as the council may well be prepared to be more flexible in its response to you at this stage.

Note that, because the regional spatial strategy (in London, the London Plan) is part of the statutory development plan, it is useless to try to challenge something in the review of the LDF that has already been established in the regional strategy. Annex 3, below, explains the *London Plan* consultation process.

7.2 Sustainability appraisal

The 2004 Act requires LPAs to ‘*exercise the [planning] function with the objective of contributing to the achievement of sustainable development.*’ All Local Development Documents (LDDs) are therefore likely to be subject to a Strategic Environmental Assessment. This is a helpful tool to support campaigns and avoid damage to the environment. For more information about SEA, see the CPRE Planninghelp website.

7.3 After adoption of the LDF

- **Complaints to Local Commissioners (the Local Government ‘Ombudsman’)**

If you feel you have suffered an injustice because of maladministration by a LPA in connection with the LDF, you can ask the matter to be investigated by an independent Local Commissioner, known as a Local Government Ombudsman. Maladministration is where an injustice has resulted in the procedures not being correctly undertaken. The deadline for presenting complaints is no later than 12 months after the alleged maladministration took place, but in some special circumstances it can be later. Contact details for the ombudsman are given at the end of this guide. Local Government Ombudsman cannot review the final planning decision or the policy, but can hold the LPA guilty of maladministration should a decision have been made incorrectly because procedures were not followed. The Ombudsman may also recommend remedial action - or compensation to be paid to injured parties – but has no power to

insist on any recommendation being acted on. See the CPRE briefing *The Local Government Ombudsman* (May 1999)

- **Complaints about inspectors**

You can make a complaint about the behaviour of a Planning inspector. In this case, you need to contact the Planning Inspectorate Quality Assurance Unit. Contact details are given at the end of this guide.

- **The Council on Tribunals**

If you have a complaint concerning the procedures which were followed for the Public Local Inquiry, you can send the details of your complaint to the Secretary of the Council on Tribunals. Contact details are given at the end of this guide.

- **Challenge in the High Court (Judicial Review)**

If you are somehow aggrieved by a planning decision or the adoption of the UDP and can show that the grievance arose out of a failure on the part of the LPA or inspector to comply with statutory requirements, you can apply to the High Court to request the Court to cancel the whole or part of the UDP. The deadline for applications is six weeks from the date of the first notice of adoption of the UDP.

THE OPTION OF JUDICIAL REVIEW IS NOT RECOMMENDED! Your grievance with the UDP is likely to be due to an objection to the policy rather than due to a breach of due process. If so, your action is very unlikely to succeed. Costs associated with losing a judicial review action could run into tens of thousands of pounds.

See the CPRE briefing: *Judicial Review and planning decisions* - October 2001). You may also wish to contact the Environmental Law Foundation for advice. (see the CPRE briefing: *Judicial Review and planning decisions* - October 2001). The Standards Board for England is responsible for promoting high ethical standards and investigating allegations that members' behaviour may have fallen short of the required standards.

8 PLANNING APPLICATIONS AND THEIR DETERMINATION

8.1 Types of planning application

There are several different types of planning applications and permissions, but all the decisions are made in essentially the same way. These are applications for:

- **Full planning permission** - this is where all the necessary details are submitted at the outset;
- **Outline planning permission** – this type of application allows the applicant to seek approval for the development in principle, before time and money is spent setting out the details. This would normally be followed by a detailed application;
- **an application for the approval of reserved matters.** *Reserved matters* are those important details of the scheme that are not approved at the time of the outline permission (also known as a detailed application);
- **Removal or variation of a condition attached to a previous planning permission** - (e.g. an application to extend the hours a restaurant can open for business).
- **Applications for retrospective permission.** These are made when a development has already been started or completed before permission has been obtained⁶.

8.2 Other forms of required permissions

The following are not planning permissions as such, but are nonetheless permissions affecting development and for which applications must be made to the local authority:

- **Listed building consent.** This is required for demolition or any work involving alteration or extension which affect the character of a building listed for its architectural or special interest⁷. This concerns work inside and to the exterior of building.
- **Conservation area consent.** This is required before most buildings and structures can be demolished in a conservation area⁸. Developers must pay special attention to the importance of preserving or enhancing the character or appearance of the area where they want to carry out a development⁹.
- **Advertisement consent.** This is required to display certain advertisements¹⁰.
- **Applications to carry out works to protected trees** including their removal. A protected tree is any tree within a conservation area (with some exceptions) or one specifically protected by a Tree Preservation Order (TPO)¹¹.
- **Lawful development certificates.** These are sought when a landowner or developer wishes to establish whether planning permission is, or was, required (see Section 192 of the 1990 Act).

This Guide does not go into further detail about these other permissions.

8.3 Where a planning application is not required

There are specific cases in which a planning application is not required:

- **'Permitted development':** this is development which the Government considers to be

6 See Section 73A of the 1990 Act as amended.

7 Sections 7 to 10 Planning (Listed Buildings & Conservation Areas) Act 1990

8 Section 74 of the Planning (Listed Buildings & Conservation Areas) Act 1990.

9 Section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990.

10 Section 55(5) of the Planning (Listed Buildings & Conservation Areas) Act 1990.

11 TPOs are made under Section 198 of the Planning (Listed Buildings & Conservation Areas) Act 1990.

minor. The various types are listed in the *Town and Country Planning (General Permitted Development) Order (GPDO)*¹². They include certain alterations and extensions to houses, industrial and warehouse premises, schools and hospitals. The 2004 Act introduces a new provision allowing individual LPAs to introduce their own local permitted development rights, through Local Development Orders (LDOs), granting automatic planning permission for certain operations within the authority's area. LDOs can be introduced only through a revision of a Development Plan Document and so are subject to independent examination. Representations on proposed LDOs can be made by any person.

- *Certain changes from one Use Class to another.* For example, changes from a restaurant to a shop (but not vice versa) are allowed¹³. Use Classes are listed in Annex 7.
- *If the LPA has created a simplified planning zone scheme¹⁴ (SPZ) or designated an enterprise zone¹⁵, then a planning application may not be required for development within that zone.*
- *Changes of use within the same use class.* These do not require permission, since they are not considered as development (e.g. change of use from a newsagents to a hairdressers (both in class A1) or from a cinema to a bingo hall - both in Class D2. However, some uses, called '*sui generis*' (*i.e. of their own kind*) do not fall within a use class and always need a planning application to be submitted [NB From April 2005, this now includes car showrooms – which can no longer turn into supermarkets without a specifically approved application].

8.4 Making an Application

To apply for planning permission, the applicant submits a set of plans and completed application forms to the LPA. The applicant usually has to pay a fee when making an application. The amount is specified by law and the application cannot proceed until the full fee has been paid. With larger applications, it is usual for the applicant to be required by the LPA to provide additional information concerning the planning issues and how they have been addressed. Specialist reports and surveys may also be requested on issues such as traffic or trees. This information will be useful if you wish to assess the potential impact of the application.

Applicants have to certify, as part of the application, that they have told everybody who has a legal interest in the site about the application. The applicant does not have to own the land to make the application (but gaining planning permission does not give the applicant the right to carry out the development without buying the site or securing the site owner's permission to develop). There is also no duty to tell neighbours of making an application, but the LPA has a duty to advertise the application and will often notify them and ask for comments. These requirements for publicity are set out below.

8.5 Publicity

Once a valid application is received by the LPA it is formally entered onto a **planning register**. The planning register and a copy of all the planning applications can be viewed at the LPA's offices. Normally, the list of applications (the 'planning list') is also advertised in a local newspaper. This can be useful for people who want to keep up to date with developments that are proposed in their area.

¹² See Annex 1.

¹³ Use classes, and the changes that are permitted without planning permission, are listed in the *Town and Country Planning (Use Classes) Order 1987*.

¹⁴ See Section 82 of the 1990 Act.

¹⁵ See Section 88 of the 1990 Act.

Copies of the planning register and all the planning applications are public documents and therefore available for the public to inspect at times specified by the LPA (usually during normal office hours, including lunchtimes). The planning application includes the application forms, drawings and any other information that has been submitted. It is a legal requirement on the LPA to make copies of plans and documents available for photocopying for a reasonable fee.

It is advisable to contact them first to check opening hours. Occasionally applications may also be available to view at other locations such as public libraries.

As well as through the planning register, the LPA has a legal requirement to publicise all planning applications that have been registered. The minimum legal requirements for publicising planning applications are set out below. There are three basic types of publicity:

- publishing a notice in a local newspaper
- posting a notice on the site (so that it is visible to passers-by)
- writing to neighbours and other interested parties.

LPAs have wide freedom in deciding what amount of publicity they want to give to small proposals, particularly those affecting neighbours.

Not surprisingly, the quality and quantity of publicity varies throughout London. This causes complaints from neighbours who say they were not consulted. If the application has already been approved, often the only course of action is to complain to the Ombudsman. It is therefore good practice for local authorities to adopt and publish a procedure setting out who and how they intend to consult on different types of applications.

In addition to public consultation, the LPA will consult with a wide range of statutory and non-statutory bodies. This will depend on the nature

of the application and its potential impact on the surrounding area.

See also CPRE's publication *How to Respond to Planning Applications* and the ODPM's useful booklet on access to planning information: *Making the planning system accessible to everyone: Good-practice guidance on access to and charging for planning information*.

8.6 Processing planning applications

When an application is received by the LPA, it is checked to make sure it is complete, and then it is recorded in the planning register ('registered'). The LPA has a fixed period from the time of registration to determine the application, i.e. either to approve or refuse it. This period varies with the type of application. For example, it is eight weeks for most minor applications or thirteen for some major applications.

If the application is approved by the LPA, it will usually be done with *conditions* which will limit what can be done under the permission or how the permission is carried out. Under the 2004 Act, reasons should be given for granting approval of an application. This is helpful because it encourages LPAs to check that their decisions are taken in line with the agreed development plan.

If the application is refused by the LPA, the LPA must explain the reason(s) for refusal. It is important to understand that applications should be refused only if there are sound planning reasons for doing so. This means that it is important to be familiar with the relevant planning policies before commenting on a planning application. The applicant may appeal against a refusal (see below - Appeals against refusal of planning permission).

If the LPA fails to determine the application within the required period, the applicant apply to the Secretary of State for a decision on the grounds of non-determination. Appeals can take the form of written representations, an informal hearing or an inquiry and may have significant financial implications for the LPA by way of the

costs of defending the case. Therefore, the LPA will usually wish to avoid failing to make a decision within the prescribed period. It may also explain why the LPA is sometimes reluctant to refuse an application. However, the applicant can agree to let the LPA take longer than the prescribed period to reach a decision.

8.6.1 *Negotiation*

Before determining a planning application, the LPA may enter into negotiation with the developer over the design of the development, possible action to mitigate environmental harm, or any other relevant element of the proposal. Negotiation is one of the most important parts of development control, and objectors should be aware of possible reasons for negotiation and get involved if they can. Negotiation should be carried out within the statutory period unless the applicant agrees a longer period with the LPA. Otherwise, the applicant is able to appeal to the Secretary of State on the grounds of non-determination.

Planning Obligations - Sometimes, the LPA wishes to control the impact of a development, but the desired restrictions go beyond the matters that may be covered by conditions attached to the planning consent ('planning conditions'). The LPA may wish, for example, for the developer to contribute towards infrastructure costs arising out of the development or be asked to contribute towards new transport services to the site. In order to secure such measures, the LPA and the developer (and anyone else who has a legal interest in the land) may enter into a legal agreement called a 'planning obligation'. Planning obligations can be made under Section 106 of the 1990 Act (hence they are referred to as 'Section 106 agreements'). Obligations can relate to land outside the application site or outside the control of the applicant and should have a direct link to the proposed development. Under the 2004 Act, provision is likely soon to be made for obligations to be met either through payment of an optional planning charge, or through the provision of development in kind agreed through negotiation, or a combination of both.

One of the commonest matters for such agreements is for the proportion of houses in a housing development that may be made available at less than market value ('affordable housing'). Recent policy advice¹⁶ suggests that planning obligations should be used to increase the provision of affordable housing, and the Mayor of London is keen that London Boroughs should achieve the highest possible proportion of affordable housing in new developments.

It should be noted that if the LPA does not want to enter into an agreement with a developer using Section 106 agreements, the developer can offer to make a 'unilateral' planning obligation. This is usually done in connection with an appeal against refusal of a planning application.

In order to improve their chances of their application being approved, some developers have adopted a tactic known as '**twin tracking**'. Two virtually identical applications for the same development are made simultaneously so that, if the LPA fails to determine either within the time limit for a decision, the applicant submits one to appeal while the other remains in the hands of the LPA. The threat of the appeal going ahead on the grounds of non-determination is often sufficient to encourage the LPA to accelerate and grant the other application, or to grant it with more favourable conditions. The 2004 Act will give LPAs powers to refuse some twin-tracked applications

8.7 **The *London Plan* and planning applications**

Together with a LPA's Local Development Framework (LDF), the Mayor's *London Plan* (see section 2.3, above, and Annex 3) forms part of the LPA's Development Plan and is therefore an important material consideration. For this reason, attention should always be paid to whether a planning application (and the LDF) is consistent with any relevant policies and proposals in the current *London Plan*.

16 e.g. PPG3 and Circular 6/98.

8.8 The role of the Mayor of London in planning applications

8.8.1 Notification

The Mayor of London must be informed ('notified') by the LPAs about planning applications that may raise issues of 'strategic importance'. 'Strategic importance' appears to mean little more than 'large' developments that affect more than one part of London¹⁷. If necessary, the Mayor has the power to direct the LPA to refuse those applications. The detailed definitions of the applications, which must be referred to the Mayor are¹⁸:

- *large scale development* (which includes provision of more than 500 houses and/or flats or housing on more than 10 hectares) and construction of non-residential buildings, with a total floorspace of more than 30,000 square metres in the City, or 20,000 in Central London, or 15,000 outside central London, or a building more than 30 metres high outside the City of London is proposed;
- *major infrastructure*; including mining operations of more than 10 hectares or waste development for more than 50,000 tons of waste, produced outside the land involved;
- *aircraft runways*;
- *development which may affect strategic policies*, including development which is likely to prejudice the use as a playing field of more than 2 hectares, or on land allocated as Green Belt or Metropolitan Open Land in the development plan or proposals, for such which would involve the construction or material change in the use of a building of more than 1,000 square metres; and
- *development which may affect strategic sites or views*, including viewing corridors, settings

and background areas relating to key strategic views

- *Non residential-developments* involving more than 200 car parking spaces.

(For further details see Annex 2 of Circular GOL 1/2000 and the *Town and Country Planning (Mayor of London) Order 2000*¹⁹ (the 'Order')).

The requirements for processing notifications are indicated in the Order. The LPA must send the Mayor a copy of any application that meets the relevant criteria, as soon as possible after its receipt.

Unless the Mayor informs the LPA that he does not wish to be notified, it must notify him by sending:

- a copy of any representations received;
- a copy of any officer's report on the application; and
- a statement of the proposed permission and any conditions it proposes to attach.

The LPA may not grant permission for a period of 14 days from the date the above documents are received by the Mayor. Within this period, the Mayor may direct the LPA to refuse the application. Any such Direction by the Mayor must be accompanied by a statement of reasons, and must be copied to the Secretary of State.

8.8.2 Appeals against a Mayoral Direction

When the Mayor has issued a Direction to refuse an application, the applicant will have the right to appeal to the Secretary of State against the refusal. As in the case of appeals over the refusal of planning permission (see section 2, above), the appeal may be dealt with simply by written representations; by an informal hearing; or by a public inquiry which is akin to a court hearing. Objectors are able to have an input into the inquiry.

¹⁷ Strategic importance is defined in the Schedule to *The Town and Country Planning (Mayor of London) Order 2000* (Statutory Instrument 2000 No. 1493).

¹⁸ From the *Town and Country Planning (Mayor of London) Order 2000* (Statutory Instrument 2000 No.1493).

¹⁹ Statutory Instrument 1493.

When the appeal is submitted following a Direction by the Mayor to refuse, the Mayor is entitled to appear at any inquiry or hearing and give evidence and, in the case of an inquiry, cross-examine other parties.

If the appeal is dealt with by written representations and the Mayor has directed refusal, he is informed of any appeal and of all representations made on it. He is also given an opportunity to make representations personally and to comment on those of other parties. If the Secretary of State decides that the Mayor acted unreasonably, the Mayor may be ordered to pay the costs of an inquiry if he has directed refusal of planning permission²⁰.

If the Mayor did not direct refusal he is treated like an interested party, by being notified of the appeal and given a chance to make representations.

8.9 The role of the Secretary of State in planning applications: Call-ins, Appeals, Recoveries and Directions

8.9.1 Call-ins

Occasionally, an application may be 'called in'.²¹ - taken out of the hands of the LPA by the Secretary of State to be dealt with by a planning inspector. The **Planning Inspectorate** is a publicly-funded agency that provides independent arbitration over planning applications.

Applications that are called in will be of more than just local interest or those which raise significant issues in respect, for example, of policy, or architectural or urban design.

In these relevant cases, the Secretary of State has 21 days from the date that he is notified by the Government Regional Office of the nature of the application to decide whether or not to call it in. In London, that is the Government Office for

London (GOL). Such occasions are, however, rare. Call-ins will normally occur for two main reasons:

- the LPA is likely to grant permission for something which conflicts with national policy (e.g. in Green Belt or on a large greenfield site); or
- the LPA wants to approve an application which is inconsistent with the development plan, (known as a 'departure').

If you are concerned that the LPA may approve a planning application that is significant enough to warrant a call-in, you should write to the Government Regional Office to request a call-in.

A call-in is always followed by a public inquiry, after which the inspector produces a report with recommendations to the Secretary of State as to whether planning permission should be granted and with what conditions. The Secretary of State *usually* - but not always - follows the inspector's recommendations.

8.9.2 Appeals

An applicant can appeal against a refusal of planning permission or against the failure of the LPA to determine an application within the statutory period. That period is 8 weeks for a minor application, 13 weeks for a major application.

Appeals are made to the Secretary of State²². The Secretary of State is represented by the relevant Government Regional Office. The appeal is then dealt with by the Planning Inspectorate through one of the following kinds of inquiry:

- **Written representations** - The two main parties exchange written statements. Third parties are also entitled to send letters of support or objection to the LPA or the inspector. All letters received by the LPA will be forwarded to the inspector. An inspector will then visit the site and make

²⁰ Section 345 of the 1999 Act, which introduces a new Section 322B to the 1990 Act.

²¹ See Section 77 of the 1990 Act.

²² The powers of the Secretary of State are currently exercised by the Deputy Prime Minister, and, except in very significant cases, the matter is dealt with by the Government Regional Office.

his decision on the basis of Government policy, his own assessment and the strength of the planning arguments presented to him.

- **Informal hearing** - The appeal is discussed in a relatively informal way, in front of an inspector and an inspector will then visit the site. There is no requirement for written statements. Third parties are also entitled to participate in the hearing.
- **Public inquiry** - This is a more formal hearing. Evidence is formally presented in front of an inspector. The cases may be presented to the inspector by a solicitor or barrister or others who can call and cross examine witnesses. Expert witnesses are likely to be called. This is an expensive process that is usually reserved for major and highly contentious applications. participants - especially third parties - can represent themselves

Residents and interested parties who have objected to the application have to be informed by the LPA that an appeal has been lodged, and are provided with the opportunity to make their views known to the Inspectorate. In the case of an appeal by written representations, all objections must be made in written form. In the case of a hearing or a public inquiry, members of the public may also appear in person to give verbal evidence.

Evidence from members of the public, especially at public inquiries, can be very useful. In addition, detailed knowledge of the local area can help the authority's case if it is important for the appeal in question. You can, if you wish, play a major role at an inquiry and be represented by your own advocate and call witnesses. It is not unusual for amenity and pressure groups to take part in inquiries.

Following the inquiry, the inspector will normally determine the appeal - i.e. allow it or dismiss it. Allowing the appeal means that planning permission is granted; dismissing the appeal means that planning permission is

refused. The appeal decision is communicated by means of a *decision letter*, and the reasons for the appeal decision must be clearly stated in the decision letter.

If an appeal is dismissed (i.e. the LPA's refusal to grant planning permission is upheld by the inspector), the appellant has no further right of appeal (although the applicant may seek judicial review of the decision). If an appeal is allowed, there is no further recourse for objectors other than judicial review.

LPAs are sometimes advised by their officers that a planning application cannot reasonably be refused, even though there may be strong local objection to it. In such cases, the LPA has to bear in mind that the council might have to pay the appellant's costs if an appeal is allowed if the inspector finds that the council's reasons for refusal were weak or unreasonable. Such costs can reach five figures if a barrister is working on the case and a number of witnesses are called to give evidence. The threat of costs can be a major disincentive to LPAs to refuse planning permission. Applications can, however, be refused even if there are no objections from members of the public. This would usually be in cases where there are other overriding issues such as the proposal goes against policy.

Similarly, developers who appeal against refusals which are in line with national and local planning policies run the risk of being ordered by the inspector to pay the council's costs.

When an application is approved, third parties have no right of appeal other than - potentially - through judicial review.

Recovered appeals - While most appeals are decided by the inspector following an inquiry, the Secretary of State may decide to determine the application himself after considering the inspector's report and recommendation. This procedure is usually confined to very significant planning applications. A considerable period of time may elapse between the inspector submitting his report and the Secretary of State announcing his decision.

8.9.3 Directions

When the Mayor of London has directed a London LPA to refuse an application, the Secretary of State has the power²³, under certain circumstances or for a specified period, to issue his own Direction overriding the Mayor to prohibit the LPA from implementing the Mayor's Direction.

8.10 Judicial Review

Objectors to an application have no opportunity to appeal against the granting of planning permission directly: i.e. there are no *third party rights of appeal* (see CPRE's publication: *Third Party Rights in Planning* - January 2002). It is possible only to make a legal challenge to the **High Court** known as a **judicial review** (see above and the CPRE briefing: *Judicial Review and planning decisions* - October 2001). However, judicial review concerns only the propriety and legality of the process by which the application was determined. Judicial review is not concerned with the merits of the policy or policies under which the application was approved. Judicial reviews are very expensive (incurring very high legal costs), and, unless a clear point of law is challenged, the case will almost certainly not succeed. Even when a finding is made in the complainant's favour, the LPA may start again and reach the same decision, provided it goes through the correct process the second time around.

8.11 Human Rights

The European Convention on Human Rights (brought into force by the *Human Rights Act 1998*) contains provisions that could potentially lead to changes in planning procedures in the future. The Convention says that, where people's human rights are affected, there must be the opportunity for a '*fair and public hearing...by an independent and impartial tribunal*'. This has been interpreted by some (including CPRE) as supporting the case for a 'third party right of appeal': a right for

individuals to appeal against the granting of planning permission to another party where the proposed development would contravene the appellant's human rights. The argument, however, has not yet succeeded because the Courts have held - controversially - that judicial review meets the requirement for an independent and impartial tribunal.

8.12 Enforcement

It is unlawful to carry out development without first obtaining planning permission, but it is not a criminal offence except as regards display of some advertisements. It is a criminal offence, if some advertisements are displayed without obtaining consent as required by the Control of Advertisement Regulations 1992²⁵. It should be understood that sometimes an applicant may apply for permission after the actual development has started and such application should be treated in the same way as applications submitted before a development started²⁴ (see *retrospective applications*, explained above).

If the developer is not cooperative, he may choose not to change the situation. In such cases, the local authority has to decide whether to take enforcement action. If the disrespect of the law is relatively minor, the local authority may feel that no formal action is necessary. This is especially the case, if planning permission would have probably been granted. The Government suggests that enforcement action is only taken as a last resort. On the other hand, the Ombudsman (see below) has often reproached local authorities for not taking enforcement action soon enough because of continued nuisance to objectors. While the Government allows councils to exercise discretion about whether to take enforcement action or not, the Ombudsman has, in some cases, found councils guilty of maladministration for failing to take enforcement action.

If the local authority thinks formal enforcement action is needed, it can use various procedures

23 Under Article 5(8) of the Order

24 See Section 224(3) of the 1990 Act.

25 See Section 73A of the 1990 Act as amended.

(these are noted in Annex 5 with a brief explanation of how they work).

The 2004 Act gives LPAs a new power to issue temporary stop notices if they think there has been a breach of planning controls. Work on the development must then stop immediately. These temporary stop notices can last for 28 days. This gives the LPA a breathing space to decide what further enforcement action is necessary.

8.13 Major infrastructure projects

The 2004 Act allows the Secretary of State to call in planning applications that are considered to be of national or regional importance. The Secretary of State must then appoint an inspector to consider the application, including the question as to whether it is desirable to appoint further inspectors. If the Secretary of State appoints a team of inspectors they would report to the lead inspector and consider different matters in tandem so as to speed up the inquiry process. The section also confirms that the Secretary of State himself, rather than the local planning

authority, will determine the planning decision, based on the advice of the inspector.

The 2004 Act also gives the Secretary of State powers to direct the applicant to submit an economic impact report. Such a report is designed to examine any claims over economic benefits and regeneration benefits made by a developer to justify a particular scheme. The Act enables the form and content of the report to be decided by development order. Ideally the any development order should state that the report must be independent and critically examine the economic case put forward by the developer.

8.14 Simplified Planning Zones

Simplified Planning Zones are areas where planning controls are de-regulated in an attempt bring jobs to an area by encouraging businesses to locate or expand there. The 2004 Act dictates that a local planning authority must consider within which part or parts of its area a Simplified Planning Zone would be desirable if the need for one or more for the region has been identified in the RSS.

9 COMMENTING ON A PLANNING APPLICATION

As a potential objector or supporter of an application there are various things you can do to help your case. The preceding sections identify a number of opportunities and this section offers a few additional ideas.

For further information on how to influence the decision-making process in respect of planning applications, see CPRE's *How to Respond to Planning Applications* and/or CPRE's *Planninghelp* website or **the campaign guides published by Friends of the Earth, especially *How to stop and influence planning permission (see Annex 9).***

Your overall objectives in attempting to influence the local authority are to persuade the councillors and the Planning Department officers that the proposal should be rejected on the grounds of existing planning policy. You should also consider the potential for persuading the councillors on the planning committee that the political 'cost' of supporting the application is too high.

Third parties can make comments on that application supporting, objecting, or asking for changes to the proposal. Comments about the application must be written and sent to the LPA within twenty-one days of the application being publicized. These written responses are known as **written representations** or **objections or comments**.

Written representations should cover only the planning arguments or planning policy. Anything to do with personal grievances, value of property, or deeds will not be considered when reaching a decision on the application. (Annex 5 has a sample list of planning concerns but it is important to look at your local planning authority's own planning policies as these vary from council to council).

This part of the planning process is the main opportunity for members of the public to comment. After this period, third parties have very limited rights to interact in the process

again. It is therefore crucial that you make your views known at this stage.

It is important to be more than just a signature on a piece of paper - however well-reasoned your arguments are. Your influence will be greater if you meet with the decision-makers (and those who influence them) and explain your case. At least try to talk to them on the telephone. Specifically, identify the officer(s) handling the application and the Chief Officer with overall responsibility for the department. Each planning application is assigned to a planning officer (or officers), who compiles a report on the case for the relevant planning committee, recommending what decision should be made.

Contact the planning department - Identify which people will make the decision and make yourself known to the decision makers. Find out which council officer(s) will deal with the application and which Committee - or sub-committee - will be making the decision. The officers can provide background information as well as advice on how to interpret a planning application.

Get as much background information as possible - This may include agendas, minutes, reports and background papers for both previous and forthcoming committee meetings which discuss the proposal. This will give you an indication of the level of support in the committee and the specific aspects of the proposal which are of particular interest.

Visit the planning department at the relevant borough and look at the application and plans. Make sure you understand what is proposed. Visit the site if necessary to assess the impact the proposal is likely to have. Remember there may be planning issues in adjacent boroughs which affect your area.

Identify the type of application and the sort of permission which is necessary for the proposal to be accepted. If the application is for outline planning permission, it is important to

understand that any objections to the principle of the development must be made at this stage, by referring to the appropriate PPG or PPS.

Examine the council's Unitary Development Plan and policies. These provide a framework for what will and won't be allowed.

Contact the developer. It may be possible to get changes made to their proposals.

Form a residents' group, or alliances with other organisations to gather support for your case. If you pool resources, this will help you with lobbying and information gathering. Above all, it will show to both the developer and the council that a large group of people opposes to the scheme.

Make sure you submit your representations in writing and within the time allowed. Make your letter clear, concise and accurate and stick to the planning issues. Ask for clarification or further information if you need it. Send a copy of your letter to your local councillor and/or members of the planning committee.

Make direct contact with your local councillors and/or those who sit on the planning committee. Try and enlist their support and make sure they know why you oppose or support a proposal. Invite them to meet you on the site so that they fully understand what the application entails and the issues at stake. Be aware, though that councillors are not allowed to reach a decision before the meeting and so you should not expect

them to tell you whether they support the application or not (they could be excluded from voting at the decision meeting if they have declared a firm view before they have heard all the information presented at the committee.

Use the media, especially the local press. If you let your case be known and you make an issue out of it, councillors are more likely to listen to your point of view.

Make sure you read the officer's report on the application which will be considered by the planning committee. Try and correct any inaccuracies and omissions before the meeting. Attend the meeting and, if you wish to speak, make sure you ask to do so within the specified time. Make sure you prepare for this and use your allotted time carefully. Urge members of the committee to visit the site, if this is the only way you believe they can appreciate a particular point.

If the recommendation on an application is contrary to your own view, decide whether you should push for a deferral (postponement of the decision to a future meeting) rather than an outright decision. A deferral may be useful, because it allows you more time to lobby further.

Contact planning officers at the Mayor's offices, to find out whether the Mayor is responsible for the application and if so to ask if he has been notified of it. Write to the Secretary of State or to the Government Office for London to tell them of your case, as they may wish to use call in powers.

ANNEX 1 NATIONAL LEGISLATION

1) Primary legislation

Town and Country Planning Act 1990 - This sets out the basic legislation according to which the planning system operates. It is supplemented by:

- **The Planning, Listed Building and Conservation Areas Act 1990**
- **The Planning (Hazardous Substances) Act 1990**
- **The Planning Consequential Provisions Act 1990**
- **The Transport and Works Act 1992**
- **The Countryside and Rights of Way Act 2000**

The Planning and Compensation Act 1991 established the 'plan-led' system which requires that planning applications should be determined in accordance with the development plan, unless 'material considerations' indicate otherwise²⁶.

The Greater London Authority Act 1999 establishes the requirements of the Mayor's spatial development strategy (the 'London Plan'), including its required scope and the procedures for its production. It also confers on the Mayor his rights and obligations in respect of his role in respect of individual planning applications.

The Planning and Compulsory Purchase Act 2004 amends the 1991 Act, in particular by introducing the system of Regional Spatial Strategies and Local Development Documents.

2) Secondary legislation

Town and Country Planning (Use Classes)(Amendment)(England)Order 2005 (SI2005/84) The Use Classes Order groups various uses into classes which determine whether or not a new use requires planning permission. This Order is divided into four parts:

- Part A shops and other 'high street' businesses
- Part B offices, research laboratories and industrial processes
- Part C housing, hotels and hostels
- Part D premises providing public services and leisure facilities

Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989 (SI 193) - Contain provisions regarding fees to be paid for applications and deemed applications for planning permission.

Town and Country Planning (Control of Advertisement) Regulations 1992 - These control the need to apply for permission to display certain signs and other forms of advertisements

Town and Country Planning (General Permitted Development) Order 1995 (SI 148) - The 'GPDO' as it is usually called, set out the sorts of development that do not require planning permission. It includes the types of works that can be carried out by householders which are the subject of most enquiries to planning departments.

26 Section 54A.

Town and Country Planning (Environmental Assessment and Unauthorised Development) Regulations 1995 - This lays down the criteria for the types of development which require environmental assessment.

Town and Country Planning (General Development Procedure) Order 1995 (SI 419) - Allows outline planning application to be made and granted subject to conditions or if the authority are unable to determine it to so notify the applicant and specify what further details they require.

Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 (SI 293) - Contains provisions relating to this subject.

The Town and Country (Development Plan)(England) Regulations 1999 (SI 3280) - Contain provisions relating to development plans.

Town and Country Planning (Written Representations Procedure)(England) Regulations 2000 (SI 1628) - Contain provisions relating to appeals by way of written representations.

Town and Country Planning (Hearings Procedure)(England) Rules 2000 (SI 1626) - Contain provisions relating to appeals by way of hearings.

Town and Country Planning (Mayor of London) Order 2000 (SI 1493) - Contains provisions relating to the position of the Mayor of London.

Town and Country Planning (London Spatial Development Strategy) Regulations 2000 (SI 1491) - Contain provisions relating to the Spatial Development Strategy to be produced by the Mayor of London.

ANNEX 2 GOVERNMENT PLANNING POLICY GUIDANCE

1) Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs)

PPGs establish Government planning policies that apply across England and with respect to a wide range of issues. These are slowly being replaced by PPSs and are listed below. Each PPG or PPS covers a particular issue. They are available - together with various updates, annexes and companion guides - on the CPRE *Planninghelp* website at:

<http://www.planninghelp.org.uk/resources/government-policies/>

List of Planning Policy Guidance Notes & Planning Policy Statements

No.	TITLE
PPS 1	Delivering sustainable development
PPG 2	Green Belts
PPG 3	Housing
PPG 4	Industrial, commercial development and small firms
PPG 5	Simplified planning zones
PPS 6	Planning for town centres
PPS 7	Countryside
PPG 8	Telecommunications
PPG 9	Nature Conservation
PPG 10	Planning and waste management
PPS 11	Regional spatial strategies
PPS 12	Local development frameworks
PPG 13	Transport
PPG 14	Development on unstable land
PPG 15	Planning and the historic environment
PPG 16	Archaeology and planning
PPG 17	Planning for open space, sport and recreation
PPG 18	Enforcing planning control
PPG 19	Outdoor advertisement control
PPG 20	Coastal planning
PPG 21	Tourism
PPS 22	Renewable energy
PPS 23	Planning and Pollution Control
PPG 24	Planning and noise
PPG 25	Development and flood risk

2) Mineral Planning Guidance Notes (MPGs)

MPGs give Government policies on minerals extraction and workings (e.g. mines and quarries). These are unlikely to be relevant in many cases in London, but a list is available on the *Planninghelp* website.

3) Circulars

To supplement and update the PPGs and subsequent PPSs, the Government from time to time issues planning circulars. In due course, these generally become incorporated into a PPG (and subsequent PPSs) when the PPG is revised. Where relevant, they carry very significant weight as material consideration. The most useful of the circulars are:

Planning obligations 1/97 - This is about legally binding undertakings or agreements made under section 106 of the TCPA 1990 ('Section 106' agreements).

Planning and Affordable Housing 6/98 - This concerns planning gain, and provision of housing or money for housing by developers.

The Town and Country Planning (Residential Density)(London and South East England) Direction 2002. ODPM Circular 01/2002. This requires all planning applications in London and South East regions for developments at less than 30 dwellings per hectare (net residential density) to be notified to the Secretary of State (GRO) before planning permission is given. The expectation is that the Secretary of State will intervene in such cases to prevent such low density developments from taking place.

The Town and Country Planning (Residential Development on Greenfield Land) (England) Direction 2000 ODPM Circular 08/00. This requires LPAs to notify the Secretary of State (GRO) of planning applications for housing developments on greenfield sites before planning permission is given. The Direction applies to proposals for all developments greater than 5 hectares, or more than 150 dwellings. The Secretary of State then has the opportunity to intervene in the application through call-in powers.

4) Regional Planning Guidance (RPG)

RPGs set out Government strategic policies for each of the nine English Regions. London is one of the nine regions and the London RPG is ***RPG3 Strategic Guidance for London Authorities (May 1996)***. RPG3 and the parts of ***RPG9 Regional Planning Guidance for the South East*** that refer to London has been superseded by the Mayor's London Plan published in 2003.

ANNEX 3 THE MAYOR'S *LONDON PLAN*

The content of the *London Plan*

The minimum content of the *London Plan* and the legal requirements for the process by which it is produced is determined by the GLA Act and subsidiary legislation, notably the Town and Country Planning (London Spatial Development Strategy) Regulations 2000²⁷.

The *London Plan* must:

- be consistent with national policies, and international obligations that the Secretary of State notifies to the Mayor;
- promote the health of Londoners;
- contribute to sustainable development;
- be consistent with all other of the Mayor's strategies;
- have regard to the resources that are available to implement the strategy;
- promote the use of the River Thames;
- be consistent with statements by the Secretary of State concerning recovery and disposal of waste; and
- include policies to prevent major accidents and limiting their consequences.

The *London Plan* must include:

- a reasoned justification for the Mayor's strategy';
- key diagram illustrating the Mayor's strategies;
- the Mayor's general policies for development and land use in London and the geographical elements of his strategic policies for London in a single comprehensive framework'; and
- a sustainability appraisal.

How the *London Plan* is prepared

The 1999 Act and Regulations made under it define the minimum statutory requirements necessary to ensure that:

- London Boroughs, other interested parties and Londoners, have an opportunity to participate in the process of producing the *London Plan*;
- relevant considerations are taken into account at the appropriate time; and
- the *London Plan* is regularly reviewed, and monitored and kept up to date.

Sustainability appraisal

The Mayor must carry out a sustainability appraisal, showing how the *London Plan* contributes towards the achievement of sustainable development (see Glossary) See Regulation 7(2)²⁸.

Consultation with Assembly and functional bodies

The GLA has four 'functional bodies'. These organisations are part of the 'GLA family' and perform certain of the Mayor's functions. They are:

²⁷ Statutory Instrument 2000 No. 1491.

²⁸ The Town and Country Planning (London Spatial Development Strategy) Regulations 2000 (Statutory Instrument 2000 No. 1491).

- London Development Agency (LDA)
- Transport for London
- Metropolitan Police Authority
- London Fire and Emergency Planning Authority

The most important functional body for land use issues is the London Development Agency (LDA). The Mayor must consult the London Assembly and the GLA's five functional bodies in producing the *London Plan*. This will help to ensure consistency between the *London Plan* and the LDA's Economic Development Strategy (as required by the 1999 Act).

Procedure for public consultation

The procedures by which the Mayor must consult the public on the draft *London Plan* are set out in the Town and Country Planning (London Spatial Development Strategy) Regulations 2000. Once the Mayor has consulted the Assembly and the functional bodies, he must publish a draft of the *London Plan* for public consultation. Publication should be announced by way of a notice in a newspaper with a London-wide circulation (for example, the *London Gazette*, or *Evening Standard*). The consultation period (i.e. the period within which comments may be received by the Mayor) must last for at least 12 weeks from the publication of the notice. In case of minor alterations to the strategy, the period may be no less than 6 weeks. At the end of the consultation period, the Mayor must make available for public inspection a copy of all representations received.

Examination in Public

Unless the Secretary of State directs otherwise, (for example, in the case of proposed minor alterations), the Mayor must organise an *Examination in Public* (EiP) of the draft *London Plan*.

The EiP provides an opportunity for discussion of the draft in public and before an independent panel of planning inspectors (appointed by the Secretary of State).

No party, other than the Mayor, has an automatic right to appear at the EiP. The matters to be examined at the EiP and the list of people who may take part are determined by the Panel after consulting with the Mayor. The Panel determines the matters to be discussed at the EiP and those who may take part. The decision as to who should be invited to appear at the EiP are made very largely on the basis of the written submissions that were made on the draft *London Plan*. The Panel will be looking for participants who have shown that they are able to make a useful and ideally unique contribution to the discussions.

The Panel must then publish a copy of the proposed matter for discussion and proposed list of invited participants at the EiP at least 12 weeks before the opening of the EiP. After the list of invited participants and the list of matters have been finalised, the Panel must notify the selected participants at least 6 weeks before the start of the EiP. The Panel must consider any written submission shorter than 2000 words in length that it receives no later than 3 weeks before the opening of the EiP.

The Panel report

After the EiP, the Panel has to prepare a written report to the Mayor (there is no statutory time limit for this). The report must be made publicly available within 8 weeks of its receipt by the Mayor, at the same locations that the draft *London Plan* was made available.

The role of the Secretary of State

The Secretary of State has the power to decide that the London Plan cannot be published without further modifications that the Secretary of State determines. This, however, will only be done in special circumstances and as a last resort in cases where the draft is at odds with relevant national or regional planning guidance, or may be contrary to the interests of an area outside Greater London. In certain circumstances, the Secretary of State will be able to direct changes, such as revisions, alterations or replacement.

Modifications by the Mayor

In making any modifications to his proposals, the Mayor must take account of any Directions made by the Secretary of State, any representations made, and the Panel's report. The Mayor does not have to agree with the Panel, and he may withdraw a proposed London Plan at any time before publication.

Publication of the London Plan

The Mayor may publish the only after the expiry of the period prescribed for representations in respect of the draft. He has to take into account all representations, the Panel's report, and any Direction by the Secretary of State. There are a number of other requirements to be complied with.

The *London Plan* is formally 'adopted' – i.e. becomes official policy - immediately it is published.

Implementation and Monitoring

The Mayor has to monitor the implementation of the *London Plan*. He is also required to review UDPs and to monitor and collect information about issues relevant to the preparation, alteration, replacement or implementation of the *London Plan*.

The 1999 Act²⁹ requires the Mayor to review the *London Plan* from time to time.

Review, alterations and replacement

The Secretary of State has special powers to direct the review, alteration or replacement of the *London Plan* if necessary³⁰.

The *London Plan* and development plans

The London Plan is not part of a development plan. Under the 1999 Act³¹, however, a UDP may not be adopted, unless it is in general conformity with the *London Plan*.

Lea Valley Regional Park

When reviewing its own development plan, the Lea Valley Regional Park Authority should ensure that, for those areas which are within the boundaries of Greater London, it is in line with the *London Plan*.

²⁹ Section 340(1)

³⁰ See Sections 337, 340(2) and 341(2) of the 1999 Act.

³¹ Section 344.

Main themes of the *London Plan*

All policy areas covered by the *London Plan* should always be consistent with government policies and objectives and with the relevant Mayor's strategies:

Transport

The *London Plan* should provide a spatial context for the Mayor's transport strategy and linkages with economic development, environmental and other policies. It should do this by identifying the broad locations of major new transport infrastructure and strategically important new developments and take into account other relevant aspects such as parking.

It should aim to promote:

- sustainable integrated and efficient transport in London
- better integration between land use and transport planning
- more integration between different types of transport
- more sustainable travel and transport choices
- a reduction in the need to travel, especially by car
- a transport network that meets London's needs.

Economic Development, Regeneration and Social Inclusion

The *London Plan* should identify economic trends in the capital and the wider region and build on the analysis of London's economic needs undertaken by the LDA. It should promote:

- London's competitiveness and economic well-being;
- regeneration and social inclusion by:
 - directing public and private investment at a strategic level;
 - promoting patterns of development which encourage equality of opportunity and improved access to employment;
 - identifying priority areas for regeneration & social housing.

Housing

The *London Plan* should:

- distribute building rates for new housing between boroughs
- set out policies and strategies for
 - achieving a balanced provision and distribution of houses (including policies for making the best use of brownfield sites; and
 - the provision of particular types of housing across London.

(See GOL Circular 1/2000 for details)

The Built Environment

The *London Plan* will not be for detailed consideration of individual sites or buildings, but it should promote:

- the protection and enhancement of the quality of London's built environment;
- urban renaissance, through good urban design;
- the conservation and protection of London's fine buildings and areas of historical and architectural interest;
- the protection of landscape views, through the control of high building locations.

Responsibility for existing policies to protect strategic views in London will pass from the Secretary of State to the Mayor.

The Natural and Open Environment

London's green space and open land are essential to maintain the quality of its urban environment. Many of them have ecological importance and are used for leisure activities. Yet, they are continually threatened by the pressure on London to develop and grow further.

Consequently the *London Plan* has to:

- include policies for the protection and enhancement of:
 - London's natural environment, in conjunction with the Mayor's Biodiversity Action Plan
 - the green belt, in accordance with PPG2
 - the Metropolitan Open Land
 - sites of major ecological importance
- set out policies for the role, provision and protection of open land within London
- identify opportunities for enhancing the quality, management and accessibility of land
- broadly identify and promote opportunities for 'green chains' and ecological corridors of strategic importance.

Waste Management

The *London Plan* will support the Mayor's municipal waste management strategy and will take account of PPG10, the national waste strategy and other current Government policy statements and EC legislation.

The *London Plan* should:

- identify strategically important locations and sustainable transport routes (e.g. duty to promote transportation on the River Thames)
- evaluate the adequacy of existing waste management and disposal facilities to meet London's future needs
- identify the number and type of new or enhanced facilities required to meet those needs
- identify opportunities for the location of waste management and disposal facilities, and where appropriate introduce criteria for the selection of sites.

Other Environmental Strategies

The *London Plan* should be consistent with the other of the Mayor's statutory strategies (e.g. the Air Quality Strategy, the Biodiversity Strategy; the Ambient Noise Strategy and the Waste Management Strategy).

The *London Plan* should:

- set out policies for the protection of areas of strategic importance for biodiversity and nature conservation
- consider the implication on:
 - air quality in areas where development is proposed which is likely to cause major travel generation
 - the pattern of new transport infrastructure provision
 - noise in the areas where the distribution of new activities such as industrial activities are proposed
- provide guidance to LPAs on how the UDPs should contribute to the Mayor's environmental strategies.

Town Centres and Major Retail etc. Development

The *London Plan* should set out policies for the co-ordination of town centre protection and development across London as a whole.

Major Cultural and Community Facilities

They can include hospitals, educational establishments, sports stadiums, major leisure and recreational facilities, conference centres, museums and galleries and major tourist facilities. Some of these have a wide strategic importance. The *London Plan* should:

- recognise the importance of such facilities
- address the adequacy of such facilities to meet London's future needs and aspirations
- provide a mechanism for promoting tourism
- anticipate future development pressures
- identify opportunities for the location of new facilities, or the enhancement of existing ones, which would be accessible by public transport.

The Central Area: London's Capital Role

Many institutions of national and international importance are located in the central area of London. Because of the strategic importance of this area, the *London Plan* should:

- identify the extent of the central area
- the national and strategic importance of the functions it serves
- set up policies for protecting and enhancing these functions
- identify a mechanism for co-ordinating UDP policies relating to those functions within this area.

The River Thames

The *London Plan* should:

- identify the strategic functions of the River Thames
- include policies for protecting and enhancing those functions
- identify the extent of the special 'Thames Policy Area'.

ANNEX 4 LISTED BUILDINGS

Listed buildings are buildings that have been identified under the provisions of Section 1(5) of the Planning (Listed Building and Conservation Area) Act 1990 as having special architectural or historic interest and are thereby protected in law. A developer proposing to carry out developments on a listed building must obtain **listed building consent**. Failure to obtain consent in advance is a criminal offence.

Planning Aid For London describe listed buildings as follows:

'A listed building is one that is considered to be of special architectural or historic interest, and so has been given protection by inclusion on a list compiled or approved by the Secretary of State for Culture Media and Sport. Because of the wide definition of building' in planning law, almost all kinds of structure such as bridges, gates, pumps, silos, steps, walls and railings, telephone boxes and so on can be listed if they are of architectural or historic interest.'

Listing is explained in Planning Policy Guidance Note 15: Planning and the *Historic Environment*.

Listing includes³²:

- (a) Any object or structure fixed to the building; and
- (b) Any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before July 1, 1948.

The following are the main criteria which the Secretary of State applies as appropriate in deciding which buildings to include in the statutory lists:-

- **Architectural interest:** the lists are meant to include all buildings which are of importance to the nation for the interest of their architectural design, decoration and craftsmanship; also important examples of particular building types and techniques (e.g. buildings displaying technological innovation or virtuosity) and significant plan forms;
- **Historic interest:** this includes buildings which illustrate important aspects of the nation's social, economic, cultural or military history;
- **Close historical associations** with nationally important people or events;
- **Group value**, especially where buildings comprise an important architectural or historic unity or a fine example of planning (e.g. squares, terraces or model villages).

Not all these criteria will be relevant to every case, but a particular building may qualify for listing under more than one of them.

Once a building is listed (or is the subject of a building preservation notice), section 7 of the Act provides that consent is normally required for its demolition, in whole or in part, and for any works of alteration or extension which would affect its character as a building of special architectural or historic interest. It is a criminal offence to carry out such works without consent, which should be sought from the local planning authority.

³² Section 1(5) of the *Planning (Listed Building and Conservation Area) Act 1990*.

There are 3 grades of listed buildings:

Grade I

Grade II* (Grade '2 star')

Grade II

Grade I are the most important (only about 2% of listed buildings are Grade 1) and therefore the most strongly protected in law.

ANNEX 5 MATERIAL CONSIDERATIONS

All Government planning policies are material considerations for planning applications. The following matters are also potential material considerations, but this list is not exhaustive:

- Accident risk
- Archaeology
- Character of conservation area
- Contaminated land
- Crime
- Daylight and sunlight
- Design
- Disabled access
- Dust
- Employment
- Flood risk
- Flora and fauna conservation
- Hazardous installations
- Housing availability
- Infrastructure provision
- Land stability
- Light
- Listed buildings
- Noise
- Open space provision
- Other community facilities provision
- Parking provision
- Personal circumstances
- Potential severity of accidents
- Privacy
- Public health
- Public services provision
- Retail impact
- Road safety
- Safety
- Settlement policy: avoiding the use of Green Belts
- Traffic congestion
- Vibrations

The following are NOT normally material considerations:

- Competition between businesses
- Viability of businesses
- Devaluation of property
- Personal circumstances
- Cost
- Disruption from construction works
- Land ownership issues
- Restrictive Covenants
- Issues covered by other legislation

ANNEX 6 ENFORCEMENT

Where there has been an apparent breach of planning regulations, the LPA has various procedures open to it for enforcement. They have powers to:

- enter onto land to find out what is happenin³³;
- serve a Planning Contravention Notice which the person served must reply to giving any information required by the authority³⁴;
- issue an Enforcement Notice which requires that the unauthorised development must be removed or cease (this is the usual way that contraventions are dealt with)³⁵;
- issue a Breach of Condition Notice to require that conditions attached to a planning permission are complied with³⁶;
- serve a temporary stop notice;
- serve a Stop Notice with or after an Enforcement Notice to require that an unauthorised use or work should stop immediately, except use as a person's only or main residence, but including caravans used as such³⁷;
- in extreme cases, apply to the Court for an injunction whether or not other procedures are to be used³⁸; and
- enter on the land and put right what is wrong if, once the second period in the Enforcement Notice has expired, it has not been complied with; and recover the cost from the person in default³⁹.

These are discretionary powers: in other words, the planning authority may decide not to use them (for further information, see CPRE's briefing: *Enforcement: Quality Control in Planning*).

An enforcement notice is served on the person contravening planning control and any other person with an interest in the land (e.g. owner and occupier if they are not the same person or business). It must specify the breach of control, and what is to be done to put it right, and it must contain two periods of time: the first being the date on which the notice will come into effect during which an appeal to the Secretary of State may be made, and the second being the date by which the notice must be complied with (which must be later).

There are time limits on when a notice can be served: 4 years from the date of the breach in most works cases, but 10 years in the case of most material changes of use.

If an appeal to the Secretary of State is made, the notice does not come into effect until the appeal is decided, and thus the breach may continue in the meantime, unless a Stop Notice has also been served. If the enforcement notice is quashed or withdrawn the Stop Notice ceases to have effect and the authority may be liable to pay compensation.

Once the enforcement notice comes into effect and is not complied with, the person in default may be liable to heavy penalties in the courts: the maximum fine being now £20,000. If a Stop Notice is served this takes effect almost immediately as specified in the notice and there is no appeal against it. It ceases to have effect if the enforcement notice comes into effect and the time for compliance has expired, or if the authority withdraws it.

33 See Sections 196A, 196B and 196C of the 1990 Act.

34 See Section 171 1990 Act.

35 See Section 187B 1990 Act.

36 See Section 187A of the 1990 Act.

37 See Section 183 1990 Act.

38 See Section 187B of the 1990 Act

39 See Section 178 of 1990 Act.

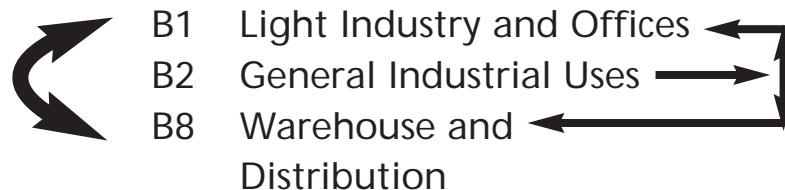
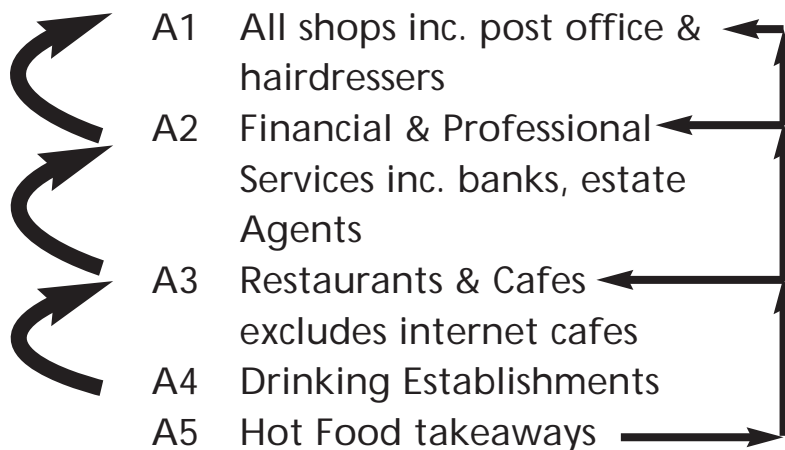
In the case of trees being cut down or damaged when they are protected by a tree preservation order or are in a conservation area, the authority can serve a tree replacement order under Section 207 of the 1990 Act.

If you think that a development is unauthorised, contact your council's planning department and tell them what has happened and why you object to it. In the case of ongoing activities (e.g. car repairs) you should keep a record of any activities and pass these on to help the council investigate. The process can take several months and you should maintain regular contact with the council to encourage action to be taken.

ANNEX 7 USE CLASSES

TOWN & COUNTRY PLANNING USE CLASSES ORDER 1987

Arrows indicate which change sin use may take place without planning permission being given.



In the B Class there is only permitted change if the planning unit is smaller than 235m²

- C1 Hotels & Guesthouses
- C2 Residential Institutions
- C3 Houses and Flats
- D1 Non-Residential Institutions/Community Uses ie. Doctors, schools Crèche, art galleries
- D2 Leisure Uses ie. Swimming Pools, sports hall, dance hall

Sui Generis — in a class of its own—
 ie Amusement Arcades
 Nightclubs
 Taxi Businesses

Class C and Class D do not benefit from any permitted changes.

Arrows indicate which change sin use may take place without planning permission being given.

ANNEX 8 LONDON BOROUGH WEBSITES

London Borough of Barking & Dagenham
www.barking-dagenham.gov.uk

London Borough of Barnet
www.barnet.gov.uk

London Borough of Bexley
www.bexley.gov.uk

London Borough of Brent
www2.brent.gov.uk

London Borough of Bromley
www.bromley.gov.uk

London Borough of Camden
www.camden.gov.uk

London Borough of Croydon
www.croydon.gov.uk

London Borough of Ealing
www.ealing.gov.uk

London Borough of Enfield
www.enfield.gov.uk

London Borough of Greenwich
www.greenwich.gov.uk

London Borough of Hackney
www.hackney.gov.uk

London Borough of Hammersmith & Fulham
www.lbhf.gov.uk

London Borough of Haringey
www.haringey.gov.uk

London Borough of Harrow
www.harrow.gov.uk

London Borough of Havering
www.havering.gov.uk

London Borough of Hillingdon
www.hillingdon.gov.uk

London Borough of Hounslow
www.hounslow.gov.uk

London Borough of Islington
www.islington.gov.uk

Royal Borough of Kensington & Chelsea
www.rbkc.gov.uk

London Borough of Kingston
www.kingston.gov.uk

London Borough of Lambeth
www.lambeth.gov.uk

London Borough of Lewisham
www.lewisham.gov.uk

London Borough of Merton
www.merton.gov.uk

London Borough of Newham
www.newham.gov.uk

London Borough of Redbridge
www.redbridge.gov.uk

London Borough of Richmond
www.richmond.gov.uk

London Borough of Southwark
www.southwark.gov.uk

London Borough of Sutton
www.sutton.gov.uk

London Borough of Tower Hamlets
www.towerhamlets.gov.uk

London Borough of Waltham Forest
www.lbwf.gov.uk

London Borough of Wandsworth
www.wandsworth.gov.uk

London Borough of Westminster
www.westminster.gov.uk

ANNEX 9 CPRE & PLANNING AID FOR LONDON PUBLICATIONS

1. CPRE PUBLICATIONS

See also: <http://www.cpre.org.uk/> for a list of CPRE publications

The Planning And Compulsory Purchase Act 2004 - A CPRE Guide

June 2004.

Facts about planning appeals

This comprehensive guide provides invaluable advice and campaign tips for dealing with planning appeals and preparing and presenting evidence at public inquiries.

80pp.

Campaigners' Guide to Local Plans (:add: *Local Development Frameworks* campaigners' guide, 2004)

This guide is the most comprehensive ever published on how to use the development plan process for the benefit of the environment. It includes guidance on Local Plan Procedures and how to organise a campaign. 108pp. (April 1992) In May 2004 as part of the changes to the planning system, Local Plans have been replaced by Local Development Frameworks. There will however be a transitional period of three years (until 2007) for the changeover from existing Local Plans. This guide provides a comprehensive explanation of the Local Plans process.

108pp

April 1992

£3.00

How to Respond to Planning Applications - An eight-step guide

Most significant developments in the United Kingdom require planning permission from a local planning authority. This process usually involves the submission of a planning application. As a member of the public, you are entitled to examine and comment on planning applications as they are made. This is your chance to press for planning decisions that work for the good of the environment and your local community. This guide tells you how to find out more about a planning application and — if necessary — how you can take action.

A5 32pp

January 2005

ISBN 1 902786 74 2

£3.00 (or free PDF file available from *PlanningHelp* website: <http://www.cpre.org.uk/planninghelp>)

Departure applications 2004

Campaign guidance to help you ask the Secretary of State to call in controversial planning applications and identify departure applications, i.e. those which contradict an agreed development plan. 20 pp.

(February 2001)

ISBN 1 902786 32 7

Price £3.00

The Planning Users' Concordat

An important new best practice guide supported by the Local Government Association, the business sector and the voluntary sector. CPRE played a lead role in the preparation of the Concordat, which covers regional planning, development plan preparation and processing planning applications. The Concordat will be of use to all those involved in the land use planning process.

16pp.

Due to be revised in 2005

Free with A4 s.a.e.

Planning for People

Improving public involvement in planning decisions could make a key contribution to the Government's objectives of modernising both local government and the planning system. CPRE's Planning for People campaign advocates a new approach which puts communities at the heart of the policies and decisions which affect the quality of life.

Leaflet: A colour leaflet which summarises some of the main obstacles to wider and better quality public engagement in the planning system and suggest solutions. It includes CPRE's 15-point Planning for People Charter.

Free with s.a.e.

Report: This detailed report explains the background to CPRE's Planning for People campaign. It describes many of the problems associated with public involvement in the planning process, illustrates these with examples and makes detailed suggestions for change. Includes the full list of Planning for People recommendations. (October 1999).

30pp. ISBN 1 902786 16 5

Price £3.50 (Plus 75p post and packing)

Delivering Best Value in Planning

This briefing is designed to assist planning officers engaged in the Best Value process and those seeking to influence the overall approach being taken by their local planning authority. It discusses planning's contribution to the local authority's Best Value Corporate Review and the planning service's own Performance Review. It presents what CPRE believes to be the bare essentials of any good planning service. The briefing concentrates on development control, and area and forward planning, and sets a standard against which these services can assess their performance.

28pp.

November 1999

ISBN 1 902786 17 3

Price £3. 75p

Towards sustainable economic development

Employment land and the countryside. A campaign briefing which highlights weaknesses in current approaches to planning for employment-related development and provides advice to campaigners on how to influence planning policies with the aim of reducing the huge over-allocation of Greenfield land for such purposes.

47pp.

September 1999

ISBN 1 902786 10 6

Price £5.00

The Local Government Ombudsman

This campaign briefing offers practical advice on the Local Government Ombudsman service. It explains what the service is, what it does, how it can contribute to campaigning by CPRE volunteers, and how to go about using it.

12pp.

ISBN 0 946044 99 6

Price £3.00

A Place in the Country

A detailed analysis of the manner in which the special exemptions from planning control given to agricultural workers' dwellings are being misused. With case studies, photographs and detailed recommendations for reform.

54pp.

April 1990

Price £7.00

Environmental Statements - getting them right

Encourages developers and consultants to improve the quality of environmental statements. Also a checklist for planners and the public

May 1990

Free with stamped s.a.e.

CPRE Publications can be ordered from:

CPRE

128 Southwark Street

London SE1 OSW

Tel: 020-7981 2856

Email: publications@cpre.org.uk

or from the CPRE website: <http://www.cpre.org.uk>

2. PLANNING AID FOR LONDON PUBLICATIONS AND ADVICE

Planning Aid for London (PAL) is a registered charity which targets much of its work at those who find it difficult to engage in the planning system. PAL has, since the early 1970's, provided free and independent town planning advice to those who cannot afford to pay consultancy fees, and is now a leading charity for involving people in decisions about their local environment.

Planning for Householders

Answers questions householders will need to know about applying for planning permission and influencing their own and neighbours' planning applications. Author: Alison Flight with updates by PAL staff.

ISBN: 1 872063.

Price £4.50

Planning in London: A Councillor's Guide

Law and practice with useful advice for councillors and observers. Under revision.

Traffic and Transport

An essential source for everybody who thinks something should be done about transport issues that affect their neighbourhoods. Includes national examples of local transport initiatives and advice on how to carry out traffic audits. Foreword by Michael Palin. Produced in conjunction with Transport 2000 and the Centre for Independent Transport Research in London.

Editor: Marc Nohr.

ISBN: 1 872063 45 4.

£4.00

Conservation Planning

An in-depth look at the conservation and listing procedures in England and Wales. Colourfully illustrated and a useful guide to modern practices.

Authors Maggie Urquhart and Ruth Richards.

Price £12.95 + £2 p&p

Community Planning and Building

A useful guide for individuals and community groups on improving their environment. Covers the planning system, the development process, fund-raising, drawing up a neighbourhood plan, creating community businesses and getting technical aid. Published jointly with LVSC.

Editor: David Boyle.

ISBN: 1 872063 20 9.

Price £5.95

Town Planning and Small Businesses

A leaflet explaining the basics of the planning system for those starting or running a small business.

Price £1.00

Working from home

A leaflet explaining the planning complexities of working from home.

Price £1.00

Changing Places, Children's Participation in Environmental Planning

This book is about how professionals can enable young people to engage in the process of planning for change, both changing attitudes towards the environment and changing the environment itself. It provides the information and the framework needed to enable professionals to involve children in planning their environments. Published jointly with the Children's Society. Authors: Eileen Adams and Sue Ingham.

ISBN 1 899783 00 8.

Price £9.95

PAL Publications can be ordered from:

Planning Aid for London

Unit 2,

11-29 Fashion Street

London

E1 6PX

www.planningaidforlondon.org.uk

Please remember to enclose a cheque for the cost of the publication/s **plus 10% of the total price (min 50p)** to cover postage and packing. If you have any queries about planning, ring our advice line on: 020-7247-4900

Email: info@planningaidforlondon.org.uk

3. OTHER USEFUL PUBLICATIONS

How to stop and influence planning permission

This book can be used by anyone who wants a say in the planning system. It enables people with no previous knowledge of the subject to have an effective voice.

£13.50

160 pp 2001 T511

ISBN 0 9533489 0 3

The language of planning

D.J. Freeman, Department of Environment, Transport and the Regions
(2000)

Local Plans and unitary development plans

DETR

Alphabet Soup

Royal Town Planning Institute (2001) in London Calling: The Journal of the London Branch of the Royal Town Planning Institute, July 2001

ANNEX 10 ABBREVIATIONS

CPRE	Campaign to Protect Rural England
DEFRA	Department for Environment, Food & Rural Affairs
DPD	Development Plan Document
EIP	Examination in Public
GLA	Greater London Authority
GOL	Government Office for London
GPDO	General Permitted Development Order
LDD	Local Development Document
LDF	Local Development Framework
LPA	Local Planning Authority
ODPM	Office of the Deputy Prime Minister
PAL	Planning Aid for London
RDA	Regional Development Agency
PPG	Planning Policy Guidance
RPG	Regional Planning Guidance
SCI	Statement of Community Involvement
SDS	Spatial Development Strategy (The 'London Plan')
SPD	Supplementary Planning Document
TCPA 1990	Town and Country Planning Act 1990
TfL	Transport for London
TPO	Tree Preservation Order
UDP	Unitary Development Plan

ANNEX 11 GLOSSARY

Affordable Housing: Apart from its obvious meaning of housing which people can afford, when used in relation to planning policies or decisions it can also mean housing made available at less than market rates. Housing at less than market rent or price is to be provided usually for renting or shared ownership, so that people who would not normally be able to afford to live on the site concerned will be able to do so or on housing in the locality often provided with the help of money from the developer. It is funded partially or completely out of 'planning gain' i.e. the sum that the developer or authority will receive in connection with the grant of planning permission for the housing development. Housing campaigners have defined affordable housing as housing where no more than 25% of disposable income is spent on rent. The Mayor's draft *London Plan* states that:

The draft *London Plan* defines affordable housing as:

'housing designed to meet the needs of households whose incomes are not sufficient to allow them to access decent and appropriate housing in their borough. It is comprised of two elements. First 'social housing' which is usually provided by a Registered Social Landlord or Housing Authority, using public subsidy, at levels no higher than Housing Corporation target rents. Secondly it includes 'intermediate housing' which is sub-market housing substantially above Housing Corporation target rents, but substantially below open market levels. This category includes low-cost home ownership schemes and key worker housing.'

Policy 3A.6 of the draft *London Plan* says:

'UDPs should define affordable housing as designed to meet the needs of households whose incomes are not sufficient to allow them to access decent and appropriate housing in their borough. Affordable housing comprises social housing, intermediate housing and in some cases, low cost market housing.'

Appeal: The action of a party to apply to the Secretary of State or the Courts as appropriate to try to have a decision in respect of a planning application nullified or amended.

Applicant: The person or company who applies for planning permission.

Brownfield site: A term used to describe sites which have already been developed and which may still be being used or may now be vacant or partly vacant or unused. They usually include the land surrounding the development but may not do so if very extensive surroundings are included. They are the opposite of 'greenfield sites' which have not been developed. Annex C of PPG3 provides a more complete official definition, which excludes various kinds of sites (such as airfields) which offer significant biodiversity or amenity value or have blended into the landscape.

Call-in: The action of the Secretary of state in taking over the determination of a planning application.

City of London: The area in London (commonly known as 'the City') containing the financial district.

Conservation Area: An area of special architectural or historic interest the character or appearance of which the local planning authority decides is desirable to preserve or enhance under Section 69 of the Planning (Listed Building and Conservation Areas) Act 1990.

Corporation of London: The legal body which exercises powers and duties over the City of London. The Corporation of London fulfils the role of a borough authority for the City of London. The Corporation owns significant amounts of land outside the city (e.g. Epping Forest).

Developer: The person or company who undertakes to develop a site or building.

Enforcement action: Local planning authorities have extensive (although discretionary) powers to enforce planning controls by taking action which can be of various types (see Annex 5) and may lead to criminal penalties if not complied with.

Examination in Public (EIP): A public inquiry held into the Mayor's Spatial Development Strategy (the '*London Plan*') or a Unitary Development Plan.

General Permitted Development Order: See Annex 6.

Land use planning: The procedure whereby it is decided how land should be used or developed.

Listed building: A building of special architectural or historic interest included in lists compiled by the Secretary of State. 'Building' includes any structure or erection or any part of a building, but does not include any plant or machinery in a building. It may be Grade I i.e. of exceptional interest, Grade II* i.e. particularly important buildings of more than special interest but not in the outstanding class, or Grade II i.e. buildings of special interest but not sufficiently important to be included among the elite. There are penalties for demolishing or altering or extending listed buildings without listed building consent.

Local development document: The collective term for Development Plan Documents, Supplementary Planning Documents and the Statement of Community Involvement. These documents are formally agreed or 'adopted' by the council.

Local development framework: The name for the portfolio of all the Local Development Documents produced by each local planning authority. It consists of Development Plan Documents, Supplementary Planning Documents, a Statement of Community Involvement, the Local Development Scheme and Annual Monitoring Reports. Together these documents provide the framework for delivering the spatial planning strategy for a local authority area and may also include local development orders and simplified planning zones.

Local development orders: These allow local planning authorities to introduce local permitted development rights.

Local permitted development rights: These are rights to carry out certain limited forms of development, within a specific local area, without the need to make a planning application for planning permission. These are introduced by Local Development Orders. Details of how these would work has not yet been established.

Local development scheme: This is the first document to be produced by a local planning authority, and is essentially a business plan setting out the work programme for preparing the Local Development Documents. All authorities must submit their scheme to the Secretary of State for approval.

London Gazette: A London-wide publication on planning and regeneration.

Maladministration: When an authority has failed to carry out a duty or acted improperly. The local government Ombudsman (Local Commissioner) may under the Local Government Act (1974) inquire into complaints received in accordance with the laid down procedures and if he finds the complaint proved he may rule that the authority should pay compensation. The Ombudsman has no power to insist that his/her findings are acted upon by the council, although most councils would wish to avoid being found guilty of maladministration.

Material considerations: Factors which have to be taken into account when planning decisions are made which may (in effect) override the *development plan*. For example, stated government policy in PPG3 about limiting sprawl by building housing at greater density on brownfield sites or PPG6 discouraging out-of-town shopping centres and reliance on cars, may cause a local planning authority to give a decision not in accordance with the plan. (For a list of material considerations see Annex 3)

Matters of strategic importance: Matters which are of more than local importance e.g. the siting of an airport.

Objector: A person or company who submits a formal objection to a planning application or policy in a development plan.

Open space: Defined in section 336 of the Town and Country Planning Act 1990 as '*any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground*'. Planning policy may distinguish between various types of open space e.g. some common land, Metropolitan open space, local open space, a disused burial site, and restricted access open space which may be privately owned but where the owner allows some public access.

Plan-led system: The system under which planning decisions are made in accordance with a development plan such as a Unitary Development Plan. We now have this system by virtue of Section 54A of the Town and Country Planning Act 1990 as amended by the 1991 Act. Decisions must be made in accordance with the development plan unless material considerations justify a decision otherwise (See PPG12).

Planning conditions: Conditions attached to a planning consent by the planning authority granting the consent either on making the decision or on appeal.

Planning gain: The principle of a developer agreeing to provide additional benefits or safeguards, often for the benefit of the community, usually in the form of related development supplied at the developer's expense.

Planning obligation: The obligation on a developer to restrict the development or use of land in some specified way, may require specified operations or activities to be carried out in, on under or over the land, require the land to be used in some specified way or require a sum or sums of money to be paid to the authority on a specified date or dates periodically. Planning obligations are established by virtue of Section 106 of the *Town and Country Planning Act 1990* and are therefore often referred to as 'Section 106 agreements'.

Principle Objector: The main objector to a planning process. The party identified as the Principle Objector is conferred certain rights to make their case at an appeal inquiry.

Planning register: Record of all valid planning applications, decisions and enforcement notices required to be kept by a local planning authority, which is publicly available for viewing.

Recovery: The action of the Secretary of State in calling in or otherwise taking over the conduct of the deciding of an application, appeal or other matter from an authority or an inspector or other person or body who would otherwise have decided it.

Regeneration: A process whereby an area is restored and renewed. It usually includes redevelopment, but is wider than this and aims to bring prosperity to run down areas.

Secretary of State: The senior Government minister in charge of the department of central Government which is responsible for the planning system. This is currently the Office of the Deputy Prime Minister. For the purpose of dealing with most day-to-day planning matters, the Secretary of State is represented by officials at the regional level (the Government Office for the Regions). The Secretary of State himself only gets personally involved in individual planning applications where they have significant implications for the national interest.

Section 106 agreement: See above under “Planning obligation”.

Simplified Planning Zone: Grant planning permission for the types of development it specifies subject to any conditions or limitations attached.

Statutory provision: An enactment of law which is either an Act of Parliament or regulations or orders (usually statutory instruments) made under an Act and having the force of an Act.

Sustainability appraisal: Tool for appraising policies to ensure they reflect sustainable development objectives (i.e. social, environmental and economic factors). They are legally required to be undertaken on all local development documents.

***Sui generis*:** Uses of land or buildings which do not fall into any of the use classes identified by the Use Classes Order, for example theatres, launderettes, car showrooms and filling stations.

Third Party: someone other than the LPA or applicant who is interested in a planning application (e.g. a neighbour or an objector)

Use Classes Order 1987: This groups various planning uses into 11 different classes. Planning permission for a change of use within a class is not normally required, but it usually is between classes (see Annex 7).

Urban renaissance: A renewal which regeneration of an urban area is designed to bring about.

Local Government Ombudsman

21 Queen Anne's Gate, London SW1H 9BU

Tel: 020-7915-3210 Fax: 020-7233-0396

Adviceline 0845 602 1983

www.lgo.org.uk

Planning Aid for London

Unit 2, 11-29 Fashion Street

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Fax: 020-7247 8005

info@planningaidforlondon.org.uk

www.planningaidforlondon.org.uk

Planning Inspectorate Quality Assurance Unit

4th Floor

Temple Quay House

2 The Square

Bristol

B61 6PN.

Secretary of the Council on Tribunals

22 Kingsway

London WC2

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