



AGENDA FOR THE EXECUTIVE

Members of the Executive are summoned to attend a meeting to be held in Committee Room 4, Town Hall, Upper Street, N1 2UD on **14 January 2016 at 7.30 pm.**

John Lynch
Head of Democratic Services

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Despatched : 6 January 2016

Membership

Councillor Richard Watts
Councillor Janet Burgess MBE
Councillor Joe Caluori
Councillor Paul Convery
Councillor Andy Hull
Councillor James Murray
Councillor Claudia Webbe
Councillor Asima Shaikh

Portfolio

Leader of the Council
Executive Member Health and Wellbeing
Executive Member Children and Families
Executive Member Community Safety
Executive Member Finance and Performance
Executive Member Planning and Development
Executive Member for Environment and Transport
Executive Member for Economic and Community Development

Quorum is 4 Councillors

Please note

It is likely that part of this meeting may need to be held in private as some agenda items may involve the disclosure of exempt or confidential information within the terms of Schedule 12A of the Local Government Act 1972. Members of the press and public may need to be excluded for that part of the meeting if necessary. Those items are at Section H of the agenda - Paragraph 3, Schedule 12A of the Local Government Act 1972 applies.

Details of any representations received about why the meeting should be open to the public - none



Declarations of interest:

If a member of the Executive has a **Disclosable Pecuniary Interest*** in an item of business and it is not yet on the council's register, the Councillor **must** declare both the existence and details of it at the start of the meeting or when it becomes apparent. Councillors may also **choose** to declare a Disclosable Pecuniary Interest that is already in the register in the interests of openness and transparency. In both the above cases, the Councillor **must** leave the room without participating in discussion of the item.

If a member of the Executive has a **personal** interest in an item of business they **must** declare both the existence and details of it at the start of the meeting or when it becomes apparent but may remain in the room, participate in the discussion and/or vote on the item if they have a dispensation from the Chief Executive.

- ***(a) Employment, etc** - Any employment, office, trade, profession or vocation carried on for profit or gain.
- (b) Sponsorship** - Any payment or other financial benefit in respect expenses in carrying out duties as a member, or of election; including from a trade union.
- (c) Contracts** - Any current contract for goods, services or works, between the Councillors or their partner (or a body in which one has a beneficial interest) and the council.
- (d) Land** - Any beneficial interest in land which is within the council's area.
- (e) Licences-** Any licence to occupy land in the council's area for a month or longer.
- (f) Corporate tenancies** - Any tenancy between the council and a body in which the Councillor or their partner have a beneficial interest.
- (g) Securities** - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

NOTE: Public questions may be asked on condition that the Chair agrees and that the questions relate to items on the agenda. No prior notice is required. Questions will be taken with the relevant item.

Requests for deputations must be made in writing at least two clear days before the meeting and are subject to the Leader's agreement. The matter on which the deputation wants to address the Executive must be on the agenda for that meeting.

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F.	Urgent non-exempt matters	
	Any non-exempt items which the Chair agrees should be considered urgently by reason of special circumstances. The reasons for urgency will be agreed by the Chair and recorded in the minutes.	
G.	Exclusion of press and public	
	To consider whether to exclude the press and public during discussion of the remaining items on the agenda, in view of their confidential nature, in accordance with Schedule 12A of the Local Government Act 1972.	
H.	Confidential / exempt items for information	
15.	Contract Award for Mental Health Supported Accommodation - exempt appendix	323
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17.	Contract award supported housing services for people with substance misuse issues - exempt appendix	331

18. Voluntary and Community Sector Grant Funding Programme 2016 - 2020 - To follow
exempt appendix – to follow

I. Urgent Exempt Matters

Any exempt items which the Chair agrees should be considered urgently by reason of special circumstances. The reasons for urgency will be agreed by the Chair and recorded in the minutes.

The next meeting of the Executive will be on 4 February 2016

Agenda Item 3

London Borough of Islington

Executive - 26 November 2015

Minutes of the meeting of the Executive held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 26 November 2015 at 7.30 pm.

Present: **Councillors:** Watts, Burgess, Caluori, Convery, Hull, Murray and Webbe

Councillor Richard Watts in the Chair

204 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Shaikh.

205 DECLARATIONS OF INTEREST

Councillors Hull and Webbe declared an interest in item E14 'Amendment to the iCo Constitution'.

206 MINUTES OF PREVIOUS MEETING

That the Minutes of the meeting on 22 October 2015 be confirmed as a correct record of the meeting and the Chair be authorised to sign them.

207 CORPORATE HEALTH AND SAFETY POLICY

RESOLVED:

That the Council's Corporate Health and Safety Policy at Appendix 1 to the report be agreed.

Reason for decision – to comply with Section 2(3) of the Health and Safety at Work Act 1974.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

208 BUDGET MONITOR - MONTH 6

RESOLVED:

1.1. That the overall forecast revenue outturn for the General Fund of a £3.5m overspend be noted, and that in the event of an overall overspend at the end of the financial year this would be funded from the one-off corporate

contingency reserve of £3.5m in the first instance be agreed. (Paragraphs 3.1 and 4.11, Table 1 and Appendix 1 of the report).

1.2. That the HRA is forecast to break-even over the financial year be noted. (Paragraph 3.1, Table 1 and Appendix 1 of the report).

1.3. That the latest capital position with forecast capital expenditure of £106.5m in 2015-16 be noted. (Paragraph 6.1, Table 2 and Appendix 2 of the report).

Reason for decision – to allow Members to monitor the budget.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

209 **FUEL POVERTY SCRUTINY REVIEW - EXECUTIVE MEMBER'S RESPONSE TO THE RECOMMENDATIONS**

RESOLVED:

That the actions being taken forward to address the recommendations of the Environment & Regeneration Scrutiny Committee on fuel poverty be noted.

Reason for decision – to allow the Executive to respond to the scrutiny committee's recommendations.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

210 **ESTATE SERVICES MANAGEMENT SCRUTINY REVIEW - EXECUTIVE MEMBER'S RESPONSE TO THE RECOMMENDATIONS**

RESOLVED:

1. That the approaches set out in 4.1 to 4.11 of this paper be agreed
2. That officers report back on progress made, to the Housing Scrutiny Committee in 12 months be agreed.

Reason for decision – to allow the Executive to respond to the scrutiny committee's recommendations.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

211 **SCAFFOLDING SCRUTINY REVIEW - EXECUTIVE MEMBERS RESPONSE TO THE RECOMMENDATIONS**

RESOLVED:

That the Executive's response to the recommendations of the Scrutiny Committee as set out in section 4 of the report be agreed.

Reason for decision – to allow the Executive to respond to the scrutiny committee's recommendations.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

212 **IMPACT OF EARLY INTERVENTIONS SCRUTINY REVIEW - EXECUTIVE MEMBER'S RESPONSE TO THE RECOMMENDATIONS**

RESOLVED:

1. That findings of the Early Help Scrutiny Review be welcomed.
2. That the responses to the recommendations of the Children's Services Scrutiny Committee as set out in section 4 of the report be agreed.
3. That officers report back on progress to the Children's Services Scrutiny Committee in one year's time be agreed.

Reason for decision – to allow the Executive to respond to the scrutiny committee's recommendations.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

213 **PATIENT FEEDBACK MINI SCRUTINY REVIEW - EXECUTIVE MEMBER'S RESPONSE TO THE RECOMMENDATIONS**

RESOLVED:

That the actions being taken forward to address the recommendations of the Health Scrutiny Committee in relation to patient feedback be noted.

Reason for decision – to allow the Executive to respond to the scrutiny committee's recommendations.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

214 **CONTROLLED PARKING ZONE REVIEW**

RESOLVED:

That the results of the public consultation that took place on the CPZ review between July and September 2015 be noted.

That implementation of the changes to CPZ C as set out in para 3.26 of the report be agreed.

That implementation of the changes to CPZ K as set out in para 3.27 of the report be agreed.

That the Council will investigate and potentially increase cycle parking provision, as well as installing Electric Vehicle Charging Points where possible in CPZ C, as set out in paragraph 3.29 of the report be noted.

That authority be delegated to the Corporate Director of Environment and Regeneration to consider objections to the statutory traffic management order (TMO) consultations be agreed.

Reason for decision – to ease parking pressures in CPZs C and K, by implementing the changes supported by local residents following consultation.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

215 **CROUCH HILL AND HORNSEY RISE NEIGHBOURHOOD AREA DESIGNATION**

Mr Adam Cook asked for an update on progress with the Neighbourhood Forum, CDER to respond in writing.

RESOLVED:

1. That the summary of responses to the consultation on the application for the Crouch Hill and Hornsey Rise Neighbourhood Area, as set out in Appendix 2 of the report be noted.
2. That designation of a Neighbourhood Area with a boundary, as identified on the map in the submitted Neighbourhood Area application at Appendix 1 of the report, be agreed, and that it will be known as the Crouch Hill and Hornsey Rise Neighbourhood Area, be agreed, pursuant to Section 61G of the Town and Country Planning Act 1990.

Reason for decision – to comply with the provisions of Section 61G of the Town and Country Planning Act 1990 (as amended); and guidance in the PPG.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

216 **CEMETERIES FEES AND CHARGES 2016**

RESOLVED:

1. That the fees and charges detailed in Appendix 1 of the report be agreed for introduction on the 1st January 2016.
2. That authority be delegated to the Corporate Director of Environment and Regeneration, in consultation with the Executive Member for Environment and Transport, to agree any in-year changes to Cemeteries fees and charges be agreed.

Reason for decision – to ensure that the cemetery service can continue to offer an excellent service at an affordable price.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

Councillor Watts recorded his thanks to the Cemetery service for organising the Remembrance Service events across the borough.

217 **AMENDMENT TO ICO CONSTITUTION**

Councillors Hull and Webbe declared an interest and left the meeting for the duration of the item.

RESOLVED:

1. That the Business Case for iCo to carry out activities related to the buying, selling, renting and/or management of properties, including properties that are sold to or transferred to the Company by Islington Council, be agreed.
2. That the amendment of iCo's articles as set out in Paragraph 3.5 of the report be agreed.
3. That granting 125 year leases of the Properties listed below to iCo at market value, as determined by the Corporate Director of Finance and Resources, be agreed:
 - 29 – 33 Old Street
 - 49 – 59 Old Street
 - 69 – 85 Old Street
 - 41-47 Old Street
 - Car Park (rear of 29-85 Old Street)
 - 168 Mackenzie Road
 - Grant Street (off Chapel Market),
 - 48 Seven Sisters Road
 - 90-92 Upper Street.
4. That a loan to iCo on commercial terms sufficient for iCo to purchase the Properties be agreed.
5. That the change of iCo's accounting reference date to 31 March be agreed

Reason for decision – to protect vital services by generating income.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

218 **PROCUREMENT STRATEGY FOR MENTAL HEALTH HOUSING SUPPORT SERVICES**

RESOLVED:

1. That the proposed procurement strategy for Mental Health supported housing services for Islington residents as outlined within the report be agreed.
2. That it be noted that the Executive will be asked to approve the award of the contract at the conclusion of the procurement process.

Reason for decision – to continue to provide an essential service for vulnerable adults.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

219 **PROCUREMENT STRATEGY FOR MENTAL HEALTH INTERMEDIATE CARE PATHWAY**

RESOLVED:

That the procurement strategy for a Mental Health Intermediate Crisis Care Pathway as outlined in the report be agreed.

Reason for decision – to support the delivery of an Integrated Mental Health Intermediate Care Pathway for crisis care.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

220 **CONTRACT AWARD FOR THE CONSTRUCTION OF 47 NEW HOMES AND ASSOCIATED IMPROVEMENTS FOR THE KING SQUARE ESTATE, GOSWELL RD EC1V 7PB**

RESOLVED:

That the award a Design and Build Construction (D&B) contract to Higgins Construction Plc in the sum of £11,634,794 for the construction of 47 new homes and associated improvements for the King Square Estate, comprising Phase One of the King Square development and regeneration project, be agreed.

Reason for decision – to award the contract to the success contractor following completion of a competitive tender process.

Other options considered – none, other than as detailed in the report and related papers.

Conflicts of interest / dispensations granted – none.

221 **AMENDMENT TO ICO CONSTITUTION - EXEMPT APPENDIX**

That the information in the exempt appendix to Agenda item E14 be noted (see Minute 217 for decision).

222 **CONTRACT AWARD - CONSTRUCTION OF 47 NEW HOMES AND ASSOCIATED IMPROVEMENTS FOR THE KING SQUARE ESTATE, GOSWELL RD EC1V 7PB (KSE PHASE 1) - EXEMPT APPENDIX**

That the information in the exempt appendix to Agenda item F17 be noted (see Minute 220 for decision).

MEETING CLOSED AT 8.00 pm

CHAIR

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Report of: Executive Member for Finance and Performance

Meeting of:	Date	Ward(s)
Executive	14 th January 2016	All

FINANCIAL POSITION AT 30TH NOVEMBER 2015

1. SYNOPSIS

- 1.1 This report presents the forecast outturn position for 2015-16 as at 30th November 2015. Overall, the forecast is a £3.5m General Fund overspend including corporate items. The Housing Revenue Account (HRA) is forecast to break-even over the year. It is forecast that £93.7m of capital expenditure will be delivered in 2015-16.

2. RECOMMENDATIONS

- 2.1. To note the overall forecast revenue outturn for the General Fund of a £3.5m overspend, and that in the event of an overall overspend at the end of the financial year this would be funded from the one-off corporate contingency reserve of £3.5m in the first instance. **(Paragraphs 3.1 and 4.11, Table 1 and Appendix 1)**
- 2.2. To note that the HRA is forecast to break-even over the financial year. **(Paragraph 3.1, Table 1 and Appendix 1)**
- 2.3. To note the latest capital position with forecast capital expenditure of £93.7m in 2015-16 and agree slippage where over £1m on an individual scheme. **(Section 6, Table 2 and Appendix 2)**

3. CURRENT REVENUE POSITION: SUMMARY

- 3.1. A summary position of the General Fund and Housing Revenue Account is shown in **Table 1** with further detail contained in **Appendix 1**.

Table 1: General Fund and HRA Forecast Outturn

	VARIANCE Month 8 (£000)
<u>GENERAL FUND</u>	
Finance and Resources	0
Chief Executive's	(277)
Core Children's Services (Excluding Schools)	865
Environment and Regeneration	2,510
Housing and Adult Social Services	1,254
Public Health	885
Net Departments	5,237
Corporate Items	(1,760)
TOTAL PROJECTED (UNDER)/OVERSPEND	3,477
<u>HOUSING REVENUE ACCOUNT</u>	
NET (SURPLUS) / DEFICIT	0

4. GENERAL FUND

Finance and Resources Department (zero variance)

- 4.1. The Finance and Resources Department is currently forecasting a break-even position.

Chief Executive's Department (-£0.3m)

- 4.2. The Chief Executive's Department is currently forecasting a (-£0.3m) underspend. This is due to staff vacancies within the Governance and Human Resources division that are not to be recruited to this year (-£0.2m) and additional legal fee income (-£0.1m).

Children's Services (General Fund: +£0.9m, Schools: -£2.4m)

- 4.3. A (+£0.9m) overspend is forecast for the General Fund (non-schools) Children's Services budget. This includes a number of pressures against demand led specialist services that materialised in 2014-15 and are continuing into 2015-16, especially in relation to unaccompanied asylum seeking children (£0.35m) and special guardianship orders (+£0.2m). Further overspends are forecast against the new remand framework (+£0.35m), Children Looked After placements (+£0.35m), leaving care costs (+£0.3m), secure accommodation costs (+£0.2m) and in the Disabled Children's Team (+£0.2m). There is a further pressure of (+£0.1m) in relation to the in-year reduction in Youth Justice Grant and an overspend relating to an increase in support for 16/17 years olds living in supported accommodation (+0.3m). These overspends, totalling (+£2.25m), have been partly offset by forecast underspends totalling (-£1.45m) across the Learning and Schools and Partnerships and Support Services divisions.

Schools (-£2.4m)

- 4.4. A Dedicated Schools Grant (DSG) underspend of (-£2.4m, 1.5% of DSG) is forecast. (-£2.0m) of this is due to the carry forward of Early Years DSG funding from 2014-15 that will be used to smooth in expected Department for Education (DfE) funding reductions for the statutory entitlement for free childcare for deprived 2-year olds from 2015, now that funding is allocated to local authorities based on take-up. The remaining DSG underspend relates to the Special Educational Needs (SEN) placements contingency budget (-£0.2m) and Pupil Premium eligibility lower than estimated by the DfE (-£0.2m).

Environment and Regeneration (+£2.5m)

- 4.5. The Environment and Regeneration Department is currently forecasting a (+£2.5m) overspend. This is after corporate savings of (+£0.5m) being applied to the structural overspend, arising due to the Government shelving plans to introduce locally set licensing fees (this is a net-nil impact overall as the Environment and Regeneration Department overspend is reduced, in respect of this applied funding, by the same amount). The main variances are as follows:
- 4.5.1. (+£0.8m) due to delayed service changes in Street Environment Services leading to non-delivery of 2015-16 savings.
 - 4.5.2. (+£0.35m) delays in re-providing the new refuse fleet pending various pilots and the introduction of a new operating model.
 - 4.5.3. (+£0.2m) loss of grant income from North London Waste Authority (NLWA) following price reductions for recyclable materials.
 - 4.5.4. (+£0.1m) due to unbudgeted costs associated with the pilots that will deliver future savings causing spend on new bins and other items.
 - 4.5.5. Structural budget issues within the Public Protection division: (+£0.2m) relating to staff budgets and non-staffing budgets around IT/licensing costs; (+£0.1m) unachievable Houses in Multiple Occupation (HMO) licensing income; (+£0.1m) staff costs that were part funded by 'Smoke-free' grant that is no longer received; (+£0.1m) relating to deteriorating income streams on DVD/music rentals and hall lettings; and (+£0.1m) across various other income streams.
 - 4.5.6. Underachievement of building control and planning income due to a decline in activity (+£0.25m).
 - 4.5.7. Additional agency staff and legal cost pressures within Development Control (+£0.2m).

Housing and Adult Social Services (+£1.2m)

• Adult Social Care (+£0.2m)

- 4.6. Adult Social Care is currently forecasting a small net overspend (+£0.2m) relating to the older people spot placement budget.

• Housing General Fund (+£1.0m)

- 4.7. The Housing General Fund continues to be impacted by increased demand for temporary accommodation (TA) and the increased cost of supplying it, exacerbated by ongoing changes to the housing benefit regulations and the changes to the welfare support system. This has resulted in a net financial pressure of (+£1.3m) in 2015-16 of which the majority is due to not being able to secure nightly booked accommodation at rates that are below or equal to the Local Housing Allowance. This is offset partly by staffing underspends across the department (-£0.3m).

Public Health (+£0.9m)

- 4.8. Public Health is funded via a ring-fenced grant of £25.4m for 2015-16. The Government have recently announced an in-year cut of (+£1.7m) to the Council's public health grant. This has been mitigated by (-£0.8m) underspends within the department, resulting in a forecast net overspend of (+£0.9m). This is a very significant Government cut made late in the financial year and means that there will be no public health reserves to mitigate against future budget pressures.

Corporate Items (-£1.8m)

- 4.9. The Council continues to follow a successful Treasury Management Strategy of shorter-term borrowing at low interest rates. The current forecast is that this will save the General Fund (-£2.9m) in interest charges over the financial year. The Treasury Management Strategy is kept under constant review to ensure that available resources are optimised and the longer-term interest rate position reviewed.
- 4.10. As part of the transfer of public health responsibilities to local authorities in 2012-13, a corporate provision was set aside for legacy payments that the Council may incur. It is now considered unlikely that the Council will be billed for these payments, meaning that on balance the (-£0.9m) provision can be release in full. In the event that the Council is billed for these payments, this would be a cost pressure for Public Health.
- 4.11. These savings are offset by:
- 4.11.1. Pump-priming one-off investment to accommodate the move of the Area Housing Office at Old Street to Finsbury Library (+£0.5m).
 - 4.11.2. Corporate savings of (+£0.5m) being applied to the structural overspend in Environment and Regeneration arising due to the Government shelving plans to introduce locally set licensing fees. This is a net-nil impact overall as the Environment and Regeneration Department overspend is reduced, in respect of this applied funding, by the same amount.
 - 4.11.3. (+£0.2m) relating to a settled claim against 3 privately owned mature London Plane trees that had been proven to cause subsidence. Due to strong public support, the Council argued for retaining the trees and won the appeal for the trees to be retained. The claimants then proceeded with repairs of £350k. The Council have fought this and negotiated down from an initial claim of £350k to a settled claim of £190k.
 - 4.11.4. (+£0.8m) uncontrollable pressure due to the Council's statutory duty to provide assistance to all destitute clients who are Non-European Union nationals and can demonstrate need under Section 21 of the National Assistance Act, 1948. This is commonly referred to as No Recourse to Public Funds (NRPF).

Contingency Reserve

- 4.12. There is a one-off corporate contingency reserve of £3.5m to provide some resilience against any short-term budget pressures arising from savings risks or changes in Government policy. This will be used to offset any overall General Fund overspend at the end of the financial year.

5. HOUSING REVENUE ACCOUNT

- 5.1. The HRA is forecast to be balanced in 2015-16. The variances are as follows:

- 5.1.1. Non-recurring impact of repairs re-integration (+£1.6m), partially offset by lower expenditure relating to voids (-£0.3m).
- 5.1.2. Other HRA non-recurring pressures including improvements to open spaces and CCTV and heating refunds in respect of 2014-15 (+£1.5m).
- 5.1.3. Impact of welfare reforms (+£0.4m).
- 5.1.4. *The above pressures of (+£3.2m) are offset by:*
- 5.1.5. Additional commercial property income and reduced management costs (-£1.0m).
- 5.1.6. Lower than budgeted PFI contractual inflation (-£0.7m).
- 5.1.7. Higher than budgeted Right to Buy administration grant income due to higher than anticipated Right to Buy sales (-£0.3m).
- 5.1.8. Increase parking income arising from the increase in charges for non-residents and the diesel levy (-£0.3m).
- 5.1.9. More rental income (-£0.3m).
- 5.1.10. General management (-£0.3m)
- 5.1.11. Higher than budgeted commission from Thames Water (-£0.2m).
- 5.1.12. Reduced energy costs (-£0.1m).

6. CAPITAL PROGRAMME

- 6.1. It is forecast that £93.7m of capital expenditure will be delivered by the end of the year. This is set out by department in **Table 2** below and detailed at **Appendix 2**.

Table 2: 2015-16 Capital Programme by Department at Month 8

Department	2015-16 Capital Budget	2015-16 Forecast Expenditure	Forecast Slippage to Future Years
	(£m)	(£m)	(£m)
Children's Services	19.3	9.7	9.6
Environment and Regeneration	23.9	19.0	4.9
Housing and Adult Social Services	68.7	60.4	8.3
Finance and Resources	4.6	4.6	0
Total	116.5	93.7	22.8

Forecast Slippage

- 6.2. Under the Council's financial regulations, approval of capital slippage over £1m on an individual scheme is a function of the Executive. The following capital slippage over £1m on an individual scheme is reported for approval:

Children's Services

- 6.3. Moreland Primary School (£4.0m) – this is due to an updated cash flow forecast on the scheme.
- 6.4. Dowery Street Pupil Referral Unit (£2.8m) – this is due to a delay in securing grant funding required for the scheme to proceed.

Environment and Regeneration

- 6.5. Fleet Replacement Programme (£3.7m) – this reflects the latest planned fleet replacement programme.

Housing and Adult Social Services

- 6.6. Housing Improvements (£5.3m) – This relates to a number of committed schemes that it is now considered will not progress on site as quickly as originally anticipated. In 2015-16 concerns around the quality and performance of one of our Term Partnering contractors prompted a series of discussions to try to reach a mutually beneficial solution. It is acknowledged there are a number of sites where works are outstanding and it is essential that the contractor is encouraged to complete these in a timely manner. Negotiations are ongoing and delays have ensued. In a partnering arrangement there is an expectation that parties are allowed sufficient time to address issues and problems raised.
- 6.7. New Homes Programme (£3.0m) – the second quarterly review in 2015-16 indicates deliverable new homes capital expenditure of £25.7m in 2015-16, resulting in slippage of £3.0m into future years; the Council remains on target to deliver 500 social rented new builds by 2019.

7. IMPLICATIONS

Financial Implications

- 7.1. These are included in the main body of the report.

Legal Implications

- 7.2. The law requires that the Council must plan to balance its spending plans against resources to avoid a deficit occurring in any year. Members need to be reasonably satisfied that expenditure is being contained within budget and that the savings for the financial year will be achieved, to ensure that income and expenditure balance.

Environmental Implications

- 7.3. This report does not have any direct environmental implications.

Resident Impact Assessment

- 7.4. A resident impact assessment (RIA) was carried out for the 2015-16 Budget Report approved by Full Council. This report notes the financial performance to date but does not have direct policy implications, so a separate RIA is not required for this report.

Background papers: None

Responsible Officer:

Mike Curtis
Corporate Director of Finance and Resources

Report Authors:

Martin Houston
Strategic Financial Advisor

Signed by



23 December 2015

Executive Member for Finance and
Performance

Date

Appendix 1 - Revenue Budget Monitoring 2015-16 Month 8

GENERAL FUND					
Department / Service Area	Original Budget	Current Budget	Forecast Outturn	Variance Month 8	Variance Month 6
	£'000	£'000	£'000	£'000	£'000
FINANCE AND RESOURCES					
Corporate Director of Finance and Resources	(62)	1,099	1,099	0	0
Digital Services and Transformation	562	(2,194)	(2,194)	0	0
Financial Management	(7,532)	(2,579)	(2,579)	0	0
Financial Operations	6,911	4,065	4,065	0	0
Internal Audit	588	616	616	0	0
Total	467	1,007	1,007	0	0
CHIEF EXECUTIVE'S DEPARTMENT					
Chief Executive	(16)	0	0	0	0
Governance and Human Resources	1,140	330	53	(277)	(285)
Strategy and Community Partnerships	5,478	6,298	6,298	0	0
Total	6,602	6,628	6,351	(277)	(285)
CHILDREN'S SERVICES					
Learning and Schools	27,763	27,159	23,994	(3,165)	(2,800)
Partnerships and Support Services	9,292	11,754	11,034	(720)	(720)
Targeted and Specialist Children and Families	36,889	38,722	41,042	2,320	2,220
Total	73,944	77,635	76,070	(1,565)	(1,300)
ENVIRONMENT AND REGENERATION					
Directorate	(1,387)	(1,135)	(1,135)	0	0
Planning and Development	2,484	2,259	2,709	450	438
Public Protection	9,685	11,189	11,811	622	597
Public Realm	19,782	29,340	30,778	1,438	1,463
Total	30,564	41,653	44,163	2,510	2,498
HOUSING & ADULT SOCIAL SERVICES					
Temporary Accommodation (Homelessness Direct)	1,391	1,391	2,660	1,269	1,395
Housing Needs (Homelessness In-Direct)	2,000	2,000	1,832	(168)	(168)
Housing Benefit	880	880	880	0	0
Housing Strategy & Development	231	231	137	(94)	(64)
Housing Administration	2,291	1,944	1,943	(1)	(1)
Housing General Fund Total	6,793	6,446	7,452	1,006	1,162
Adult Social Care	30,917	30,057	30,039	(18)	(18)
Integrated Community Services	13,554	13,537	13,203	(334)	(489)
Strategy & Commissioning	30,355	30,393	30,993	600	600
Adult Social Services Total	74,826	73,987	74,235	248	93
HASS Total	81,619	80,433	81,687	1,254	1,255

Appendix 1 - Revenue Budget Monitoring 2015-16 Month 8

Department / Service Area	Original Budget £'000	Current Budget £'000	Forecast Outturn £'000	Variance Month 8 £'000	Variance Month 6 £'000
PUBLIC HEALTH					
NHS Health Checks	371	371	355	(16)	(16)
Obesity and Physical Activity	1,009	1,009	993	(16)	(16)
Other Public Health	(20,739)	(20,557)	(19,605)	952	(54)
Sexual Health	8,273	8,392	8,541	149	149
Smoking and Tobacco	786	786	716	(70)	(70)
Substance Misuse	8,466	8,347	8,376	29	29
Children and Young People	1,834	1,834	1,791	(43)	(43)
Children 0-5 Public Health	0	0	(100)	(100)	(43)
	0	182	1,067	885	(21)
Less Projected Ring-Fenced Schools Related Underspend	0	0	2,430	2,430	2,095
Less Projected Ring-Fenced Public Health Underspend	0	0	0	0	21
GROSS DEPARTMENT TOTAL	193,196	207,538	212,775	5,237	4,263
CORPORATE ITEMS					
Corporate and Democratic Core / Non Distributed Costs	16,675	15,130	15,130	0	0
Other Corporate Items	4,204	3,144	3,484	340	1,356
Corporate Financing Account	(16,129)	(20,863)	(23,763)	(2,900)	(2,900)
Levies	22,247	22,247	22,247	0	0
Transfer to/(from) Reserves	14,293	7,890	7,890	0	0
Specific Grants	(16,103)	(16,703)	(16,703)	0	0
Core Government Funding / Council Tax	(218,651)	(218,651)	(218,651)	0	0
No Recourse to Public Funds	268	268	1,068	800	800
Corporate Items Total	(193,196)	(207,538)	(209,298)	(1,760)	(744)
TOTAL NET OF CORPORATE ITEMS	0	0	3,477	3,477	3,519

Appendix 1 - Revenue Budget Monitoring 2015-16 Month 8

HOUSING REVENUE ACCOUNT(HRA)						
Department / Service Area	Original Budget	Current Budget	Latest Actual	Forecast Outturn	Variance Month 8	Variance Month 6
	£'000	£'000	£'000	£'000	£'000	£'000
Dwelling Rents	(162,778)	(162,778)	(108,700)	(163,078)	(300)	(300)
Non Dwelling Rents	(1,708)	(1,708)	(2,055)	(2,508)	(800)	(800)
Heating Charges	(2,357)	(2,357)	(1,333)	(2,017)	340	340
Leaseholders Charges	(9,348)	(9,348)	(6,232)	(9,348)	0	0
Other Charges for Services and Facilities	(3,870)	(3,870)	(1,867)	(4,645)	(775)	(775)
PFI Credits	(22,855)	(22,855)	(11,427)	(22,855)	0	0
Interest Receivable	(2,044)	(1,544)	0	(1,544)	0	0
Contribution from General Fund	(852)	(852)	0	(852)	0	0
Gross Income	(205,812)	(205,312)	(131,614)	(206,847)	(1,535)	(1,535)
Repairs and Maintenance	29,748	29,748	21,326	30,983	1,235	700
Revenue Contribution to Capital	10,359	0	0	630	630	(200)
General Management	48,803	47,327	20,756	47,797	470	1,835
PFI Payments	40,114	40,114	30,990	39,414	(700)	(700)
Special Services	15,530	17,006	8,176	16,906	(100)	(100)
Rents, Rates, Taxes and Other Charges	739	739	401	739	0	0
Capital Financing Costs	56,769	44,048	0	44,048	0	0
Bad Debt Provisions	750	750	0	750	0	0
HRA Contingency	3,000	3,000	0	3,000	0	0
Transfer to HRA Reserves	0	22,580	0	22,580	0	0
Gross Expenditure	205,812	205,312	81,649	206,847	1,535	1,535
Drawdown from HRA Balances	0	0	0	0	0	0
Net (Surplus) / Deficit	0	0	(49,965)	0	0	0

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Appendix 2: Capital Monitoring 2015-16 Month 8

	2015-16 Budget Monitoring						
	Original Budget	Budget Changes During the Year	Revised Budget	Forecast Outturn	Forecast Re-profiling (to)/from Future Years	Expenditure to Date	% Budget Spent to Date
	£m	£m	£m	£m	£m	£m	£m
CHILDREN'S SERVICES							
Dowery Street Pupil Referral Unit	3.3	(0.3)	3.0	0.2	(2.8)	0.2	7%
Early Years Two Year Old Places	1.0	1.0	2.0	1.1	(0.9)	0.4	20%
Mechanical Schemes	0.0	0.9	0.9	0.5	(0.4)	0.2	27%
Moreland Primary School	6.1	2.2	8.3	4.3	(4.0)	1.7	21%
Newington Green Primary School Refurbishment	0.3	0.7	0.9	0.6	(0.3)	0.5	50%
Other	0.0	0.9	0.9	0.5	(0.4)	0.0	0%
Primary Bulge Classes	0.2	0.3	0.5	0.5	0.1	0.2	40%
Primary Capital Scheme	0.0	0.4	0.4	0.5	0.0	0.3	62%
Sacred Heart Primary School Extension Grant	1.3	0.0	1.3	1.3	0.0	1.3	100%
The Bridge Free School	3.7	(3.0)	0.7	0.0	(0.7)	0.0	0%
Windows Scheme	0.3	0.2	0.5	0.2	(0.3)	0.1	28%
Total Children's Services	16.1	3.2	19.3	9.7	(9.7)	4.9	25%
ENVIRONMENT AND REGENERATION							
Other Environment and Regeneration	0.0	0.5	0.5	0.5	0.0	0.0	0%
Boiler Replacement Programme	0.0	0.1	0.1	0.0	(0.0)	0.0	83%
Combined Heat and Power	3.4	(1.6)	1.8	1.7	(0.1)	0.4	21%
Disabled Facilities	0.6	0.5	1.1	1.0	(0.1)	0.6	54%
Energy Saving Council Buildings	1.9	(0.4)	1.5	1.6	0.0	0.0	0%
Greenspace	0.8	0.8	1.6	1.0	(0.6)	0.4	26%
Highways	1.4	0.7	2.1	2.1	0.0	2.2	107%
Ironmonger Row Baths	0.0	0.2	0.2	0.2	(0.0)	0.1	55%
Leisure	3.4	(0.4)	3.0	3.0	0.0	2.3	75%
Other Energy Efficiency	2.2	(2.2)	(0.0)	0.0	0.0	0.0	0%
Planning and Development	2.1	(1.9)	0.2	0.2	(0.0)	0.2	72%
Private Sector Housing	1.5	(0.4)	1.1	0.8	(0.3)	(0.1)	-5%
Special Projects	0.0	0.4	0.4	0.3	(0.1)	0.0	1%
Traffic and Engineering	3.6	0.7	4.3	4.3	0.0	1.4	32%
Vehicles	8.5	(2.4)	6.1	2.4	(3.7)	1.2	20%
Total Environment and Regeneration	29.4	(5.5)	23.9	19.1	(4.9)	8.7	36%
HOUSING AND ADULT SOCIAL SERVICES							
HOUSING							
Housing Improvements	40.3	(1.1)	39.3	34.0	(5.3)	18.8	48%
New Build	40.8	(12.0)	28.7	25.7	(3.0)	17.0	59%
Total Housing	81.1	(13.1)	68.0	59.7	(8.3)	35.7	53%
ADULT SOCIAL SERVICES							
Adaptations	2.3	(2.3)	0.0	0.0	0.0	0.1	0%
Care Services	1.0	(0.3)	0.7	0.7	(0.0)	0.1	9%
Total Adult Social Services	3.3	(2.6)	0.7	0.7	(0.0)	0.1	18%
Total Housing and Adult Social Services	84.5	(15.7)	68.7	60.4	(8.3)	35.9	52%
FINANCE AND RESOURCES							
Finance	0.0	0.1	0.1	0.1	0.0	0.0	0%
Digital Transformation	1.5	3.0	4.5	4.5	0.0	4.7	103%
Total Finance and Resources	1.5	3.1	4.6	4.6	0.0	4.7	101%
TOTAL CAPITAL PROGRAMME	131.5	(14.9)	116.6	93.7	(22.9)	54.1	46%

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Report of: Executive Member for Finance and Performance

Executive	Date: 14 January 2016	Ward(s): All
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SUBJECT: Income Generation - Executive Member's response to recommendations of the Policy and Performance Scrutiny Committee

1. Synopsis

- 1.1 The Executive would like to thank the Policy and Performance Scrutiny Committee for their review of income generation. The Executive appreciates the time and effort that the committee put into this scrutiny and acknowledges the strength of the Committee's recommendations.

2. Recommendations

- 2.1 To agree the response to the Policy and Performance Scrutiny Committee's recommendations.

3. Background

- 3.1 The Council continually looks to maximise external income as an alternative to cuts in frontline services, especially over recent years where our government funding has been dramatically reduced.
- 3.2 Since 2010, the Council has increased its annual income generation by £15m. In 2015/16 alone, £7.3m additional income has been built into the budget through a range of initiatives. In addition to directly generating income, service departments have increasingly taken a commercial approach to managing their supply chain, resulting in millions of pounds of savings over the last five years.
- 3.3 Income generation activity broadly falls into three categories: -
- Maximising our assets
 - Increasing revenue from existing services by selling them to other organisations
 - Identifying new opportunities that we can exploit.

- 3.4 This paper responds to the findings and recommendations of the Policy and Performance Scrutiny Committee's investigation into the Council's approach to income generation. This covering paper sets out the overall response from the Executive and reports back on general progress since the Scrutiny Committee reported in March 2015. A detailed response to each of the recommendations is found in Appendix 1.
- 3.5 The Executive accepts the recommendations of the Committee and was pleased to be able to fast-track one of the findings, Photovoltaic Panels on Council premises, into the 2015/16 budget. This was a good example of the Council responding to a commercial idea in a timely manner and being able to generate additional income, estimated at £44k for this financial year.
- 3.6 In terms of overall progress on income generation, much of what can be described as the background work on the foundations to allow further progress has been put in place. This includes:
- The re-establishment of the Commercial Board – which meets on a three-weekly cycle with membership across all departments. The Commercial Board oversees a work programme that aims to generate an additional £3m of income over the next three years in addition to income already included in the MTFS.
 - The Commercial Board will be leading on the creation of a commercial culture within the Council. Workstreams include a **Training Programme** which has been developed with an experienced Commercial Director; **Awareness Raising** – with a programme to engage with staff and identify new ideas that may have commercial potential; **Incentivising Staff** – exploring ideas for how staff might be incentivised to contribute more ideas and for their effort in terms of implementing these ideas; **Commercial accounting practices** – our Finance department is considering the best way of helping staff to understand the costs in building up business cases and be able to communicate this simply in terms of profit and loss.
 - The Commercial Board has established a business planning process as a first step to help understanding costs and potential income and the assumptions that support these ideas
 - The creation of iCo – Islington Council's wholly owned trading Company. The company has now been set up as a legal entity and has in the first months of its existence concentrated on establishing basic principles and necessary policies and building blocks in advance of trading.

4. Maximising our assets

- 4.1 Our Public Realm team has identified a number of locations across the borough where commercial **advertising** may be possible. The first tranche of these sites was considered by the Planning Committee on 1st December.
- 4.2 Our Property Services team has identified several options to maximise **commercial rental income**, particularly in the Old Street area where demand is high. A number of properties are now already let out and further arrangements will follow next year. £1m additional income was built into the 2015/16 budget with more to follow in future years as the deals are made. The full amount of income received is slightly delayed due to the nature of the industry – for example granting a short introductory rent-free period is common place – but we are confident that this is an avenue that will generate significant income for the Council.
- 4.3 The Committee recommended that we consider additional **office rationalisation**. We have now vacated office accommodation at Old Street to allow a commercial let, and are actively considering other options, including co-locating services with partners. Although hot-desking has been successful in allowing us to shrink our office portfolio, we need to be cautious that further remote working does not compromise the level of service that we provide.
- 4.4 Additional income from **wifi and wireless initiatives**. Wifi transmitters are now attached to street furniture by a mobile operator, and the Council receives income from this. We are leasing additional rooftop space to mobile operators to install mobile phone masts, and are progressing with our plans to lease space on our radio network infrastructure. £1.2m of additional income is already built into the MTFS from these 3 initiatives.

- 4.5 The Committee recommended that income generation from **Photovoltaic (PV) solar panels** be included in the budget proposal for 2015/16. The Government's decision to consult on drastic cuts in the Feed in Tariff (FIT) rates from 1st January 2016 has meant we have had to reduce the number of systems we install. Our new approach is to install larger installations on four buildings (222 Upper St, Sobell Leisure Centre, Islington Tennis Centre & 1 Cottage Road) where we will be installing 85% of the original proposed capacity. The anticipated financial return has subsequently reduced to £46k from £68k with an annual energy bill saving of £44k.
- 4.6 A cross-council approach to allowing **filming in the borough** is now in place, and we have generated £150k additional income from this.
- 4.7 Our Planning Team has been offering a fee-based pre-application Duty Planning Service. Initial feedback is that this service is working well.

5. Increasing revenues from existing services

- 5.1 Street Environment Services is working on a number of initiatives to increase Islington's share of **Commercial Waste** collection to the point where we are the dominant service in the borough. Opportunities to trade this service are also being pursued outside of the borough and would be provided through iCo.
- 5.2 **Highways** have increased activity in operational services such as grounds maintenance, house clearance and mechanical fitters. Clients include schools, housing associations and other regulated businesses, generating £200K pa.
- 5.3 The **Energy Service** has completed energy sector projects with Hackney, Crawley, Hampshire, Hackney Homes and Haringey in 2015/16. They are also actively pursuing other contracts that together are expected to provide an annual income of £60k. An energy purchasing service that generates a fee income of £7,750pa has also been introduced.
- 5.4 Plans to utilise the expertise in the **Tree Service** and within **Pest Control** to deliver services beyond the regulatory remit are currently underway. Whilst these are still to be reviewed by the Commercial Board, other councils have already demonstrated that additional income opportunities can be generated through the use of these in-house skills.

6. Balancing risk and return and maintaining the Council's values.

- 6.1 The Executive recognises the Committee's concerns that we balance income maximisation with the values of the Council and the interests of our residents. The services we provide to residents will always be our priority and will not suffer as a result of commercial activities. To achieve this we are investigating options to backfill staff via the use of temporary or fixed term contracts to ensure LBI services are fully delivered.
- 6.2 The Committee is right to highlight the balance between risk and the potential financial return, and the Commercial Board will review all income generating activity to ensure that this balance is struck. Legal and Finance staff are represented on the Board to help ensure that these issues are picked up.

7. London Living Wage and local businesses

- 7.1 The Executive agree with the Committee's view that services that participate in income generating projects must adhere to the Council's policy of paying the London Living Wage. The Executive have made great progress in ensuring that the Council pays the London Living wage to all staff, as well as to staff employed by the Council's contractors. It also notes that this approach may make some of our services less competitive in the market place, especially where potential customers are highly cost-focused.
- 7.2 The Committee recommended that income generation must not come at the expense of local

businesses within the borough. The Executive has some sympathy with this sentiment, but notes that the Council must seek to get the best deal possible for the borough's residents when dealing with local businesses.

8. Implications

Financial implications:

- 8.1 Detailed financial implications will be considered as part of the report for any approved project taken forward.

Legal Implications: to follow for Executive

- 8.2 Any legal implications will be included within the relevant reports.

Environmental Implications:

- 8.3 There are no environmental issues.

Resident Impact Assessment:

- 8.4 A Resident Impact Assessment will be completed and included within the relevant reports for approved projects where applicable.

9. Reasons for the recommendations / decision:

- 9.1 This report responds to the Scrutiny on Income Generation. The Executive has considered this Scrutiny report and accepts the recommendations made. The report provides a high level overview of progress with comments on detailed points made and sets out further areas where income may be generated in future years.

Signed by:



23 December 2015

Executive Member for Finance and Performance Date

Appendices

- Appendix 1- Detailed Recommendations

Background papers: None

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Appendix 1 – Detailed Recommendations

Recommendation	Update at November 2015
<p>1.1 The Committee supports the following projects identified by the newly established Commercial Board:</p> <ul style="list-style-type: none"> • Advertising (advertising boards, fleet vehicles and green space locations) • Commercial rent (refurbished property in Old Street) • Wireless Radio Network • Commercial Waste Service • Film • Energy Consultancy • Planning – Duty Planning service 	<p>Updates on projects covered in Section 3-5 of the main report.</p>
<p>1.2 The Committee noted that there are many dimensions to the generation of income and that the example of increasing advertising income and that the example of increasing advertising income whether this be on street or using our green spaces or encouraging more commercial activity in the Borough brought with it dilemmas for the Council. It is therefore recommended that some guiding principles be adopted to allow the Council to maximise income in these areas but not at the expense of general amenity</p>	<p>Principles to govern our approach to advertising have been drawn up and are being discussed with Planning. The first batch of advertising applications were considered by the Planning Committee in December 2015.</p>
<p>1.3 The Director of Finance and Property Services will prepare detailed costing for the savings proposals for consideration to the Executive</p>	<p>Each proposal is considered by the Commercial Board as part of a wider programme that is now emerging. These proposals will go forward as part of the MTFs and will be scrutinised by the Director and Property Services.</p>
<p>1.4 That it be noted that this scrutiny has already recommended an amendment to the Budget proposals for 2015/16 in relation to income generation from photovoltaic solar panels, which has been agreed by Executive and which was included in the Budget proposals agreed by Council on 27 February 2015</p>	<p>The Government's decision to consult on drastic cuts in the Feed in Tariff (FIT) rates from 1st January 2016 has meant we have had to reduce the number of systems we install. We will install larger installations on four buildings (222 Upper St, Sobell Leisure Centre, Islington Leisure Centre & 1 Cottage Road) where we will be installing 85% of the original proposed capacity. The anticipated financial return has subsequently reduced to £46k from 68k with an annual energy bill</p>

	saving of £44k.
<p>2.1 The Committee considered a number of potential areas where further income growth may be possible. The Committee suggests that the Executive consider a risk based approach to considering these options based on the challenges in terms of delivery weighed up against the potential income opportunity. This should be considered through the Commercial Board and/or Islington Company Ltd (iCO) if this is the optimal route.</p>	<p>This process for this has been set up by the Commercial Board which is working its way through the relevant ideas.</p>
<p>2.2 The Committee identified a number of thematic areas for further investigation, subject to assessment of an acceptable business case – these include:</p> <ul style="list-style-type: none"> • Selling of a range of existing services as set out in the Executive summary e.g. caretaking, grounds maintenance, building maintenance services to schools, pest control and Telecare. (This is not an exhaustive list and the Committee request that officers undertake wide ranging review of all opportunities) and that there may be opportunities to package a range of services to make them more competitive • Investigate whether Local Housing Management Services could be offered to RSL's • Receiving and securing courier deliveries and allowing access to utility companies for residents for a fee • Working with other Councils • Encouraging commercial events in the Borough e.g. markets, ice rinks etc. • Wider use of sponsorship and advertising • Sharing of services with other boroughs/organisations • Alternative models e.g. the consideration of Co-operatives or Mutuals • Extension of heat and power schemes and consideration of additional heat and power schemes throughout the borough • Further use of remote working and 'hot-desking' for staff to free up office accommodation and to consider whether additional savings can be made in this regard • Introducing the concept of Local Development Orders to shorten the planning process 	<p>All of these recommended themes are being or will be explored by the Commercial Board as part of its work programme.</p> <p>The Board is cognisant of the level of change taking place throughout the Council, especially in areas like Housing Repairs where services have recently returned to the Council. This has meant prioritising initially those areas that are in a position to consider commercial options sooner rather than later.</p>

<ul style="list-style-type: none"> • Review all services that have or come back ‘in house’ to ascertain whether there are any additional income generation opportunities that can be pursued • Call out services/other services that could be offered to leaseholders • Out of hours service to landlords – this could be marketed through the ‘in house’ lettings agency • The selling of services provided by the ‘in house’ repairs team to Partners, RSL’s and private residents and, if the scaffolding scrutiny review, currently being undertaken by the Housing Scrutiny Committee recommends an ‘in house’ scaffolding team, assess whether there is a business case for marketing this service. It should be noted that there will be ‘peaks and troughs’ in demand for work, which will necessitate some use of agency staff, however we feel that in the longer term this could be managed effectively, both in resource and financial terms, when the ‘in house’ employment agency is established 	
<p>3.1 The Committee was pleased to hear of the creation of the Commercial Board and progress made so far on commercialism and income maximisation. The Committee believes that the following, set out below, will enhance the progress made to date</p> <ul style="list-style-type: none"> • Invest in staff training to develop commercial awareness and skills within the organisation • Complete a skills/expertise audit across the Council to determine what other services could compete in the market place • Develop a means of incentivising staff to generate commercial ideas for the Council, for example, through a competition • Develop clear policy and guidelines for the use of parks and public spaces for events, such as ice rinks and farmers/Christmas markets • Develop a financial accounting process that assesses the business case for trading a particular service and subsequently that reports profit and loss for services participating in commercial activity • Develop a performance framework, governed by the Commercial Board to measure progress of the Council becoming more commercial • Effectively publicise and market the services that the Council offers in order to maximise income generation opportunities 	<p>A training programme has been developed and external commercial advise has been enlisted. A wider communications programme and Directorate Commercial Champions are soon to be identified to try and generate further opportunities. Staff incentives are being considered, both in the context of Council Services and its Trading Company.</p>

<ul style="list-style-type: none"> Utilise the trading company and recognise what other services could be placed in the trading company to enable greater flexibility for services to generate profit 	
<p>3.2 The Committee recommend that all Directorates set an income generation target in percentage terms in relation to their budget and progress be assessed regularly to ensure they are meeting these targets, and if not, the reasons therefore</p>	<p>All departments have been considering income opportunities as part of the budget setting process. Immediate opportunities will be presented to Executive as part of the budget setting process. All projects are monitored by the Commercial Board to ensure that progress is being made and barriers are removed.</p> <p>At this stage, the work is focussing on which services have the best opportunity to generate additional income. Once this has been completed, each Directorate will be given an income target.</p>
<p>4.1 The Committee request the Executive to endorse that –</p> <ul style="list-style-type: none"> Commercial activity should not come at the expense of local businesses or the London Living Wage A progress report is submitted to the Policy and Performance Scrutiny Committee for the consideration of the Committee in 12 months 	<p>Covered in section 7 of the report.</p> <p>A further update can be provided to the Committee in March 2016</p>



Report of: **Executive Member for Environment and Transport and Executive Member for Finance and Performance**

Executive	Date: 14 01 16	Ward(s): All
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SUBJECT: North London Waste Authority Menu Pricing and Inter Authority Agreement

1. Synopsis

- 1.1 This report provides an update on the Inter Authority Agreement (IAA) with the North London Waste Authority (NLWA) and its constituent Boroughs.
- 1.2 A previous form of the IAA was considered and approved by the Executive on 16 June 2011. However, this was in the context of the now terminated NLWA waste facilities procurement exercise. The IAA has been subsequently amended to reflect the changed context.
- 1.3 The Executive is asked to note the changes to the IAA and authorise relevant officers to agree its final form and enter into the IAA with the NLWA and constituent authorities.

2. Recommendations

- 2.1 To note the revised form of the Inter Authority Agreement as set out at Appendix A.
- 2.2 To note the important principle of menu pricing as contained within the Inter Authority Agreement and to agree to support a move to menu pricing until such time as an alternative system for the apportionment of the NLWA's costs is unanimously agreed by all of the NLWA's constituent Boroughs independently of an agreement on the final form of the IAA.
- 2.3 To authorise the Corporate Director of Environment and Regeneration in consultation with the Corporate Director of Finance and Resources, Assistant Chief Executive - Governance and HR, and the Council's two Member representatives on the NLWA:
 - to negotiate and agree the final form of the IAA.
 - to agree any future amendments or decisions in relation to the agreement of a minor or urgent

nature after the IAA is executed.

- to negotiate and agree menu pricing in advance of the IAA should there be any delay in its agreement across the seven Boroughs.

2.4 Subject to agreement being reached on the final form of the IAA, to authorise the Assistant Chief Executive Governance and HR (or such other officer as may be authorised by the Assistant Chief Executive Governance and HR) to enter into the IAA on behalf of the Council.

3. Background

3.1 At its meeting of 26th of September 2013, the NLWA agreed to end its procurement programme for long-term waste management services. The NLWA is instead relying upon the existing Energy from Waste (EfW) Facility at the Edmonton site in the medium term. The NLWA is pursuing a Development Consent Order (DCO) for a replacement facility that has the ability to both produce electricity and to supply heat to businesses and homes in the surrounding area. The NLWA and its constituent Boroughs are currently undertaking an options appraisal to determine the nature of any successor arrangements with the replacement facility set out in the draft DCO being one of the options under consideration.

It is intended that the agreed NLWA 50% combined reuse, recycling and composting rate target for 2020 will still be achieved.

3.2 At a meeting of the Executive on 16 June 2011, members agreed 'to authorise the Corporate Director of Environment and Regeneration, in consultation with the Corporate Director of Finance and Resources and the Executive Member for Environment to agree the final form of the IAA on the basis set out in this report.' Further recommendations delegated authority to the Corporate Director of Resources to enter into the IAA once agreed. The parties to the IAA are the NLWA and each of its constituent Boroughs. The IAA, as drafted in 2011, was expected to form the basis of an interface between the NLWA and its Boroughs that mirrored the interfaces between the NLWA and its proposed contractors.

3.3 As such, the previously agreed draft IAA, underlying principles and other documentation approved by Boroughs were set within the context of the NLWA's now ended procurement process. There is still a strong need for an IAA to better reflect the relationship between the NLWA and Boroughs (and the Boroughs and each other). It is also needed to ensure a higher degree of fairness in the flow of costs and liabilities than the current interface - broadly the statutory default - allows. The revised IAA retains a number of key aspects of the previous draft IAA, notably the proposed change from the existing agreed levy and charging arrangements to a 'menu pricing' system.

3.4 **General summary of changes to the IAA as previously agreed at the 16 June 2011 Executive Meeting**

The previous draft IAA considered by the Executive on 16 June 2011 contained numerous references to the now ended procurement and broadly mirrored the draft contracts relating to the NLWA's procurement. A number of individual amendments, many of which are minor, have been made to remove these references. Instead, specific provisions have been introduced to reflect the NLWA's current position that its future waste management arrangements have not been determined beyond medium-term reliance upon the existing EfW for residual waste treatment.

3.5 In summary the changes to the IAA are:

- Changes to or deletion of definitions and clauses previously drafted to mirror corresponding definitions within the NLWA's previously proposed Waste Management Contracts or referring to these contracts.
- Provisions have been removed relating to processes set out in the former IAA linked to the previous procurement process that are either now completed (notably the transfer of the Household Waste and Recycling Centres (HWRC's)) or are no longer relevant (notably the process specific to that procurement process for populating binding schedules that set out Borough waste collection arrangements and tonnage projections).
- The inclusion of more general provisions and language in some areas to reflect the fact that the

precise nature of the NLWA's contractual and other arrangements over the longer term are not currently known.

- Some changes to provisions and definitions and terminology driven by intervening changes to the policy and legislative landscape.
- A general simplification of some provisions and a greater emphasis upon transparency than would have been possible under the previous draft IAA.

3.6 The most significant provision of the IAA is the change to a menu pricing system from the apportionment of the NLWA's levy and charges upon its constituent Boroughs. The principles of menu pricing and the underlying mechanisms broadly remain unchanged from those reflected in the 2011 version of the IAA. However, there have been some minor amendments to reflect the ending of the previous procurement and provide flexibility to accommodate future arrangements. Broadly the move to a menu pricing system reflects the following changes:

- The reflection of the differential costs of treating for each type of waste within the Authority's levy arrangements as opposed to dividing such costs equally based on all delivered Borough tonnages, whether that waste is for recycling or residual waste.
- The apportionment of costs for Household Waste Recycling Centres (HWRC's) based on periodic surveys of the proportion of residents using each HWRC from each Borough.
- The introduction of broad cost parity between the per tonne rates charged by NLWA for waste such as trade waste and the levy rates applied to the mainly household waste subject to the NLWA's levy.
- The levying of a significant element of the NLWA costs relating to the running of the NLWA, procurement/development costs, and activities such as communications campaigns on a tonnage basis, rather than based on the proportion of Council Tax Band D properties in each Borough.
- Other costs, income and liabilities that arise through the activities of the NLWA will be apportioned between the Boroughs using the most appropriate and equitable basis, whereas currently they are apportioned across all Boroughs based on total tonnages delivered or the proportion of Council Tax Band D properties.

3.7 These changes provide a substantially fairer basis for apportioning the NLWA's costs than at present and incentivise individual Boroughs to reduce overall costs by, for example, increasing their recycling rates.

Islington is expected to be a net beneficiary of the change to menu pricing based on the NLWA's medium term financial projections.

3.8 It is currently intended that the IAA will be formally agreed and entered into by all parties before the NLWA sets its 2016/17 annual levy and budget in February 2016. Menu pricing would then apply from that year onwards until a successor arrangement is unanimously agreed by all of the NLWA's constituent Boroughs. However, negotiations around the precise terms of menu pricing and the wording of some provisions of the IAA still remain to be resolved and the timescale for all parties to achieve formal agreement by February is challenging. Any agreed changes to the IAA and menu pricing system will be minor in nature, relating for example to the phasing of the introduction of menu pricing.

It is conceivable that the other six constituent Boroughs agree to adopt menu pricing prior to agreeing the final form of the IAA. It is recommended that the Council agrees to move to menu pricing in this event.

4. Implications

Financial implications:

4.1 The waste disposal and treatment costs from NLWA are currently paid for by a central levies budget and by the trading income from the commercial waste service. The main element of the NLWA's levy is currently apportioned based on all delivered tonnages, regardless of type of waste. The introduction of menu pricing (as part of the IAA) will change this and differential prices will exist for each waste stream,

residual waste being the most expensive with the various forms of recycling being cheaper.

The menu pricing should reduce Islington's costs overall but this will depend on how the prices are calculated, the changes in tonnages for each waste stream (both for Islington and the other Boroughs), future changes to the NLWA's costs and the transitional arrangements that are agreed. Therefore, no estimate of this change has been made at this stage.

Legal Implications:

- 4.2 As the waste collection authority for Islington, the Council is under a duty to collect household waste and deliver it as directed to the relevant joint waste disposal authority (NLWA) (sections 45 and 48 of the Environment Protection Act 1990). In the case of recyclables, they may be consigned to NLWA or disposed of by the Council itself. NLWA which comprises the seven constituent Boroughs (including Islington) is the waste disposal authority and, as such is responsible for arranging for the disposal of waste delivered to it by the waste collection authorities (section 51 of the 1990 Act).

The costs of the NLWA in discharging its statutory functions (including the treatment and disposal of waste) are recharged to the Constituent Boroughs through the NLWA levy made pursuant to the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006. Under those regulations, the levy may be apportioned between the boroughs as all the constituent Boroughs agree. Failing agreement, the NLWA levy has to be apportioned between the constituent Boroughs in the manner prescribed by the 2006 regulations that is on the basis of delivered tonnages of waste without regard to the type of waste and whether its residual or recyclable.

As a waste collection authority, it is in the interests of the Council to work in partnership with the NLWA and the other Boroughs regarding the arrangements for waste disposal and for that purpose to enter into the IAA. The IAA will be a legally binding agreement between the NLWA and the Constituent Boroughs which regulates the relationship between those parties in respect of their waste collection and disposal obligations and the method of apportionment of NLWA's costs between the constituent Boroughs.

Environmental Implications

- 4.3 An environmental impact scoping exercise has been carried out and it was identified that the proposals in this report would have no impacts on the following:
- Energy use and carbon emissions
 - Use of natural resources
 - Travel and transportation
 - Climate change adaptation
 - Biodiversity and Pollution

The scoping exercise identified that there would be positive impacts on waste and recycling, and climate change adaptation through improved, more carbon efficient waste management services and increased recycling rates.

Resident Impact Assessment:

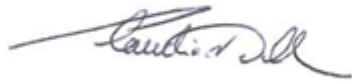
- 4.4 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

The initial screening for a Resident Impact Assessment did not identify any negative equality impacts for any protected characteristic or any human rights or safeguarding risks.

5. Reasons for the recommendations / decision:

- 5.1 The recommendations in this report will ensure an effective partnership between the NLWA and the seven constituent Boroughs, as well as a fair and equitable distribution of waste disposal costs among the constituent Boroughs of the NLWA which will incentivise recycling over other forms of waste treatment.

Signed by:



4 January 2016

Executive Member for Environment and Transport

Date



4 January 2016

Executive Member for Finance and Performance

Date

Appendices

Appendix 1 - Inter Authority Agreement, Revised Draft

Background papers: none

Report Author: Steve Key
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DATED _____

- (1) The North London Waste Authority
- (2) The Mayor and Burgesses of the London Borough of Barnet
- (3) The Mayor and Burgesses of the London Borough of Camden
- (4) The Mayor and Burgesses of the London Borough of Enfield
- (5) The Mayor and Burgesses of the London Borough of Hackney
- (6) The Mayor and Burgesses of the London Borough of Haringey
- (7) The Mayor and Burgesses of the London Borough of Islington
- (8) The Mayor and Burgesses of the London Borough of Waltham Forest

Inter Authority Agreement

Issued to Partnership Group 10th December 2015

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BETWEEN

- 1) The North London Waste Authority of Town Hall, Judd Street, London WC1H 9JE (“the Authority”);
- 2) The Mayor and Burgesses of the London Borough of Barnet of North London Business Park, Oakleigh Road South, London N11 1NP (“Barnet”);
- 3) The Mayor and Burgesses of the London Borough of Camden of Town Hall, Judd Street, Camden, London WC1H 9JE (“Camden”);
- 4) The Mayor and Burgesses of the London Borough of Enfield of Civic Centre, Silver Street, Enfield, London EN1 3XA (“Enfield”);
- 5) The Mayor and Burgesses of the London Borough of Hackney of Town Hall, Mare Street, Hackney, London E8 1EA (“Hackney”);
- 6) The Mayor and Burgesses of the London Borough of Haringey of Civic Centre, High Road, Wood Green, London N22 8LE (“Haringey”);
- 7) The Mayor and Burgesses of the London Borough of Islington of Town Hall, Upper Street, Islington, London N1 2UD (“Islington”); and
- 8) The Mayor and Burgesses of the London Borough of Waltham Forest of Town Hall, Forest Road, Walthamstow, London E17 4JF (“Waltham Forest”),

each (excluding the Authority) being a waste collection authority (“WCA”) and collectively (excluding the Authority) referred to as “the WCAs”.

BACKGROUND

- (A) The Authority is a joint waste disposal authority established pursuant to the Waste Regulation and Disposal (Authorities) Order 1985 (“the Order”).
- (B) Each of the WCAs is a waste collection authority in its respective area.
- (C) Pursuant to the Order, the Authority was obliged to discharge specified waste management functions in its area, that being the combined area of all the WCAs’ individual areas (the “Authority Administrative Area”).
- (D) The duties and powers of the Authority and the WCAs are set out principally in the Environmental Protection Act 1990 (“EPA”). Other statutory provisions shall also apply.
- (E) Pursuant to the above responsibilities of the Authority, the Authority shall enter into various Waste Contracts and other commitments.

- (F) Pursuant to the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006 the Authority has the power to issue levies on the WCAs to meet all liabilities falling to be discharged by the Authority.
- (G) The WCAs have agreed, amongst other things, to introduce a Menu Pricing Mechanism as provided for in this agreement.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Subject to the provisions of **clauses 1.3, 1.4 and 1.5** and except where the context otherwise requires the following terms shall have the following meanings:

“Ad Hoc Waste”	those categories or components of Municipal Waste that are not a principal waste stream (as provided for in Schedule 1B) nor are from RRCs, and that are either delivered separately by a WCA to the Authority or are segregated by a Waste Contractor in accordance with a waste acceptance protocol in a Waste Contract from loads delivered by a WCA
“Agreement”	this agreement including the Schedules
“Authority”	the North London Waste Authority
“Authority Representative”	the representative of the Authority listed in Schedule 2
“Best Value”	the obligation to continuously improve both the quality and cost of the collection of Municipal Waste pursuant to the provisions of the Local Government Act 1999 (“the 1999 Act”)
“Business Days”	a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London
“Commencement Date”	the date upon which this Agreement is executed by the last of the eight Parties

“Confidential Information”	any and all confidential and/or proprietary information, (including know-how, records, trade secrets and data) whether of a business, marketing, financial, technical or non-technical nature and whether existing in hard copy form, in electronic form or otherwise, whether disclosed orally or in writing, which is regarded as confidential by the disclosing party and which is or has been disclosed to the other party or which comes to the other party’s attention as a result of this Agreement. This will include information expressly identified as such as well as any other information which, by reason of its nature or the circumstances under which it is disclosed, might reasonably be expected to be confidential
“DPA”	Data Protection Acts 1998
“EIRs”	Environmental Information Regulations 2004
“EPA”	the Environmental Protection Act 1990
“Expiry Date”	31 st December 2055
“Facilities”	places provided by or through the Authority at which Municipal Waste is managed
“FOIA”	Freedom of Information Act 2000
“Household Waste”	has the meaning attributed to it in Section 75(5) and Section 89 of the EPA and the Controlled Waste Regulations 2012, but for the purposes of clause 7 and Schedule 1B (Menu Pricing Mechanism) Household Waste for which a charge for disposal may be made by the Authority shall be treated as Non-Household Waste
“Levy Regulations”	Joint Waste Disposal Authorities (Levies) (England) Regulations 2006
“Menu Pricing Mechanism”	the cost recovery mechanism set out in Schedule 1B (Menu Pricing Mechanism) which details how the Authority will recover from the WCAs its costs from the Menu Pricing Commencement Date

“Menu Pricing Commencement Date” 1 April 2016

“MRF”	Materials Recovery Facility – a place where mixed dry recyclable Municipal Waste is separated into individual streams of recyclable waste for sale to reprocessors
“Municipal Waste”	Waste which by virtue of legislation a WCA or the Authority has collected or received in the Authority Administrative Area, including without limitation Household Waste and Non-Household Waste
“Non-Household Waste”	Waste delivered by a WCA to the Authority that is not Household Waste and, for the purposes of clause 7 and Schedule 1B (Menu Pricing Mechanism), Household Waste for which a charge for disposal may be made by the Authority
“Non-Transferred RRC”	a place provided by a WCA for its residents to deposit Waste in accordance previously with the Refuse Disposal (Amenity) Act 1978 and more recently under other WCA powers, and as part of an arrangement between the Authority and a WCA in accordance with this Agreement, but not a RRC.
“North London Joint Waste Strategy”	The joint municipal waste management strategy approved by all the parties and as adopted by the Authority February 2009.
“Order”	Waste Regulation and Disposal (Authorities) Order 1985
“Parties”	the Authority and the WCAs, and “Party” shall mean any of them
“Prescribed Rate”	the base rate of the Bank of England plus 5%

“RRC”	a re-use and recycling centre within the Authority Administrative Area operated by the Authority pursuant to section 51 and other relevant provisions of the Environmental Protection Act 1990, but not a Non-Transferred RRC
“Third Party Waste”	Wastes received by the Authority in accordance with s.51(3) of the EPA
“Visitor Survey”	a survey of users of RRCs delivering waste from households undertaken by or on behalf of the Authority at least triennially and within 18 months after a new RRC facility is opened or a Non-Transferred RRC becomes a RRC
“Waste”	has the meaning ascribed to it in Section 75 of the EPA
“Waste Contract”	the contract or contracts (as applicable) for services entered into by the Authority from time to time in relation to the discharge of its functions under the Order or other statutory provision
“Waste Contractor”	the contractor or contractors (as applicable) employed or otherwise engaged by the Authority through a Waste Contract
“Waste Framework Directive”	Directive 2008/98/EC of the European Parliament and of the Council of the European Union of 19 November 2008 on waste and repealing certain Directives
“WCA”	one of the waste collection authorities party to this Agreement
“WCA Collection Contractor”	the contractor or contractors (as applicable) or in-house service employed by WCAs for the collection of WCA Municipal Waste
“WCA Tonnage Forecast”	a forecast by a WCA of tonnages of one or more types of waste and prepared to inform minimum and/or maximum tonnage commitments in any Waste Contract; the terms and format of such forecast to be specified by the Authority

“WCA Municipal Waste”	Municipal Waste received by the Authority from a WCA
“WCA Representatives”	those representatives of each WCA listed in Schedule 2

1.2 Interpretation

In this Agreement, except where the context otherwise requires:

- 1.2.1 the masculine includes the feminine and vice-versa;
- 1.2.2 the singular includes the plural and vice-versa;
- 1.2.3 a reference to any clause, sub-clause, paragraph, Schedule, recital or Annex is, except where expressly stated to the contrary, a reference to such clause, sub-clause, paragraph, Schedule, recital or annex of and to this Agreement;
- 1.2.4 save where stated to the contrary, any reference to this Agreement or to any other document shall include any permitted variation, amendment or supplement to this Agreement and/or such document;
- 1.2.5 any reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted;
- 1.2.6 references to any documents being ‘in the agreed form’ means such documents have been initialled by or on behalf of each of the Parties for the purposes of identification;
- 1.2.7 a reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees;
- 1.2.8 headings are for convenience of reference only;
- 1.2.9 words preceding “include”, “includes”, “including” and “included” shall be construed without limitation by the words which follow those words;
- 1.2.10 any obligation on a Party to do any act matter or thing includes, unless expressly stated otherwise, an obligation to procure that it is done; and

- 1.3 subject to any express provisions to the contrary, the obligations of any Party are to be performed at that Party’s own cost and expense.

2. PARTNERSHIP WORKING

2.1 Each Party shall:

- 2.1.1 act reasonably and co-operatively with the other Parties and will act in good faith;
- 2.1.2 manage its services diligently and in accordance with prevailing duties in relation to best value, and will use reasonable endeavours to minimise impacts on other Parties;
- 2.1.3 be responsible for the actions of its contractors insofar as they affect another Party;
- 2.1.4 work towards the prevailing North London Joint Waste Strategy and the Waste Framework Directive target of recycling 50% of waste from households by 2020, or any jointly agreed successor targets;
- 2.1.5 when arranging for the Authority to treat Waste a WCA has collected for re-use or recycling, seek to agree (acting reasonably) appropriate terms for such treatment other than the financial terms which shall be governed by **Schedule 1** (Cost Recovery Mechanism);
- 2.1.6 provide in a timely manner information and documentation to each other that they consider (acting reasonably) to be relevant to waste collection and disposal services, including information concerning
 - 2.1.6.1 the composition or volumes of Waste;
 - 2.1.6.2 the delivery of Waste to reception points;
 - 2.1.6.3 details of contractual arrangements from time to time entered into by the Parties associated with their statutory responsibilities or powers;
 - 2.1.6.4 details of financial matters relating to this Agreement;
 - 2.1.6.5 early warning of potential failure by that Party in meeting its obligations under this Agreement; and
 - 2.1.6.6 details of actual failure by that Party in meeting its obligations under this Agreement,

and notify the Authority and any other affected Party as soon as possible of proposed changes and/or when decisions are made that generally affect this Agreement and/or any Waste Contract;

- 2.1.7 use reasonable endeavours to mitigate any losses arising from a Party's failure to comply with the provisions of this Agreement and to reduce the detrimental impact on the other Parties (or the council tax payers of any one of them) of any failure to carry out its obligations under this Agreement;
 - 2.1.8 use reasonable endeavours working together and in co-operation with each other and all relevant Waste Contractors and WCA Collection Contractors, to prevent and minimise Waste (including its preparation for re-use), to educate the public and other producers of Municipal Waste about recycling schemes and why their participation in these schemes is crucial, and to ensure that as much Waste as possible is (in order of priority) reduced, re-used, prepared for re-use, recycled or recovered through activities that include joint waste prevention and recycling communications campaigns, contractual and other measures to monitor and improve the quality of separately collected waste streams and various surveys and studies to inform such activities and waste services; and
 - 2.1.9 without prejudice to the provisions for the WCAs under this Agreement (using reasonable endeavours) not knowingly do anything under their reasonable control which would put the Authority in breach of a Waste Contract.
- 2.2 The Parties will seek to agree (acting reasonably) Member arrangements for partnership working which are appropriate for any issues as arising from time to time. When agreed, the Parties will implement these arrangements. Officer arrangements for partnership working at the Commencement Date include a director-level Partnership Board, a senior manager Partnership Group and a number of other discipline-specific officer groups. Whilst the scope and membership of such joint working arrangements may be varied over time to reflect prevailing circumstances needs and aspirations, the Parties acknowledge the importance of active participation in and adequate resourcing of the same for the effective management and development of waste services.
- 2.3 The Partnership Group is the principal point of routine contact between the Parties and considers high level Authority and Partnership issues. It will generally meet monthly, will be attended by senior managers appointed by relevant Directors, and will be chaired by a senior manager appointed by the Authority's Managing Director. The Partnership Board meets as and when needed to consider and seek to resolve matters of strategic importance to the Parties; it will be attended by Directors or Assistant Directors.

- 2.4 Subject to the terms of the Waste Contracts the Authority shall use reasonable endeavours to manage the Waste Contracts so as to minimise the costs which the WCAs incur relating to the Waste Contracts, consistent with its Best Value Duty.
- 2.5 Where a WCA is retaining a type of Waste for recycling at the Commencement Date it may continue to retain all Waste of such type during the term of this Agreement.

3. **COMMENCEMENT AND DURATION**

- 3.1 This Agreement shall commence on the Commencement Date and, save as expressly set out in this Agreement, continue in full force and effect until the earlier of:
- 3.1.1 the Expiry Date; or
- 3.1.2 the relevant provisions of the EPA being amended or repealed or other enactment made such that this arrangement is rendered unlawful or inoperable.
- 3.2 All Parties shall notify all other Parties when they have executed this Agreement.

4. **REPRESENTATIVES**

- 4.1 The Authority Representative and each WCA Representative (collectively “the Representatives”) shall be those people identified as such in **Schedule 2** (Representatives and Contact Details) or such other persons as may be appointed pursuant to this **clause 4**.
- 4.2 Each Representative identified in **Schedule 2** shall have full authority to act on behalf of the relevant Party for all purposes of this Agreement. Except as previously notified in writing before such act by a Party, the other Parties and their Representatives shall be entitled to treat any act of the Representatives in connection with this Agreement as being expressly authorised by their relevant Party, and the other Parties and their Representatives shall not be required to determine whether any express authorisation has in fact been given.
- 4.3 Each Representative shall be entitled at any time, by written notice from themselves or a chief officer of the relevant Party to the other Parties, change their Representative. Such change shall have effect on the date determined by **clause 20.2** or if later the date specified in the written notice.

4.4 Each Representative shall be entitled at any time, by written notice from themselves or a chief officer of the relevant Party to the other Parties, to authorise any other person to exercise the functions and powers of the Party exercisable by him/her pursuant to this **clause 4**, either generally or specifically, and all references to the Authority Representative, WCA Representative or the Representatives in the Agreement (as relevant, and apart from this **clause 4.4**) shall be taken as references to such person so far as they concern matters within the scope of such person's authority. Such change shall have effect on the date determined by **clause 20.2** or if later the date specified in the written notice.

5. **TONNAGE GUARANTEES AND FORECASTS**

5.1 In respect of any Waste Contract, all relevant WCAs and the Authority may agree in the future that a Guaranteed Minimum Tonnage (GMT) and/or Maximum Tonnage (MT) threshold shall be incorporated into any Waste Contract, in which case all relevant WCAs will provide a WCA Tonnage Forecast to the Authority the sum of which the Authority may include in the Waste Contract tender documents and the final Waste Contract, and which the Authority will refer to within the Menu Pricing Mechanism if the need arises.

5.2 If a relevant WCA has not agreed to a GMT or MT in any given Waste Contract the specific provisions for GMTs and MTs in the Menu Pricing Mechanism shall not apply to that Waste Contract.

5.3 If after the award of a Waste Contract containing a GMT or MT the Authority and a WCA from which relevant Waste was not previously treated by the Authority agree that the Authority will treat the relevant Waste from this WCA, that WCA's WCA Tonnage Forecast shall be deemed to be 0 (zero) tonnes for the purpose of the Menu Pricing Mechanism unless the Authority and the Waste Contractor agree a revised GMT or MT and the relevant WCA submits a WCA Tonnage Forecast for the remaining term of the Waste Contract, in which case the submitted WCA Tonnage Forecast shall be used for the purpose of the Menu Pricing Mechanism.

5.4 The Authority shall use reasonable endeavours to ensure that additional costs arising as a result of a breach of GMT or MT provisions in a Waste Contract are minimised.

6. **RRCs AND NON-TRANSFERRED RRCs**

6.1 The Authority will provide an RRC service in accordance with the EPA.

- 6.2 The RRCs and Non-Transferred RRCs in the Authority Administrative Area are separately listed in **Schedule 3**.
- 6.3 For the Non-Transferred RRCs the Authority will:
- 6.3.1 arrange for residual waste containers to be provided and exchanged as necessary, and for the recycling or disposal of all Waste therein as it did when these sites were operated in accordance with the Refuse Disposal (Amenity) Act 1978 and the Order, unless requested not to do so by the relevant WCA, until the day before the Menu Pricing Commencement Date; from the Menu Pricing Commencement Date, the relevant WCAs shall deliver this Waste to the Authority subject to **clause 6.10**.
 - 6.3.2 provide a service for the collection of waste electrical and electronic equipment from Non-Transferred RRCs and the subsequent re-use recycling recovery or disposal of such waste electrical and electronic equipment; and
 - 6.3.3 provide a service at Non-Transferred RRCs in relation to other types of Waste by agreement between the relevant Parties.
- 6.4 If a WCA that operates a Non-Transferred RRC wishes to transfer its Non-Transferred RRC to the Authority, this transfer may be undertaken with the consent of the Authority (such consent not to be unreasonably withheld or delayed) on terms equivalent to those prevailing at other RRCs, subject to individual site constraints.
- 6.5 The Authority shall consult (such consultation to be in writing and to contain projections of financial and operational impacts on the Authority and on the WCA) any WCA or WCAs expected to bear more than 40% of the cost (or saving as the case may be) as determined in accordance with **Schedule 1B paragraph 10** on any proposals for the acquisition, development or opening of a new RRC, the closing of any existing RRC, the introduction of paid trade waste or proposed capital works at an RRC site. In this regard:
- 6.5.1 the Authority shall give appropriate weighting to the views of such WCA when taking a decision (such decision to be taken by the Authority in accordance with its prevailing standing orders) whether or not to proceed ;
 - 6.5.2 and if such WCA shall be opposed to such RRC development or major refurbishment notwithstanding that there remains a shortfall in that WCA's recycling performance relative to the target at **clause 2.1.4** above across the Authority Administrative Area the WCA shall supply with its notice of opposition to the Authority alternative proposals to make a similar contribution towards the achievement of this recycling target.

- 6.6 In the case of proposals for the acquisition and development of a new RRC, the Authority shall give the WCA expected to bear the greatest share of the cost as determined in accordance with **Schedule 1B paragraph 10** an option to buy and develop the site for the new RRC on the condition that the WCA agrees the design of the RRC with the Authority, develops the RRC and then leases the RRC to the Authority on terms similar to the leases of other RRCs (subject to individual site constraints), all without delay. Conversely if the Authority has bought and developed a new RRC, but then wishes to sell it, it is agreed that the WCA expected to receive the greatest share of any income in accordance with **Schedule 1B** will have the first right to buy the site from the Authority, provided that it is able to match the price and value as determined by a suitably qualified independent valuer appointed jointly by the relevant WCA and the Authority. This **clause 6.6** shall not apply to any RRC that is developed at the EcoPark, Edmonton, N18 3AG or any other mixed use waste management site of the Authority.
- 6.7 The Authority shall undertake or procure Visitor Surveys of RRCs.
- 6.8 The Authority shall promote all RRCs and Non-Transferred RRCs as a single network of services to residents (and, where appropriate, businesses) in the Authority Administrative Area, which the Parties shall seek to harmonise, subject to individual site constraints.
- 6.9 The Authority shall, where permissible, report its RRC recycling tonnages to the WCAs in the same proportions as the WCAs bear the costs of each RRC under the Visitor Survey.
- 6.10 If a WCA with a Non-Transferred RRC wishes the Authority to continue to provide from or after the Menu Pricing Commencement Date a residual waste removal and treatment service as prevailing in the financial year 2013/14, this service may be continued by agreement between that WCA and the Authority through the making of appropriate arrangements as at **Schedule 4**.

7. FINANCIAL CONTRIBUTION

- 7.1 From the Commencement Date until the Menu Pricing Commencement Date all payments due from the WCAs to the Authority other than for Non-Household Waste shall be levied on an annual basis (and collected by the Authority on a monthly basis) in accordance with the provisions of the Levy Regulations and the alternative to the Levy Regulations agreed unanimously by the WCAs to apply from 2014/15 (and as attached at **Schedule 1A**); and all payments for Non-Household Waste due from the WCAs to the Authority shall be paid on account during the year as required by the Authority with an annual reconciliation by the Authority of actual costs and tonnages attributable to Non-Household Wastes from which refunds or further payments may arise.
- 7.2 On and following the Menu Pricing Commencement Date the WCAs shall pay to the Authority such sums as shall be calculated in accordance with **Schedule 1B (Menu Pricing Mechanism)** which the Parties, by entering into this Agreement, have agreed in accordance with the Levy Regulations (regulation 4(1)(a)) shall apply from the Menu Pricing Commencement Date until an alternative form of levy apportionment is agreed unanimously by all WCAs in accordance with the Levy Regulations (regulation 4(1)(a)) notwithstanding that this Agreement may have expired. The Parties also note that the WCAs shall pay the Authority such sums as are required for Non-Household Waste as shall be calculated in accordance with **Schedule 1B (Menu Pricing Mechanism)**.
- 7.3 To the extent that the costs of the Authority are not recovered or are not recoverable through this Agreement (including without limitation under **clause 7.2**), then the statutory basis for calculating payment shall apply to the recovery of such costs.
- 7.4 Any request for a change to the apportionment of the Authority's costs between the WCAs under this Agreement shall require formal agreement by all the Parties, in the absence of which the Parties agree the provisions of the Menu Pricing Mechanism incorporated within this Agreement as **Schedule 1B** shall govern such apportionment.

8. SET OFF

- 8.1 The WCAs shall not be entitled to retain or set off any amount due to the Authority by it, but the Authority may retain or set off any amount owed to it by a WCA under this Agreement which has fallen due and payable against any amount due to that WCA under this Agreement.

8.2 If the payment or deduction of any amount referred to in **clause 8.1** is disputed then any undisputed element of that amount shall be paid and the disputed element shall be dealt with promptly by all relevant Parties.

9. **LATE PAYMENTS**

9.1 Save where otherwise specifically provided and where payments are due from the WCAs to the Authority under the Levy Regulations, where any payment or sum of money due from the WCAs to the Authority or from the Authority to the WCAs under any provision of this Agreement is not paid on or before the due date, it shall bear if demanded interest on such sums at the Prescribed Rate from the due date (whether before or after any judgement) until actual payment and it is agreed between the Parties that the Prescribed Rate provides the Parties with a substantial remedy pursuant to Sections 8 and 9 of the Late Payment of Commercial Debts (Interest) Act 1998.

9.2 For the avoidance of doubt, the late payment of any payment due from the WCAs to the Authority by operation of the Levy Regulations shall be governed by section 6 of the Levy Regulations.

10. **INDEMNITIES**

10.1 Subject to **clause 10.2**, each WCA shall, unless otherwise agreed by the Authority, be responsible for, and shall release and indemnify the Authority, its employees, agents and contractors on demand from and against all liability for:

10.1.1 death or personal injury;

10.1.2 environmental impairment, damage or contamination of water, air or ground;

10.1.3 loss of or damage to property (including property belonging to the Authority or for which it is responsible);

10.1.4 breach of statutory duty;

10.1.5 actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis);

which may arise out of or in consequence of performance or non-performance by the WCA of its obligations under this Agreement or the presence on the Facilities of the WCA and/or its WCA Collection Contractor.

- 10.2 The WCAs shall not be responsible nor be obliged to indemnify the Authority for any injury, loss, damage, cost and expense caused by the negligence or wilful misconduct of the Authority nor by the breach by the Authority of its obligations under this Agreement (unless and to the extent that such breach was caused by an act or omission of one or several WCAs).
- 10.3 To the extent that any WCA or WCA Collection Contractor cannot recover from a Waste Contractor any costs incurred by that WCA or WCA Collection Contractor associated with that Waste Contractor's actions, inactions, negligence or wilful misconduct, any relevant compensation received by the Authority from the Waste Contractor shall be apportioned through the appropriate provisions of the Menu Pricing Mechanism.
- 10.4 The Authority does not provide any indemnity to the WCAs.

11. **FREEDOM OF INFORMATION**

- 11.1 Each Party acknowledges that each of the other Parties are subject to the requirements of the FOIA, the EIRs and the Local Audit and Accountability Act 2014 and shall assist and cooperate with the other Parties to facilitate compliance with the information disclosure requirements pursuant to the same.

12. **DATA PROTECTION**

- 12.1 The Parties do not anticipate that the DPA shall apply to this Agreement save that where the DPA shall apply the Parties shall comply with all the relevant provisions of the DPA as may be appropriate.
- 12.2 Each Party shall indemnify and keep indemnified the other Parties against all losses claims damages liabilities judgments penalties fines charges costs and expenses (including reasonable legal costs) arising from or incurred by it as a result of any breach by it of this **clause 12**.

13. **REVIEW OF AGREEMENT**

- 13.1 The Parties will re-examine this Agreement whenever there are significant changes to services of one Party that are likely to materially affect one or more other Parties, but will re-examine this Agreement no less frequently than on every third anniversary of the Menu Pricing Commencement Date.

- 13.2 Proposals for change will first be discussed at a meeting of senior managers from each Party (currently the Partnership Group), then directors (currently the Partnership Board), then taken through each Party's relevant internal decision-making processes for agreement to any such supplemental or varied provisions.
- 13.3 If no agreement is reached through the discussions at **clause 13.2**, the provisions of **clause 23** may be called upon by any Party.
- 13.4 This Agreement may then be supplemented or varied as agreed by the Parties.

14. **WAIVER**

- 14.1 A delay in exercising or failure to exercise a right or remedy under or in connection with this Agreement shall not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor shall the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy.
- 14.2 A waiver of any right, remedy, breach or default shall only be valid if it is in writing and signed by the Party giving it, and only in the circumstances and for the purpose for which it was given and shall not constitute a waiver of any other right, remedy, breach or default.

15. **NO AGENCY**

- 15.1 Neither the WCAs nor any of their WCA Collection Contractors shall hold themselves out as being the servant or agent of the Authority, otherwise than in circumstances expressly permitted by this Agreement.

16. **NO PARTNERSHIP**

- 16.1 Nothing in this Agreement is intended to or shall operate to create a partnership as defined by the Partnership Act 1890 or joint venture of any kind between the Parties or any of them, or to authorise any Party to act as agent for any other, and no Party shall have the authority to act in the name or on behalf of or otherwise to bind any other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

- 16.2 Neither the WCAs nor any of their WCA Collection Contractors shall hold themselves out as being authorised to enter into any contract on behalf of the Authority or in any other way to bind the Authority to the performance, variation, release or discharge of any obligation.
- 16.3 Neither the WCAs nor any of their WCA Collection Contractors shall in any circumstances hold themselves out as having the power to make, vary, discharge or waive any by-law or any regulation of any kind relating to the disposal of Waste.

17. ENTIRE AGREEMENT

17.1 Except where expressly provided in this Agreement, this Agreement constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this Agreement.

17.2 Each of the Parties acknowledges that:

17.2.1 it does not enter into this Agreement on the basis of and does not rely, and has never relied, upon any statement or representation (whether negligent or innocent) or warranty or other provision (in any case whether oral, written, express or implied) made and agreed to by any person (whether a party to this Agreement or not) except those expressly repeated or referred to in this Agreement and the only remedy or remedies available in respect of any misrepresentation or untrue statement made to it shall be any remedy available under this Agreement; and

17.2.2 this **clause 17** shall not apply to any statement, representation or warranty made fraudulently, or to any provision of this Agreement which was induced by fraud, for which the remedies available shall be all those available under the law governing this Agreement.

18. SEVERABILITY

18.1 If any provision of the Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability shall not affect any other provision of the Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.

18.2 The Parties agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

19. **COUNTERPARTS**

19.1 This Agreement may be executed in any number of counterparts, each of which shall constitute an original, but which shall together constitute one agreement.

19.2 Each Party shall provide a certified copy of the executed Agreement to all other Parties.

20. **NOTICES**

20.1 Any demand, notice or other communication given in connection with or required by the Agreement shall be made in writing and shall be delivered to or sent by pre-paid recorded delivery to the recipient at the address stated in **Schedule 2** (Representatives and Contact Details) of this Agreement (or such other address as may be notified by a Party to all other Parties in writing from time to time).

20.2 If a notice is sent by e-mail it shall be effective at the time of sending (except that if an automatic electronic notification is received by the sender within twenty four (24) hours after sending the e-mail informing the sender that the e-mail has not been delivered to the recipient or that the recipient is out of the office, that e-mail shall be deemed not to have been served) provided that if a notice or communication is served before 9am on a Business Day it shall be deemed to be served at 9am on that Business Day and if it is served on a day which is not a Business Day or after 4pm on a Business Day it shall be deemed to be served at 9am on the immediately following Business Day.

21. **THIRD PARTY RIGHTS**

21.1 No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

22. **GOVERNING LAW**

This Agreement, and any non-contractual obligations arising out of or in connection with it, shall be governed by and constructed in all respects in accordance with the laws of England.

23. **DISPUTE RESOLUTION**

- 23.1 Any Party may call a meeting of the Parties involved in a dispute by service of not less than 5 Business Days' written notice and each relevant Party agrees to procure that its relevant manager together with any other member of key personnel requested to attend by the parties (if any) shall attend all meetings called in accordance with this clause.
- 23.2 The relevant manager and other attendees at the meeting shall use their best endeavours to resolve disputes arising out of this Agreement. If any dispute referred to a meeting is not resolved at that meeting then any Party, by notice in writing to the other, may refer the dispute to the Representatives at **Schedule 2** of the Parties involved who shall co-operate in good faith to resolve the dispute as amicably as possible within 10 Business Days of service of such notice. If the relevant Representatives at **Schedule 2** fail to resolve the dispute in the allotted time, then the Parties involved in the dispute shall, after that period, on the written request of another Party involved in the dispute enter into an alternative dispute resolution procedure with the assistance of a mediator agreed by the Parties involved in the dispute or, in default of such agreement within 5 Business Days of receipt of such request, an appropriately qualified and experienced person appointed, at the request of any Party involved in the dispute, by the Centre for Dispute Resolution or such other similar body as is agreed.
- 23.3 The Parties involved in the dispute shall then submit to the supervision of the mediation by an appropriately qualified and experienced person from the Centre for Dispute Resolution or similar body for the exchange of relevant information and for setting the date for negotiations to begin.

- 23.4 Recourse to this Dispute Resolution Procedure shall be binding on the Parties involved in the dispute as to submission to the mediation but not as to its outcome. Accordingly all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the parties involved in the dispute in any future legal proceedings. Except for any Party's right to seek interlocutory relief in the courts, no Party may commence other legal proceedings under the jurisdiction of the courts or any other form of arbitration until 15 Business Days after the Parties have failed to reach a settlement by mediation (at which point the Dispute Resolution Procedure shall be deemed to be exhausted).
- 23.5 If, with the assistance of the mediator, the Parties reach a settlement, such settlement shall be reduced to writing and, once signed by the Representative at **Schedule 2** of each of the relevant Parties, shall remain binding on the Parties involved in the dispute.
- 23.6 The Parties involved in the dispute shall bear their own legal costs of this Dispute Resolution Procedure, but the costs and expenses of mediation shall be borne by the Parties involved in the dispute equally.
- 23.7 For the avoidance of doubt, no outcome from any dispute resolution process may require a Party to do something that it cannot lawfully do, nor may it require the Authority to levy additional funds from the WCAs other than during its normal financial cycle.

24. **CONFIDENTIALITY**

- 24.1 Each Party:
- 24.1.1 shall treat all Confidential Information belonging to another Party as confidential and safeguard it accordingly;
 - 24.1.2 shall not disclose any Confidential Information belonging to another Party to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance by it of its obligations under this Agreement or except where disclosure is otherwise expressly permitted or required by the provisions of this Agreement or the FOIA and/or the EIRs.
- 24.2 No Party shall use any Confidential Information received pursuant to this Agreement otherwise than for the purposes of facilitating the effective delivery by that Party of services and this Agreement.

- 24.3 The provisions of **clauses 24.1 to 24.2** shall not apply to any Confidential Information received by one Party from another Party:
- 24.3.1 which is or becomes public knowledge (otherwise than by breach of this **clause 24** or through act or default on the part of the receiving Party or the receiving Party's agents or employees);
 - 24.3.2 which the receiving Party lawfully obtained from a third party who:
 - 24.3.2.1 lawfully acquired it;
 - 24.3.2.2 did not derive it directly or indirectly from the disclosing Party; and
 - 24.3.2.3 is under no obligation restricting its disclosure;
 - 24.3.3 which the receiving Party can prove by documentary evidence was developed independently by an agent or employee of the receiving Party without access to the disclosing Party's Confidential Information;
 - 24.3.4 which must be disclosed pursuant to a legal obligation (including for the avoidance of doubt under the FOIA or EIRs) placed upon the Party making the disclosure, including any requirements for disclosure or otherwise in accordance with a court order, or the recommendation, notice or decision of a competent authority; or
 - 24.3.5 which the receiving party discloses to a professional adviser to assist in the performance of its obligations under this Agreement, including those relating to the resolution of disputes, and where such professional adviser is bound by an obligation of confidentiality in respect to such Confidential Information at least equivalent to that set out in this **clause 24**.
- 24.4 Without prejudice to the generality of **clause 24.3.1**, Confidential Information shall not be deemed to be generally available to the public by reason that it is known only to a few of those people to whom it might be of commercial interest, and a combination of two or more portions of the Confidential Information shall not be deemed to be generally available to the public by reason only of each separate portion being so available.
- 24.5 Nothing in this **clause 24** shall prevent any Party from using any techniques ideas or know how gained during the performance of the Agreement in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information.

- 24.6 On or before the Expiry Date the Authority shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the WCAs' employees, council tax-payers or service users, are delivered up to the relevant WCA or securely destroyed.
- 24.7 The provisions of this **clause 24** shall continue following the Expiry Date or earlier termination for any reason of this Agreement without limit in time.

In witness whereof this Agreement is executed by the parties or their duly authorised representatives as a Deed and delivered on the date of this Agreement.

EXECUTED as a Deed by affixing)
the common seal of)
THE NORTH LONDON WASTE AUTHORITY)
in the presence of:)

Authorised Representative

EXECUTED as a Deed by affixing)
the common seal of)
THE MAYOR AND BURGESSES OF)
THE LONDON BOROUGH OF BARNET)
in the presence of:)

Authorised Representative

EXECUTED as a Deed by affixing)
the common seal of)
THE MAYOR AND BURGESSES OF)
THE LONDON BOROUGH OF CAMDEN)
in the presence of:)

Authorised Representative

EXECUTED as a Deed by affixing)
the common seal of)
THE MAYOR AND BURGESSES OF)
THE LONDON BOROUGH OF ENFIELD)
in the presence of:)

Authorised Officer

EXECUTED as a Deed by affixing)
the common seal of)
THE MAYOR AND BURGESSES OF)
THE LONDON BOROUGH OF HACKNEY)
in the presence of:)

Authorised Representative

EXECUTED as a Deed by affixing)
the common seal hereunto by Order of)
THE MAYOR AND BURGESSES OF)
THE LONDON BOROUGH OF HARINGEY)
in the presence of:)

Authorised Officer

EXECUTED as a Deed by affixing)
the common seal of)
THE MAYOR AND BURGESSES OF)
THE LONDON BOROUGH OF ISLINGTON)
in the presence of:)

Authorised Representative

EXECUTED as a Deed by affixing)
the common seal of)
THE MAYOR AND BURGESSES OF)
THE LONDON BOROUGH OF)
WALTHAM FOREST)
in the presence of:)

Authorised Representative

SCHEDULE 1 COST RECOVERY MECHANISM PART A:

LEVYING MECHANISM - IN USE SINCE 1ST APRIL 2014

The Authority and the WCAs have, pursuant to paragraph 4.1(a) of the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006 (the "Regulations"), agreed the method of apportioning the total amount to be levied by the Authority for the 2014/15 financial year and until further changed in accordance with this agreement. The agreed method of apportionment is set out below and is expressed by way of amendment to the text of the Regulations.

TO BE REPLACED BY SCHEDULE 1B AT THE MENU PRICING COMMENCEMENT DATE

STATUTORY INSTRUMENTS

Alternative Form of Levy Regulations adopted by NLWA constituent authorities

LOCAL GOVERNMENT, ENGLAND

FINANCE

The Joint Waste Disposal Authorities (Levies) (England) Regulations 2006. No. 248 **(as adopted by NLWA constituent councils from 2012/13 [in red underline], and further revised and adopted from 2014/15 [in green underline])**

Made - - - - 6th February 2006

Laid before Parliament 8th February 2006

Coming into force - - 1st March 2006

The Secretary of State for the Environment, Food and Rural Affairs makes the following Regulations in exercise of the powers conferred by sections 74 and 143(1) and (2) of the Local Government Finance Act 1988(a).

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006 and come into force on 1st March 2006.

(2) These Regulations apply to England only.

(3) In these Regulations—

“the 1985 Order” means the Waste Regulation and Disposal (Authorities) Order 1985(b);

“the 1992 Regulations” means the Levying Bodies (General) Regulations 1992(c);

“constituent council” means, in relation to a joint waste disposal authority, a council specified in relation to that authority in Schedule 1 to the 1985 Order;

“financial year” means any period of twelve months beginning with 1st April;

“joint waste disposal authority” means any of the authorities established under the 1985 Order and named in Schedule 1 to that Order.

(a) 1988 c. 41. Section 74 was amended by the Local Government Finance Act 1992 (1992 c. 14), sections 117(1) and Schedule 13 paragraph 72(1) and (2), the Local Government (Wales) Act 1994 (1994 c. 19), section 20(4) and Schedule 6, paragraph 21, the Environment Act 1995 (1995 c. 25), section 120 and Schedule 1, the Greater London Authority Act 1999 (1999 c. 29), section 105, the Criminal Justice and Court Services Act 2000 (2000 c. 43), section 74 and Schedule 7, Part II, paragraphs 84 and 85, the Courts Act 2003 (2003 c. 39), section 109(1), and Schedule 8, paragraph 305(a), the Regional Assemblies (Preparations) Act 2003 (2003 c. 10), section 17(6) and paragraphs 3(1) and (2) of the Schedule, and the Fire and Rescue Services Act 2004 (2004 c. 21), section 53(1) and Schedule 1, paragraph 68(1) and (2). The functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, article 2, Schedule 1.

(b) S.I. 1985/1884, amended by the Radioactive Substances Act 1993 (1993 c. 12), section 50 and Schedule 6, Part IV, S.I. 1986/564 and 2001/1149.

(c) S.I. 1992/2903 amended by S.I. 2001/3649.

Scope

2. These Regulations apply in relation to levies—

(a) issued by joint waste disposal authorities; or

(b) anticipated by constituent councils of joint waste disposal authorities, in respect of any financial year beginning on or after 1st April 2006.

Levies

3.—(1) A joint waste disposal authority may, in accordance with these Regulations, issue levies on its constituent councils to meet all liabilities falling to be discharged by it for which no provision is otherwise made.

(2) A levy on a constituent council shall be issued by giving the council a demand stating the date or dates on or before which a payment or payments in respect of the levy are required to be made and the amount of that payment or each of those payments.

(3) Subject to paragraph (4) the demand shall be given before 15th February in the financial year preceding that to which the levy relates.

(4) In relation to a levy for the financial year beginning on 1st April 2006, the demand shall be given before 3rd March 2006.

(5) The failure by a joint waste disposal authority to give a demand before the dates specified in paragraphs (3) and (4) shall not render the demand invalid because it is issued on or after those dates.

Apportionment of levies

4.—(1) Subject to regulation 5, the amount to be levied by a joint waste disposal authority in respect of any financial year from each of its constituent councils shall be determined by apportioning the total amount to be levied by that authority in that year between those councils as follows—

(a) in such proportions as all the constituent councils may agree; or

(b) in the absence of such agreement, by a combination of the following proportions—

(i) the costs incurred by the joint waste disposal authority in the disposal or treatment of household waste delivered to it by its constituent councils shall be apportioned between the constituent councils in proportion to the tonnage of household waste delivered by each of these councils to the joint waste disposal authority within the last complete financial year for which data are available except for when a constituent council will start to deliver to the joint waste disposal authority types of waste that the constituent council had previously retained for recycling in which case the constituent council shall provide to the joint waste disposal authority records of the tonnage of such household waste it delivered elsewhere for recycling in the last complete financial year for which data are available and the joint waste disposal authority shall apportion its levy as if the constituent councils had also delivered such household waste to the joint waste disposal authority;

(ii) the costs incurred by the joint waste disposal authority in the disposal or treatment of business refuse that is deposited at places provided by the constituent councils under section 1 of the Refuse Disposal (Amenity) Act 1978(a) shall be apportioned between the constituent councils in proportion to the tonnage of business refuse deposited at such places within the area of each of these councils within the last complete financial year for which data are available; ~~and~~

(iii) The costs incurred by the joint waste disposal authority in the planning, construction, equipping and operation of sites provided under section 51(1)(b) of the Environmental Protection Act 1990 (HWRCs), including contract payments, staffing, utilities, premises, reuse, recycling, composting (costs and/or income) and relevant management costs, but excluding the cost of removing residual waste and its disposal (the authority's duty under the Refuse Disposal (Amenity) Act 1978), shall be apportioned between those constituent councils in whose area an HWRC is situated proportionate to the authority's relative costs applicable to each HWRC, such that the authority's above costs of each HWRC are paid in full by the constituent council in which it is situated.

(iv) The costs incurred by the joint waste disposal authority in the purchasing of Cranford Way Western Road HWRC shall be apportioned between the constituent councils in the following proportions:

<u>Barnet</u>	<u>0.613%</u>
<u>Camden</u>	<u>0.038%</u>
<u>Enfield</u>	<u>0.383%</u>
<u>Hackney</u>	<u>0.191%</u>
<u>Haringey</u>	<u>97.894%</u>
<u>Islington</u>	<u>0.804%</u>
<u>Waltham Forest</u>	<u>0.077%</u>

(v) The costs incurred by the joint waste disposal authority in the purchasing of any further HWRCs shall be apportioned between the constituent councils in proportion to the number of households in each constituent council that exist within a two-mile radius of the entrance to the HWRC until a visitor survey has been undertaken by the Authority. Once a visitor survey has been undertaken by the Authority for any such HWRC the costs as at clause (iii) above shall be recovered from the constituent councils from the next financial year onwards in proportion to such visitor survey; visitors from outside the Authority's area shall be treated as visitors from the borough in which the HWRC is situated. Further visitor surveys may be undertaken by the Authority in future years, which shall be used in place of previous visitor surveys from the financial year after they are undertaken, including for the avoidance of doubt Cranford Way Western Road; and

(vi)(iii) all other costs not falling within paragraphs (i) ~~or (ii) (iii) (iv) or (v)~~, shall be apportioned between the constituent councils by reference to the relevant proportion.

(2) For the purposes of paragraph 1(b) (vi)(iii), "the relevant proportion" is the relevant proportion determined in accordance with paragraphs (5) to (7) of regulation 6 of the 1992 Regulations but as if, in those paragraphs, the references to —

(a) "levying body" were references to a joint waste disposal authority; and

(a) 1978 c.3. Section 1 has been prospectively repealed, in relation to England and Wales, by the Environmental Protection Act 1990 (1990 c.43) section 162 and Schedule 16, Part II, as from a day to be appointed. Amended by the Environmental Protection Act 1990, section 162, Schedule 15, paragraphs 19(2) and (3) and S.I. 1985/1884. Modified, in relation to the area of a London waste disposal authority, by S.I. 1985/1884.

(b) “relevant authority” and “billing authority” were references to a constituent council.

(3) Where paragraph (1)(b) applies to the determination of a levy to be issued in respect of any financial year beginning on or after 1st April 2007, a constituent council shall, within the period beginning on 1st December and ending on 31st January in the financial year preceding the financial year in respect of which the levy is to be issued, inform the joint waste disposal authority of—

- (a) the tonnage of household waste delivered to the joint waste disposal authority for disposal or treatment within the last complete financial year for which data are available;
- (b) the tonnage of business refuse that was deposited at places provided by the constituent council under section 1 of the Refuse Disposal (Amenity) Act 1978 within the last complete financial year for which data are available; and
- (c) the council tax base, determined in accordance with paragraphs (6) and (7) of regulation 6 of the 1992 Regulations, for its area, in respect of which a levy will be issued or it anticipates that a levy will be issued in the immediately following financial year.

(4) In this regulation—

“household waste”, has the same meaning as in section 75 of the Environmental Protection Act 1990(a);

“business refuse” means refuse falling to be disposed of in the course of a business, and

“refuse” has the same meaning as in section 1(7) of the Refuse Disposal (Amenity) Act 1978.

Special provisions relating to the Greater Manchester Waste Disposal Authority

5.—(1) The amount to be levied by the Greater Manchester Waste Disposal Authority in respect of any year from the council of the metropolitan district of Wigan shall not include any amount relating to the Authority’s waste disposal functions and, accordingly, that amount shall be borne by the other constituent councils of the Authority in such proportions as they may agree or, in default of agreement, in the proportions specified in regulation 4(1)(b).

(2) In this regulation, “waste disposal functions” means functions vested in the Greater Manchester Waste Disposal Authority by virtue of regulation 5 of, and Schedule 2 to, the 1985 Order which are not exercisable by the Authority in the metropolitan district of Wigan.

Interest on unpaid levies

6.—(1) Where any amount of a levy is not paid by the due date for payment specified in the demand issued under regulation 3, the constituent council shall be liable to pay to the joint waste disposal authority interest, calculated in accordance with paragraph (2), on the amount of the levy issued under these Regulations which remains unpaid after the due date for payment.

(2) The interest payable under paragraph (1) shall be simple interest calculated from day to day on the unpaid amount from the due date for payment until the date when payment is made at a rate equivalent to 2 per cent. above the highest base rate quoted from time to time by any of the reference banks.

(3) For the purposes of paragraph (2) “reference banks” shall be interpreted in accordance with paragraphs (3) to (5) of regulation 10 of the 1992 Regulations (interest on unpaid levies).

(a) 1990 c.43, Section 75 was amended by the Environment Act 1995 (1995 c. 25) section 120(1) and (3), Schedule 22, paragraphs 88 (1) to (4) and Schedule 24. There is other amending legislation in relation to Scotland. Modified by S.I. 1994/1056, regulation 19, Schedule 4, Part I, paragraph 9, to include “Directive waste” as defined in regulation 1(3), Schedule 4, Part II of those Regulations.

Anticipation of levies

7.—(1) A constituent council making calculations in accordance with section 32 or, as the case may be, section 43 of the Local Government Finance Act 1992^(a) (“the calculations”) for a financial year (“the year”) may anticipate a levy to be issued on it in accordance with these Regulations for the year by a relevant joint authority in any case where—

(a) such a levy has not been issued by the relevant joint authority on the constituent council at the time the calculations are made; and

(b) the relevant joint authority issued a levy for the preceding financial year.

(2) Subject to paragraph (3), where pursuant to paragraph (1) a constituent council anticipates a levy to be issued by a relevant joint authority for the year, the amount of the levy so anticipated shall be equal to the constituent council’s estimate, at the time the calculations (or last calculations) are made, of the amount of the levy which it considers likely will be issued on it for the year by the relevant joint authority.

(3) Where a levy has previously been anticipated by a constituent council for the purposes of the calculations for the year, the amount of the levy which may be anticipated by the constituent council for the purposes of any substitute calculations for the year shall be equal to the amount previously anticipated.

(4) Notwithstanding that a constituent council making calculations for a financial year anticipated a levy to be issued on it in accordance with these Regulations by a relevant joint authority—

(a) where the relevant joint authority issues a levy on the constituent council in accordance with these Regulations, the constituent council shall pay to the relevant joint authority a sum equal to the amount of the levy; and

(b) where the relevant joint authority does not issue a levy on the constituent council in accordance with these Regulations, the constituent council shall not be liable to pay any sum to the relevant joint authority only by virtue of having anticipated a levy from the relevant joint authority.

(5) In this regulation, a “relevant joint authority”, in relation to a constituent council, means a joint waste disposal authority with power under these Regulations to issue a levy on that council.

Transitional provisions

8.—(1) Save as provided in paragraph (2), the 1992 Regulations shall cease to apply to levies issued or anticipated in accordance with these Regulations in respect of any financial year beginning on or after 1st April 2006.

(2) In relation to levies issued or anticipated in respect of the financial years beginning on 1st April 2006 and on 1st April 2007—

(a) regulation 4 of these Regulations (apportionment of levies) shall apply to the levies issued by the joint waste disposal authorities specified in the first column of the Schedule to these Regulations in the proportions specified in the second column of that Schedule for each of those financial years; and

(b) regulation 6 of the 1992 Regulations (apportionment) shall continue to have effect in relation to the proportion of the levy not covered under sub-paragraph (a).

^(a) 1992 c.14. Sections 32 and 43 were amended by the Police Act 1997 (1997 c. 50), section 134(1), Schedule 9, paragraphs 67 and 68(2) and (3), the Criminal Justice and Police Act 2001(2001 c. 16), section 137, Schedule 7, Part 5(1), the Local Government Act 2003 (2003 c. 26), section 127(2), Schedule 8, Part 1, the Serious Organised Crime and Police Act 2005, section 174(2), Schedule 17, Part 2 and S.I. 1994/246, 1995/234, 1996/56, 1999/296, 2000/717, 2005/190. There is other amending legislation in relation to Wales. Modified by S.I. 1993/22, 1995/161 and 1995/2889. Section 43 is disapplied by the Greater London Authority Act 1999 (1999 c. 29), section 85.

6th February 2006

Ben Bradshaw
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

SCHEDULE

Regulation 8(2)

TRANSITIONAL ARRANGEMENTS

<i>JOINT WASTE DISPOSAL AUTHORITIES</i>	<i>PROPORTION OF THE TOTAL LEVY FOR 2006 AND 2007 TO WHICH REGULATION 4 APPLIES</i>
North London Waste Authority West London Waste Authority Western Riverside Waste Authority Merseyside Waste Disposal Authority	33.3% for the financial year beginning on 1st April 2006 66.6% for the financial year beginning on 1st April 2007
Greater Manchester Waste Disposal Authority	50% for the financial year beginning on 1st April 2006 75% for the financial year beginning on 1st April 2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations confer a power on joint waste disposal authorities established under the Waste Regulation and Disposal (Authorities) Order 1985 (S.I. 1985/1884) (the “1985 Order”) to issue levies on their constituent councils for the purpose of meeting their expenses in respect of financial years beginning on or after 1st April 2006 where, but for section 117 of the Local Government Finance Act 1988 (rates and precepts: abolition), they would have a power under article 7 of the 1985 Order (levies) to require the councils to pay those expenses. These Regulations apply to England only.

The Regulations include provisions as to when levies are to be issued (regulation 3), the apportionment of levies between authorities (regulation 4) as well as special provisions for the Greater Manchester Waste Disposal Authority (regulation 5). The Regulations also make provision for interest on unpaid levies (regulation 6) and the anticipation of levies (regulation 7).

Regulation 8 includes transitional provisions providing for the Levying Bodies (General) Regulations 1992 (S.I. 1992/2903) to cease to apply to levies issued or anticipated by joint waste disposal authorities in respect of any financial year commencing on or after 1st April 2006 except as specified in that regulation and the Schedule to the Regulations.

A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of business.

2006 No. 248

**Alternative Form of Levy Regulations adopted by NLWA
constituent authorities**

LOCAL GOVERNMENT, ENGLAND

FINANCE

The Joint Waste Disposal Authorities (Levies) (England)
Regulations 2006 **(as adopted by NLWA constituent
councils from 2012/13 [in red underline],
and further revised and adopted from 2014/15 [in green
underline])**

£3.00

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SCHEDULE 1 COST RECOVERY MECHANISM PART B:

MENU PRICING MECHANISM

Preamble

The Parties to this Inter Authority Agreement (IAA) agree that this Schedule will provide the rules by which the Authority will apportion its costs between the WCAs.

By entering into this Agreement, the Parties agree that the Authority will apportion its costs via a levy for the financial year 2016/17 and for future financial years until the WCAs unanimously agree otherwise in accordance with the Menu Pricing Levy Apportionment Mechanism Rules as set out below. These Rules are agreed in accordance with the Levy Regulations (regulation 4(1)(a)) as an alternative to the default levy apportionment methodology also contained therein (regulation 4(1)(b)).

In this Schedule “WCA” means the same as “constituent council” as defined in the Levy Regulations, and “WCAs” means all constituent councils in the Authority Administrative Area.

Introduction

This **Schedule 1B** ensures an equitable allocation of the financial obligations of the Authority, including those arising as a consequence of the Authority’s Waste Contracts, to each of the WCAs through the IAA. The Parties agree to the principle of equitable allocation such that each WCA shall be responsible for the financial consequences of its own behaviour and that of its contractors and agents, such behaviour to be determined primarily by the composition and quantity of Waste delivered by or on behalf of each WCA and managed by the Authority.

This Schedule sets out the process and rules for the recovery from the WCAs of all costs incurred by the Authority, i.e. the Schedule covers recovery of the Authority’s net costs in connection with the Authority’s:

- i. various payment obligations for waste services under Waste Contracts or otherwise;
- ii. revenue costs of funding the Authority’s capital programme, including the acquisition of sites for the waste treatment facilities (e.g. the cost of acquiring LondonWaste Ltd and Pinkham Way), capital contributions which the Authority may make to Waste Contractors, and the development of any new facilities not provided through the Waste Contracts;
- iii. overheads, administrative costs, and other costs incurred by the Authority in order to fulfil its statutory obligations, other costs which the Authority may decide to incur from time to time, and income from non-WCA sources.

Current Cost Recovery Arrangements

The Authority’s net budget is broadly made up of (i) waste treatment services (ii) corporate and other support service costs, (iii) revenue costs of capital investment and (iv) income from non-WCA sources.

The Authority currently approves its annual budget in the February prior to the relevant financial year. After allowance for the recovery of costs for Non-Household Waste (which shall include Household Waste for which a charge for disposal may be made by the Authority) and use of available surplus balances the remaining costs of the Authority are recovered through a levy on the WCAs. The WCAs agree and acknowledge that together such sums must be adequate to discharge all the Authority's costs. The WCAs decide how the levy will be apportioned between the WCAs. Until and including the financial year 2011/12 the levy was apportioned in accordance with the default provisions of the Joint Waste Disposal Authorities (Levies) (England) Regulations 2006. The levy calculation comprised two elements, the household element of the levy (for Household Waste tonnages delivered to the Authority) was apportioned between WCAs on a tonnage basis (audited tonnages for the last full year prior to the budget year) and the other costs element (including civic amenity waste) was apportioned on a council tax basis (the council tax base for the relevant budget year). Since the financial year 2012/13 the levy has been apportioned in accordance with alternatives to the statutory default mechanism following unanimous agreements among the WCAs. The current locally agreed levy apportionment mechanism is at **Schedule 1A**.

WCAs are notified of the levy and their share of the levy together with a monthly payment schedule before 15th February prior to the relevant budget year. The levy is set for the year such that there should be no further recourse to WCAs for any additional payments during the year.

The charging arrangement for Non-Household Waste is governed by s52(9) of the Environmental Protection Act 1990 (EPA). WCAs are provided with an estimate of their financial liability for the relevant financial year together with a monthly payment schedule (also by 15th February). At the end of the financial year there is an annual reconciliation of actual tonnages delivered to the Authority for treatment and actual costs borne by the Authority in the treatment of this waste stream such that a WCA may be required to make an additional payment or entitled to receive a refund.

Menu Pricing Levying Apportionment Mechanism Process

- a) The Authority will approve a budget every February for the following financial year and this will be used to determine the annual cost of providing waste services to each WCA.
- b) To assist with the budget preparation process (October to February prior to the relevant financial year) each WCA will be required to provide the Authority with an up-to-date tonnage forecast of their waste streams for the relevant financial year and a medium term forecast of their waste tonnages for the subsequent three years by the end of the December prior to the relevant financial year.
- c) These tonnage forecasts will be reviewed by the Authority and may be notified to the Waste Contractor(s) in order to establish any relevant base payment to be paid to a Waste Contractor.
- d) The Authority will also calculate its estimated cost for areas of expenditure which fall outside of the Waste Contracts.
- e) In the case of Non-Household Waste the Authority will notify the WCAs of an estimate of their financial liability for the following financial year together with a monthly payment schedule by 15th February. Subject to any differences arising from the different ways in

which the Authority recovers its costs for Household Wastes and Non-Household Wastes, the cost per tonne for Household Wastes and Non-Household Wastes shall be broadly the same for each principal waste stream or other type of waste from the Menu Pricing Commencement Date. The Authority shall recover its costs in relation to Ad Hoc Wastes that are also Non-Household Waste as a specific Non-Household Waste charge to the relevant WCA.

- f) After the Authority has determined its budget, income from non-levy sources and the use of revenue balances the Authority will notify each WCA by 15th February of the total sum to be levied for providing waste services and other Authority activities and commitments for the following financial year together with monthly payment schedules and a statement setting out the principal component sums.
- g) A WCA's actual liability for each financial year will be determined as soon as possible after the end of the financial year as part of an annual reconciliation process (there will be regular budget reviews during the financial year so that WCAs can follow the progress of actual costs against budget and gauge how this might impact on their actual financial liability for the relevant financial year).
- h) As soon as possible after the end of each financial year, the actual costs of the Authority in providing waste services and its other activities and commitments under the levy will be determined by the Authority in accordance with the cost apportionment rules set out in this **Schedule 1B**, and any under or over payment by a WCA will result in a ring-fenced revenue balance (positive or negative) for that WCA to be taken into account in the next available financial year's levy apportionment calculation.
- i) As soon as possible after the end of each financial year there will be an annual reconciliation of actual tonnages of the different Non-Household Waste streams delivered to the Authority for treatment and the actual costs borne by the Authority in the treatment of each of these Non-Household Waste streams and associated costs in accordance with the cost apportionment rules set out in this **Schedule 1B** such that a WCA may be required to make an additional payment to the Authority or entitled to receive a refund from the Authority.

Menu Pricing Levy Apportionment Mechanism Rules (the Rules)

- 1. The cost and/or income (as relevant) of services provided by the Waste Contractors will be accounted for across the prevailing principal waste streams (currently these are residual, food, green, mixed organics and mixed dry-recyclables), and the provisions for RRCs and Non-Transferred RRCs. Ad Hoc Waste, and any other additional contracts or costs which arise in the provision of waste services will be accounted for in a similar way.
- 2. When the levy is set, each WCA's share of the levy will be calculated by reference firstly to the Authority's tonnage forecasts for each waste stream delivered by each WCA and the Authority's projection of relevant costs for each waste stream for the relevant financial year; secondly to the Authority's tonnage forecasts for total Municipal Waste delivered by each WCA and the Authority's projection of other budgeted costs for the relevant financial year; and thirdly to the most recent Visitor Survey for the RRC waste stream and the Authority's relevant budgeted costs for the relevant financial year.

3. Where payment deductions or additions are waste stream specific but not WCA specific (for example waste transfer costs, payments under EPA s.52(10) or, for mixed dry recyclables, MRF facility performance as distinct from those based on the measured quality of individual WCA delivered wastes) these adjustments will be included in the annual reconciliation to determine the final cost per tonne of each waste stream or the final cost for each RRC or Non-Transferred RRC.
4. Where payment deductions or additions are WCA specific (for example damage by a WCA to a Waste Contractor's premises) these will be deducted or added as adjustments in the annual reconciliation of costs to be borne by each WCA.
5. Any additional sums payable by the Authority associated with not reaching a Guaranteed Minimum Tonnage (GMT) shall be recovered from those WCAs that have delivered less than their share of the GMT for the relevant waste stream by reference to relevant WCA Tonnage Forecasts (all such liabilities shall be apportioned between these WCAs by reference to their individual variances from the GMT as a percentage of all such variances). Similarly, any additional sums payable by the Authority associated with exceeding a Maximum Tonnage (MT) shall be recovered from those WCAs that have delivered more than their share of the MT for the relevant waste stream by reference to the relevant WCA Tonnage Forecasts (all such liabilities shall be apportioned between these WCAs by reference to their individual variances from the WCA Tonnage Forecasts as a percentage of all such variances). This will form part of the annual reconciliation of costs to be borne by each WCA.
6. Where deductions and additions are of a general nature (neither waste-stream nor WCA specific) these will be deducted or added as adjustments in the annual reconciliation of costs to be borne by each WCA. This adjustment will be based upon each WCA's share of the total actual WCA Municipal Waste (excluding RRC, Non-Transferred RRC and Ad Hoc Wastes) delivered to the Authority for the relevant financial year. For the avoidance of doubt the terms "Municipal Waste" and "WCA Municipal Waste" in these Rules include both Household Waste and Non-Household Waste, and the term Non-Household Waste includes Chargeable Household Waste.
7. The revenue costs of funding the capital programme (waste treatment sites) will be borne by WCAs in proportion to the tonnes of WCA Municipal Waste delivered to the Authority for the relevant financial year. This will form part of the levy-setting and the annual reconciliation of costs to be borne by each WCA. The distribution of any surplus capital receipts not related to RRCs that could possibly arise in the future and which are not otherwise required in the opinion of the Authority for the repayment of loans or required to finance other capital investments will be distributed amongst the WCAs in proportion to the actual tonnes of WCA Municipal Waste (excluding RRC, Non-Transferred RRC and Ad Hoc Wastes) delivered to the Authority since the Menu Pricing Commencement Date. In and from the year following a year during which any item funded through the capital programme becomes waste stream specific, WCA specific or RRC specific, the relevant costs shall be apportioned as at Rule 2 or Rule 10 (as applicable) and adjusted if necessary in accordance with Rule 3 or Rule 4.

8. The revenue costs of funding any capital contributions to Waste Contractors or similar capital investments by the Authority shall be apportioned across each relevant waste stream in the same proportion as the cost reduction arising to the Authority from the capital contribution or similar capital investment by the Authority for each waste stream. This will be equated to a cost per tonne (based upon the tonnes of each relevant waste stream delivered by the WCAs to the Authority for the relevant financial year). This will form part of the levy-setting and the annual reconciliation of costs to be borne by each WCA.
9. The revenue costs of funding other capital costs other than for RRCs (but not excluding the revenue costs of funding the capital costs of any RRC that is developed as part of new residual waste treatment capacity at the EcoPark in Edmonton, N18 3AG) will be borne by WCAs in proportion to the tonnes of WCA Municipal Waste (excluding RRC, Non-Transferred RRC and Ad Hoc Wastes) delivered to the Authority for the relevant financial year. In and from the year following a year during which any item funded as capital becomes waste stream specific, WCA specific or RRC specific, the relevant costs shall be apportioned as at Rule 2 or Rule 10 (as applicable) and adjusted if necessary in accordance with Rule 3 or Rule 4. This will form part of the levy-setting and the annual reconciliation of costs to be borne by each WCA. However, where such costs are waste stream specific they shall in the first instance be allocated to the relevant waste stream and apportioned between WCAs accordingly.
10. All costs in relation to RRCs (other than Third Party Waste costs and the revenue costs of funding the capital costs of any RRC that is developed as part of new residual waste treatment capacity at the EcoPark in Edmonton, N18 3AG) will be apportioned in the proportions determined by the Visitor Survey and, until such time as a visitor survey can be conducted for any new RRC (including any Non-Transferred RRC that has become a RRC), the proportion of households within a two mile radius of the entrance to such new RRC that are within each WCA. Any surplus capital receipts from any RRC disposals that could possibly arise in the future and which are not otherwise required in the opinion of the Authority for the repayment of relevant loans or required to finance other relevant capital investments shall be apportioned in accordance with this rule, as applied since the RRC was acquired or otherwise arranged by the Authority. All costs in relation to any Non-Transferred RRC shall be recovered through the levy from the WCA in which that Non-Transferred RRC is situated.
11. All NLWA non-contract costs and/or income, which include the core costs of operating the Authority, project based costs and other costs which may be required to enable the Authority to fulfil its statutory obligations, or other expenditure which the Authority may agree from time to time will be borne by WCAs in proportion to the tonnes of WCA Municipal Waste (excluding RRC, Non-Transferred RRC and Ad Hoc Wastes) delivered to the Authority for the relevant financial year unless and to the extent that such costs are not waste stream specific or WCA specific. This will form part of the levy-setting and the annual reconciliation of costs to be borne by each WCA.
12. At the end of each financial year, in its annual reconciliation of costs to be borne by each WCA, the Authority will use both the actual tonnages delivered to the Authority by each WCA and the Visitor Survey employed when that financial year's levy was set.

13. Balances (positive or negative) that are available at the end of each financial year will wherever possible be ring-fenced to each WCA, to each waste stream and to each RRC as applicable having regard to the source(s) of the balances, subject to Rule 14 below.
14. Balances that are forecast to be available when determining the levy for 2016/17 and when finalising the Authority's statutory accounts for 2015/16 shall be apportioned between the WCAs in the same proportions as were used to apportion the levy for 2015/16.

SCHEDULE 2: REPRESENTATIVES AND CONTACT DETAILS

Authority	
Name of Authority Representative:	Andrew Lappage, Head of Operations
Contact details of Authority Representative:	<p>Address:</p> <p>North London Waste Authority Berol House, Unit 1B 25 Ashley Road, Tottenham London N17 9LJ</p> <p>Tel: 020 8489 5732/0 Fax: 020 8365 0254 Email: Andrew.Lappage@nlwa.gov.uk and Email: post@nlwa.gov.uk</p>
Contact details of Authority (if different):	<p>Address:</p> <p>North London Waste Authority Town Hall Judd Street London WC1H 9JE</p>

London Borough of Barnet	
Name of WCA Representative:	John Hooton, Chief Operating Officer
Contact details of WCA Representative:	<p>Address: London Borough of Barnet, North London Business Park, Oakleigh Road South, London N11 1NP</p> <p>Tel: 020 8359 2000 Fax: 0870 889 7456 Email: John.Hooton@barnet.gov.uk</p>
Contact details of WCA (if different):	Address: (as above)

London Borough of Camden	
Name of WCA Representative:	Ed Watson, Director of Culture and Environment
Contact details of WCA Representative:	<p>Address: London Borough of Camden 5 Pancras Square London N1C 4AG</p> <p>Tel: 020 7974 5622 Email: Ed.Watson@camden.gov.uk</p>
Contact details of WCA (if different):	Address: (as above)

London Borough of Enfield	
Name of WCA Representative:	Ian Davis, Director of Regeneration and Environment
Contact details of WCA Representative:	Address: London Borough of Enfield Civic Centre Silver Street Enfield EN1 3XA Tel: 020 8379 3500 Fax: Email: Ian.Davis@enfield.gov.uk
Contact details of WCA (if different):	Address: (as above)

London Borough of Hackney	
Name of WCA Representative:	Kim Wright, Corporate Director, Health and Community Services
Contact details of WCA Representative:	Address: London Borough of Hackney Hackney Town Hall Mare Street London E8 1EA Tel: 020 8356 7347 Fax: Email: Kim.Wright@hackney.gov.uk
Contact details of WCA (if different):	Address: (as above)

London Borough of Haringey	
Name of WCA Representative:	Stephen McDonnell, Assistant Director – Environmental Services and Community Safety
Contact details of WCA Representative:	Address: Haringey Council River Park House 225 High Road Wood Green London N22 8HQ Tel: 020 8489 2485 Fax: 020 8489 2906 Email: Stephen.McDonnell@haringey.gov.uk
Contact details of WCA (if different):	Address: Haringey Council Civic Centre High Road Wood Green London N22 8LE

London Borough of Islington	
Name of WCA Representative:	Kevin O’Leary, Corporate Director – Environment and Regeneration
Contact details of WCA Representative:	Address: Islington Council Directorate Suite 222 Upper Street London N1 1XR Tel: 020 7527 2350 Fax: N/A Email: Kevin.O’Leary@islington.gov.uk
Contact details of WCA (if different):	Address: (as above)

London Borough of Waltham Forest	
Name of WCA Representative:	David Evans, Head of Major Contracts and Delivery and Place Commissioner
Contact details of WCA Representative:	<p>Address: London Borough of Waltham Forest Town Hall Forest Road London E17 4JF</p> <p>Tel: 0208 496 4219 Fax: Email: David.Evans@walthamforest.gov.uk</p>
Contact details of WCA (if different):	Address: (as above)

SCHEDULE 3: RRCs AND NON-TRANSFERRED RRCs

RRC or Non-Transferred RRC	RRC	AUTHORITY TITLE TO BE PUT IN PLACE	DATE OF TRANSFER TO AUTHORITY	OPERATED BY
Non-Transferred RRC	Summers Lane, Barnet	Single leasehold from Barnet	4 October 2015	Authority
RRC	Regis Road, Camden	Single leasehold from Camden	1 April 2012	Authority
Non-Transferred RRC	Barrowell Green, Enfield	None	Not transferring at the date of this agreement	Enfield
RRC	Park View Road, Haringey	Single leasehold from Haringey	1 st November 2012	Authority
RRC	Western Road, Haringey	Single freehold	25 June 2014 (predecessor RRC transferred 1 st November 2012)	Authority
RRC	Hornsey St, Islington	Single leasehold from Islington as part of shared building	1 April 2012	Authority
RRC	Gateway Road, Waltham Forest	Single lease from contractor	1 April 2012	Authority
RRC	Kings Road, Waltham Forest	Single leasehold from Waltham Forest	7 June 2012	Authority
RRC	South Access Road, Waltham Forest	Single leasehold from Waltham Forest	7 June 2012	Authority

SCHEDULE 4: ARRANGEMENTS FOR NON-TRANSFERRED RRCs

On NLWA headed paper

<Address>

Date:

<Address>

Dear

[SITE NAME] Re-use and Recycling Centre (“RRC”)¹

1. This letter confirms the arrangements between the North London Waste Authority (the “Authority”) and the London Borough of [BOROUGH NAME] (the “Council”) regarding the Authority’s duty to arrange for the provision of sites in the Authority’s area and fulfilling the Authority’s statutory obligations under section 51 of the Environmental Protection Act 1990 (“s51 EPA”).
2. Following the repeal of Section 1 of the Refuse Disposal (Amenity) Act 1978, with effect from 1 April 2012 the Council no longer has a duty to provide places where refuse may be deposited by persons resident in the Council’s area.
3. The Authority has a duty under s51 EPA to arrange for the disposal of the controlled waste collected in its area by the waste collection authorities, and for places to be provided at which persons resident in its area may deposit their household waste and for the disposal of waste so deposited.
4. Pursuant to Section 1 of the Localism Act 2011 the Council has a general power of competence under which it may do anything not otherwise unlawful but for which there is no other specific statutory authority.

¹ **N.B.** The term RRC is used in this Schedule in a broader sense than the defined term in the Agreement.

- 5. The Authority and the Council agree that until the Expiry Date in the Inter Authority Agreement [or sooner date as agreed by the Council and the Authority], the RRC situated at [SITE NAME] shall continue to be provided, managed and funded by the Council and that the Authority shall continue to provide residual waste removal and treatment services as in the financial year 2013/14.
- 6. The Authority will recover from the Council its full costs of the services at the RRC situated at [SITE NAME], and of the further management of wastes arising there, in accordance with the Menu Pricing Mechanism.
- 7. The Council notes the Authority's statutory obligations at paragraph 3 above and will manage the above RRC in accordance with the same until the Expiry Date in the Inter Authority Agreement [or sooner date at paragraph 5 above].
- 8. If the Council is aware of any variation from the Authority's statutory obligations, or believes that it will be unable to manage the above RRC in accordance with these, the Council shall immediately notify the Authority with details.

As an authorised officer of the North London Waste Authority I hereby confirm the above arrangement on behalf of the North London Waste Authority with effect from

Signed: **Date:**
Title:
North London Waste Authority

As an authorised officer of LB [BOROUGH NAME] I hereby confirm the above arrangement on behalf of LB [BOROUGH NAME] with effect from

Signed: **Date:**
Title:
London Borough of [BOROUGH NAME]

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Report of: **Executive Member for Housing and Development**

Executive	Date: 14. 1.16	Ward(s): All
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SUBJECT: Adoption of Basement Development Supplementary Planning Document

1. Synopsis

- 1.1 The purpose of this report is to outline the proposed final content of the Basement Development Supplementary Planning Document (SPD) and to recommend its adoption. The SPD has been amended following the completion of a public consultation process over the summer, undertaken in line with the statutory consultation requirements.
- 1.2 The SPD has been prepared in response to growing concerns about the rapid increase in the number of planning applications for basements, particularly large domestic basements, in the borough. The SPD provides further guidance on the implementation of Council's Local Plan policies where of relevance to Basement Development. Once adopted, the SPD will be a material consideration in determining any future planning applications to which it applies.

2. Recommendations

- 2.1 To note the contents of consultation report (attached at Appendix 2) and the proposed amendments to the Basement Development SPD.
- 2.2 To agree to formally adopt the Basement Development SPD (attached at Appendix 1).

3. Background

- 3.1 Planning policy in the UK has evolved to deal with impacts of above surface development over time, finding ways to evaluate both the site specific and cumulative impacts of development, on issues such as character and appearance, access to daylight and sunlight, and traffic impacts. The increasing density of development in Central London together with changing market expectations is creating a new context for subterranean development in the capital, and with it a new set of planning issues to be considered.

- 3.2 Unlike above-ground development which traditionally has minimal impact on ground conditions and when removed the site can be restored to its (near) pre-development state, subterranean development, particularly when greater than one storey in depth, can permanently and irreversibly alter ground conditions. The potential impacts associated with subterranean development in the London context have been highlighted as an issue at pan-London level in the Mayor's Sustainable Design and Construction Supplementary Planning Guidance (SPG) (2014), with boroughs advised to consider if there are any particular local issues that could affect basement development and adopt appropriate policies to address local conditions.
- 3.3 While the Local Plan does not currently have a standalone planning policy relating to basement development in the same way as for above-ground development, there are a suite of planning policies that need to be taken into account in the consideration of a proposal involving basement development. These policies include (but are not limited to) the following London Plan (2015), Core Strategy (2011) and Development Management (2013) Policies:
- London Plan Policies 3.5 Quality and design of housing developments; 5.3 Sustainable design and construction; 5.12 Flood risk management; 5.13 Sustainable drainage; 5.14 Water quality and wastewater infrastructure; 7.6 Architecture; 7.13 Safety, security and resilience to emergency; 7.19 Biodiversity and access to nature; 7.21 Trees and woodlands; and Policy 2.2 (Basements and Lightwells) of the Mayor's Sustainable Design and Construction SPD (2014).
 - Core Strategy Policies CS15A Open space and infrastructure; CS10D/E Sustainable design; and CS9B Protecting and enhancing Islington's built and historic environment
 - Development Management Policies DM2.1A Design; DM2.3B Heritage; DM3.3B Residential conversions and extensions; DM3.7 Noise and vibration; DM3.4 Housing standards (only when creating new unit); DM6.3E Protecting open space; DM6.5A/B Landscaping, trees and biodiversity; DM6.6 Flood prevention (only applies to majors or minor new residential units); and DM7.1A/D Sustainable design and construction.
- 3.4 Together, these policies provide the policy context under which applications involving basement development are assessed in Islington. In general, all forms of development are required to be of high quality, and make a positive contribution local character and distinctiveness of an area, be sustainable, adaptable and incorporate inclusive design principles. The Basement Development SPD will interpret and provided further guidance on the existing Development Plan policies specifically in relation to basement development.
- 3.5 **Purpose and content of the SPD**
The main objective of the SPD is to provide detailed guidance to support the assessment of planning applications involving basement development. The SPD defines basement development for planning purposes, with reference to the other regulatory regimes which cover different aspects of basement development, and sets out the documentation that must be submitted in support of applications and have been prepared by a suitability qualified and experienced professional. It goes on to provide guidance on the seven key design considerations relating to basement development, with specific advice for Conservation Areas and Listed Buildings.
- 3.6 Section Four of the SPD focuses on the planning permission process, recommending early engagement with neighbours and the Council's pre-application service due to the complexity and potentially contentious nature of many basement applications. This section also details the range of desk and site investigations likely to be necessary to inform the design, and provides guidance on content of the Structural Method Statement and Construction Management Plan that must be submitted in support of any application for basement development.
- 3.7 Section Five focuses on the site-specific design considerations that proposals for basement development must satisfactorily address to be considered acceptable. These include extent and depth of development; character and appearance; flood risk; landscaping and biodiversity; sustainable design; and quality of accommodation. For each of these areas, the key principle to be achieved is clearly set out, and one or more design indicators identified to support achievement of the key principle.

- 3.8 In order to allow appropriate development to occur whilst ensuring cumulative impacts are minimised, in considering the above issues the SPD takes a balanced approach to the amount of basement development to occur within a site. For extensions to existing residential basements or the creation of new basement areas underneath and/or within the curtilage of an existing dwelling, the majority of original open area of the site shall be retained, and the total area of basement beyond the original footprint must be subordinate to the original footprint of the dwelling. In recognition of the contribution made by residential garden land to ecosystem functions such as surface water attenuation, microclimate regulation and biodiversity, minimum soil depths to support mature planting and ensure adequate natural drainage are required.
- 3.9 Sections Six and Seven provide guidance specifically tailored to Conservation Areas and Listed Buildings, respectively. This guidance is in addition to the design considerations applicable to all basement development outlined in Section Five, reflecting the additional constraints identified for development which impacts on heritage assets. The appendices to the SPD include detailed guidance on the form of supporting documentation required to be submitted with an application for basement development, and sources of further relevant information in relation to the issues covered in the SPD.

Consultation

- 3.10 A discussion paper was published in December 2014, prompted by the increasing incidence of subterranean development in the borough, and that set out the range of issues to be considered and the potential impacts associated with subterranean development relevant to Islington. The paper focussed on identifying the particular local conditions that could affect subterranean development in the borough and necessitate the setting of specific local requirements in regards to this type of development. A total of 44 responses were received.
- 3.12 A draft version of the SPD was subsequently published and the public consultation ran between 10 July and 4 September 2015. A total of 19 responses were received; 15 written responses and 4 questionnaire responses. Each response is summarised and responded to in the Consultation Statement attached at Appendix 2. The majority of respondents supported the approach taken in the draft SPD, with some respondents providing more detailed responses to specific SPD sections, and some raising concerns with a particular element of the guidance. These responses can be broadly summarised as follows:
- Concerns about flood risk associated with basements in areas subject to ground water flooding and older watercourses/seasonal water flows
 - Concerns that the guidance does not formulate new planning policy and therefore is weaker than expected
 - Request a definition of 'existing basements'
 - Requested the adoption of an outright ban on basements under listed buildings
 - Requested a reduction of the maximum extent of basement within a garden from 50% to 20%
 - Supported the validation requirements in support of a basement application
 - Supported the independent verification of structural method statements where necessary
 - Request for clarification on the assessment of movement required
 - Disagreed with the resistance to converting vaults to create ancillary floor space
 - Questioned whether the blanket ban on underpinning listed buildings is reasonable
 - Request to include further guidance on design for flood risk to prevent combined sewer surcharge
 - Requested for guidance to be more stringent in the assessment of building movement and ground movement
 - Disagreed with the limit of basement extent within gardens based on subservience to host building
 - Disagreed with the need to limit basements to a single storey, and request that this be established on a case-by-case basis
 - Suggested that trees can be re-located to the rear of the site to allow for basement construction

- 3.13 A number of minor amendments were made to the drafting of the SPD in response to the feedback received and are incorporated into the final version attached at Appendix 1, taking into account consultation responses where relevant and appropriate. The majority of changes were points of further clarification, with no significant changes made to the Council's overall approach to this form of development. Executive are asked to consider the comments received during public consultation alongside the proposed amendments to the drafting, and agree to adopt the SPD.

4. Implications

Financial implications:

- 4.1 The cost of producing the SPD and consultation costs will be met through existing budgets within the Planning and Development division.

Legal Implications:

- 4.2 The draft Basement Development SPD has been prepared in line with the relevant planning regulations. The principal statutory policy basis for the SPD is policies DM 2.1A, 2.3B, 3.3B, 3.7, 3.4, 6.3E, 6.5A and B, 6.6, and 7.1A and D of the Council's Development Management Policies DPD.
- 4.3 The draft Basement Development SPD was subject to consultation in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). Following consultation and adoption, the SPD will be a material consideration in the determination of all relevant planning applications.

Environmental Implications

- 4.4 The statutory policies on which the SPD is based have been subject to extensive Sustainability Appraisal at each stage of plan preparation. The Basement Development SPD has therefore not been subject to Sustainability Appraisal because it does not introduce new policies; rather it supports implementation of Local Plan policies that have been sufficiently appraised in the SA of the Core Strategy and Development Management Policies DPDs.
- 4.5 A Screening Statement to determine the need for a Strategic Environmental Assessment (SEA) has been prepared, in accordance with the *Environmental Assessment of Plans and Programmes Regulations 2004* and *European Directive 2001/42/EC*. The screening has concluded that an SEA does not need to be prepared as the SPD does not introduce new policies and will not result in any additional significant effects to those already identified through higher level sustainability appraisals of the Local Plan documents adopted by Islington Council. The SPD will provide more detailed guidance to ensure that the potential positive effects identified within the Sustainability Appraisals for Islington's Local Plan documents are realised.

Resident Impact Assessment:

- 4.6 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.
- 4.7 The initial screening for a Resident Impact Assessment was completed on 1 June 2015 and this did not identify any negative equality impacts for any protected characteristic or any human rights or safeguarding risks. Since this initial screening, the process for undertaking Resident Impact Assessment (RIA) has been updated and therefore a full Resident Impact Assessment has been undertaken on the final version of the SPD and has shown that there are no specific equalities implications relating to the Basement Development SPD.

5. Reasons for the recommendations

- 5.1 Once adopted, the SPD will be used by the Council to assess planning applications for basement development. It will be a material consideration in the determination of any planning application that contains basement development. Minor amendments to the SPD have been made in response to feedback received as part of the public consultation process; however, the substantive content of the document has largely been supported and therefore remains the same.
- 5.2 Adoption of the SPD by the Council will provide greater certainty to both the local community and interested parties about the nature of basement development that is likely to be acceptable to the Council as a Local Planning Authority.

Signed by:

22 December 2015



Executive Member for Housing and Development Date

Appendices

1. Basement Development SPD – Final Version
2. Basement Development SPD – Regulation 12(a) Consultation Statement

Background papers:

None

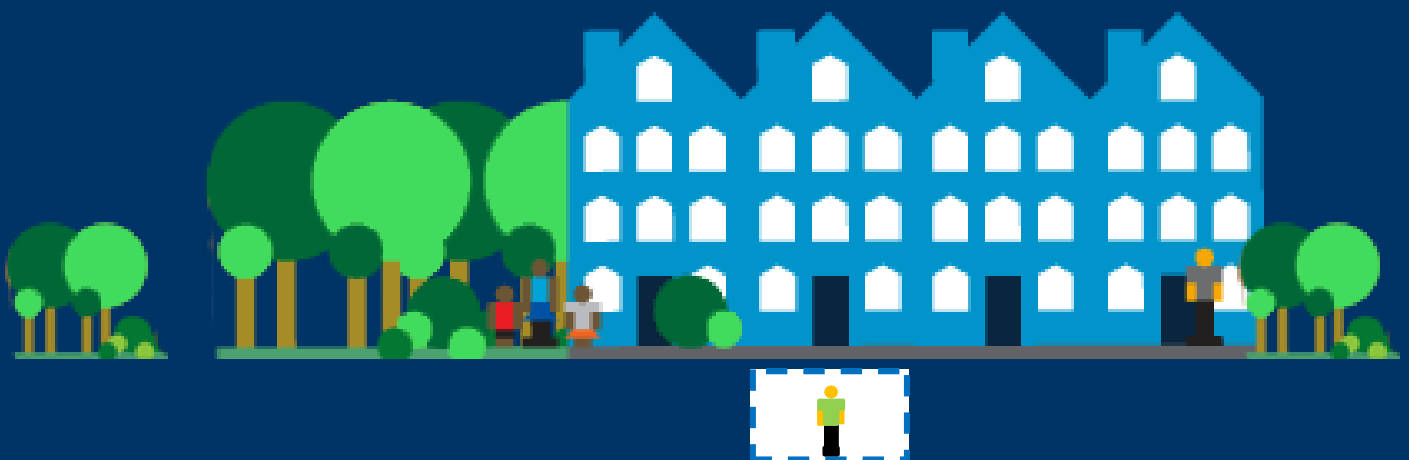
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BASEMENT DEVELOPMENT

SUPPLEMENTARY PLANNING DOCUMENT

JANUARY 2016



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1 INTRODUCTION

- 1.1. In the same way as for above-ground development, there is a suite of planning policies to be taken into account in the consideration of a proposal involving basement development. Together these policies provide the policy context under which applications involving basement development are assessed in Islington. This SPD does not create new policy; but interprets and provides further guidance based on Islington's existing adopted Development Plan policies and will be an important material consideration in helping the council to make decisions on such planning applications.
- 1.2. The SPD is intended to provide clarity for planning officers and developers, as well as any other interested stakeholders with regard to planning applications for basement development. This ensures that the SPD is consistent with the National Planning Policy Framework (NPPF) paragraph 153. The SPD was subject to a public consultation process over the summer of 2015, and pre-consultation process over the previous winter, undertaken in accordance with the statutory consultation requirements.
- 1.3. This document will be used in the assessment of any planning application which involves the excavation for the creation of new or additional subterranean/basement floor space. Whilst this guidance is primarily for applicants proposing a basement extension to an existing residential property or for those likely to be affected by such a development, the general principles will also be relevant for a range of sites including infill residential development, commercial development, or for large scale redevelopment adjoining or in close proximity to residential or other sensitive sites/areas. It is appropriate for all developments that propose subterranean excavation to create floorspace to address the requirements of this SPD as a part of any planning application made to the council.



Figure 1: Relationship between Supplementary Planning Documents and Islington Development Plan and Local Plan

2 BACKGROUND

- 2.1.** As seen in other Central London boroughs, development constraints coupled with high levels of development pressure and high land values has given rise to an increasing level of subterranean development occurring in order to achieve highly valuable additional floor space within existing homes, and similarly in new construction. This trend is now being echoed in Islington.
- 2.2.** The increasing density of development in Central London together with changing market expectations is creating a new context for subterranean development in the capital, and with it a new set of planning issues to be considered. Unlike above-ground development, which traditionally has minimal impact on ground conditions and when removed the site can be restored to its (near) pre-development state, subterranean basements, particularly when greater than one storey in depth, can permanently and irreversibly alter ground conditions.
- 2.3.** Basements have been a typical feature found in some parts of Islington, either as a traditional feature of certain architectural styles, or more recently within buildings designed for mixed use, commercial, retail and other uses in the southern part of the borough. Properties containing original basement features in Islington were historically single storey basements contained within the building footprint or part thereof, with the exception of light wells in some instances. The recent trend for excavation under residential gardens and under existing basements has no known historic precedent in Islington.
- 2.4.** As Islington is a densely developed borough with the majority of land in residential use and is predominantly comprised of terraced building stock with gardens at the front and rear, the cumulative impacts of developing whole gardens as basements would be significant.
- 2.5.** Whilst basement development has specific issues unique to this form of construction, they cannot be considered in isolation from other planning issues, and are subject to policies in the same regard as above ground development. Notwithstanding this, there is a need for specific guidance on subterranean development to provide ease of use by developers, safeguard against potential environmental and amenity impacts and ensure consistency of decision making.

3 PLANNING POLICY CONTEXT

- 3.1.** In the same way as for above-ground development, there is a suite of planning policies to be taken into account in the consideration of a proposal involving basement development. These include, the London Plan, Islington Core Strategy (2011), Development Management Policies (2013) and supplementary planning guidance contained in Table 1.
- 3.2.** Together these policies provide the policy context under which applications involving basement development are assessed in Islington. In general, all forms of development are required to be of high quality and make a positive contribution to the local character and distinctiveness of an area, be sustainable, adaptable and incorporate inclusive design principles.
- 3.3.** Given the importance of open space and private open space (i.e. gardens) to Islington in terms of green infrastructure, the consideration of the cumulative impact of loss of open space (due to basement extensions in particular) needs to be considered strategically. The strategic nature of this issue is echoed in the Mayor's updated Sustainable Design and Construction Supplementary Planning Guidance (2014), which states:
- "Where there is pressure for basement developments, boroughs should consider whether there are any particular local geological or hydrological issues that could particularly affect their construction, and adopt appropriate policies to address any local conditions...when planning a basement development, developers should consider the geological and hydrological conditions of the site and surrounding area, proportionate to the local conditions, the size of the basement and lightwell and the sensitivity of adjoining buildings and uses, including green infrastructure (pg 25).*
- 3.4.** In order to facilitate a comprehensive assessment of individual and cumulative impact of any basement development and ensure these are minimised, the council has prepared this supplementary planning document.

Table 1: Planning policies and guidance most relevant to basement development in Islington

<p>London Plan (updated 2015).</p>	<p>3.5 Quality and design of housing developments 5.3 Sustainable design and construction 5.12 Flood risk management 5.13 Sustainable drainage 5.14 Water quality and wastewater infrastructure 7.6 Architecture 7.13 Safety, security and resilience to emergency 7.19 Biodiversity and access to nature 7.21 Trees and woodlands</p>
<p>Mayor’s Sustainable Design & Construction SPG (2014)</p>	<p>2.2 Basements and Lightwells</p>
<p>Islington Core Strategy (2011)</p>	<p>CS15 Open Space and Infrastructure – (A) CS10 Sustainable Design – (D) & (E) CS 9 Protecting and enhancing Islington’s built and historic environment – (B)</p>
<p>Islington Development Management Policies (2013)</p>	<p>DM 2.1 Design – (A) DM 2.2 Inclusive Design DM 2.3 Heritage – (B) DM 3.3 Residential conversions and extensions – (B) DM 3.7 Noise and Vibration DM 3.4 Housing standards (only when creating new unit) DM 6.3 Protecting open space - (E) DM 6.5 Landscaping, trees and biodiversity - (A) & (B) DM 6.6 Flood prevention (only applies to majors or minor new residential units) DM 7.1 Sustainable design and construction - (A) & (D)</p>

4 WHAT IS BASEMENT DEVELOPMENT?

- 4.1.** Basement development includes any excavation to form new or additional floorspace under the ground level (subterranean) of an existing property or within its curtilage and under its garden. It also includes basements which are part of new build development.
- 4.2.** Most basement developments will require planning permission but there may be certain circumstances where basement development may be 'permitted development' under the General Permitted Development Order 2015.
- 4.3.** Permitted development rights (PD rights) relate to single family dwelling houses and are not applicable to flats, apartments or maisonettes. PD rights do not remove the requirement for [Listed Building Consent](#), the legal requirement to preserve [trees located within a Conservation Area](#) or those subject to a [Tree Preservation Order](#). For clarification as to whether a development satisfies the conditions of Permitted Development, an application for a [Lawful Development Certificate](#) should be submitted to council with the appropriate documentation, after which a formal decision will be made.
- 4.4.** Other statutory legislation, secondary legislation and regulations, guidance and codes of practice cover different aspects of basement development and must be considered in parallel to planning considerations during design development. These include (but are not limited to):
- Building Regulations
 - Highways Act
 - Party Wall Act
 - Environmental Health (e.g. Control of Pollution Act, Environmental Protection Act)
 - Housing Act
 - Utility providers such as Thames Water
 - Transport for London and London Underground
 - Freeholder permission
- 4.5.** Whilst the SPD is aimed at promoting best practice in terms of basement development in the borough, the remit of planning does not extend to matters controlled under Building Regulations or other non-planning legislation, regulations or other consenting regimes. This is consistent with the approach set out in paragraph 122 of the National Planning Policy Framework (NPPF).

BASEMENT DEVELOPMENT IS...
any excavation to form new or additional floorspace under the ground level (subterranean) of an existing property or within its curtilage and under its garden. It also includes basements which are part of new build development.

5 APPLYING FOR PLANNING PERMISSION

- 5.1. The council offers a [Pre-application Advice Service](#) for all applicants. Due to the complexity of issues to be considered and the potentially contentious nature of many basement applications, applicants are advised to consult with the council at the earliest opportunity.
- 5.2. It is recommended that applicants engage with neighbours at an early stage, giving interested parties sufficient information to enable them to properly consider the proposal. Neighbours will be formally notified as a part of a planning application for basement development, therefore it is advisable that applicants engage with adjoining neighbours, as well as wider neighbouring properties as commensurate to the specifics of the site, and the scale of the basement proposed.
- 5.3. For information regarding the planning application process please visit the Council's [planning application process](#) webpage. For application forms and for application submission online, please visit the [planning portal](#) webpage.
- 5.4. The Local Validation List will be updated to reflect the informational requirements of this SPD. A summary of the specific informational requirements in support of a planning application for basement development is contained in Appendix A.

6 SITE INVESTIGATIONS TO INFORM DESIGN

- 6.1.** It is important that thorough site and desk-based investigations are undertaken and used to inform the design process of any basement development from the outset. These are key to identifying any potential risks, limiting factors, and specific design considerations to be taken into account and responded to in any basement design.
- 6.2.** Given the density of buildings in the borough, and predominance of narrow terraced properties, there is potential for significant impacts to occur both in a building under which excavation is taking place and neighbouring buildings, i.e. impacts are not necessarily restricted to those immediately abutting the site.
- 6.3.** The NPPF states that planning should ensure that development is suitable for its site, taking into account ground conditions and land instability, and ensure that adequate site investigation information, prepared by a competent person, has been presented to demonstrate these impacts have been understood, including any cumulative impacts.
- 6.4.** Structural stability is a material consideration for the Local Planning Authority insofar as the requirement to consider the potential risk and effects a proposal may have upon property, infrastructure and the public, as set out in Planning Practice Guidance. For clarity, this does not require the council to approve a technical solution for a development proposal, but rather to confirm that these issues have been sufficiently evaluated and responded to in a design and ensure that this process has been undertaken by a suitably qualified and experienced professional.
- 6.5.** For all basement development a **Structural Method Statement (SMS)** must be submitted (in accordance with the SMS requirements in Appendix B) in support of any such application, and this must be signed and endorsed by a Chartered Civil Engineer or Chartered Structural Engineer with relevant experience, appointed by the applicant.
- 6.6.** Types of investigations that should be used to inform the design process include:
- site history
 - site survey (existing buildings and other structures)
 - underlying geology
 - groundwater level
 - current and historic watercourses
 - areas of archaeological interest (archaeological priority areas and scheduled monuments)
 - existing trees
 - underground infrastructure (e.g. utilities, services, tunnels and drains)
 - listed buildings in proximity to the site
 - constructed and/or consented schemes with basements in proximity to the site

KEY PRINCIPLE

Basements must be designed to safeguard the structural stability of the existing building, nearby buildings, trees and any infrastructure.

INFORMATION REQUIREMENTS

Submit a Structural Method Statement (SMS) and a Construction Management Plan (CMP) with any planning application for a basement development endorsed by a suitably qualified person(s).

6.7. In some instances it may be pertinent to undertake physical site investigations as well as survey and desk-based investigations. These instances may include (but are not limited to):

- site contains a listed buildings or is in proximity to a listed building
- site contains existing tree(s), or basement comes within the Root Protection Area or canopy area of a tree on an adjoining site
- site where basement may come into contact with (or close to) an Upper Aquifer
- site falls within an area identified as Groundwater Protection Zones (see link to EA mapping in Appendix D)
- site falls within an area identified as at risk of groundwater flooding
- sites fall within an archaeological priority area
- site contains or is within close proximity to contaminated land

6.8. The SMS should contain the findings of early site investigations, and clearly articulate how these findings have influenced the design that is proposed. At each stage of the design and construction process a suitably qualified person with relevant experience in the construction of basements relevant to the type of basement (i.e. residential or large scale commercial) proposed should be appointed and retained by the applicant as both a designer and construction monitor. The person(s) undertaking this work must hold qualifications and experience relevant to the matters being considered. This should be:

Chartered Civil Engineer	Holding full chartered membership (MICE) with Institute of Civil Engineers
--------------------------	--

Chartered Structural Engineer	Holding full chartered membership (MIStructE) with Institute of Structural Engineers
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6.9. A non-technical summary of the SMS is expected to be provided in a format which can easily be understood by those with no technical knowledge and allow meaningful conclusions to be drawn from the outcomes of the report. Further detail on the recommended contents of a SMS is contained within Appendix B.

6.10. For all basement developments, the certifying professional endorsing the SMS must be retained (or replaced with a suitably qualified person with relevant experience) throughout the duration of construction, to ensure that the necessary expertise is available to inform decision making throughout the construction process. A planning condition will be imposed on any planning permission issued to this effect.

6.11. The Council may choose to consult (at the expense of the applicant) an independent suitably qualified person to undertake an independent assessment for specific cases where substantive conflicting information has been presented to the Council, or where there are any particularly sensitive buildings, trees or other structures within proximity of the site.

7 DESIGN CONSIDERATIONS

7.1. Extent of basement development within a site

- 7.1.1. The extent of basement development appropriate for a site will be influenced by a number of factors such as site context; proportion of site already developed; proximity to listed buildings; hydrogeology of the site; topography; green infrastructure functions of the site including biodiversity; and the location of trees and shrubs. These factors need to be taken into account early in the design process and must inform design solutions where appropriate.
- 7.1.2. Areas of basement should respond to the scale, function and character of the site and its surrounds. Where large basement extensions are proposed, the resulting intensity of basement use may be out of keeping with the domestic scale, function and character of its context.
- 7.1.3. Whilst modest basement extensions can in some circumstances be an effective way of creating additional floor space, the development of private open space to achieve additional floor area can give rise to a number of adverse impacts unless designed sensitively.
- 7.1.4. Open space including private residential gardens contribute greatly to Islington’s character as well as providing vital green infrastructure functions for the borough such as reducing surface water flood risk, providing important habitat and ecological connectivity, and contributing to the borough’s biodiversity, urban cooling and adaptation to climate change. Private open spaces make up a significant proportion of Islington’s open space. The piecemeal loss of these spaces due to incremental development such as large outbuildings and extensive basements within gardens has serious potential implications for the borough.
- 7.1.5. As set out in Policy DM6.3, development of private open spaces is not permitted where there would be a significant individual or cumulative loss of open space/open aspect and/or where there would be a significant impact on amenity, character and appearance, biodiversity, ecological connectivity, cooling effect and/or flood alleviation effect.
- 7.1.6. The council must therefore consider the cumulative impacts of basement development across the borough and balance the potential site-specific benefits basements can provide (i.e. additional floorspace) against those wider cumulative impacts set out in Policy DM6.3. For this reason, the SPD sets out borough-wide guidance addressing the extent of basement development within individual sites that will ensure there is not an unacceptable cumulative loss of private open space (and associated impacts) when viewed at borough level.

KEY PRINCIPLE

All basement development will need to be appropriate and proportionate to its site and context.

POLICY BASIS

Applications will be considered taking into account Islington’s Core Strategy Policies CS15 (Open space and Infrastructure), CS10 (Sustainable Design), CS9 (Protecting and enhancing Islington’s built and built and historic environment), Development Management Policies DM 6.3 (Protecting open space), DM 6.5 (Landscaping, trees and biodiversity), DM6.6 (Flood prevention), DM2.3 (Heritage). The Mayor’s Sustainable Design and Construction SPG is also relevant.

Residential basement extensions

- 7.1.7. For extensions to existing residential basements or the creation of new basement areas underneath and/or within the curtilage of an existing dwelling, the majority of original open area of the site should be retained, and the total area of basement beyond the original footprint must be subordinate to the original footprint of the dwelling.

Design indicator

DI.1 A basement and/or other structures should cumulatively occupy less than 50% of the original garden/unbuilt upon area, and be smaller in area than the original footprint of the dwelling, *whichever the lesser*.

- 7.1.8. The maximum extent will be measured separately for each garden/unbuilt upon area within the site, e.g. front, back or side. As Islington is largely characterised by terraced houses, in most cases the front and rear gardens will be clearly defined and measurements straight forward as shown in Figures 2 and 3.
- 7.1.9. The remaining garden area/unbuilt upon area of the site should be designed to maximise garden and amenity functionality, providing useable amenity space and supporting biodiversity enhancement, to protect the garden setting and contribute to local character. In considering the design of a basement that extends into a garden/unbuilt upon area, a proposal should avoid fragmentation of spaces to deliver cohesive, useable and functional private open space.
- 7.1.10. The location of all basements should take account of leaving the unaffected portion of garden connected to other unaffected gardens and open space immediately adjoining the site, to ensure connectivity of these spaces is protected. Particularly for sites with side gardens, basements should be kept close to the existing dwelling, and where possible (for larger sites) margins should be left between basements and adjoining sites. This allows for space to enable natural surface water drainage and lateral ground water movement to occur between sites.
- 7.1.11. Figure 2 demonstrates how to calculate the maximum extent of basement for a terraced house with a long garden. Figure 3 demonstrates how to calculate the maximum extent of basement in a terraced house with a small garden.

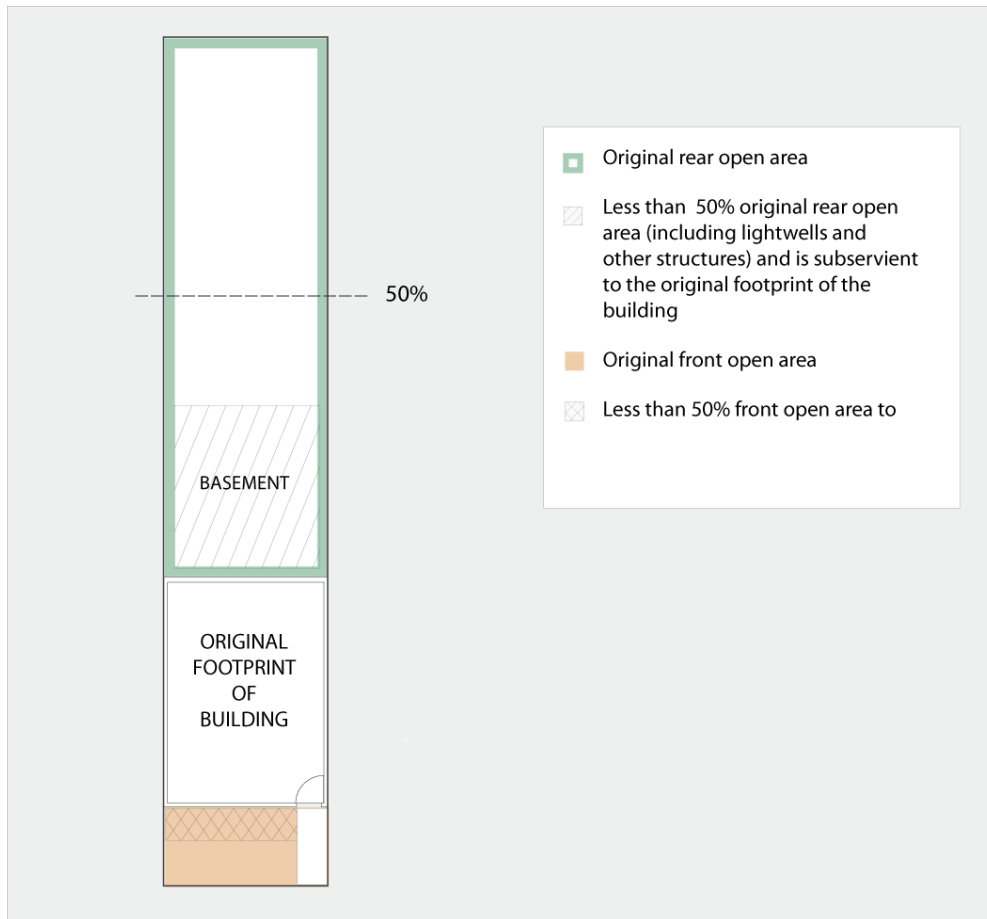


Figure 2 (above): How to calculate the extent of basement beyond the original footprint of a building with a large/long garden

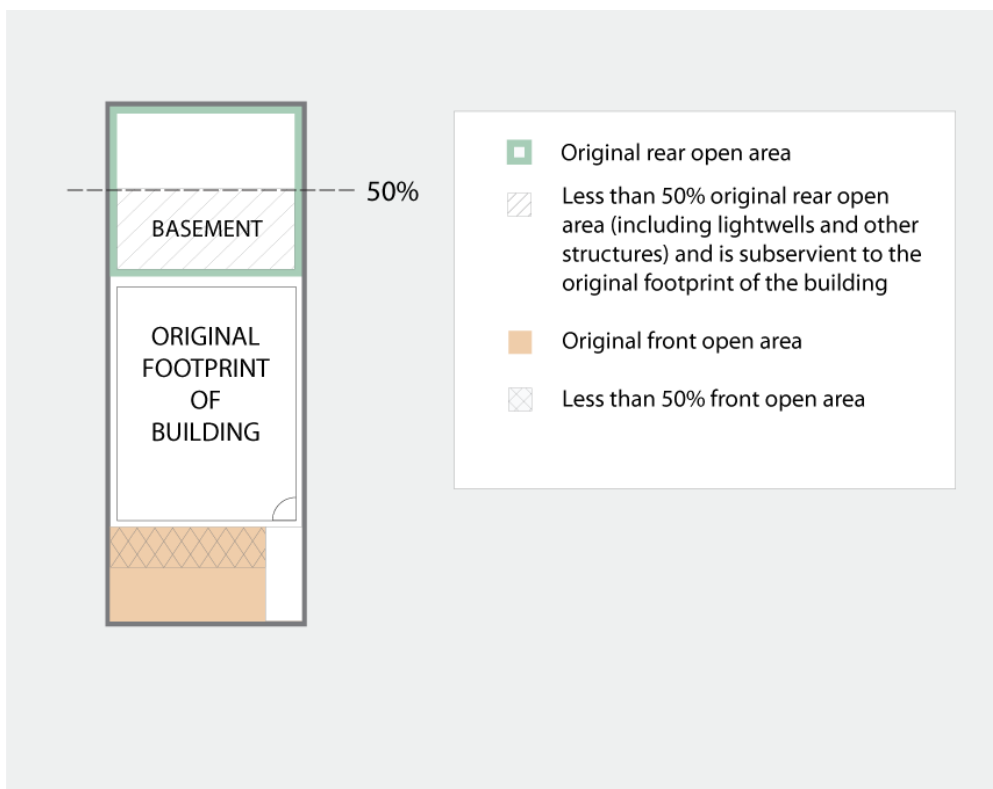


Figure 3 (above): How to calculate the maximum extent of basement beyond the original footprint of a building with a small garden

Residential infill developments

- 7.1.12. For infill residential development, the scale and extent of basement within a site should respond to the site context and the prevailing scale of development in the area. Basements should be proportionate, subordinate to the above ground building element, and reflect the character of its surrounds. The proportion of the site that is built upon/under to the proportion unbuilt upon when compared with surrounding buildings is of particular importance to achieving a compatible scale of development on infill sites. For the avoidance of doubt, both in terms of depth and footprint of basement, all other relevant design of the SPD will apply to infill developments and will have a bearing on the acceptability of a proposed basement design.
- 7.1.13. Diagrams provided at figures 4 and 5 below illustrate the relationship between an infill site and the surrounding development pattern, and a potential scale of basement development that may be appropriate for the site context. Note, these diagrams are purely for illustrative purposes, and do not in any way represent an approved site layout.
- 7.1.14. The siting of buildings and any associated basements should protect and enhance existing landscaped areas within the site, particularly where they contribute to the character of an area (DM Policy 6.3 and 6.5). The inclusion of generous deep soil landscape and drainage margins that can support mature soft landscaping and sustainable drainage will be required, and should occupy sufficient area to ameliorate any impacts the proposal will have on the character of the locality in terms of building scale as well as appearance such as a leafy aspect. Unless demonstrated to be otherwise, the presence of existing hardstanding is not considered a barrier to providing adequate landscaping and drainage within a design. For further guidance on character and appearance, landscaping and sustainable drainage see sections 7.3, 7.5 and 7.6 below.
- 7.1.15. The above principles will be applied in all residential infill development cases regardless of whether or not the site is built on, or is covered by buildings/structures that would be removed in order to enable the redevelopment of the site.

Commercial and mixed use redevelopment sites

- 7.1.16. On commercial and mixed use redevelopment schemes with proposed basements, the extent of basement development should be commensurate to the site context and building design. Sites within commercial areas such as the Central Activities Zone often contain buildings built to boundary. Any basement component of the scheme should be designed to avoid adverse impacts to sensitive sites, building, trees and other structures that may be affected by the construction of the proposed development. Areas of landscaping proposed should be designed as deep soil landscaping with natural drainage and no basement or other impermeable structure underneath.
- 7.1.17. In order to ensure consistency and safeguard against potential adverse impacts, commercial and other redevelopment sites must take into account and respond to the issues covered by this guidance and submit the appropriate documentation required in support of any planning application.

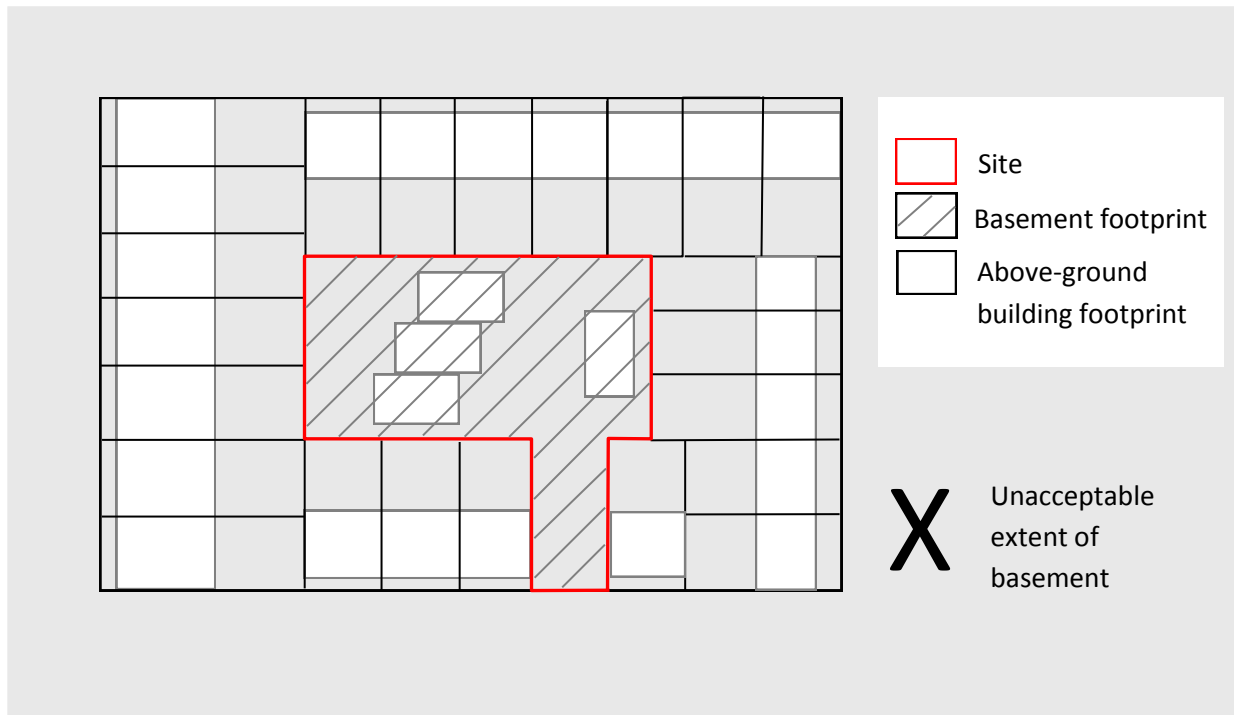


Figure 4 (above): Diagram showing 100% site coverage at basement level which does not reflect the prevailing scale of development in the area, and is not subordinate to the above ground element.

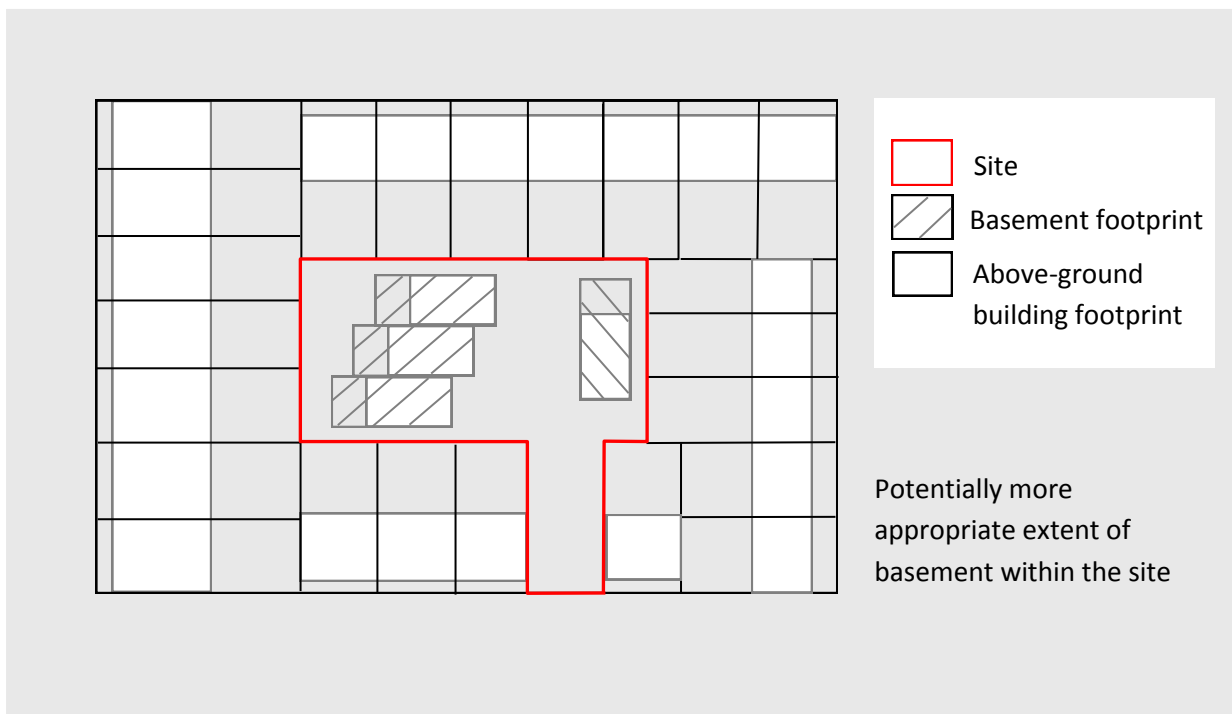


Figure 5 (above): Diagram showing a more appropriate scale of basement beyond the above-ground footprint of the proposed buildings, which better reflects the site coverage of the surrounding development pattern and allows adequate space for meaningful landscaping and natural drainage to be incorporated.

7.2. Depth of basement development

7.2.1. The depth of a basement will inherently affect the impacts associated with basement construction. These issues include the amount of excavation waste from a proposal, increased potential to cause ground movement, potentially longer construction times, decreased levels of natural light and ventilation to basement spaces, increased chances of coming into contact with groundwater and energy-intensive construction techniques.

7.2.2. In taking a balanced and precautionary approach, basements should generally not exceed 1 storey in depth, and not exceed 3m floor to ceiling height. For clarity, a basement extension below an existing basement/lower ground floor (that is not an original feature of the building) would result in a two storey basement and will be resisted.

7.2.3. In limited circumstances, for example a major commercial redevelopment site or a detached residential house with generous distances to adjoining properties, it may be acceptable to have a basement greater than one storey in depth if robustly demonstrated via detailed evidence that there would be no significant impact upon the hydrogeology or the structural stability of buildings, trees and other structures, and the design complies with all other relevant guidance in this SPD. As part of that evidence, it is likely that physical site investigations will need to be undertaken such as boreholes to establish robust site-specific data.

KEY PRINCIPLE

Basement development should be proportionate in scale to the above ground portion of building, not unduly intensify the use of a site, or cause significant environmental harm.

POLICY BASIS

Core Strategy Policy CS 9 (Protecting and enhancing Islington’s built and historic environment), DM Policy 2.1 (Design), DM Policy 6.3 (Open space), DM Policy DM Policy 7.1 (Sustainable design and construction), Islington Urban Design Guide, Mayor’s Sustainable Design and Construction SPG.

Design indicators

DI.2 A basement should not involve excavation of more than one (1) storey below the lowest original habitable floor level.

DI.3 The height of a basement should not exceed 3m floor to ceiling height.

7.2.4. Figure 6: shows the depth of basement and maximum floor to ceiling height.



Figure 6: Maximum 1 storey depth, with floor to ceiling height no greater than 3m.

7.3. Character and appearance

7.3.1. As basement development in most instances involves changes to existing structures or the introduction of new above ground structures in their design, there is the potential for impact on both the character and appearance of a locality. The inclusion of lightwells, railings, steps, plant, roof lights and other forms of lighting need to be sensitively designed to ensure they do not contribute to visual clutter, introduce alien features into the landscape, or interrupt the prevailing streetscape/garden rhythm.

Lightwells

7.3.2. If a lightwell is being introduced or modified, the most discreet location will generally be to the rear of the property. Lightwells should be modest in scale and be located immediately next to the rear elevation (or side if applicable).

7.3.3. For front gardens, basement design should integrate sympathetically with the existing elevation and front threshold. Where a lightwell will impact on an established front garden or open area that is characteristic of the street or terrace, the majority if not all of the front area should be retained.

7.3.4. Where the location of a lightwell is otherwise acceptable, the use of grilles in place of open lightwells with railings can provide a more discreet intervention, unless these features are characteristic of an area. Grilles should be constructed flush with the ground level, and designed to be visually unobtrusive through the use of discreet colours and materials, and to allow light to penetrate into the basement.

7.3.5. Figure 7 is an example of a lightwell that is flush with ground level, does not introduce excessive visual clutter and allows light to penetrate the room below.

KEY PRINCIPLE

Design of basements and associated structures must be of a high quality and should respect and respond positively to existing buildings; streetscape and the wider context; surrounding heritage assets; and locally distinctive patterns of development and landscape.

POLICY BASIS

Core Strategy Policy CS 9 (Protecting and enhancing Islington's built and historic environment), DM Policy 2.1 (Design), DM Policy 6.3 (Open Space) and the Islington Urban Design guide.



Figure 7 (left): Photo showing a flush lightwell that allows light to penetrate to the floor below



Figure 8 (above): Photo showing an inappropriate location for roof lights in a garden

Rooflights

- 7.3.6. Where rooflights are proposed, they should be kept flush with the ground level, be close to the building, proportionately small, and sympathetic with the host building. Rooflights that are located away from the building line such as in the middle of private gardens can be visually harmful and when illuminated from below can result in light spillage and are generally unacceptable.

Other structures

- 7.3.7. Other associated external manifestations of basements such as stairs, retaining structures and railings should be sensitively designed and discreetly sited so as to minimise the fragmentation of spaces, not contribute to visual clutter, or detract from the prevailing streetscape and/or garden pattern.

Garden setting

- 7.3.8. Whilst the predominant Islington townscape is urban and densely developed in character, the presence of gardens and open space/open aspect is equally as significant to the built form, not least due to the visual relief and contrast they provide, and the leafy green aspect that is created.

- 7.3.9. The removal of established vegetation in gardens for the construction of basements can significantly affect the character and appearance of an area, and must be safeguarded against.
- 7.3.10. Where basements are located within gardens and open areas of a site, they should be designed to integrate into the garden area, using appropriate materials, landscaping and other finishes to minimise the disruption to these spaces, and protect established planting where possible.
- 7.3.11. Materials should be of high quality, be robust, sustainable and appropriate to their context. See [Islington Urban Design Guide Supplementary Planning Document](#) for further design guidance.

Design indicators

DI.4 Lightwells and other external manifestations should be modest in size, discreetly located, and designed to protect and enhance the character and appearance of the area.

DI.5 Basements should be designed to preserve existing gardens, and should reinforce the visual relief soft landscaping between buildings provides.

7.4. Basements in proximity to trees

7.4.1. Basements, like above ground development, can have a direct or indirect impact upon the survival of trees within the borough. Proposals involving basements under gardens or unbuilt on areas are of particular concern to the Council for a range of reasons, not least their impact upon trees and viability of replacement planting.

7.4.2. Under Islington’s Development Management Policies, developments are required to minimise any impacts on trees, shrubs and other significant vegetation, including through the provision of sufficient space for crowns and root systems of existing and proposed trees and their future growth.

7.4.3. Given the levels of excavation and ground disturbance involved in subterranean development, developments in proximity to trees will need to be carefully considered.

7.4.4. Of concern is:

- removal of trees to facilitate construction
- loss of roots to retained trees
- loss of rooting volume for retained trees which may be detrimental to their long term health or stability or prevent them achieving their desired canopy potential
- limited remaining rooting volumes following cut and cover which may preclude meaningful replacement planting

7.4.5. Potential post-construction arboricultural impacts to the basement structure must be considered during the design, construction and post development. Trees are a material consideration and the constraints imposed by the existing tree stock should inform the design of the basement. In order for this to be demonstrated the applicant must:

- assess the existing tree cover
- retain trees of merit/ amenity value on-site, justify any removals and mitigate any proposed losses
- determine and minimise the impact of the proposed design on retained trees including neighbouring trees
- protect retained trees during construction
- provide mitigation for:
 - tree loss/ canopy cover
 - root loss/ rooting volume to retained trees
 - appropriate soil volumes for planting and
 - natural drainage

7.4.6. For this reason, the recommendations within British Standard 5837:2012 (*Trees in relation to design, demolition and construction*, or relevant standard when updated) should be followed.

KEY PRINCIPLE

Design of basements and associated structures should carefully consider and protect existing trees on a site, in adjoining sites and on the street.

POLICY BASIS

Core Strategy Policy CS 15 (Open space and green infrastructure), DM Policy 2.1 (Design), DM Policy 6.5 (Landscaping, trees and biodiversity), London Plan Policy 7.19, 7.20 and 7.21, and the Islington Tree Policy.

For reference to applicable guidance and standards see *Sources of Information* at Appendix F.

- 7.4.7. Where construction or construction activities fall within the Root Protection Area (RPA) of existing trees on or adjoining the site, the basement should be designed to avoid any short term (as a result of construction) or long term (due to altered growing conditions) impacts on retained tree survival.
- 7.4.8. An **Arboricultural Report** is required to be submitted at application stage for any basements that will potentially impact upon an existing tree (within the canopy or the RPA) or have a negative impact upon any retained trees. The report should include the following:
- survey of all trees on, and adjacent to the site
 - plan showing existing tree constraints overlain with the footprint of the proposed buildings
 - list of trees proposed for removal and those to be retained along with justification for removal
 - assessment of the impact of the development on the retained trees on and in adjacent sites
 - how retained trees will be protected during the construction phase, taking into account site logistics such as storage of building materials, location of site huts, access for piling rigs, removal of spoil from site etc.
- 7.4.9. It is likely that any application that will adversely impact upon the long term survival of trees and shrubs will be unacceptable. In cases where the removal of trees can be robustly justified, the council will usually require them to be replaced within the curtilage of the property, with the aim of replacing the canopy cover lost. Species selection should conform to the 'right tree, right place' principle.
- 7.4.10. Excavations beneath existing medium-large trees will be resisted as the impact of tunnelling close beneath trees has not been researched and the negative effects from the loss of roots, rooting volume and changes in soil conditions are unknown and may lead to them becoming structurally unsafe and removed.

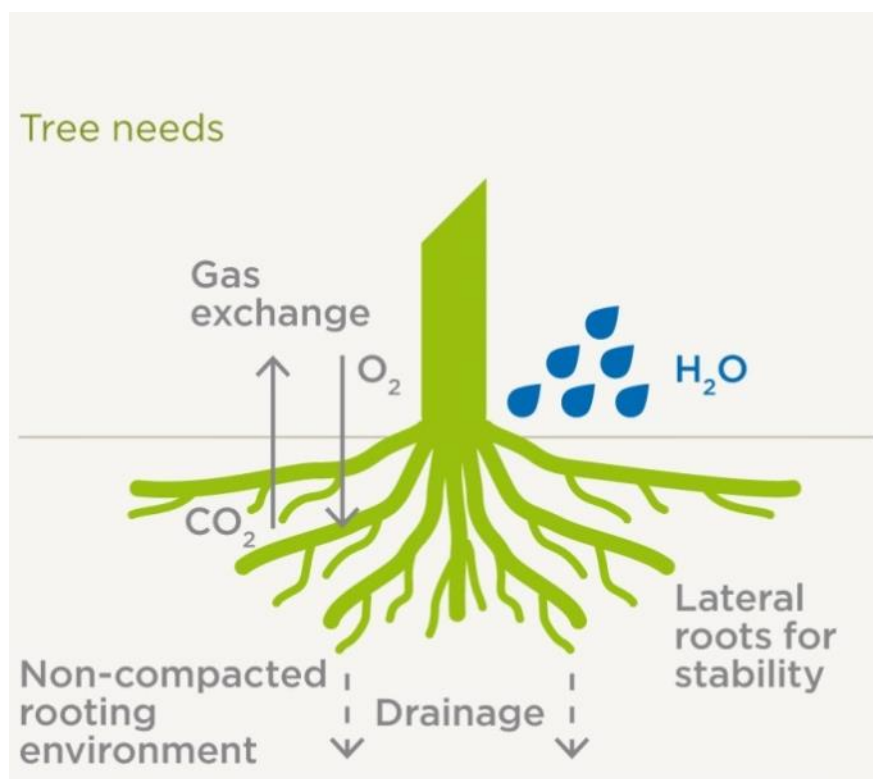


Figure 9: Diagram showing basic needs for tree survival (Source: Trees and Design Action Group, 2014).

Replacement planting

- 7.4.11. Rooting constraints, such as party walls, underpinning, service runs and retaining structures can impact upon the amount of replacement rooting volume available for large excavations. The rooting volume may affect the ability of a tree to attain its canopy potential or reach maturity, therefore the scope of replacement trees to be used may be restricted, and if repeated across the borough, could see a change in tree composition and overall loss of canopy cover.
- 7.4.12. Potential impacts to the basement by root encroachment can occur such as direct damage due to annual growth as well as the indirect damage to tree health due to moisture extraction. There are also potential issues with increased lateral and vertical loading from growing trees post construction. These potential issues should be carefully considered during the design of any basement within site containing (or adjoining sites containing) trees.
- 7.4.13. Rooting volumes for proposed planting should be:
- sufficient to mitigate canopy cover losses
 - allow meaningful planting
 - allow natural drainage
 - be linked where possible
- 7.4.14. In general, the following 'rule of thumb' according to tree size (as defined by *The Benefits of Large Species Trees in Urban Landscapes a Costing, Design and Management Guide*, CIRIA, 2012) for soil volumes should be applied (and is illustrated in Figure 10):
- small trees (ultimate height of 5 -8m): a minimum of 10 m³
 - medium trees (ultimate height of 8 -15m): a minimum of 20 m³
 - large trees (ultimate height of 15m+): a minimum of 30 m³
- 7.4.15. Rooting depths should be a minimum of 1m for small trees, 2m for medium trees and 3m for large trees to allow for adequate anchorage and hydrology during weather events (heavy rain/ water logging, drought conditions/ soil moisture deficit) to support tree health.
- 7.4.16. Rooting volumes should be linked between trees and landscaped areas where possible to further enhance the accessible rooting volume available to tree(s).

Design indicators

DI. 6 Where basement comes within proximity to existing trees on the site and/or adjoining sites, trees should be retained and the basement should be designed to avoid any adverse impacts upon those trees. An Arboricultural Report should be submitted in accordance with BS 5837:2012 for any such application.

DI.7 Trees proposed on a site should be provided with sufficient rooting volumes and access to deep soil areas to ensure their long term survival and ability to reach maturity.

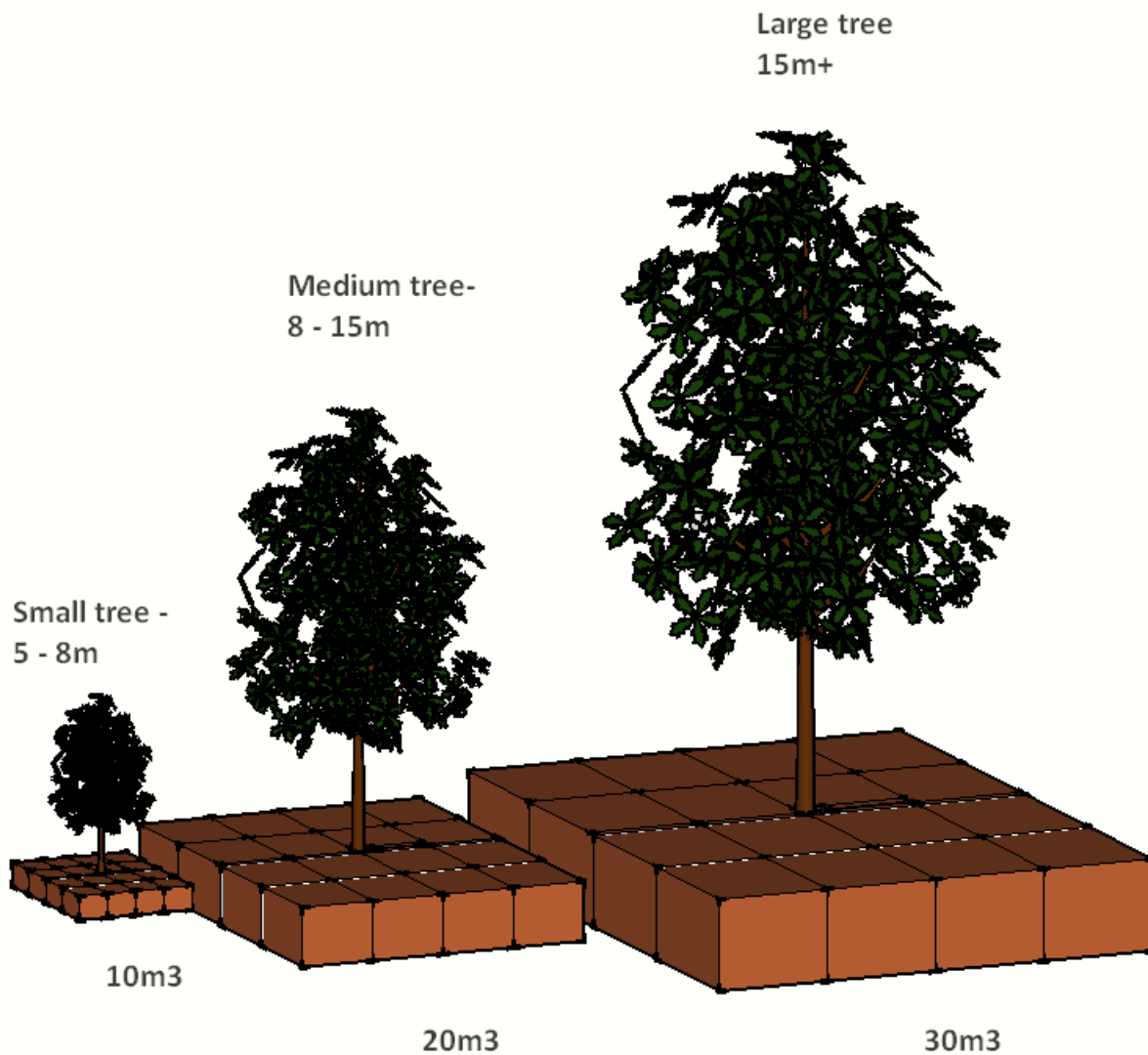


Figure 10: Diagram of root volumes for small, medium and large trees.

7.5. Landscaping, biodiversity and green infrastructure

7.5.1. The highly urbanised nature of the borough combined with the existing open space place increasing value on the contribution of private gardens and the ecosystem services they provide. Gardens collectively form the largest area of greenspace in the borough, and provide important habitat for wildlife as well as act as wildlife corridors between habitats.

7.5.2. Gardens also play a significant role in the borough's resilience and response to the effects of climate change, particularly in urban areas. For example in Islington, the effects of climate change will be amplified due to its densely built nature; the likelihood of flooding will be increased and local temperatures will be raised as a result of the "urban heat island effect". In addition, garden spaces allow rainwater to be absorbed and penetrate the ground surface, reducing the amount of surface water runoff, and maintaining sub soil moisture levels. Subterranean development can potentially have a significant impact on these functions.

7.5.3. Private garden land also contributes to the local context and verdant character of an area, as described in Section 7.3 of this document.

7.5.4. Unlike surface paving which can be easily removed, basements by their nature are permanent fixtures or very difficult to remove/remediate therefore likely to exist throughout the lifetime of the building and beyond. This means that the loss of infiltration/planting ability of a garden will go from temporary to permanent state, with it raising serious cumulative concerns regarding the continuing functions private open spaces will be able to provide.

7.5.5. Basements should be designed to protect trees and the garden setting, protect and enhance biodiversity value, and ensure surface water drainage is maintained. To achieve this, adequate depth of soil volume must be provided above any basement that extends further than 3m as measured from the original footprint of the building. Any lightwells, stairs and other structures should be located within the first 3m of the original footprint of building, to minimise disruption to the garden/open area.

7.5.6. Where a basement is proposed to extend beyond the footprint of the original dwelling (unless purely to construct a modest sized lightwell), a Landscape Plan should be provided at an appropriate level of detail relevant to the scale of development proposed, and must address the relevant considerations outlined in Appendix 12 of Development Management Policies 2013.

7.5.7. Landscaping should be designed to create attractive spaces that contribute to the character of an area, maximise the permeable surfacing of the site and enhance its biodiversity value. Planting should be sustainable and adaptable to change in climate conditions in the same way that

KEY PRINCIPLE

Design of basements and associated structures should protect, enhance and sustain existing landscaping, biodiversity value and ecological connectivity of a site and its surrounds.

POLICY BASIS

Core Strategy Policy CS 15 (Open space and green infrastructure), DM Policy 2.1 (Design), 6.3 (Open space) DM 6.5 (Landscaping, trees and biodiversity), London Plan Policies 7.20, Islington Environmental Design SPD and the Mayors Sustainable Design and Construction SPG.

unconstrained landscaping would be, and therefore capable of surviving dry periods (potentially drought conditions) without supplementary watering.

- 7.5.8. For this reason, it is therefore important that soil above any basement (unless within 3m of the original footprint as shown in Figure 11) be directly connected with deeper soil beyond the basement in order to draw upon those resources in harsh conditions. Similarly, adequate natural drainage is required in order to ensure the soil above a basement does not become waterlogged in times of high rainfall to prevent any adverse effect on planting within this space. This is illustrated in Figure 12.
- 7.5.9. The provision of a drainage layer with a minimum depth of 200mm above any basement that extends beyond the footprint of a building should be provided to ensure surface water drainage is adequately dealt with in conjunction with the unbuilt upon areas/drainage margins/areas of natural drainage. This is illustrated in Figures 11 and 12.
- 7.5.10. Where tree planting is proposed (or where trees exist on the site), consideration should be given to ground conditions such as drainage patterns, moisture levels, access to nutrients, and any impact the presence of a basement underneath may have in this regard (see section 7.4 of this document for further guidance).

Design indicators

DI. 8 Proposals should provide satisfactory landscaping, maximise permeability, biodiversity value and sustainable drainage through the provision of soft landscaping and permeable surfacing, and appropriate planting.

DI.9 Unless within 3m of the original rear wall, any basement extending beyond the original footprint of a building should incorporate a minimum of 1m of soil plus 200mm drainage above the top cover of the basement. For particularly constrained sites, or where large trees are proposed, soil depth of up to 1.5m should be provided.

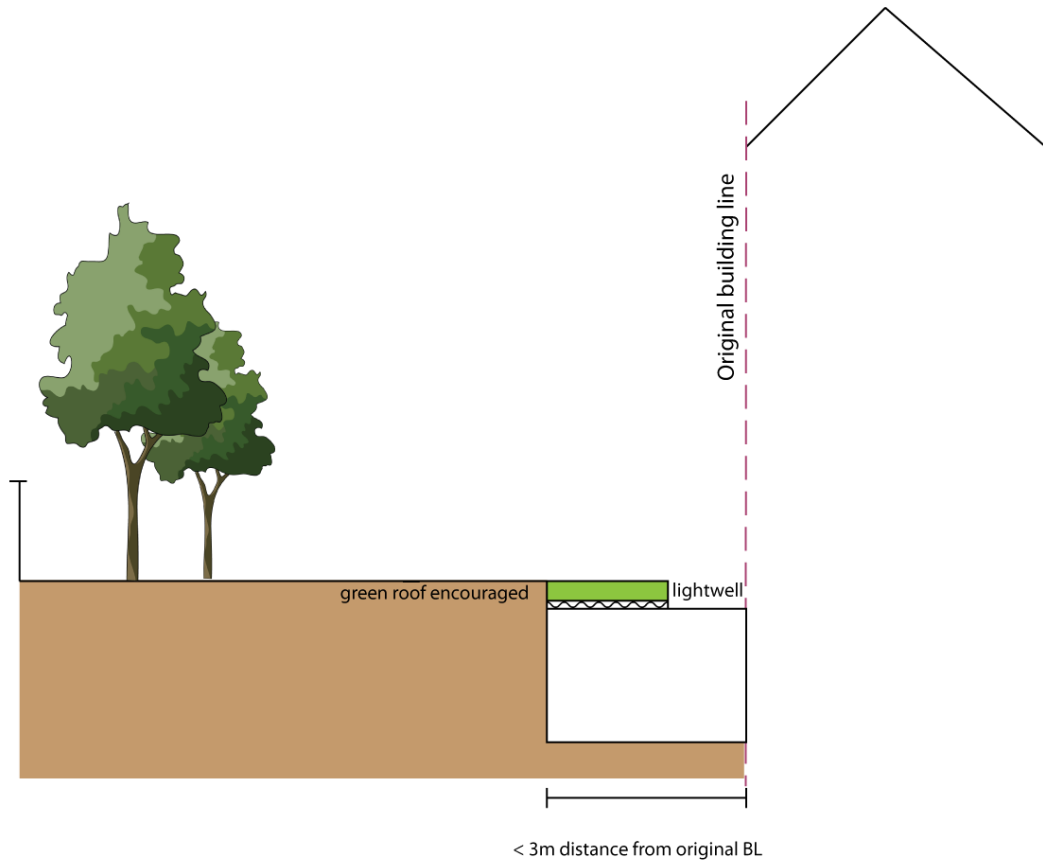


Figure 11: Diagram showing depth of soil above a basement less than 3m from the original rear wall, with lightwell and greenroof.

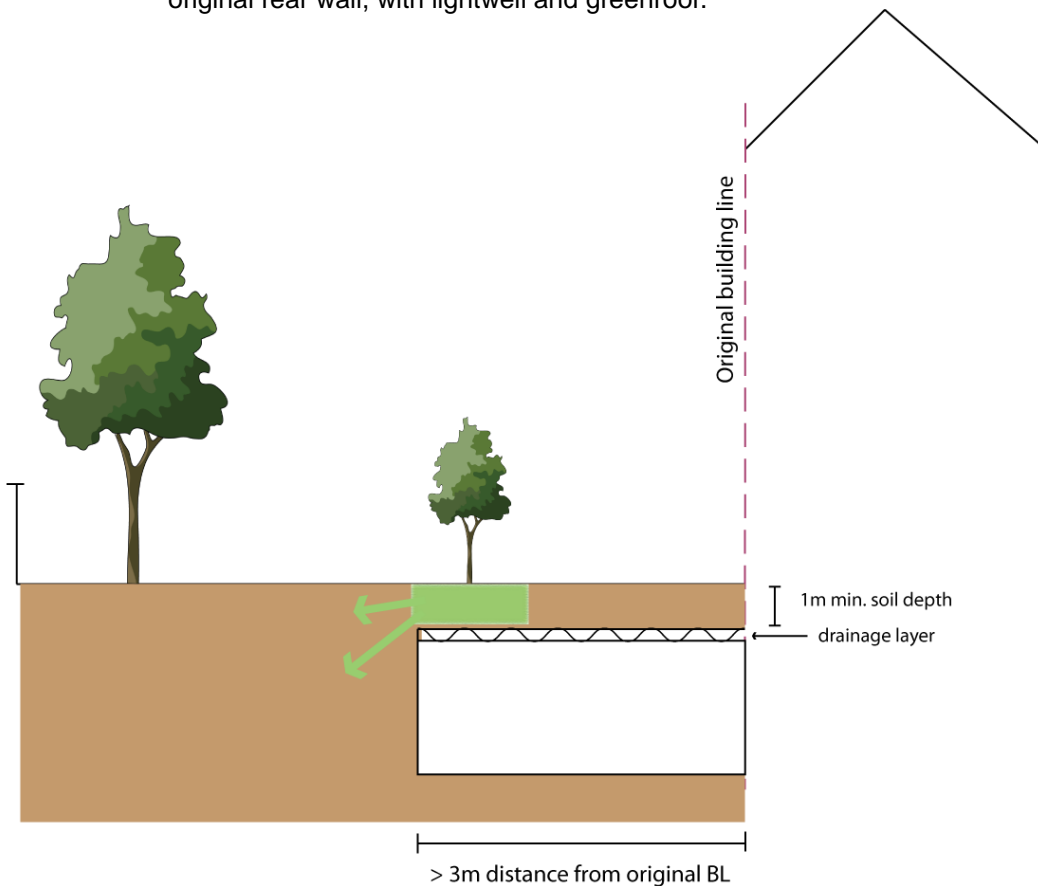


Figure 12: Diagram showing depth of soil above a basement greater than 3m from the original rear wall, and showing connection of replacement landscaping

7.6. Flood risk

7.6.1. The dominant surface water flood mechanism in Islington is pluvial flooding where water from a heavy rainstorm is not able to drain into the ground due to the high density of buildings and hard surfaces in the Borough. Due to the low lying nature of basements, they are considered to be vulnerable to surface water flooding partly due to potential egress issues (particularly a risk to self-contained residential basements).

7.6.2. Therefore, Flood Risk Assessments and associated drainage and access details are required to be submitted with any basement planning application that falls within a Local Flood Risk Zone (LFRZ), or within an area at risk of flooding from other sources (see Appendix D for Local Flood Risk Zones and Appendix F for links to Environment Agency Flood Mapping).

7.6.3. It is important that the design and construction of a basement is informed by investigations into all sources of flooding. Site investigations should include consideration of the following:

- groundwater
- fluvial (rivers and historic watercourses)
- pluvial (foul, surface water or combined)
- reservoirs
- private drains on or adjacent to the property
- highway drainage
- culverted watercourses

7.6.4. Areas within Islington that are vulnerable to ground water flooding are identified in Appendix E. If, as a result of site investigations, there is a risk a proposed basement may come into contact with groundwater, impacts should be assessed, monitored and addressed by the structural or civil engineer inputting into the basement design, and be reflected in the submitted Structural Method Statement.

7.6.5. New self-contained basements within LFRZs will be generally resisted due to their vulnerability to flood risk. For basements where access to upper levels exists, applications will be required to demonstrate that flood risk has been minimised through appropriate design.

7.6.6. Basements may also be more susceptible to sewer flooding and this should be considered by the employed structural or civil engineer. As a minimum, it is recommended that all drainage connections from basements to sewers are fitted within one way valve to prevent sewers surcharging into basements in high flow periods. Thames Water also recommend that all basements are fitted with a 'positive pumped device' (or equivalent reflecting technological advances) as this will assist in directing the flow of sewage away from the basement building, should sewer flooding occur.

7.6.7. In addition to flood risk posing a design issue for basements, the introduction of impermeable structures within previously permeable surfaces (i.e. gardens) can affect off-site surface water flood risk within a catchment due to changes in flow paths, and an increase in run off volumes. It

KEY OBJECTIVE

Basement development should be located to avoid areas of existing flood risk, be designed to minimise risk from flooding within the site and not contribute to flooding elsewhere.

POLICY BASIS

Core Strategy Policies CS 10 (Sustainable Design), Development Management Policies DM 6.6 (Flooding), Islington Environmental Design SPD and the Major's Sustainable Design and Construction SPG.

is important that these considerations are properly investigated through design development, and sufficient provision is made for the control and infiltration of surface water at source.

- 7.6.8. In addition, changes to surface water movements and volumes can have direct adverse impacts on nearby properties, such as localised flooding, as well as indirect impacts such as contributing to wider surface water flooding risks by reducing the amount of water able to penetrate to the water table.
- 7.6.9. Where a basement is proposed to extend beyond the footprint of a building, the development will need to demonstrate no net increase in surface water discharge from the site, and employ sustainable drainage techniques and generous drainage margins to protect/improve the infiltration capacity of the site and prevent localised flooding or contribution to wider surface water and groundwater flood risk. See section 7.5 for further design requirements for sustainable drainage.

Design indicators

DI.10 Basement development should be designed to minimise the risk of flooding to a development, ensure the development will not significantly increase the risk of flooding to adjoining properties or to contribute to wider flood risk within the catchment.

DI.11 Basement development should be designed to achieve no net increase in surface water runoff as a result of the proposal, and where applicable incorporate sustainable drainage techniques and generous drainage margins.

7.7. Sustainable design and quality of accommodation

- 7.7.1. Islington's Core Strategy Policy CS10 Sustainable Design seeks *'to minimise Islington's contribution to climate change and ensure the borough develops in a way which respects environmental limits and improves quality of life'*. Developments are required to promote sustainable design through minimising their CO₂ emissions, maximising passive design and reducing the impact of construction through sustainable use of materials.
- 7.7.2. Given the nature of subterranean development, it is fundamentally different in its embodied energy and performance in terms of energy efficiency to that of above-ground development. The embodied energy involved in the construction of basements can be considerable with energy intensive construction operations, combined with the embodied energy of structural materials required (in particular steel and concrete).
- 7.7.3. Basements can also have higher operational energy demands due to reduced opportunities for natural lighting and ventilation. In addition, the often energy-intensive use of basement spaces such as pools and gyms, as well as the potential need for pumping of groundwater and foul water (due to the depth of these structures in relation to existing invert levels) also contribute to higher energy demand profiles.
- 7.7.4. For these reasons, basements should be designed to achieve best practice sustainable design, particularly in terms of passive design, daylighting, natural ventilation, energy efficiency, and material use.
- 7.7.5. Applications for basement development should submit a Sustainable Design and Construction (SDC) Statement addressing the following issues and demonstrate how the proposed design promotes sustainable design best practice, including:
- passive design measures including optimising the use of natural ventilation, lighting and passive cooling
 - energy efficiency of any artificial lighting, pumps and plant
 - sustainable drainage (see section 7.5 for specific requirements)
 - sustainable material sourcing including potential for re-use and recycled content and avoiding high embodied carbon content
 - water sensitive design including water recycling and water conservation measures
- 7.7.6. Basements should be designed to provide adequate levels of natural daylighting for the intended use, and maximise natural ventilation over mechanical ventilation.

KEY OBJECTIVE

Basement development should be designed to achieve best practice sustainable design standards during the design, construction and operation of a development, and be designed to achieve a high level of residential amenity.

POLICY BASIS

Core Strategy Policies CS 10 (Sustainable Design), Development Management Policies DM 2.1 (Design), DM3.3 (Residential conversions and extensions), DM 3.4 (Housing Standards), DM7.1 (Sustainable Design and Construction), DM 7.2 (Energy Efficiency and carbon reduction in minor schemes), DM7.5 (Heating and cooling), Islington Environmental Design SPD, Major's Sustainable Design and Construction SPG.

- 7.7.7. Where large amounts of concrete are proposed as the only practical structural solution, the feasibility of using low-impact responsibly-sourced concrete and reinforcement should be submitted, and where feasible its use over more carbon-intensive concretes should be maximised. Feasibility assessment for the inclusion of low impact concrete should be provided as part of the SDC Statement submitted with a planning application proposing a basement.
- 7.7.8. Where basements spaces are proposed to house energy-intensive uses such as pools, saunas, gyms and similar uses, best practice energy efficiency products should be used. Basements should also reduce potable water demand through water efficient equipment such as through the use of water re-circulation, water recycling and water recovery systems.
- 7.7.9. Where a basement is proposed as an extension to an existing building/house, applicants are encouraged to apply energy efficiency measures to the existing parts of the building in addition to providing energy efficient design of the proposal, to help offset the increased operational energy use of the building.
- 7.7.10. The use of subterranean areas as habitable spaces without adequate consideration of residential amenity can result in sub-standard quality of accommodation, and undesirable development outcomes. In particular, the internal layout of rooms, access to natural daylight and sunlight, natural ventilation and adequate outlook, greatly influence the amenity of future occupants. Accommodation should also be sufficiently flexible to meet the diverse and changing needs of those occupants. These factors should be used to inform any basement design in accordance with DM Policies 3.3 and 3.4.

Design indicators

DI. 12 A Sustainable Design and Construction Statement should be submitted with any application for basement development demonstrating maximisation of passive design and operational efficiency at a level of detail commensurate to the scale of the proposal.

DI.13 Basements should maximise the use of recycled, low impact and sustainably-sourced materials, including by maximising materials rated on the BRE Green Guide.

8 BASEMENT DEVELOPMENT IN CONSERVATION AREAS

8.1. Conservation Areas (CAs) are areas identified (and designated by a Local Planning Authority) as an area of special architectural or historic interest, which deserves careful management to protect that character. Islington currently has 41 designated conservation areas covering approximately 50% of the borough.

8.2. Basement development and associated structures may affect the character and appearance of a conservation area. Applications for basement development within a CA should have regard to applicable Conservation Area Design Guidelines, Development Management Policy DM2.3 and the Islington Urban Design Guide.

8.3. [Conservation Area Design Guidelines](#) provide detailed guidance on each individual conservation area in the borough and include character appraisals, management proposals and guidance which seeks to actively manage change within Islington's CAs so that their significance is conserved and enhanced. These guidelines will be referred to when assessing the suitability of a proposed design for the local area.

8.4. In addition to the design considerations applicable to all basement development outlined in the above sections, basements within CAs should be designed to:

- not add visual clutter, such as additional railings, rooflights, lightwells, staircases
- protect and enhance gardens, open areas and open aspect
- maintain and repair prevailing garden level of an area and avoid undue cut and fill outside of the building footprint
- protect trees and other established planting

8.5. For properties within CAs, residential gardens make a substantial positive contribution to the significance, setting, character and appearance of the heritage assets. Disruption of these spaces should be minimised as far as possible, such as locating rooflights and lightwells close to the original building and minimising the amount of cut and fill (change to prevailing garden levels) unless it is demonstrated that there is no harmful impact arising from a change in prevailing level due to site specific circumstances.

8.6. Infilling of front lightwells to properties in CAs will generally be resisted. The deepening of existing front lightwells to provide light to a basement will not be supported when these works have a negative visual impact and harm the character and appearance of the CA. Any proposed front lightwell or alteration to a lightwell should be excavated to no lower than the original lower ground floor, where one exists.

KEY OBJECTIVE

Development should make a positive contribution to Islington's local character and distinctiveness, be of high quality contextual design and conserve and enhance a Conservation Area's significance.

POLICY BASIS

Development Management Policies DM 2.3 Conservation Areas, DM 6.3 Open Space, Islington Urban Design Guide, Islington's Conservation Area Design Guidelines.

Design indicators

DI.14 Basements within gardens of properties within a Conservation Area should not alter the prevailing garden level, and should minimise any cut and fill within these areas.

DI.15 A basement design should demonstrate how regard has been given to the applicable Conservation Area Guidelines including how actions suggested in the guidelines have been incorporated insofar as possible.

9 LISTED BUILDINGS

- 9.1.** In addition to the design considerations applicable to all basement development outlined in the previous sections, basements underneath and/or within the curtilage of listed buildings must be carefully sited and designed so as not to harm the special architectural or historic interest of the listed building or its setting.
- 9.2.** Listed Building Consent will be required for new basements or extensions to existing basements to listed buildings even where planning permission is not required.
- 9.3.** Most of Islington’s listed buildings are Georgian or Victorian terraced townhouses or semi-detached houses. Townhouses were designed with a clear hierarchy of floor levels with larger principal rooms at ground and first floor levels with generous floor to ceiling heights and extensive decorative detailing. Upper and basement storeys generally have less generous floor to ceiling heights and minimal decoration. In most cases the front and rear gardens are separate and have clearly defined functions and roles in relation to the building itself. Given this strict hierarchy of spaces, additional storeys beneath a listed building will generally be resisted.
- 9.4.** Given the size and configuration of many of the listed buildings in Islington, listed buildings will often be unable to accommodate basements, due to the effect of the development on the building’s special architectural and/or historical interest. Restrictions may include site dimensions, or previous later development on the site. The Council will assess each application on a case-by-case basis.
- 9.5.** Design features that may otherwise be acceptable in a basement proposal may not be acceptable to a listed building or within its curtilage. Key design considerations for development to a listed building or within its curtilage, in addition to those applicable in the previous sections of this guidance, include:
- floor hierarchy and hierarchy of spaces including floor to ceiling heights
 - plan form, historic layout and circulation patterns of the original building
 - impact on significant historic fabric including footings and boundary walls
 - relationship of basement /basement extension to original building
 - scale of the building and its relationship to the surrounding area, particularly the rear garden
 - setting of the listed building including gardens, trees and landscaping

KEY OBJECTIVE

Basement developments within the curtilage of a listed building should preserve and enhance the significance of the listed building(s) and be of good quality contextual design.

POLICY BASIS

Core Strategy Policy CS9, Development Management Policies DM 2.1 and 2.3, Finsbury Local Plan (Area Action Plan for Bunhill and Clerkenwell), London Plan Policy 7.8, NPPF 12.

Planning Practice Guidance, Historic England Advice Notes (2015), Conservation Principles (English Heritage 2008), and the London Terrace Houses 1660-1860 (English Heritage) are also relevant material considerations.

- 9.6.** The creation of new basement extensions underneath listed buildings, or works that involve the removal of fabric of heritage significance will be resisted. In sites with generous gardens it may be acceptable to construct a modest basement extension close to the original building, provided it is structurally and visually independent of the original building and does not harm the heritage significance of the listed building, including its garden setting.
- 9.7.** The lowering of floor levels to existing historic basements can harm the special architectural or historic interest of a listed building by virtue of detrimental impact on the historic fabric, floor hierarchy and plan form. Therefore, the lowering of an historic basement will only be considered where all of the following points are met:
- no underpinning is required i.e. development is retained above footings
 - no significant harmful impact to fabric of heritage significance is demonstrated
 - floor to ceiling heights remain sufficiently subservient to principal floor levels
- 9.8.** In order to preserve the historic circulation pattern, hierarchy of floor levels and historic structure/fabric any connection between the original house and the basement to provide access to a basement should happen outside the body of the original host building, not within it, and should not involve any underpinning of the original building. Often the best place to form this access link is from any later existing extension the building might have or a newly created extension (subject to it being of appropriate design and scale).
- 9.9.** Excavation or disruption to fabric to construct spiral wine cellars will not be acceptable in the original part of listed buildings given the harm to the heritage significance of the basement floor level, although they may be acceptable in non-original extensions subject to assessment against key design considerations.
- 9.10.** Plant and machinery should be located within the extension and any external visual impact should be minimised.
- 9.11.** The choice of materials for any proposed rooflights/lightwells should appropriately and sensitively reflect the materials characteristic to the listed building itself, and roof lights or lightwells should be subdivided as a means of minimising the visual impact of these new features in the garden setting.
- 9.12.** The impact of a proposal on nearby listed buildings and terraces will be assessed on the scale of any harm to the listed building and its setting.

Design indicators

DI.16 Basement extensions underneath listed buildings or original vaults, or extensions that involve the removal of fabric of heritage significance or interventions that disrupt the floor hierarchy of a building will not generally be acceptable.

DI.17 Where a basement is proposed within the curtilage of a listed building, the basement and any associated above-ground structure(s) should establish a subservient relationship to the original listed building and not substantially harm the special architectural or historic interest of the listed building or its setting.

Protecting features of heritage significance during construction

- 9.13.** Ideally a contractor or consultant that has experience of working with historic structures should be involved in the design and construction of a basement involving a listed building.

- 9.14.** If permission is granted for basement development for a listed building, details of how features of heritage significance will be protected during the construction process will be required to be clearly set out in the CMS.

Glossary

- **Biodiversity:** The diversity, or variety, of plants, animals and other living things in a particular locality. It encompasses habitat diversity and genetic diversity.
- **Character:** Individual distinctiveness created from a combination of natural and built elements with historic, socio-economic and other factors.
- **Conservation Areas:** Areas are designated under the Planning (Listed Buildings and Conservation Areas) Act 1990, primarily by local authorities, for their special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance. Conservation Area guidelines have been produced to guide development decisions in each area.
- **Core Strategy:** The Core Strategy is a Development Plan Document (DPD) setting out the long-term spatial vision for the local planning authority area and the spatial objectives and strategic policies to deliver that vision.
- **Deep landscaping:** Soft landscaping that does not overlie a built structure.
- **Development:** The carrying out of building, engineering, mining or other operations in, on, over or under the land; or the making or any material change of use of any buildings or other land as defined by the Town and Country Planning Act 1990 as amended. Unless it is defined under the Act as 'permitted development', planning permission is required for the carrying out of any development of land.
- **Embodied energy:** The sum of energy/carbon inputs to a material/product over its lifetime, from the point of extraction and manufacture, to delivery, use and disposal.
- **Green infrastructure:** A network of connected, high quality, multi-functional open spaces, corridors and the links in between that provide multiple benefits for people and wildlife.
- **Green roofs:** Green roofs are vegetated layers that sit on top of the conventional roof surfaces of a building, which can support a wide range of plant life. Green roofs can create or improve biodiversity, contribute to minimising flood risk, improve thermal efficiency and improve the microclimate.
- **Landscape Plan:** A plan showing the design and layout of all outdoor areas within the curtilage of a development.
- **Listed building:** A building of special architectural or historic interest, as listed under s1 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Listed buildings are graded under Historic England classification to show their relative importance, with Grade I buildings being of exceptional interest, Grade II* being particularly important buildings of more than special interest.
- **Local Flood Risk Zone:** As defined by Council's surface water flood mapping.
- **Local Plan:** A Development Plan Document or collection of Development Plan Documents.
- **Major development:** Defined by the Town and Country Planning DMPO (Development Management Procedure Order) as amended – includes development involving 10 or more dwelling houses or buildings where the floorspace to be created is 1000 sqm metres or more.
- **Minor development:** Development involving less than 10 dwelling houses or buildings where the floor space to be created is less than the 1000 sqm metres (see also definition of major development above).
- **Open space:** Refers to private and public open space.
- **Private open space:** Land within the curtilage of an existing property, including gardens, amenity space and other grounds with a value due to their open aspect, amenity value, positive impact on the character and appearance of the site and/or surroundings, and/or biodiversity/ecological value. Private Open Space has a positive impact on climate change, including through a cooling effect, and also has a positive impact on drainage and air quality.
- **Supplementary Planning Documents:** Supplementary Planning Documents provide supplementary information to support the policies in Development Plan Documents. They do not form part of the Development Plan and are not subject to independent examination, but do form a material consideration.
- **Sustainable Urban Drainage (SUDS):** A means of managing surface water runoff close to where it falls and mimic natural drainage as closely as possible.

- **Urban Heat Island Effect:** Localised heating of the urban micro-climate due to the density of built development (buildings and roads absorb more solar radiation than green space and vegetation) and associated man-made heat sources. This can make central London up to eight degrees Celsius warmer than the Green Belt on hot summer nights.

Acronyms

- **CO₂:** Carbon dioxide
- **DPD:** Development Plan Document
- **GLA** Greater London Authority
- **GPDO** General Permitted Development Order 2015
- **NPPF:** National Planning Policy Framework 2012
- **SPD** Supplementary Planning Document
- **SPZ:** Source Protection Zone
- **SUDS** Sustainable Urban Drainage

APPENDIX A - VALIDATION REQUIREMENTS

For planning permission the following validation requirements apply to basement development:

All basement development

- **Existing and proposed plans and drawings** – as per local validation list.
- **Design and Access Statement** – if applicable.
- **Sustainable Design and Construction Statement** (or section within Design and Access Statement for smaller scale developments).
- **Arboricultural report** – if trees in proximity to site.
- **Structural Method Statement (SMS)**.
- **Archaeological assessment** – if site within Archaeological Priority Area or Scheduled Monument and SMS concludes the proposals are likely to affect important archaeological remains.
- **Contaminated Land Assessment** – if applicable.
- **Flood Risk Assessment** – where applicable.
- Plus any addition validation requirements applicable to a specific development contained in the [Islington Local Validation Requirements](#) list.

Via planning condition

- **Construction Management Plan (CMP)**.

Where basements extend beyond the footprint of a building

In addition to the above requirements, basements that extend beyond the footprint of a building must provide:

- **Detailed site survey plan** showing the full site (to boundary), calculation of the area (m²) of any garden/unbuilt upon areas (as per original footprint of building) location any structures (stairs, retaining walls, sheds etc.) and the relationship to adjoining sites (relative levels).
- **Biodiversity Survey** – for sites likely to impact on biodiversity or within or adjacent to Sites of Importance for Nature Conservation.
- **Landscape Plan** in accordance with Appendix 12 of [Development Management Policies](#) as commensurate to the scale of the development (**as updated from time to time**)
- **Sustainable Drainage Strategy** and plan(s).

For Listed Building Consent

The requirements for Listed Building consent are contained in the Local Validation List, and include (but are not limited to):

- **Heritage Statement** - The scope and degree of detail necessary will vary according to the particular circumstances of each application. Applicants are advised to discuss proposals through the pre-application process.

APPENDIX B - Guidance on Structural Method Statements (SMS)

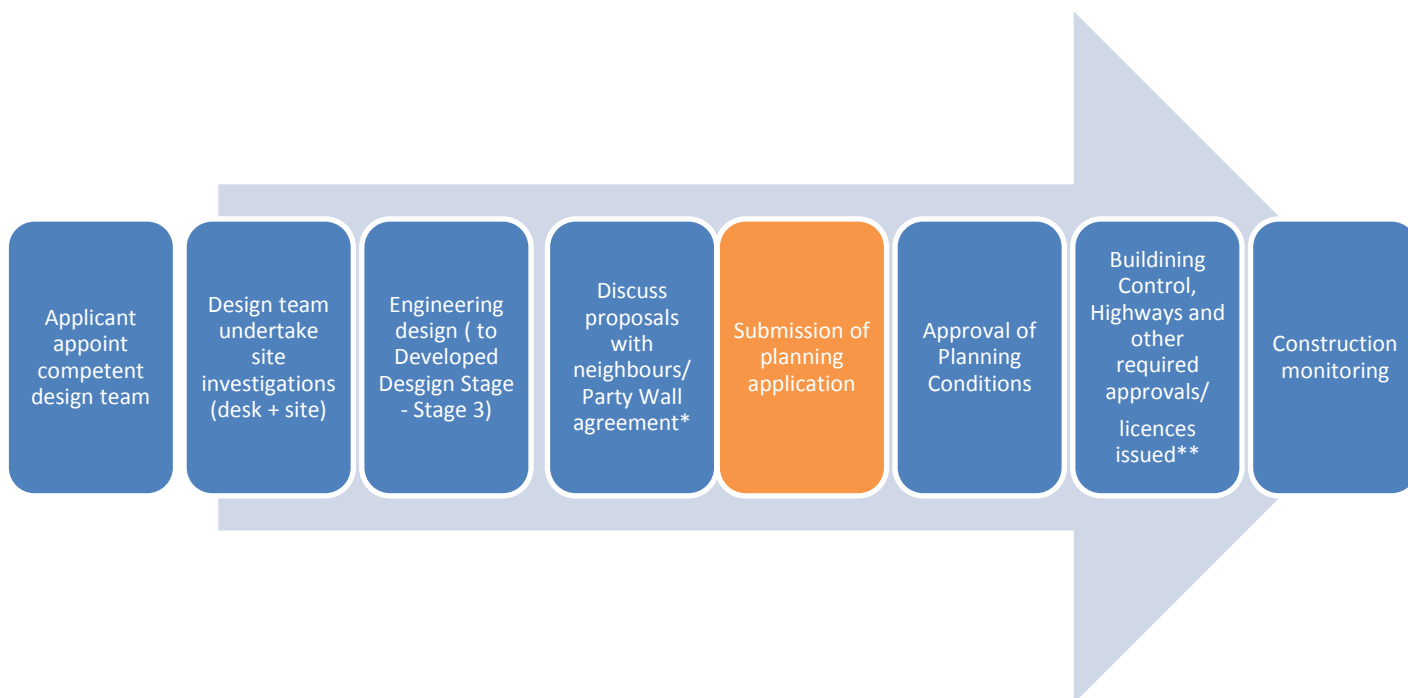
Who should prepare the SMS?

The SMS must be signed by a chartered Civil Engineer (MICE) or Chartered Structural Engineer (MIStruct.E), appointed by the Applicant. Details of the qualifications and experience of the person signing the SMS should be clearly stated within the SMS.

The Council will rely upon the professional integrity of the qualified and experienced person signing the SMS to ensure that the basement development can be undertaken safely and will safeguard the structural stability of the existing building and other nearby buildings.

The Council may choose to consult (at the expense of the applicant) an independent suitably qualified person to undertake an independent assessment for specific cases where substantive conflicting information has been presented to the Council, or where there are any particularly sensitive buildings, trees or other structures are within proximity of the site. The decision to seek a third party independent assessment will be at the discretion of the Local Planning Authority, and will only be sought in limited circumstances with clear justification.

Recommended design process



* Recommended

** Runs parallel to planning permission and are not a planning requirement

Contents of Structural Method Statement

The SMS should be submitted in the form of a report and supporting drawings. The level of detail will depend on the site context, site constraints and the scale of the basement, which is a matter of professional judgement made by the qualified person(s) signing the statement.

The Association of Specialist Contractors (ASUC) provides *Guidelines on Safe and Efficient Basement Construction Directly Below or Near to Existing Structures* (link contained in Appendix F). It is recommended that the qualified person(s) undertaking the design and construction work have previous experience working in this specific field, and have regard to industry guidance and adopt best practice.

Desk study

A thorough desk study should be undertaken and findings clearly set out in the SMS, to ascertain:

- the site history
- age of the property and any known damage to the property/terrace (e.g. recorded bomb damage)
- visual site survey (existing buildings and other structures)
- underlying geology
- topography
- current and historic water courses
- groundwater level
- flooding from all sources
- trees areas of archaeological interest (archaeological priority areas and scheduled monuments)
- listed buildings in proximity to the site
- underground infrastructure (utilities, services, drains and tunnels)
- other consented or constructed basements in proximity to the site (to identify potential cumulative impacts)

An appraisal of the existing structure including drawings to detail the arrangement of existing structures to be affected by the proposal should be provided.

A clear statement with the SMS must be included setting out the extent to which site surveys (such as visual surveys) were conducted and include clear justification and reasoning as to why the investigations were limited to the area surveyed. For example, in some circumstances it may be appropriate to survey the building on the site and those immediately adjoining the site, and in others it may be appropriate to survey more widely. The decision as to the extent of survey should be clearly set out and reasoned.

Site investigations

The need for physical site investigations such as trial pits will be depend on site conditions identified through the desk study and site surveys (see Section 6 for instances were these may be necessary). If physical investigations are not considered to be required to inform the design, the rationale should be clearly set out in the SMS.

Should physical site investigations be undertaken, these must be clearly set out and their findings explained.

Design

For planning application submission the engineering design should be advanced to Developed Design Stage (RIBA Stage 3). The SMS should convey a clear design process that demonstrates how the proposed design responds to findings of the site-specific survey and investigations undertaken and specifically how designers have addressed:

- ground conditions and ground water
- existing trees and infrastructure
- drainage
- flooding
- vertical and lateral loads
- movements
- integrity of existing structures (including adjoining buildings and wider where relevant)

The SMS should include outline of the proposed structural engineering general arrangement and details such as drawings of underpinning, piled wall etc.

The statement should include an assessment of both short and long term effects of movement expected to the property, the adjoining properties and adjacent properties. Damage should be limited to a maximum of Category 2 as set out in the Construction Industry Research and Information Association (CIRIA) Report 580 'Embedded Retaining Walls' (or as updated).

Construction monitoring

The SMS should set out how the construction of the basement will be overseen by the relevant and suitably qualified persons, particularly for key structural phases. A condition will be imposed on any consent issued (for basement development) requiring that the certifying professional (or replaced with a suitably qualified person with relevant experience) endorsing the SMS is retained for the duration of construction.

APPENDIX C – Guidance on Construction Management Plan (CMP)

The London Borough of Islington has developed a Code of Construction Practice for developers and contractors as guidance on good environmental practice to tackle the possible effects of construction (including air pollution, noise and vibration, traffic congestion, dust and contamination of land and water). It will be a condition of any planning permission granted for basement development that construction shall be in accordance with this code.

In order to agree the most appropriate plan of construction works for a specific site, a Construction Management Plan must be submitted to and approved by the Local Planning Authority prior to any works commencing on site (by way of Approval of Details against a planning condition). The following information is provided for guidance purposes only, as the level of detail and content should be commensurate to the scale of the construction to be undertaken.

Due to the extent of excavation required for many basement development proposals, the most appropriate code of construction practice to reference will be *the Code of Construction Practice for Construction Sites* (link contained in Appendix F) as the Council's guidance for *Small –scale construction work and home improvements* doesn't cover the full range of impacts associated with this type of development. Applicants and/or their contractors are also encouraged to sign up to the Considerate Constructors Scheme.

Construction Management Plan must include:

Proposed programme of works

Details on the likely duration of works should be provided with the CMP, including a total timeline for the project. Within the timeline it should clearly set out the major phases of works, and identify which phases are likely to involve noisy works and/ or vibration.

It is recommended that the timetable of works be discussed with neighbours as best practice.

Site Manager/liaison officer details

The applicant will need to appoint a liaison officer (LO) responsible for communication between the Council and the site, neighbours and other relevant parties. Contact details of the LO must be outlined in the CMP and clearly displayed on the site including a 24hr emergency contact.

The LO should also be made aware of and ensure compliance with any conditions attached to the relevant planning permission and notify the relevant council staff of any changes that affect those conditions should this occur during the course of the work.

Hours of work

Noisy construction works are only permitted to be carried out between the hours of:

- 8am - 6pm, Monday to Friday
- 8am – 1pm, Saturday

Including deliveries and ancillary operations.

No audible building works to be carried out on Sundays or public holidays, without prior written consent from the council's Pollution team.

Compliance with these hours of work should be clearly stated in the CMP.

If the site or the approved access route comes within proximity to a school, construction and delivery vehicles should not arrive or depart the site during school starting and leaving times which are between 8.30 to 9.30am and 3.00 to 4.30pm. A commitment to this effect should be included in the CMP.

Access arrangements for vehicles and material storage

The CMP should include details on the access, parking, and traffic management and delivery arrangement throughout the construction phase of the development. This should include:

- identification of construction vehicle routes
- how construction related traffic would turn into and exit the site (including appropriate traffic management)
- the method of demolition and removal of material from the site
- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding
- wheel washing facilities where applicable
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and
- construction works

It should be noted that separate approvals under Section 179 of the Highways Act should be sought for excavations or works adjacent to or under the highway. Licencing for hoardings, scaffolding and similar obstructions will be required.

Noise, air quality and vibration control

In terms of noise and controlling vibration, Council will expect applicants to use 'best practicable means' at all times. The CMP should confirm the applicant has contacted the Council's Pollution team and is aware of all the requirements in relation to acceptable levels of noise and vibration (under various legislation including the Control of Pollution Act 1974). The CMP must set out how noise and vibration will be addressed, and implement the recommendations and good practice as shown in British Standard (BS) 5228: Noise and Vibration Control on Construction and Open Sites: 2009. Developers should also consider submitting an application to the council under Section 61 of the Control of Pollution Act 1974.

The whole borough has been declared an 'air quality management area' for nitrogen dioxide (NO₂) and particulate matter (PM₁₀), construction sites in Islington are a major contributor to local air pollution and are monitored by the Construction Impacts Monitoring Officer (CIMO).

The CMP should detail best practical means that will be taken to reduce air pollution as a result of construction works including dust, smoke, odour and emissions. The CMP should have regard to the Mayor's guidance on *The Control of Dust and Emissions During Construction and Demolition* ([link](#))

contained in Appendix F). Further information about low emission construction practice can be found at <http://www.llecp.org.uk/>

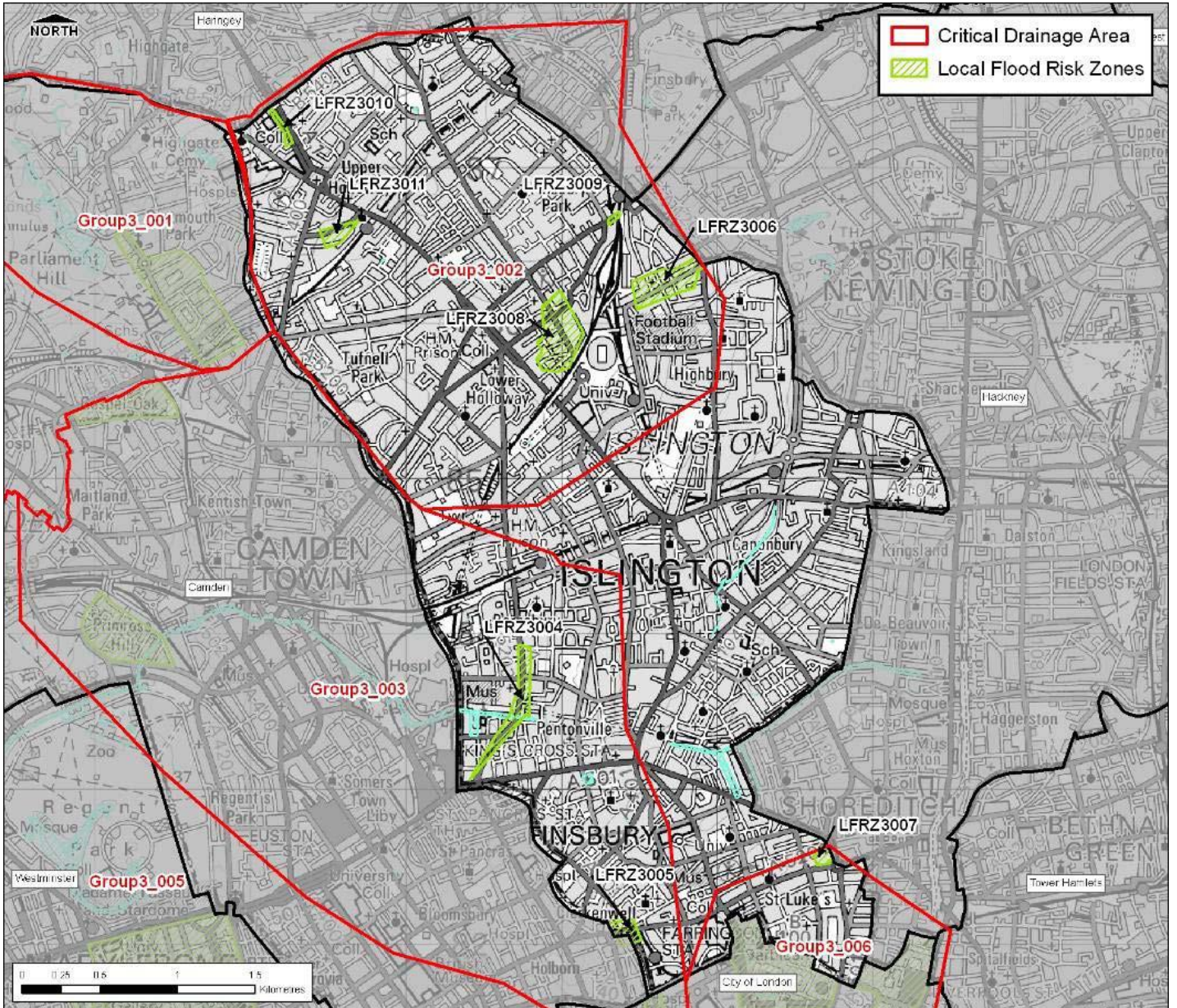
Works affecting a listed building and/or trees

The CMP should identify any trees to be retained on or adjoining the site and set out what measures will be put in place to protect these from damage.

If basement development is permitted to a listed building, a statement and drawings where necessary will be required detailing how spoil will be moved on and off site, how the historic interior will be protected and if any fabric is to be temporarily removed, how it will be removed, protected and reinstated.

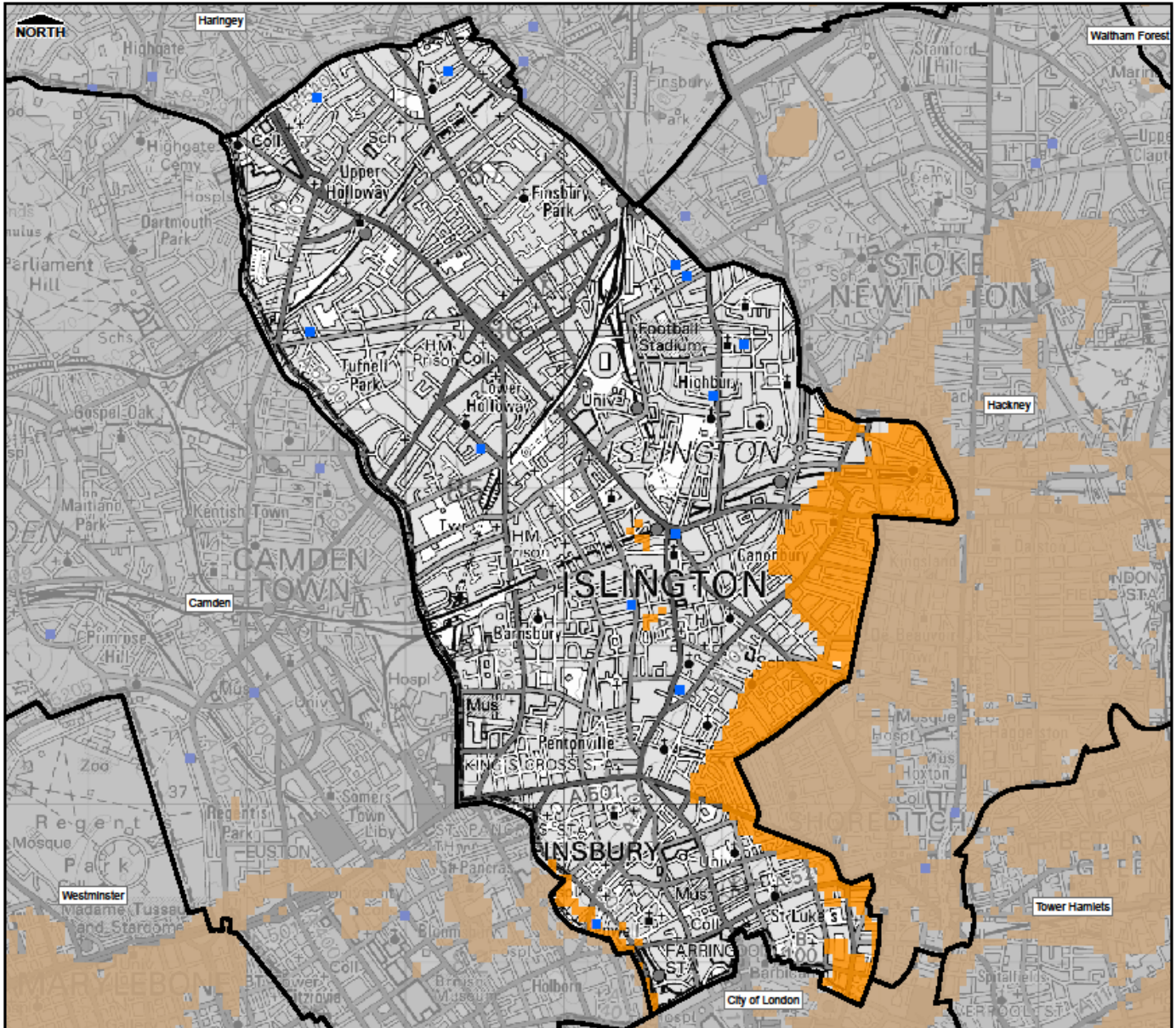
APPENDIX D: Local Flood Risk Zones and Critical Drainage Areas

Local Flood Risk Zones (LFRZs) in green, Critical Drainage Areas in red



APPENDIX E: Areas with increased potential for elevated groundwater

Permeable superficial deposits in orange, EA records of groundwater flooding in blue.



APPENDIX F - Sources of information

Site conditions

Archaeological Priority Areas and Scheduled Monuments for Islington – see appendix 7 of Development Management Policies 2013.

[http://www.islington.gov.uk/publicrecords/library/Planning-and-building-control/Publicity/Public-consultation/2012-2013/\(2012-10-03\)-Development-Management-Policies-Submission.pdf](http://www.islington.gov.uk/publicrecords/library/Planning-and-building-control/Publicity/Public-consultation/2012-2013/(2012-10-03)-Development-Management-Policies-Submission.pdf)

Environment Agency - Ground water protection zones

http://maps.environment-agency.gov.uk/wiyby/wiybyController?x=531500.0&y=181500.0&topic=groundwater&ep=map&scale=5&location=London,%20City%20of%20London&lang=_e&layerGroups=default&distance=&textonly=off#x=531948&y=184052&lg=1,10,&scale=8

Islington Preliminary Flood Risk Assessment

[http://www.islington.gov.uk/publicrecords/library/Planning-and-building-control/Information/Advice-and-information/2012-2013/\(2012-08-09\)-Preliminary-flood-risk-assessment.pdf](http://www.islington.gov.uk/publicrecords/library/Planning-and-building-control/Information/Advice-and-information/2012-2013/(2012-08-09)-Preliminary-flood-risk-assessment.pdf)

Trees and landscaping

Forestry Commission England – The Case for Trees in Development and Urban Planning

<http://www.forestry.gov.uk/forestry/infd-88nfn2>

Natural England's Green Infrastructure Guidance

<http://publications.naturalengland.org.uk/publication/35033>

NHBC – Building Near Trees

<http://landscape-masonry.co.uk/pdf/layout%204-2.pdf>

Trees & Design Action Group – Trees in Hard Landscapes

<http://www.tdag.org.uk/trees-in-hard-landscapes.html>

Trees & Design Action Group – The Canopy

<http://www.tdag.org.uk/the-canopy.html>

Trees & Design Action Group – Trees in the Townscape

<http://www.tdag.org.uk/trees-in-the-townscape.html>

Construction

ASUC Plus - Guidelines on safe and efficient basement construction directly below or near to existing structures

[http://www.citb.co.uk/documents/about-us/what%20we%20do/development%20fund%20info/asuc%20basement%20guidelines\[1\].pdf](http://www.citb.co.uk/documents/about-us/what%20we%20do/development%20fund%20info/asuc%20basement%20guidelines[1].pdf)

Greater London Authority – The Control of Dust and Emissions during Construction and Demolition

https://www.london.gov.uk/sites/default/files/Dust%20and%20Emissions%20SPG%208%20July%202014_0.pdf

London Borough of Islington- Code of Construction Practice

[http://www.islington.gov.uk/publicrecords/library/Environmental-protection/Information/Leaflets/2006-2007/\(2006-09-21\)-Code-of-Practice-for-Construction-Sites.pdf](http://www.islington.gov.uk/publicrecords/library/Environmental-protection/Information/Leaflets/2006-2007/(2006-09-21)-Code-of-Practice-for-Construction-Sites.pdf)

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ISLINGTON

Regulation 12(a) Consultation Statement

Basement Development Supplementary Planning Document

November 2015

PART A: FORMAL CONSULATION ON DRAFT SPD

1 Introduction

- 1.1. This document has been prepared in accordance with regulation 12(a) of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). It sets out details of the consultation that has taken place which has informed the development and refinement of Basement Development Supplementary Planning Document (SPD), which provides guidance to be used in the assessment of any planning application that involves excavation for the creation of new or additional subterranean/basement floorspace.
- 1.2. This consultation statement sets out:
- early consultation activity undertaken to inform the preparation of the draft Basement Development SPD (further detail contained in Part B of this report);
 - who the council consulted when preparing the draft SPD; and
 - a summary of the issues raised during the public consultation stage, and how those issues have been addressed in the final version of the SPD.

2 Formal public consultation

- 2.1. The council conducted a public consultation of the draft Basement Development SPD during the summer from 10 July until 4 September 2015. This exercise was undertaken to seek feedback on the proposed guidance from the public, industry, community groups and residents. Respondents were invited to provide general comments on the draft document, with the option to answer ten questions on specific sections of the SPD.
- 2.2. Responses were welcomed via email, and in writing to the Council. In addition, an online questionnaire was set up using Survey Monkey that was accessible via the SPD webpage on the council's website. The questionnaire posed the following questions:
1. Do you have any comments on Section 6 of the draft SPD?
 2. Do you have any comments on Section 7.1 of the draft SPD?
 3. Do you have any comments on Section 7.2 of the draft SPD?
 4. Do you have any comments on Section 7.3 of the draft SPD?
 5. Do you have any comments on Section 7.4 of the draft SPD?
 6. Do you have any comments on Section 7.5 of the draft SPD?
 7. Do you have any comments on Section 7.6 of the draft SPD?
 8. Do you have any comments on Section 7.7 of the draft SPD?
 9. Do you have any comments on Appendix B of the draft SPD?
 10. Do you have any comments on Appendix C of the draft SPD?
 11. Do you have any other comments in relation to the draft SPD?
- 2.3. The council targeted this public consultation to the following groups:
- E-mail to all e-mail addresses registered on planning policy consultation database (over 1700 registered).
 - E-mails and letters to various industry groups. Address information was sourced via the internet, and letters sent to specialist basement development firms active in the borough.
 - Where email addresses were not available, letters to local organisations registered on planning policy consultation database.
 - Letters to Islington's 48 elected councillors.
- 2.4. In total, 19 responses were received; 15 written consultation responses and 4 online questionnaire responses. These responses are shown in full in Table 2.

3 Analysis of draft SPD consultation responses

- 3.1. Nineteen responses were received from a range of respondents, as set out below. Although letters were sent to specialist basement development firms active in the borough, only two responses were received from the industry. The council's response to all written and online questionnaire responses is detailed in Table 2.

Table 1 Respondents grouped by category

Category	Number	Percent
Resident	6	32%
Community/Voluntary Group	3	16%
Basement Specialist	1	5%
Statutory Consultee	9	47%
Not stated	0	0
TOTAL	19	100

- 3.2. Out of the nineteen responses received, nine (47%) gave broad support for the draft SPD, and five (26%) opted not to comment, and there were no responses with an in-principle objection to providing guidance on basement development.
- 3.3. Two responses were received from Civil Engineers working in the relevant industry, one generally in support of the guidance, and the other raising questions around the level of intervention that the Council should adopt. Full responses to these comments are provided in Table 2 below.
- 3.4. No evidence was presented in any of the nineteen responses in support of an alternative approach to basement development in the borough.

4 Conclusions

- 4.1. Minor changes to the SPD were made in response to the consultation feedback on the draft SPD to improve the clarity of the document. The SPD will be taken to Executive for approval to adopt early 2016. The SPD will be a material planning consideration following its formal adoption.
- 4.2. The production of the Basement Development SPD has involved extensive and ongoing consultation which has influenced both early development and later refinement of the document. The process has complied with the relevant Regulations.

Basement Development SPD Regulation 12(a) Consultation Statement November 2015

Table 2: Consultation responses on Draft Basement Development SPD

RESPONDENT	SUMMARY OF RESPONSE	RESPONSE FROM COUNCIL
Written responses		
<p>Better Archway Forum</p>	<p>Under point 7.6 Flood Risk, we would add that account must also be taken of ground water.</p> <p>Although not immediately evident, N19, and presumably other parts of Islington, features multiple small streams and water courses – the names Ashbrook Road and Brookfield Close offer clues but there are others. To take one example, one of the older residents pointed this, reporting that when Ash Court was built on Junction Road the builders ignored the small stream which ran down between the back gardens of the houses. As a result the new building on Junction Road flooded and more water protection had to be built. This causes limited problems if it is only a few feet deep, but if this type of water meets a larger blockage such as a basement, instead of diverting under the building it would flow into the foundations of neighbours.</p> <p>For this reason it will be important for those proposing basements demonstrate conclusively that there are no older/seasonal water flows which would be impeded by such a structure and might be good grounds for refusing the inclusion of a basement level in applications where permitted development rights do not apply, given the problems which can be caused. Parts of the Girdlestone Estate appear to be an example of the intractable problems caused when this type of issue is not properly addressed.</p>	<p>The Council agrees that groundwater flooding needs to be considered as an element of the overall assessment of flood risk for basement proposals. The SPD contains guidance on addressing flood risk for individual applications, and Section 6/Appendix B specifically requires Structural Method Statements to address groundwater levels as well as current and historic watercourses as part of the desk study. This is considered to be a robust and proportionate approach.</p>
<p>Canonbury Society</p>	<p>We have read with interest your draft SPD on Basement Development dated July 2015 and other related papers in which you've consolidated existing planning policies but not actually created any new policy to strengthen the council's armoury</p>	<p>As the SPD is planning guidance and therefore cannot formulate new policy, the Council considers that the guidance as drafted gives a clear and justified</p>

	<p>of policies regulating subterranean development.</p> <p>On behalf of the Canonbury Society, I would like to comment as follows:</p> <ol style="list-style-type: none"> 1. As an opportunity to create new policy, this draft SPD is disappointing and it is weaker than we had expected particularly when it addresses Basement Development in Conservation Areas (Section 8) and Listed Buildings (Section 9). For example, Para 9.3 last line ‘generally be resisted’ should read ‘generally be banned’; Para 9.5 1st line ‘may not be’ should read ‘will not be’; Para 9.14 1st line ‘If permission’ should read ‘in the unlikely circumstance that’. 2. Points for clarification, Para 7.2.2 can you define ‘existing basement’? Does it mean lower ground floor typically found in Victorian and Georgian houses? DI.17 does ‘within the curtilage of a listed building’ mean ‘outside the footprint of the listed building’? 3. We do not understand why you cannot adopt an outright ban on basements under listed buildings. You say that basements under listed buildings will be “resisted” rather than completely ruled out which in our view will create a lot of casework by applicants arguing in their favour the definition of ‘resisted’. 4. In our response to the discussion paper and questionnaire dated 29th January 2015, we suggested that the council should adopt the policy of the Royal Borough of Kensington & Chelsea (RBK&C) which had been recently subjected to public examination and to a separate Planning Inspector’s Report which found the policy to be ‘sound’. <p>Interestingly, in a legal challenge in the High Court to this policy (CL7) by Zipporah Lisle-Mainwaring and Force Foundations (Basement Force) Ltd on 23rd July 2015, the judge found in the RBK&C’s favour.</p>	<p>interpretation of our adopted planning policies with specific regard to basement proposals. The Council will consider the inclusion of a specific basement policy within the scheduled limited review of the Local Plan.</p> <p>The SPD contains a specific section on basements within Conservation Areas, which clarifies the specific issues that should be considered for a basement proposal in such a context.</p> <p>In response to the comments made, and for the avoidance of doubt, a minor amendment has been made to paragraph 7.2.2 to make a specific reference to lower ground floors within the definition. The Council considers this section provides sufficient clarity on what is considered to constitute an existing basement.</p> <p>The Council considers that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of the heritage asset can only be considered properly when full details of the proposal are available.</p>
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**Basement Development SPD Regulation 12(a) Consultation Statement
November 2015**

	<p>In summary, the RBK&C's policy proposes:</p> <ul style="list-style-type: none"> I. A restriction to a single storey in most cases, with exceptions for large sites II. A reduction in the maximum extent basements can extend under a garden, from 85 per cent to 50 per cent III. An outright ban on basements under listed buildings IV. A requirement for construction traffic management plans to be submitted alongside planning applications to help limit disturbance during construction. <p>5. The only RBK&C policy we take issue with is the maximum extent to which basements can extend under a garden. In general we don't think they should extend under gardens at all and therefore consider 50% of the garden area to be far too generous. In exceptional circumstances and we would accept a figure closer to 20% of the garden area.</p> <p>6. We are pleased to note that the validation requirements applying to applications for basement development has been made much more stringent with relevant reports from professional advisers contributing to the Structural Method Statement (SMS) being demanded. The CMS will now be more comprehensive than it was which is necessary for the officers and members to properly consider such applications.</p> <p>7. We also note that the council quite rightly reserves the right to consult (at the expense of the applicant) an independent suitably qualified person to undertake an independent assessment for specific cases where conflicting information has been presented to the council, or where there are any particularly sensitive buildings, trees or other structures within the proximity of the site. We think this reservation should also include cases which involves complex technical engineering as well.</p> <p>8. Notwithstanding the above comments, we are generally happy with Sections 1 to</p>	<p>Whilst the Council acknowledges the concerns and issues around the retrofitting of basements underneath or close to Listed Buildings, the SPD takes a positive approach to outlining the issues concerned, by providing guidance on how these issues can be best resolved through design. Where the provision of a basement extension would result in harm the Listed Building, the guidance is clear that such as development would be resisted.</p> <p>The SPD sets out a key principle that in line with above ground development, all basement development needs to be appropriate and proportionate to its site context. Design Indicator DI.1 sets out a general parameters, however, any basement within a garden area/unbuilt upon area is subject to a number of sections within the guidance, with a range of design considerations which all help inform an appropriate level of development for a site. In some circumstances, a basement extending into 50% of the garden would not be appropriate for a number of potential reasons, and a lesser extent may be appropriate. This flexibility is necessary to ensure site circumstances are sufficiently taken into account.</p>
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Page 148	<p>7 and Appendices A to F which are useful and informative.</p> <p>We look forward to learning your conclusions from this consultation in due course.</p>	<p>Paragraph 6.8 ensures that a suitably qualified person(s) with relevant experience, be appointed and retained throughout the design and construction phase. New Paragraph 6.10 has been added to clarify that, where the basement proposed is an extension to an existing building or where the basement immediately adjoins an existing building, the retention of the suitably qualified person throughout the process will be secured by condition. With this safeguard in place, it is not considered necessary to require independent verification of the SMS in all instances.</p>
Resident	<p>I was glad to see in the 'Basement Development Discussion Paper' that consideration is being given to effects on local eco-systems and water courses. I have noticed several 'instant gardens' in my road, where extensive residential house developments/ renovations are followed by a general grubbing up of all existing vegetation which is then replaced with turfing and small shrubs which are 'sprinkled' with hosepipes for days. This is a loss of habitat for many birds and small insects which take years to recover and re-grow. We have lost our local populations of greenfinches and sparrows and many other small birds due to habitat loss (Anson Road/ Dalmeny Road. This is a sad thing - mature shrubs and small trees cannot be properly replaced by short turf and tiny shrubs/ bedding, especially when it happens in the middle of the summer!</p> <p>Anyway, the document looks good and thoughtful</p>	Support is noted.
Mayor of London	The Council's approach to basement development is supported.	Support is noted.

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Highways England	Having examined the above consultation document, we do not offer any comment to this proposal.	Noted.
Metropolitan Police	With particular reference to Basement Development and Development Viability proposals for new developments, where appropriate, must promote security and resilience to terrorism and have regard to the appropriate guidance published by the National Counter Terrorism Security Office (NaCTSO). All referrals for counter terrorism advice should be made to the Counter Terrorism Security Advisor (CTSA) via the Police Designing Out Crime Officer (DOCO) who will be the single point of contact.	Noted.
Designing Out Crime Group, Metropolitan Police Page 149	<p>This report concerns the inclusion of designing out crime and promoting community safety into Islington's draft 'Basement Development' and 'Development Viability' Supplementary Planning Documents.</p> <p>The London Plan draft Supplementary Planning Guidance at 'Policy 7.3 Designing Out Crime', clearly outlines The Mayor's commitment to ensuring that designs for the built environment serve to reduce crime and the fear of crime and encourages developers to include at least the main principles set out in the police Secured by Design (SBD) scheme.</p> <p>Being a MOPAC, Home Office and DCLG supported police initiative, SBD provides guidance to design teams and specifiers so that police preferred measures can be used to prevent crime.</p> <p>As research proves that adopting police SBD standards can reduce burglaries by 75% and both vehicle crime and criminal damage by 25%, The Mayors' advice in the draft planning guidance will reduce crime and the fear of crime.</p> <p>The police Secured by Design scheme recently introduced the Silver Award (details of which are attached at appendix A). This award sets out the minimum qualifying criteria for Secured by Design National Building Approval and is considered by</p>	<p>The Council agrees that designing out crime and promoting community safety are important design considerations, as reflected by their inclusion with the Council's Development Management Policies. It is not considered necessary to replicate these requirements in the SPD.</p>

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	<p>Building Control Officers and Approved Inspectors to be an acceptable compliance path for discharging Part Q of Schedule 1, Building Regulations 2010.</p> <p>The SBD Silver Award makes a major contribution to reducing crime and the fear of crime, as such we ask that Islington Council considers including compliance with the award in their guidance to developers.</p>	
<p>Consibee (Structural and Civil Engineers)</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 150</p>	<ul style="list-style-type: none"> • We generally support guidance provided by the SPD however, perhaps not surprisingly, there are a number of areas where we feel more clarity is required. • We totally agree with the qualifications required of the person submitting the SMS. • Possibly semantics, but the SMS is really a Basement Impact Assessment Flood Risk Assessment, a structural scheme and a Structural Method Statement. This only becomes clear after one has read the whole of sections 6 and appendix B and section 7.6 on flood risk. Maybe a pro-forma SMS or at least a summary would be useful to include to help get consistent submissions. • In the section on design in appendix B page 42, it asks for an assessment of movement and a limit on damage of category. It would be useful if this was expanded to make it clearer what is expected. For example on deep basements on particularly sensitive sites it would be reasonable to have an estimation of movement based on an analysis of the soil and construction method. This would then be used by an appropriately qualified person to assess the predicted damage. In contrast on a simple scheme, and using a stiffer form of construction (as described in the CIRIA guide) an appropriately experienced engineer would just use their judgement. A full analysis is expensive but if you really want to see that carried out then that should be made clear. • On the section on listed buildings it implies that that deepening of floor levels involving underpinning, even to vaults is unacceptable. Deepening vaults to create a bathroom or utility room is a very common form of extension, usually only requires a modest deepening, does not generally impact the main house, but will generally require underpinning. Creating useful additional habitable space in this way cannot sensibly be considered to change the hierarchy of the house, or the plan form, nor can most vaults be considered to be important historic fabric. We suggest that this isn't the type of basement extension that is 	<p>Support is noted.</p> <p>The contents of the SMS are to be proportionate to the site context, but at minimum must be in accordance with Appendix B. Paragraph 6.7 sets out the specific circumstances when physical site investigations may be required. This guidance is sufficiently clear to enable applicants to commission the appropriate evidence and level of assessment in support of a proposal.</p> <p>Impact on heritage assets needs to be individually assessed, when the full details of the proposal are available. In Islington, historic vaults are often an important feature, and contribute to the significance of the original building; intact vaults are particularly rare.</p> <p>Underpinning involves the introduction of modern construction methods and materials which alters the historic fabric of the</p>

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	<p>trying to be discouraged, and should apart from exceptional circumstances be allowed.</p> <ul style="list-style-type: none"> On a similar point, some basements have very low headroom so it would be reasonable in terms of amenity, air quality etc. to increase them a bit to improve the space and still remain subservient to the main floors. So is a blanket ban on underpinning of listed buildings reasonable? <p>Overall we support the aims of the SPD and the control it is trying to exert on basement extensions.</p>	<p>building, which in turn has the potential to irreversibly harm the special architectural or historic interest on the Listed Building. It is therefore important that The SPD sets out clear guidance to inform the assessment of planning (and listed building) applications and assist in consistency of decision making, therefore the Council considers the guidance as drafted is appropriate.</p>
Natural England	<p>Natural England does not consider that these Supplementary Planning Documents pose any likely risk or opportunity in relation to our statutory purpose, and so does not wish to comment on these consultations.</p>	<p>Noted.</p>
Resident Page 151	<p>Thank you for sight of your proposals.</p> <p>I am pleased to see that they have regard to protecting listed buildings and conservation areas.</p> <p>I agree with your proposals</p>	<p>Support is noted.</p>
Resident	<p>If the council is setting out tighter regulations on basement builds then how was it so easy to get permission to build a whole new underground complex of homes in the back gardens of 13 - 17 Thane Villas, N7?</p> <p>Quoting from your website -</p> <p>"Planning permission applicants will be required to provide detailed information on issues including the impact the development would have on surrounding gardens and trees."</p> <p>The above scheme which has been given the go ahead will have a profound impact on the back gardens. The construction access alone will require extensive clearance</p>	<p>The Council agrees the important role gardens play in the function and appearance of the borough. This is reflected in DM6.3 (E) which places limitations on development within gardens (private open space). The SPD provides further guidance on the implementation of this policy, however, each application is considered on its merits and the SPD does not seek to introduce a blanket ban on basement development.</p>

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	of mature garden space	
Office of Rail and Road	No comment	Noted.
Thames Water	Thames Water would like any guidance on Basement Development to include the need to fit all basements with a 'positive pumped device' (or equivalent reflecting technological advances), as this will help to ensure basements properties are protected from sewer flooding. Fitting only a 'non return valve' to basement properties is not acceptable as this is not effective in directing the flow of sewage away from the basement building.	Noted. The SPD has been amended to include this advice within Section 7.6 Flood Risk.
Transport for London	<p>Generally, the scale of the development covered by the proposed SPD is unlikely to be a concern for TfL. However, basement proposals on property adjacent to the Transport for London Road Network (TLRN), Strategic Road Network (SRN), above London Underground (LU) tunnels, especially shallow ones such as the Hammersmith & City, Circle or Metropolitan Lines or, more generally, on sites that are adjacent to TfL operational and non-operational land and property holdings have the potential to impact on the safe operation of the strategic transport network if inappropriately designed or constructed. TfL would be particularly concerned if a basement was proposed above or below an LU or London Overground (LO) tunnel or viaduct, or the TLRN.</p> <p>Accordingly, it is suggested that TfL as well as 'neighbours' would wish to be consulted early and if necessary raise concerns about specific proposals. As such, TfL would suggest that Section 5 (pg. 9) of the SPD should be amended to acknowledge that for any basement development proposals adjoining the TLRN/ SRN, LU/LO infrastructure or TfL land and property, TfL should be consulted, in accordance with London Plan policy 6.3 (assessing effects of development on</p>	As requested, the Council will consult TfL on basement applications in the instances specified as part of the planning application consultation process.

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	transport capacity).	
Health and Safety Executive	We have concluded that we have no representation to make at this stage of your local planning process. This is because there is insufficient information in the consultation document on the location and use class of sites that could be developed. In the absence of this information, the HSE is unable to give advice regarding the compatibility of future developments within the consultation zones of major hazard installations and MAHPs located in the area of your local plan.	Noted.
Questionnaire responses		
Civil Engineer	<p>Q1: Section 6 of SPD</p> <p>It is important to distinguish between site investigation and ground investigation. Both are required to adequately assess the construction risk. The extent of these investigations should be sufficient to adequately inform the particular planning and construction design stage. The document needs to be more stringent in the assessment of building movement. Significant building damage and impact upon adjacent buildings is likely to occur well before structural stability issues arise - (6.4) Assessment of ground movement should be a planning consideration. Control of ground movement should also be a planning consideration. Reasonable assessments can be made based on a good ground investigation, knowledge of the construction techniques; piling or underpinning etc. and the overall construction methodology including the sequence of temporary works. The construction process will cause ground movement but this can be controlled through good construction practice. A good ground and building movement monitoring system will act as a check against predicted movements. 6.7: There is no basis for determining a safe permanent design without knowledge of the engineering properties of the ground. It is therefore strongly recommended that 6.7 is altered to state that specific knowledge of the underlying ground conditions will be required to adequately and safely inform the design, assess ground movement and consequent building damage. It is strongly recommended that an independent check is made for all</p>	<p>Utilities such as gas a water mains are included in section 6.6 and are to be addressed in the SMS. This guidance is sufficiently clear to enable applicants to commission the appropriate evidence and level of assessment in support of a proposal.</p> <p>Design Indicator DI.1 has been drafted to respond to the various configurations of the built form in Islington, and in order to manage the cumulative impact of loss of gardens/unbuilt upon area. The impacts of this type of development are not limited to aesthetic considerations as set out throughout the various sections of the SPD.</p> <p>As with Design Indicator DI.1, DI.2 has been developed having regard to the scope of impacts associated with this type of</p>

	<p>applications to ensure that the submission demonstrates as far as reasonably practicable a design and construction methodology that is safe to build and aims to minimize ground movement and building damage. Please note that other buried sensitive infrastructure such as gas and water mains need to be considered when assessing acceptability of movement due to basement construction</p> <p>Q3: Section 7.2 of the SPD</p> <p>I disagree with the need to limit basements so they are subservient to the original footprint of the building. My reasoning is as follows: 1. Above-ground extensions are visible to the public and therefore for aesthetic reasons, they need to be subservient to the main building. No such aesthetic considerations exist for basement extensions because these are by their nature invisible to outsiders. 2. In the SPD point 7.1.2, it is claimed that "where large basements extensions are proposed the resulting intensity of basement use may be out of keeping with the domestic scale, function and character with its context." I disagree with this. It is possible via planning conditions to limit the use of the basement space to get around the intensity problem. For example, it possible to resist permission to create bedrooms in the basement, and insist that they are living and storage areas only.</p> <p>I disagree with the need to limit basements so they are one story. I believe two stories should be permitted if it can be proven that it's safe to do so. Again, planning conditions can be placed to limit the use of the basement space to get around the intensity problem. For example, it possible to resist permission to create bedrooms in the basement, and insist that they are living and storage areas only.</p> <p>Q9: Appendix B of SPD</p> <p>Paragraph two needs to be rewritten. The council relies on the professional competency of the chartered engineer submitting the structural method statement. While the engineer will be able to demonstrate a permanent works design that can be built safely, he or she cannot be held liable if there is no contractual obligation for</p>	<p>development.</p> <p>Paragraph 6.8 ensures that a suitably qualified person(s) with relevant experience, be appointed and retained throughout the design and construction phase. New Paragraph 6.10 has been added to clarify that, where the basement proposed is an extension to an existing building or where the basement immediately adjoins an existing building, the retention of the suitably qualified person throughout the process will be secured by condition. With this safeguard in place, it is not considered necessary to require independent verification of the SMS in all instances.</p> <p>The recommended design process in Appendix B has been updated to refer to 'competent' design team, as suggested. The validation requirements are laid out in Appendix A, which will be required to be submitted at planning stage. This process is considered sufficiently clear.</p>
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	<p>them to be involved with the construction phase or temporary works. Refer to the recent house collapse in Stanhope Avenue Finchley. There needs to be a clear statement on who is responsible for the design, construction and management of temporary works and their competency. Temporary works is often left to the constructor and the control of temporary works is vital to limit movement and building damage. Strongly recommended that an independent check is made of the submission - see comment on section 6. Recommended design process: Use 'Competent' design team. Show the point at which the structural method statement is submitted. Show ground investigation stage. This will form part of the detailed design stage. Emphasize the need for ground movement and subsequent building damage assessment.</p>	
Lonsdale Society	<p>On behalf of the Lonsdale Square Society, while not all of the points we raised in the earlier consultation have been addressed, we believe the draft SPD represents a fair and balanced approach and we support it</p>	Support is noted.
Resident	Support	Support is noted.
Resident	<p>Q2: Section 7.1 of SPD</p> <p>I disagree with the need to limit basements so they are subservient to the original footprint of the building. My reasoning is as follows: 1. Above-ground extensions are visible to the public and therefore for aesthetic reasons, they need to be subservient to the main building. No such aesthetic considerations exist for basement extensions because these are by their nature invisible to outsiders. 2. In the SPD point 7.1.2, it is claimed that "where large basements extensions are proposed the resulting intensity of basement use may be out of keeping with the domestic scale, function and character with its context." I disagree with this. It is possible via planning conditions to limit the use of the basement space to get around the intensity problem. For example, it possible to resist permission to create bedrooms in the basement, and insist that they are living and storage areas only.</p> <p>Q3: Section 7.2 of SPD</p>	<p>Design Indicator DI.1 has been drafted to respond to the various configurations of the built form in Islington, and in order to manage the cumulative impact of loss of gardens/unbuilt upon area. The impacts of this type of development are not limited to aesthetic considerations as set out throughout the various sections of the SPD.</p> <p>As with Design Indicator DI.1, DI.2 has been developed having regard to the scope of impacts associated with this type of development.</p> <p>The Council's Tree Officers have advised that moving trees is generally only practical</p>

	<p>I disagree with the need to limit basements so they are one story. I believe two stories should be permitted if it can be proven that it's safe to do so. Again, planning conditions can be placed to limit the use of the basement space to get around the intensity problem. For example, it possible to resist permission to create bedrooms in the basement, and insist that they are living and storage areas only.</p> <p>Q5: Section 7.4 of SPD</p> <p>How about moving trees to the back of the garden? In that case, they would still be retained however they would be moved away from the proposed basement.</p>	<p>when the trees are saplings, the relocation of established trees being unlikely to be successful. As with all planning applications, each proposal is assessed on its merits, therefore there exists an inherent flexibility to respond to the specifics of an individual site. The SPD sets out clear guidance to inform the assessment of planning applications and assist in consistency of decision making, therefore the Council considers Section 7.4 is appropriate as drafted.</p>
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PART B: PRELIMINARY CONSULTATION

1 Introduction

- 1.1.** This document has been prepared in accordance with regulation 12(a) of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). It accompanies a draft Supplementary Planning Document (SPD) which provides guidance to be used in the assessment of any planning application that involves excavation for the creation of new or additional subterranean/basement floorspace.
- 1.2.** This consultation statement sets out:
- early consultation activity undertaken to inform the preparation of the Basement Development SPD;
 - who the council consulted when preparing the draft SPD; and
 - a summary of the issues raised during the preliminary consultation stage, and how those issues have been addressed in the draft SPD.

2 Preliminary consultation

- 2.1.** The council conducted a preliminary consultation exercise on a discussion paper between 8 December 2014 and 30 January 2015. This exercise was conducted to gauge opinion on these matters, in order to ensure that the SPD focuses on the most important issues and provides advice and support that will be genuinely useful. Respondents were invited to answer five questions set at the end of the paper.
- 2.2.** The discussion paper posed the following questions:
1. Do you agree with Islington Council's intention to produce specific guidance in relation to the parameters set out in Section 16 Options Going Forward? Is there an alternative way the Council should consider addressing the planning issues associated with subterranean development?
 2. What design considerations/restrictions should the Council include to ensure impacts from subterranean development are minimised? How would these measures ensure consistency of decision making and consideration of cumulative impacts?
 3. Should the Council restrict subterranean development beneath listed buildings? If not, what would be an alternative way of ensuring the long term integrity of heritage assets?
 4. What level of information should be provided in support of a planning application involving basement development? Should this be for all instances of basement proposals, or should it differ for different circumstances? If no, how would the information requirements differ, giving justification for your reasoning?
 5. Do you have any further comments on the proposed Supplementary Planning Document? Are there any key issues (pertaining to basement development) that have not been raised in this paper and in your opinion should have been?
- 2.3.** The council targeted this preliminary consultation to the following groups:
- E-mail to all e-mail addresses registered on planning policy consultation database (over 1700 registered).
 - E-mails and letters to various industry groups. Address information was sourced via the internet, and letters sent to specialist basement development firms active in the borough.
 - Where email addresses were not available, letters to local organisations registered on planning policy consultation database.
 - Letters to Islington's 48 elected councillors.

- 2.4. An online questionnaire mirroring the questions posed in the discussion paper was also set up using Survey Monkey. This was accessible via the SPD webpage on the council’s website.
- 2.5. In total, 44 responses were received; 15 written consultation responses and 29 online questionnaire responses. These responses are shown in full in Table 2; a ‘no comment’ response was received from the Highways Agency and Natural England (both statutory consultees) which are not included in the table.

3 Analysis of preliminary consultation responses

- 3.1. The 44 responses were received from a range of respondents, as set out below. Although letters were sent to specialist basement development firms active in the borough, no responses were received from the industry. However of the residents who responded, five also identified themselves as consultants/industry specialists. The council’s response to all written and online questionnaire responses is detailed in Appendix 1.

Table 1 Respondents grouped by category

Category	Number	Percent
Resident	30	68%
Community/Voluntary Group	8	18%
Basement Specialist	0	0
Statutory Consultee	6	14%
Not stated	0	0

Question 1 Responses

- 3.2. All of the 35 responses received to Questions 1 supported the Council’s intention to produce specific guidance in relation to basement development. No alternative means of addressing the planning issues associated with basement development were put forward.

Question 2 Responses

- 3.3. A total of 32 responses were received in regards to Question 2. Of these, one response indicated that no restrictions should be imposed on basement development, and the remainder of the responses supported various levels of control relating to the considerations identified in the Discussion Paper. The main issues raised by respondents related to:
- The need to restrict the depth and extent of basement development for a variety of issues including amenity, flood risk, biodiversity/loss of garden space, and sustainability
 - The need to strike a balance between the ability of property owners to expand their homes and the potential negative impacts of basement development, at both a site specific and cumulative scale across the borough
 - The need to ensure applications are assessed in an equitable, consistent and transparent manner

- The need for proposals to consider site conditions and any associated structural risk arising from the characteristics of the original building in coming to a robust design solution
- The need to ensure that any impacts arising from the construction process are appropriately mitigated/managed
- The need to provide for additional safeguards where proposals impacts on designated heritage assets.

Question 3 Responses

- 3.4.** The 32 responses to Question 3 supported varying levels of restriction in relation to development beneath listed buildings, ranging from a complete ban on any basement development related to a listed building, to a more permissive approach that prioritised the significance of the heritage asset while acknowledging the increased structural risk generally associated with such buildings.

Question 4 Responses

- 3.5.** There were 30 responses to this question, all of which supported clear guidance about the information required to be submitted in relation to all basement development proposals. In particular, respondents considered that information should be required in relation to site conditions, structural risk and construction impacts. As with Question 3, a number of responses indicated preference for requirements which are not planning matters.

Question 5 Responses

- 3.6.** Twenty-four respondents made further comments on the proposed SPD, which generally reiterated the need to develop robust and consistent guidance in relation to basement development and specific impacts associated with this type of development. Thames Water and English Heritage suggested further additions in relation to flood risk and archaeology, respectively, and Westminster City Council expressed a desire to promote greater coordination between boroughs in their approach to basement applications.

4 Next steps

- 4.1.** This consultation statement will be updated following public consultation on the draft SPD. A full consultation statement detailing work undertaken and responses received at both preliminary consultation and full consultation stages will be published alongside the final Basement Development SPD.

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Table 2: Consultation responses on Preliminary Consultation Discussion Paper

Question 1: Do you agree with Islington Council's intention to produce specific guidance in relation to the parameters set out in Section 16 Options Going Forward? Is there an alternative way the Council should consider addressing the planning issues associated with subterranean development?

Respondent	Comment	Council Response
Resident	Yes I do. Specific guidance is vital to control, fairly to all parties, a feature that could have a serious impact on amenity, living conditions and the structural integrity of large parts of Islington, including key listed building sites.	Support noted.
Resident	Yes. Basement developments are often a gross development out of keeping with the original design of the house. The construction work necessitating the removal of large quantities of soil, provision of substantial amounts of concrete and underpinning neighbouring properties are all a nuisance.	Support noted.
Resident	Yes, but the guidance shouldn't be overly prescriptive and should allow for sensitive and high quality development that assists in increasing the size and quality of the Islington housing stock.	Support noted.
Resident	I strongly support the production of specific guidance in relation to the items set out in Section 16. Unless specific guidance and requirements are set forth by Islington Council, it is very likely that these developments could irreparably damage both the natural and the historic environment of Islington. In addition, without adequate checks the rights of neighbours to quiet enjoyment and continued structural safety and amenity of their property are likely to be significantly prejudiced. In an area of relatively small plots and small gardens, there need to be in place restrictions which prevent disproportionate developments. Restrictions should be balanced with a property owner's right to improve and maintain his or her property.	Support noted.
Resident	Yes I do agree with Islington Council's intention to produce specific guidance. I believe it is the best way to control unfettered subterranean development. If the council's policy is explicit, then it will help to stem planning applications because developers will know that they have no chance of gaining permission for these works.	Support noted.
Resident	We strongly agree. Guidance and associated planning requirements are required to avoid subterranean developments causing structural and/or environmental damage and/or damage to the integrity of heritage assets. The parameters set out in Section 16 are the right ones in order to move forward on this important issue.	Support noted.
Resident	Yes, I feel strongly that clear, well-supported guidance needs to be provided – for householders, developers and planning officers. As it currently stands planning officers have no clear direction with which to assess applications and applicants have few parameters within which to prepare their proposals. Meanwhile owners of listed buildings are fearful as to the impact of basement	Support noted.

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Respondent	Comment	Council Response
	development in adjacent properties.	
Resident	Considering the weak foundations of the land on which most if not all the houses of Islington are built (clay beds) it is inadvisable to allow in the majority of cases subterranean development on period properties or near period properties. Reasons below.	Support noted.
Resident	Yes	Support noted.
Resident	Yes, otherwise some property developers will exploit the lack of guidance to the detriment of the local residents	Support noted.
Resident	Yes, it gives clarity to developers and residents and users of the borough.	Support noted.
Lonsdale Square Society	The Lonsdale Square Society strongly supports the production of specific guidance in relation to the items set out in Section 16. Unless specific guidance and requirements are set forth by Islington Council, it is very likely that these developments could irreparably damage both the natural and the historic environment of Islington. In addition, without adequate checks the rights of neighbours to quiet enjoyment and continued structural safety and amenity of their property are likely to be significantly prejudiced. In an area of relatively small plots and small gardens, there need to be in place restrictions which prevent disproportionate developments. Restrictions should be balanced with a property owner's right to improve and maintain his or her property. The Lonsdale Square Society believes the Council's detailed Discussion Paper represents a well-considered and informative start to the consultation process on this complex subject.	Support noted.
Resident	I totally agree and support the council's intention to proceed this way. Basement development is at an unprecedented increase and the future impact upon the local environment and residents/homeowners is currently unknown. Flooding implications and the material composition of London soil and clay call for a need for clear unambiguous guidelines supported with additional technical investigations by qualified technical engineers/surveyors on the proposed sites in question. Guidelines should also seek to clarify any loose parts of the council basement policy open to interpretation by developers or surveyor/contractors working for the clients motivated by the financial gains in undertaking a development project. Such guidelines provide some sort of future reassurance underpinned by a consistent standardised guidance which would be helpful in ensuring proper considerations backed by strong investigative technical standards have occurred. As a reference point, Camden has did an excellent job in shaping their basement guidelines policy www.camden.gov.uk/ccm/cms-service/download/asset/?jsessionid=5F3179E08C416A7185C7646F2A7123A3?asset_id=1503904	Support noted.
Resident	Yes. This is essential but parts need strengthening and the essential requirement should be obligatory.	Support noted.
Resident	Yes, I support the intention of Islington Council to produce specific and supplementary guidance, as the planning considerations may be of a different nature than those for other forms of development. Without adequate checks and balances, subterranean development can have a deleterious effect on the safety, amenity, foundations, historical integrity of neighbouring, adding	Support noted.

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Respondent	Comment	Council Response
	properties.	
Resident	Yes. These are sensible parameters and provide a good way of going forward.	Support noted.
Resident	Yes. I live in Lonsdale Square. The houses are listed in a Conservation area and it is important that their structural integrity and the amenity, wildlife corridors, protection from flooding and heat island effect provided by their gardens be protected.	Support noted.
Resident	Yes. Basement development needs to be closely controlled in order to protect adjoining properties and the environment	Support noted.
Resident	Yes, basements are technically complex and to be fair to applicants, unless there is a desire to ban them completely there needs to be a technically robust way of ensuring the impacts from basements have been considered and dealt with. It could be argued that much of what is currently requested in Camden or K&C isn't a matter for planning, however the potential impacts from a bad basement are so great that it is reasonable for planning to deal with it up to a level where it can be publically demonstrated the scheme is sound. Building Control and Party Wall Legislation has its place but is more concerned with detail not principal.	Support noted.
Resident	Yes guidance would be good to endure a position on the matter	Support noted.
Resident	This would be very helpful as at present there is no specific guidance on basements/sub-basements. As the paper indicates such proposed developments raise specific issues that need to be addressed in the planning process.	Support noted.
Highbury Fields Association	Writing on behalf of the Highbury Fields Association, we are aware of the problems that have been caused in other London boroughs, such as Kensington and Chelsea, where basements not only cause often a year of misery for neighbouring residents because of noise, vibration and large numbers of lorry movements over a year or more, but also can lead to structural and damp problems for neighbouring properties.	Support noted.
Resident	Yes. The construction of new basements beneath existing buildings is a recent phenomenon that is inadequately covered by existing legislation and guidance.	Support noted.
Resident	Yes	Support noted.
Resident	Indirectly, any building works have impact on the Environment, whether additional traffic, works in gardens or sourcing / installation of materials. Supranational (e.g EU) law should be used to force compliance. In addition, rather hefty fees should be charged (in the 10s of thousands) for the mere application. Council Tax should be levied twice (once for original building and one for the extension).	Support noted.
Thames Water	Supports and encourage Islington's intention to produce additional guidance with regards to Subterranean/basement developments.	Support noted.
Upper Street Association	Yes we agree that specific guidance should be produced as soon as possible, on grounds of structural security, associated nuisance to neighbours, and damage to gardens.	Support noted.
English	Specific guidance would be beneficial for appropriate designs for basements to historic buildings.	Support noted.

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Heritage	This should relate to an assessment of the significance of the assets, and an approach which is proportionate to their significance in line with the NPPF. This should include, but not be limited to, the points you raise in paragraph 9.6. This would help the council to ensure that any new structures associated with the basement development would enhance and preserve the historic character of the building or area.	
Residents of Lonsdale Square	Yes, we strongly support the production of specific guidance in relation to the items set out in Section 16. We believe that these developments could pose a serious threat to the natural and the historic environment of Islington. It is also crucial to protect the rights of neighbours to quiet enjoyment and continued structural safety and amenity of their property. Properties and their gardens are generally relatively small in this area and located close to the next property so it's really important to have restrictions which prevent disproportionate developments.	Support noted.
Islington Building Preservation Trust	<p>We have read your discussion paper and broadly agree with your inferences and that clear guidance as set out in Section 6 (Options going forward) is needed. We have prepared the following Technical Comments with respect to Section 10 (Geology and Topography) and Section 14 (Structural Impacts) of the discussion paper for you to consider when setting out the guidance suggested in Section 16.1.</p> <ol style="list-style-type: none"> 1. Design of temporary works, construction method and sequence. You cannot separate design from construction for a retro-fit basement - the permanent and temporary works are heavily dependent on the construction sequence and method, and the degree of care and precautions embedded in the method and sequence are crucial to minimising movement during construction. 2. Effect on ground water. Placing a large impermeable obstruction in the ground will inevitably affect the groundwater flows. In intact clay, these are very slow, but in fissured clay close to the surface they are not that slow and blocking the path of a sub-surface flow can raise the groundwater level upstream. I believe this has happened for a couple of properties along the line of the former Hackney Brook in Tufnell Park. 3. Effect on superstructure movements. <ol style="list-style-type: none"> i. During construction there is a considerable risk of movements, in both the building to receive the basement and adjoining properties, and this risk can be minimised by properly thought-through and executed design and construction under a. above. This risk is both that the building being supported over the hole will move and also that ground movements around the excavation will cause movements of the adjoining structures. ii. Once the construction work is complete, the situation changes depending on the soil. In granular soils, not much further movement will occur as such soils respond more or less immediately to changes of load. In cohesive soils, the building with the basement will initially move slowly as the clay around responds to its changed loading, perhaps even rising slightly due 	Support noted. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to this issue will be set out in the draft SPD, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the particular site conditions.

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	to the reduced weight of soil, but in a few years it will become stable. The adjoining buildings will also move slightly in the first few years after construction but then will continue to move relative to the basement building as the soil's moisture content changes, either seasonally or due to trees and/or drains, due to their much shallower foundations. This risks repeated slight cracking in the parts immediately adjacent to the basement building.	
Resident Page 166	<p>I agree with everything that is in the consultation and feel that basements are too destructive to be allowed to proceed across the borough without any checks. I think the council should provide specific guidance regarding basements and it must be complied with. This is a fairly new thing (today's basements are not made in the same way as the cellars under Victorian houses, with lots of cement and tanking nowadays) and they can cause many problems to neighbours: http://www.standard.co.uk/news/london/my-neighbours-basement-dig-has-driven-me-out-says-john-majors-caterer-8713483.html Many of the building companies that are doing them have little or no experience and many problems to the existing housing stock may occur. I agree with especially with 5.2 of the document. The document seems to flag up many of the potential problems, with effects on drainage and flooding, The permanence of the change once made; the effects on trees and biodiversity. I do not know of an alternative way to address this but one thing is clear, all the council officers and design officers must be apprised of the problems to be considered with basements.</p> <p>I do not know of an alternative way to address this but one thing is clear, all the council officers and design officers must be apprised of the problems to be considered with basements.</p>	Support noted.
Resident	I think that the Council should be extremely cautious in allowing basement development.	Support noted.
Canonbury Society	Yes, we fully support the council's initiative in this matter for reasons of safeguarding structural stability in neighbouring buildings, reducing the damage to biodiversity in gardens and minimising nuisance to neighbours.	Support noted.
Islington Society	We are aware that a number of statutory controls are in place that are relevant to basement developments, notably in Highways, Building Control and Party Wall legislation, but it is clear that the primary control is through the planning system; except in the case of some permitted development, none of the other legislation comes into force until Planning Permission is granted. It is essential therefore that the guidance provided by the proposed SPD is robust. In this respect, we agree that specific guidance is needed covering all of the topics in Sections 7 to 15 of the discussion paper, similar in form to that envisaged in Section 16.	Support noted.
Amwell Society	We believe that such a policy is essential if Islington is to be spared the misery which has afflicted	Support noted.

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Respondent	Comment	Council Response
Page 16	<p>residents of Kensington & Chelsea, Westminster, Camden and elsewhere in recent years. As house prices rise, the borough's housing stock will be increasingly attractive to "money no object" purchasers who will be looking to dig down to install home theatres, fitness rooms, swimming pools etc. Existing planning guidelines do not adequately cater for this. The owners of a listed property in the New River Conservation Area recently advised neighbours to their intention to extend their basement and create a sub-basement extending out under the rear garden. This was in a typical Islington terrace of houses built in the 1830's on quite a steep incline. LBI Planning Department advised that they had no policies and guidelines dealing specifically with this topic. Although no planning application has thus far been submitted, it is clear that detailed guidance is now essential. This has been highlighted by a report in the Islington Gazette [18/12/14] which noted that:-</p> <p>a. In 2014 there have been 62 household applications containing basement development submitted to LBI, up from 41 in 2013</p> <p>b. The size and depth of the excavations have also increased with 'super basements' being dug under gardens losing trees and animal habitats.</p> <p>c. Councillors advised that they were unable to block digging one and a half floors down at new homes in Canning Road, Highbury, leading to concerns over the structural integrity of properties nearby & a spoiling of the borough's character as 'the town hall had no official policy on it'. d. Councillor Caroline Russell, representing Highbury East, said: "these deep basements involve complex construction which is extremely disruptive"</p>	

Question 2: What design considerations/restrictions should the Council include to ensure impacts from subterranean development are minimised? How would these measures ensure consistency of decision making and consideration of cumulative impacts?

Respondent	Comment	Council Response
Resident	We think that applications should be considered based on their own merit and there is no reason to impose restrictions to all.	As outlined in the Discussion Paper, the Council considers that the characteristics of basement development mean that it has the potential to have cumulative impacts across the borough, as well as specific impacts related to the individual development site. For this reason, a case by case approach to assessing applications would not address the cumulative impacts of such development in a clear, equitable or consistent manner, and therefore is not a reasonable approach that would support delivery of policy objectives and prevent unacceptable impacts. Moreover, while there is existing legislation that has

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Respondent	Comment	Council Response
		<p>relevance to basement development (as set out in the Discussion Paper), this is largely from a reactive/retrospective approach in response to concerns arising once development has commenced and therefore other regulatory regimes do not provide for a positive, planned approach to basement development in the borough that ensures such developments are constructed in an appropriate manner from the outset.</p>
<p>Resident</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 168</p>	<p>The key consideration must be the extent of the development in a property. The greater the scope of any development, the greater the risk in all the respects identified in the discussion paper. One key control must be the extent of the development, both laterally and (particularly) vertically. A lateral extension affects the amenity of the area (it cuts down the garden feel of the area at the rear of the houses) and the greater the area, the more the effect on habitat, water collection and so on. These areas were designed to have open garden areas at the rear of the houses, and that is one of the key reasons that people would want to live in them. A row of basement developments materially (and adversely) affects this quality of the area. The larger the extension, Resident the greater the effect. A vertical extension has a series of potentially unforeseeable effects on drainage, flooding, ecosystems and the stability of the whole row. No structural engineer would say there is no risk to the structural integrity of a terrace and the remaining occupiers should not be required to run the risk. The greater the vertical (and indeed lateral) extension, the greater the risk.</p>	<p>The draft SPD will include specific guidance on the depth and extent of basement proposals, having regard to the impacts on the range of issues highlighted. Considerations such as flood risk and biodiversity will also be further addressed in separate sections of the SPD.</p>
<p>Resident</p>	<p>It seems sensible to allow late Victorian houses with uninhabitable cellars to be enlarged to be habitable basements. However early Victorian houses which usually have habitable basements with small rear extensions and front coal cellar vaults should only be allowed minor alterations with this curtilage. They should be allowed to extend out into their rear gardens.</p>	<p>The draft SPD will include general guidance applicable to all properties in the borough, as well as guidance specific to properties in Conservation Areas and listed building. The Council considers that it would not be justified to impose restrictions on the internal layout of individual buildings that are not designated as a heritage asset if the proposals accord with the relevant criteria in the SPD.</p>
<p>Resident</p>	<p>Restrictions should balance the legitimate needs for property owners to expand their homes whilst ensuring that there are not undue adverse impacts from the resulting development on the environment or others living in the locality. Any restrictions based on environmental or other impacts should be evidenced based and not overly precautionary or speculative.</p>	<p>The Council agrees that the SPD should provide clear guidance that ensures applications are assessed in a consistent and transparent fashion. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to the</p>

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Respondent	Comment	Council Response
		issues highlighted insofar as these are a planning matter. As set out in the NPPF, where issues are covered by other regulatory/permitting regimes, local planning authorities should assume that these regimes will operate effectively.
Resident	The principal limitations should be driven by equity between neighbours: it would be completely wrong for extensions to be allowed on a first come first served basis whereby one house is granted an extension but the neighbour is then refused it because of the pre-existing extensions. So extensions should be limited if they infringe the development opportunities of neighbours.	This is one of the key drivers for producing guidance on basement development that considers both the cumulative impacts of basement development across the borough, as well as specific impacts related to individual developments. This approach will ensure that all applications are assessed in an equitable and transparent manner, so that individual applications do not unduly prejudice the satisfactory development/operation of adjoining land or the surrounding area as a whole.
Resident Page 169	The design considerations should consider the cumulative impact of these developments as well as the specific impact on neighbours and the immediate surrounding area. Islington has very little open space so private gardens are important for wildlife, air quality and drainage. Paving over garden spaces is detrimental but at least it can be seen as a temporary upset. Digging out garden spaces for underground development is likely to have a permanent impact on the local eco-system and building density. The overall design of the subterranean development, especially light wells, linking buildings and other glass structures needed to bring light into underground living spaces, should be of particular concern as they can be jarring and detract from the original building.	This is one of the key drivers for producing guidance on basement development that considers both the cumulative impacts of basement development across the borough, as well as specific impacts related to individual developments. Considerations such as flood risk, biodiversity and residential quality will also be further addressed in separate sections of the SPD.
Resident	- The depth of development in residential property should be limited to a single storey. - Designs must expressly address (1) structural risks to the property and any adjoining properties, and (2) the dispersal of rain water and risk of flooding. - Developments under the garden of a residential property should be limited to a maximum 33.33% of the garden area. - An extension from an existing basement into a garden should be structurally independent. - In the case of a listed building, the loss of historic fabric must be minimised.	The Council agrees that designs should demonstrate that they have appropriately considered structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to this issue will be set out in the draft SPD. The draft SPD will include specific guidance on the depth and extent of basement proposals as well as designated heritage assets.
Resident	A clear set of design restrictions or rules, with variations according to context and type of development, would certainly aid consistency. The process would also be fairer as a result. Limits on the number of developments approved in particular locations would also restrict both the immediate and the cumulative impact. Suggested restrictions: - no more than one storey - no	This is one of the key drivers for producing guidance on basement development that considers both the cumulative impacts of basement development across the borough, as well as specific impacts related to

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Page 170	<p>more than an agreed percentage of garden for subterranean development; limits to the number of trees, shrubs that can be removed - development to be within the inner line of garden walls (ie, disallow propping, underpinning or reconstruction of walls - many such walls are listed, old, without foundations and liable to collapse) - disallow any loss of historic fabric - restrict extent and size of rooflights in extensions under gardens, to prevent light pollution and impact of local ecosystems Other considerations: - establish design quality standards, for both architecture and landscaping - require applicants to demonstrate that they have taken account of the geological, ecological, social and historical context of the proposed development - specifically exclude weekend working to prevent disruption to neighbours</p>	<p>individual developments. This approach will ensure that all applications are assessed in an equitable and transparent manner. Considerations such as the depth/extent of development, biodiversity and residential quality will be further addressed in separate sections of the SPD.</p> <p>While the draft SPD will require applicants to comply with established quality standards such as the Islington Code of Construction, it is not the role of the planning authority to approve a technical solution for a development proposal. The planning authority however does need to be satisfied that these issues have been sufficiently evaluated and responded to in the design solution and details about the information requirements to be submitted as part of a planning application in regards to this issue will be set out in the draft SPD.</p>
Resident	<p>The council should not allow for subterranean developments in the vast majority if not all of the borough. Main reasons: 1 - the quality of the land is inappropriate. There is too much movement - expansion and contraction of the soil with the seasons already (the soil is mostly - if not all - clay) 2 - The houses are designed to move naturally with each other as the seasons change. This is a factor of the traditional building practices (why they used lime mortar - allows movement with bricks - while cement is rigid and does not flex with movement) Any subterranean development will cease the movement of that property and break the rhythm of neighbouring properties, especially terraces. Neighbouring properties will therefore suffer cracks from movement which will be different to those houses with subterranean extensions built with modern practises requiring more rigid foundations. 3 - Already the council has huge bills and homeowners for the repair damage caused by subsidence as a result of the trees sucking in too much moisture. Imagine the bills to correct all the damage caused by subterranean construction ? The modern methods of construction are unsympathetic to traditional practices.</p>	<p>The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD. While the draft SPD will require applicants to comply with established quality standards such as the Islington Code of Construction, it is not the role of the planning authority to approve a technical solution for a development proposal. As set out in the NPPF, where issues are covered by other regulatory/permitting regimes, local planning authorities should assume that these regimes will operate effectively.</p>
Resident	<p>That any basement development must stay within the footprint of the house. That the person who instructs the work on the basement is liable for any damage to the building or surrounding buildings and for any structural issues resulting in the future. The person instructing the working</p>	<p>The Council considers that it would be unjustified to seek to limit basement development to the footprint of the house across the borough, however depending on</p>

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Respondent	Comment	Council Response
	should be forced to by insurance to covers the building and surrounding buildings for any future problem caused as a result of the development.	the specifics of the application there may be circumstances where basement development that extends beyond the footprint of the original building would be considered unacceptable. This will be elaborated on within the draft SPD. The contractual/insurance arrangements of those carrying out building works to a property are not a planning matter.
Resident	criteria for adverse impact on gardens trees and vegetation, flooding from run off due removal of gardens, adverse impact by overdevelopment of multi dwelling buildings	These considerations will be addressed in separate sections of the draft SPD.
Lonsdale Square Society	+Restrictions on depth to one storey only. + Restriction on area to a certain percentage of garden or footprint of house. Since the plot size in most streets in Islington is not large and the gardens are also small, this should be a key consideration. Limitation to 30-40% of the garden area if extending outwards or to the footprint if extending downwards are the absolute maximums. Given the likely need for structural support if extending either way, ensuring that the extension or related structural engineering does not impact on the footprint of neighbouring properties or their owners' ability to carry out developments in the future should form an important limb of the considerations. This should also assist in considering cumulative impacts in any particular area. + Designs should fully address structural risks to adjoining properties. + Limit developments in areas where it is anticipated that there may be multiple applications. + Landscaping and external treatments should be of the highest standards. Loss of historic fabric should be minimised. This includes historic garden features such as walls (see also below). + Many garden walls are old, with minimal foundations (and often listed), therefore the foundations and walls of basement developments should be kept strictly within the inner face of garden walls to avoid undermining them. Reconstruction of such historic walls or jeopardising their solidity so that they require propping should not be acceptable.	The Council agrees that the SPD should provide clear guidance that ensures applications are assessed in a consistent and transparent fashion that considers cumulative as well as specific impacts. The draft SPD will include specific guidance on the depth and extent of basement proposals as well as designated heritage assets. It will also set out the information requirements to be submitted as part of a planning application in regards to the issues highlighted insofar as these are a planning matter. As set out in the NPPF, where issues are covered by other regulatory/permitting regimes, local planning authorities should assume that these regimes will operate effectively. While the draft SPD will require applicants to comply with established quality standards such as the Islington Code of Construction Practice, it is not the role of the planning authority to approve a technical solution for a development proposal.
Resident	1. Restrict the level of basement develop to one story level down 2. Restrict the amount of front garden & plants/trees/hedges which can be demolished 3. Restrict basements extending beyond the footprint of the house which could cause increased structural risk 4. Restrict the level of light well coverage 5. Give greater consideration to the heritage of the street and the impact front garden light wells may have on the look of a street 6. Considerations should be given for access and safety exits for the basement 7. Consideration for sustainable design considerations should be given	The draft SPD will include specific guidance on the depth and extent of basement proposals, having regard to the impacts on the range of issues highlighted. However, the Council considers that it would be unduly restrictive to seek to limit basement development to the footprint of the house. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information

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		<p>requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD. While the draft SPD will require applicants to comply with established quality standards such as the Islington Code of Construction Practice, it is not the role of the planning authority to approve a technical solution for a development proposal.</p>
<p>Resident</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 172</p>	<p>Proposals for basement excavation must demonstrate that there will be only small and acceptable movements and damage to nearby buildings. See also items 4 and 5 below</p>	<p>The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD. While the draft SPD will require applicants to comply with established quality standards such as the Islington Code of Construction Practice, it is not the role of the planning authority to approve a technical solution for a development proposal.</p>
<p>Resident</p>	<p>-There should be a complete bar on subterranean development of listed buildings; hence additional underground floors and rooms under gardens should be prohibited. This would ensure the structural, historical and architectural integrity of the buildings, for the present and for the sake of posterity. Once this sort of development is enacted it is irreversible. There is a London council precedent for this bar. The RBK&C has enacted a policy which prohibits the subterranean development of listed buildings. Subterranean development should also be firmly opposed for buildings in conservation areas. It could affect the historic, architectural and pleasing visual integrity of the area. Lightwells, stairwells, railings, steps all of which might be necessitated could affect the visual integrity of the area. Subterranean should also be strongly resisted for buildings which are not listed or in conservation areas, as it can have a negative and deleterious effect on the structural strength, strength of foundations, geological and hydrological nature of the property and neighbouring properties, cause flood and drainage damage, or interfere with proper drainage, and may limit the ability of other neighbouring and adjoining properties to carry out subterranean development. It also may have serious and negative legal implications if we are considering development for leasehold properties. It also may affect the biodiversity of the area and have a negative environmental impact. The development procedure itself will cause traffic congestion, pollution, unacceptable noise conditions, and increases the risk of injury to those working and</p>	<p>The draft SPD will include general guidance applicable to all basement proposals, as well as more detailed guidance specific to properties in Conservation Areas and listed buildings. However, the Council considers that it would be unduly restrictive to impose a blanket ban on basement development within the curtilage of listed buildings or in Conservation Areas as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available. The Council agrees that designs should demonstrate that they have appropriately considered site conditions, structural risk, flood risk and management of the construction process; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft</p>

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Respondent	Comment	Council Response
	living in the immediate area.	SPD.
Resident	I think all basement developments should be refused. The disruption and nuisance caused by subterranean excavation is considerable. There is the loss of open space, the risk of flooding since the gardens cannot absorb rainwater, the loss of wildlife habitats and corridors, the effect on trees and loss of trees, the inability of terraces to move with ground movement, the danger to the structural integrity of the buildings, all of which make any subterranean development inappropriate.	The Council considers it would be unjustified to impose a blanket ban on basement developments in the borough, however the draft SPD will provide general guidance on how the potential issues highlighted should be addressed as part of proposals, including through submission of a Construction Management Plan.
Resident	There should always be adequate natural light and ventilation to underground developments. Any basement development should take account of the age and nature of the subject property and any neighbouring property which might be affected	The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD. Considerations relating to the quality of accommodation will be further addressed in a separate section of the SPD.
Resident	Strict rules should be set for the amount of garden space that can be taken by a development and also on the amount of soil left above the basement for planting. The biggest cumulative impact is the potential for successive developments in a street, so there could be restrictions limiting the number or size of a development. Technically although a larger development will go on longer and in theory be more risky, the impacts can be managed so if there is to be a restriction on size it needs to be absolute. On energy and sustainability there could be a requirement to calculate the energy use of a development and to offset it by consequential improvements to the rest of the building, or by other means such as payment into offsite works.	This is one of the key drivers for producing guidance on basement development that considers both the cumulative impacts of basement development across the borough, as well as specific impacts related to individual developments. This approach will ensure that all applications are assessed in an equitable and transparent manner. Considerations such as the depth/extent of development, landscaping and sustainable design will be further addressed in separate sections of the SPD.
Resident	I think all subterranean developments should be banned in Islington and London for that matter. Too disruptive to neighbours and the risks for problems can be high.	The Council considers it would be unjustified to impose a blanket ban on basement developments in the borough, however the draft SPD will provide general guidance on how the potential issues highlighted should be addressed as part of proposals, including through submission of a Construction Management Plan requiring compliance with the established Islington Code of Construction Practice.

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Resident	As part of the initial application there should be a requirement to have written expert opinions on matters relating to impact on groundwater/historic rivers/waterways [and springs] as well as reports by structural engineers on the impact of the works on surrounding properties and a construction management plan. I believe the applicant should have to pay a significant fee for the application given the additional work that will be generated for LBI officials.	The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD. While the draft SPD will require applicants to comply with established quality standards such as the Islington Code of Construction Practice, it is not the role of the planning authority to approve a technical solution for a development proposal. Planning application fees are set at the national level.
Page 174 Highbury Fields Association	It would seem sensible to investigate whether the basements could not extend to the full width of the property in order to avoid damage to the neighbouring property. There have been huge insurance payments amounting to over £20M in 2013 because of such problems. The same width restriction should apply to basements under gardens to protect garden walls foundations. This would be a consistent response.	The SPD will include specific guidance on the depth and extent of basement proposals. The insurance arrangements of those carrying out building works to a property are not a planning matter.
Resident	Given the age of Islington's combined drainage system and the great pressure it is already under due to increased water usage and increased surface water run-off, it seems very reasonable to require a proposal for a basement beneath a garden or other un-drained surface to include measures that result in no additional surface water being discharged into the drainage system, and to delay the discharge of existing surface water from roofs etc so that the problems posed by the lack of capacity of the system are reduced rather than increased. Many basements constructed beneath existing buildings, particularly those built beneath an original semi- or full basement, provide accommodation that is almost totally reliant on artificial light and ventilation. In my experience it is used to house some service functions, such as utility rooms, that can then be moved down from higher up, but in affluent areas is also used to house servants in conditions that I do not regard as adequate. The increased energy demands of these spaces is to some extent offset by the reduced heat loss of subterranean construction, but again it seems very reasonable to link the construction of a basement to a general package of measures that will reduce the energy requirement of the altered building and not increase it. As a nation we have made very little progress in reducing the energy consumption of our existing housing stock and yet we are expecting it to last longer and longer - statistics from the Housing Federation suggest that we are demolishing and replacing existing houses at such a slow rate that on average they will not be replaced for 1000 years. The construction of a basement beneath an existing house requires a major investment and so provides an opportunity to tackle the energy consumption of the entire	The Council agrees that these are relevant issues to be considered in the assessment of basement proposals, and the draft SPD will provide further guidance on the criteria to be satisfied by proposals in relation to flood risk and sustainable design.

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Respondent	Comment	Council Response
	house as part of that package of investment.	
Resident	Subsidence, damp, light provision	The draft SPD will set out guidance regarding the quality of accommodation to be provided by proposals, however the consideration of subsidence and damp are not a planner matter.
Resident	Absolutely no garden, green space, wall, pavement or access way should be altered or touched.	The Council considers it would be unjustified to impose the restrictions suggested.
Thames Water	Section 11 on Flood Risk is supported, however it is considered that reference should be made to not only flooding from heavy rainfall but all sources of pluvial flooding such as sewer flooding.	The draft SPD will include reference to all types of pluvial flooding.
Upper Street Association	We would insist that no such development should be permitted under listed buildings at all; that any basement development should be contained within the overall envelope of any building, not taken to its boundaries; also that senior independent consultants are employed at the applicants; expense; and on adequate consultation with neighbours.. We firmly support the recent revised policy on basements of the RB Kensington and Chelsea. However we do not believe that basement development should be permitted under any gardens, for a variety of environmental reasons.	The Council considers that it would be unduly restrictive to seek to limit basement development to the footprint of the house or to impose a blanket ban on basement development within the curtilage of listed buildings; the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD. While the draft SPD will require applicants to comply with established quality standards such as the Islington Code of Construction Practice, it is not the role of the planning authority to approve a technical solution for a development proposal. Neighbours are notified of all planning applications, and the draft SPD will also encourage early engagement with neighbours by those bringing forward proposals.
Residents of Lonsdale Square	<ul style="list-style-type: none"> • Limit depth to one storey only. • Limitation to 30-40% of the garden area if extending outwards or to the footprint if extending downwards are the absolute maximums. Given the likely need for structural support if extending either way, ensuring that the extension or related structural engineering does not impact on the footprint of neighbouring properties or their owners' ability to carry out developments in the future should form an important limb of the considerations. This should also assist in considering 	The Council agrees that the SPD should provide clear guidance that ensures applications are assessed in a consistent and transparent fashion that considers cumulative as well as specific impacts. The draft SPD will include specific guidance on the depth and extent

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Respondent	Comment	Council Response
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 76</p>	<p>cumulative impacts in any particular area.</p> <ul style="list-style-type: none"> • Limit developments in areas where it is anticipated that there may be multiple applications. Landscaping and external treatments should be of the highest standards. Loss of historic fabric should be minimised. This includes historic garden features such as walls which should be protected from damage or the need to rebuild them or support them. • Designs should fully address structural risks to adjoining properties. <p>Setting restrictions for each development which are proportionate to the plot and surrounding area should assist with consistency in that there will be different solutions for different plots but based on one set of rules. Incorporating a fair method of assessing and controlling damaging cumulative impacts must start with a rigorous approach to each site. In addition, an assessment of the potential effect of identical developments in adjoining properties and the wider area in which permission is sought should help to protect against over-development. Otherwise the very necessary focus on cumulative impacts could encourage more development as people seek to "get in first" particularly if there were to be overall limits on the amount of developments in any one area.</p>	<p>of basement proposals as well as designated heritage assets. It will also set out the information requirements to be submitted as part of a planning application in regards to the issues highlighted insofar as these are a planning matter. As set out in the NPPF, where issues are covered by other regulatory/permitting regimes, local planning authorities should assume that these regimes will operate effectively. While the draft SPD will require applicants to comply with established quality standards such as the Islington Code of Construction Practice, it is not the role of the planning authority to approve a technical solution for a development proposal.</p>
<p>Resident</p>	<p>One thing is that it is one thing for people to dig a basement under their own house if it is detached, but another if it is going to affect their neighbours. Basements are unique in the potential effects on the neighbouring properties having much more potential to damage the existing properties and because of the protracted building time.</p>	<p>The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD. Submission of a Construction Management Plan will also be required.</p>
<p>Resident</p>	<p>1 Hydrogeological conditions are really an unknown until basements are built - and it could be many years before effects are felt</p> <p>2 Construction Impacts: While not, it seems, a planning issue they should be. The construction process always takes longer than it is planned and the noise, pollution and disruption to neighbours are immense. I live in a mews where it would be impossible for a basement extension to be excavated without very serious disruption and egress issues. At present it seems that the planning permission is granted before the construction issues are brought into play. I think it should all be part of the same process. Understandable concerns from neighbours about disruption and possible damage to property are dealt with retrospectively - which is too late.</p> <p>3 Drainage and foul water issues: To dig down means that some waste water will have to go up, thus disrupting existing systems</p>	<p>The Council agrees that these are relevant issues to be considered in the assessment of basement proposals, and the draft SPD will provide further guidance on the criteria to be satisfied by proposals, including submission of a Construction Management Plan at the time of application.</p>

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	<p>4 Trees and shrubbery need to be protected at all time. Islington does a good job in maintaining its trees in an extraordinary dense urban environment. This has to continue.</p>	
<p>Canonbury Society</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 1</p>	<p>We see no reason why LBI can't adopt the basement policy of the Royal Borough of Kensington & Chelsea which has been recently subjected to public examination and to a separate Planning Inspector's Report which found the policy to be 'sound'. Consequently, at a full council meeting held on the 21st January 2015, the RBK&C's policy on basements (CL7) was formally adopted. In summary, the policy proposes:</p> <ul style="list-style-type: none"> • A restriction to a single storey in most cases, with exceptions for large sites • A reduction in the maximum extent basements can extend under a garden, from 85 per cent to 50 per cent • An outright ban on basements under listed buildings • A requirement for construction traffic management plans to be submitted alongside planning applications to help limit disturbance during construction. <p>The only RBK&C policy we take issue with is the maximum extent to which basements can extend under a garden. In general we don't think they should extend under gardens at all and therefore consider 50% to be far too generous. In exceptional circumstances and we would accept a figure closer to 10%. We think that by having an easy-to-understand policy, LBI will achieve a consistency of decision-making which will save a lot of time and expense for the council and applicant alike.</p>	<p>While the Council agrees that many of the considerations set out in Kensington and Chelsea's policy in relation to basement development are generally applicable to basement developments across London, and the Council has worked with other Central London boroughs to coordinate the information requirements for submission basement proposals insofar as possible, guidance within the SPD must be based on the local borough context to be considered robust and justified.</p>
<p>Islington Society</p>	<p>Particular emphasis should be given to a technical structural assessment of the proposals, notably an assessment of the effect on superstructure movement in neighbouring and nearby properties. In this respect, the SPD should define the information to be provided with the application, which should include:</p> <ul style="list-style-type: none"> - an assessment of the short-term and long-term impact on adjoining properties bearing in mind the underlying geology and topography. - a method statement and construction management plan including - the temporary works needed during construction and risk mitigation measures - an assessment of any impact on sub-surface water flow. <p>The issue was raised at the meeting on 19 January concerning the expertise required to assess any specialist analyses provided by applicants, which may be outside the expertise available within the Council. It is suggested that a levy might be charged to complex basement and excavation applications to pay for independent expert opinion. We are particularly concerned about the likely quality of basement accommodation. Whilst it is likely that applicants will be adamant that they are satisfied that they will be happy with the conditions and amenity obtaining in the subterranean spaces, their quality must be judged against more impartial criteria for the benefit of future occupants.</p>	<p>The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD. While the draft SPD will require applicants to comply with established quality standards such as the Islington Code of Construction Practice, it is not the role of the planning authority to approve a technical solution for a development proposal. The draft SPD will set out guidance regarding the quality of accommodation to be provided by proposals,</p>
<p>Amwell Society</p>	<p>A review of the consultation documents/responses published by Westminster and Kensington &</p>	<p>While the Council agrees that many of the</p>

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Page 178	<p>Chelsea and the subsequent guidelines issued on basement planning applications shows how LBI can minimize the impact of subterranean developments and ensure consistency of decision-making. A review e.g. five years from the implementation of any new guidelines would enable LBI to see what the cumulative impact of the new measures had been.</p> <p>Key to the success of any guidance is their ability to withstand legal challenges. The report issued by David Vickery, an Inspector appointed by the Secretary of State for Communities and Local Government, 'On the examination into the partial review of the core strategy for the Royal Borough of Kensington and Chelsea with a focus on north Kensington-Basements Planning Policy', issued on 2/12/14, has shown that this can be achieved. The inspector backed the new Kensington & Chelsea guidelines with few revisions being required. The guidelines state that:</p> <ul style="list-style-type: none"> a. Basement developments under listed buildings will not be permitted. b. Elsewhere basement developments are permitted, subject to limits on their scale. The maximum extent basements can extend under gardens is to be reduced from 85% to 50%. That 50% has to be a single area of space. c. Basements beneath existing homes are limited in almost all cases to a single storey below ground d. There is a requirement for Construction Traffic Management Plans to be submitted alongside the planning application to help protect residents from disturbance caused by these developments. <p>The success of [and need for] the consultation and new guidelines can be seen from the comments by the Cabinet Member for Planning, Cllr Tim Coleridge, after the Inspector issued his report, "Basements have been the single greatest planning concern our residents have expressed to us in living memory. Many have experienced years of misery from noise, vibration, dust and construction traffic. Two years ago we started drafting a policy to try and strike the right balance between addressing our residents' concerns and the genuine need for people to expand their homes. It hasn't been easy and basement developers have aggressively opposed us every step of the way. We are delighted that the inspector agrees that we have got it right while at the same time praising us for our extensive public consultation. This ruling is a victory not only for the Council but also our residents who have been overwhelmingly supportive of what we have been trying to do"</p> <p>One issue, which probably carries more weight in Islington than elsewhere, is the structural impact of basement developments on neighbouring properties. Much of Islington's housing stock consists of 19th century terraces of rather narrow houses, built with virtually no foundations and, in many cases, on sloping land. Many owners have had to spend large amounts of money stabilising their</p>	<p>considerations set out in Kensington and Chelsea's policy in relation to basement development are generally applicable to basement developments across London, and the Council has worked with other Central London boroughs to coordinate the information requirements for submission basement proposals insofar as possible, guidance within the SPD must be based on the local borough context to be considered robust and justified.</p> <p>The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.</p>

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	<p>homes, even with no developments taking place in adjoining houses. The prospect of major excavations taking place just a few feet away would cause great anxiety to many, if not most of our members. Anecdotal evidence, mainly from Kensington & Chelsea suggests that sub-basement excavations can cause damage to adjoining properties, even where measures recommended by Civil/Structural Engineers were adopted.</p> <p>The Amwell Society is fully supportive of this LBI initiative and recommends that the Council should adopt policies broadly similar to those adopted in Kensington & Chelsea. In particular, we recommend that only in the most exceptional circumstances should sub-basement developments beneath existing houses be permitted.</p>	

Question 3: Should the Council restrict subterranean development beneath listed buildings?

Respondent	Comment	Council Response
Resident Page 179	Extensions beneath back garden, limited to 1 storey, should not be restricted as they do not harm the listed building features and integrity. It would be much better to have this kind of extension rather than back extension which sometimes make a big difference to the look of listed houses.	The significance of listed buildings is often related to the historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building.
Resident	Yes it should. For all the reasons in the discussion paper. It is, of course, easy to set out negative responses to any proposal, and to scare-monger. But the problems identified in the paper are real, and not scare-mongering. On the other side, what are the benefits of allowing a development. It will be doubtless thought to improve a property, but only for the benefit of the one owner. No increase in housing capacity (in terms of numbers) is achieved. A man is, of course, prima facie free to do with his property what he wishes, but within the limits set by the legitimate interests of others. The interests of neighbours in terms of amenity and structural rigidity are legitimate interests which ought not to be sacrificed or risked.	Support noted.
Resident	All design work on Listed Buildings should be restricted to architects who have a formal qualification in this field and experience on working on buildings similar to that being considered. At present there is a monstrous basement overdesign being constructed in Huntingdon/Crescent Streets designed by a German architect	The qualifications of those undertaking design work in regards to listed buildings is not a planning matter.
Resident	The Council should restrict subterranean development beneath listed buildings only to the extent that it would have a material adverse effect on the listed building or local environment. In general,	The Council agrees that it would be unduly restrictive to impose a blanket ban on basement developments

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Respondent	Comment	Council Response
Page 180	<p>subterranean development which is not disproportionate to the existing building (for example, is not an 'iceberg' style development which is larger than the original building itself) is likely to be a beneficial means of extending the housing stock since the visual impact of such development can, if properly managed, be kept minimal. Whilst we fully agree that listed buildings are an important heritage asset, they must be allowed, as they have done historically, to adapt to the needs of their long term dwellers and should not remain preserved untouched like museum specimens. Particularly in Southern Islington, many of the residential listed buildings are relatively small for larger families. Developments can occur without compromising the integrity of heritage assets and we agree careful design and planning is crucial to this. To restrict in a blanket fashion would simply be an easy way out of making what would be potentially difficult decisions and would unduly discriminate against families who are likely to be amongst some of the main proponents of basement extensions beneath listed houses. From empirical evidence we believe there has been a trend over the last 10 years of listed houses in Islington being converted back to their original state of single dwellings to be occupied by families. With increasing property prices, and if families are forced to move out of the area to find more space, we believe this trend would be reversed and more houses would be divided up into multiple dwellings once again (given the high demand for 1 and 2 bed properties in the area) resulting ultimately in a reduction in the integrity of our heritage assets and a reduction in the longevity of ownership of listed properties.</p>	<p>within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available. The significance of listed buildings is often related to the historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building.</p>
Resident	<p>Yes. It is assumed that this question proposes a restriction with respect to development beneath existing basements rather than extensions from existing basements into garden areas. I believe all development under listed buildings should be prohibited as has just been adopted by the Royal Borough Kensington & Chelsea. Extensions from existing basements into gardens should be subject to a very high level of evidence to demonstrate structural safety and should be structurally independent as per the Kensington & Chelsea policy. In addition, there should be no impact on historic character of the building and the extension should be limited in scope. This is because such subterranean extensions would likely destroy the character of historic properties and pose particular risks to the historic housing of Islington which is valued not just by their owners but by the residents of Islington as a whole. In addition, many houses in Islington are not listed but form an important part of the historic streetscapes of the borough and/or they adjoin listed buildings. Careful consideration should be given to whether this restriction should apply to locally listed assets as well as nationally listed ones. This would be consistent with DM 2.1 but should be specifically dealt with in any guidance to make clear the importance of historic buildings, listed or otherwise, in this borough.</p>	<p>Support noted. The draft SPD will differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building. Applications in relation to listed buildings are also subject to the listed building consent regime; the Council does not consider that it would be appropriate to seek to apply a similar level of restriction to non-designated heritage assets.</p>
Resident	<p>Yes, I think that the Council should restrict subterranean development beneath listed buildings and their gardens. Not only may these types of development put the fabric of the building at risk, but they can have knock-on effects on neighbouring heritage properties. Similarly, the character,</p>	<p>Support noted. The draft SPD will differentiate between the creation of new basement extensions underneath listed buildings and basement extensions</p>

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	sustainability and historic integrity and authenticity of the building is likely to be adversely affected, as well as altering the character of the neighbouring area.	close to the original building. The Council considers that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available.
Resident	Yes. The long-term integrity of heritage assets must be preserved.	Support noted.
Resident	Yes, I strongly believe that development under listed buildings should be restricted. Islington has a wonderful heritage of domestic housing, commercial and public buildings. Basement developments under listed buildings should be specifically prohibited, for the reasons set out in Section 14. Basement extensions into the gardens of listed buildings should only be allowed in exceptional circumstances, following an historic impact assessment and structural survey - in order to protect both the structural and historical integrity of Islington's built heritage. It is essential that under garden developments should be structurally independent from the rest of the building because of the threat to its structural integrity. In Lonsdale Square for instance, (which is Grade II* listed), there is detailed evidence that in alternate houses the party wall was not tied in to the rear wall, meaning that each pair of houses is structurally interdependent. Despite this evidence two below garden developments have been given planning and listed building approval in the past 6 months.	Support noted. The draft SPD will differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.
Resident	The council should restrict subterranean development beneath listed buildings - for reasons above.	Support noted.
Resident	Yes	Support noted.
Resident	yes otherwise destroy character of area	Support noted.
Resident	Yes, as firstly it diminishes the historic and architectural integrity of buildings which are a key feature and attraction of the borough and secondly it risks structural damage to the existing and neighbouring buildings.	Support noted. The draft SPD will differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.
Lonsdale Square Society	Yes. It is assumed that this question proposes a restriction with respect to development beneath existing basements rather than extensions from existing basements into garden areas. The Lonsdale Square Society believes all development under listed buildings should be prohibited as	Support noted. The draft SPD will differentiate between the creation of new basement extensions underneath listed buildings and basement extensions

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<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 18</p>	<p>has just been adopted by the Royal Borough Kensington & Chelsea. Extensions from existing basements into gardens should be subject to a very high level of evidence to demonstrate structural safety and should be structurally independent as per the Kensington & Chelsea policy. In addition, there should be no impact on historic character of the building and the extension should be limited in scope. This is because such subterranean extensions would likely destroy the character of historic properties and pose particular risks to the historic housing of Islington which is valued not just by their owners but by the residents of Islington as a whole. In addition, many houses in Islington are not listed but form an important part of the historic streetscapes of the borough and/or they adjoin listed buildings. Careful consideration should be given to whether this restriction should apply to locally listed assets as well as nationally listed ones. This would be consistent with DM 2.1 but should be specifically dealt with in any guidance to make clear the importance of historic buildings, listed or otherwise, in this borough. The houses of Lonsdale Square - which we believe to be the only Grade II* listed square in Islington - illustrate the dangers regarding the structural integrity of C18th and C19th buildings (as mentioned in paras 14.5 and 6 of the Discussion Paper). We have evidence from more than one property in the square that in alternate houses the party wall was not tied in to the rear wall, meaning that each pair of houses is structurally interdependent. We would be happy to supply photographic evidence of this. Excavations to the rear or under such walls could therefore conceivably destabilise these houses.</p>	<p>close to the original building; applications in relation to listed buildings are also subject to the listed building consent regime. The Council considers that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.</p>
Resident	<p>Yes, listed buildings are on old heritage sites, which means basement excavations put the site at much more structural risk. If the site is precious why interfere with its underlying fabric at the foundation level which will probably be over 100 years old.</p>	<p>Support noted. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.</p>
Resident	<p>Development near listed buildings need not be banned but the criteria to show there will be no damage should be more stringent than those for non-listed buildings.</p>	<p>The Council agrees that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available. The draft SPD will differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building; applications in relation to listed buildings are also subject to the listed building consent regime. The Council agrees that designs should demonstrate that they have appropriately</p>

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		considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.
Resident	Yes unequivocally. There is the impact on the historic design, the danger to adjacent structures, the inability to restore the building to its original state, the loss of gardens which are an integral part of the original design, all of which speak against subterranean development	The Council considers that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available. The draft SPD will differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building; applications in relation to listed buildings are also subject to the listed building consent regime.
Resident Page 183	Yes. There should be a complete bar on underground development beneath listed buildings as (a) such development is generally out of keeping with the original building and (b) underground development may well interfere with the structural stability of such buildings	The Council considers that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available. The draft SPD will differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building; applications in relation to listed buildings are also subject to the listed building consent regime. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.
Resident	No. The argument about differential movement applies equally to listed and non-listed buildings. In terms of impact to the listed building itself, it could be argued that a new set of foundations will actually help preserve the upper parts of the structure as it removes the potential for future ground movement. I believe the issue of significance should be more to do with the design of the	The Council agrees that the primary concern for the planning regime is the impact of proposals on the significance of the listed building; however the significance of listed buildings is often related to the

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Resident	basement in terms of layout and impact on the structure above rather than having a new basement under it. It could be argued that a basement development under or adjacent to a listed building should have a higher test applied to it in terms of allowable movement. Certainly the condition and fragility of adjoining buildings should be a consideration in a BIA.	historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building; applications in relation to listed buildings are also subject to the listed buildings consent regime. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.
Resident	Yes always especially listed buildings. The risk of damage and unforeseen events should not be underestimated.	The Council considers that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available. The draft SPD will differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building; applications in relation to listed buildings are also subject to the listed building consent regime. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.
Resident	The consultation document makes the point very well about the impact basement developments may have on the structures of surrounding properties built in the 18th/early 19th century. I would like to see a restriction e.g.no basements to encroach outside the existing envelope of the building above/no double basements.	The Council agrees that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can

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		only be considered properly when full details of the proposal are available. The significance of listed buildings is often related to the historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building; applications in relation to listed buildings are also subject to the listed building consent regime.
Highbury Fields Association	Georgian and early Victorian houses had minimal foundations so are at greater risk than more modern buildings.	The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.
Resident	Beyond requiring a higher standard of structural design appropriate to the building, I think not. One aim of the control of work to listed buildings should be to ensure that it retains its value in the widest sense so that people will continue to value it in the future. To fossilise a listed building by a prohibition on subterranean development could be counterproductive. In the construction of a new basement beneath an existing building, the construction process often requires, or would be much eased by, the replacement of its lowest floor, and pressure to permit this should be carefully weighed against the damage that would be caused to the heritage asset.	The Council agrees that the primary concern for the planning regime is the impact of proposals on the significance of the listed building; however the significance of listed buildings is often related to the historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building; applications in relation to listed buildings are also subject to the listed buildings consent regime. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.
Resident	No, the council should not restrict development beneath listed buildings. I think the council is correctly looking to preserve existing original features (for example, an original floor, staircase, etc). However where the construction of the new basement does not impact on these features and	The Council agrees that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of

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	where there is a clear line between new and old (this could be made into a requirement) then why restrict the creation of extra space in a part of London where space is extremely limited?	a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available, as noted by the respondent. However, the significance of listed buildings is often related to the historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building.
Resident	Yes, there should be no risk to listed buildings, and council should ensure responsible usage and maintenance	Support noted; the usage and maintenance of development once constructed is not a planning matter.
Resident Page 186	YES! It would be absolute madness to have underground extensions that can be bigger than the house on top. A maximum of a small larder room should be all that should be downstairs below ground.	The Council agrees that the primary concern for the planning regime is the impact of proposals on the significance of the listed building; however the significance of listed buildings is often related to the historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building; applications in relation to listed buildings are also subject to the listed buildings consent regime.
Upper Street Association	Yes. Not to be allowed at all on grounds of a variety of structural considerations.	The Council considers that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available. The draft SPD will differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building; applications in relation to listed buildings are also subject to the listed building consent regime. The

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Respondent	Comment	Council Response
		Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.
English Heritage	In line with the NPPF, English Heritage supports policies that ensure development is sustainable. As such we are conscious that there are likely to be cases where basements could be built under listed buildings where any harm to significance is considered to be negligible or outweighed by public benefits. This means that a blanket ban is unlikely to be appropriate; however, if you are able to demonstrate through a strong evidence base that restrictions are necessary, we would be happy to support such an approach.	Support noted. The Council agrees that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available, as noted by the respondent. However, the significance of listed buildings is often related to the historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building.
Residents of Lonsdale Square	<p>Yes. We think that all development under listed buildings should be prohibited as has just been adopted by the Royal Borough Kensington & Chelsea. Extensions from existing basements into gardens should be subject to a very high level of evidence to demonstrate structural safety and should be structurally independent as per the Kensington & Chelsea policy. In addition, there should be no impact on historic character of the building and the extension should be limited in scope - as set out above. This is because such subterranean extensions would likely destroy the character of historic properties and pose particular risks to the historic housing of Islington. For example, we understand that in relation to more than one house in Lonsdale Square (which is Grade II*), alternate houses do not have the party wall tied in to the rear wall meaning that each pair is interdependent.</p> <p>In addition, many houses in Islington are not listed but form an important part of the historic streetscapes of the borough and/or they adjoin listed buildings. Careful consideration should be given to whether this restriction should apply to locally listed assets as well as nationally listed ones. This would be consistent with DM 2.1 but should be specifically dealt with in any guidance to make clear the importance of historic buildings, listed or otherwise, in this borough.</p>	The Council considers that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available, as noted by the respondent. However, the significance of listed buildings is often related to the historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building. Applications in relation to listed buildings are also subject to the listed building consent regime; the Council does not consider that it would be appropriate to seek to apply a similar level of restriction to non-

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Respondent	Comment	Council Response
Resident	I think the council should restrict basement building beneath listed buildings. Most of these buildings are old, and were built to move with ground movement. They have survived for hundreds of years like this and no- one knows what the effects of underpinning and basement construction will be long term on these properties. They will have to be underpinned which will permanently alter their character as well as using a lot of cement etc. to do the underpinning. If people do not have enough space they should move house, not start permanently altering the landscape and affecting other people.	designated heritage assets. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.
Canonbury Society Page 188	Yes, in principle this type of development should be prohibited.	The Council considers that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available, as noted by the respondent. However, the significance of listed buildings is often related to the historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building; applications in relation to listed buildings are also subject to the listed building consent regime.
Islington Society	It should also be made clear that special rules apply to basement and garden excavations to Listed Buildings (perhaps by reference to the emerging revised Urban Design Guide) where the presumption will be that new basements and excavations will not be permitted because of the drastic change to the plan-form and character of the building that this is likely cause. This will also apply to buildings in Conservation Areas where lowered levels and changes to external appearance necessary to service the below-ground accommodation may affect the character of the Conservation Area.	The Council considers that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available. However, the significance of listed buildings is often related to the historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building. A separate section in

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Respondent	Comment	Council Response
Amwell Society	Kensington & Chelsea policy is to resist the development of new basements or extension of existing ones under listed buildings, because: "The special architectural or historic interest of listed buildings goes beyond appearance. It includes the location and hierarchy of rooms and historic floor levels, foundations, the original purpose of the building, its historic integrity, scale, plan form and fabric among other things. Consequently, the addition of a new floor level underneath the original lowest floor level of a listed building, or any extension of an original basement, cellar or vault, may affect the hierarchy of the historic floor levels, and hence the original building's historic integrity". The Amwell Society broadly supports this policy. The vast majority of listed buildings in the Amwell area already have a single storey basement extending to the full footprint of the original house. We recommend that there should be a presumption against extending basements beyond this. However there should be scope to approve small scale development to existing basements where a modest increase in extent and/or ceiling height will make the space materially more habitable.	relation to Conservation Areas will also be included. Support noted. The Council considers that it would be unduly restrictive to impose a blanket ban on basement developments within the curtilage of listed buildings, as the impact of a proposal on the significance of a heritage asset can only be considered properly when full details of the proposal are available, as noted by the respondent. However, the significance of listed buildings is often related to the historic fabric, floor hierarchy and plan form of the original building, as well as the external appearance of the building. The draft SPD will therefore differentiate between the creation of new basement extensions underneath listed buildings and basement extensions close to the original building.

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Question 4: What level of information should be provided in support of a planning application involving basement development? Should this be for all instances of basement proposals, or should it differ for different circumstances?

Respondent	Comment	Council Response
Resident	It should deal with all the matters identified in the discussion paper as needing to be dealt, and in particular all the technical matters relating to structural integrity and the effect on the environment. It should be couched in terms that those affected can understand and, if appropriate, challenge.	The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD. While the draft SPD will require applicants to comply with established quality standards such as the Islington Code of Construction Practice, it is not the role of the planning authority to approve a technical solution for a development proposal.
Resident	Individual streets should be informally consulted as to what development they would prefer. Guidelines as to what the council would approve should be published.	Neighbours are notified of all planning applications, and the draft SPD will also encourage early

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Respondent	Comment	Council Response
		engagement with neighbours by those bringing forward proposals. The draft SPD will set out clear guidance in relation to basement development in the borough.
Resident Page 190	It is clear that very careful due diligence is required to support any extension application - principally, but not limited to, the impact on the structural integrity of neighbouring property and the potential impact on development opportunity of neighbouring property.	This is one of the key drivers for producing guidance on basement development that considers both the cumulative impacts of basement development across the borough, as well as specific impacts related to individual developments. This approach will ensure that all applications are assessed in an equitable and transparent manner, so that individual applications do not unduly prejudice the satisfactory development/operation of adjoining land or the surrounding area as a whole. The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD.
Resident	All cases involving basement proposals should be required to give full information , not only about the design of the work, but the likely intrusion into neighbouring properties and the timescale and disruption that would be suffered by neighbours during the works, particularly the noise, vibration and dirt caused by digging out and the removal of large quantities of subsoil.	The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD. A Construction Management Plan will also be required.
Resident	All such planning applications should be accompanied by: (1) a structural engineer's report paid for by the applicant (see Discussion Paper 14.7); (2) a hydrological report paid for by the applicant covering, inter alia, flood risk (see Discussion Paper 11.3); (3) specialist evidence paid for by the applicant that the geology/topography can support the proposed development (see Discussion Paper 10.6); (4) where applicable, confirmation from Thames Water that shared drains will not be adversely affected by the proposed development.	The Council agrees that designs should demonstrate that they have appropriately considered site conditions and structural risk as relevant to the characteristics of the original building; details about the information requirements to be submitted as part of a planning application in regards to these issues will be set out in the draft SPD, including that the required reports have

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Respondent	Comment	Council Response
		been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.
Resident	Yes. There should be a requirement to provide the following: - independent structural engineer's report as in paragraph 14.7 - topographic/geological report as per 10.6 - flood risk assessment - biodiversity report (to include a detailed plan and images of trees, bushes etc.) - statement of impact of the construction process, to minimise disruption to neighbours - a drainage study (submitted with the application, not retrospectively as a condition). Many of Islington's Victorian buildings have shared main drains. For example in Lonsdale Square a shared drain runs at the rear of the properties and then passes beneath the basement of every 3rd or 4th house.	The Council agrees that designs should demonstrate that they have appropriately considered structural risk and the other issues highlighted. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.
Resident Page 191	This topic is very sensitive. There is a big difference between minor amends and wholesale new stories under houses. The latter is what is most disruptive to the densely built borough's housing stock.	This is one of the key drivers for producing guidance on basement development that considers both the cumulative impacts of basement development across the borough, as well as specific impacts related to individual developments. This approach will ensure that all applications are assessed in an equitable and transparent manner, so that individual applications do not unduly prejudice the satisfactory development/operation of adjoining land or the surrounding area as a whole.
Resident	Ground investigations and geotechnical modelling as well as structural calculations by chartered engineers.	The Council agrees that designs should demonstrate that they have appropriately considered structural risk and ground conditions. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.
Resident	all proposals	The draft SPD will provide general guidance in relation to basement development across the borough.
Lonsdale Square Society	The Lonsdale Square Society believes that a very high level of due diligence should be required for any planning application. The following reports should form the minimum requirements: - structural engineer's report - an independent report paid for by the applicant should be required as referred to in para 14.7 of the Discussion Paper; - report on/ evidence that the geology and topography can support the proposed development as referred to in para 10.6 of the Discussion Paper; - formal report on/ assessment of flood risk and impact on adjoining land and properties to the extension as referred to in para 11.3 of the Discussion Paper; - report on impact on the	The Council agrees that designs should demonstrate that they have appropriately considered structural risk and the other issues highlighted. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been

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Respondent	Comment	Council Response
	<p>biodiversity of area, landscape and trees (and bushes) as referred to in para 7.12 of the Discussion Paper; - analysis of impact on any shared services in particular drains or the ability of adjoining properties to receive existing services in an uninterrupted fashion or new services at any time in the future; - the location of drains in particular should be assessed: for example, in Lonsdale Square there are shared drains which run along the rear of the properties, then pass though beneath the basement of every third or fourth property (eg under No 33). Any excavations at the rear of houses or under them could disturb this arrangement. A Thames Water opinion on whether plans will impact on existing waste water drainage or other drainage issues should therefore be obtained in advance; - analysis of energy efficiency and sustainability as referred to in para 12 of the Discussion Paper - this should include consideration of light pollution, which is not mentioned in the Discussion Paper as these developments tend to rely on large rooflights; - report on impact of construction and how it will be managed to minimise disruption to adjoining neighbourhood.</p>	<p>prepared by a suitably qualified professional where applicable and as relevant to the site conditions.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Resident Page 192</p>	<p>13. The level of information should be detailed due to the risks and impacts which come with basement excavations. Excavations are not loft extensions but significant developments which move foundations. The level of risk calls for more detail to support planning applications especial residential applications. In my view the following should be provided to support an application: The reasons as to why a basement is being proposed 14. The reason for its use 15. The level of depth of the basement excavation 16. The materials to be used and engineering design techniques 17. The number of persons benefiting from the development whether residential or commercial 18. The site's and surrounding areas flood risk assessment 19. The named qualified technical engineer & surveyor who would be on site to monitor flood risk, subsidence and ensure the foundation work is done quickly, on time and to the correct speck to reduce the risk of problems to the site and surrounding sites within 30 metres or so of the basement excavation 20. Evidence of the named architects and qualified experienced builders in basement conversions. The builders undertaking the work must be qualified with insurance to avoid legal action and counter suing against the council. 21. Several area spans of Bore hole analysis on soil, with an investigative report of the site to determine the composition of the soil/London clay areas. In tandem, the council could also use this info to compile a database of the soil composition in Islington. 22. A proposed construction schedule detailing the timetable for length of works with contingency explained for exceeding the time frame. The management schedule to include excavation and demolition management details e.g. will heavy vehicles /equipment be used for demolition and excavation etc, where will such equipment be located etc...how will rubble be moved from the site etc... 23. Environment schedule regarding how food risk, drainage ventilation and the carbon footprint will be managed through the project 24. Clear consideration given to adjoining properties and to the environment with in 30ft of the development e.g. how will the site be coved, how will dust be controlled, how will noise be controlled etc... 25. A current photo of the</p>	<p>The Council agrees that designs should demonstrate that they have appropriately considered structural risk and the other planning considerations highlighted. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions. However several of the issues raised are not within the scope of the planning process to secure, for example a named site supervisor.</p>

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	<p>outside of the property and a wider shot showing the surrounding properties to ascertain the environment and heritage of the street 26. It should be for ALL basement developments as such deep excavations will affect the public/residents in some way, from public carriage way issues caused by construction traffic and skips, to traffic parking stress issues, dust, noise, dirt on the street, increase in vermin, road and pedestrian access issues as well as structures to adjoining properties. Such developments have a wider impact than is usually considered.</p>	
Resident	<p>There must be a specific ground investigation and design report for each proposal for basement excavation. Proposals must include designs of retaining wall support for nearby structures and buildings. Investigations and designs must be done and checked by qualified and experienced GROUND engineers (not structural engineers). Investigations and designs should meet all the requirements of Eurocode EC7.</p>	<p>The Council agrees that designs should demonstrate that they have appropriately considered ground conditions. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to this issue, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.</p>
Resident Page 193	<p>All proposals for subterranean development should be accompanied by a structural engineer's report, a report on the geological and hydrological circumstances which might be harmfully affected by the proposed development, and a report explaining any flood risks that might occur as a result of the development. These risks should take into account the risks that adjoining and neighbouring properties might entail as a result of the development.. Would these risks mean that if these properties wished to develop their properties in the same mode, that they would not be able to as a result of cumulative impact? Reports should also be submitted regarding the impact upon biodiversity, landscaping, environmental safety and local services that the development would affect. All these reports must be carried out by highly qualified firms or individuals and be paid for by the applicant. If the council considers that additional reports are necessary, the applicant must pay for these as well. Many of the houses in the borough, especially those that are listed or in conservation areas, have shallow foundations and could be adversely affected by development carried out by the owners or owners of nearby properties. One has to think of development in a commutative context. If subterranean development were permitted for all properties, what would be the cumulative effect upon the visual, historical, and architectural integrity of the area? What would be the cumulative effect on the drainage, biodiversity, environmental safety, and energy conservation potential of the area? Planning guidelines cannot only apply to one building and not another. If we allow one, we have to allow all. To allow the potential for all could have serious consequences regarding the character and amenities of the borough. All major development is noisy, causes pollution, can affect the safety of people living and working in the area and, overall, the ability of the locality to live peacefully and amicably together.</p>	<p>The Council agrees that designs should demonstrate that they have appropriately considered structural risk and the other issues highlighted. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.</p>
Resident	<p>Listed buildings need a higher level of information, especially when they are within conservation areas where trees are listed and where trees should not have their ability to root impaired. There</p>	<p>The draft SPD will include general guidance, as well as guidance specific to properties in Conservation</p>

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	is also a need to protect the structural stability of adjacent listed buildings.	Areas and listed buildings.
Resident	There should be (a) a detailed assessment as to the impact of the proposed development on drainage and any potential flooding issues (b) a detailed assessment as to the impact of the proposed development on the environment of the neighbourhood (c) a detailed assessment (including a report by a structural engineer) as to the impact of the proposed development on the structure and structural stability of the subject property and all neighbouring properties.	The Council agrees that designs should demonstrate that they have appropriately considered structural risk and flood risk/drainage. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.
Resident Page 194	A basement impact assessment should be provided for all basement applications. To ensure they are consistent there should be a proforma produced which covers all the potential impacts, on the existing building, adjoining buildings and structures, ground water, trees, drainage, other infrastructure and any site specific issues. Every basement will be different but it should be down to the applicant to set out what impacts are relevant and demonstrate how they are being minimised or made acceptable by the design. To be able to do this a BIA needs to include a structural scheme and a method statement explaining how the basement will be constructed. A site investigation isn't essential, apart from in particularly sensitive locations so long as information on ground conditions has been obtained from records and is included and discussed in the BIA. A BIA should be prepared and signed off by a Chartered Structural Engineer. A drainage plan and design to deal with ground water should be signed off by a Chartered Civil Engineer. Any advice on hydrology (a hydrological study) will need to be provided by a Chartered Hydrologist.	The Council agrees that designs should demonstrate that they have appropriately considered the issues highlighted. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.
Resident	Ban them all.	The Council considers that it would not be justified to impose a blanket ban on basement development.
Resident	See 2 above. Higher level requirements should automatically apply to all Conservation areas. Detail of pumps/pumping noise should be required where water/waste water will need to be pumped up to the external waste/water pipes in the street.	The draft SPD will include general guidance, as well as guidance specific to properties in Conservation Areas and listed buildings.
Highbury Fields Association	There should be an independent assessment of the soil conditions and the ground water norms of the building in question	The Council agrees that designs should demonstrate that they have appropriately considered site conditions. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.
Resident	Consider likely lifetime energy issues, such as forced ventilation and ground water pumping and impact on neighbouring property also, issues of noise and other disruption to neighbours during	The draft SPD will include a section on Sustainable Design, and will set out the information requirements

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	the building phase.	to be submitted as part of a planning application, including a Construction Management Plan.
Resident	See question 2. May differ if intended use is for work or housing	Noted.
Resident	ALL basement applications should be treated the same, for that otherwise, some "clever clogs" finds the "get out of jail free card" and the building frenzy continues. All should provide full environmental impact, risk assessment, and full impact on the structure of the existing building, plus a mandatory clause agreeing not to touch any of the exterior, whether it is garden, access, green space or pavement.	This is one of the key drivers for producing guidance on basement development that considers both the cumulative impacts of basement development across the borough, as well as specific impacts related to individual developments. This approach will ensure that all applications are assessed in an equitable and transparent manner, so that individual applications do not unduly prejudice the satisfactory development/operation of adjoining land or the surrounding area as a whole. It will set out the information requirements to be submitted as part of a planning application; however the Council considers that it would be unjustified to seek to impose a restriction that proposals do not affect the exterior of the building.
Thames Water	Therefore Thames Water would like any design guidance produced to include the need to fit basements with a 'positive pumped device' (or equivalent reflecting technological advances), this will help to ensure basements properties are protected from sewer flooding. Fitting only a 'non return valve' to basement properties is not acceptable as this is not effective in directing the flow of sewage away from the basement building	Reference will be included in the draft SPD.
Transport for London	TfL support the submission of Construction Logistics Plans (CLPs) for development near to Transport For London's Road Network (TLRN) and bus corridors. Furthermore, when a planning application is proposed in these locations and also near to London Underground (LU) infrastructure, TfL require consultation.	A Construction Management Plan will be required for basement development applications.
Upper Street Association	We favour a general and consistent policy	This is one of the key drivers for producing guidance on basement development that considers both the cumulative impacts of basement development across the borough, as well as specific impacts related to individual developments. This approach will ensure that all applications are assessed in an equitable and transparent manner, so that individual applications do not unduly prejudice the satisfactory development/operation of adjoining land or the surrounding area as a whole.
Residents of	A high level of due diligence should be required for any planning application. The following reports	The Council agrees that designs should demonstrate

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<p>Lonsdale Square</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 196</p>	<p>should form the minimum requirements:</p> <ul style="list-style-type: none"> - structural engineer's report - an independent report paid for by the applicant should be required as referred to in para 14.7 of the Discussion Paper; - report on/ evidence that the geology and topography can support the proposed development as referred to in para 10.6 of the Discussion Paper; - formal report on/ assessment of flood risk and impact on adjoining land and properties of the extension as referred to in para 11.3 of the Discussion Paper; - report on impact on the biodiversity of area, landscape and trees as referred to in para 7.12 of the Discussion Paper; - analysis of impact on any shared services in particular drains or the ability of adjoining properties to receive existing services in an uninterrupted fashion or new services at any time in the future; - in particular, Thames Water should assess in advance whether damage to drains would occur. In Lonsdale Square, there are shared drains which run along the rear of the properties, then pass through beneath the basement of every third or fourth property (eg under No 33). It is therefore very important to make sure that the existing drains are not compromised. - analysis of energy efficiency and sustainability as referred to in para 12 of the Discussion Paper - this should include an assessment of light pollution as these developments often rely on large rooflights. - report on impact of construction and how it will be managed to minimise disruption to adjoining neighbourhood. 	<p>that they have appropriately considered the issues highlighted. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.</p>
<p>Resident</p>	<p>I just have a few comments in relation to BIAs:</p> <ul style="list-style-type: none"> - basement impact assessments should be required for all basement applications; - BIAs should be provided at the planning stage so they are available at public consultation as this aids in the community understanding what is proposed; -BIAs should be independently verified by a structural engineer. 	<p>The Council agrees that designs should demonstrate that they have appropriately considered the issues highlighted. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions. Other than in limited circumstances, the Council does not consider that it will be necessary to secure independent verification of supporting documents if these have been appropriately certified in the first instance.</p>
<p>Resident</p>	<p>The developers should definitely get a structural engineer's survey before they apply for Planning permission, and the council should have a list of approved structural engineers who are experts in basements which the developers have to use. One such is GeotechnicsLtd who were used by Camden Council in such a case. Otherwise they might use one who has little experience or knowledge of basements and their special problems. The structure of the ground in particular</p>	<p>The Council agrees that designs should demonstrate that they have appropriately considered structural risk/ground conditions. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues,</p>

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Respondent	Comment	Council Response
	<p>should be taken into account.</p> <p>The developer must have adequate insurance to compensate neighbours should it be necessary and should be required to find alternative accommodation for affected neighbours if required while the build is going on. Why should the neighbours have to pay for repairs or be driven from their homes (see above) so that developers can make money? If all this puts developers off, then all well and good as basements do not provide good living accommodation and should be reserved for additions to existing houses which have the main living areas above ground.</p>	<p>including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions. However it is not considered appropriate to maintain a list of approved structural engineers as certification of such professionals is carried out by an independent body. The insurance arrangements of builders are not a planning matter.</p>
<p>Canonbury Society</p>	<p>Owing to the construction methods of subterranean development being more technical, the documentation and particularly the construction method statement (CMS) needs to be more comprehensive than usual for the officers and members to properly consider such an application. The CMS must include a report on the ground and hydrological conditions of the site and explain how the structural stability of buildings will be safeguarded during construction of the basement and beyond.</p> <p>Complexity will vary but we are of the opinion that if an application involves a technical engineering aspect, the council should reserve the right to instruct its own independent expert adviser, usually a qualified civil or structural engineer, at the applicant's cost.</p> <p>In addition a draft construction traffic management plan needs to be submitted by the applicant.</p>	<p>The Council agrees that designs should demonstrate that they have appropriately considered structural risk/ground conditions. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions. A Construction Management Plan will be required for basement development applications.</p>
<p>Amwell Society</p>	<p>A high level of information should be required for any basement development application. In addition to a report on the technical issues detailed in 14.3 of the consultation document there should be further requirements e.g. as with the revised guidance on basement applications seen with the City of Westminster. Section 4 Submitting a Planning Application provides an 'Application checklist' which requires the following for all application:</p> <ol style="list-style-type: none"> a. Completed Application Forms b. Drawings including site location plans, existing and proposed plans, sections and elevations and landscaping plan c. Structural statement prepared and signed off by a Chartered Civil Engineer [MICE] or Structural Engineer [MI Struct.E] and including supplementary geo-hydrology reports where this is not being provided by the same engineer. Reference is made to Section 6.4 and Appendix 1, where there is further advice given. d. Construction Management Plan (Reference is made to Section 6.8 which provides extensive guidance on what such a plan should cover) e. CiL Liability assessment form. <p>Applicants are strongly advised to provide 'Evidence of engagement with adjoining occupants, and a schedule and timetable of works'.</p> <p>The Amwell Society believes that all this information should be provided at the time of the</p>	<p>The Council agrees that designs should demonstrate that they have appropriately considered structural risk/ground conditions. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.</p>

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	application. Any additional detail required by LBI to review the application should also be at the cost of the applicant (as seen with Westminster). Applications which do not comply with these requirements should be rejected automatically.	

Question 5: Do you have any further comments on the proposed Supplementary Planning Document? Are there any key issues (pertaining to basement development) that have not been raised in this paper and in your opinion should have been?

Respondent	Comment	Council Response
Resident	The document raises important issues. Free-ranging basement development should not be allowed for all the reasons set out in the paper.	Comment noted.
Resident	Most of Islington's victorian housing is terraced and built of brick with lime mortar. If a rigid concrete box is built under one house it may well compromise the integrity of the terrace.	Comment noted.
Resident	Subterranean developments approved prior to the introduction of a formal policy by the Council should not act as precedent for planning applications after the introduction of such a policy.	All planning applications are assessed on their own merits.
Resident	I think the Discussion Paper is an excellent assessment of the issues and will provide a strong basis for formal guidance. I am pleased that the Council is giving this important subject the attention it deserves. Thank you.	Support noted.
Resident	I used to write about building basements and new homes for The Sunday Times (I was their self-build expert) and was an editor of property magazines. I would advise extreme caution with regards to subterranean extensions on period properties. While minor extensions in some cases will be fine. Wholesale new stories underneath existing properties are not recommended. Because, the knock on effect on neighbouring properties is extreme and expensive to remedy (if indeed it's possible to remedy which I doubt). Furthermore the disruption to neighbours while building works goes on is intense.	The Council agrees that designs should demonstrate that they have appropriately considered structural risk/ground conditions and construction impacts. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.
Resident	Allowing big basement expansions changes the type of person buying a house or ground floor flat. Instead of someone who wants to live in the home you end up with developers buying the properties. This means that profit is the main motivation and that in order to maximise margins any attempted development will be as large as possible. As they are a developer they are not interested in the detrimental effects it will have on the residents already living in the area. I am currently in this situation. There has been a planning application submitted by a developer to extend the basement of ground floor flat under both the front and back gardens of the Victorian	The draft SPD will include specific guidance on the depth and extent of basement proposals.

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Respondent	Comment	Council Response
	Terrace I live in (135 Huddleston Rd). The developer also wants to build out in to the halfway in to back garden and tear down the back of the house and rebuild it even though the terrace of the middle flat is on top of that part of the building. In my opinion allowing over development of basement leads to attempts to overdevelop above ground as with my house which stands to lose the use of both front and back gardens. Even if the application is rejected the residents still have to go through a stressful time waiting to find out what the results of the planning application will be.	
Resident	Deterioration in the living environment and overcrowding	The draft SPD will include guidance on the quality of accommodation to be achieved by proposals.
Resident	I would like consideration of the impact on pedestrians of basement developments. My family is typical in that it is the most popular way for people to get about in the borough (including children going to school, walking the dog, and the vast majority of retail, social and community activities) and so pavement obstacles, especially with a pram, buggy, small child or dog, cause considerable impact. Keeping the pavement unencumbered by use of an overhead chute to the waste skip making a good sized arch for pedestrians, wheelchair users etc to pass through should be a requirement. I've seen these and they make a huge difference.	The draft SPD will include a requirement for proposals to submit a construction management plan as part of the application.
Resident Page 199	All excavations unload the ground and will cause movements in nearby structures; this is unavoidable. The design must ensure that these are so small that they cause no discernable damage to nearby buildings.	The Council agrees that designs should demonstrate that they have appropriately considered structural risk/ground conditions. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.
Resident	Should Thames Water be required to comment?	Thames Water has responded to the Discussion Paper.
Resident	The Council should take account of issues which are not usually regarded as planning matters (for example, given the acknowledged inadequacy of Building Regulations and Party Wall awards) as residents need to be protected against the consequences of neighbouring underground development.	As a planning policy document, the draft SPD can only take account of planning matters. As set out in the NPPF, where issues are covered by other regulatory/permitting regimes, local planning authorities should assume that these regimes will operate effectively.
Resident	Islington has a very strong policy for surface water discharge from new developments. To be consistent this could be extended to basement developments and particular for basements in minor aquifers which are important stores of ground water. It could be required that any ground storage removed by a development is replaced by tanks or other means of retaining water on a site.	The Council agrees that designs should demonstrate that they have appropriately considered site conditions, including groundwater flows, however it is not considered appropriate to require groundwater storage on site as this would in itself impede recharge to the underlying aquifer.
Resident	No ban them all.	The Council considers that it would not be justified to

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Respondent	Comment	Council Response
Resident	<p>In the case of a basement extension application put forward by one of our neighbours a listed tree was wilfully cut down before the application was made. Whilst LBI confirmed that no application had been made to cut down the tree we were told that no action would be taken other than a requirement to possibly replant a tree elsewhere. In the same way that knocking down listed buildings should be a serious offence I feel that the removal of listed trees without consent should be an equally serious offence. The tree was a healthy ornamental fruit tree that blossomed every year. There is no point in allowing applicants to get round the rules on trees/developments by such action. The application [later withdrawn] would have excavated the garden down one floor to a point beyond the extent of our garden [as the neighbour has a longer garden]. Again any policy needs to take into account the impact on the surrounding gardens and not just the garden of the applicant. Reference is made to the fact that often in the Islington Terrace there is no rear access to a property and where this is the case earth has to be taken by hand, or mechanically, out of the front of the house. This is very disruptive/noisy and restrictions/requirements on this issue would be helpful.</p>	<p>impose a blanket ban on basement development.</p> <p>The Council agrees that it is necessary to consider both the cumulative impacts of basement development across the borough in developing guidance, as well as specific impacts related to individual developments, and this will be addressed in the draft SPD. The requirement for a Construction Management Plan to be submitted with the application will also be set out.</p>
Resident	<p>Please do not restrict protection to listed property There are a lot of buildings in Islington that were basically thrown up in the mid to late Victorian period. Extensive excavation near these properties will put them at increased risk of full or partial collapse.</p>	<p>The draft SPD will include general guidance application throughout the borough, as well as guidance specific to properties in Conservation Areas and listed buildings, to ensure that applications are assessed in a consistent and transparent manner.</p>
Resident	<p>It seems essential to compile a record of existing and proposed basements so that there is a sound basis for consideration of their cumulative impact on the issues identified in the consultation paper. As it is important to record those basements that are actually built rather than those that receive planning consent, this might best be achieved as part of the Building Control process. In my work as a structural engineer, one of the problems that arises with the construction of a new basement beneath one house in a terraced structure is that the new basement provides a far more stable foundation for that house than for its neighbours. This 'exports' damage due to any movement, whether caused by the construction of the basement or arising in the future, to the neighbouring properties yet there is no mechanism for holding the owner of the basement responsible for such damage. As stated in the discussion paper, the Party Walls Act was not drafted to include such work in its scope as it limits the Building Owner's responsibility for damage to the Adjoining Owners' property to that arising before completion of construction. Given the predominance of clay subsoil in Islington, the full effects of the construction of a 'retro-fit' basement are not likely to become apparent for a decade or more but the Adjoining Owners then have no recourse to a remedy. I do not know to what extent to planning process can make up for the deficiencies of the Act, but at least it could require an assessment of the long-term impact of the change of foundations on the neighbouring properties where they are part of a single</p>	<p>The Council agrees that it is necessary to consider both the cumulative impacts of basement development across the borough in developing guidance, as well as specific impacts related to individual developments, and this will be addressed in the draft SPD. Building Regulations are independent of the planning process.</p> <p>The Council agrees that designs should demonstrate that they have appropriately considered structural risk as relevant to the characteristics of the original building. The draft SPD will set out the information requirements to be submitted as part of a planning application in regards to these issues, including that the required reports have been prepared by a suitably qualified professional where applicable and as relevant to the site conditions.</p>

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Respondent	Comment	Council Response
	structure, as in most terraces. I also consider that pressure from the affected Boroughs for revision of the Act would be beneficial.	
Resident	No. It is commendable that the Council is starting to curb the building frenzy. In St. George's Avenue, there are still scaffolding up and building works right left and centre, making a peaceful conservation area a nuisance and noise polluted place. Plus, I can see many trees being cut down. Owner occupiers should pay a huge levy for any planning application and lease agreements should have a clause forbidding any expansion whatsoever.	Planning applications fees are set at the national level.
Thames Water	Section 11 on Flood Risk is supported, however it is considered that reference should be made to not only flooding from heavy rainfall but all sources of pluvial flooding such as sewer flooding. With regards to design, sewage networks are designed to surcharge to just below the man hole cover level. The introduction of a basement development could mean that connection points within that development become the lowest release point on the network and therefore flooding of a basement could occur, even in areas which have not previously been affected by flooding. Thames Water would like to work closely with London Borough of Islington as they prepare and consult on their Basement Development guidance.	Reference to this will be included in the draft SPD.
Westminster City Council	Westminster has recently adopted a Supplementary Planning Document on Basement Development and we are currently developing a new planning policy on this issue. One of the issues raised by developers in our consultations has been the lack of consistency between central London boroughs in the types of information required when submitting basement applications, and a suggestion that greater coordination between boroughs would be beneficial.	The offer to coordinate is welcomed and will be pursued.
English Heritage	We note that you have not considered the impact of basements on archaeology, and would encourage you to amend this and consider adding details of the 19 archaeological priority areas within the borough to assist homeowners and developers. Basement extensions often affect Georgian or Victorian buildings, many of which are listed either nationally or locally. Some local authorities within London, supported by parts of the wider conservation community, and on several occasions by the Planning Inspectorate, take the view that these proposals can cause unacceptable harm to heritage assets. Camden Council and the Royal Borough of Kensington and Chelsea have developed evidence bases to support policies that control the size and location of basement extensions, as well as the type of information they expect to be submitted with planning applications. You may wish to look at their methodologies, which have been successful both at Examination and at subsequent appeals to add to the robustness of your guidance. We note that English Heritage should be consulted on any development to Listed Buildings which involves the demolition of all or a substantial part of the interior of the principle building (i.e. floors and floor slabs), and that we will consider each case on its merits.	Reference to archaeology will be included in the draft SPD.
Resident	I feel strongly that the Urban Design Guide section 2.4.7. should be raised from a guideline to be part of Council Policy. It ensures that developments will not be built in gardens that are too small and by ensuring that any basement must be separate from the terraces will protect neighbours from having a basement attached to their house with all the concomitant problems. It seems that	The Urban Design Guide is not within the scope of this consultation. The Basement Development SPD will provided detailed guidance in relation to basement development in the borough, including on the

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Respondent	Comment	Council Response
Page 202	<p>the Planning Officers and Design Officers ignore guidelines when it suits them and so I think it needs to be given more power.(See P122127) Also the Planning and Design Officers need more supervision and training as many good policies are in place but are not followed. I am not sure what is the point of guidelines if they are just going to be ignored.</p> <p>Catherine West stated in the Islington Gazette that "as a council we are determined to protect gardens and only allow building in garden areas on the site of a previous building." This is not what happens. The minimum areas of gardens that can be left gives too much of a green light to development on gardens . There should be no new development on more than 15% of an existing garden irrespective of how much garden is left. Islington has one of the lowest amounts of green space in the country and it needs more protection. People will try to put new build basement houses on sites that are too small for a normal house and this must be resisted.</p> <p>Basement living areas may affect the health of their occupants. They may have virtually no sunlight even in underground outdoor areas which could affect Vitamin D levels and the lack of daylight may affect people's mood. The BRE minimum standard is only 2% of available daylight which would mean occupants would have to have electric light on all the time which passers by will see during the day and will confuse wildlife. We should ensure that any basement has at least 5% of available daylight by means of lightwells and sun pipes.</p> <p>Any new build with a basement should be flagged up and be considered by the Planning Committee not left to delegated powers.</p>	depth/extent of development and quality of accommodation achieved.
Resident	Finally some general thoughts. Islington Council should make it policy not to encourage basement development. No one would choose to live in a basement if they could avoid it. They are dark with little natural light. Their construction is noisy and disruptive. They are bad for the environment in many ways. If people want more space for gyms/cinema rooms etc they should move.	The draft SPD will include guidance on the quality of accommodation.
Islington Council	In all cases, basement and excavation proposals will be based on their merit	All planning applications are assessed on their own merits.
Amwell Society	A key issue for LBI is ensuring that there is in place a proper basement application process, including supervision and enforcement as construction progresses. In addition there is the issue of blatant disregard of the rules prior to an application being put forward that would, if not breached, have prejudiced an application. A recent example in the Amwell Society area was the cutting down of a healthy ornamental fruit tree within a Conservation area, without LBI permission, to facilitate a subsequent basement application where the tree had formerly stood. Whilst reported to the LBI Tree Preservation officer it seems that no action will be taken other than possibly the planting of another tree elsewhere in the garden. This may be an issue of 'budgets' and LBI	The draft SPD will include a requirement for proposals to submit a construction management plan as part of the application, however the planning enforcement process is outside the scope of the SPD.

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Respondent	Comment	Council Response
	resources are likely to be put under increased pressure in the coming years. However if planning law is not enforced, then any basement development requirements issued by LBI will be meaningless.	

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Report of: Executive Member for Housing and Development

Executive	Date: 14 1 2016	Ward(s): All
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SUBJECT: Adoption of the Development Viability Supplementary Planning Document

1. Synopsis

- 1.1 The purpose of this report is to recommend adoption of the Development Viability Supplementary Planning Document (SPD) following public consultation, and to outline its content and the key changes made following consultation.
- 1.2 The Council conducted a consultation on the draft Development Viability SPD for an eight week period from 10 July to 4 September 2015, which has informed the final version of the SPD.
- 1.3 The SPD sets out guidance on how Islington Development Plan policies should be applied in relation to development viability when determining planning applications, in accordance with the National Planning Policy Framework (NPPF). Since the introduction of the NPPF, viability has become an increasingly central part of the planning process. Issues have however been encountered in relation to the use of viability assessments by applicants to reduce policy requirements and in particular the delivery of affordable housing. This has in part been exacerbated by inconsistencies between different sources of guidance.
- 1.4 The SPD will provide greater clarity to applicants regarding the Council's approach to assessing viability, help to safeguard the delivery of the Council's adopted development plan including the provision of affordable housing, and help to avoid delays in the decision making process.
- 1.5 Following adoption by the Executive, the Development Viability SPD will be a material consideration in the determination of planning applications for all classes of development where viability considerations are relevant.

2. Recommendations

- 2.1 To note the summary of comments received during public consultation on the draft Development Viability SPD (see Appendix 2 for Consultation Statement), the Council's responses and proposed

changes to the SPD.

- 2.2 To agree to adopt the Development Viability SPD (as attached at Appendix 1).
- 2.3 To further agree to delegate authority to the Corporate Director of Environment and Regeneration in consultation with the Executive Member for Housing and Development, to make and adopt minor revisions to the SPD if necessary, prior to final publication (see paragraph 3.19 below).

3. Background

- 3.1 Since the introduction of the National Planning Policy Framework (NPPF) in 2012, the assessment of development viability has become an important part of the planning process. The NPPF establishes that local planning authorities should (amongst other things): promote resilient, mixed and balanced communities, meet objectively assessed housing needs, support competitive economies (for example through the provision of infrastructure), and address environmental issues. The NPPF also specifies that the costs of policy requirements should allow for competitive returns to a willing land owner and willing developer to enable development to be deliverable. Further national guidance on the application of viability to the decision making process is set out in the Planning Practice Guidance.
- 3.2 The Statutory Development Plan forms the starting point for determining planning applications. In Islington this consists of the London Plan and the Islington Local Plan (comprising the Core Strategy, Development Management Policies and Site Allocations).
- 3.3 The key policies in the Development Plan for the consideration of viability in planning decisions are London Plan (LP) Policy 3.12, Core Strategy Policy CS12 (affordable housing) and Development Management Policy DM9.2 (planning obligations). LP 3.12 states that the maximum reasonable amount of affordable housing should be sought when negotiating on individual private residential and mixed use schemes. Policy CS12 requires that individual housing and mixed use developments should provide the maximum reasonable level of affordable housing that can be achieved, taking in to account the borough wide target that 50% of new housing should be affordable. DM9.2 establishes that the Council will use planning obligations to deliver sustainable development.

Purpose of the SPD

- 3.4 Viability assessments are typically submitted as part of planning applications to help determine the level of affordable housing to be provided and the extent to which a proposal can comply with other policy requirements.
- 3.5 The main objective of the Development Viability SPD is to provide greater clarity to applicants by providing guidance on the application of these, and other planning policies relating to development viability. The SPD should thus help to minimise delays in determining any applications where viability is a factor and help to deliver the policies of the development plan as well as the objectives of Council's Corporate Plan and Housing Strategy.
- 3.6 Due to a variety of different guidance, there has been relatively wide scope and discretion for how viability matters are dealt with, which in some instances has led to the use of approaches which have come into conflict with the principle of sustainable development and the plan-led system. The SPD sets out further guidance on the approaches and methodologies that are considered to be most appropriate in the context of the delivery of the development plan. On adoption, this will update and supersede viability guidance in the Islington Planning Obligations SPD (2013). The SPD will also provide clarity on the nature and extent of information required by the Council to enable it to robustly scrutinise viability assessments.
- 3.7 The SPD outlines the policy framework for the consideration of viability in the planning process (Section 2) and the proposed procedure for assessing viability at pre-application and at validation/application stage, stating the importance of early engagement with the Council (Section 3).

- 3.8 Section 4 of the SPD sets out approaches to help ensure that assessments are supported by robust evidence and that they are verified by applicants and assessors. Transparency and public participation is promoted through the requirement that assessments will be made publically available, save for exceptional circumstances where there is a convincing case that disclosure of aspects of an appraisal would cause an 'adverse effect' and would not be in the public interest.
- 3.9 Section 5 sets out that the 'Residual Land Value' methodology is most appropriate to use when undertaking an assessment in support of a planning application, rather than the use of a fixed land value as an input within an appraisal. Section 6 discusses the Council's information and evidence requirements regarding key inputs within an appraisal relating to: development value, build costs, profit, benchmark land value, Community Infrastructure Levy (CIL) and planning obligations, and development finance.
- 3.10 Section 7 provides guidance on the use of viability review mechanisms which are used to reassess viability at the point of delivery to ensure the maximum level of policy compliance can be achieved. These will apply to developments where policy requirements are not met in full at time of permission and will be required: at an advanced stage of development for all schemes requiring a review (generally resulting in financial contributions); additionally at pre-implementation stage for *phased* schemes and also, at mid-term stage for *large phased* developments (the latter two types of review typically resulting in additional on-site affordable housing).
- 3.11 Section 8 sets out that the Council may undertake reviews of viability at an advanced stage of construction or after completion regardless of whether a formal review mechanism is in place. The purpose of this is to ascertain the accuracy of the original information submitted and to assist the Council in monitoring implementation of its policies. Appendices A, B & C respectively contain a summary of key requirements, a list of information and evidence requirements, and more detail regarding Islington's approach to affordable rented housing.
- 3.12 The SPD is one of the first of its kind and as such has attracted wide coverage in the press, in debates and at events¹, and in several national reports on housing supply and viability².

Consultation

- 3.13 The Council undertook a preliminary consultation on matters considered in the Development Viability SPD through the Development Viability Discussion Paper and Questionnaire. This set out the scope of the proposed SPD and discussed the issues that it proposed to cover. This preliminary consultation took place between 22nd September and 20th October 2014 and informed the production of a draft SPD. The pre-consultation on the discussion paper prompted 21 responses.
- 3.14 Consultation on the Draft SPD was undertaken from 10th July to 4th September 2015. Thirty one responses were received from a variety of consultees including residents, community groups, local authorities, academics, consultants, landowners and developers.
- 3.15 Respondents generally welcomed further guidance on the subject and thus supported the production of an SPD. Excluding the responses from statutory bodies (who had no significant comments), approximately half of the responses were from residents, local authorities, resident/action groups, forums and some academics/consultants who expressed support for the SPD. The remainder of the responses were from private consultancies, developers/landowners/industry representatives and the GLA, and raised concerns or objections.
- 3.16 The matters which received the most support related to the Council's proactive approach to providing guidance on methodology and processes, to its promotion of early engagement, its support for the

¹ Such as the London Assembly Planning Committee (see <http://www.london.gov.uk/moderngov/documents/s50013/Minutes%20-%20Appendix%20-%20-%20Transcript.pdf>) "By far the best document I have read on guidance by a body", "really thoughtful, really comprehensive" (Professor Patrick McAllister, Professor in Real Estate, University College London); "a model of what a document like that should be like" (Oliver Wainwright, Architecture and Design Critic at the Guardian). The SPD also received a High Commendation at the Planning Awards 2015.

² For example, The Lyons Housing Review: Mobilising across the nation to build the homes our children need (2014); Joseph Rowntree Foundation (JRF) Rethinking Planning Obligations (2015)

EUV+ approach (Existing Use Value plus landowners premium approach) to determining benchmark land values and ensuring that policy requirements are fully reflected when determining land value, its support for affordable housing delivery, its proposed process for reviewing appraisals to maximise overall delivery of affordable housing, and in particular, its promotion of greater transparency and public involvement.

3.17 Matters which received the most/more significant comments indicating concerns or suggested changes are summarised as follows:

- Issuing guidance - the changing regulatory environment and whether it is appropriate to issue guidance in this context. The flaws and problems of the viability assessment process in general, including issues associated with considering individual inputs in isolation and the potential for bias. Whether or not the Council should issue guidance promoting the use of viability assessments rather than striving for a change in approach.
- Delivery and Transparency - that applicants' appraisals used internally or submitted to finance providers are specific to the applicant in question, are more complex than those submitted to the Council, are highly changeable and make different assumptions; whether viability information ought to be kept confidential due to commercial sensitivity; whether transparency could be damaging or act as a deterrent to applicants and could thus restrain bidding and discourage openness; and how the consideration of disclosure versus confidentiality should be assessed.
- Methodology/ Land value – whether the Council's preference for the land residual value approach and basis of determining benchmark land values are appropriate; how the uplift in value resulting from planning permission can be established and should be apportioned; and that it is often necessary to produce and support bespoke models for assessment.
- Information requirements – that the extent of information and associated justifications required by the Council must be appropriate to the scheme in question, its scale and complexity; that some information required could be unreliable or difficult to obtain and may risk discouraging development in the borough; that some information requirements are too specific to the developer rather than the proposed scheme or site and should therefore be standardised (e.g. build costs, finance costs etc); and that it is unclear/unpredictable what levels of affordable housing provision may be policy compliant on a given site.
- Affordable housing values – that early Registered Provider (RP) involvement is often difficult to achieve; and that it is not always possible to secure RP 'offers' for affordable housing at planning stage.
- Affordable rented housing – that the guidance should not seek to set rents for affordable rented housing or try to impose restrictions on the type and choice of affordable housing in the borough;
- Developer profit – that profit levels are justified due to the high risk, cyclical nature of property business; and disagreement about whether or not internal rate of return (IRR) forms an appropriate basis for determining profit within planning viability assessments.
- Review mechanisms – whether aspects and the extent of the proposed approach (including the proposed formulae) are correct, realistic, in compliance with policy, and proportionate.

SPD revision and adoption:

3.18 Officers have carefully considered the comments received which are summarised in the Consultation Statement along with Council responses (see Appendix 2). Where appropriate, the SPD has been revised to take account of issues raised. The most significant changes to the SPD can be summarised as follows:

- The borough and policy context have been updated to reflect current circumstances.
- The SPD recognises the changing regulatory environment and further regulatory changes will be considered and monitored as they come into effect.
- Clarification that assessments should be balanced, internally consistent and coherent as a whole, rather than individual inputs being considered in isolation.
- Delivery and verification requirements have been amended to place greater emphasis on consistency of current day costs and values used (in line with Planning Practice Guidance), rather than requiring appraisals provided to the Council and appraisals used for internal purposes to be identical.

- Further clarification is provided on the Council's approach to addressing issues of confidentiality and transparency and the reasons for its approach.
- The Council has provided further clarification in relation to proposed methodology, especially its approach to determining land value and the use of market value and market evidence.
- Greater emphasis is placed on the use of publically accessible data and standardised inputs (where fully justified and scheme specific), which is consistent with the Council's approach of requiring greater transparency (see also below regarding approach to build and finance costs).
- The SPD continues to encourage early engagement with Registered Providers (RPs), in line with the Mayor's Housing SPG. However, where affordable housing values are not informed by details and 'offers' from RPs, the Council will apply values based on typical RP offers for affordable housing in the borough.
- Commentary related to affordable rented housing has been amended to ensure that this does not give the impression of providing new guidance but simply cross references to and quotes from existing relevant documents, such as the Council's Housing Strategy.
- Applicants can rely on appropriate Build Cost Information Service (BCIS) figures as the basis for build costs or otherwise these should be supported and fully justified by open book evidence. If BCIS figures are relied on, these would also be applied and index linked within a review mechanism, rather than seeking an open book review of costs.
- The SPD clarifies that the Planning Practice Guidance approach to determining land value should be applied. Any approach that does not fully reflect of Development Plan policies is considered to be inconsistent with national policy and guidance and therefore inappropriate.
- The SPD clarifies that profit inputs must be consistent with other inputs to the particular viability model, such as its risk profile, contingency measures etc.
- The Council will apply standardised finance costs, justified with reference to the specific proposal, rather than seeking disclosure of developer specific finance arrangements.
- While setting out a clear basis for calculating how additional requirements can viably be provided through review mechanisms, the guidance recognises that the requirements and process may need to be adjusted according to the circumstances of the relevant proposal.
- Mid-term reviews will now relate to 'large phased schemes' only (see SPD for definition).

3.19 Significant changes to the planning system are proposed in the Housing and Planning Bill which is currently being considered by Parliament. It is anticipated that further details will be published in the form of draft Regulations around the time of the consideration of the SPD by Executive. In light of this, Executive is requested to delegate authority to the Corporate Director of Environment and Regeneration in consultation with the Executive Member for Housing and Development to make and adopt minor revisions to the SPD (not requiring further public consultation) as necessary, prior to final publication.

4. Implications

Financial implications:

4.1 The costs of producing and consulting on the Development Viability SPD have been met through existing budgets within the Planning and Development Division. Once adopted, the SPD will be used in determining all planning applications where viability considerations are relevant. The greater clarity afforded by this SPD will support implementation of the Islington Development Plan and help to ensure that the impacts of development are addressed and that associated costs do not fall to the Council.

Legal Implications:

4.2 The Development Viability SPD has been prepared in line with relevant planning legislation. The SPD has been subject to consultation in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). Following adoption, the SPD will be a material consideration in the determination of all planning applications where viability is a consideration.

Environmental Implications

4.3 A Screening Statement to determine the need for a Strategic Environmental Assessment (SEA) has been prepared. This concluded that an SEA does not need to be prepared as the SPD does not introduce new policies, but provides further guidance on adopted Local Plan policies. These policies

have been appraised in the Sustainability Appraisals of the Local Plan documents adopted by the Council. It is considered that the Development Viability SPD will not result in any additional significant effects to those already identified through the Sustainability Appraisals.

- 4.4 The SPD aligns with adopted environmental, sustainability and heritage policies as set out within the statutory development plan. These policies will help to ensure that new development in the borough accords with the principle of sustainable development. The SPD will provide guidance which is relevant to and will assist with the implementation of these policies.

Resident Impact Assessment:

- 4.5 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.
- 4.6 An initial screening for a Resident Impact Assessment (RIA) was completed in November 2014. A pre-consultation update of screening was completed in July 2015 and this did not identify any negative equality impacts for any protected characteristic or any human rights or safeguarding risks. The RIA was revisited post consultation but no changes in the projected impacts for any protected characteristic or any human rights or safeguarding risks were anticipated.

5. Reasons for the recommendations / decision:

- 5.1 The purpose of the Development Viability SPD is to provide guidance on the implementation of Council policies in relation to development viability. It will offer increased clarity to applicants, helping to avoid delays and support delivery of sustainable development.
- 5.2 Once adopted, the SPD will be a material consideration for all classes of development where viability considerations are relevant. Adoption of the SPD by the Council will also provide greater certainty to the local community and interested parties about the Council's approach to viability matters.
- 5.3 Executive are recommended to note the summary of comments received during consultation, the Council's responses and proposed changes, and to agree to the adoption of the SPD.
- 5.4 The Executive is further requested to delegate authority to the Corporate Director for Environment and Regeneration in consultation with the Executive Member for Housing and Development to make and adopt minor revisions to the SPD as necessary, prior to final publication.

Signed by:



22 December 2015

Executive Member for Housing and Development

Date

Appendices

Appendix 1: Development Viability Supplementary Planning Document (SPD)

Appendix 2: Development Viability SPD Consultation Statement

Background papers: N/A

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Development Viability

Supplementary Planning Document

December 2015



Currency in £

	Units	ft ²	Rate ft ²	Unit Price	Gross Sales
REVENUE					
Sales Valuation					33,750,000
Private	50	37,500	900.00	675,000	8,961,975
Affordable Housing	51	39,831	225.00	175,725	
Totals	101	77,331			<u>42,711,975</u>
NET REALISATION				42,711,975	
OUTLAY					
ACQUISITION COSTS					
Residualised Price (1.00 Acres 6,064,408.97 pAcre)				6,064,409	
Stamp Duty			4.00%	242,576	
Agent Fee			1.00%	60,644	
Legal Fee			0.50%	30,322	
CONSTRUCTION COSTS					
Construction	Units	Unit Amount		Cost	
	1 un	19,500,000		19,500,000	
				333,542	
				19,500,000 ?	
				500,000	
				5,000	

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1. Introduction

- 1.1. The economic viability of development has become an important consideration as part of the planning system, both in terms of plan-making and when determining planning applications.
- 1.2. The Islington Local Plan sets out the strategic vision for the development of the borough and policies to ensure that this is sustainable. This Development Viability Supplementary Planning Document (SPD) sets out guidance on how Islington Development Plan policies should be applied in relation to development viability when determining planning applications. This will provide greater clarity to applicants when preparing planning applications and help to avoid delays in the decision making process.
- 1.3. The SPD sets out how the council will consider viability in accordance with the National Planning Policy Framework, whilst ensuring that the principles of sustainable development form the basis for planning decisions.
- 1.4. The council has undertaken two stages of public consultation which have informed the SPD, comprising of a preliminary consultation on a Development Viability Discussion Paper and Questionnaire from 22 September to 20 October 2014 and a further public consultation on a draft version of the SPD for an eight week period from 10 July to 4 September 2015. A consultation statement has been produced summarising this process, as required by regulation 12(a) of the Town and Country Planning (Local Planning) (England) Regulations (as amended).
- 1.5. A Sustainability Appraisal (SA) / Strategic Environmental Assessment (SEA) Screening Statement and a Resident Impact Assessment have also been carried out for this guidance document.
- 1.6. The SPD does not form part of Islington's Development Plan or Local Plan but it is a material consideration dependent on the circumstances of individual applications.

2. Viability in the Planning Process

Islington Context

- 2.1. Islington is the most densely populated local authority in the country having accommodated extremely high levels of development in recent years. Despite being the second smallest local authority area in the country the borough has, for example, consistently seen one of the highest levels of residential development, far exceeding its housing targets¹. A large number of sites have been granted planning consent and there is a significant development pipeline².
- 2.2. The extent of delivery in Islington is indicative of a buoyant property market. Average residential values in Islington are extremely high and have increased very significantly over the last 20 years. At the time of writing, the average house price in Islington was £687,783³. Average house prices per square metre in Islington were the 5th highest nationally, having risen by 49% in 5 years to £6,868 per sq m in 2014⁴. Dips in residential values in Islington over the last 20 years have been relatively short lived, and have been more than offset by subsequent increases - the average Islington house price in October 2015 was more than 56% higher than at the peak of the market in December 2007⁵. Commercial and hotel rents and yields have also increased significantly in the last few years, although these tend to be more cyclical.
- 2.3. Islington is home to some of the most affluent areas in the country, but the borough is marked by significant inequalities and poverty is intensifying⁶. The gap between incomes and housing costs is rapidly widening, as is the difference between property prices in London and the rest of the country. There are high levels of affordable housing need with a large number of households on the borough's waiting list⁷ due to issues such as overcrowding and homelessness. For this reason the council is committed to increasing the delivery of affordable housing as set out in the Islington Corporate Plan and Islington Housing Strategy 2014-2019. This includes the objective of ensuring that there are decent, suitable and affordable homes for all.
- 2.4. Islington has an 'hourglass shaped' labour market, with a high proportion of lower and higher income earners and a lower proportion of middle income earners⁸. A fifth of Islington's population live in an income deprived household. Child poverty levels are the third highest in the country and poverty levels amongst older people are fifth highest in the country⁹.
- 2.5. High density urbanisation together with significant projected population and employment growth will put pressure on infrastructure over the plan period. This has the potential to exacerbate a number of environmental challenges in Islington such as increased surface water flood risk, higher temperatures, biodiversity deficiency and air and noise pollution, along with associated health impacts.

¹Islington has consistently exceeded its annualised overall housing targets set by the London Plan. Net completions figures for 2013/14, indicate a total of 1,537 units completed against a target of 1,170 units, or around 130% of target net (excluding vacant units returned to use). Looking ahead to the five year supply, from 2015/16 to 2019/20, the housing trajectory anticipates that the borough will meet 125% of the housing targets set out in the London Plan.

²Islington Housing Trajectory 2014 – Interim Report (July 2015) for past completion and anticipated delivery rates

³Land Registry House Price Index (September 2015 as published 28 October 2015)

⁴Halifax House Price Per Square Metre Survey (June 2015)

⁵Land Registry Linked Open Data House Price Index (<http://landregistry.data.gov.uk/app/hpi/>)

⁶Cripplegate Foundation, Distant Neighbours: Poverty and Inequality in Islington (2013)

⁷At any one time between 8,500 and 9000 households are typically on the Islington housing register and are eligible for housing allocations due to factors such as homelessness and overcrowding.

⁸The Islington Employment Commission, Working Better: The Final Report of the Islington Employment Commission (2014)

⁹Indices of Multiple Deprivation (2015)

Policy Context

- 2.6. The purpose of the planning system is to secure sustainable development. This is defined in the **National Planning Policy Framework (NPPF)** as growth that ensures that “better lives for ourselves don’t mean worse lives for future generations.” The NPPF incorporates all three dimensions of sustainable development: economic, social and environmental and sets out a presumption in favour of sustainable development.
- 2.7. The NPPF further states that planning should contribute to building a strong, responsive and competitive economy including by coordinating development requirements such as the provision of infrastructure and by seeking to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing¹⁰.
- 2.8. Planning should also support strong, vibrant and healthy communities, by providing accessible local services (and facilities) that reflect the community’s needs and support its health, social and cultural well-being¹¹.
- 2.9. In order to deliver an adequate range of high quality homes and create sustainable, mixed communities, the NPPF requires local authorities to plan for a mix of housing based on current and future demographic trends, including affordable housing.
- 2.10. Consistent with the statutory framework for planning, the NPPF stresses the importance of having a planning system that is genuinely plan led¹². Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise¹³.
- 2.11. The Islington Core Strategy (2011), Development Management Policies (2013), Finsbury Local Plan (2013) and Site Allocations (2013) form the adopted Islington Local Plan and together with the London Plan comprise the Statutory Development Plan for Islington. This sets out the level of planned development as well as particular areas of identified need such as infrastructure provision, employment space and housing delivery (including affordable housing), and environmental standards. The Development Plan provides the basis of decision taking in the borough and along with the council’s Community Infrastructure Levy (CIL) Charging Schedule, will help to ensure that the development of the borough is sustainable.
- 2.12. In the light of the borough and policy context as set out above, it is particularly crucial that development is delivered in accordance with the Development Plan to ensure that this is sustainable.

Plan Making and Delivery

- 2.13. The NPPF requires that the costs of planning policy requirements should allow for competitive returns to a willing land owner and willing developer to enable development to be deliverable¹⁴. Paragraph 174 further states that Local Planning Authorities should assess the likely cumulative impacts of policies and standards on development, which should not put implementation of the plan at serious risk, and should facilitate development throughout the economic cycle. These paragraphs should be read within the context of the NPPF as a whole and the overarching principle of ensuring the delivery of sustainable development through the plan-led system.

¹⁰ National Planning Policy Framework (NPPF) page 2 and Section 1

¹¹ NPPF page 2 and Sections 6 and 8

¹² NPPF Paragraph 17

¹³ NPPF Paragraph 196

¹⁴ NPPF Paragraph 173

Development Viability SPD

- 2.14. The council has fully considered the cumulative impact of its policy requirements on development viability as part of the Examination of its Local Plan and CIL Charging Schedule¹⁵. These were found to be sound by independent examiners following a process of Public Examination which followed extensive public consultation.
- 2.15. Whilst each proposal should be assessed having regard to its own distinct characteristics and circumstances, the high levels of development, buoyant property market and significant development pipeline, as referred to above, demonstrate the general viability of development in Islington. This gives a strong indication that requirements within the Development Plan have not threatened the viability of the sites and the scale of development identified within the Plan to date.

Decision Taking

- 2.16. Development viability is also relevant to the process of determining planning applications. **Planning Practice Guidance (PPG)** states that viability is an important consideration when local authorities negotiate planning obligations and affordable housing. The Guidance acknowledges that there is no single approach for assessing viability and that there is a range of methodologies available. It advocates for greater understanding of viability through evidence based judgement (informed by relevant available facts), collaboration (with transparency of evidence wherever possible) and consistency.
- 2.17. This is also expressed within the Development Plan. **London Plan** Policy 3.12 states that the maximum reasonable amount of affordable housing should be sought when negotiating on individual private residential and mixed use schemes. A number of factors should be considered including: current and future requirements identified and targets adopted for affordable housing, development viability, the need to encourage rather than restrain development, the resources of registered providers, and the implications of phased development as well as other scheme requirements when entering into negotiations.
- 2.18. The London Plan requires that developers provide development appraisals and appropriate evidence supporting assumptions to demonstrate that each scheme provides the maximum reasonable amount of affordable housing output. Boroughs should evaluate these appraisals rigorously, drawing on the GLA development control toolkit and other independent assessments which take account of the individual circumstances of a site, the availability of public subsidy and other scheme requirements¹⁶. The Mayor seeks to maximise affordable housing output and expects developers to make the most effective use of available affordable housing resources to achieve this¹⁷. Further details are provided in the Mayor's Housing Supplementary Planning Guidance (SPG)¹⁸.
- 2.19. **Islington Core Strategy** Policy CS12 requires that individual housing and mixed use developments should provide the maximum reasonable level of affordable housing that can be achieved, taking into account the borough wide target that 50% of new housing should be affordable. Development viability is a factor when determining this.
- 2.20. Viability is also relevant when establishing the extent and timing of other requirements. Policy DM9.2 in the **Islington Development Management Policies** establishes that the council will use

¹⁵ See Islington Local Plan Evidence Base:

http://www.islington.gov.uk/services/planning/planningpol/local_dev_frame/pol_evidence/Pages/default.aspx and CIL Evidence Base: http://www.islington.gov.uk/services/planning/planningpol/community_infrastructure_levy/Pages/CIL-Charging-Schedule---Submission-Document-List.aspx

¹⁶ London Plan, The spatial development strategy for London consolidated with alteration since 2011 (March 2015), Paragraph 3.71

¹⁷ London Plan Paragraph 3.72

¹⁸ <https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/supplementary-planning-guidance>

planning obligations to deliver sustainable development. Paragraph 9.12 states that in cases where applicants submit that financial viability issues do not allow for the full range of planning obligations to be met, applicants shall provide a financial appraisal and pay for an independent review of the appraisal by a suitably qualified expert appointed by the council. Only where financial viability is a demonstrable issue and where developments have over-riding planning benefits should consideration be given to a grant of planning permission.

Purpose of the Supplementary Planning Document (SPD)

- 2.21. The purpose of the SPD is to provide greater clarity to applicants by providing guidance on the application of planning policy. This applies to all classes of development where viability considerations are relevant. The SPD should thus help to minimise delays in determining any applications where viability is a factor. The guidance is intended primarily to inform applicants for major developments¹⁹. However, many of the principles will also be applicable when considering the viability of minor developments, particularly Sections 3, 4, 5 and 6.
- 2.22. The guidance in this SPD should also be applied in the event that development viability is a consideration in respect of any other Development Plan Policy, in addition to those policies referred to above. This could include Development Management Policy DM5.1A on New Business Floorspace, Finsbury Local Plan Policy BC8A on Achieving a Balanced Mix of Uses or Core Strategy Policy CS10A on Sustainable Design.
- 2.23. Despite viability becoming a central part of the planning process, there has been relatively wide scope and discretion for how viability matters are dealt with. The council's experience is that in some instances this has led to the use of inappropriate approaches to assessing viability and this has come into conflict with the principle of sustainable development and the plan-led system. The council's experience is mirrored by a number of other organisations that have expressed concerns with the operation of viability and consideration of the public interest within the planning system²⁰, which have also been acknowledged by the Mayor of London²¹.
- 2.24. As the Local Planning Authority, it is the council's role to determine the most appropriate approach to be taken in each viability case. The SPD sets out guidance on the approaches and methodologies that are considered to be most appropriate in the context of delivery of the Development Plan. On adoption, this will supersede viability guidance in the Islington Planning Obligations SPD (2013). The Planning Obligations SPD will also be updated in due course to reflect these changes.
- 2.25. The council receives a large number of viability assessments which are submitted in support of arguments that applications cannot meet policy requirements. PPG confirms the principle set out in the NPPF that where safeguards are necessary to make a particular development acceptable in

¹⁹ Major development as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 includes development where the number of dwellinghouses to be provided is 10 or more and the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more.

²⁰ See for example:

- Joseph Rowntree Foundation: Rethinking planning obligations: Balancing housing numbers and affordability (2015);
- London Assembly, Planning Committee Meeting Minutes, 17 September 2015;
- Association for Public Sector Excellence & Town and Country Planning Association (TCPA): Housing the Nation: Ensuring councils can deliver more and better homes (2015);
- Campaign to Protect Rural England (CPRE): Getting Houses Built, How to Accelerate the Delivery of New Housing (2015);
- Communities and Local Government Select Committee: Fourth Report, Operation of the National Planning Policy Framework (December 2014) Paragraphs 64-6;
- The Lyons Housing Review, Mobilising across the nation to build the homes our children need (2014) pages 75-76;
- Joint statement issued by TCPA, Royal Institute of British Architecture (RIBA), BRE, CPRE and Friends of the Earth (2013): Communities risk losing essential affordable housing unless Government sets fair planning guidance

²¹ Mayor of London's Question Time, 15 July 2015

planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development²².

- 2.26. It is particularly important that the inputs and assumptions applied in a development appraisal are appropriate and fully justified due to the direct impact on the outcome of the appraisal and determination of the application, as well as the potential implications of failing to meet required standards. In light of these issues, another purpose of the SPD is to provide clarity on the nature and extent of information required by the council to enable it to robustly scrutinise viability assessments.
- 2.27. The regulatory framework for planning has changed significantly in recent years. The Housing and Planning Bill (published in October 2015) proposes further changes. The guidance in this SPD continues to be relevant to the decision making process within the current legal and policy framework. The council will monitor and consider further regulatory changes as they come into effect.
- 2.28. The SPD provides guidance on the following aspects of the viability assessment process: Procedure (Section 3); Deliverability and Transparency (Section 4); Methodology (Section 5); Information Requirements (Section 6); Viability Review Mechanisms (Section 7) and Monitoring and Review (Section 8). Key requirements are summarised at the end of each section and at Appendix A. These should be read in conjunction with the full guidance set out in each Section. Appendix B provides a summary list of information and evidence to be submitted as part of a viability assessment. Appendix C sets out the council's approach to affordable rented housing within the context of the Mayor's Housing Strategy and the Council's Housing Strategy 2014-2019.

²² Planning Practice Guidance (PPG), Viability, Viability and decision taking, Paragraph 019

3. Procedure

Pre - Application Stage

- 3.1. Pre-application discussions offer the opportunity for the council to clarify the planning policies and material considerations that will be relevant to determining an application, as well as enabling issues to be resolved through a collaborative process²³.
- 3.2. The pre-application stage also offers the opportunity to scope out the viability exercise, and to discuss the appropriate methodology and inputs to be applied based on the specific development proposal. Providing clarity and agreeing key aspects of an appraisal at this stage is important to ensure that the application process progresses smoothly and viability-related issues are addressed early on.
- 3.3. The level of viability evidence required at the pre-application stage will depend on the scale and nature of the proposed development. However, for all major applications where it is considered that policy requirements will not be met in full due to viability considerations, a draft appraisal should be provided at pre-application stage²⁴. This will enable the council to provide early feedback to assist with preparation of the planning application, which will increase the likelihood of this being successful.
- 3.4. In line with the Mayor of London's Housing Supplementary Planning Guidance (SPG) this should include details of discussions with Registered Providers of affordable housing which should inform the value of affordable housing assumed within an appraisal (see Section 6).
- 3.5. In line with the requirements of the Islington Planning Obligations SPD, draft Section 106 Heads of Terms and CIL should also be considered during pre-application discussions. The Council aims to agree planning obligations at an early stage, which will ensure there is sufficient time for drafting the Section 106 agreement within statutory timescales.

Viability, Affordable Housing and Scheme Design

- 3.6. Proposals should be designed in a way that accords with Development Plan policies, including those relating to land use, densities, building heights, environmental standards and the requirement to provide the maximum reasonable level of affordable housing taking account of the overall borough wide strategic target of 50%, at a policy compliant tenure split.
- 3.7. In terms of residential schemes, Islington Core Strategy Policy CS12 includes the requirement that affordable housing units are designed to a high quality and are fully integrated with the overall scheme. The Development Management Policies encourage housing design which is 'tenure blind' so that affordable and private homes are indistinguishable from one another in terms of design quality, appearance and location on a site.
- 3.8. In view of this, the level of affordable housing should not be artificially constrained by a design approach which is based on the separation of market and affordable units when the viability process indicates that additional affordable housing would otherwise be achievable. Such an approach would enable affordable housing to be 'designed out' of a proposal regardless of the outcome of assessing viability. This is contrary to Policy CS12 which requires that the maximum reasonable level of affordable housing is provided taking account of the borough's strategic target,

²³ PPG, Before Submitting an Application, Paragraph 001;

²⁴ See footnote 19

and that affordable housing is integrated within the overall scheme. This also highlights the importance of engaging with the council on viability issues at an early stage, to ensure that issues such as this can be prevented.

- 3.9. For major applications, the council will agree timescales for pre-application and application stages within Planning Performance Agreements (PPAs).

Pre-application Stage - Key Requirements

- An applicant should provide details relating to proposed methodology, inputs and a draft viability appraisal at pre-application stage where viability is likely to be a consideration in determining the application.
- An applicant should discuss Section 106 Heads of terms at pre-application stage so that this is addressed at an early stage and to enable financial contributions to be included in the assessment.
- Proposals should be designed in a form that accords with Development Plan policies, including the requirement to provide the maximum reasonable level of affordable housing and integrate this within the overall scheme, and that reflects the outcome of the viability assessment process.

Validation/ Application Stage

- 3.10. The council requires that a viability assessment is submitted for all major residential applications at validation stage. A viability assessment is also required for any other application where viability is a factor in determining the application.
- 3.11. It is important that the planning application process can progress efficiently in order to meet statutory timeframes for determination. Viability assessments should be submitted alongside other application documents and should include all relevant information required by the council, as set out in this SPD or as otherwise requested by the council, to avoid delays in determining the application (see in particular Sections 4, 5 and 6, and summaries at Appendices A and B). If details set out in this SPD or requested by the council are not provided by the applicant, this is likely to undermine the validity of the assessment and limit the weight that can be given to it in the decision-taking process.
- 3.12. If material changes are made to an application after submission that could affect scheme viability, a revised appraisal will be required. Again, this may delay determination as these matters are likely to be fundamental to consideration of the application. This highlights the importance of engaging with the council through pre-application discussions. Where there is a delay, the council will expect to agree a new timetable for determination and revise any PPA accordingly.
- 3.13. Where issues have not been resolved and it has not been possible to determine the application within the timescale originally envisaged, it may be necessary to submit an updated viability assessment to reflect current market conditions.
- 3.14. A list of proposed Section 106 Heads of Terms²⁵ and a CIL Additional Information Form²⁶ are also required for validation.

²⁵ See Islington Planning Obligations SPD (2013) for further information: www.islington.gov.uk/s106

²⁶ Further details on Community Infrastructure Levy are set out on the council's website:

http://www.islington.gov.uk/services/planning/planningpol/community_infrastructure_levy/Pages/operation-cil.aspx

Validation / Application Stage - Key Requirements

- A viability appraisal should be submitted at validation stage for all major residential applications or for any other application where viability is relied upon as a factor in determining the application.
- Viability assessments should include all relevant information required by the council (see in particular Sections 4, 5 and 6, and summaries at Appendices A and B) to avoid delays in determining the application.
- A revised viability appraisal should be submitted where any material changes are made following validation. An appraisal should also be updated where necessary to ensure that the assessment reflects current market conditions at the point of determination.

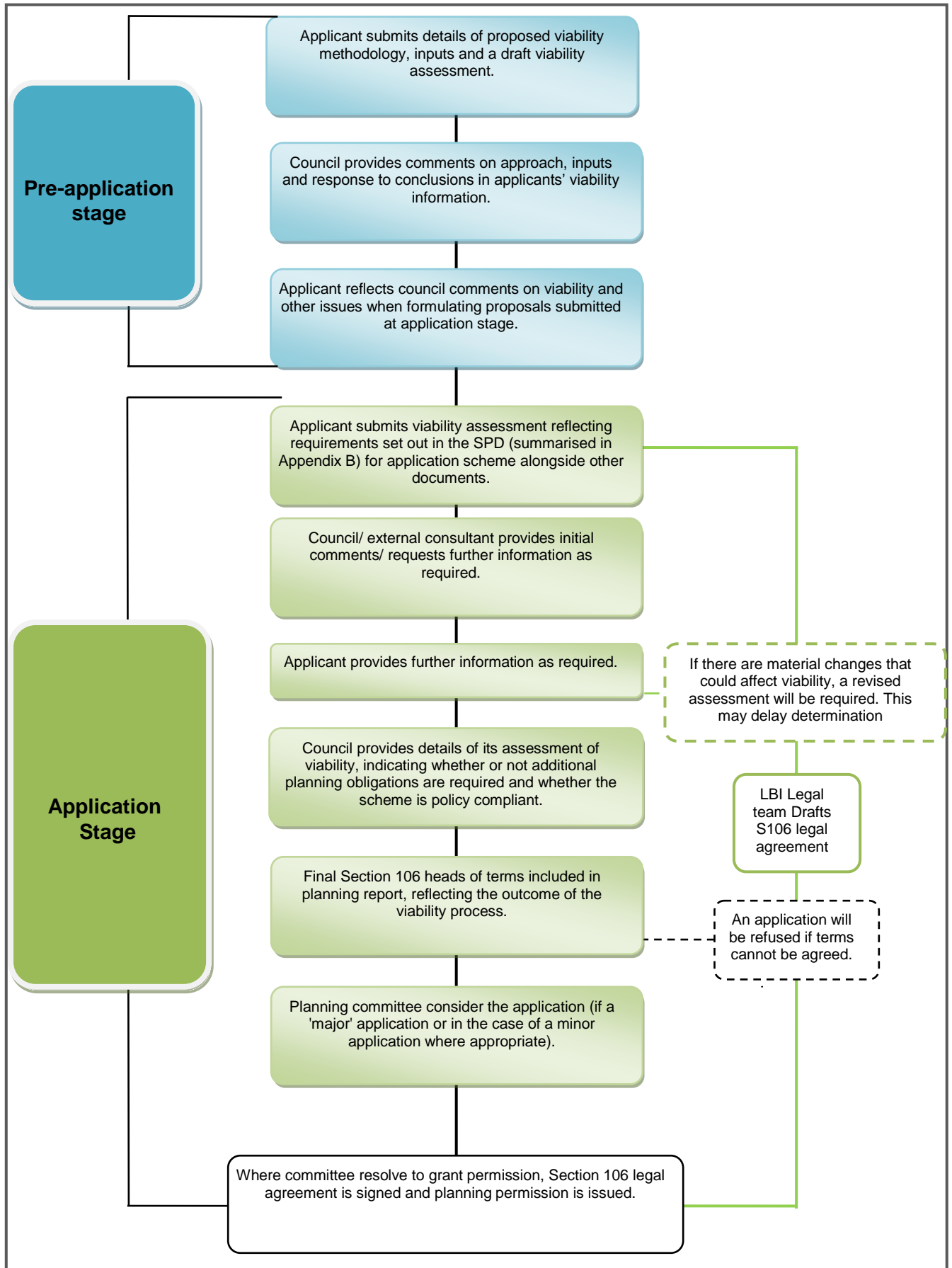
Assessment of Viability Appraisal

- 3.15. Viability evidence will be assessed by the council, who will normally take advice from an external consultant. The cost of the assessment and any other associated costs, will be paid for in advance by the applicant. In some instances it may be necessary to commission additional specialist services to enable the council to properly assess the scheme, depending on the nature of the proposals.
- 3.16. The council will appoint suitably qualified consultants, whilst ensuring that there are no conflicts of interest and that they are able to undertake the work within required timescales.
- 3.17. When assessing an applicant's viability evidence, the council or its consultants may request clarification or additional information. Correspondence should always be sent directly to the council, with any information sent to the council's consultants also copied to the council.
- 3.18. As part of the assessment, the council will consider whether the approach adopted and inputs used are appropriate and adequately justified by evidence. It will determine whether the level of planning obligations and other Development Plan requirements proposed by the applicant are the maximum that can viably be supported or whether further obligations and/ or a greater level of policy compliance could be achieved.
- 3.19. Following completion of the assessment, the council will provide details to the applicant, indicating whether or not additional planning obligations are required and whether the scheme complies with Development Plan Policies. Section 106 heads of terms will be included in the council's Planning Report, reflecting the outcome of the viability process. An application will be refused permission if terms cannot be agreed.
- 3.20. Where a major application is recommended for approval, this will be considered by a council Planning Committee who will either resolve to grant permission, refuse consent, or defer this where insufficient information is available or key matters remain unresolved. Minor applications will be determined under delegated authority or by Planning Committee if appropriate. If the Planning Committee resolves to grant permission, the planning consent will be issued on completion of the Section 106 agreement.

Assessment of Viability Appraisal - Key Requirements

- The cost of the assessment and any associated costs, will be paid for in advance by the applicant.
- Correspondence relating to the assessment should always be directly sent or copied to the council.

Figure 1: Key aspects of the viability process at pre-application and application stages



4. Deliverability and Transparency

- 4.1. The role of viability assessments in the planning process is to support delivery. Paragraph 173 of the NPPF states that plans must be deliverable, and that “*pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking*”.
- 4.2. London Plan paragraph 3.71 requires that councils rigorously evaluate development appraisals submitted as part of the planning process. It is widely recognised that there is potential for significant variations in the outcome of viability assessments depending on the inputs assumed. It is therefore vital that viability assessments are formed of inputs that are supported by robust evidence. Further guidance relating to evidence, inputs and assumptions used in viability assessments is set out in Section 6.

Verification

- 4.3 It is important that viability information provided to the council is consistent with corresponding information that an applicant has themselves relied on to inform their own commercial decision making and information that is used as a basis for securing development finance. If a viability assessment submitted to the council is to be relied on as evidence in determining a planning application, the council will expect that this provides a true and fair reflection of the viability of the development.
- 4.4 To ensure that the information accords with paragraph 4.3 above, a statutory declaration will be sought from a director or person of similar standing of the applicant company, confirming that this is the case. Specifically, this should also verify that the costs and values applied in the viability assessment submitted to the council are consistent with current costs and values within (or used as a starting point for) viability assessments that the company is relying on for internal or financial purposes²⁷. A declaration will also be sought to confirm that the company undertaking the assessment has not been instructed on the basis of performance related pay or is incentivised in any other way according to the outcome the viability process and the level of planning obligations that the applicant is required to provide.
- 4.5 Members of the Royal Town Planning Institute (RTPI) and the Royal Institution of Chartered Surveyors (RICS) are also bound by a professional code of conduct. Accordingly, the council will expect members of these professional bodies who are involved in viability matters to adhere to these standards.²⁸

Deliverability

- 4.6. The council has received development appraisals which indicate that a development would generate a significant deficit with the level of planning obligations as proposed by the applicant, even at a level lower than required by policy. This raises questions regarding the commercial basis of the proposed scheme and the terms under which development finance is likely to be secured. This would also appear to be at odds with general market conditions and the high rates of development within the borough (where not explained by circumstances specific to the site).
- 4.7 An appraisal which shows a different level of planning obligations to be viable from that proposed by the applicant raises issues relating to the deliverability of a scheme and makes it difficult for the council to make an informed decision. It also poses the risk of a lower level of planning obligations

²⁷ If ‘outturn’ values and costs are applied within an assessment presented to the council, these should also be consistent with those relied on by the applicant (see Section 7 – Considering Changes in Value and Costs at Planning Application Stage).

²⁸ RTPI Code of Professional Conduct (2012) Paragraph 1(a); RICS Rules of Conduct for Members (2013) Paragraph 3.

being sought by the applicant at a later date (for example through a Section 106 BA application for a reduction in affordable housing) after planning consent has been secured.

- 4.8 An applicant should demonstrate how their proposed scheme is deliverable, taking into account their proposed level of planning obligations. The applicant must clearly demonstrate with reference to viability evidence that the proposed level of obligations is the maximum that can be provided and that the scheme is deliverable with this level of provision.
- 4.9 A statutory declaration by the applicant company and by finance providers may be required, which verifies that they consider the scheme as proposed to be deliverable, based on the information provided to the council.
- 4.10 Where the applicant does not intend to build out the scheme themselves, they may be expected to provide evidence from a developer (with experience of delivering schemes of a similar type and scale) that the scheme is capable of being delivered on the basis of the evidence presented in the viability assessment.

Deliverability and Verification - Key Requirements

- To verify the information provided as part of the planning process, a statutory declaration will be sought from the applicant company confirming that:
 - The assessment submitted to the council is a true and fair reflection of the viability of the proposed development; and that costs and values in this assessment are consistent with current costs and values within (or used as a starting point for) viability assessments that have been undertaken for internal or financial purposes.
 - The company undertaking the assessment has not been instructed on the basis of performance related pay or is incentivised in any other way according to the outcome of the viability process and the level of planning obligations that the applicant is required to provide.
- The applicant must clearly demonstrate with reference to viability evidence that the proposed level of obligations is the maximum that can be provided and that the scheme is deliverable with this level of provision.
- A statutory declaration by a director of the applicant company and by finance providers may be required, which verifies that they consider the scheme as proposed to be deliverable, based on the information provided to the council.

Transparency and Confidentiality

- 4.11 Information relevant to the plan-making and planning application process is publicly available. The benefits of transparency are set out in first recital to European Directive 2003/4, which the Environmental Information Regulations (2004) are intended to implement:

“Increased public access to environmental information and the dissemination of such information contribute to a greater awareness of environmental matters, a free exchange of views, more effective participation by the public in environmental decision making and, eventually, to a better environment.”

- 4.12 The NPPF also places a requirement on Local Planning Authorities to facilitate community involvement in planning decisions:

“Local planning authorities should create a shared vision with communities of the residential environment and facilities they wish to see. To support this, local planning authorities should aim to

involve all sections of the community in the development of Local Plans and in planning decisions
...²⁹.

- 4.13 It is common for applicants to seek to place confidentiality restrictions on viability information. This normally takes the form of requesting that the council does not disclose information to a third party and seeking an exemption from disclosure under the Environmental Information Regulations 2004 and the Freedom of Information Act 2000 on the basis that this would adversely affect the confidentiality of commercial information which protects a legitimate economic interest.
- 4.14 The issue of a lack of transparency within the viability assessment process has been raised in a number of recent reports, including the House of Commons DCLG Select Committee 2014 review of the Operation of the National Planning Policy Framework. The review identified that more needs to be done to prevent unsustainable development and to ensure that the social and environmental dimensions of sustainable development are given equal weight to economic factors. The Committee concluded that greater consistency and more transparency are needed to overcome issues with the viability process. PPG encourages transparency of evidence wherever possible³⁰.
- 4.15 Confidentiality and transparency have also been considered in a number of recent Information Commissioner's Office (ICO) and First Tier Tribunal decisions, following requests to release the information under the Environmental Information Regulations 2004 (EIR)³¹. The EIR set out a presumption in favour of disclosure. Tests for an exemption to disclosure relate to the extent to which this would produce an 'adverse effect' and an overriding test relating to how the public interest would best be served³². In these cases the ICO and First Tier Tribunal concluded either that there was insufficient evidence to show that disclosure would cause an adverse effect, such as harm to a commercial interest, or where harm would be caused, the public interest in disclosure outweighed non-disclosure³³.
- 4.16 In January 2015, the First Tier Tribunal ruled that in the case of the Greenwich Peninsula site all of the viability information was central to assessing the application and should be disclosed³⁴. In considering the facts of the case, the Tribunal identified a number of factors that would dilute any potential harm to developers from the disclosure of the viability information that was provided:
- Sales are dictated more by market conditions at the time an asset is released to the market than by the assumptions a developer may have incorporated into their viability assessment at the planning application stage. Disclosure of viability information including assumptions made around sales values is therefore unlikely to cause commercial harm to a developer as purchasers have their own idea of what the market worth of an asset is to them.
 - The potential harm caused to developers by competitors viewing their sale and cost assumptions is limited as competitors have their own knowledge of sales values and costs and are likely to consider their own assumptions to be more accurate.

²⁹ NPPF Paragraph 69

³⁰ PPG, Viability – A general overview; Paragraph 004

³¹ See for example: the Greenwich Peninsula; the Heygate Estate; Walthamstow Greyhound Stadium; Earl's Court redevelopment; Coroner's Court Building, Bristol; Hampton Court Station and the Jolly Boatman; and the Thorpe Arch Estate, Wetherby.

³² See publications by the Information Commissioner's Office: The Public Interest Test: Freedom of Information Act; How Exceptions and the Public Interest Test Work in the Environmental Information Regulations; Information in the Public Domain: Freedom of Information Act, Environmental Information Regulations.

³³ In the case of the Heygate Estate, the court determined that the 'live' viability model developed by the applicant that allows different scenarios to be run and tested, and sales and rental information between the developer and future commercial customers should not be made available. However, other information should be disclosed and there was a countervailing public interest in ensuring that social housing providers obtain a reasonable deal.

³⁴ First Tier Tribunal, Greenwich Peninsula case:

http://www.informationtribunal.gov.uk/DBFiles/Decision/i1478/Royal%20Borough%20of%20Greenwich%20EA.2014.0122%20%2830_01.15%29.pdf

- The value of viability information to a competitor also diminishes rapidly, as viability assessments are a snapshot in time. Whilst the value to competitors is limited, the benefit to the public of being able to view the assumptions that informed the affordable housing offer and the level of planning obligations secured is significant³⁵.

The Council's Approach

- 4.17 The council recognises the importance of public participation and the availability of viability information in the planning process. This enables members of the public to ascertain whether viability evidence is reasonable and robust, whilst helping to maintain confidence in the planning system and the accountability of those undertaking the assessments. This is particularly relevant in circumstances where it is argued that the council's affordable housing target or other policy requirements cannot be met due to financial viability.
- 4.18 The council is also mindful that viability information is often based on or similar to publically available data and / or standard assumptions. Even where this is not the case, it has rarely been demonstrated that disclosure would cause an 'adverse effect' which would outweigh the public benefit of disclosure.
- 4.19 For these reasons and those identified by the First Tier Tribunal the council considers that information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny. In submitting information, applicants should do so in the knowledge that this will be made publically available alongside other application documents.
- 4.20 The council will allow for exceptions to this in very limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. Given the significant benefits associated with the availability of information to the public as a part of the decision making process, and the other factors identified above, the council anticipates that there would be very few exceptions.
- 4.21 If an applicant wishes to make a case for an exceptional circumstance in relation to an element of their assessment, they should provide a full justification as to the extent to which disclosure of a specific piece of information would cause an 'adverse effect' and harm to the public interest that is not outweighed by the benefits of disclosure. The council will consider this carefully, with reference to the 'adverse effect' and overriding 'public interest' tests in the EIR, as well as the specific circumstances of the case.
- 4.22 If it is considered that an exceptional circumstance is likely to arise, this should be raised at an early stage within the pre-application process. In submitting information to the council, an applicant does so in the knowledge that the council may not accept the applicant's claims that information should not be disclosed to the public.
- 4.23 The council also has the right to provide information to external parties advising the council on viability matters where this is necessary to ensure due diligence in assessing an application, and that it properly fulfils its statutory function as Local Planning Authority. Regardless of any decision not to make specific elements of an appraisal publically available, information will be made available, on a confidential basis, to planning committee members or any other council member who has a legitimate interest in seeing it.

³⁵ The Tribunal also considered, but did not accept the argument that the developer would be reluctant to provide public authorities with anything above the bare minimum of viability information if it was to be made publically available.

- 4.24 Notwithstanding any such decision, the council may also need to release information to a third party where another body has a role in determining the application (e.g. the Mayor of London); where another body has a role in providing public subsidy; or where the application is subject to a planning appeal. Any decision not to disclose information will be subject to the council's obligations under the Freedom of Information Act and the Environmental Information Regulations.

Transparency & Confidentiality - Key Requirements

- The availability of information submitted as a part of the planning process is important to ensure public participation in the planning process, confidence in the planning system and the accountability of those undertaking the assessments.
- The council considers that information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny. In submitting information, applicants do so in the knowledge that this will be made publically available alongside other application documents.
- The council will allow for exceptions to this in limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. If an applicant considers that an exceptional circumstance is likely to arise, this should be raised at an early stage within the pre-application process.

5. Methodology

- 5.1. The 'Residual Land Value' valuation methodology is used to determine the 'residual' value that is available to pay a landowner once the costs of undertaking the development and a reasonable developer's profit are deducted from the gross development value (GDV) generated by the development. Any additional value associated with a development over and above the value of the site in its existing use or accepted policy compliant alternative use is dependent on the grant of planning permission, the basis of which is the Development Plan. Under this approach Development Plan requirements (which have already been subject to area-wide viability testing) are therefore included alongside other development costs, which are deducted from the GDV to determine the residual value that is available to pay for the land.
- 5.2. The council considers that the Residual Land Value methodology is the most appropriate to use in this context and is consistent with the longstanding principle that policy requirements associated with securing planning permission are development costs that influence the level of any uplift in land value derived from the grant of planning permission for a development or change of use on the land. Applied properly this approach is therefore appropriate for assessing viability as part of the planning process given that the purpose of the planning system is to achieve sustainable development, as determined by the relevant Statutory Development Plan³⁶.
- 5.3. In line with the GLA Development Appraisal Toolkit Guidance Notes, the council does not consider it appropriate to apply a fixed land value as an input within a development appraisal based on price paid for land or an aspirational sum sought by a landowner. In this case the developer's profit, rather than the land value, would become the output of the residual valuation. This has led to circumstances, where a high fixed land value has been assumed, which is inconsistent with the outcome of the viability assessment which shows an unviable scheme. Furthermore other changes to a scheme, such as a reduction in density (which would be expected to result in a lower residual value) may not be reflected in an appraisal where the site value has been fixed and is not the output of the appraisal.
- 5.4. This also raises a further concern regarding internal consistency. A market based land value which is likely to reflect assumptions regarding future value and cost growth assumptions should not reasonably be included as a fixed cost input in an assessment which is based on current day values and costs. Further guidance on these issues and the methodology for determining an appropriate 'benchmark land value' is set out in Section 6.

Methodology - Key Requirements

- The council considers that the Residual Land Value methodology is the most appropriate to use when undertaking a viability assessment for a planning application. In this approach, Development Plan requirements are included alongside other development costs, which are deducted from the Gross Development Value to determine the residual value that is available to pay for land.
- In line with the GLA Development Appraisal Toolkit Guidance, the council does not consider it appropriate within a development appraisal to apply a fixed land value as an input which is based on price paid for land or an aspirational sum sought by a landowner. Such an approach without appropriate reference to the landowners' existing interest prior to grant of consent, and without fully taking into account planning policy requirements, can undermine the delivery of Development Plan requirements and create inconsistencies between assumed site value and the outcome of the assessment.

³⁶ Given the sensitivity of residual valuations to changes in inputs appraisals should be evidenced, internally consistent, should be considered as a whole and outcomes may require sense checking. This is considered further in Section 6.

Viability Model

- 5.5. There are a range of standard models that are typically used for undertaking viability assessments, such as the GLA Development Appraisal Toolkit, the Homes and Communities Agency (HCA) model and the development software ARGUS Developer. The council considers that it may be appropriate to use each of these depending on the nature of the scheme, although it has a preference for ARGUS as this has a range of capabilities and is widely used by the industry.
- 5.6. Establishing a common basis upon which the applicant and the council can discuss viability is paramount. It is vital that the council is provided with a full working electronic version of the viability appraisal model which can be fully tested and interrogated, even where bespoke models are used. All assumptions, including phasing and cash flows should also be accessible and capable of variation to observe the impact on the model's outturn.
- 5.7. The council will not accept viability arguments where it is not given the ability to properly assess the validity of the appraisal that is relied on.
- 5.8. The council will generally not make the live working version of a viability model accessible to third parties, other than to those who have a specific role in advising the council on viability matters. These advisors will be required not to release the model to any third party. See Section 4 for further consideration of issues relating to confidentiality and transparency of viability information.

Viability Model – Key Requirements

- The council should be provided with a working electronic version of the viability appraisal model which can be fully tested and interrogated.

6. Information Requirements – Evidence, Inputs and Assumptions

- 6.1. Local authorities are required to ensure that both their plans and their planning decisions are based on robust evidence, which also applies to viability information submitted with planning applications. This helps not only to secure good planning outcomes, but also to ensure that there is consistency in the way planning applications are assessed, that the planning decision making process operates fairly and that this does not disadvantage other applicants.
- 6.2. All viability evidence must be robustly justified and appraisal assumptions should be benchmarked against publicly available data sources. Appraisals must also be balanced, coherent as a whole and internally consistent. For example, whilst individual inputs could theoretically be justifiable when seen in isolation, the consistent adoption of pessimistic figures across a range of fields, can result in an outcome that is biased³⁷. The relationship between specific inputs, and the relationship between inputs and the outcome of the assessment as a whole should therefore be considered.
- 6.3. Further details and guidance relating to the key evidence, inputs and assumptions within a viability assessment are set out below.

Evidence, Inputs and Assumptions - Key Requirement

- Viability assessments should comprise of the information and evidence set out in this Section 6 (and other relevant sections) of the SPD and as summarised at Appendix B.
- All viability evidence must be robustly justified and appraisal assumptions should be benchmarked against publicly available data sources.
- Appraisals must be balanced, coherent as a whole and internally consistent. The relationship between specific inputs and the outcome of the assessment as a whole should therefore be considered.

Scheme Details and Development Programme

- 6.4. Details of the proposed scheme should be provided including site area, residential unit numbers, densities, unit sizes, habitable rooms and the split between private and affordable tenures. Floorspace figures should also be provided for residential and non-residential uses in Gross Internal Area (GIA) and Net Saleable Area (NSA)/ Net Internal Area (NIA).
- 6.5. Information should be provided relating to the applicant company, the target market/ occupiers of the development and the proposed specification, which should be consistent with assumed costs and values.
- 6.6. Details of the assumed development programme and the timing of cost and income inputs should be provided, including land payments and residential sales rates, with reference to: project/ construction plans and contracts; and land/ development/ letting agreements (as relevant). The development programme should include information relating to pre-build, construction, marketing and sales/ lettings periods.

³⁷ Professor Patrick McAllister, Professor in Real Estate, University College London, London Assembly Planning Committee, 16 July 2015, Transcript of Item 5 – Housing Supplementary Planning Guidance

Scheme Details and Development Programme - Key Requirement

Details should be provided regarding:

- The proposed scheme (including site area, residential unit numbers, densities, unit sizes, habitable rooms, split between private and affordable tenures, and floor space figures for residential and non-residential in GIA and NSA/NIA).
- The target market / occupiers.
- The proposed specification (consistent with assumed costs and values).
- The timing of cost and income inputs (including residential sales rates with reference to project/ construction plans and contracts and land/ development/ letting agreements as relevant).
- The development programme (including information relating to pre-build, construction, marketing and sales/ lettings periods).

Development Value

- 6.7. Gross Development Value is determined by assessing the total value of a development based on the value of the individual uses within the development. This is derived from the sales values of any units to be sold and the rental value of any properties to be rented which are capitalised using a 'yield', to give an overall capital value (including ground rents). Development values adopted within viability assessments are typically determined based on current day figures at the time of determination. This is considered further in Section 7.
- 6.8. Assumptions relating to development values should be justified with reference to comparable properties, appropriate market evidence and where relevant, arrangements with future occupiers, including rents and lease arrangements. Information relating to other properties that is provided to justify assumed development values should be directly comparable to the site in question for it to be given appropriate weight, or should be adjusted to ensure appropriate comparison. Transactions or market data should be up to date (from at least within the last 6 months), within an appropriate distance from the site, and relate to new build properties. If, in exceptional circumstances, there is a lack of new build data it may be appropriate to provide information for existing properties, although a premium should be applied where this is the case.
- 6.9. Information relevant to comparable properties should be fully analysed to demonstrate how this has been interpreted and applied to the application scheme. Where an assessment refers to indices or other information sources generated by third parties, a full examination of the data and methodology used to inform the index would need to be provided for it to be considered acceptable.
- 6.10. The Land Registry has now made all sales transactions for residential properties available online. For further information see: <https://www.gov.uk/government/organisations/land-registry>.
- 6.11. Where market residential properties are valued on the basis that they will be rented, the council is likely to require the applicant to enter into a planning obligation that the property will not be sold within a certain timeframe. In such cases the ability to sell the property at the end of that timeframe should be taken into account when establishing a capital value for the property.

Development Values - Key Requirements

- Assumptions relating to development values should be justified with reference to up to date transactions and market evidence relating to comparable new build properties within a reasonable distance from the site, and, where relevant, arrangements with future occupiers.
- Information relevant to comparable properties should be fully analysed to demonstrate how this has been interpreted and applied to the application scheme.

Affordable Housing Values

- 6.12. The Mayor of London's Housing SPG states that development appraisals should be carried out in conjunction with a Registered Provider of social housing (RP). As referred to in Section 3, developers and RPs should engage with the planning and housing departments of the relevant borough at pre-application stage.
- 6.13. The value assumed for the affordable housing component of a development should reflect RP offers for purchasing the affordable housing based on assessments of rental and capital receipts from the affordable housing units, any proceeds reinvested from staircasing receipts³⁸, Right to Acquire (RTA) or external subsidies, including GLA grant funding and internal RP subsidy³⁹.
- 6.14. The London Plan states that the Mayor seeks to maximise affordable housing output and expects developers to make the most effective use of available affordable housing resources to achieve this⁴⁰. If affordable housing values do not reflect the amounts paid by RPs, there is a risk that this will be undervalued resulting in less affordable housing than warranted by the resources provided by the RP.
- 6.15. The timing of payments for affordable housing should also be reflected in an appraisal. An RP may for example pay circa 30% of the agreed total price at implementation with further funding provided in instalments throughout the development programme.
- 6.16. If an RP offer has not been accepted at the point of the application, evidence should be provided regarding offers received and the marketing process⁴¹. If a developer is having difficulty securing an offer the council should be notified and can facilitate discussions with reference to its preferred list of RP partners. Where evidence of RP offers is not provided, the council will apply affordable housing values based on typical RP offer levels.
- 6.17. The starting point for discussion on developments is that there should be no assumption that direct public grant will be available for the provision of affordable housing, unless the proposals are supported by a confirmed delivery agreement with an RP with a confirmed grant allocation. Details of any subsidy or grant that may be available should be provided to enable the borough to ensure that this results in a better outcome in terms of overall affordable housing output, tenure mix and/or bedroom size than a development without public investment.
- 6.18. The council will consider the affordability of development proposals on a scheme by scheme basis, but in general will not support delivery of new rented affordable homes that include properties

³⁸ 'Staircasing' is the term used for the purchasing of additional shares/percentages in a shared ownership property. Occupiers have the ability to purchase all shares in the property and thus own 100% of the property ('staircasing out').

³⁹ RICS Practice Standards: Valuation of Land for Affordable Housing, 1st Edition, Guidance Note (2010)

⁴⁰ London Plan Paragraph 3.72

⁴¹ For properties generating rental income, estimates of rent levels should be provided, together with assumptions regarding estimated capitalisation period, deductions and discount rate.

charging rent levels that do not accord with the Council's Housing Strategy 2014-2019. Further details on the council's approach to affordable rented housing are set out in Appendix C.

- 6.19. Applicants should demonstrate and commit to ensuring that intermediate housing will be affordable for households with a range of incomes below the upper limit identified by the Mayor of London. For dwellings to be considered affordable, annual housing costs, including mortgage (assuming reasonable interest rates and deposit requirements), rent and service charges, should be no greater than 40% of net household income (net income to be assumed to be 70% of gross income)⁴².
- 6.20. RPs typically include value attributable to staircasing (as well as internal subsidy) when making offers to purchase shared ownership units. A typical assumption is that on average 70% of equity would be purchased. Where shared ownership units are proposed, the unrestricted market value of the property should be provided and staircasing should be taken into account when determining its value.

Affordable Housing Values - Key Requirements

- Development appraisals should be carried out in conjunction with a Registered Provider of social housing.
- Affordable housing values assumed within a viability assessment should reflect the offer/s made by Registered Providers for purchasing the affordable housing element of the development. Evidence of calculations underpinning affordable housing values, including details of rental and capital receipts (including staircasing), discussions with RPs and subsidies should be provided.

Build Costs

- 6.21. Development costs adopted within viability assessments are typically determined based on current day figures⁴³ at the point of the planning permission. This is considered further in Section 7 (Considering Changes in Values and Costs at Planning Application Stage).
- 6.22. The RICS Build Costs Information Service (BCIS) is a publically available source of cost information which can be used in viability assessments. The selection of BCIS values must correctly reflect the specific nature, location and size of proposal, and be justified to show that an appropriate and reasoned approach has been taken in estimating the costs. In such instances where costs are agreed by the council, this would be an acceptable basis of cost inputs as part of a review mechanism, linked to the Tender Price Index (TPI).
- 6.23. For larger schemes, it is likely to be more appropriate to rely on a specific assessment of build costs. In these circumstances, costs should be fully justified based on a detailed specification of the proposed development and the intended construction approach. The information should be provided on an elemental basis with a full breakdown of costs into component parts. This should be benchmarked against commercial sources of information such as BCIS or Spon's price books. Costs should also be distinguished for different parts of the scheme such as market and affordable housing.

⁴² See GLA (2015), London Plan Annual Monitoring Report 11 (2013-14)
<https://www.london.gov.uk/sites/default/files/Annual%20Monitoring%20Report%202011.pdf>

⁴³ See PPG paragraph 017

Development Viability SPD

- 6.24. Where a specific assessment of build costs is relied on, rather than standardised costs from a recognised source, or where any abnormal costs are applied, build costs will be reviewed on an open book basis as a part of a viability review (see Section 7).
- 6.25. The council will expect a clear correlation to be evident between a development's specification, assumed build costs and development values. Build costs and values should also be formulated on a consistent basis. Where current day values are adopted, build costs should not incorporate cost inflation. Professional and marketing fees adopted at the higher end of typical ranges would be expected to be associated with higher values.
- 6.26. It is important that any site-specific or abnormal costs are disaggregated and supported by robust evidence. Associated works must be directly related to the site and development as listed in the planning application (e.g. additional costs attached to remediation, protection of heritage assets on site etc) and required in order to enable the development to proceed. The council will have regard to the nature of any abnormal costs that will apply and also the impact that this has on land value. It should not be assumed that abnormal costs would necessarily be borne exclusively at the expense of compliance with the Development Plan, as a site involving abnormal development costs is likely to attract a lower land value than could be achieved on a site where this was not the case.

Build Costs - Key Requirements

- The RICS Build Costs Information Service (BCIS) is a publically available source of cost information that can be used in viability assessments. In such instances and where costs are agreed by the council, this would be an acceptable basis of cost inputs as a part of a review mechanism, linked to the Tender Price Index (TPI).
- For larger schemes, it is likely to be more appropriate to rely on a specific assessment of build costs. In these circumstances, costs should be fully justified based on a detailed specification of the proposed development and the intended construction approach.
- Where a specific assessment of build costs is relied on, rather than standardised costs from a recognised source, or where any abnormal costs are applied, build costs will be reviewed on an open book basis as a part of a viability review. Costs should be provided for different components of the scheme including market and affordable housing.
- The council will expect a clear correlation to be evident between a development's specification, assumed build costs and development values.

Developer Profit

- 6.27. Developers must receive a competitive return for a scheme to proceed and also a level of profit that is sufficient for finance to be secured. The appropriate level of developer profit will vary from scheme to scheme. This is determined by a range of factors including property market conditions, individual characteristics of the scheme, comparable schemes and the development's risk profile. The lower the scheme's risk profile, the lower the level of required profit and vice versa.
- 6.28. Assumptions made must be balanced and internally consistent. In line with this, it should be made clear how the profit level has been adjusted taking into account the other assumed inputs within an appraisal. For example, where a high build cost contingency or other costs at the upper end of typical parameters are adopted as means of mitigating risk, this would equally be expected to influence the assumed profit target.

Development Viability SPD

- 6.29. Following the downturn of 2008/9, required profit levels increased notably reflecting greater risk and constraints on the availability of development finance. During that time, for market residential properties, much higher levels of profit were applied – typically 20% on Gross Development Value (GDV).
- 6.30. A major upturn in the London residential market has since led to rising values and significant levels of housing delivery in Islington. Inner London residential values have long since outstripped the previous 2007 peak. High demand for residential properties means that it is common for units to be sold ‘off-plan’, which also has the effect of reducing risk.
- 6.31. Increased demand for commercial floorspace and low vacancy rates, together with the concentration of technology businesses in the Old Street/ City Road/ Kings Cross areas and other factors, such as the forthcoming Crossrail Station at Farringdon, have also placed upward pressure on values and rents. This has increased the prospect of ‘pre-let’ arrangements with future tenants or forward sales as a means of reducing risk.
- 6.32. These improved conditions, together with the greater availability of development finance, have reduced risk and with it decreased typical profit levels required to ensure delivery compared with those seen following the financial crisis. In view of this it is considered that current profit levels for private residential / commercial components of a scheme are likely to fall within a range of 15-20% on Gross Development Costs (GDC), appropriate to current market conditions, depending on the circumstances of the proposal.
- 6.33. Profit requirements for affordable housing are much lower than those for market sale units given the lower levels of risk associated with securing occupation of affordable units compared with the sale of market units⁴⁴.
- 6.34. In accordance with the PPG the council will avoid a rigid approach to profit levels. The council will consider the individual characteristics of each scheme when determining an appropriate profit level and will require supporting evidence from applicants and lenders to justify why a particular return is appropriate, having regard to site specific circumstances, market conditions and the scheme’s risk profile.

Calculating Developer’s Profit

- 6.35. The most common approach for calculating developer’s profit in viability assessments submitted as a part of the planning process is either as a factor of Gross Development Cost (GDC) or Gross Development Value (GDV). In this case the unit of measurement is monetary so that a development proposal’s viability surplus or deficit can be easily quantified. Also, it is a comparatively stable measure in that a relatively small change in a scheme’s development programme is unlikely to significantly change the developer profit. This approach, which lacks the sophistication of ‘time based models’⁴⁵, has traditionally been favoured by the development industry. This may in part be due to inherent uncertainties when assessing development viability, which more complex modelling would not necessarily overcome.
- 6.36. An alternative approach that has been applied on some longer term and phased developments is the use of Internal Rate of Return (IRR). This is a metric for measuring scheme viability which is typically used to provide a time weighted measure of an investment’s return to help determine whether to commit investment capital.

⁴⁴ For instance, the Homes and Communities Agency (HCA) applies a default profit of 5% on costs for affordable housing in its Development Appraisal Tool (DAT). The GLA Development Appraisal Viability Toolkit applies a default profit of 6%.

⁴⁵ See for example RICS (Professor Neil Crosby, Professor Peter Wyatt) Financial Viability Appraisal in Planning Decisions: Theory and Practice (April 2015)

Development Viability SPD

- 6.37. IRR is a different measure of profit from an assessment based on profit as a percentage of GDV or GDC. The two should not be treated interchangeably although both approaches are sometimes undertaken. The IRR approach is driven by scheme cash flows and is highly sensitive to the timing of costs and revenues. Small changes to the development programme and timing of scheme costs and revenues, which may be uncertain at planning stage, can have a large impact on IRR. As such, depending on the quality of information available, the use of an IRR approach when determining development viability as part of the planning process has the potential to be more unstable.
- 6.38. In some viability appraisals that the council has reviewed, it has been found that development costs have been assumed to occur at an unrealistically early stage in the programme while income has been received later than would reasonably be expected. This has led to the result that when the IRR has been calculated it is shown to be disproportionately low, as values have been artificially postponed and costs front loaded, maximising the negative impact on IRR.
- 6.39. The council has also dealt with schemes where a target IRR has been adopted that it considers has not been adequately justified in view of market conditions and the scale and risk profile of the development.
- 6.40. Where a development programme and the timing of costs and income are uncertain or likely to change, this approach is likely to be less reliable. If an applicant considers that the IRR provides useful information for assessing development viability, alongside profits on costs/values it is particularly important that a full justification is provided for the assumed development programme and the timing of cost and income inputs.
- 6.41. As the decision making authority, the council has no means of control relating to timing of the development programme which could have a significant bearing on the outcome of an IRR based approach. As such, the council will only rely on IRR as a measure of profit if it is satisfied that the development programme, timing of cost and value inputs and target IRR have been fully justified and are reasonable. In these cases, the council will also consider profit as a factor of GDC/ GDV alongside IRR.
- 6.42. Taking into account the arguments for and against different measurements of profit in viability appraisals, the council considers that this approach best balances the need for reliability, transparency and accuracy and is most appropriate to be used as part of the statutory decision making process.

Developer Profit - Key Requirements

- The council will require supporting evidence from applicants to justify proposed rates of profit. This should take into account the individual characteristics of the scheme, including property market conditions and a development's risk profile, and profits achieved on comparable schemes.
- The council will only rely on IRR as a measure of profit if it is satisfied that the development programme, timing of cost and value inputs and target IRR have been fully justified. In these cases, the council will also consider profit as a factor of GDC/ GDV.

Benchmark Land Value

- 6.43. The process for establishing an appropriate benchmark land value for a viability assessment is one of the most important issues within a viability assessment because this indicates the threshold for determining whether a scheme is viable or not.

Development Viability SPD

- 6.44. A development is deemed to be viable if the 'residual land value' is equal to or higher than the benchmark land value as this is the level at which it is considered that the landowner has received a 'competitive return' and will release the land for development.

Reflecting Policy Requirements in Land Value

- 6.45. Planning Practice Guidance states that:

*"In all cases, land or site value should: reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge ..."*⁴⁶.

- 6.46. This is a key requirement because if it is assumed that land value will increase due to the grant of permission but this does not adequately reflect policy requirements, the adopted site value is likely to be inflated. If this inflated site value is included as a benchmark or a fixed cost in an assessment, this will artificially reduce viability and undermine the delivery of sustainable development and those policies it failed to reflect. It is therefore crucial to the purposes of the planning system that land value mirrors or replicates all relevant policy requirements, including borough affordable housing targets and CIL charges. This applies in all scenarios including those involving site assembly and the disposal and redevelopment of public sector land and buildings. The implications are considered further below.

Competitive Returns

- 6.47. The NPPF requires that competitive returns should be secured for a willing landowner and developer⁴⁷. PPG confirms that current (or existing) use value provides an appropriate basis for comparison with a residual land value to determine whether this incentivises a land owner to release a site and achieves a competitive return⁴⁸.

Existing Use Value Plus Premium

- 6.48. In line with this, 'Existing Use Value plus a premium' (EUV plus), is a commonly taken approach to determining the land value benchmark which is used to assess whether a residual land value provides a competitive return for the land owner. This benchmark is based on the Current or Existing Use Value of a site plus a landowner premium and follows the premise that a landowner could sell their site based on the value of the land in its current use without bringing the land forward for development. In most cases the income generating potential and value of current uses will be lost as a result of a development and so the landowner should receive at least the value of the land in its 'pre-permission' use when bringing forward land for development. A premium is added to this to provide the landowner with an additional incentive to release the site, having regard to site circumstances.
- 6.49. A key benefit of this approach is that it clearly identifies the uplift in value arising from the grant of planning permission because it enables comparison with the situation in which planning permission has not been secured.
- 6.50. The Mayor of London's Housing SPG⁴⁹ states that:

"On balance, the GLA has found that the 'Existing Use Value plus' based approach is generally more helpful for planning purposes, not least because of the way it can be used to address the

⁴⁶ PPG, Paragraph 023

⁴⁷ NPPF, paragraph 173

⁴⁸ PPG, Viability Paragraph 024

⁴⁹ Mayor of London Housing SPG (2012). The Mayor's Draft Housing SPG (2015) reiterates the Mayor's support for this approach.

need to ensure that development is sustainable in terms of National Planning Policy Framework and Local Plan requirements.”

- 6.51. The GLA Development Appraisal Toolkit Guidance Notes, Homes and Communities Agency Guidance ‘Responding to the Downturn’, and Local Housing Delivery Group ‘Viability Testing Local Plans: Advice for Planning Practitioners’ also advocate use of the Existing Use Value plus a premium approach or Alternative Use Value as the basis for determining the benchmark land value⁵⁰.
- 6.52. The council supports the view that the EUV plus approach is most conducive to achieving the goals of the planning system and considers that this should form the primary basis for determining the benchmark land value in most circumstances.

Defining and Assessing Existing Use Value

- 6.53. It is important that existing use value is fully justified with reference to comparable evidence that is specific to the current use and which excludes any ‘hope value’⁵¹ associated with proposed development on the site or potential alternative uses. The council will apply the following definition of Existing Use Value:

The value of the site in its existing use, assuming that it remains in that use and that there is no hope value to reflect development on the site for alternative uses.

- 6.54. Market transactions used to justify an existing use value must be genuinely comparable to the application site, and should relate to sites and buildings of a similar condition and quality, or otherwise be adjusted accordingly.

Assessing the Premium above EUV

- 6.55. Any premium applied should also be justified reflecting the individual circumstances of the site and owner. For example, for a site in a poor state of repair which may generate costs or not meet the current requirements of the landowner, a limited or nil premium would be expected. Conversely, a site that fully meets the operational needs of a profitable business which may require relocation may require a higher premium. Where an existing use and the value of this to the landowner is retained within a development, less of an incentive is likely to be required for the land to be made available for development, and a lower benchmark would be expected.
- 6.56. In addition to these site specific issues, a key factor in determining the benchmark land value (and the level of premium over EUV) is the requirement set out in PPG that *in all cases* land or site value should *reflect* planning policies, planning obligations and CIL. This has the direct consequence of ruling out significantly inflated land values arising from the grant of permission, based on assumptions (built into purchase prices, transactions and/or land owner aspirations) which do not adequately reflect planning policy. These inflated values would, if adopted, make it almost inevitable that those policy requirements would be found to be unviable. Such an approach conflicts with the statutory planning framework and undermines the plan-led system as established in the Town and Country Planning Act 1990 (as amended) and the NPPF.

⁵⁰ See also the Lyons Housing Review (2014)

⁵¹ ‘Hope value’ is defined by RICS as “any element of open Market Value of a property in excess of the current use value, reflecting the prospect of some more valuable future use or development”. This prospective, more valuable use is usually a use for which planning permission has not yet been obtained.

- 6.57. Based on the imperative of delivering sustainable development, the fact that Development Plan policies are the starting point for determining applications and that an uplift in land value is dependent on the grant of planning consent, the premium, landowner's expectations and associated developer bids, should therefore be directly influenced by the extent of planning policies that apply. The application of key policies when determining land value is considered further below.

Comparable Market Based Evidence

- 6.58. PPG states that land or site value should be informed by comparable, market-based evidence wherever possible. This can be relevant when justifying the value of land in its *existing* use (assuming no hope value – see Existing Use Value above), the benchmark land value and/ or the residual land value (see below).
- 6.59. Comparable, market-based evidence can also be used as a cross reference to help inform the benchmark land value (and premium above existing use value) and to check whether this is likely to be sufficient to encourage a landowner to release a site.
- 6.60. There are however a number of potential difficulties in the transparent analysis of land market transactions (the value the land is being traded for) and in the use of transactions for the purposes of informing the benchmark in planning viability assessments. Key issues are as follows:
- The full facts of past transactions are rarely available and bids for land may have overestimated actual value.
 - There is potential for transactions to not fully reflect current planning policy requirements such as those relating to affordable housing and density, as required by PPG *in all cases*⁵².
 - Sites may have a differing 'inherent' value depending on the presence or absence and nature of income generating existing uses.
 - Land transactions are typically based on assumptions of growth in values (whereas viability assessments are normally based on current values).
 - Transactions may relate to sites of different sizes, densities, mix of uses and costs to facilitate development.
 - Reliance on transactions that are not comparable, that do not reflect the Development Plan policies as they relate to the application site, or that are based on assumptions of growth, may lead to inflated site values. This would restrict the ability to secure development that is sustainable and consistent with the Development Plan.
- 6.61. When undertaking this 'sense check' it is therefore vital that transactions are genuinely comparable and that they reflect planning policy. The agreed benchmark land values for comparison sites should also be identified where available as these represent land values that have been determined for planning purposes and therefore may provide a more relevant basis for comparison than price paid. Where it is not possible to source relevant comparable evidence or adjust this appropriately to the circumstances of the application site (including policy requirements), limited weight can be given to this evidence.
- 6.62. Where sufficiently comparable or adjusted, market based evidence is available this can be used to sense check a *residual land value*. Given the high sensitivity of residual appraisals, it may be necessary to check that overall outcomes are realistic, especially where there may be concerns

⁵² Transactions may for example relate to sites where affordable housing provision is lower than adopted targets due to site specific circumstances such as a high existing use value which may not be relevant to the application site. These sales when analysed should be adjusted to reflect policy compliance in order to make a valid comparison between sites.

that a residual value might be underestimated, endangering the delivery of plan requirements. In such circumstances it may be appropriate to revisit and potentially adjust relevant inputs in an appraisal (such as profits/ costs) to generate a more realistic residual value.

Market Value Approach (Having Regard to the Development Plan)

- 6.63. The RICS Guidance Note 'Financial Viability in Planning' (2012), while allowing for the use of Existing Use Value, supports an approach in which the benchmark land value is determined by the Market Value of land with the special assumption that regard is had to Development Plan policies and other material planning considerations. That which is contrary to the Development Plan is to be disregarded.
- 6.64. It is vital that viability assessments using the RICS Guidance note methodology accord fully with the site value definition, and fully take into account development plan policies when determining site value.
- 6.65. The RICS Guidance makes it clear that the site purchase price may or may not be material in determining the Site Value. The guidance states that:
- “A viability appraisal is taken at a point in time, taking account of costs and values at that date. A site may be purchased some time before a viability assessment takes place and circumstances might change. This is part of the developer’s risk. Land values can go up or down between the date of purchase and a viability assessment taking place; in a rising market developers benefit, in a falling market they may lose out”⁵³.*
- 6.66. The guidance identifies various factors that should be taken into account when considering the price paid including that:
- “A developer may make unreasonable/ overoptimistic assumptions regarding the type and density of development or the extent of planning obligations, which means that it has overpaid for the site. ...”*
- 6.67. There are however a number of difficulties in the use of land market transactions to inform land value within a planning viability assessment as set out in paragraph 6.60 above. A recent research paper undertaken for the RICS, in particular, identifies a misapplication of the RICS guidance, surrounding the *“crucial market value special assumption concerning the inclusion of policy compliant planning obligation assumptions. If they are not fully taken into account in development viability appraisal, landowners and developers can manipulate the situation to their financial benefit”⁵⁴.*
- 6.68. A market based land value (whether based on price paid, market transactions, valuations or an aspirational landowner figure), which only ‘has regard’ to Development Plan policies, but does not fully reflect these, as required by PPG, creates a scenario where it becomes almost inevitable that it would be found that policy requirements make a development unviable (see also above for section on ‘Assessing the Premium Above EUV’). This approach also runs the risk that there is far less scope than should be the case to meet Development Plan requirements, meaning that there is less prospect of achieving planning consent⁵⁵. Any uplift in land value is derived from the planning

⁵³ RICS, Financial Viability in Planning (2012)

⁵⁴ RICS (Professor Neil Crosby, Professor Peter Wyatt, University of Reading) Financial Viability Appraisal in Planning Decisions: Theory and Practice (2015). The authors were consultants to the working group on the RICS Financial Viability in Planning Guidance 2012.

⁵⁵ Concerns relating to this approach have also been identified in the GLA Development Appraisal Toolkit Guidance Notes (2015): “It is possible for the Toolkit to model an approach where the land acquisition cost is used as a driver for the viability calculation.

consent. If consent is not granted due to the unsustainable nature of the proposal, it is therefore likely that the land value adopted was not justified.

- 6.69. The dangers of reliance on purchase price and market transactions are further identified in the RICS research paper. The paper emphasises that *“the historic purchase price should never be used in a development viability appraisal”* and that the direct comparison method used in some appraisals to determine land value input or residual land value benchmarks without taking into account planning obligations to determine the appropriate level of planning obligations *“introduces an element of circularity into the appraisal ... which can be used by appellants to their advantage”*. Comparable evidence must be adjusted to take into account current policy requirements otherwise there is a clear risk of encouraging *“developers to overpay for sites and try to recover some or all of this overpayment via reductions in planning obligations”*⁵⁶.
- 6.70. For these reasons (and those set out a Paragraph 6.60), the ‘market value’ approach should be treated with caution. Where transactions have been cited that are not adequately comparable to the application site or incorporate assumptions of value growth, and have not been sufficiently adjusted, limited weight can be given to these and any benchmark land value that is reliant on them.

Taking Account of Affordable Housing, Planning Obligations and CIL Requirements when Determining Land Value

- 6.71. A key requirement (amongst others) that must be taken into account when determining land value is the council’s affordable housing target that 50% of residential units should be delivered as affordable housing over the plan period (Core Strategy Policy CS12)⁵⁷. Individual schemes must provide the maximum reasonable amount of affordable housing on site taking into account the 50% target.
- 6.72. The policy sets out the expectation that many sites will achieve 50% affordable housing and some will provide more than this⁵⁸. In all cases significant weight should be given to this requirement when determining land value. Viability testing should therefore always include and start with the policy target of 50% affordable housing.
- 6.73. Where appropriate according to site specific circumstances, higher or lower levels of affordable housing should be tested incrementally until the maximum reasonable level is determined. Lower levels should only be considered where warranted by genuine viability constraints under the terms of the guidance in this SPD.
- 6.74. In terms of land value this would only comprise a scenario whereby an acceptable benchmark land value⁵⁹ based on site specific circumstances (informed by comparable market evidence where possible but always reflecting the imperative to meet planning policy), could not be achieved. It is therefore not the case that any level of affordable housing provision between 0 and 100% can be assumed to potentially be acceptable from the outset, without reference to viability testing the application site under the terms of this guidance including an acceptable benchmark. The use of

Users will be need to be aware that this approach effectively “turns the model on its head”, and determines that policy requirements are the ‘residual’ in the calculation and thus open to being ‘squeezed’ by developers who have not reflected policy in their bid for land”.

⁵⁶ RICS (Professor Neil Crosby, Professor Pete Wyatt) Financial Viability Appraisal in Planning Decisions: Theory and Practice (2015)

⁵⁷ This is a key Corporate priority as reflected in the Islington Corporate Plan and extremely high levels of housing need.

⁵⁸ Policy CS12 states that the council will seek to increase delivery of affordable housing, especially social rented housing, from sources other than private and mixed-use schemes, such schemes by Registered Providers, building on the council’s own land and from a range of available intermediate housing products.

⁵⁹ See in particular section on EUV plus above.

such an assumption as a basis for determining land value, which is then applied as a fixed input within a viability assessment, is not evidence of a genuine viability constraint but, as noted above, is the result of a circular approach which has the potential to pre-determine and distort the outcome of the viability assessment process.

- 6.75. London Plan Paragraph 3.70 acknowledges that achievement of a borough's affordable housing target in a particular year should not constrain maximisation of affordable housing output on individual proposals – the target applies for the term of the Plan. Assumptions regarding affordable housing requirements (and consequentially the amount that a developer can pay for land) relying on evidence of levels agreed on other sites, run the risk of reflecting the specific circumstances of those other sites which may however not be relevant to the application site (as identified above). This is a misapplication of planning policy that could result in applicants overvaluing and/ or overpaying for sites at the cost of policy compliance, as discussed in the RICS research paper and above. As such, approaches to assessing land value based on assumptions of levels of affordable housing founded on market perceptions or anticipated “norms”, will not be considered to reflect planning policy or comply with the requirements of PPG in this regard.
- 6.76. Other planning obligations and CIL charges should also always be reflected in land value. This is consistent with PPG, with RICS Guidance on Financial Viability in Planning and with the approach adopted by the Examiner of the Mayor of London's CIL who stated that “...a reduction in development land value is an inherent part of the CIL concept”. This was also reflected in evidence submitted as a part of the council's CIL Examination⁶⁰. For these reasons the council does not consider that it is necessarily the case that CIL would reduce provision of other policy requirements such as affordable housing.

Alternative Use Value

- 6.77. An Alternative Use Value (AUV) approach to the benchmark land value will only be accepted where there is a valid consent for the alternative use or if the alternative use would clearly fully comply with the Development Plan as required by PPG⁶¹. The acceptability of an alternative use proposal is a matter for consideration by planning officers as part of the application process. Therefore sufficient information must be provided for officers to make a reasoned determination as to the prospects of the alternative scheme securing planning consent. The applicant will also be expected to demonstrate that there is a realistic prospect that this alternative scheme could be implemented. A full viability appraisal must be submitted together with a provisional design indicating how the alternative use could be accommodated on the site and a relevant cost plan.

Benchmark Land Value - Key Requirements

- Planning Practice Guidance requires that in all cases land value should reflect policy requirements, planning obligations and CIL charges. PPG also confirms that current (or existing) use value provides an appropriate basis for comparison with a benchmark land value to determine whether this incentivises a land owner to release a site and achieves a competitive return.
- In line with this and a range of relevant guidance documents, the council considers that the 'EUV plus a premium' approach best reflects the need to ensure that development is sustainable and should form the primary basis for determining the benchmark land value in most circumstances. This should reflect the value of the landowners' existing interest prior to grant of consent and the need to provide a relevant incentive to the landowner to release the land for development, fully

⁶⁰ See Council's CIL Evidence Base:

http://www.islington.gov.uk/services/planning/planningpol/community_infrastructure_levy/Pages/CIL-Charging-Schedule---Submission-Document-List.aspx

⁶¹ PPG, Viability, Viability and Decision Taking, Paragraph 024

taking into account site specific circumstances and the need to maximise policy compliance through the plan-led system.

- Comparable, market based evidence can be used to help inform the premium above existing use value, but should always be appropriately adjusted to ensure that transactions are genuinely comparable, reflect current policy requirements and have not been inflated through assumptions of growth in values. Where it is not possible to source appropriate comparable evidence, limited weight can be given to this.
- The current application of a 'market value' approach has raised concerns of inadequate reflection of policy requirements, circularity and inflated land values which inappropriately reduce planning obligations. Where these concerns are evident the council will rely on the Existing Use Value plus a premium approach applying the guidance set out in this document.
- The Core Strategy affordable housing target that 50% of residential units should be delivered as affordable housing over the plan period (Policy CS12) and CIL charges are key requirements that should in all cases be taken into account and given significant weight when determining land value. Lower levels of affordable housing should only be tested where warranted by genuine site specific viability constraints (including where an acceptable benchmark land value cannot be achieved) as defined under the terms of this guidance.
- An Alternative Use Value (AUV) approach to the benchmark land value will only be accepted where there is a valid consent for the alternative use or if the alternative use would clearly fully comply with the Development Plan. A full viability appraisal must be submitted together with a provisional design indicating how the alternative use could be accommodated on the site.

Planning Contributions

- 6.78. The council can assist applicants in calculating the likely financial contributions arising from a development and it is important that these inputs are accurately reflected in any viability information submitted to the council. This should be discussed at pre-application stage with an applicant submitting draft Section 106 (S106) Heads of Terms as a part of an application (see also Sections 3).
- 6.79. The council adopted its Community Infrastructure Levy (CIL) Charging Schedule on 1st September 2014. The Mayor of London introduced his CIL Charging Schedule on 1st April 2012⁶².
- 6.80. The councils' CIL and S106 requirements have been subject to viability testing, alongside the Mayor of London's CIL. The Examiner to the Islington CIL Charging Schedule found that the proposed CIL charges account for a small proportion of development costs and would not affect the delivery of development across the area or materially impact affordable housing provision.
- 6.81. Mayoral and Borough CIL charges applied in viability appraisals should reflect any relief that will apply, such as social housing relief or charitable relief, and should be calculated in accordance with the CIL Regulations 2010 (as amended), for example, with existing floorspace discounted if relevant and the phasing of payments taken into account for phased developments. It is additionally important to ensure that the impact of the Mayoral and Borough CIL instalment policies are taken into account as this will determine the timing of payments.
- 6.82. The Islington Planning Obligations SPD provides guidance on which obligations apply following the adoption of the Islington CIL. These typically relate to non-infrastructure and site-specific requirements such as carbon offsetting, employment and training and highway reinstatement⁶³.

⁶² Islington CIL charging schedule: <http://www.islington.gov.uk/cil>

Mayoral CIL charging schedule: <https://www.london.gov.uk/priorities/planning/mayoral-community-infrastructure-levy>

- 6.83. Where the council deems that the required planning obligations would render a scheme unviable, flexible arrangements relating to the timing and level of planning obligations may be considered if the scheme would otherwise not be able to proceed. However in line with the NPPF and PPG, where safeguards are necessary to make a development acceptable in planning terms and these cannot be secured, planning permission will not be granted for unacceptable development.

Planning Contributions - Key Requirements

- Likely CIL and S106 contributions should be included as a development cost in a viability assessment and should be calculated in accordance with the Islington and Mayoral Charging Schedules, the CIL Regulations and the Islington Planning Obligations SPD, as relevant. The Islington and Mayoral CIL instalment policies should also be reflected in the assumed timing of payments.
- The council will consider the timing and level of planning obligations that can be supported as a part of the viability assessment process, however, in line with government policies, where safeguards are necessary to make a development acceptable in planning terms and these cannot be secured, planning permission will not be granted.

Development Finance

- 6.84. Development finance is a complex area. A great number of products and arrangements are available which differ depending on the nature of the organisation seeking funding, on the organisation providing the funding and on the type of funding required.
- 6.85. A typical approach when assessing finance costs as a part of the viability process, is to assume that all developers will incur generic average finance costs based on 'standard' market rates. Applying 'standard' borrowing costs is likely to favour developers who have access to cheaper finance or public subsidy or loans. Developers that are able to deploy their own or an investor's equity and who incur lower or no finance interest payments are also likely to benefit. There is a case that developers using their own equity should be able to achieve a return on their investment, although this a business decision for the developer.
- 6.86. The benefit of a standardised approach is that planning consent runs with the land, which may be sold to another party with different finance arrangements. A developer could secure a planning consent with lower levels of policy compliance due to the high finance costs, but then sell the site to another developer who can acquire cheaper finance but benefit from the same planning consent without meeting Development Plan requirements.
- 6.87. In view of the merits of an approach that does not vary significantly according to the nature of the applicant, a standardised approach will generally be adopted to finance costs which should be appropriate to the type of proposal. The viability model should reflect that finance costs vary throughout the development period, with the majority of interest costs typically incurred during construction.

⁶³ The SPD is available here: www.islington.gov.uk/s106

Development Finance - Key Requirements

- A standardised approach will generally be adopted to finance costs which should be appropriate to the type of proposal.
- The viability model should reflect that finance costs vary throughout the development period, with the majority of interest costs typically incurred during construction.

7. Viability Review Mechanisms

- 7.1 The assessment of development viability at planning application stage may have the effect of reducing the policy requirements that a development would otherwise have to meet. Where this results in development that does not contribute sufficiently to meeting the borough wide affordable housing target this has the potential to prevent the authority from meeting the significant, need for affordable housing in the area. Where other planning obligations requirements are not met the local impacts of a development may not be fully addressed. If granted this could result in development that is contrary to the key objective of achieving sustainable development.
- 7.2 Paragraph 3.75 of the London Plan states that when determining applications for housing developments, boroughs need to 'take account of economic uncertainties, and in respect of schemes presently anticipated to deliver low levels of affordable housing', viability reappraisals 'may be used to ensure that maximum public benefit is secured over the period of the development'.
- 7.3 As referred to in Section 2 of the SPD, the Islington property market has experienced significant changes in recent years. The viability of a scheme may be notably different by the time it is implemented, due to uncertainties in relation to aspects of a viability assessment at the application stage and the potential for changes to market conditions.
- 7.4 In view of these issues, the practice of reviewing development viability to ensure that proposals are based on an accurate assessment of viability at the point of delivery has become well established across London.

The Council's Approach

- 7.5 In order to ensure that the maximum reasonable level of affordable housing is provided in line with Core Strategy Policy CS12 and that other plan requirements are met, the council will require viability review mechanisms through Section 106 agreements:
- On all major residential / mixed use applications which do not meet the strategic affordable housing target; and
 - For all major applications where policy requirements are not met in full at the time permission is granted.
- 7.6 Review mechanisms will be used to determine whether a development is capable of providing additional affordable housing or meeting other policy requirements that were deemed unviable at application stage. This will only apply if a 'surplus' is generated over and above the returns necessary for a scheme to be deemed viable (see below).
- 7.7 A reduction in planning requirements at application stage, whilst ensuring a competitive return to a developer, effectively lowers development risk, albeit potentially at a cost to the wider community. In this context, a reassessment of viability at a later date to determine whether the required returns have been exceeded and whether planning requirements could in fact be met, is appropriate and should not unduly add to development risk.

Additional Provision Capped Based on Policy Requirements

- 7.8 The purpose of the review is to determine whether greater compliance with the Development Plan can be achieved. Therefore any additional obligations will be capped based on the terms of the Development Plan (including the strategic affordable housing target). In line with this, the aim is to secure provision of policy requirements that were previously determined not to be deliverable,

rather than to enter into an open-ended profit share arrangement with a developer that may be typical as a part of a commercial coverage agreement.

- 7.9 This accords with the council's duty to ensure the delivery and implementation of its Local Plan. After policy requirements are met, any additional 'surplus' will be retained in its entirety by the developer as additional or 'super' profit. Further details on the council's approach to determining the cap and additional developer profit are set out below.

Timing of Viability Reviews

- 7.10 Viability reviews carried out at an early stage in the development or prior to the implementation of later phases have the benefit of increasing the likelihood that additional affordable housing can be provided on site. The advantage of undertaking viability reviews towards the end of a development on the other hand is that robust, up to date values and costs can be taken into account.
- 7.11 The council will therefore require viability reviews to take place at the following stages:
- For all schemes requiring a review⁶⁴: At an advanced stage of development (advanced stage review), a review will ensure that viability is accurately assessed and up to date;
 - On phased developments⁶⁵: In view of the priority given to onsite delivery of affordable housing⁶⁶, an additional viability review will be required prior to substantial implementation of the development (pre-implementation review) where this does not occur within 12 months of the planning permission; and
 - For 'large phased schemes'⁶⁷: A further review will be required at a mid-point stage in the development (prior to implementation of the second half/ later phases of the development) (mid-term review).
- 7.12 As noted in Section 2, housing delivery targets have consistently been exceeded in the borough. This is indicative of extremely high residential values and a buoyant property market⁶⁸. Given the circumstances of the borough, and the potential for a viability assessment to become out of date within a short timeframe, the council does not intend (or consider it necessary) to use viability reviews as an incentive for delivery⁶⁹, but rather to ensure that the assessment of viability is based on up to date and accurate viability evidence, and to support the delivery of the Development Plan.

Viability Review Process

- 7.13 The council will require an applicant to submit updated information for assessment by the council at the point of the review with expert advice commissioned by the council as required. The costs of assessment will be met by the applicant. The review will assess changes to gross development value and build costs⁷⁰, which are the key variables that are most likely to be subject to change. This will apply to the development as a whole (incorporating all uses) and be based on formulas

⁶⁴ See paragraph 7.5

⁶⁵ Threshold for phased schemes: typically 150 or more residential units / 10,000 sq m or greater for commercial or mixed use schemes, to be assessed by the council based on the circumstances of the scheme.

⁶⁶ See London Plan (2015) Policy 3.12 and Core Strategy (2011) Policy CS12

⁶⁷ Threshold for 'large phased developments': 400 or more residential units or 25,000 sq m or greater for commercial/ mixed use.

⁶⁸ At the time of publication, house prices in Islington are the fifth highest of all local authority areas nationally.

⁶⁹ For example, by only requiring a review where a development does not come forward within a certain timeframe, even though this could be at the expense of meeting policy requirements that could viably be achieved.

⁷⁰ Typically comprising of demolition, construction, external works and contingencies; However, where build costs in the application stage assessment are based on relevant BCIS figures and have been accepted by the council, these will not be reassessed as part of the review, but will be linked to the Tender Price Index (TPI) from the date of the original assessment.

(see below) to be included in the S106 agreement allowing for a transparent process⁷¹. The assessment will be based on the process set out in Section 3 (Assessment of Viability Appraisal).

- 7.14 These formulas will be used to determine whether a 'surplus' will be generated over and above required returns⁷². A proportion of any additional value generated as a result of increased values or reduced costs will be retained by the developer as an additional profit allowance to ensure that they gain from the improved scenario⁷³. This allowance will be higher for mid-term and advanced stage reviews to ensure that a developer remains incentivised to maximise values and minimise costs prior to the review.
- 7.15 In the event of a 'surplus', this is used to determine the level of additional affordable housing that can be provided (capped by the strategic affordable housing target) based on the (opportunity) cost to the developer of converting market housing into affordable housing as determined by the difference in value of market housing compared to its value as affordable housing. For other planning obligations that were not fully addressed at application stage, the level of any additional financial contribution (capped at a policy compliant level) will be determined by the initial formulas at each stage, as set out below.

Pre-Implementation Reviews

- 7.16 For phased developments⁷⁴, where a development has reached 'substantial implementation' within 12 months of the grant of planning permission and market conditions and the viability of a scheme remains relatively unchanged, a pre-implementation review would not normally be required. If substantial implementation occurs after 12 months (at which point the initial viability assessment will be deemed to be out of date) a review will be required. This should take place within a 3 month period following substantial implementation.
- 7.17 In order to avoid a notional implementation of the scheme, a definition of substantial implementation will be used that will typically comprise demolition, excavation, foundations and basement works (if applicable). If substantial implementation is achieved within a 12 month period but the development then stalls for a further period of 12 months, a review will then be required.
- 7.18 Reviews which take place prior to implementation of a phased development should deliver additional on-site affordable housing in accordance with an Additional Affordable Housing Scheme to be appended to the S106 agreement. This should identify the units to be converted to affordable housing in line with the council's required tenure split.
- 7.19 Where there is remaining surplus which does not amount to the provision of one whole affordable housing unit, this surplus amount should be used as a contribution for off-site affordable housing or to provide any further planning obligations that were required but found to be unviable at application stage. The same applies in the case of mid-term reviews.
- 7.20 In the case of viability reviews prior to substantial implementation, the developer will receive a share of any surplus in line with typical profit requirements. The majority of sales and rental income will be received at a later date and so the developer will remain incentivised to maximise value after the review has taken place.

⁷¹ Focusing on these two key elements also reduces information requirements and limits the extent of time that the review will take. For these reasons, other elements within the initial appraisal determined by the council will not normally be re-assessed.

⁷² The starting point for the review is that, it was determined that the approved scheme is deliverable at application stage (see Section 4).

⁷³ This is calculated as a factor of value and costs to ensure that the developer potentially stands to gain in either scenario.

⁷⁴ Threshold for phased schemes: typically 150 or more residential units / 10,000 sq m or greater for commercial or mixed use schemes, to be assessed by the council based on the circumstances of the scheme.

- 7.21 The pre-implementation review formula is set out below. This operates in two stages, firstly to calculate the level of surplus available for onsite affordable housing (or other policy requirements) and secondly to determine the level of additional affordable housing floorspace deliverable from the surplus. Any surplus will be used to determine those units identified in the Additional Affordable Housing Schedule that will be converted to affordable housing up to the affordable housing target cap. For other policy requirements which take the form of a contribution, only Formula 1 will apply.

Pre-Implementation Review Formula

Formula 1: To calculate the 'policy surplus' available for onsite affordable housing (or other policy requirements) at pre-implementation review stage

$$\text{'Policy Surplus'} = ((A - B) - (C - D)) \times 0.80$$

A = Updated Gross Development Value (GDV)*

B = GDV determined as part of the assessment of viability at application stage

C = Updated Build Costs**

D = Build Costs determined as part of the assessment of viability at application stage

Notes:

- (A - B) is the change in GDV at the point of review
- (C - D) is the change in Build Costs at the point of review, which is subtracted from the change in GDV to establish whether there is additional value generated as a result of increased values or reduced costs
- x 0.80 calculates the reduction in the additional value available for onsite affordable housing, accounting for the proportion of additional value to be retained by the applicant as an additional profit allowance (i.e.20%; see paragraph 7.14)

Formula 2: To determine the amount of additional onsite affordable housing floorspace

$$\text{'Additional Social Rented Floorspace'} = E \div (G - H)$$

$$\text{'Additional Intermediate Floorspace'} = F \div (G - I)$$

E = 'Policy surplus' x 0.70 (proportion of surplus to be used for social rented housing)

F = 'Policy surplus' x 0.30 (proportion of surplus to be used for intermediate housing)

G = Average market housing values per sq m*

H = Average social rented housing values per sq m*

I = Average intermediate values per sq m*

*determined as part of the review

** determined as part of the review, or, where based on application stage BCIS build costs, and agreed by council, linked to the Tender Price Index (TPI)

Notes:

- Policy surplus is calculated from Formula 1
- (G - H) is the cost of converting a market housing unit to social rented
- (G - I) is the cost of converting a market housing unit to intermediate
- E is the proportion of surplus to be used for social rented housing
- F is the proportion of surplus to be used for intermediate housing
- E and F are divided by (G - H) and (G - I) respectively to establish the floorspace available for additional affordable housing
- The additional social rented and intermediate floorspace figures will be used to determine those units identified in the Additional Affordable Housing Schedule to be converted to affordable housing

- 7.22 The council's intended approach is to set out a clear basis for calculating the level of any additional requirements that could viably be provided while recognising that in some instances adjustments to the calculations may be warranted according to the circumstances of a specific proposal. For example, in circumstances where the conversion of different tenures would be appropriate, such as intermediate housing to social rented housing, the council may apply an alternative formula which takes into account the difference in values of the relevant tenures.

Mid-Term Reviews

- 7.23 In the case of 'large phased developments'⁷⁵, mid-term reviews will be required which take place prior to implementation of later phases of a development. These should deliver additional on-site affordable housing in later phases in accordance with an Additional Affordable Housing Scheme to be appended to the S106 agreement.
- 7.24 Mid-term (and advanced stage) reviews should assess the development as a whole, taking into account values, build costs and surplus that have been realised in the initial stages of the development as well as estimates for the subsequent phases. This is necessary to ensure that affordable housing provision is maximised and that other policy requirements that were not achievable at application stage, are met where viable. Where build costs were based on BCIS in the application stage assessment, these will be index linked from the date of the previous review.
- 7.25 This review will operate in two stages – the first to calculate any surplus based on the approach set out in Formula 3 (see advanced stage review section below)⁷⁶; the second using the surplus to determine the level of additional affordable housing that can be provided based on Formula 2 (see section on pre-implementation reviews above).

Advanced Stage Reviews

- 7.26 Advanced stage reviews will be required on all schemes requiring a review⁷⁷. For residential led schemes, advanced stage reviews should be undertaken on sale of 75% of market residential units, and for other schemes, within a three month period prior to practical completion. This enables the assessment to be based on up to date, accurate information, while also retaining the ability to secure the additional provision of policy requirements⁷⁸. The outcome of this review will typically be a financial contribution towards offsite affordable housing provision or other policy requirements.
- 7.27 Any contribution payable in the event that a surplus is generated will be capped according to the level of contribution required by policy and associated guidance. For affordable housing contributions this will be based on the level of surplus required to provide additional affordable housing to meet the strategic target of 50%. The contribution and cap will be calculated in accordance with the following formulas:

⁷⁵ Threshold for large developments: 400 or more residential units or 25,000 sq m of greater for commercial or mixed use schemes.

⁷⁶ In the case of mid-term reviews the outcome of the calculation is the *surplus* available for the delivery of additional affordable units, rather than a contribution. 'A' is based on actual GDV at the point of the mid-term review rather than on sale of 75% of units.

⁷⁷ On all major residential / mixed use applications which do not meet the strategic affordable housing target and on all major applications where policy requirements are not met in full at the time permission is granted.

⁷⁸ This will normally be achieved through a restriction on occupation of market units and / or payment into a secure account

Advanced Stage Review Contribution Formula

Formula 3: To calculate the additional financial contribution payable to the council at advanced review stage towards affordable housing or other policy requirements not viable at application stage

$$\text{'Contribution'} = ((A + B - C) - (D + E - F)) \times 0.60$$

Where:

A = Gross Development Value (GDV) achieved on sale of 75% of residential units and GDV from other parts of the development sold/ let and other income receipts*

B = Estimated GDV for parts of the development that are yet to be sold/ let and other income sources*

C = GDV determined as part of the assessment of viability at application stage (or for phased schemes as determined in previous review)

D = Actual Build Costs incurred at point of review**

E = Estimated Build Costs for remainder of the development**

F = Total Build Costs determined as part of the assessment of viability at application stage (or for phased schemes as determined in previous review)

*determined as part of the review

**determined as part of the review, or, where based on application stage BCIS build costs and agreed by council, linked to the Tender Price Index (TPI) (for phased schemes, linked to TPI from the date of the previous review).

Notes:

- (A + B - C) is the change in GDV at the point of review
- (D + E - F) is the change in Build Costs at the point of review, which is subtracted from the change in GDV to establish whether additional value has been generated as a result of increased values or reduced costs
- x 0.60 calculates the reduction in the contribution required, accounting for the proportion of additional value to be retained by the applicant as an additional profit allowance (i.e.40%; see paragraph 7.14)

Formula 4: To calculate the 'advanced stage cap' which is the maximum additional affordable housing contribution payable at advanced review stage

$$\text{'Advanced Stage Affordable Housing Cap'} = ((G - H) \times (K - L)) + ((I - J) \times (K - M))$$

Where: G = 50% of total residential floorspace x 0.70

H = Total social rented housing floorspace determined at application stage (or for phased schemes as determined in earlier reviews)

I = 50% of total residential floorspace x 0.30

J = Total intermediate housing floorspace determined at application stage (or for phased schemes as determined in earlier reviews)

K = Average market housing value per sq m*

L = Average social rented value per sq m*

M= Average intermediate value per sq m*

*determined as part of the review

Notes:

- G is the proportion of affordable housing floorspace to be social rented based on policy tenure split
- I is the proportion of affordable housing floorspace to be intermediate based on policy tenure split
- (G - H) is the additional social rented floorspace cap based on overall 50% affordable housing provision
- (I - J) is the additional intermediate floorspace cap based on overall 50% affordable housing provision
- (K - L) is the cost of converting a market housing unit to social rented
- (K - M) is the cost of converting a market housing unit to intermediate
- (K - L) & (K - M) multiplied by (G - H) & (I - J) respectively to establish maximum additional contribution

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- 7.28 Again, in some instances adjustments to the calculations may be warranted according to the circumstances of a specific proposal. For example, where market and affordable housing values were clearly distinguished in the original appraisal calculation, it may be appropriate to allow for differential costs when determining the Advanced Stage Affordable Housing Cap.

Key Information Requirements

- 7.29 The following information should be provided on an open book basis for assessment as part of a review:
- Gross Development Values (GDV) (all gross receipts or revenue received) supported by evidence, including but not limited to: audited company accounts detailing all sold/ let transactions; certified sales contracts or completion certificates issued by the developer's solicitors detailing the purchase price for each sale; Land Registry records showing sale price information; or other receipts, such as income from hoardings.
 - The estimated GDV for the unsold/ unlet components of the development at the point of review using detailed comparable information: taking into account any sales/ lettings that have taken place on the development (see also Section 6 and Appendix B) and income from any other sources.
 - Average residential values per sq m: for market and affordable housing across the scheme based on the information provided above.
 - Actual Build Costs incurred⁷⁹ evidenced by: payments made or agreed to be paid in the relevant building contract, including receipted invoices, or costs certified by the developer's quantity surveyor, costs consultant or employer's agent.
 - Estimated Build Costs to be incurred for the remainder of the development⁸⁰ based on: agreed building contracts or estimation provided by the developer's quantity surveyor or costs consultant (see also Section 6 and Appendix B).

Material Changes

- 7.30 Where material changes are proposed that would make the scheme less compliant with the Development Plan, which do not fall within the scope of S106 BA of the Town and Country Planning Act 1990, this would require a new planning permission and could not be addressed through a review mechanism.

Considering Changes in Values and Costs at Planning Application Stage

- 7.31 In line with PPG, the council will normally consider development viability based on current costs and values at application stage⁸¹. The PPG also envisages that for phased schemes it may be appropriate to consider projected changes in values or costs at planning application stage, an approach sometimes referred to as a 'growth model'.
- 7.32 This is distinct from review mechanisms which consider changes in values and costs at the point of delivery. PPG does not provide guidance on this, although the principle of re-assessing values and costs at delivery stage for phased and non-phased schemes is established in S106BA of the Town and Country Planning Act 1990⁸² and in the Mayor's Housing SPG.

⁷⁹ Not required where build costs in the application stage assessment are based on relevant BCIS figures which will be index linked.

⁸⁰ See previous footnote.

⁸¹ PPG paragraph 024

⁸² Under S106BA of the Act, an applicant can apply for a downward revision of affordable housing requirements arising from changes in viability since planning permission was granted.

- 7.33 In previous cases the council has found that growth assumptions applied in applicants' appraisals at application stage have been significantly lower than the long term trends for both Islington and London, and lower than the projected value increases in expert advice obtained by the council. Applicant's growth estimates have also proved to be unreliable when compared with actual growth that has occurred in the initial years following the appraisal.
- 7.34 If a viability assessment assumes projected changes in development values and build costs, these should be fully justified, reasonable and consistent with long-term new build trends, current market conditions and market expectations.
- 7.35 This approach is sometimes used as a basis for arguing for adoption of higher levels of profit and that the viability of a scheme should not be reviewed, even for large scale phased schemes that will be delivered over many years. If an applicant chooses to rely on growth forecasts, the uncertainty associated with growth forecasting is such that viability reviews will be necessary to assess actual changes in value. Furthermore, profit levels should not be overstated as this would potentially offset the impact of adopting value projections and undermine the purpose of this approach which is to more accurately reflect the viability of the development at the point of delivery and to help ensure that developments are delivered in accordance with the Plan.

Review Mechanisms - Key Requirements

- In order to ensure that the maximum reasonable level of affordable housing is provided in line with Core Strategy Policy CS12, and that other plan requirements are met, the council will require viability review mechanisms through Section 106 agreements on all major residential applications which do not meet the strategic affordable housing target and for all major applications where policy requirements are not met in full at the time permission is granted.
- Additional policy requirements arising from the review will be capped based on those set out in the Development Plan.
- The council will require viability reviews to take place:
 - at an advanced stage of development for all schemes requiring a review (to ensure that viability is accurately assessed at the point at which actual values are realised).
 - prior to substantial implementation of the development (in the event that this does not take place within 12 months of the permission) for phased developments, and
 - at a mid-point stage in the development (prior to implementation of the second half/ later phase(s) of the development) on 'large phased schemes'.
- Pre-implementation and mid-point reviews will typically result in additional on-site affordable housing while advanced stage reviews will generate a financial contribution where a surplus arises.
- Reviews will be undertaken based on the process and formulas outlined in the SPD, which will be set out in S106 agreements to provide transparency.
- For phased schemes, if projected changes in development values and build costs are applied at application stage, these should be fully justified, reasonable and consistent with long-term new build trends, current market conditions and market expectations. Whether or not projected values and costs are applied, viability reviews will be necessary to assess actual changes in values/ costs.

8. Council Monitoring and Review

- 8.1 In order to fulfil its duty to ensure the proper assessment of planning applications and the monitoring of development and its policies, the council may undertake reviews of the viability of developments during or after construction, regardless of whether a formal review mechanism is in place. The purpose of this will be to ascertain the extent to which the financial information submitted is reflective of the actual viability of development and to determine whether further affordable housing or other policy requirements could have been provided. This approach will help to ensure greater transparency and accountability and will assist the council when reviewing its policies.

Monitoring and Review – Key Requirements

- The council may undertake reviews of the viability of developments during or after construction, regardless of whether a formal review mechanism is in place.

Appendix A – Summary of Key Requirements

Pre-application Stage

- An applicant should provide details relating to proposed methodology, inputs and a draft viability appraisal at pre-application stage where viability is likely to be a consideration in determining the application.
- An applicant should discuss Section 106 Heads of terms at pre-application stage so that this is addressed at an early stage and to enable financial contributions to be included in the assessment.
- Proposals should be designed in a form that accords with Development Plan policies, including the requirement to provide the maximum reasonable level of affordable housing and integrate this within the overall scheme, and that reflects the outcome of the viability assessment process.

Validation / Application Stage

- A viability appraisal should be submitted at validation stage for all major residential applications or for any other application where viability is relied upon as a factor in determining the application.
- Viability assessments should include all relevant information required by the council (see in particular Sections 4, 5 and 6, and summaries at Appendices A and B) to avoid delays in determining the application.
- A revised viability appraisal should be submitted where any material changes are made following validation. An appraisal should also be updated where necessary to ensure that the assessment reflects current market conditions at the point of determination.

Assessment of Viability Appraisal

- The cost of the assessment and any associated costs, will be paid for in advance by the applicant.
- Correspondence relating to the assessment should always be directly sent or copied to the council.

Deliverability and Verification

- To verify the information provided as part of the planning process, a statutory declaration will be sought from the applicant company confirming that:
 - The assessment submitted to the council is a true and fair reflection of the viability of the proposed development; and that costs and values in this assessment are consistent with current costs and values within (or used as a starting point for) viability assessments that have been undertaken for internal or financial purposes.
 - The company undertaking the assessment has not been instructed on the basis of performance related pay or is incentivised in any other way according to the outcome of the viability process and the level of planning obligations that the applicant is required to provide.
- The applicant must clearly demonstrate with reference to viability evidence that the proposed level of obligations is the maximum that can be provided and that the scheme is deliverable with this level of provision.
- A statutory declaration by a director of the applicant company and by finance providers may be required, which verifies that they consider the scheme as proposed to be deliverable, based on the information provided to the council.

Transparency & Confidentiality

- The availability of information submitted as a part of the planning process is important to ensure public participation in the planning process, confidence in the planning system and the accountability of those undertaking the assessments.
- The council considers that information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny. In submitting information, applicants do so in the knowledge that this will be made publically available alongside other application documents.
- The council will allow for exceptions to this in limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. If an applicant considers that an exceptional circumstance is likely to arise, this should be raised at an early stage within the pre-application process.

Methodology

- The council considers that the Residual Land Value methodology is the most appropriate to use when undertaking a viability assessment for a planning application. In this approach, Development Plan requirements are included alongside other development costs, which are deducted from the Gross Development Value to determine the residual value that is available to pay for land.
- In line with the GLA Development Appraisal Toolkit Guidance, the council does not consider it appropriate within a development appraisal to apply a fixed land value as an input which is based on price paid for land or an aspirational sum sought by a landowner. Such an approach without appropriate reference to the landowners' existing interest prior to grant of consent, and without fully taking into account planning policy requirements, can undermine the delivery of Development Plan requirements and create inconsistencies between assumed site value and the outcome of the assessment.

Viability Model

- The council should be provided with a working electronic version of the viability appraisal model which can be fully tested and interrogated.

Evidence, Inputs and Assumptions

- Viability assessments should comprise of the information and evidence set out in this Section 6 (and other relevant sections) of the SPD and as summarised at Appendix B.
- All viability evidence must be robustly justified and appraisal assumptions should be benchmarked against publicly available data sources.
- Appraisals must be balanced, coherent as a whole and internally consistent. The relationship between specific inputs and the outcome of the assessment as a whole should therefore be considered.

Scheme Details and Development Programme

Details should be provided regarding:

- The proposed scheme (including site area, residential unit numbers, densities, unit sizes, habitable rooms, split between private and affordable tenures, and floor space figures for residential and non-residential in GIA and NSA/NIA).
- The target market / occupiers
- The proposed specification (consistent with assumed costs and values).
- The timing of cost and income inputs (including residential sales rates with reference to project/ construction plans and contracts and land/ development/ letting agreements as relevant).
- The development programme (including information relating to pre-build, construction, marketing and sales/ lettings periods).

Development Values

- Assumptions relating to development values should be justified with reference to up to date transactions and market evidence relating to comparable new build properties within a reasonable distance from the site, and, where relevant, arrangements with future occupiers.
- Information relevant to comparable properties should be fully analysed to demonstrate how this has been interpreted and applied to the application scheme.

Affordable Housing Values

- Development appraisals should be carried out in conjunction with a Registered Provider of social housing.
- Affordable housing values assumed within a viability assessment should reflect the offer/s made by Registered Providers for purchasing the affordable housing element of the development. Evidence of calculations underpinning affordable housing values, including details of rental and capital receipts (including staircasing), discussions with RPs and subsidies should be provided.

Build Costs

- The RICS Build Costs Information Service (BCIS) is a publically available source of cost information that can be used in viability assessments. In such instances and where costs are agreed by the council, this would be an acceptable basis of cost inputs as a part of a review mechanism, linked to the Tender Price Index (TPI).
- For larger schemes, it is likely to be more appropriate to rely on a specific assessment of build costs. In these circumstances, costs should be fully justified based on a detailed specification of the proposed development and the intended construction approach.
- Where a specific assessment of build costs is relied on, rather than standardised costs from a recognised source, or where any abnormal costs are applied, build costs will be reviewed on an open book basis as a part of a viability review. Costs should be provided for different components of the scheme including market and affordable housing.
- The council will expect a clear correlation to be evident between a development's specification, assumed build costs and development values. The council will expect a clear correlation to be evident between a development's specification, assumed build costs and development values.

Developer Profit

- The council will require supporting evidence from applicants to justify proposed rates of profit. This should take into account the individual characteristics of the scheme, including property market conditions and a development's risk profile, and profits achieved on comparable schemes.
- The council will only rely on IRR as a measure of profit if it is satisfied that the development programme, timing of cost and value inputs and target IRR have been fully justified. In these cases, the council will also consider profit as a factor of GDC/ GDV.

Benchmark Land Value

- Planning Practice Guidance requires that in all cases land value should reflect policy requirements, planning obligations and CIL charges. PPG also confirms that current (or existing) use value provides an appropriate basis for comparison with a benchmark land value to determine whether this incentivises a land owner to release a site and achieves a competitive return.
- In line with this and a range of relevant guidance documents, the council considers that the 'EUV plus a premium' approach best reflects the need to ensure that development is sustainable and should form the primary basis for determining the benchmark land value in most circumstances. This should reflect the value of the landowners' existing interest prior to grant of consent and the need to provide a relevant incentive to the landowner to release the land for development, fully taking into account site specific circumstances and the need to maximise policy compliance through the planned system.
- Comparable, market based evidence can be used to help inform the premium above existing use value, but should always be appropriately adjusted to ensure that transactions are genuinely comparable, reflect current policy requirements and have not been inflated through assumptions of growth in values. Where it is not possible to source appropriate comparable evidence, limited weight can be given to this.
- The current application of a 'market value' approach has raised concerns of inadequate reflection of policy requirements, circularity and inflated land values which inappropriately reduce planning obligations. Where these concerns are evident the council will rely on the Existing Use Value plus a premium approach applying the guidance set out in this document.
- The Core Strategy affordable housing target that 50% of residential units should be delivered as affordable housing over the plan period (Policy CS12) and CIL charges are key requirements that should in all cases be taken into account and given significant weight when determining land value. Lower levels of affordable housing should only be tested where warranted by genuine site specific viability constraints (including where an acceptable benchmark land value cannot be achieved) as defined under the terms of this guidance.
- An Alternative Use Value (AUV) approach to the benchmark land value will only be accepted where there is a valid consent for the alternative use or if the alternative use would clearly fully comply with the Development Plan. A full viability appraisal must be submitted together with a provisional design indicating how the alternative use could be accommodated on the site.

Planning Contributions

- Likely CIL and S106 contributions should be included as a development cost in a viability assessment and should be calculated in accordance with the Islington and Mayoral Charging Schedules, the CIL Regulations and the Islington Planning Obligations SPD, as relevant. The Islington and Mayoral CIL instalment policies should also be reflected in the assumed timing of payments.
- The council will consider the timing and level of planning obligations that can be supported as a part of the viability assessment process, however, in line with government policies, where safeguards are necessary to make a development acceptable in planning terms and these cannot be secured, planning permission will not be granted.

Development Finance

- A standardised approach will generally be adopted to finance costs which should be appropriate to the type of proposal.
- The viability model should reflect that finance costs vary throughout the development period, with the majority of interest costs typically incurred during construction.

Review Mechanisms

- In order to ensure that the maximum reasonable level of affordable housing is provided in line with Core Strategy Policy CS12, and that other plan requirements are met, the council will require viability review mechanisms through Section 106 agreements on all major residential applications which do not meet the strategic affordable housing target and for all major applications where policy requirements are not met in full at the time permission is granted.
- Additional policy requirements arising from the review will be capped based on those set out in the Development Plan.
- The council will require viability reviews to take place:
 - at an advanced stage of development for all schemes requiring a review (to ensure that viability is accurately assessed at the point at which actual values are realised).
 - prior to substantial implementation of the development (in the event that this does not take place within 12 months of the permission) for phased developments, and
 - at a mid-point stage in the development (prior to implementation of the second half/ later phase(s) of the development) on 'large phased schemes'.
- Pre-implementation and mid-point reviews will typically result in additional on-site affordable housing while advanced stage reviews will generate a financial contribution where a surplus arises.
- Reviews will be undertaken based on the process and formulas outlined in the SPD, which will be set out in S106 agreements to provide transparency.
- For phased schemes, if projected changes in development values and build costs are applied at application stage, these should be fully justified, reasonable and consistent with long-term new build trends, current market conditions and market expectations. Whether or not projected values and costs are applied, viability reviews will be necessary to assess actual changes in values/ costs.

Monitoring and Review

- The council may undertake reviews of the viability of developments during or after construction, regardless of whether a formal review mechanism is in place.

Appendix B – Viability Assessment – Information and Evidence List

The following information should be submitted as part of a viability assessment (see Sections 4, 5 and 6):

APPRAISAL FORMAT	<ul style="list-style-type: none"> • Hard and electronic version of appraisal in format that can be fully tested and interrogated
PROPOSED SCHEME DETAILS	<ul style="list-style-type: none"> • Floor areas: - Residential: Gross Internal Area (GIA) and Net Saleable Area (NSA) - Commercial / Other: Gross Internal Area (GIA) and Net Internal Area (NIA) • Proposed specification for each component of development, consistent with assumed costs and values, and target market / occupiers • Residential unit numbers, sizes and habitable rooms including the split between private and affordable tenures • Site area and densities
DEVELOPMENT PROGRAMME	<ul style="list-style-type: none"> • Project plan, including land acquisition, pre-build, construction and marketing periods and phasing (where appropriate) • Viability cashflow
GROSS DEVELOPMENT VALUE (GDV)	<ul style="list-style-type: none"> • Anticipated residential sales values, ground rents, sales rates (per month), assumptions regarding forward sales and supporting evidence • Anticipated rental values, yields and supporting evidence • Details of likely incentives, rent-free periods, voids for any commercial element • Anticipated value of affordable units based on evidence including details of discussions with Registered Providers and RP offers
COSTS	<ul style="list-style-type: none"> • Build costs based on RICS Build Costs Information Service (BCIS), with values correctly reflecting the specific proposal, and justified to show that an appropriate and reasoned approach has been taken in estimating the costs • Where applicants seek to rely on a specific assessment of build costs rather than a recognised publically available source of information: expected build cost and supporting evidence including a fully detailed elemental cost plan demonstrating the basis of cost estimations and evidence of contractor costs. Disaggregated abnormal costs (if relevant) that can be benchmarked against BCIS • Details of other costs such as demolition costs and supporting evidence • Sales/ letting and professional fees and supporting evidence
PROFIT	<ul style="list-style-type: none"> • Profit on cost and value • Development yield • Supporting evidence from applicants to justify proposed target rates of profit taking account of the individual characteristics of the scheme
BENCHMARK LAND VALUE	<ul style="list-style-type: none"> • Existing Use Value (EUV) based on evidence including existing income, comparable data and details of condition of existing site. Justification for any premium applied over EUV, taking account of circumstances of site and guidance in SPD • Freehold/leasehold titles • Tenancy schedule - to include lease summaries (where appropriate) • Details of income that will continue to be received over the development period • Arrangements between landowner and developer, including any land sale, development or tenancy agreements • Evidence for how benchmark land value reflects planning policy
PLANNING CONTRIBUTIONS	<ul style="list-style-type: none"> • Section 106 Costs (See Islington Planning Obligations SPD and Heads of Terms provided by the council) • Islington and Mayoral CIL costs based on the Islington and Mayoral Charging Schedules and CIL Regulations 2010 (as amended), reflecting existing floorspace calculations, social housing relief, the phasing of payments and instalment policies (if relevant)
DEVELOPMENT FINANCE	<ul style="list-style-type: none"> • Finance costs appropriate to the type of proposal, reflecting that finance costs vary throughout the development period, with the majority of interest costs typically incurred

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	during construction
OTHER	<ul style="list-style-type: none">• Statutory declarations to verify accuracy of information submitted/ regarding performance related pay according to outcome of viability process / deliverability of scheme proposed (see Section 4 for more details)• Other information requested by the council having regard to the specific application

Appendix C – Affordable Rented Housing

1 Local Policy Context

- A.1 This information has been provided to assist with the planning process and to provide guidance on rent levels for affordable housing that are appropriate to Islington, within the strategic context provided by the London Housing Strategy 2014 and the Mayor's Housing Covenant 2015-18. It also provides clarity regarding the financial assumptions used to inform viability assessments that determine affordable housing contributions, and the process whereby RPs may seek to deliver the affordable rent tenure in Islington, including award of borough-level grant. This guidance is based on adopted and published council strategies and policies, including the Housing Strategy 2014-2019, the Tenancy Strategy 2012-2015 and the Local Plan.
- A.2 The council's key priority is to secure a supply of affordable housing that households on the housing waiting list can afford without increasing long-term benefit dependency. This requires striking a balance between ensuring affordability for those in housing need and securing as much new supply as reasonably possible.
- A.3 Given the level of need in the borough, Core Strategy Policy CS12 sets out that the council will seek the maximum reasonable amount of affordable housing taking account of the 50% strategic target, especially social rented housing, from private and mixed use schemes. The policy requires a tenure split of 70% social rent and 30% intermediate. Following the introduction of the affordable rent tenure and engagement with the Mayor, the council has considered how this product could contribute to meeting housing need, within the local context of very high market housing costs.
- A.4 As set out in the borough's Housing Strategy 2014-19, access to a genuinely affordable home enables residents and households to improve their outcomes with better opportunities to escape poverty experienced through high housing costs and avoid being dependent upon welfare benefits, whether in employment or not. To set appropriate rent levels, it is necessary to ensure that eligible households, both working and non-working, can take up tenancies within new developments without spending an excessive proportion of their net income on housing costs. In not differentiating between affordability for working and non-working households, the council is mindful that low income employment by its nature tends to be insecure, and that households may experience prolonged periods of unemployment where they are wholly reliant on benefits despite actively seeking work.
- A.5 The Islington Tenancy Strategy 2012-15 provides the strategic tenancy framework which Registered Providers (RPs) operating in the borough are obliged to have regard to in setting their own landlord policies on tenure and rents. In assessing affordability, the strategy expects that no more than 35% of net income should be used towards housing costs. The Strategy encourages RPs to continue to offer tenancies at social rent, and seeks to maximise homes provided at target⁸³ rents in perpetuity on new developments where planning obligations require the provision of new affordable units.
- A.6 In formulating the current Tenancy Strategy, the council has considered the role of the new affordable rent tenure. The *Effects of the Affordable Rent Product* study (Jones Lang LaSalle, 2011) examined key issues including the product's affordability and ability to meet identified need in the borough, its potential impacts on the churn of the existing stock/overall supply of affordable housing and its likely effect on benefit dependency and work incentives. It was shown that unless affordable rents were set well below the maximum level chargeable of 80% of market rent, the tenure would not add any additional affordable options that would contribute to meeting the affordable housing need identified in the 2010 SHMA. The Housing Strategy 2014-19 therefore sets out the Council's continued

⁸³ Target rent is also known as formula rent, and details of how to calculate target rent is set out in Government Guidance on Rents for Social Housing.

commitment to increasing the supply of social rented homes to provide genuinely affordable housing on new developments.

- A.7 The 2013 London SHMA sets a slightly different affordability benchmark for determining those in need of affordable housing, that the rent for the size of property required does not exceed 25% of gross household income for households with incomes of less than £40,000. This would result in a slightly lower affordable weekly rent level than the borough's affordability measure. For schemes which propose the affordable rent tenure in lieu of the social rent tenure, the council's assumption is that rents will be determined in discussion with the borough's Housing Development Team and in all cases complying with Mayoral guidance that affordable rent levels (including service charges) will not exceed the maximum applicable Local Housing Allowance rate.
- A.8 The council continues to monitor changes in local market rent levels and local incomes to provide up-to-date evidence on local affordability and justify the Housing Strategy's expectation that RPs will continue to deliver homes at target rent levels in the borough. With reference to the London Housing Strategy 2014 and the accompanying 2015-2018 funding prospectus, we have also considered the affordability of *discounted*⁸⁴ and *capped*⁸⁵ affordable rent properties in the context of local market rent levels, Local Housing Allowance (LHA) rates and welfare caps.
- A.9 Table 1 below collates the most recently available data on market rent levels in various areas of the borough. As can be seen from the table, rents substantially higher than the national guideline cap on social rents would not meet affordability criteria set in the Tenancy's Strategy in the majority of the borough, and would thus exclude a large proportion of eligible households from access to new affordable homes, particularly families needing larger homes, and cause considerable difficulty for the council in addressing housing need.
- A.10 Information on market rents in Table 1 is based on September 2015 data from the Valuation Office Agency (VOA) as compiled in the GLA's London Rents Map using a sample covering the previous 12 months given at postcode district (e.g. N1) level. This information is for illustrative purposes only as market rents in Islington can vary greatly within an area and over time due to a variety of factors. It is likely that rents in the table underestimate current rent levels as they are based on historical data and a limited sample; data on asking prices from online property portals supports this assumption. The council will continue to collate information on market rents on an annual basis to monitor affordability and inform discussions regarding market rent assessments.

2 Relationship to the Mayor's Housing Covenant 2015-2018

- A.11 As set out in the *Regulatory Framework for Social Housing* (HCA, 2012) affordable rent terms can only be used where a delivery agreement for new supply of social housing has been agreed under a new supply agreement entered into between a private RP and the Mayor. The council recognises that there are RPs active in the borough that have a new supply agreement with the Mayor to deliver affordable rent and the council has supported bids by RPs under the 2015-18 programme where these also accord with local policies and strategies.
- A.12 This process has confirmed that delivery of new supply in Islington at rent levels equivalent to target rents is considered to contribute to achievement of the Mayor's objectives as set out in the London Housing Strategy 2014. In certain cases, subject to schemes meeting local funding criteria, the council may make available additional grant funding to RP partners.

⁸⁴ Discounted affordable rent is defined by the Mayor as properties with rents set at the lower of up to eighty percent of market rent or the local housing allowance.

⁸⁵ Capped affordable rent is defined by the Mayor as properties with rents at no more than 50 percent of market rent (lower quartile market rent in high value areas); the minimum possible rent chargeable for capped rent properties is the target rent.

Table 1 Indicative market rent levels by postcode district (September 2015)

Postcode District	Rent Level (weekly)	1-bed	2-bed	3-bed	4-bed
EC1V	Median Market Rent	£439.00	£590.00	£610.00	£750.00
	Lower Quartile Market Rent	£395.00	£500.00	£573.00	n/a
N1	Median Market Rent	£360.00	£495.00	£620.00	£775.00
	Lower Quartile Market Rent	£320.00	£415.00	£550.00	£615.00
N19	Median Market Rent	£292.00	£355.00	£525.00	£665.00
	Lower Quartile Market Rent	£265.00	£324.00	£447.00	£641.00
N4	Median Market Rent	£300.00	£370.00	£500.00	£552.00
	Lower Quartile Market Rent	£261.00	£328.00	£415.00	£518.00
N7	Median Market Rent	£323.00	£400.00	£529.00	£640.00
	Lower Quartile Market Rent	£288.00	£360.00	£475.00	£610.00
WC1X	Median Market Rent	£375.00	£463.00	£693.00	n/a
	Lower Quartile Market Rent	£350.00	£425.00	£573.00	n/a
Islington	Median Market Rent	£335.00	£450.00	£575.00	£700.00
DCLG Guidance	Formula rent caps 2015-16 (exclusive of service charge)	£141.42	£149.74	£158.06	£166.38

Source: London Rents Map <https://www.london.gov.uk/priorities/housing-land/renting-home/rents-map> and Government Guidance on Rents for Social Housing

Table 2 Local Housing Allowance Rates (LHA) November 2015

Broad Rental Market Area (BRMA)	Postcode Districts covered ⁸⁶	1-bed	2-bed	3-bed	4-bed
Central London	EC1, WC1X	£260.64	£302.33	£354.46	£417.02
Inner North London	N1, N4, N5, N7, N19	£260.64	£302.33	£354.46	£417.02
Inner East London	N1, N4	£257.35	£302.33	£354.46	£417.02
Outer North London	N4	£199.68	£255.34	£315.12	£388.65

Source: <https://lhadirect.voa.gov.uk/SearchResults.aspx?LocalAuthorityId=19&LHACategory=999&Month=7&Year=2014&SearchPageParameters=true>

3 New Supply

A.13 In view of the above, the Council's Housing Strategy and Action Plan 2014 states that the Council will work in partnership with RPs to secure commitment to genuinely affordable homes as a means of increasing supply and choice of genuinely affordable housing. The Strategy states:

"We expect 70% of new affordable homes to be for social rent as we do not consider homes provided for "Affordable Rent" with rents of up to 80% of open market rents as affordable for residents in housing need in Islington".

"We will continue our success in encouraging and support local housing association partners to develop homes for social rent through making land and/or funding available to subsidise delivery of genuinely affordable new homes."

A.14 Therefore on new developments, the council will only consider delivery of some/all of the required 70% rented accommodation as affordable rent in lieu of social rent where it can be demonstrated that these properties will be delivered at rent levels which contribute to achieving the objectives of the borough's Housing Strategy, in accordance with the Framework agreement with the Mayor, and where a legal agreement secures these rents levels in perpetuity. This approach provides RPs with

⁸⁶ Boundaries of BRMA do not follow postcode boundaries therefore applicants will need to confirm the applicable LHA rate. Note that the national maximum has been reached.

the flexibility they require to fulfil their investment contracts with the GLA, provides certainty regarding the best use of public subsidy in the borough and ensures that the new affordable homes delivered contribute to meeting the housing needs of Islington.

- A.15 Where residential market rent assessments are required in support of a planning application/viability assessment, these will need to be conducted on a scheme-by-scheme basis, based on a valuation in accordance with a method recognised by the RICS Red Book. The council will expect the valuation of rental properties to evidence reasonable assumptions regarding the gross versus net rents in coming to a view on the value of the rented tenure when relying on the capitalised net rent to determine the gross development value of such units.

Contact Details – S106 and Development Viability Team

If you have any queries relating to this document, please contact the Islington S106 and Development Viability Team at:

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If you would like a copy of this document in a different format such as large print, audio or easy read, or a different language, please contact us and where possible, we will meet your request:

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Consultation Statement

Development Viability Supplementary Planning Document

December 2015

1. Introduction

1.1 This consultation statement sets out details of the consultation which has informed the Development Viability Supplementary Planning Document (SPD). This has been prepared in accordance with regulation 12(a) of the Town and Country Planning (Local Development) (England) Regulations 2012.

1.2 The Consultation Statement details:

- a summary of the previous preliminary consultation stage;
- consultation activity undertaken when developing the Development Viability SPD;
- who the council consulted when preparing the SPD;
- a summary of the main issues raised during the consultation period, and the council's responses.

2. Background and Summary of Previous Preliminary Consultation on the Development Viability Discussion Paper & Questionnaire

2.1 The statutory development plan for Islington consists of the London Plan (2015), the Islington Core Strategy (2011), the Development Management (DM) Policies document (2013), the Site Allocations (2013) and Finsbury Local Plan (2013). This sets out requirements to ensure that new development is sustainable, which include the provision of affordable housing, infrastructure and sustainability measures. These documents were consulted on extensively, viability tested and found sound following an Examination in Public (EIP) conducted by independent Examiners from the Planning Inspectorate.

2.2 The Development Viability SPD provides guidance on the implementation of these policies. It builds on and updates existing guidance on viability within the council's Planning Obligations SPD which, following consultation, was adopted in November 2013.

2.3 The council undertook a preliminary consultation on matters considered in the Development Viability SPD through the Development Viability Discussion Paper and Questionnaire. This was consulted on between 22nd September and 20th October 2014. The council notified all contacts on its planning email and postal list, all statutory consultees, as well as a range of other organisations with an interest in development, housing delivery and viability. Over 3,000 individuals and organisations were consulted in total. The document was also made available online, at the council's Municipal Offices and at Finsbury and Archway Libraries.

2.4 In producing the Discussion Paper as well as the draft and final versions of the SPD, internal consultation also took place with a range of teams within the council including Planning Policy, Development Management, Housing, Property and Legal Services. The documents have further been informed by discussions with other local authorities within and outside London, the Greater London Authority (GLA), academics, professional consultants and industry bodies.

2.5 The council received a total of 21 responses to the consultation on the Development Viability Discussion Paper and Questionnaire. These responses informed the development of the Draft Development Viability SPD and were summarised in the Draft SPD's Consultation Statement. This contained summaries of the main issues raised and the council's response to these comments.

3. Consultation on the Draft Development Viability SPD

3.1 The council conducted a further consultation on the draft Development Viability SPD for an eight week period from 10th July to 4th September 2015, which in turn informed the final version of the Development Viability SPD.

3.2 Responses to this consultation stage were received from 31 individuals and organisations:

- Berkeley Homes
- Better Archway Forum

- Philip Walker, Canonbury Society
- Chiswick High Road Action Group (based in London Borough of Hounslow)
- Derwent via DP9
- Elephant Amenity Network / 35 % Campaign (based in London Borough of Southwark)
- Emyrean
- Fitzpatrick Team Developments via CgMs
- Greater London Authority (GLA)
- State of Guernsey Forward Planning Team
- Highways England (no comments)
- Stephen Hill, C2O futureplanners
- HSE (Health and Safety Executive) (no comments)
- Islington Society
- LB Harrow Development & Projects
- LB Hounslow Affordable Housing and Supply Services Team
- LFEP (London Fire and Emergency Planning Authority) via Dron & Wright
- London First
- London Square via Quod
- Professor Patrick McAllister, University of Reading
- Metropolitan Police (no comment except reference to need for greater emphasis on designing out crime)
- Metropolis PDG
- MMO (Marine Management Organisation) (no comments)
- Natural England (no comments)
- ORR (Office of Rail and Road) (no comment)
- Parkhurst Road Ltd via Gerald Eve
- Royal Mail Group via DP9
- Emily Thornberry MP
- George Venning, Nettlebed Consulting
- Responses from two Islington residents (in the interest of confidentiality, the identity of these respondents has been kept anonymous).

3.3 The SPD has also been informed by discussions with interested organisations and experts in relation to various aspects of the guidance. As in the previous consultation process, similar responses have been grouped together and listed by themes as follows (with reference to the structure of the SPD):

- Providing Guidance on Development Viability
- Viability in the Planning Process (SPD Section 2)
- Procedure (Section 3)
- Deliverability & Transparency (Section 4)
- Methodology (Section 5)
- Information Requirements – Evidence, Inputs and Assumptions (Section 6)
- Viability Review Mechanisms (Section 7)
- Council Monitoring and Review (Section 8)
- Other Comments

3.4 The council is grateful to those who have responded to the consultation and helped inform the SPD. The draft SPD and the discussion paper have also been considered by a range of other organisations, at public discussions and events and have been cited in several national reports on housing supply and viability¹ and articles in the national and industry press/ journals.

¹ The Lyons Housing Review, Mobilising across the nation to build the homes our children need (2014) Viability Section Pages 75-76; and Campaign to Protect Rural England (CPRE) Getting Houses Built, How to Accelerate the Delivery of New Housing (2015); Joseph Rowntree Foundation (JRF) Rethinking Planning Obligations (2015); The SPD was also awarded a 'High Commendation' at the Planning Awards 2015.

Summary of Main Issues Raised during Consultation on Draft Development Viability SPD

Ref	Respondent(s)	Comments	Council's response
VIABILITY IN THE PLANNING PROCESS / THE COUNCIL'S APPROACH			
1	Resident / Chiswick High Road Action Group / Guernsey / LB Harrow / LB Hounslow / Islington Society / Stephen Hill / Elephant Amenity Network / Professor Patrick McAllister / George Venning	Support for council's guidance. SPD is comprehensive/ well-judged/ best practice	Noted.
2	Elephant Amenity Network / LB Harrow / Professor Patrick McAllister	Concerns regarding lack of transparency of viability appraisals / use of appraisals to reduce planning obligations and affordable housing / model and input uncertainty, financial incentives and underestimating of returns from development in planning context.	Noted.
3	Royal Mail via DP9 / Empyrean	Support for principle of SPD to provide clarity and guidance.	Noted.
4	Empyrean / Derwent via DP9 / GLA / LFEPA via Dron and Wright / London First / Parkhurst via Gerald Eve / Fitzpatrick via CgMs / London Square via Quod	Whilst principles of SPD are understandable and SPD contains some good clarifications, the overall effect is development constraint, contrary to national policy, the Development Plan, and RICS Guidance.	The SPD is consistent with national policy and guidance and the Statutory Development Plan (see Section 2 for consideration of key documents). The SPD provides guidance on the implementation of Development Plan policies and clarity regarding the nature of information required to enable robust scrutiny of assessments, in accordance with the London Plan. The SPD will not constrain development, but rather sets out parameters (including for the assessment of competitive returns to developers and landowners) which will add certainty to the viability assessment process and ensure the delivery of sustainable development.
5	Parkhurst via Gerald Eve/ / GLA / LFEPA via Dron and Wright	Understand council's desire to provide greater clarity but prescriptive guidance on preferred methodology is inappropriate at the moment as national context surrounding viability and affordable housing is changing	Conflicting guidance / an absence of detailed guidance has in some cases led to approaches to viability assessment which conflict with the principle of sustainable development and the plan-led system. The SPD will help to ensure that viability is assessed rigorously and that assessments support the goals of the NPPF and delivery of the adopted Development Plan.

		/ Prescriptive guidance is inappropriate because council has vested interests.	The council will monitor the changing national context and review this as further information becomes available.
6	LFEPAs via Dron and Wright / Parkhurst via Gerald Eve / London First	SPD should refer to / adhere to guidance from industry bodies (e.g. RICS) and PPG.	The council has considered industry guidance in addition to the documents referred to above. In some instances these adopt contradictory approaches. The council has set out guidance that is consistent with the key principles set out in the NPPF, PPG and with the delivery of its Development Plan.
7	London Square via Quod	The 50% affordable housing target is at the upper end of what is viable. Viability study (2012) concluded 30-50% to be viable without grant or CIL.	The Local Plan sets out a strategic target that 50% of new homes should be affordable and that individual schemes should provide the maximum reasonable level of affordable housing, taking into account the target. This was found to be sound following public examination of the council's Core Strategy. The council also notes that market conditions in the borough have changed significantly since 2012, with significant increases in residential values and to a lesser extent, rising build costs. Overall this has had a positive impact on the viability of residential and mixed-use schemes in the borough.
8	Empyrean	Concerns regarding cost of assessments for smaller schemes which should be deductible. More robust payment in lieu process needed for smaller schemes.	The level of evidence required and cost of assessments will depend on the scale and nature of the proposal and is typically moderate for small schemes. The SPD states that certain inputs will be accepted on a standardised basis where appropriate to the proposal, which should help to reduce costs, particularly on smaller schemes. Regarding costs incurred in gaining planning permission, this can be taken into account in negotiating the sale price of land. Further information relevant to small developments and more particularly regarding small sites affordable housing payments, is set out in the Affordable Housing Small Sites Contributions SPD ² .
PROCEDURE			
9	LFEPAs via Dron and Wright / Canonbury Society	Support for council's general timing / processes at pre-application and application stage.	Noted.
10	LB Harrow	Support for non-validation until viability appraisal provided in satisfactory format.	Noted.
11	Elephant Amenity	Support for applications to be	Noted.

² http://www.islington.gov.uk/services/planning/planningpol/pol_supplement/Pages/Affordable-Housing-Small-Sites-Contributions.aspx

	Network	refused if plan requirements cannot be agreed.	
12	Parkhurst via Gerald Eve / Derwent via DP9 / Royal Mail via DP9 / Metropolis / London First / Metropolis	Support for pre-application engagement. However, pre-application discussion on details may be premature as schemes evolve, particularly for proposals where exact Registered Provider (RP) offers and S106/CIL are not yet agreed. / Council should encourage settling pre-app design and land use matters first, then viability at second pre-app stage. Fixed point of pre-app process should be agreed for this.	<p>The council recognises that proposals may change as a result of initial pre-application advice. Viability methodology, inputs and outcomes should however be considered at an early stage, as these may influence key aspects of a proposal. This will help to expedite the decision making process. In line with the Mayor's Housing SPG, pre-application submissions should include details of discussions with RPs, even if offers have not yet been formalised. This is considered further below.</p> <p>The council provides heads of terms for planning obligations and, where requested, a preliminary assessment of CIL costs, to inform viability testing during the pre-application process. The council seeks to agree heads of terms at pre-app stage so that there is sufficient time for drafting of the S106 agreement. Applications should reflect the outcomes of pre-application advice to avoid delays during the application process.</p> <p>The council acknowledges that it may be appropriate to formalise design, land use and viability issues at different stages within the pre-application process according to the circumstances of the scheme, however these issues should not be considered in isolation.</p>
13	Derwent via DP9 / Royal Mail via DP9 / London First / Parkhurst via Gerald Eve / Empyrean	Consultants assessing viability will have to act in an impartial, objective and transparent way. Draft reports and correspondence should be circulated to applicants in a timely manner, to allow for comments and avoid delay.	It is agreed that these principles should apply to those involved in undertaking viability assessments, whether acting for applicants or the council. Early consideration of viability issues and provision of any additional required information will enable the council's assessment to be circulated in a timely manner.
14	Professor Patrick McAllister	Due to high levels of uncertainty, lack of comprehensive national guidance and financial incentives, model outcomes can be systematically biased. Assessments should be evaluated by an independent body.	<p>Noted. The purpose of the SPD is to provide clear guidance to provide certainty and establish methodologies which are consistent with the principle of sustainable development, to enable rigorous assessment. The SPD has been amended to state that appraisal inputs must be balanced, coherent as a whole and internally consistent.</p> <p>As the local planning authority, it is the council's role as decision maker to assess planning applications in line with the Development Plan and material considerations. The council will normally take external advice from suitably qualified consultants whilst ensuring that there are no conflicts of interest. Applicants also have</p>

			recourse to independent evaluation through a right of appeal.
DELIVERABILITY AND TRANSPARENCY			
15	Berkeley Homes / Better Archway Forum / Derwent via DP9 / Empyrean / Royal Mail via DP9 / LFEPA via Dron and Wright / Resident / Emily Thornberry MP / Elephant Amenity Network / George Venning / Parkhurst via Gerald Eve / GLA / London First / Professor Patrick McAllister	General support for increased transparency in viability assessment process.	Noted.
16	Resident / Chiswick High Road Action Group / George Venning / Professor Patrick McAllister / Elephant Amenity Network	Support for the council's approach towards greater transparency in the viability process to enable wider scrutiny and robust decision making and ensure public confidence.	Noted.
17	Resident	Applicants should be bound to original application proposals and terms agreed through the planning process, to prevent reduction of obligations at a later date.	The council secures planning obligations through legally binding S106 agreements. Applicants have a statutory right to apply for a modification or discharge of affordable housing requirements on the grounds of viability ³ . Applicants also have the ability to seek a variation to a planning obligation or apply for this after five years on the grounds of changed planning circumstances ⁴ .
18	Better Archway Forum / Elephant Amenity Network / London First / Stephen Hill/ Resident	Developers encountered misrepresenting facts. Seems currently a "risk free policy". / Support for consistency with information relied on by finance provider, draft SPD paras 4.4-8 and for council's proposal of a mandatory declaration as more honest. / London councils, RICS, RTPI or similar should take lead to	Noted.

³ S106BA of Town and Country Planning Act 1990

⁴ S106A of Town and Country Planning Act 1990

		provide uniform approach across London. / Consultancies are offering “guaranteed approvals”.	
19	George Venning/ London Square via Quod	Public participation in planning process important. Balance should be struck between transparency and information requirements.	Noted. The SPD has been amended to place greater emphasis on the application of a standardised approach to certain inputs which should assist in limiting concerns regarding confidentiality of developer information (see below).
20	Professor Patrick McAllister/ George Venning	‘Real’ appraisals undertaken internally by applicants / used to gain finance evolve, make different assumptions and are more complex than appraisals submitted to councils for planning purposes.	The London Plan requires that councils rigorously evaluate development appraisals submitted as part of the planning process. The council notes the large proportion of assessments it has received which indicate a lack of viability of development proposals (despite current market conditions and delivery rates). The council also acknowledges the sensitivity of models and potential for ‘bias’ resulting from the adoption of a series of imbalanced/ pessimistic assumptions (see above). The council recognises that applicant’s financial appraisals may be undertaken on a different basis from those submitted for planning purposes, in particular regarding the incorporation of growth assumptions, whereas planning viability appraisals are normally based on current costs and values. The council is however concerned with ensuring that inputs and assumptions submitted to it are realistic and consistent with those forming the starting point for information relied on to secure development finance. The SPD has been amended to clarify this point and that council will not require details of an applicant’s internal calculations or terms of finance. However, a statutory declaration is required to verify that the assessment is a consistent, fair and true reflection of the scheme’s viability. A declaration may also be required to verify deliverability of a scheme.
21	Fitzpatrick via CgMs / LFEPA via Dron and Wright / Parkhurst via Gerald Eve / London First/ GLA / London Square via Quod / Canonbury Society / Derwent via DP9	Requiring confirmation from lenders agreeing to lend on basis of assessment and that information submitted is consistent with that informing applicant’s decision to proceed is extensive, costly and unrealistic. / not relevant planning considerations. / lenders don’t commit to lending pre-planning consent.	The SPD has been revised. It now only requires a declaration by a director of the applicant company confirming that current day costs and values applied in the viability assessment submitted to the council are consistent with current day costs and values within (or used as a starting point for) viability assessments that have been undertaken for internal or financial purposes. The council does not consider that declarations of this nature which may be necessary to confirm the reliability of information are extensive or costly. The council is required by the London Plan to rigorously evaluate appraisals and by the PPG

			such situations. The relevant section of the SPD has been reworded to clarify what the council would like applicants to do in such a situation (see also above).
24	London First	Support for requirement that assessments should not be undertaken on basis of performance related fees. This is in accordance with the RICS Guidance Note Financial Viability in Planning (RICS GN).	Noted.
25	Canonbury Society / LFEPA via Dron and Wright	Requiring a declaration that adviser's fee is not dependent on outcome of viability negotiations is unrealistic / excessive.	This is necessary to help ensure that assessments can be relied on as a fair and true reflection of scheme viability and that consultants are not directly financially incentivised to understate scheme viability in order to reduce planning obligations.
26	Elephant Amenity Network	Support for approach consistent with ICO and Information Tribunal. Councils must ensure that policies are robust and tests applied stringently to ensure transparency.	Noted.
27	Derwent via DP9 / Royal Mail via DP9 / Parkhurst via Gerald Eve / London First / London Square via Quod / GLA	Confidential information can be reviewed by council and consultants without public disclosure. / Matter of law not policy. / Information can be shared but blanket prescriptive approach is not appropriate. Should provide public with summary from independent assessor, once discussed and agreed with applicant. / Opportunity must be given to justify confidentiality in case of any FOI/EIR request.	The council recognises the importance of public participation and considers the public availability of viability information as crucial in helping to ensure that the process is open to scrutiny and that public confidence in the planning system is maintained. Provision of a summary of viability conclusions does not sufficiently provide for this. For these reasons the council considers that information should be treated transparently. The council has made provision for exceptional circumstances, as set out in the SPD.
28	Fitzpatrick via CgMs	SPD needs to be clearer on how cases made for confidentiality of viability information will be assessed.	Justification for confidentiality of any part of a viability assessment would be assessed on the basis of the 'adverse effect' and overriding 'public interest' tests within the EIR, having regard to the specific circumstances of the case. Guidance on the EIR tests has been published by the Information Commissioner's Office ⁵ .
29	Berkeley Homes / Fitzpatrick via CgMs	Publication of commercially sensitive assessment elements would be damaging /	As noted above, given the potential for viability assessments to significantly influence the outcome of the planning process and for the

⁵ See Information Commissioner's Office: How Exceptions and the Public Interest Test Work in the Environmental Information Regulations.

	/ Derwent via DP9 / Canonbury Society / LFEPA via Dron and Wright / Parkhurst via Gerald Eve / Royal Mail via DP9	deterrent to applicant / could act as restraint on bidding and discourage openness. There should be no requirement to disclose this type of information. Disclosing confidential information before permission is granted and a site is offered for sale would cause competitive disadvantage for the landowner and developer.	other reasons stated in the SPD, the council considers that there is a strong case for greater transparency in the process. The council has made provision for considering if exceptional circumstances apply, if harm would arise and if the final outcome of disclosure would be in the public interest.
30	Berkeley Homes / Fitzpatrick via CgMs	Viability assessments should be published once agreed not earlier while still evolving.	The council considers that assessments should be published at a stage when they can be considered by members of the public, to ensure adequate participation in process.

METHODOLOGY

31	Canonbury Society / Empyrean	Support for section on methodology.	Noted.
32	LB Harrow	Support for Existing Use Value plus premium (EUV+) premium approach.	Noted.
33	Elephant Amenity Network	Support for methodology and information requirements as accessible and understandable for lay person. Shows that viability not always 'too complicated' for public.	Noted.
34	Derwent via DP9 / Royal Mail via DP9 / Parkhurst via Gerald Eve / London First	SPD approach to residual appraisal and rejection of fixed land value is inappropriate. SPD disregards NPPF requirement for competitive return to willing landowner and thus compromises delivery.	In line with the GLA Development Appraisal Toolkit Guidance Notes, the council does not consider it appropriate to apply a fixed land value as an input within a development appraisal based on price paid for land or an aspirational sum sought by a landowner. In this case the developer's profit, rather than the land value, would become the output of the residual valuation. Where a high fixed land value has been assumed which is inconsistent with the outcome of the viability assessment, the scheme will almost inevitably appear unviable. Furthermore other changes to a scheme, such as a reduction in density (which would be expected to result in a lower residual value) may not be reflected in an appraisal where the site value has been fixed and is not the output of the appraisal. This also raises a further concern regarding internal consistency. A market based land value which is likely to reflect assumptions regarding future value and cost growth assumptions should not reasonably be included as a fixed cost input in an assessment which is based on current day

			values and costs. . Any uplift in land value over and above the value of a site in its existing use or policy compliant alternative use is dependent on the grant of planning permission. For these reasons the council considers that the residual land value methodology (in which plan requirements are included alongside other development costs), is the most appropriate to use when undertaking an assessment in support of a planning application. Any approach which does not fully reflect plan requirements when determining land value undermines the delivery of the adopted development plan as part of the plan-led system and sustainable development, as supported by the NPPF.
Viability Models			
35	Canonbury Society	Support for section on models.	Noted.
36	Derwent via DP9 / Royal Mail via DP9 / Parkhurst via Gerald Eve / London First / GLA	Often necessary to produce bespoke models on major schemes given limitations of existing models (draft SPD para 5.5). / SPD should be more clearly supportive of the use of bespoke models.	The council considers that in some instances, for example on complex large scale projects, it may be appropriate to use models other than those referred to in the SPD where these would not adequately represent a proposal. To ensure that the council can properly assess a scheme it is vital that the council is provided with a full working electronic version of the viability appraisal model used by the applicant, which can be fully tested and interrogated.
37	LB Harrow	Support provision of full working electronic model. ARGUS preferred by developers but GLA toolkit should be given equal weight.	Noted. The council will accept different models where suitable given the characteristics of the proposal, where these enable the appraisal to be properly assessed and notes the merits of the GLA Toolkit as well as ARGUS.
38	Elephant Amenity Network	Assessments can be kept from public scrutiny by claiming that they are part of a confidential 'bespoke business model'.	The council has set out its approach to considering transparency / confidentiality issues in Section 4. The council will generally not make live working models accessible to third parties, having regard to considerations of intellectual property rights. However, the council considers that bespoke models are only likely to be appropriate in certain instances and must not be relied on solely as a means of justifying confidentiality.
39	Canonbury Society	How are officers to be trained in the use of viability models?	Officers dealing with viability are experienced and trained in the use of the viability models referred to.
INFORMATION REQUIREMENTS - EVIDENCE, INPUTS AND ASSUMPTIONS			
Proposed Approach			
40	Canonbury Society / Elephant	Support for council's general approach to evidence, input and assumptions.	Noted.

	Amenity Network / Emyrean		
41	Derwent via DP9 / Royal Mail via DP9 / Parkhurst via Gerald Eve / London First	Extent of justification of key inputs must be fairly related to individual scheme and will vary depending on its scale and complexity.	Noted. This has been reflected within the SPD section on information requirements. The level of evidence and justification required will depend on the scale and nature of the proposal. Where appropriate the council will accept standardised inputs (see also SPD section 6 on build and finance costs). Greater levels of justification are likely to be required for appraisals which incorporate inputs deviating from benchmarks referred to in the SPD.
42	Emyrean	On smaller projects getting quotes (e.g. from RPs, contractors, funders etc) can be difficult.	The council expects information provision to be proportionate according to the size and nature of scheme (see above). The council recognises that it may not be possible or necessary to provide certain types of information on small sites. Where appropriate and justified the council will accept standardised inputs, which should simplify the process, especially for smaller developments.
43	London Square via Quod	Requirements relating to applicant company, discussion with future occupiers, RP engagement, staircasing receipts etc would be better addressed on scheme by scheme basis. List in Appendix B should be replaced with ref to RICS GN Appendix C.	The purpose of Appendix B is to provide clarity and predictability for applicants regarding the information that is likely to be required, as appropriate to the scheme in question. For example details of future commercial occupiers will only be required if relevant to the proposal.
44	George Venning	<p>There are key problems with requiring developer specific information (e.g. real values, costs and finance arrangements etc) relating to:</p> <ul style="list-style-type: none"> - Commercial sensitivity, - Making the permission specific to the applicant rather than the land, and - Linking the assessment to subjective market value (MV) and growth assumptions. <p>Advantages of “strategic” simplified assessment (e.g. EUV plus premium approach to benchmark land value, benchmarked current day costs and values, standard profit and finance assumptions etc) are:</p> <ul style="list-style-type: none"> - Approach is less subjective, - Data is mostly in public domain already, 	<p>Noted. The SPD has been amended to place greater emphasis on standard inputs which are related to the scheme and site. .</p> <p>In particular, changes have been made to information requirements relating to:</p> <ul style="list-style-type: none"> - financial information - build costs - affordable housing values - profit levels. <p>Greater emphasis has been placed on the adoption of more standardised inputs provided that:</p> <ul style="list-style-type: none"> - they are appropriate and not at odds with the details of the scheme and site as shown in the planning application - they are consistent with any associated evidence provided or known to the council <p>assumptions are clearly shown and referenced. This approach also goes alongside and should be seen together with guidance in the SPD relating to benchmark land values based on EUV+, fully reflecting policy requirements, and the use of</p>

		<ul style="list-style-type: none"> - No inbuilt growth assumptions / inflation - Explicitly leaves returns from risky growth speculations to developers, to be used for higher bid on land or profit. - Less risk therefore less justification for higher profits. - Incentive for cost management retained. - Level playing field as linked to land not developer. <p>Approaches above both have merits but should not be mixed as have very different assumptions and context. The SPD should differentiate.</p>	comparable evidence where appropriate/ sufficiently adjusted only.
45	London Square via Quod/ Metropolis	SPD does not accept 'actual' land price paid while at same time seeking 'actual' commercially sensitive and applicant specific financial information. Viability should be assessed on basis of industry benchmarks. Information requirements inappropriate as currently too specific to applicant not scheme/ land.	See above. The SPD has been amended to place greater emphasis on the use of standard information which is specific to the scheme, where justified.
Development Value			
46	Professor Patrick McAllister	Support for using projected not current values and costs in modelling. Expected changes should be part of viability model, despite inherent uncertainties as more realistic and common practice. Use of current costs and values implies forecast of 'no change', resulting in lower land value estimate and lower contributions.	The council recognises the potential benefits of incorporating value and cost projections, however PPG indicates that appraisals should normally be undertaken on a current day basis given the uncertainties associated with projections. The council also has experience of growth models being used with understated value projections, whilst adopting significantly higher profit targets. The current day basis of viability models is also a factor linked to the council's preference of the EUV+ approach, as opposed to the use the MV approach which typically incorporates growth assumptions.
47	Berkeley Homes	Values have grown significantly but so have cost of labour, materials and advice.	The council notes that the costs of development have increased over recent years, however a comparison of house price and build cost indices indicates that the rate of growth has been significantly higher for the former.
48	LB Harrow	Recommend block by block and floor by floor market research, with developers benchmarking own nearest scheme.	Noted. This level of detail would be welcome where possible.
Affordable Housing Values			

49	LB Harrow	Support for requiring RP engagement. Need for method of dealing with grant input at later stage so not overlooked. How to manage new initiatives with positive impact on AH through S106 process?	Noted. Grant input at a later stage and other improved circumstances will be considered as part of review mechanisms where relevant.
50	Empyrean / Royal Mail via DP9 / Fitzpatrick via CgMs / Derwent via DP9 / Royal Mail via DP9	RP involvement difficult to achieve, especially at pre-app. RP co-operation/evidence (e.g. of calculations underpinning affordable housing values) relies on RP interest and resources. RP involvement unlikely until development fully designed, permitted and service charges set. At pre-app only indicative valuation possible / Rental assumptions are commercially sensitive.	The Mayor of London's Housing SPG states that development appraisals should be carried out in conjunction with an RP. The SPD has been amended to take into account circumstances where a developer is experiencing difficulties in obtaining RP offers. Where evidence of RP offers is not provided, the council will apply affordable housing values based on typical RP offer levels.
51	Derwent via DP9	SPD states that level of affordable housing should not be constrained by design. Many RPs require separate cores and entrances. The SPD should also identify differences between shared ownership, intermediate and social rent etc.	SPD approach is in line with Core Strategy CS12, London Plan paragraph 3.75 and Mayor's Housing SPG paragraph 4.4.41 regarding quality and integrated design required for affordable housing element of a scheme.
52	Elephant Amenity Network	Support for SPDs approach against designing out affordable housing. Argument that tenure separation is required by RPs is common tactic of developers to reason for separate cores at higher cost, thus reducing viability and total affordable housing offer.	Noted.
53	Derwent via DP9 / Royal Mail via DP9 / GLA / Parkhurst via Gerald Eve	Guidance relating to affordable rent conflicts with London Plan and GLA Housing Strategy. / SPD should not create new policy or impose restrictions on type and choice of affordable housing.	The SPD has been clarified to ensure that this section solely cross references to and quotes from existing relevant documents, such as the council's and the Mayor's Housing Strategies.
Build Costs			
54	George Venning	Costs should be standardised based on site and scheme characteristics, not based on developer identity or strategy.	Noted. The SPD has been amended to clarify that the council will accept standardised costs based on publically accessible data such as BCIS, as long as they are made sufficiently specific to the scheme and site characteristics

			in question (see above). Where an applicant seeks to rely on build costs which deviate from publically available data, this will require more detailed justification and will be reviewed on an open book basis as part of a viability review.
55	LB Harrow	Call for London wide cost consultancy panel to compile comprehensive database.	Noted.
Developer Profit			
56	Resident / LFEPA via Dron and Wright / Berkeley Homes	Concern that if developer profit is insufficient due to council's requirements they may choose to build in other boroughs. / Housing crisis justifies higher profit to ensure sufficient capital and competition is attracted so that building happens.	Islington has seen some of the highest delivery rates nationally despite being one of the smallest boroughs and encounters significant development interest. The council has set out guidance for determining a competitive return for developers in line with the NPPF and PPG. The policy framework also sets out the key objective of delivering development that is sustainable, including the provision of affordable homes to meet pressing housing needs. High demand for housing and the presence of high property values reduce risk which, in accordance with PPG, should be reflected in target profits.
57	Berkeley Homes / George Venning / LB Harrow / Derwent via DP9 / Royal Mail via DP9 / Parkhurst via Gerald Eve / London First / Professor Patrick McAllister	Property is cyclical business with significant risks. Very large scale investment required long before returns are made, especially for large developments. Returns must reflect risks or developers will go out of business / funders will invest elsewhere. Higher levels of risk linked to higher profit margins. e.g. on sites involving heritage assets or tall buildings etc. / Support for SPD avoiding rigid approach to profit, consistent with PPG and RICS GN. Profit must be based on risk of individual scheme. / Profit level variable over time	The SPD confirms that developers must receive a competitive return for a scheme to proceed and also a level of profit that is sufficient for finance to be secured. Profit is a factor of risk and will vary from scheme to scheme.
58	Elephant Amenity Network	Council should set profit for sites in line with circumstances.	Noted. See above.
59	Empyrean	Return needs to be blended based on unified return of overall GDC or GDV, meeting developer's requirements over entire project. Should not apportion to different elements.	While total return figure will be blended, apportioning profit to specific elements (e.g. social vs private) is established practice reflecting differing levels of risk as shown by different benchmark values adopted in the GLA Development Appraisal Toolkit and other models.

60	Canonbury Society / LB Harrow	Support for caution over using IRR as sole profit measure.	Noted.
61	GLA/ Professor Patrick McAllister/ Derwent via DP9 / Royal Mail via DP9 / Parkhurst via Gerald Eve / London First	SPD should indicate that IRR sometimes most appropriate. / Profit on GDC/GDV crude as doesn't reflect effects of time. IRR more robust and realistic. Two methods could be combined to give 'fuller' picture. Need more guidance/ research on how profit should be estimated. /Council should focus on viability of project excluding finance costs. / Project IRR and Net Present Value analyses well accepted. Profit on GDC/GDV can also be inappropriately used. Appropriateness of return measure should be based on method, approach and scheme not prescribed by SPD.	The SPD sets out potential reasons for caution relating to the IRR approach based on sensitivity to the timing of costs and values which are likely to be variable/ out of the council's control and required profit levels. The SPD has been amended to recognise that both approaches are sometimes undertaken and allows for the application of IRR alongside profit on costs/ values where the council is satisfied that the development programme, timing of costs and values and target IRR have been fully justified.
Benchmark Land Value			
62	London Borough of Harrow/ Emyrean Developments Limited	Support for EUV+ approach to Land Value Benchmark.	Noted.
63	George Venning	EUV is more appropriate approach to assessing the land value benchmark than MV, so long as a standardised approach to inputs is adopted.	Noted.
64	Professor Patrick McAllister	Support for robust analysis of benchmark land value. More guidance required on how premium is quantified (mainly political decision re what is equitable and efficient). EUV+ is capable of producing different levels of obligations for different sites and different shares of uplift between landowner and council. Could create metric to estimate way of sharing uplift more equitably. Please note that this is not meant as an argument in support of MV approach.	Noted. Further clarification has been provided on assessing the level of premium over EUV. The principle goal of the planning system is to deliver sustainable development as expressed by development plan policies. Land values may increase due to the approval of planning consent, but this is dependent on the terms under which permission is granted as defined by the Development Plan and material considerations. The planning system allows for a competitive return for land owners to encourage the release of sites, but does not set out to provide a consistent increase in land value as a proportion of a notionally consented scheme. The approach suggested by the consultee may bear greater resemblance to a form of development land tax whereas the primary focus of the planning system under the NPPF is on the delivery of sustainable development.

65	Canonbury Society	Residual valuation must reflect cost of planning obligations.	Noted.
66	Professor PatrickMcAllister; George Venning	<p>The draft guidance discusses the problems associated with a MV approach to land value very effectively.</p> <p>/ Concerns over MV approach: It is subjective because of the need to weigh all of the factors which differentiate the application site from other sites when considering market evidence. Potential for figures to be skewed when assessing MV is likely to cause confusion and conflict.</p> <p>/ MV should not be used as the determinant of viability in an appraisal which excludes inflation (i.e. is based on current day values/ costs).</p>	Noted. The SPD has been updated to ensure the appropriate use of market based evidence and to confirm that a site value based on market evidence which incorporates assumptions of value growth should not be used within an assessment which is based on current day values and costs.

67	<p>Derwent via DP9 / Royal Mail via DP9 / Parkhurst via Gerald Eve / London First/ LFEPA via Dron and Wright</p>	<p>SPD acknowledges RICS GN site value definition in arriving at benchmark land value, but some of the commentary within SPD is selective and incorrect in its interpretation of PPG, RICS GN and recent RICS research⁶. Interpretation and application in context of arriving at site value of Core Strategy CS12 was subject of Mayoral decisions and appeals and differs from approach in SPD. PPG and RICS GN provide clear guidance on how to calculate site value. This approach was found robust on other schemes.</p> <p>/ NPPF states that plans should take account of market signals. RICS GN promotes adjusted MV and has reservations about EUV+ approach as potentially arbitrary, inconsistent, undervaluing land and thus overvaluing planning contributions and as inappropriate in most cases.</p> <p>/ Council states that full regard must be had to Development Plan, however this should not be to detriment of actual market practice and commercial reality.</p>	<p>The NPPF sets out that the purpose of the planning system is to deliver sustainable development through a plan-led system. The SPD provides guidance on the implementation of the council's Development Plan policies. The approach taken is consistent with the NPPF and PPG. The latter confirms that EUV may provide an appropriate basis for comparison as a means to determining a competitive return. The council recognises that this would normally include a premium above EUV and should incentivise release of the site. The SPD has been updated to place greater emphasis on PPG. In this context, further clarification is provided relating to assessment of the premium, the use of market data and the application of Development Plan policies when determining land value.</p> <p>The council notes that decisions on individual sites by different planning authorities and inspectors have been mixed as set out in research published by the RICS⁷. The council has significant concerns similar to those identified in the research paper regarding the application of the 'Market value approach' as described in the RICS GN. The government has confirmed to the council that it is the Secretary of State's 'unambiguous policy position' that 'land or site value' 'should reflect policy requirements'. Where policies are not fully reflected as required by PPG and transactions are not adequately comparable or adjusted, this makes it almost inevitable that policy requires are found to be unviable. This will undermine the delivery of sustainable development. It is appropriate for the council as the local planning authority to provide guidance on this issue in line with the key principles of the NPPF and the approach as set out in PPG.</p>
68	Metropolis	<p>Policies are unclear on what level of affordable housing a policy compliant application would provide. Different level might be policy compliant for different applicants on same site. This is incompatible with the NPPF and PPG, which require predictability, efficiency and being even-handed to applicants.</p> <p>Two possible approaches:</p>	<p>The SPD aims to provide greater certainty and clarity within the framework of current national, London wide and local policy context. The SPD provides guidance on adopted Development Plan Policies, including Policy CS 12 which states that individual schemes must provide the maximum reasonable amount of affordable housing on site taking into account the strategic target that 50% of new housing should be affordable. Further guidance has been provided to clarify and provide greater predictability regarding application of affordable housing and other policy</p>

⁶ RICS (Crosby & Wyatt) Financial Viability Appraisal in Planning Decisions: Theory and Practice (2015)

⁷ See footnote 5.

		<ul style="list-style-type: none"> - Clear affordable housing quota/benchmark % could be stated. This would justify more rigorous testing with onus on the developer to seek exception from rule (as for small sites) - Alternative is more universal and arms-length, allowing any applicant to see easily what is compliant on a site. 	<p>requirements. This should be taken into account when undertaking viability assessments and determining land value (see Section 6).</p>
69	LFEPA via Dron and Wright	<p>Approach to Alternative use value (AUV) (draft SPD para 6.59) is time consuming and unreasonable, especially where previous use of site was operational and no longer present on site.</p>	<p>Guidance in relation to an AUV approach is consistent with PPG which states that this must be policy compliant and realistic. Information must be provided to enable the council to determine if the alternative use would be acceptable in planning terms and to assess the residual value of the scheme.</p>
Development Finance			
70	London Square via Quod/ George Venning/ Metropolis	<p>The nature and circumstances of the applicant should be disregarded when assessing viability of schemes and viability should be assessed on the basis of industry benchmarks.</p>	<p>Noted. In weighing up the merits and disadvantages of a standard or more specific approach to the costs of development finance, the council recognises the benefits of the former and the SPD has been updated to reflect this.</p>
71	Fitzpatrick Team Developments via CGMS; Canonbury Society	<p>The terms of development finance can be commercially sensitive.</p>	<p>The council's approach to issues of transparency and confidentiality is set out in Section 4. Greater emphasis is placed in the SPD on the use of standard assumptions in respect of development finance and other viability information, which should ensure fewer concerns relating to commercial confidentiality.</p>
72	Professor Patrick McAllister	<p>Development finance and cost of debt are complex and variable depending on risk, economic conditions, borrower, funding terms etc. Conventional approach that a developer borrows all development costs is unlikely to occur. Suggest council focus on project viability and disregard applicants' finance arrangements.</p>	<p>Noted. This approach is associated with the adoption of an IRR based profit which is considered above. Where this is not applied it is appropriate to take finance costs into account as required by PPG.</p>

VIABILITY REVIEW MECHANISMS			
Proposed Approach			
73	LB Harrow / Elephant Amenity Network / Professor Patrick McAllister	Support for council's proposed approach. /	Noted.
74	Professor Patrick McAllister	Review process is likely to be complex.	The SPD sets out an approach which is transparent, less complex and less resource intensive than a full viability re-assessment. The council's approach does this through the use of formulas and by focusing on development values and costs which are the key variables that are likely to be subject to change.
75	GLA/ Empyrean/ Fitzpatrick via CgMs/ LFEPA via Dron and Wright	Council should satisfy itself that intentions of proposed SPD approach are consistent with those of the Mayors Housing SPG (and does not restrict development. Viability reviews introduce uncertainty which affects funding.	The council's approach will support delivery of its Local Plan, is appropriate to the circumstances that are relevant to Islington (see for example Section 2) and is in line with the Mayor's Housing SPG. The SPD establishes that reviews will only take place to ensure compliance with the Development Plan. Furthermore, additional planning obligations will only be sought in the event that a scheme is viable and a surplus profit is generated. Developers are further incentivised through a share of any additional profit generated. As such it is considered that the SPD will not act as a barrier to delivery.
76	GLA/ London Square via Quod/ Parkhurst Road Ltd via Gerald Eve / London First	Pre-commencement trigger after 12 months needs more flexibility for schemes with complex consolidation or pre- commencement conditions / 18 month period should be adopted as negotiable minimum. Pre-implementation trigger of "substantial" implementation is not standard.	The purpose of the review is to ensure that the assessment is based on up to date and accurate viability evidence. The council does not intend (or consider it necessary) to use viability reviews as an incentive for delivery. Given the circumstances of the borough and the potential for significant changes in values and costs within a short timeframe, an application stage assessment is likely to be out of date after 12 months or before. Substantial implementation has been used by boroughs and the Mayor as a basis for whether a review takes place within a number of S106 agreements to rule out the potential for a notional implementation in order to avoid a review.
77	GLA	Mid-point or advanced stage reviews need to take into account individual scheme circumstances regarding accommodating additional	Noted. The SPD recognises that advanced stage reviews will typically result in a contribution rather than additional onsite affordable housing, where a surplus profit is generated. Where surplus profit is generated at

		onsite affordable housing.	mid-term review stage, the council will seek additional onsite provision in line with the Development Plan whilst having regard to site specific circumstances.
78	George Venning	Review is a disincentive for seeking efficiency gains while the risk of cost over-runs still remains with the council in S106BA.	The review mechanism makes an allowance for any surplus determined to be shared between the developer and the council, maintaining the incentive for positive cost management. The council is further limited to any surplus up to the policy complaint cap. Any efficiency gains made above this cap are retained entirely by the developer.
79	George Venning	A general reporting duty as a planning obligation might be better alternative to a review mechanism. This could provide a bank of data to compare future schemes' costs for the public and applicants.	The council considers that it is necessary to undertake review mechanisms in order to ensure that developments comply with planning policy where it is viable to do so. The council notes the importance of monitoring viability information and may undertake post completion reviews for this purpose (see SPD section 8).
80	London Square via Quod	SPD should define what constitutes a phased scheme.	The SPD (and draft version) sets out parameters for the scale of development which is likely to come forward in phases (schemes of or above 150 residential units / 10,000 sq m commercial or mixed use space).
81	Derwent via DP9 / Royal Mail via DP9 / Parkhurst Road Ltd via Gerald Eve / London First / London Square via Quod/ Fitzpatrick via CgMs/ LFEPa via Dron and Wright Empyrean/ Canonbury Society	Viability should not be reviewed after permission. If reviews are applied, their appropriateness should be considered on a scheme by scheme basis having regard to NPPF, PPG and London Plan. SPD conflicts with London Plan, Mayor's Housing SPG, RICS GN and PPG. / Blanket requirement for reviews, formulas and approach are contrary to NPPF and London Plan and not mentioned in Local Plan or subject to examination. / Formulaic approach to pre-implementation reviews only appropriate for some schemes. / SPD fails to reflect cyclical nature of housing market and is predicated on upwards growth only.	The SPD is consistent with national policy, guidance and the Development Plan. The London Plan, the Mayor's Housing SPG and the council's adopted Planning Obligation SPD endorse the use of viability reviews. The Housing SPG paragraph 4.4.35 states that "The aim of a review mechanism is to address economic uncertainties which may arise over the lifetime of a development proposal. It allows increases in Section 106 contributions to reflect changes in the value of the development from application to a specific point in time/stage of development". The SPD provides guidance on and supports the implementation of development plan policies, within the borough context, in particular the requirement to provide the maximum reasonable level of affordable housing and address the impacts of development. RICS guidance is non-statutory, does not reflect the specific circumstances that apply in the borough and does not place sufficient weight on delivery of plan policies and sustainable development. The approach adopted in the SPD reflects the borough context and allows for a transparent, less complex and resource intensive process. The council will also take into account the specific circumstances of proposals.

			<p>Additional planning obligations will only be required if deemed to be viable through identification of a surplus profit. Land registry data indicates a significant long term trend of residential value increase in the borough, although separate legal provisions exist for a review of viability in the event that this reduces as referred to above.</p>
82	<p>Parkhurst Road Ltd via Gerald Eve / London First</p>	<p>For schemes of insufficient size or duration, or for larger schemes that have been appraised using a growth model if they proceed in a timely manner, a viability review is inappropriate. Where council and applicant agree a review mechanism is appropriate, this should be pre-implementation in line with PPG, London Plan and RICS GN.</p>	<p>Given the potential for changes in market conditions within the borough, the council considers that for major developments where planning obligations are based on an application stage assessment, a review mechanism is necessary to ensure that planning obligations are based on an accurate and up to date assessment at the point of delivery. This is common practice within London and has been supported in the Mayor's Housing SPG and a number of appeal decisions.</p> <p>In previous cases the council has found that growth assumptions applied in applicants' appraisals at application stage have been significantly lower than long term trends, the council's expert advice and actual growth that has occurred in the initial years following the appraisal. If an applicant chooses to rely on growth forecasts, the uncertainty associated with growth forecasting is such that viability reviews will be necessary to assess actual changes.</p> <p>Undertaking viability reviews at a later stage of development is established practice and is supported in the Mayor's Housing SPG. As noted above, the council does not intend to use viability reviews as an incentive to progress with a development but rather to ensure that these are based on up to date values and costs at the point of delivery. This is important to ensure that assessments are accurate given previous and potentially significant changes in market conditions over a short timeframe.</p>
83	<p>Derwent via DP9 / Royal Mail via DP9 / Parkhurst via Gerald Eve / London First / Canonbury Society/</p>	<p>Contribution formula is flawed. / Approach to calculating surplus, additional onsite affordable housing and financial contributions is crude, difficult and costly to implement.</p>	<p>The use of formulas to be included within a S106 agreement allows for a transparent, less complex and resource intensive process. These provide an appropriate basis for considering changes that have occurred between planning and development stages. The formulas focus on only two key elements values and build costs. In the event that costs in the initial assessment were based on acceptable publically available data, only values will be reviewed. This approach will</p>

			reduce the information requirements, the scope of the review and the amount of time the review will take.
84	Canonbury Society / London Square via Quod	Would be useful to see worked examples of formulas and application to schemes in pipeline including schemes with successive reviews.	Noted. Where appropriate the council will provide example calculations based on the relevant scheme for inclusion within S106 agreements. The formulas cannot readily be applied to pipeline schemes without information of up to date values and costs.
85	Canonbury Society	After planning consent is secured the planning risk is gone, thus profit expectations and cost of finance will be lower. Outputs of model will change.	Noted. Lower profit and finance cost applied at review stage would increase the likelihood of a surplus being identified. However to limit the cost and time taken to undertake a review, the council considers that this should focus on development values and build costs, that are the key inputs that are most likely to change.
86	Elephant Amenity Network	Support for three stage review of longer-term schemes as providing fair assessment of true viability of schemes, securing maximum affordable housing and public confidence.	Noted.
87	Berkeley Homes	Mid or end term reviews challenging for tall buildings applications as developer is unable to withdraw if market fails as with conventional phased development. In such cases, time related review pre-commencement would be more appropriate.	A viability review will consider changes in market conditions. Additional planning obligations will only be required where a surplus is generated. As noted above, reviews are required at advanced stage (and mid-term stage for large phased development) to ensure that assessments are based on up to date information at the point at which values and costs are realised.
88	London Square via Quod	Further guidance required regarding formulas: What evidence is required to support inputs, the process for undertaking reviews and whether value inputs are limited to residential values? Cost review is limited to construction costs and does not allow for unforeseen actual cost risks. Basis for council / developer split is unclear and appears arbitrary. Any share should be 50:50. Allowance should be made for any shortfall to agreed profit threshold. Later reviews need to take into	Details of key information requirements are set out in Section 7. The SPD has been amended to indicate that the review process will follow the application stage process (see Section 3). Value inputs will not be limited to residential value. Further detailed aspects of the review process will be set out in draft S106 agreements relevant to individual sites. Reviews will assess development values and build costs, which are the key variables that may be subject to change. This will limit the cost of undertaking the review and expedite the process. The SPD recognises that the approach taken will have regard to site specific circumstances, which may include consideration of additional costs where appropriate. The council has allowed for a proportion of any additional value generated to be retained by the developer to ensure that they gain in the

		<p>account reconciliation for potential deficit on previous phase.</p> <p>Additional onsite affordable housing provision is likely to require significant design changes.</p> <p>Guidance required regarding what happens if outcome is lower than target.</p> <p>Payment in lieu should be possible where extra onsite delivery not feasible.</p> <p>The cap payment formula may be overstated.</p> <p>Unclear where average values to be taken from.</p> <p>Info requirements and time required to review them (draft SPD para 7.29) may delay completion.</p>	<p>event of higher development values and lower costs. These proportions have been set at levels that reflect that the primary purpose of the review is to enable the provision of additional policy requirements where viable and that additional developer profit over the threshold profit level is not necessary for a scheme to be deemed viable. For pre-implementation reviews, this is based on typical profit requirements. At this stage limited additional incentive is required over the threshold profit, given that values will be realised after the review⁸. The allowance will be higher for mid-term and advanced stage reviews to ensure that a developer remains incentivised to maximise values and minimise costs prior to the review. The mid-term and advanced stage allowance is therefore set at 40%, which is a significant level of surplus or ‘super profit’ that is retained by the developer. A higher proportion is not deemed appropriate as this would not reflect the priority that should be given to securing additional planning obligations that are viable.</p> <p>The starting point for any review process is that the level of planning obligations proposed at application stage was deemed to be deliverable (See Section 4). Later reviews consider the scheme as a whole, as well as values and costs identified in previous reviews, and so will take into account any reduction in viability arising from earlier phases.</p> <p>It is not considered that significant design changes will be required when providing additional affordable units. The level of surplus generated will be used to convert the appropriate number of market units, identified in an additional affordable housing schedule, up to the policy cap. The council does not consider payment in lieu as likely to be necessary as part of a pre-implementation review, given that the development process will still be at a sufficiently early stage to allow for onsite delivery of affordable housing.</p> <p>The SPD recognises that in some instances adjustments to the calculations may be warranted according to the circumstances of a specific proposal. For example, where market and affordable housing values were clearly distinguished in the original appraisal calculation, it may be appropriate to allow for differential costs when determining the Advanced Stage Affordable Housing Cap.</p>
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⁸ See appeal ref: APP/V5570/A/14/2226258

			<p>Average values will be determined as a part of the review.</p> <p>The approach adopted limits information requirements and will streamline and shorten the time that a review will take. It is not considered that reviews will delay completion.</p>
89	Fitzpatrick via CgMs/ LFEPA via Dron and Wright	Three stage review process extensive, expensive and will delay implementation. Nature of review mechanism should be in line with size and nature of individual scheme.	The council's approach to reviewing viability is proportionate to the scale of development. For the majority of schemes that do not meet policy requirement or the strategic affordable housing target, only one review will be required. Pre-implementation reviews will only apply to phased developments. The SPD has also been amended to indicate that mid-term reviews will be required for large-phased developments only. As noted above, viability reviews will focus on development values and build costs, limiting the scale, expense and time required. Additional planning obligations will only be required in the event that a surplus profit is generated (see above).
COUNCIL MONITORING AND REVIEW			
90	Elephant Amenity Network	Support for post completion reviews (draft SPD para 8.1) for all schemes. Applicants should be required to provide all relevant information.	Noted.
91	LFEPA via Dron and Wright	Proposed review of viability following completion must be confidential and for internal review processes only, otherwise unreasonable.	See SPD section 4 for the council's approach to confidentiality / transparency.
OTHER COMMENTS			
92	Elephant Amenity Network	Council should campaign to abolish viability assessments. Applicants should be required to comply with local plans without exception. Plan requirements already extensively researched and tested.	Noted. The council has raised concerns regarding the operation and adequacy of the process, particularly in view of the significant influence that this can have on planning outcomes. Concerns have also been cited by a number of other organisations and experts in the field.
93	Empyrean	Viability is not Islington's most pressing issue. Lack of land is.	The council recognises the constraints associated with a limited land supply, whilst also noting high levels of delivery that have occurred within the borough. Constrained land supply highlights the importance of delivering sustainable development on sites that come forward. The SPD will support this through helping to ensure that viability is appropriately assessed as part of the decision making process.

94	Empyrean	Planning process is too lengthy, costly and not leading to better schemes. Perceived presumption against development.	The basis for the planning process is set out in legislation and national policy and guidance. The Islington Development Plan sets out ambitious targets for delivery of new homes and employment growth. As evident from previous high delivery rates, the council is supportive of growth that meets the terms of its Development Plan and the principles of sustainable development.
95	Canonbury Society	The council is too focused on delivery of affordable housing and minimisation of developer profit at expense of good design and town planning. Council officers spend too much time on viability and therefore less time / expertise on other matters such as design, sustainability etc.	<p>The delivery of affordable housing is a clear council policy priority supported by evidence of significant housing need. The council allows for competitive returns to developers in line with NPPF requirements, as set out in the SPD.</p> <p>The council has specialist officers who exclusively deal with issues such as viability, design and sustainability. The council has previously produced policies and guidance relating to these and other areas. Viability must be addressed as part of the planning process however this is not at the expense of consideration of the range of issues that form part of the Islington Development Plan.</p>

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Report of: **Executive Member for Health and Wellbeing**

Meeting of:	Date	Ward(s)
Executive	14 January 2016	All

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SUBJECT: Procurement Strategy for commissioning Genitourinary Medicine Services (GUM) and Sexual and Reproductive Health (community contraceptive) services (SRH)

1. Synopsis

- 1.1 This report seeks pre-tender approval for the procurement strategy in respect of London Sexual Health Transformation Project, in accordance with Rule 2.5 of the Council's Procurement Rules.
- 1.2 This report presents a procurement strategy that will commission Genitourinary Medicine Services (GUM) and Sexual and Reproductive Health (community contraceptive) services (SRH) operating between Barnet, Camden, Haringey and Islington, working together as a sub-region, with the new service commencing 1 April 2017. Hackney and The City of London have also recently joined the sub-region group and will carry out a linked geographic procurement. The report also seeks participation in the procurement of new London-wide sexual health services for on-line access and partner notification, starting in 2016/17. The sub-region re-procurement will include a Level 3 sexual health service in Islington (i.e. a fully comprehensive sexual health service able to treat the most complex STIs, and provide the full range of contraception, including long-acting reversible contraception).
- 1.3 The current model of sexual health services commissioned by local authorities is based largely on those developed by provider services in the NHS. The transformation of sexual health services is a key part of the transformation of local public health services. Islington has been working as part of a group of 28 London councils to develop new models of service as part of a London Sexual Health Services Transformation Programme. Particularly given Islington's central location in London, it is important to take into consideration the interdependency between the London councils participating in this programme, in order to support the introduction of new models of service to improve outcomes and realise efficiencies and savings.

2. Recommendations

- 2.1 To approve the procurement strategy for a pan London procurement for a web-based system to include a 'front-end' portal joined up partner notification and home/self-sampling.
- 2.2 To approve the procurement strategy for the sub-regional arrangements for commissioning and procurement of Genitourinary Medicine (GUM) and for Contraception and Sexual Health Service (SRH) Services, led by Islington Council on behalf of the sub-region.
- 2.3 To delegate to the Director of Public Health in consultation with the Executive Member Health and Wellbeing, the authority to award the contracts to the successful tenderers.
- 2.4 To delegate authority to the Director of Public Health, in consultation with the Executive Member for Health and Wellbeing, to approve the Council's participation in London-wide agreements on cross charging and lead commissioning as part of the transformation of sexual health services in London.
- 2.5 To note the progress made in developing options for the future commissioning and procurement of GUM services.

3. Background

- 3.1 Genitourinary Medicine Services (GUM) and Sexual and Reproductive Health (community contraceptive) services (SRH) are statutory services, which became the responsibility of local authorities in April 2013, as part of their new public health responsibilities. The services are open access which means that residents are entitled to visit sexual health facilities available, in any part of the country, without the need for a referral from GP or other health professional and regardless of where they are usually resident. This open access requirement service puts the Council under financial uncertainty as the level of activity is unpredictable and has been growing significantly in recent years.
- 3.2 The borough's central location and range of high quality services also mean that Islington plays a key role in London's sexual health. A significant proportion of users of local sexual health services are from out of borough; at the same time, about 40% of Islington resident GUM attendances are outside of Islington and Camden.
- 3.3 The transformation of sexual health services is a key public health priority. Currently, the sexual health services commissioned by local authorities are largely based on historic provider-led and designed models. Islington has been working as part of a collaboration of 28 London councils, the London Sexual Health Transformation Programme, to develop new models of sexual health services, focused on improved outcomes and driving efficiency.
- 3.4 Local Authorities (LAs) are facing unprecedented challenges in providing improved quality of service provision whilst at the same time dealing with increased demand and a backdrop of reduced funding. This year, LAs must save approximately 7% on the public health grant following announcement by the government of an in-year cut of £200 million in the national allocation.
- 3.5 **New model of sexual health services**
- 3.6 A new model for clinical service delivery has been developed through the London Sexual Health Services Transformation Programme. There are two main components: sub-regional sexual health services, providing a network of services; and a London-wide sexual health on-line service. The aims of the new model are to ensure that:
 - i. Good quality services are accessible to all London residents and visitors;
 - ii. Specialist sexual health services are designed in a way that ensures they operate as part of a wider sexual health system that can meet future needs and provide excellent value for

money. This will include measurably improved performance on key Public Health outcomes in particular prevention and early diagnosis of HIV, prevention and reductions in the incidence of STIs, and improving contraception, including access to long-acting reversible contraception, to help reduce unwanted pregnancies, teenage pregnancy and abortions.

- iii. London councils are commissioning effectively including seeking cost effective benefits from lower transaction and operating costs for boroughs;
- iv. London councils have excellent oversight of service quality; and
- v. Service costs are reduced and that optimum quality services can be maintained in light of significant pressures on budgets.

3.7 **Procurement A** **Sub regional procurement of GUM and Sexual and Reproductive Health (community contraceptive) services**

3.8 The approach for the procurement of GUM and SRH services will be on a sub-regional basis. It is proposed that Islington will be part of a North Central London (NCL) sub-region with Camden, Haringey and Barnet. Camden and Islington already share a major provider of GUM and SRH services, CNWL, and recently commissioned the new Young Peoples Sexual Health Network together. Barnet and Haringey are the other most significant out of borough users of services in Camden and Islington, respectively, although people from many other boroughs also use these services. Islington will lead the procurement on behalf of the sub-region, with a North Central London sub-region steering group chaired by Camden and Islington Public Health, working closely with the leads from the other councils. Additionally, Hackney and City of London have recently joined the NCL sub-region group, and will be carrying out a closely linked re-development of their local services.

3.9 A high level vision for the service has been developed, which is intended to act as a common template in all participating boroughs. The front door into services will be web based, a single platform providing patients with information about sexual health, on-line triage, signposting to the most appropriate service for their needs and the ability to order self-sampling tests. Across London, it is envisaged that there will be fewer major Level 3 services (fully comprehensive consultant-led sexual health services, able to treat the most complex STIs and/or provide complex contraception services), but the services that are commissioned will be open longer hours, be conveniently located with good transport connections, and will be properly linked with a network of integrated one stop shops able to support a range of sexual health needs and working closely with primary care. A single database will be developed with the highest levels of confidentiality and security enabling greater understanding of the patient flows and enabling commissioners and providers to better target prevention and specialist services to those who need it most.

3.10 All major clinics will offer patients the opportunity to triage and self-sample on site. Patients triaged on arrival at the clinic, or via on-line or telephone booking as needing to be seen – due to symptoms, risk or other vulnerability factors – will be seen at the clinic. All services will be required to ensure that laboratory results are available electronically to patients within 72 hours. Patients triaged as asymptomatic and/or low risk who are subsequently diagnosed with an STI will be offered an appointment within 48 hours (i.e. two working days) or will be fast tracked if they present to a walk-in service. Improved systems for identifying and notifying contacts of patients with an STI will ensure that resources are targeted at the highest need groups.

3.11 The whole system will be designed to ensure that evidence about best practice drives changes, and resources will be focused on groups with the highest risk.

3.12 It is intended that the sub-region procurement will be undertaken using the competitive procedure with negotiation process under the Public Contract Regulations 2015. This approach will allow the councils to work with interested parties to design the service. This approach is more flexible and allows for more tailored and innovative specifications and solutions to be developed against an overall service model, key outcomes and performance indicators developed by commissioners.

- 3.13 There are several advantages to this. The opening up of the development of the specification with potential bidders will allow bidders to draw on their experience and knowledge to ensure that a bespoke solution is created for the councils in North Central London. Many bidders will have experience of delivering such services elsewhere and will be well placed to work with clinical commissioners to design a high quality service model.
- 3.14 At this stage, therefore, it is not possible to articulate the detailed configuration of the new services, as the competitive procedure procurement with negotiation process itself will help in the design of this. However, the following considerations are pertinent:
- Patients with complex needs, high risk groups and other vulnerable groups, such as people with learning disabilities, will usually need to receive their treatment within a clinic setting. In developing the final specifications clinical specialists will be engaged to ensure the proposed model is clinically safe and appropriate.
 - The dialogue phase will assist in clarifying the percentage of current activity that could be managed outside of a clinical setting and in particular diagnostics out of acute settings.
 - The service may be provided by someone other than the current provider. As a result of market sounding that has been undertaken the project team has determined that nearly all the existing providers of sexual health services have expressed an interest. In addition a number of private and not for profit organisations have expressed an interest in providing some or all of the required services.
 - Most of the services for more complex needs will be provided within a clinic setting but may be complemented by community settings, particularly for some less complex or asymptomatic patients. Through the competitive procedure with negotiation, the sub-region will work with the bidders to identify economies of scale for delivery. That is, some elements of the services may need to be delivered in one location, whereas others could be delivered at several locations.
- 3.15 **Procurement B**
Pan-London Procurement of online services, including access to test kits for self-sampling and London-wide partner notification system (The Pan London Procurement Project)
- 3.16 New technologies, including online services, continue to inform and expand options for sexual health service delivery. The Pan-London Online Procurement Project is a key part of transforming sexual health services in London. The project seeks to provide high quality advice and information on sexual health services, support direct booking (where clinical systems are compatible) and, for GUM services, to provide online access to order self-sampling/self-testing kits for STIs and HIV for people who are asymptomatic, and provide the platform for a new, pan-London partner notification system. The system will be based on clinical algorithms based on risk, symptoms and prevention. As well as signposting to sexual health services the online programme will include information and links to related services such as drug and alcohol services, primary care, pharmacies, maternity services, termination of pregnancy, accident and emergency and colposcopy (abnormal cells in the cervix).
- 3.17 Market engagement activities suggest a number of current and potential providers with the scope to deliver services at scale. Online and self-sampling services are a rapidly developing market. There are, though, few examples of providers with a track record in providing all three elements, and therefore the service will be commissioned in three lots:
1. Triage and Information (“Front of house”) and Appointments (Booking system) (dependent on ability to interface with existing clinic systems).
 2. Self-Sampling
 3. London-wide Partner Notification system.
- 3.18 Access to self-sampling kits, with accompanying health advice, offers the opportunity to divert a proportion of current attendances out of clinics to convenient, lower cost alternatives. It is estimated that 15%, and possibly up to 30%, of activity could be redirected to lower cost service options in a staged manner, and that many service users would consider the use of self-sampling kits as an alternative to clinic attendance. Diverting 15% of patients to alternatives such

as self-sampling could enable estimated savings of 7.6% to 9.1% on the cost of first appointments.

- 3.19 Given the scale of the innovation for on-line services, it is difficult to fully assess costs. The costs of the web based service will be met from baseline clinic budgets. There are no direct savings attributable to this service, but it will support the delivery of savings by promoting access to information and advice, on-line alternatives (in particular self-sampling kits and it will enable clinics to undertake partner notification activities more efficiently and effectively.
- 3.20 It is proposed to carry out the Pan-London Online Procurement ahead of the re-procurement of GUM and SRH clinic-based services described above. This will give earlier access to some of the benefits of the system and ensure that as new clinical services are re-procured, they will be able to link into the pan-London online system.
- 3.21 It is expected that the Pan-London Online contract(s) term will be in the region of 6 years, allowing for the 'front end' to commence during 2016/17 and run to 31 March 2022; with an option to extend for up to a maximum of 4 further years (up to March 2026), subject to performance and funding availability. Given the level of innovation on quality and price, a competitive procurement with negotiation route is proposed.

3.22 **Options appraisal for procurements A and B.**

Officers have reviewed 3 main options for commissioning the sexual health services:

- Option 1: Current system remains unchanged
- Option 2: Develop a networked system of services either on a 22 borough wide and/or sub-regional basis
- Option 3: All LA's to focus on development of a local service model that includes Level 3 (fully comprehensive sexual health services) reducing dependence on central London service.

A detailed analysis of the risks, benefits and potential savings has highlighted **Option 2** - a collaborative procurement as the way forward that would deliver the most benefits and financial savings.

3.23 **Option 1: Do nothing. Current system remains unchanged**

Under this option councils would continue with the current arrangements and undertake any redesign and procurement activity as locally determined. The main advantage of this model is that it does not require time and resources on partnership working that would be entailed by Option 2. A major limitation, particularly given the significant movements of the population across London, is the potential for unintended or knock-on consequences into other boroughs and services which might affect patient access.

Further, the current configuration of services is financially unsustainable. Growth in activity and costs in GUM services will mean that councils will have to make cuts to other key public health services to fund statutory open access services, without substantial change. Councils will have poor oversight of service quality and clinical governance for residents using services out of area.

3.24 **Option 2: Develop a networked system of services either on a 22 borough wide or sub-regional basis.**

In this model, the boroughs would work collaboratively to commission a network of services needed to support population sexual health needs. The councils would commission a networked care system with Level 3 services supported by a network of community and/or primary care services. The Level 3 services would provide the clinical oversight on the operation of the network, and ensure quality.

This approach supports significant redesign of the existing system, and scope for innovative

clinical leaders to shape service delivery. Operating across a network would enable providers to jointly procure pathology, make best use of estates, achieve economies of scale for service overheads and offer a work environment that would be attractive to high quality clinical staff. It would provide opportunities to develop and enhance clinical training, research and development across the network. There would also be the potential for better use of data within networks, which would support improved understanding of what drives demand and targeting of prevention and behaviour change. The model would also potentially enable LA's to achieve economies of scale on back office and transactional costs.

The main limitations or challenges relate to the complexity of managing open access services in the capital, and the high level of collaboration required between councils on a scale not previously undertaken in this area, even if coordinating at sub-regional level. Services need to reflect a common model, which may present problems for LA's with lower levels of Public Health Grant and limit those with a higher grant allocation. There is also significant potential for TUPE and change management within providers and commissioners, and potential for associated costs of this change.

3.25 **Option 3: LA's to focus on development of a local service model that includes Level 3 (fully comprehensive sexual health services) reducing dependence on central London service.**

In this model LA's would commission fully comprehensive (Level 3) integrated sexual health services for their own area. Some LA's might choose to work in partnership with neighbouring boroughs where this makes sense in terms of local geography/provider market. The individual LAs could work together via a 22 borough wide SH network arrangement to ensure there is a forum where common issues can be addressed.

This model supports transformation by focusing on the development of local services to meet local need. This has the potential to support a shift in the current service configuration away from a dependence on central London providers and would see more services provided closer to home for residents, not necessarily to where they work, study or socialise.

Benefits include enhanced local control, and potentially greater scope to reshape local service provision for outer London areas away from central London; and less complex collaborative arrangements than in Option 2. The greatest risks of the approach relate to the risk of impact on system capacity if LA's act out of sync with each other; that changes in patient flows between services are not fundamentally affected, since they are also linked to where people work and study; additional local Tier 3 services may introduce additional capacity into the system, thereby increasing costs; lack of overview of quality of services for residents attending services out of area; and the scope for individual commissioners to drive change and efficiencies with local providers may be significantly less than through collective action.

3.26 **Reasons for the recommendations**

On balance, Option 2 is recommended. Consideration was given to the potential to procure all GUM (and, as locally indicated, SRH) services on a London-wide basis. It was identified that such an approach would be extremely complex, struggle to respond to more local needs and that no provider would have the capacity to deliver a London-wide clinical service. A **sub-regional** approach is therefore recommended for the re-procurement of clinic-based services – to provide benefits of economies of scale, reflect some of the major flows of residents between boroughs, and allow more localised services for local need. However, it is recommended that on-line services, including the provision of self-sampling kits, would be best organised, and deliver greatest value, through a London-wide approach.

3.27 **Financial model and savings**

Greater efficiencies are a key goal for the sexual health programme locally, and across London. Efficiencies are expected to be driven by a mix of service transformation and a new tariff system for service providers. The local ambition is to realise savings of £2 million, with the greater part

of the change facilitated by the introduction of a new payments method, supported by the service changes described in this report.

The London Sexual Health Services Transformation Programme estimates savings for an integrated sexual health service delivery are anticipated to be between 10% - 25%, with potential to deliver more through demand management over time. Delivering savings will require a change in how services are currently delivered. It should be noted that GUM service is subject to demand and not a block contract. If there is an increase in activity, then there is an increase in spend; similarly, a reduction in activity means there is reduction in expenditure. Savings will be delivered in a phased approach.

Islington's overall sexual health budget for GUM and SRH services is £6.9 million a year. A proportion of this budget is for residents using services out of area. Islington's SRH budget funds residents from other councils currently (as part of a host contract for SRH services), as well as local residents. The total Islington estimated spend on sexual health services within the sub-region in 2015/16 is expected to be around £4.5 million, of which £3.3 million is GUM and £1.2 million is SRH. The total current spend of the 22 councils within the London programme at GUM services within North Central London sub-region is estimated to be around £17 million this year, however it can be expected that as part of the transformation of services across London that at least some out-of-area attendances will be reduced as alternative service are introduced in other sub-regions or through the London on-line services.

Applying the London programme financial model to Islington's overall spend, would give an estimate of savings in the range £0.64 million up to £1.6 million delivered in a phased approach through service reconfiguration; additionally, estimates of the impact of changes to a new tariff system would suggest savings of around £1.5 million could be achieved, based on activity and spend last year. There is some overlap between these figures, but taken together would indicate potential savings of £2 million could be achieved, with a proportion dependent on similar service reconfiguration in the other London sub-regions, particularly in inner North West London. An estimate for Islington spend within the sub-region, assuming current patterns of attendance, gives an estimate of £3.3 million within the sub-region following transformation and new tariff arrangements. Given the open access nature of services, it can be expected that there will also continue to be cross-charging for Islington residents using other services outside of the sub-region. Changes in activity for GUM and SRH services and disease patterns will also potentially affect the level of spend and savings.

Identified efficiencies, assumptions and examples supporting delivery of savings are:

- Single web based front door to services
- Single partner notification (PN) system
- Redirection of asymptomatic patients via on-line access and alternatives to clinic attendance
- Consolidation of numbers of Level 3 GUM clinics (fully comprehensive sexual health services)
- Economies of scale
- Use of an integrated tariff.

3.28 Key Considerations

The following factors have been taken into consideration:

London Living Wage	We will require all new providers to pay the London Living Wage, although most staff are likely to be on clinical/NHS wages there will be other staff including admin and support staff who will benefit from the LLW.
Social Value Act	We will ensure that we test this out with potential providers as part of the procurement process and in particular at ITT stage. Public Health have done some

	relevant work with Islington procurement on developing a detailed Social Value question at for ITT.
TUPE	Here are current services available and therefore it is very likely that staff will be subject to TUPE.
Environmental Factors	The collaborative procurement will seek to minimise its environmental impact by implementing energy and carbon reduction via its procurement process. Through the evaluation exercise as part of the procurement and contract monitoring, providers will be required to pay due regard for the environmental impact during service delivery. They will need to implement measures to mitigate the environmental impact.

3.29 Evaluation criteria

It is proposed that a Quality/Price split of 50:50 is used in the assessment of tenders, with the quality assessment being broken down into: service model – namely, creating change, access, managing complex partnerships and clinical pathways, and delivering health outcomes; clinical governance and quality assurance; social value, including training and research. The direct involvement of four Boroughs, each with a different view of quality/price split is a factor, and there is a clear need to drive major innovation in quality of services as well as costs.

3.30 Business Risks

- 3.31 The key risks to achievement of timescales are linked to the complexity of partnership working and the scale of change required across London for open access sexual health services under the recommended option.
- 3.32 The new model will require 'channel shift' for some residents and patients, to a greater on-line offer, particularly for those who do not have symptoms and are low risk. This will require a clear on-line and communication strategy, strong clinical algorithms underpinning on-line triage and risk assessment, and a staged approach by providers to help change patient attendance patterns.
- 3.33 There is still a risk of un-coordinated changes affecting capacity and access by working on a sub-regional versus London approach. To address this, sub-regions are meeting regularly under the London Sexual Health Transformation Programme umbrella and working to an agreed overall clinical model.
- 3.34 Service changes and efficiencies are likely to be best supported by a change in the way commissioners pay for sexual health services (a new integrated sexual health tariff). There is not yet a London agreement for this change, but there is a programme in place to assess and, if agreed, implement the new tariff. This work programme has been brought under the auspices of the London Sexual Health Transformation Programme, in order to coordinate the work more closely with service transformation. Relatedly, London councils have worked together as part of commissioning collaboratives since the transition of services from the NHS to councils to help regularise cross-charging and the monitoring of safety, quality and performance for open access sexual health services. The London Sexual Health Transformation Programme will put in place a set of collaborative principles for participating councils to similarly support cross-charging and assurance of quality as part of the transformation and re-procurement of sexual health services.
- 3.35 Other sexual health services are commissioned through NHS England (in particular HIV Treatment and care) and CCGs (abortion services): there will be a key need to ensure strong

local clinical pathways to other services for patients as part of the new service model.

3.36 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to sign the Council's anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences. The adequacy of these measures will initially be assessed by officers and the outcome of that assessment will be reviewed by the Council's Procurement Board.

3.37 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.6 of the Procurement Rules:

3.38 Relevant information	Information/section in report
1 Nature of the service	<p>The participation in a pan London procurement for a web-based system to include a 'front-end' portal, joined-up partner notification and home self-sampling/self-testing service.</p> <p>And</p> <p>The procurement of a North Central London sub-regional Sexual Health Genitourinary Medicine (GUM) and Sexual and Reproductive Health (community contraception) services, on behalf of Islington, Camden, Haringey and Barnet councils.</p> <p>See paragraph [3.7 – 3.14 and 3.15 – 3.21]</p>
2 Estimated value	<p>The estimated value per year is expected to be £3.3m per year within the sub-region. This figure may be affected by changes in overall activity, and by the proportion of Islington residents attending open access services within the sub-region.</p> <p>The agreement is proposed to run for a period of five years with an optional extension of three years (1+1+1)</p> <p>See paragraph [3.27]</p>
3 Timetable	<p>Advert February 2016 Tender deadline 21 March 2016 Award 12 September 2016 Contract Start 1st April 2017</p>
4 Options appraisal for tender procedure including consideration of collaboration opportunities	<p>Option 2 was chosen.</p> <p>See paragraph [3.24]</p>
5 Consideration of: Social benefit clauses; London Living Wage; Best value;	<p>LLW will be implemented. TUPE will apply. Social Value will be assessed.</p>

TUPE, pensions and other staffing implications	See paragraph [3.35]
6 Evaluation criteria	A price/quality split of 50/50 is proposed. The award criteria price/quality breakdown is more particularly described within the report. See paragraph [3.29]
7 Any business risks associated with entering the contract	See paragraph [3.30]
8 Any other relevant financial, legal or other considerations.	See paragraph [3.40 & 4]

4 Implications

4.1 Financial implications:

Islington Council receives a ring-fenced Public Health grant from the Department of Health to fund the cost of its Public Health service. The total funding for 2014/15 is £25.429m, which has been cut by £1.7 million in-year. The budget for GUM and SRH services in 2014/15 is £6.9 million in total.

GUM services are mandatory open access services within Sexual Health that are demand-led with increasing levels of activity in recent years. Islington has an obligation to pay for activity irrespective of whether a contract is in place or not and tariffs exist for these purposes. This contract should not create a budget pressure for the Council. Although there is a contract in place there is still a risk of a pressure based on an increase in activity. The current budget earmarked for the Sexual and Reproductive Health service is £1.225 million per annum, which is funded through a block contract, agreed annually.

The Council's Public Health expenditure must be contained entirely within the grant funded cash limit indicated above. If any additional pressures are incurred management actions will need to be identified to cover this..

4.2 Legal Implications:

The council has a duty to improve public health under the Health and Social Care Act 2012, section 12. The council must take such steps as it considers appropriate for improving the health of the people in its area including providing services or facilities designed to promote healthy living (whether by helping individuals to address behaviour that is detrimental to health or in any other way) as well as providing services or facilities for the prevention, diagnosis or treatment of illness (National Health Service Act 2006, section 2B, as amended by Health and Social Care Act 2012, section 12 and Regulation 2013/351 made under the National Health Service Act 2006, section 6C). Therefore the council may provide specialist sexual health services as described in this report. . The council may enter into contracts with providers of such services under section 1 of the Local Government (Contracts) Act 1997.

4.3 Environmental Implications

The service should have only a minimal environmental impact. Where possible bidders will be encouraged to address the reduction of environmental impact in their tenders, for example encouraging staff to use public transport to travel for work purposes; similarly, the service model will have implications for patient travel which may be minimised through alternatives such as on-line access or access close to public transport locations. Energy usage for lighting, heating and operating equipment within the building will be considered and where possible gas and/or electricity will not be wasted.

As a clinically based service there will be a requirement to dispose of hazardous materials related to testing and other clinical interventions (i.e. Sharps Boxes and clinical bio-hazard

waste). The specification will require that these are safely disposed of in accordance with current waste regulation including Duty of Care regulation.

All tenders will be assessed in accordance with LBI procurement documentation which includes all bidding organisations confirming that they had not been convicted of breaching environmental legislation, or had any notice served upon them, in the last three years by any environmental regulator or authority (including a local authority).

4.4 Resident Impact Assessment:

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment was completed on 22 December 2015 and the summary is included below. From the needs assessment previously carried out, protected characteristics which are of particular importance with regard to sexual health and sexual health services are age, gender, sexual orientation, disability and deprivation, although sexual health services encompass needs that may affect anyone within the population, including across all protected characteristics.

In summary, these services are designed as open access services open to anyone who is in the area and who wishes to access sexual health services. The service will be designed and specified to meet the needs across the population, including of people with protected characteristics, and they will be equally open to the general population on equal terms. New web based portal/access point, including access to self-sampling kits for sexually transmitted infections, have the potential to provide an alternative to GUM clinic attendances for people who are asymptomatic, and may also reach people who may previously not have used clinic services. It will be important that web-based services meet standards for accessibility. The overall service model recognises that different groups are likely to access and use web-based services differentially, and alternatives such as open access GUM services or primary care-based services should be available.

5. Reason for recommendations

5.1 GUM and SRH are statutory services and the contracts will be funded wholly from the Public Health budget allocation. These are large contracts that fund Open Access services which account for just over a quarter of all Public Health funding. The proposal for service transformation, working across London and as part of a sub-region, is designed to create financially and clinically sustainable services for the future.

5.2 This procurement course is recommended to be the best value to the Council and the highest quality to the residents of Islington.

Final report clearance:

Signed by:

Janet Burgess

23 December 2015

Executive Member for Health and Wellbeing

Date

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Report of: Executive Member for Health and Wellbeing

Meeting of:	Date	Ward(s)
Executive	14 January 2016	All
Delete as appropriate	Exempt	Non-exempt

THE APPENDIX TO THIS REPORT IS NOT FOR PUBLICATION

SUBJECT: Contract Award for Mental Health Supported Accommodation

1. Synopsis

- 1.1 This report summarises the outcome of a procurement process for a Mental Health Supported Accommodation Service for men and women who live with long-term severe mental illness.
- 1.2 People who use the service will be over the age of 18 and will be planning to return to independent living in their community following a period of rehabilitation in hospital or residential care.
- 1.3 The Executive agreed the procurement strategy for this tender on 12 February 2015 and is now asked to agree the outcome of the procurement process.

2. Recommendations

- 2.1
 - i. To approve the award of a contract to Peter Bedford Housing Association to deliver **Lot 1 - Turle Road N4 3LZ**, for six 6 units. The new service will commence 1 April 2016, for a period of three years with the option of three 12-month extensions. The annual value is £147,354. The total contract value including all extension periods is £884,124.
 - ii. To approve the award of a contract to St Martin of Tours to deliver **Lot 2 - Caledonian Rd, N7 9SJ**, for 7 units. The new service will commence 1 April 2016, for a period of three years with the option of three 12-month extensions. The annual value is £171,113. The total contract value including all extension periods is £1,026,678
 - iii. To approve the award of a contract to St Martin of Tours to deliver **Lot 3 - Davenant Road N19 3NN**, for 12 units. The new service will commence 1 April 2016, for a period of three years with the option of three 12-month extensions. The annual value is £304,140 per year. The total contract value including all extension periods is £1,824,840.

3. Background

- 3.1 The contracts being awarded are for a Mental Health Supported Accommodation Service for men and women living with long-term severe mental illness. People who use the service will be over the age of 18. They will be planning to return to independent living in the community following rehabilitation in hospital or residential care. The service will be staffed 24 hours per day and provide the onsite support to enable people who use the service to develop their community living skills. The service culture will focus on rehabilitation and recovery. The service will encourage people to live as independently as possible with the goal of eventually acquiring their own tenancy.
- 3.2 The current Mental Health Supported Accommodation service is delivered as follows :
- **Turle Road (Tollington Ward)**, contains 6 units. Islington Council owns the building and it is leased to the current provider (Family Mosaic). The lease expires when the current contract expires. The current contract is valued at £152,643 per year, will end 31 March 2016. The new service will continue to be delivered from this location, by Peter Bedford Housing Association.
 - **Cloudesley Road (Barnsbury Ward)**, contains 7 units. The building is owned by the current provider (Family Mosaic). This service was jointly procured with the Turle Road service. The current contract, valued at £178,083 per year, will end 31 March 2016. The new service will be delivered by St Martin of Tours from new premises at Caledonian Rd.
 - **Davenant Road (Tollington Ward)**, contains 12 units. The building is owned by the current provider (St Martin of Tours). The current contract, valued at £359,000 per year, will end 31 March 2016. The new service will continue to be delivered by St Martin of Tours from these premises.
- 3.3 It should be noted that the contract for Lot 2 will require that service users are transferred from their current residence at Cloudesley Rd. to new premises at 558 Caledonian Rd. There is a risk that some service users may initially find this transition difficult. The new provider will be expected to work closely with the current provider, and service users, to ensure that appropriate support is in place, both during the implementation period and beyond, to help service users manage the transition to the new premises.
- 3.4 The contracts to be awarded are three 3-year block contracts with the option of three 12-month extensions. A total of 25 placements will be available across all three contracts.
- 3.5 The total annual value of the three contracts is £622,607. The total value of all three contracts, including all extensions is £3,735,642. The annual value of the new contracts represents a 10% efficiency.
- 3.6 The current tender was carried out as a restricted procedure. Initially, nine organisations submitted PQQs. The PQQ stage was extended, in line with Procurement rules, due to an error in the published specification which stated that CQC registration was required in order to deliver the service. Following amendment to the specification, an additional six organisations submitted PQQs, amounting to 15 in total. Nine organisations met the minimum requirements at PQQ and were invited to tender. Of these, four submitted a completed tender. Those who did not submit a tender cited property requirements and not being able to deliver as the reason for not proceeding.
- 3.7 The tenders submitted were evaluated to determine the Most Economically Advantageous Tender on the basis of 70% quality and 30% cost.
- 3.7.1 The tender for Mental Health Supported Accommodation comprised of three Lots. Organisations were able to tender for any or all Lots.
- 3.7.2 Each contract has been awarded to the Most Economically Advantageous Tender based on the criteria of 70% quality and 30% cost, broken down as follows:

Tender award criteria	Weighting
Cost:	30%
Each price measured against the lowest sustainably priced tender submitted. The lowest priced tender will achieve the maximum score	30%
Quality:	70%
<p>2.1 Proposed model of care</p> <p>Bidders were asked to describe their service model for the proposed delivery of service, The objectives and outcomes of the service outlined in the service specification. Bidders were asked to explain how the model they had proposed would lead to the delivery of the required outcomes.</p> <p>Commissioners, highlighted, bidders should describe how they would work collaboratively with service users to promote rehabilitation and recovery; encourage and support independence for as long as possible, and maximise life opportunities for service users.</p> <p>Bidders were also asked to describe how their model of care would address the needs of individuals that have a range of complex care needs including moderate to severe mental health, physical health, challenging behaviour, and in some cases substance misuse.</p>	25%
<p>2.2 Proposed Support Plan</p> <p>Bidders were asked to submit templates of their organisations support plans</p>	5%
<p>2.3 Proposed approach to quality management of performance and outcomes</p> <p>Bidders were asked to describe how they would measure and use performance outcomes information to improve and develop the service both in terms of their work with service users and the development of staff.</p>	20%
<p>2.4 Proposed approach to service user engagement and activities</p> <p>Bidders were asked to describe how they had conducted service user engagement in all aspects of their care and support provision, and how their service user feedback would be used to improve existing service provision.</p>	5%
<p>2.5 Proposed approach to service user engagement and activities</p> <p>Bidders were asked to describe how the systems they have in place, would enable service users and their carers to voice complaints, and give compliments as well as provide feedback of any issues of concern.</p>	5%
<p>2.6 Proposed approach to safeguarding and risk management</p> <p>Bidders were asked to describe how their policies would ensure services were safely run, and safeguarding concerns get identified and are appropriately addressed.</p> <p>Bidders were asked to give examples of how these policies would be implemented.</p> <p>As part of the bidders response to the question, commissioners were looking for bidders to include details of health and safety provision, where the service will be delivered from (e.g. details of assessments, security systems on site, and any planned preventative maintenance).</p>	10%
Total	100%
	100%

The results of the tender evaluation are set out in the Exempt appendix.

- 3.8 TUPE will apply to this contract and the appropriate TUPE information was included in the tender documents.

4. Implications

4.1 Financial implications

Islington Council and Islington Clinical Commissioning Group (CCG) contribute to a Mental Health Commissioning Pooled budget for the joint provision of services for people with mental health.

The recommendations of the report are to award Lot 1 to Peter Bedford Housing Association, and Lot 2 & 3 to St Martin of Tours. The current services are funded from the pooled budget and the new contracts will not result in a financial pressure for either party.

The annual current cost of these services is £689,726, and the new services will cost £622,607 per annum. This represents a saving of £67,119 per annum which will go towards the department's Medium Term Financial Strategy (MTFS) savings plan. It is planned that this will result in reduction to the Council's contribution to the pooled budget but will not produce a reduction to the CCG contribution from 1st April 2016. The contract is to be awarded for three years, with the option of a further 3 year extension (on a year by year basis). The saving over the maximum length of the contract will be £402,714.

Any TUPE cost implications that may arise from the contracts will be met from existing resources.

4.2 Legal Implications

The council has power to provide mental health supported accommodation services under the Mental Health Act 1983, section 117 and the National Assistance Act 1948, S21(1). The Council has power to enter into contracts with providers of mental health supported accommodation services under section 1 of the Local Government (Contracts) Act 1997.

These services were procured under the Public Contracts Regulations 2006 (the 2006 Regulations) and the Procurement Strategy was approved by the Executive at its meeting on 12th February 2015. The threshold for application of the 2006 Regulations was £172,514. The value of the procured contracts was above this threshold. These services fall within Part B of the 2006 Regulations. Although Part B services do not need to strictly comply with the provisions of the 2006 Regulations, there is a requirement under EU rules for part B services to comply with the principles of equal treatment, non-discrimination and fair competition. The council's Procurement Rules require contracts over the value of £100,000 to be subject to competitive tender.

In compliance with the principles underpinning the 2006 Regulations and the council's Procurement Rules the contracts were advertised with a call for competition and procured using a competitive tender process. Bids were subject to evaluation in accordance with the tender evaluation model. The highest scoring tenderers were Peter Bedford Housing Association for Lot 1 and St Martin of Tours for Lot 2. In relation to Lot 3 only a single tender was received from St Martin of Tours and it met the requirements for the council. Accordingly the contracts may be awarded to these service providers as recommended in the report.

In deciding whether to award the contracts to the recommended service providers the Executive should be satisfied as to the competence of the suppliers to provide the services and that the tender prices represent value for money for the Council. In considering the recommendations in this report members must take into account the information contained in the exempt appendix to the report.

4.3 Environmental Implications

An environmental impact assessment was carried out on 1 December 2014. The main environmental impacts of this procurement are associated with the management of the buildings, including energy used for heating, hot water and appliances, water use and waste generation. Where the sites have garden areas, consideration should also be given to improving biodiversity habitats.

4.4 Resident Impact Assessment

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment (RIA) was completed on 2 December 2014.

The Resident Impact Assessment identified that there would be no differential impacts. This decision was made because the service being re-tendered would have no disproportionate impact on any of the equality groups accessing the mental health supported accommodation service or working in the service.

5. Conclusion

5.1 The existing mental health supported accommodation services will end 31 March 2016.

5.2 There continues to be a need in Islington for this type of service. The Council has an obligation to meet the needs of those assessed as having eligible care needs under its eligibility criteria, which has been specified using the eligibility framework set out in the Care and Support (Eligibility Criteria) Regulations 2014

Appendices

Appendix 1 - Contract Award for Mental Health Supported Accommodation - Exempt

Final report clearance



Signed by: Executive Member for Health and Wellbeing

Date: 8 December 2015

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Report of: Executive Member for Health and Wellbeing

Meeting of:	Date	Ward(s)
Executive	14 January 2016	All

Delete as appropriate	Exempt	Non-exempt
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THE APPENDIX TO THIS REPORT IS NOT FOR PUBLICATION

Subject: Contract award report for a Multi-Disciplinary Floating Support Service for Vulnerable People 1415-210

1. Synopsis

- 1.1 The procurement strategy for the multi-disciplinary floating support services was approved on 23 June 2015. This procurement will consolidate five existing floating support services in a single multi-disciplinary floating support service. The procurement activity is now concluded. This report seeks permission to award a single contract to provide a multi-disciplinary floating support service for vulnerable Islington residents.
- 1.2 The multi-disciplinary floating (visiting) support service will address a range of support needs amongst Islington's vulnerable residents. The service will provide housing-related support to up to 700 Islington residents who are at risk of losing their tenancies. The service will be flexible delivering support to service users seven days a week.
- 1.3 Support will be time limited with most service users exiting the service within 12 months of referral.

2. Recommendations

- 2.1 To award a contract to Single Homeless Project (SHP) to provide a multi-disciplinary floating support services for three years commencing on 1 July 2016, ending on 30 June 2019 with an option to extend for a further two periods of three years (9 years in total) until 30th June 2025.
- 2.2 To note that any contract extension would be dependent on the availability of funding, service performance and the continued need for the service.

3. Background

- 3.1 A review of floating support services was carried out in 2014/15 and found a small under capacity and crossover of needs within specialist services. The review recommended bringing four specialist services and one generic service under one multi-disciplinary service.
- 3.2 The procurement presented the opportunity for savings via economies of scale and the indicative budget sought savings of 26% p.a. (£528, 461). The winning tender offers savings of 31% p.a. (£601,310).

4. Procurement

4.1 Due to the consolidation of five current services into a single multi-disciplinary service, the procurement was conducted under a two part process following the restricted procedure.

4.2 Pre-tender selection (PQQ stage)

The service was advertised in July 2015. Expressions of interest were received from 53 potential providers, 12 organisations submitted Pre-Qualification Questionnaires (PQQs) (see exempt Appendix 1 for details of organisations).

4.3 Evaluation of PQQ / ITT

Evaluation of the bid was undertaken by a panel of stakeholders from the following services:

- Commissioner Manager Supporting People (Chair)
- Commissioning Officer, Supporting People
- Commissioning Officer, Mental Health
- Supporting People Referrals Co-ordinator LB Islington
- Housing Services Manager Housing Operations.

4.4 ITT stage

Six organisations were invited to tender for the service. Three bids were submitted on time whilst two organisations withdrew during the submission period and one did not respond. (See exempt Appendix I for details).

4.4.1 The award criteria for the contract are as follows:

	Weighting %
Cost	30%
Quality	
Proposed approach to mobilisation and implementation / change management	10%
Proposed approach to service model	20%
Proposed approach to workforce management	10%
Proposed approach to partnership working	10%
Proposed approach to managing performance and outcomes	10%
Proposed approach to client engagement and involvement	10%
Total	100%

- 4.4.2 In order to be considered for the award a contract, an organisation must score a minimum of three (3) for each quality criteria using the following scale:

Score	
0	There is no response to the question
1	An attempt has been made to respond, but does not meet requirements/solution does not cover any essential points
2	The response/solution partially meets requirements (covers some essential
3	The response/solution meets requirements (covers all essential points, may have included clear examples)
4	The response/solution exceeds requirements (covers more than the essential points, giving clear examples)
5	The response/solution will add significant value (covers more than the essential points, giving clear thorough examples to illustrate how value will be added)

- 4.4.3 The panel met on 20 October 2015 to assess the quality criteria of the three tendered bids by evaluation of the method statements. The panel decided that SHP met the minimum quality standard (score of 3 for each criteria) and awarded the highest score on the quality criteria to that organisation. This remained the case when the cost element calculated by LBI Finance was incorporated into the overall score.
- 4.4.4 The exempt Appendix I to this report sets out each organisation's scores for both Quality and Cost.

5. Implications

5.1 Financial Implications

The current cost of the five existing floating support services is £1,953,458 per annum and this is funded from Adult Social Services base budget. The recommendation of this report is to award a single contract to Single Homeless Project (SHP) for the provision of multi-disciplinary floating support services. The new annual contract will be £1,352,151, and will demonstrate a saving of £601,307 per annum which will contribute towards the department's Medium Term Financial Strategy (MTFS) savings plans.

5.2 Legal Implications

The Council has a general duty in exercising its functions under part 1 of the Care Act 2014 to promote the 'well-being' of individuals. Well-being includes (a) physical and mental health emotional well-being and personal dignity (b) control by the individual over day to day life (c) participation in work education, training or recreation (section 1). Section 45 of the Health Services and Public Health Act 1968 places a duty on local authorities to promote the welfare of older people "in order to prevent or postpone personal or social deterioration or breakdown".

The Council has power to provide housing support services in supported housing and floating support for young homeless people under the Housing Act 1996, Parts 6 and 7 and the Children Act 1989, sections 17 and 20. Therefore the council may provide residents with floating support services as proposed in the report. The Council has power to enter into a contract with a provider of such service under section 1 of the Local Government (Contracts) Act 1997.

The procurement has been undertaken in accordance with the requirements of the Public Contracts Regulations 2015.

Bids were subject to evaluation in accordance with the tender evaluation model and SHP gained the highest evaluation score and may therefore be awarded the contract.

In deciding whether to award the contract to the recommended service provider the Executive should be satisfied as to the competence of the supplier to provide the services and that the tender price

represents value for money for the Council. In considering the recommendations in this report members must take into account the information contained in the exempt appendix 1 to the report.

5.3 **Environmental Implications**

An Environment Impact Assessment was completed in February 2015. No concerns were identified and the report is available on request.

5.4 **Resident Impact Assessment**

A Resident Impact Assessment was completed for this service in March 2016 its recommendations were incorporated into the procurement process and will form part of the planning for implementation. The report is attached as an appendix.

5.5 **London Living Wage**

Payment of London Living Wage is a requirement of the contract and will not result in any additional costs to the council throughout the life of the contract.

5.6 **Social Value**

Social value is intrinsic to this contract as the service provides support to vulnerable people at risk of losing their tenancies as a result of one or a combination of factors including rent arrears, anti-social behaviour, mental ill health, substance misuse, learning disabilities, having been in care and a history of homelessness. The successful provider will be entering into a third party arrangement with a specialist local learning disability provider, Centre404 to support vulnerable people with a learning disability.

Through ongoing support, following on from tenancy sustainment, the service will link people in with services to enable them to live healthier lives engage in treatment and reach their full potential in terms of community involvement, education, employment and living independently.

The impact on the community includes a potential reduction in anti-social behaviour and increased community safety. As current services reach almost one in every hundred households in the borough, many residents will live close to or know someone benefitting from the service. Furthermore, we anticipate that this service will improve the general wellbeing of Islington residents by supporting local hospitals to maximise their ability to discharge patients safely back to their homes.

6. **Conclusion and reasons for recommendations**

6.1 Following a procurement exercise, it is recommended that SHP is awarded a contract to provide a multi-disciplinary housing-related floating support to Islington residents, at an annual contract value of £1,352,151. The contract duration is three years with an option to extend for a further two periods of three (3) years each (nine years total).

6.2 This releases an annual saving of £601,010.

Appendices

Appendix 1 – Procurement Report - Exempt

Final report clearance

Janet Burgess

Signed by: Executive Member for Health and Wellbeing

Date: 8 December 2015

Report Author: Abigail Garraway

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Report of: Executive Member for Health and Wellbeing

Meeting of:	Date	Ward(s)
Executive	14 January 2016	Clerkenwell, Holloway, St Georges, Tollington

Delete as appropriate	Exempt	Non-exempt
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THE APPENDIX TO THIS REPORT IS NOT FOR PUBLICATION

SUBJECT: Contract award recommendation for supported housing services for people with substance misuse issues

1. Synopsis

- 1.1 The procurement strategy for housing support service for people with substance misuse issues was approved on 12 February 2015. The procurement activity is now concluded. This report seeks permission to award two contracts to provide supported housing services for homeless people with substance misuse issues.
- 1.2 The service will provide supported accommodation for up to 67 current and former substance misusers including alcohol, drug and abstinent services under a block contract within the borough of Islington. The service will provide short term accommodation and a high quality housing-related support service for homeless and vulnerable substance misusers aged 18 to 65 years. The purpose of which is to enable service users to gain the skills to live independently and move on to appropriate accommodation within 6-12 months. The service will work with the private sector and partner agencies to identify appropriate move on accommodation.

2. Recommendations

- 2.1 To award a contract to St Mungo's to deliver three services, two services located in Clerkenwell Ward and one service in St George's Ward, for a period of three years commencing on 1 April 2016, ending on 31 March 2019 with the option to extend for two three year periods until 31 March 2025.
- 2.2 To award a contract to Family Mosaic to deliver services at both Holloway Ward and Tollington Ward for a period of three years commencing on 1 April 2016, ending on 31 March 2019 with the option to extend for two three year periods until 31 March 2025.

3. Background

3.1 Both contracts to be awarded The total annual contract value for each contract being:

Provider	Annual Contract Value
St Mungo's	£234,098
Family Mosaic	£373,500
Total annual contract value	£607,598

- 3.2 As detailed in the pre-tender report, these services represent value for money. There were therefore no planned percentage reductions as significant efficiencies were realised in the commissioning of substance misuse services in 2013/14.
- 3.3 The total value of this procurement will be £5,468,382 based on a maximum 9 year (3+3+3) contract including extension period for all five services. The procurement did achieve a further small reduction from the anticipated contract value of £6,255 over the 9 year period, representing £695 per annum.
- 3.4 Both contracts are being awarded to the incumbent providers, which will mean that the properties and staffing will continue to be available. Current service users will therefore continue to reside at their present accommodation and receive continuity of service.
- 3.5 A number of existing substance misuse and offender services were reviewed in 2013 to ascertain if they were fit for purpose or whether they required an alteration to their service models. The review recommended that Islington continue to provide supported housing for substance misusers and offenders. The review also recommended that some revision to the existing service models including a reduction in the length of stay in these services. The aim of which is to increase throughput and thereby access for greater numbers of Islington residents. This procurement has solely dealt with substance misuse services. Combined substance misuse and offender services were commissioned in a previous procurement exercise in 2014.
- 3.6 The new contracts will work to the new model delivering short term accommodation based housing support services and visiting support. These services will assist substance misusers develop to the skills they need to live independently and tackle their substance misuse issues. Additionally, these services form a crucial pathway for people to move on from homelessness to greater independence.
- 3.7 This is central to Islington's strategy for preventing vulnerable people becoming socially excluded and isolated. Housing support services are cost effective and save money by preventing homelessness and lowering the need for placements in temporary accommodation whilst promoting people's independence and reducing need in the longer term. Furthermore, these services work to reduce preventable referrals to statutory services thereby reducing the longer term costs to the borough.
- 3.8 Service users and wider stakeholders were involved in the review of services and the redesign of the service model.

4. Procurement

4.1 Pre-tender selection (PQQ stage)

These services were advertised to be procured following a single procurement process initially based on a two-part, restricted process. As detailed in the pre-tender approval report, the services were divided into five lots. Lots one to three were services provided by St Mungo's. Lots four and five were services provided by Family Mosaic. Organisations could apply for any number of lots. The highest scoring organisation for each lot would be offered a contract for that lot. However, any one organisation would only be offered a maximum of three (3) lots.

Had any organisation been the highest scoring organisation in more than three (3) lots the next ranked organisation will be offered a contract. Therefore, bidders were asked to state in their application the lots that they were applying for and order of preference.

4.2 However, at PQQ stage there were only two submissions, both of which were from the incumbent providers, Family Mosaic and St Mungo's Broadway. Both of these submissions met minimum requirements to proceed in the process and in accordance with Regulation 13A of the Public Contracts Regulations 2006, Islington decided not to proceed to the Invitation to Tender (ITT) stage and instead entered into direct negotiation with the two organisations.

4.3 **The award criteria for these contracts assessed at Invitation to Tender was as follows:**

Cost	20 %
Quality 80% made up of:	
Proposed approach to mobilisation and implementation/change management	10%
Proposed approach to service model	20%
Proposed approach to workforce management	10%
Proposed approach to partnership Working	15%
Proposed approach to managing performance and outcomes	15%
Proposed approach to client engagement and involvement	10%
Total	100%

4.4 Following the decision to directly negotiate with the two incumbent providers, Family Mosaic and St Mungo's Broadway were asked to submit proposals to deliver the new contract to include the following (1000 word limit):

- Proposed method of delivering the service specification (service model)
- Staffing structure
- Value for money workbook
- How they will achieve outcomes
- How they will achieve move on
- How they will work with key partners.

4.5 In order to be awarded a contract, each organisation needed to score a minimum of three (3) for each award criteria using the following scale.

Score	
0	There is no response to the question
1	An attempt has been made to respond, but does not meet requirements/solution does not cover any essential points
2	The response/solution partially meets requirements (covers some essential points)
3	The response/solution meets requirements (covers all essential points, may have included clear examples)
4	The response/solution exceeds requirements (covers more than the essential points, giving clear examples)
5	The response/solution will add significant value (covers more than the essential points, giving clear thorough examples to illustrate how value will be added)

4.6 Both organisations were asked to submit a detailed service model for the new specification and value for money workbooks. Clarification was sought from one organisation to achieve better value for money

and a better hourly support rate which was achieved. The service model was negotiated and agreed to provide high quality and best value for Islington Council.

It was made clear during the negotiation stage that the services would be packaged in such a manner as to ensure that the highest scoring organisation would be awarded a contract for services in 3 different areas of their choice and the other organisation would be offered the contract for services in the other two areas.

- 4.7 The service will provide support to 67 residents for an annual contract value of £607,598. The procurement did achieve a further small reduction from the anticipated contract value of £6,255 over the 9 year period, representing £695 per annum on current spend with no reduction in capacity.

5. Implications

5.1 Financial implications

The recommendations of this report are to award a single contract to St Mungo's to deliver three services and Family Mosaic to deliver one service. The current services are funded from Adult Social Services base budget and the new contracts will not result in a financial pressure for the department.

There were no planned savings from these services as efficiencies were realised in commissioning these services in 2013/14. There is a small saving over the maximum 9 year period of the contract, of £6,255 (£695 per annum) from the contract value being less than budgeted.

5.2 Legal Implications

The Council has power to provide housing support services in supported housing for people with substance misuse issues under the Housing Act 1996, Parts 6 and 7. The Council has power to enter into contracts with providers of such services under section 1 of the Local Government (Contracts) Act 1997.

These services were procured under the Public Contracts Regulations 2006 (the 2006 Regulations) and the Procurement Strategy was approved by the Executive at its meeting on 12th February 2015. The threshold for application of the 2006 Regulations was £172,514. The value of the procured contracts was above this threshold. These services fall within Part B of the 2006 Regulations. Although Part B services do not need to strictly comply with the provisions of the 2006 Regulations, there is a requirement under EU rules for part B services to comply with the principles of equal treatment, non-discrimination and fair competition. The council's Procurement Rules require contracts over the value of £100,000 to be subject to competitive tender.

In compliance with the principles underpinning the 2006 Regulations and the council's Procurement Rules the contracts were advertised with a call for competition and procured using a competitive tender process. The contract was advertised on the basis of following a restricted procurement procedure. However, in light of only two tenderers responding it was decided to discontinue the restricted procedure and to use a negotiated procedure as permitted by Regulation 13(a) of the 2006 Regulations. The bids were subject to evaluation in accordance with the tender evaluation model.

The highest scoring tenderer was St Mungo's Broadway and the other tenderer was Family Mosaic. Accordingly the contracts may be awarded to these service providers as recommended in the report.

In deciding whether to award the contracts to the recommended service providers the Executive should be satisfied as to the competence of the suppliers to provide the services and that the tender prices represent value for money for the Council. In considering the recommendations in this report members must take into account the information contained in the exempt appendix to the report.

5.3 Environmental Implications

An environmental impact assessment has been completed and is available on request

5.4 Resident Impact Assessment

A resident impact assessment has been completed and is available on request.

6. Conclusion and reasons for recommendations

- 6.1 Following a procurement exercise it is recommended that two contracts are awarded, one each to Family Mosaic and St Mungos to provide supported housing services to 67 people with substance misuse issues at an annual combined contract value of £607,598. This contract value represents a small reduction from the anticipated contract value of £6,255 over the 9 year period, representing £695 per annum.

Appendices

Appendix 1 – Direct Negotiation Scoring Report - Exempt

Background papers

None

Final report clearance

Janet Burgess

Signed by: Executive Member for Health and Wellbeing

Date: 8 December 2015

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