

Executive Report

Ward(s) affected: All

Report of Director of Strategic Services

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Statement of Community Involvement

Executive Summary

A Statement of Community Involvement document sets out how we consult, engage and communicate with the public and statutory consultees on planning matters. Officers have reviewed the existing SCI in light of the recent impact that COVID-19 has had on the Council's ability to conduct consultation, as well as new legal requirements and current planning processes. As a result of this review, an updated Statement of Community Involvement (SCI) 2020 has been produced (see Appendix 1 of this report).

The updated SCI includes proposed changes to the requirement to make documents available for inspection at the Council offices at Local Plan regulation 18 stage (in line with the requirements of the Town and Country (Local Planning) (England) Regulations 2012 as amended); updates regarding the Council's role in relation to Neighbourhood Planning (to reflect the support now offered in this regard); updates in relation to planning pre-application consultation and definitions (as per legislative or factual changes); updates reflecting planning processes that have evolved within the Council (such as changes to the scheme of delegations and altered processes for press notices) and further minor improvements and updated references.

Recommendation to Executive

- (1) That the Executive resolves that the Statement of Community Involvement (2020) as set out at Appendix 1 to this report be adopted.
- (2) That the Planning Policy Manager be authorised to make such minor alterations to improve the clarity of the document as he may determine in consultation with the Lead Councillor.

Reasons for Recommendation:

Under the legislative requirements the Council is required to review the SCI every five years from the date of its adoption. This review has been undertaken and has led to certain updates being proposed. It is considered important to have an up to date, adopted SCI which sets out

how the Council will consult, engage and communicate with the public and statutory consultees on planning matters. An up to date SCI, aligned to planning processes is also important to minimise the risk of legal challenge. Furthermore, adopting the SCI will enable the Council to commence the public consultation on the draft Local Plan Development Management Policies in line with the Council resolution on 5th May 2020.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

- 1.1 The report seeks the adoption of the SCI (included at Appendix 1 of this report), which sets out how we consult, engage and communicate with the public and statutory consultees on planning matters.

2. Strategic Priorities

- 2.1 Having an up to date SCI is a statutory requirement and will help the Council meet its strategic priorities. It will guide the Council as we consult, engage and communicate with the public and statutory consultees on planning matters.

3. Background

- 3.1 The SCI is a document which sets out how we involve the community and other interested individuals and groups as we prepare planning policies and guidance, and when we consider planning applications in Guildford borough. It explains how our community can get involved in the planning process.
- 3.2 The Planning and Compulsory Purchase Act 2004 (Section 18) (as amended by the Planning Act 2008 and the Localism Act in 2011) requires all Councils to produce an SCI. We are legally obliged to undertake planning consultations in accordance with it.
- 3.3 The Community Involvement in Planning (the title used by the Council for its SCI) was adopted in June 2013. Since that time, we have published a factual update note highlighting the impact of new legislation on the SCI and an updated version was prepared for adoption in February 2020. Legal advice has confirmed that the SCI should rightly proceed to Executive for adoption.

4. The need to review and update the SCI

- 4.1 The need to review and update the SCI stems from immediate issues relating to the planned regulation 18 consultation on the Local Plan Development Management Policies (LPDMP) as well as a more general requirement to review the SCI in line with new legislation and guidance. These are addressed below.

Ensure that LPDMP consultation proceeds in line with the SCI

- 4.2 The Local Planning Authority (LPA) must comply with their SCI when preparing Local Development Documents (LDDs), including Development Plan Documents (DPDs). In this regard, the planned regulation 18 consultation on the LPDMP, approved by the Council on 5th May 2020, needs to comply with what is set out in the SCI.
- 4.2 Currently the SCI requires at regulation 18 stage of the local plan making process that documents 'must be made available for inspection' at the Council offices and libraries, in addition to being made available on the Council's website.
- 4.3 In light of the impact of COVID-19 on the operation of the Council's Offices and the libraries, it is not possible to comply with the current SCI in this regard. There is, however, no legal requirement to make documents available for inspection at the Council's offices at Local Plan regulation 18 consultation stage¹.
- 4.4 Furthermore, recent updates to the Planning Practice Guidance² indicate that where any of the policies in the Statement of Community Involvement cannot be complied with due to current guidance to help combat the spread of coronavirus (COVID-19), the LPA is encouraged to undertake an immediate review and update the policies where necessary so that plan-making can continue.
- 4.4 In light of the above, a review has been undertaken. It is proposed that the SCI is amended to align with the legislation and remove the requirement for documents to be made available at the Council offices at this stage of the plan making process (see Appendix B at page 36 of the SCI). The requirement to make documents available in this manner at later stages in the Local Plan process (e.g. regulation 19 stage) is retained in line with current legislative requirements.
- 4.5 However, the updated SCI retains the range of other means available to the Council to ensure effective consultation on Local Plans, including at regulation 18 stage. A number of these are being employed during the LPDMP consultation as indicated in the report to the Council on 5th May 2020.

Fulfilling the general requirement to review and update the SCI

- 4.6 Further to the above, the SCI has also been reviewed more broadly in line with legislation and updated Planning Practice Guidance. As a result of the review, the SCI was updated and, in general, is not considered to be significantly altered from the Community Involvement in Planning document (2013). Key updates described below have been undertaken largely in relation to where new

¹ See the Town and Country Planning (Local Planning) (England) Regulations 2012, Regulation 18.

² Planning Practice Guidance Paragraph: 077 Reference ID: 61-077-201200513

legislation has been issued, practices have evolved or wording needs updating and refreshing.

5. Key updates to the Statement of Community Involvement

Changes due to the impact of COVID-19 on public consultation on planning matters

- 5.1 Several updates to the SCI are in light of the impact of COVID-19 on public consultation on planning matters. The key change with regard to Local Plan consultation has been covered under section 4 of this report (relating to regulation 18 stage). Outside of this change, additional flexibility has been built into the SCI to respond to legislation if it were to change in the future, but as it stands, the Local Plan and supplementary planning documents would still need to be made available for inspection at the Council's offices and in most cases libraries (see appendix B of the draft SCI).
- 5.2 When the Council's offices are unavoidably closed with no opportunities for the public to access hard copies of the consultation documents, the SCI already includes a range of other means of community engagement (see column 'what we may do' in Appendix B of the SCI). Consideration of these options provides an opportunity to mitigate any impacts that may occur in these circumstances. It remains within the gift of the decision-maker to resolve on whether to proceed to consultation at a particular point in time.

Other updates resulting from legal, guidance and process changes

- 5.4 Since the 2013 Community Involvement in Planning was adopted, there have been several legislative, guidance and process changes that are reflected in the SCI.
- 5.5 For instance, in relation to Neighbourhood Planning, the SCI now sets out the Council's role in relation to Neighbourhood Planning (see section 1.5 of the SCI) and includes neighbourhood forums as part of the list of specific consultation bodies. This aligns with the Neighbourhood Planning Act, 2017 and Regulations, 2018.
- 5.6 In relation to planning pre-applications and definitions as per legislative or factual changes, certain updates have been included such as:
- a. Further information on the pre-application consultation required to be undertaken by developers (in line with Planning Practice Guidance);
 - b. Removing reference to large scale major developments over 200 homes as this distinction between major developments is no longer used by the Government (see the Government's Housing Statistics and English Housing Survey glossary).
- 5.7 In line with planning processes that have evolved within the Council, the SCI now includes updates regarding:
- a. Circumstances when planning applications will be determined at Planning Committee (in line with the Council's delegations)

- b. Processes for site and press notices for planning applications (in line with current practice)
 - c. Emailing rather than posting planning decision letters (in line with current practice)
 - c. Including a reference to the Enforcement Team (as recommended in the Planning Enforcement Review)
 - d. Including reference to the consultation processes for certificates of lawful development and prior approval applications (in line with current practice)
- 5.8 The SCI also includes a range of further minor improvements and updated references including:
- a. Updating bodies' names such as Highways England and Historic England
 - b. Adding further text on general consultation bodies
 - c. Adding reference to recent legislation such as the Data Protection Act 2018
 - d. Improving some glossary definitions
 - e. Editorial and further minor changes such as updating hyperlinks, contact details such as addresses or phone numbers and the document title from Community Involvement in Planning to Statement of Community Involvement, to reflect how the document is referred to in legislation.

6. Consultations

- 6.1 In producing this draft document, the Planning Policy team has worked with members of the Development Management team in seeking to understand updates that have happened since the 2013 version was published. These discussions have resulted in changes to the document.
- 6.2 The updated SCI has been shared with the Leader and Portfolio holder. The Planning Practice Guidance³ reflects that 'there is no requirement for local planning authorities to consult when reviewing and updating their Statement of Community Involvement.'

7. Key Risks

- 7.1 It is important to have an up to date SCI as it sets out how we consult, engage and communicate with the public and statutory consultees on planning matters.
- 7.2 Having an up to date and adopted SCI that accords with legislative requirements, reduces the risk of challenge in relation to the Council's planning processes such as the preparation of a Local Plan. Not adopting the SCI will result in the Regulation 18 consultation on the LPDMP being delayed. Any further delay to the consultation is likely to result in a delay to the overall timetable for the production and adoption of the LPDMP as currently estimated in the Local Development Scheme (LDS) – also being considered at this meeting of the Executive.

³ Planning Practice Guidance Paragraph: 078 Reference ID: 61-078-201200513

8. Financial Implications

- 8.1 The financial implications to the Council of the changes to the document are considered to be minimal.

9. Legal Implications

- 9.1 The Planning and Compulsory Purchase Act 2004 and the Town & Country Planning (Local Planning) (England) Regulations 2012 ('the Regulations') as amended place a legal requirement on Councils to have an adopted SCI.
- 9.2 Under Regulation 10A of the Regulations local planning authorities must review local plans, and Statements of Community Involvement at least once every 5 years from their adoption date to ensure that policies remain relevant and effectively address the needs of the local community. This is re-iterated in Planning Practice Guidance.
- 9.3 This report seeks approval from the Executive to adopt the SCI. Adoption of SCIs is not provided for in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. As the Regulations are silent as to whether adoption of SCIs is an Executive function or a matter for full Council, the provisions of the Local Government Act 2000 (LGA 2000), s9D apply. The effect of s9D(2) of the LGA 2000, is that adoption of the SCI is an Executive function.
- 9.4 The preparation of the SCI has been subject to an Equalities Impact Assessment screening to highlight potential differential impacts on certain groups with protected characteristics (see Equality and Diversity Implications section below). Accordingly and in line with the outcomes of the EqIA screening, it is considered that in adopting the SCI, the Council will be acting in accordance with the public sector equality duty contained in section 149 of the Equality Act 2010.
- 9.5 The decision on adoption will be subject to the Scrutiny call-in procedures and, as such, will not be implemented prior to the expiry of 5 clear working days.

10. Human Resource Implications

- 10.1 The SCI has been produced in house and drafted by officers. There are no Human Resource implications considered relevant to the adoption of the SCI.

11. Equality and Diversity Implications

- 11.1 All public authorities are required by the Equality Act 2010 to specifically consider the likely impact of their policy, procedure or practice on certain groups in the society.
- 11.2 It is our responsibility to ensure that our policies, procedures and service delivery do not discriminate, including indirectly, on any sector of society. Council policies, procedures and service delivery may have differential impacts on certain groups with protected characteristics, and these will be highlighted in the Equalities Impact Assessment (EqIA) screening. Likely differential impacts must be highlighted, and described, as some may be positive. Where likely significant

adverse differential impacts are identified, consideration should be given to opportunities to reduce or mitigate this through a full equalities impact assessment.

- 11.3 An EqlA screening was carried out for the updated SCI (see Appendix 2). It is not considered necessary to carry out a full EqlA. This document will be published on the Council's web site alongside the SCI. Accordingly, it is considered that in approving this report, the Council will be acting in accordance with the public sector equality duty contained in section 149 of the Equality Act 2010.

12. Climate Change/Sustainability Implications

- 12.1 The adoption of the SCI is not regarded to have any significant climate change implications. Electronic means of communication on planning consultations is supported whilst balancing this with the requirements of legislation and the need to promote equity in opportunity to access consultation material.

13. Summary of Options

- 13.1 The Executive may adopt the SCI with or without amendment. Alternatively, the Executive may decide to not adopt it. The immediate risk of not adopting the SCI is that proceeding with the consultation on the regulation 18 LPDMP could not be undertaken in line with the Council decision of 5th May 2020 and the Council would not have an up to date SCI that aligns with current processes being undertaken in light of the Covid 19 pandemic.

14. Conclusion

- 13.1 As a matter of good governance, the SCI should be updated to accommodate the suggested changes. In particular, it is important to set out how we will publicise planning policy documents for consultation purposes during circumstances such as the current COVID-19 pandemic. Approval is therefore sought for the updated SCI.

15. Background Papers

None.

16. Appendices

Appendix 1: Statement of Community Involvement 2020
Appendix 2: SCI Equalities Impact Assessment Screening