



Mayor and Cabinet

Proposed changes to the Statement of Community Involvement [to note: these do not concern the emergency covid related changes to planning applications which remain a temporary measure]

Date: 9th December 2020

Key decision: Yes

Class: Part 1

Ward(s) affected: All

Contributors: David Syme

Outline and recommendations

At its meeting on the 16th September Mayor and Cabinet approved the draft Addendum to the Statement of Community Involvement (SCI) for non-statutory public consultation.

This report sets out the non-statutory consultation process, summarises the representations received, notes where these have led to amendments to the addendum and how we have responded to issues raised.

It is recommended that Mayor and Cabinet:

- *Adopt the Addendum to the SCI which will permanently supercede sections 2, 3, 4, 5 and 7 and appendices 1, 2 and 3 of the current SCI (2006)*

Timeline of engagement and decision-making

The current Statement of Community Involvement was adopted in July 2006.

16th Sep 2020 – Mayor and Cabinet approve the draft Addendum to the SCI for non-statutory public consultation.

Non-statutory public consultation held from 2nd October 2020 to 13th November 2020.

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1. Summary

- 1.1. Since the SCI was adopted in 2006 there have been significant changes to the planning system. These changes established new legal requirements and processes for producing the statutory development plan and associated guidance documents, including legal requirements for public consultation. There have also been significant changes in consultation methods and best practice. The 2006 SCI makes no allowance for the use of online consultation platforms, use of social media or other online tools.
- 1.2. Following a review of the extant SCI, it is evident that updates are required to reflect relevant changes in the planning framework, also recognising opportunities and experiences with new methods of public engagement, such as the greater use of electronic forms of communication and social media. This is particularly important in the context of COVID-19 and the latest Government guidance on social distancing and plan-making.
- 1.3. At its meeting on the 16th September Mayor and Cabinet approved the draft Addendum to the SCI for non-statutory public consultation.
- 1.4. The addendum is primarily focused on amendments required for preparing planning policy documents. It does not include the emergency temporary modifications relating to planning applications or development management agreed by Mayor and Cabinet on 10th June 2020 and then extended by Mayor and Cabinet on the 16th September 2020.
- 1.5. If approved the addendum will permanently supersede sections 2, 3, 4, 5 and 7 and appendices 1, 2 and 3 of the current SCI (2006)
- 1.6. This report sets out the non-statutory consultation process, summarises the representations received, notes where these have led to amendments to the addendum and how officers have responded to issues raised.

2. Recommendations

- 2.1. It is recommended that Mayor and Cabinet:
 - Adopt the Addendum to the SCI which will permanently supersede sections 2, 3, 4, 5 and 7 and appendices 1, 2 and 3 of the current SCI (2006)

3. Policy Context

- 3.1. The SCI is a legal planning document that sets out how the Council will consult the public and other stakeholders when preparing statutory development plan and supporting documents, and how it will consult on planning applications. The SCI also sets out how the Council will fulfil its statutory duty to support neighbourhood planning. The Council must (as a minimum) comply with statutory requirements for consultation set out in relevant legislation and policy, including:
 - The Town & Country Planning (Development Management Procedure) (England) Order 2015 – for planning applications
 - The Planning (Listed Buildings and Conservation Areas) Regulations 1990 (as amended) – for listed building consents
 - Planning and Compulsory Purchase Act 2004 (as amended)
 - The Town & Country Planning (Local Planning) (England) Regulations 2012 (as amended)

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- Localism Act 2011 (as amended)
- The Neighbourhood Planning (General) Regulations 2012
- Neighbourhood Planning Act 2017
- Environmental Assessment of Plans and Programmes Regulations 2004
- Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020
- National Planning Policy Framework (NPPF) (2019) and National Planning Practice Guidance (NPPG).

Lewisham's Corporate Strategy 2019

- 3.2. By ensuring that residents are consulted effectively in the plan making and decision making process of planning the SCI has a key role in supporting the delivery of the Council's Corporate Strategy, including:
- Open Lewisham - Lewisham is a welcoming place of safety for all, where we celebrate the diversity that strengthens us.
 - Tackling the housing crisis - Everyone has a decent home that is secure and affordable.
 - Building an inclusive local economy - Everyone can access high-quality job opportunities, with decent pay and security in our thriving and inclusive local economy.
 - Making Lewisham greener - Everyone enjoys our green spaces, and benefits from a healthy environment as we work to protect and improve our local environment.
 - Building safer communities - Every resident feels safe and secure living here as we work together towards a borough free from the fear of crime.

4. Background

- 4.1. The Council adopted its current Statement of Community Involvement (SCI) in July 2006. The SCI forms part of the Local Development Framework and is a legal planning requirement. It sets out the Council's policy for involving and communicating with interested parties in matters relating to the preparation and revision of planning policy documents and the exercise of the authority's functions in relation to planning applications.
- 4.2. Since the SCI was adopted in 2006 there have been significant changes to the planning system. These include but are not limited to: changes introduced by the Localism Act 2011; the Neighbourhood Planning Regulations 2012; the Local Planning Regulations 2012; the introduction of the new National Planning Policy Framework (NPPF) in 2012, with subsequent updates in 2018 and 2019 respectively. Collectively these changes establish new legal requirements and processes for producing statutory development plan and associated guidance documents. This includes new powers for community groups, formally designated as neighbourhood forums, to prepare neighbourhood development plans, a process which the Council has a statutory duty to support.
- 4.3. Alongside these changes to the legislative and policy framework for plan preparation, significant improvements have been made to the Council's Information Technology (IT) infrastructure and systems. This includes upgrades to the Council's website and electronic facilities for communications, including for electronic correspondence (emails and comments via the council website) and internet based platforms for public consultation.

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- 4.4. More recently, planning guidance published on 13 May by the Ministry of Housing, Communities and Local Government (MHCLG) makes clear that local planning authorities will need to assess their SCI to identify which policies are inconsistent with the Government's latest social distancing guidelines. This could include, for example, holding face-to-face community consultation events or providing physical documents for inspection. The guidance also provides that authorities should introduce temporary amendments that are necessary to allow plan-making to progress, and that continue to promote effective community engagement by means which are reasonably practicable. The use of modern technologies, including internet platforms, is strongly encouraged whilst recognising that steps will need to be taken to ensure those without internet access have opportunities to engage in the planning process.
- 4.5. In addition, the Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 have been introduced in response to COVID-19. These regulations make temporary changes to how documents are required to be made available to the public during the plan preparation and consultation process. Specifically, they temporarily remove the requirement for the Council to: make documents available for public inspection at its principal office and at other places it considers appropriate; and provide hard copies of specified documents. These temporary changes apply until March 2021. However, given the uncertainty regarding COVID-19, the Council will need to monitor whether any changes or an extension to these temporary measures are made, in order to ensure compliance with the relevant statutory requirements for public consultation.
- 4.6. In light of the above noted changes to the legislative and policy framework for preparing local planning documents, substantial improvements to the Council's IT infrastructure and systems, and new Government guidance associated with COVID-19, it is considered necessary to revise the adopted SCI to both respond to and appropriately reflect these changes.
- 4.7. Recommendations to the Local Democracy Working Group made in February 2020 included a recommendation that a new Statement of Community Involvement is adopted. Whilst recognising the importance of a comprehensive review of an update to the SCI to capture consultation activities and approaches across the Planning Service, officers are proposing that an Addendum to the SCI is prepared and adopted in the interim. This is necessary to ensure that the elements of the SCI dealing with the preparation of planning policy and guidance documents align with the latest legislative and policy framework.
- 4.8. The Addendum will address changes which are urgently required to ensure there is no undue delay to the preparation of Lewisham's new Local Plan, which is one of the Council's most important strategic documents. The Local Plan is the main statutory development plan document prepared by the Council, in consultation with communities and key stakeholders, and will play a key role in supporting the Corporate Strategy 2018-2022. The draft 'Local Plan: Main Issues and Preferred Approaches' document is currently in the committee cycle. It was endorsed by Mayor and Cabinet on 11 March 2020 to proceed to Council, which is due to consider the plan and supporting documents on 25 November 2020. Subsequent to the approval at Council, it is proposed to commence a statutory public consultation (Regulation 18 stage) on the Local Plan proposals in early 2021. In the absence of necessary updates to the SCI in advance of the public consultation, there is a significant risk that the Council will fail to meet the tests of 'legal compliance' and 'soundness', which are assessed by a Planning Inspector at the plan's independent public examination.

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- 4.9. The Addendum to the SCI will provide flexibility for the Council to consider and employ consultation methods that are consistent with the Government's latest guidelines on social distancing, particularly through the use of online platforms. It will also ensure the Council is in a position to continue to progress with the preparation of development plan and policy guidance documents, in accordance with the relevant statutory requirements, without undue delay. Crucially, the Addendum will allow the Council to continue to promote effective community engagement by means which are reasonably practicable during the public health emergency, any future recovery period and beyond. This is particularly critical given the current stage of preparation of the new Local Plan and associated programme of public consultation.
- 4.10. A summary of the key changes to the SCI proposed by the Addendum are as follows:

SCI 2006 reference	Key changes proposed	Reason
Section 2 (Stakeholders)	Factual updates.	<p>To reflect the latest legislation regarding different types of consultee groups and their constituent bodies or persons.</p> <p>To reflect the new statutory Duty to Cooperate with prescribed bodies on cross-boundary matters during the plan-making process.</p>
Section 3 (Consultation tools)	Updates the range of consultation tools (methods) available to Council officers to employ for public consultations.	<p>To meet the latest statutory requirements for public consultation.</p> <p>Factual updates to reflect tools which are no longer used or available (e.g. Lewisham Planning Newsletter).</p> <p>To ensure Council officers can continue to facilitate effective public consultation using a variety of methods, recognising improvements and increasing use of Council's webpage and other digital/online platforms.</p> <p>In the interests of public health and safety; to ensure sufficient flexibility to respond to the latest legislation and social distancing guidance with respect to COVID-19.</p>
Section 4 (Important information)	Factual updates.	To provide correct information about document access, and contact details

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		for internal and external bodies.
Section 5 (Local Development Framework)	<p>Factual updates</p> <p>Sets out the Council's minimum commitments for public consultation during the preparation of planning policy and guidance documents. A less prescriptive and more flexible approach than set out in the extant SCI.</p>	<p>To reflect the latest legislation and policy regarding the preparation of planning policy and guidance documents.</p> <p>To set out details of how the Council will fulfil its statutory duty to support neighbourhood planning.</p> <p>To ensure Council officers can continue to facilitate effective public consultation. This includes flexibility to tailor public consultations taking into account the scope and nature of the planning document.</p> <p>In the interests of public health and safety; to ensure sufficient flexibility to respond to the latest legislation and social distancing guidance with respect to COVID-19.</p>
Section 7 (Resources and monitoring)	Factual updates.	<p>To reflect the legislative requirements in respect of SCI reviews.</p> <p>To clarify Council commitments in respect of monitoring the SCI.</p>
Appendix 1 (Background to the planning system.	Deleted.	To avoid unnecessary duplication of updated information presented elsewhere in the Addendum
Appendix 2 (Sustainability / sustainability appraisal)	Factual updates.	<p>To reflect the latest legislation on sustainability appraisal, including that it is no longer required for Supplementary Planning Documents.</p> <p>Updates references to latest standing guidance (i.e. NPPG).</p>
Appendix 3 (Tests of Soundness for a Development Plan document)	Factual updates.	To reflect the revised Tests of Soundness set out in the NPPF (2019).

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		To provide a new informative on the 'basic conditions' that neighbourhood plans are required to meet.
Further information and contacts	Factual updates.	To update details regarding Council planning webpages and contact information (email, telephone, post)

5. Non-statutory consultation on the draft Addendum to the SCI

- 5.1. Following the Mayor and Cabinet's authorisation in September 2020, a 6 week period of non-statutory consultation took place on the draft Addendum to the SCI from the 2 October 2020 to 13 November 2020.
- 5.2. After the 6 week consultation period, all representations received have been taken into consideration and any necessary changes incorporated into a final Addendum to the SCI.

Summary of consultation responses

- 5.3. The consultation on the draft Addendum to the SCI was held through the Council's Citizen Space consultation portal, with each section of the document addressed through a separate question.
- 5.4. Each question asked the respondent if they 'agreed', 'disagreed' or were 'not sure' about the changes that are proposed through the draft Addendum to the SCI. The respondent then had an opportunity to clarify why they 'agreed', 'disagreed' or were 'not sure' of the proposed changes on each section of the draft Addendum to the SCI.
- 5.5. A total of 19 submissions were made through the Citizen Space portal with a further 2 submissions made through e-mail, totalling in 21 responses at the close of the consultation.
- 5.6. The first e-mail submission was from the statutory consultee, Transport for London (TfL), whose only comment was to reaffirm the importance of providing a list of statutory stakeholders who will be routinely consulted during consultation, as it was noted that a list of statutory stakeholders had been omitted from section 2 of the draft document. It was suggested that if the Council was concerned that the statutory consultee list may become out of date, it should be added as an appendix with a note and date confirming it as the current list of statutory consultees.
- 5.7. The second e-mail was from a resident who commented on changes made to the emergency temporary modifications to the SCI (Development Management) document that was agreed through Mayor and Cabinet on the 10th June 2020 and extended on the 16th September 2020.
- 5.8. Comments submitted through the Citizen Space survey covered a range of issues that included the importance of consulting with Hard to Reach (HTR) groups in the borough, improved publication of consultation materials, a more focused approach on how the council consults with Neighbourhood Forums and requesting the council better promote consultation activities.
- 5.9. A number of the comments received focused on the emergency temporary modifications to the SCI (Development Management) it was clearly stated throughout the consultation that any comments regarding the temporary modifications relating to

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the development management function of planning would not be considered during this consultation.

5.10. All submitted comments can be viewed in full in appendix 2

5.11. The below table shows how many respondents answered 'agreed', 'disagreed', 'not sure' or 'not answered' regarding the proposed changes in each section of the draft Addendum of the SCI.

<i>Section of draft Addendum to the SCI</i>	<i>Total no. respondents</i>	<i>Agreed</i>	<i>Disagreed</i>	<i>Not Sure</i>	<i>Not Answered</i>
Section 2 - Stakeholders	19	14	2	3	0
Section 3 – Consultation tools	19	15	2	2	0
Section 4 – Important information	19	14	0	5	0
Section 5 – Local Development Framework/Plan Making	19	12	2	5	0
Section 7 – Resources and monitoring	19	12	2	5	0

5.12. Responding to consultation feedback

- Addressing comments made during the consultation, the addendum to the SCI will be modified to include a list of Statutory Consultees and Duty to Corporate bodies who the Council are required to inform when undertaking consultation activities
- Feedback was received stating that the Council should improve how it consults with hard to reach groups in the borough. The Council recognises the challenges when consulting with hard to reach groups and is committed to exploring ways of improving and facilitating effective and meaningful engagement with local communities, including hard to reach groups.
- Council officers are currently undertaking a comprehensive upgrade of the planning policy webpages. It is hoped that in doing so, this exercise will address feedback that was received regarding the challenges of accessing documents online that have been used in the development of planning policy within the borough.
- As feedback was received concerning the relationship between Neighbourhood Forums and the Council, correspondence will be sent to each active Neighbourhood Forum confirming that they are in fact a statutory body where consultation activities are concerned.

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6. Financial implications

- 6.1. There are no significant financial implications.

7. Legal implications

- 7.1. The SCI is a Local Development Document, which by law must be reviewed every five years but this does not prohibit a more regular review. Planning Policy Guidance emphasises that it is important that SCI's are kept up-to-date to ensure effective community involvement at all stages of the planning process. Therefore, a local planning authority should regularly review and update their Statement of Community Involvement to reflect any changes to engagement.
- 7.2. Whilst there is no statutory obligation to consult on the amendments to the SCI, where such consultation has been undertaken there is a legitimate expectation that any responses will be taken into consideration by the Council. The report at paragraph 5 sets out the nature of the responses that have been received and how they have been taken into account by the Council
- 7.3. Section 9D of the Local Government Act 2000 states that any function of the local authority which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the authority under executive arrangements. The Local authorities (Functions and Responsibilities (England) Regulations 2000 specifies that certain functions relating to Development Plan documents are by law the responsibility of the Council. The SCI is a Local Development Document but is not a Development Plan Document it is therefore an executive function.
- 7.4. The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.5. In summary, the council must, in the exercise of its function, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
 - Advance equality of opportunity between people who share a protected characteristic and those who do not
 - Foster good relations between people who share a protected characteristic and persons who do not share it
- 7.6. The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 7.7. The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes

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steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

8. Equalities implications

- 8.1. There are equalities implications. Key implications that officers recognise include that holding virtual meetings may risk excluding some people for a variety of reasons, including for example those who do not frequently use or have ready access to electronic media or do not have reliable access to the internet by way of broadband or sufficient data allowances, and that people with protected characteristics for example such as age may be more impacted than others. Officers also recognise that holding virtual meetings may make it easier for some others with protected characteristics to “attend” virtually. These impacts have been taken into account. We will continue to aim to reduce some of the possible impacts of virtual hearings (and advance equality) by requiring speakers to provide what they wish to say in advance, so that if there is a technological issue their representations will still be taken into account, and we will continue to record all meetings and the recording can be made available later to those who wish to view at a later time.

9. Climate change and environmental implications

- 9.1. There are no climate change or environmental implications.

10. Crime and disorder implications

- 10.1. There are no crime and disorder implications.

11. Health and wellbeing implications

- 11.1. There are no health and wellbeing implications.

12. Background papers

- 12.1. Lewisham Statement of Community Involvement

<https://lewisham.gov.uk/my services/planning/policy/ldf/statement-of-community-involvement>

13. Glossary

Term	Definition
Statement of Community Involvement (SCI)	The SCI forms part of the Local Development Framework and is a legal planning requirement. It sets out the Council's policy for involving and communicating with interested parties in matters relating to the preparation and revision of local development framework documents and the exercise of the authority's functions in relation to planning applications.

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Term	Definition
Local Development Framework	The name for the collection of Local Development Documents. It consists of Development Plan Documents, Supplementary Planning Documents, a Statement of Community Involvement, the Local Development Scheme and the Annual Monitoring Report. Together, these documents provide the planning framework for the borough as developed at the local level.

14. Report author and contact

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15. Comments for and on behalf of the Executive Director for Corporate Resources

15.1. Shola Ojo – Principal Accountant, Financial Services (shola.ojo@lewisham.gov.uk)

16. Comments for and on behalf of the Director of Law, Governance and HR

16.1. Paula Young – Senior Lawyer, Legal Services (paula.young@lewisham.gov.uk)

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