



## Sustainable Development Select Committee

### Local Democracy Review update

**Date:** 8 September 2022

**Key decision:** No

**Class:** Part 1

**Ward(s) affected:** All

**Contributors:** Head of Development Management

### Outline and recommendations

The purpose of this report is to provide the Sustainable Development Select Committee (SDSC) with an update on Local Democracy Review and the direction of travel for a new Statement of Community Involvement.

The Sustainable Development Select Committee is recommended to:

- Note the progress and direction of travel of Local Democracy Review projects and public engagement, and endorse further progression
- Advise officers of any matters it wishes to be considered with regard to the Statement of Community Involvement

## Timeline of engagement and decision-making

July 2006 – adoption of the current Statement of Community Involvement was adopted in July 2006.

May 2018 – Mayor Damien Egan promises to launch a review that will make the Council 'even more democratic, open and transparent'

July 2018 – Full Council agrees to establish a Local Democracy Review Working Group consisting of eight councillors. They are tasked with making recommendations about how the Mayor and Council could enhance their openness and transparency, increase public involvement in Council decisions and promote effective decision-making

September 2018 to January 2019 – the Working Group gathers evidence from a wide range of residents, community groups and local councillors (including an online questionnaire completed by over 700 respondents, workshops at four secondary schools and attendance at over 40 events)

January to March 2019 – the Working Group collects their evidence into a final report, which identifies 57 recommendations for change

March/April 2019 – Mayor & Cabinet and Full Council agree the report and recommendations

April 2019 to March 2020 – the retained Local Democracy Working Group oversees delivery of the recommendations

February 2020 – the Local Democracy Working Group welcomed the direction of travel for recommendations 25-30 which propose improvements to the planning service, including *"If required, the Planning Statement of Community Involvement should be reviewed in line with the democratic standards once developed, and the other relevant recommendations made within this report (#30)"*

June 2020 – temporary changes agreed to the Council's Statement of Community Involvement (SCI) to facilitate virtual meetings for a period of 3 months

September 2020 – temporary changes to the SCI are extended for a period of 6 months due to the ongoing pandemic and consultation on permanent changes to those sections addressing planning policy consultation agreed

December 2020 – permanent changes to the SCI to those sections addressing planning policy consultation approved by Mayor and Cabinet.

February 2021 – update to the Local Democracy Working Group (LDWG) on proposals to increase the openness and transparency around the planning process, particularly focused on effective decision making at planning committees which were endorsed by the LDWG. This included the Planning Service preparing a new SCI following the development of proposals and a period of engagement with amenity societies/community groups and Members.

June 2021 – Community Group meeting to, amongst other matters, update on progress with the LDR work programme

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November 2021 – Community Group meeting to, amongst other matters, update on progress with the LDR work programme

January 2022 – a standalone revision agreed to the SCI at Mayor and Cabinet in relation to Design Review Panels

July 2022 – Community Group Meeting where discussions began on a new working relationship with amenity societies and community groups to begin the period of engagement.

## **1. Summary**

- 1.1. The purpose of this report is to provide the Sustainable Development Select Committee with an update on Local Democracy Review projects and direction of travel for future engagement with the Public and Members before draft proposals for a new SCI are prepared, which will be subject to formal consultation and eventual adoption by Mayor and Cabinet.
- 1.2. A primary objective of the Statement of Community Involvement (SCI) is to set out how the Council will consult on planning applications. The adopted SCI dates from 2006 and is in need of a comprehensive update, given changes in legislation, policy and more modern ways of working and communication. The SCI is a key priority within the Local Democracy Review work programme and an update to it has been agreed as part of the LDWG programme.

## **2. Recommendations**

- 2.1. It is recommended that Sustainable Development Select Committee:
  - Note the progress and direction of travel of Local Democracy Review projects and engagement and endorse further progression
  - Advise officers of any matters it wishes to be considered with regard to the Statement of Community Involvement

## **3. Policy Context**

- 3.1. The content of this report is consistent with the Councils policy framework. The SCI is a legal planning document that sets out how the Council will consult with the public and other stakeholders when preparing statutory development plan and supporting documents, and how long 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

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- 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)
- 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).

#### **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 local development framework documents and the exercise of the authority's functions in relation to planning application consultation.
- 4.2. The Lewisham SCI additionally replicates information found within other adopted Policy documents, namely the Constitution and Scheme of Delegation, setting out the circumstances in which decisions on planning applications will be made by planning committee (rather than officers via delegated powers). It also outlines the processes through which interested parties will be notified of the committee meeting and sets out how they can make verbal representations at the meeting. The current SCI also makes provision for additional community engagement by way of a Local Meeting where 10 or more objections have been received to a planning application.
- 4.3. 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 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.
- 4.4. The Council launched the Local Democracy Review in 2018 with a Local Democracy Working Group, comprised of 8 Members tasked with making recommendations about how the Mayor and the Council could enhance their openness and transparency, increase public involvement in Council decisions and promote effectiveness in decision-making.
- 4.5. The Local Democracy Working Group in February 2020 included a recommendation that a new SCI is adopted and a review of committee referral

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triggers is also implemented. A copy of the working group papers is appended to this report at Appendix 1.

- 4.6. A new SCI will be subject to formal public consultation when a draft is prepared. Its adoption will require referral to Mayor and Cabinet for approval. Other recommendations from the Local Democracy Working Group refer to internal processes and procedures which can and have been progressed and implemented without formal approval. This paper is primarily to update on the direction of travel for a new SCI, but will also update on how the Planning Service is progressing other recommendations.
- 4.7. Any proposals in relation to committees and the scheme of delegation do not form part of the SCI work stream and are not part of this report. These are matters which will be managed via a review of the Council's Constitution.
- 4.8. The SCI has already been updated to address to prevent delay to the preparation of Lewisham's new Local Plan, which is one of the Council's most important strategic documents, and address a further variation in January 2022 for the requirement to present applications to the Design Review Panel. The rest of the SCI is unaltered from its 2006 adoption.
- 4.9. There is a need to update the SCI as recognised and endorsed by the Local Democracy Working Group, for example, representations must be made in writing by:
  - *By sending a letter or fax to the Council*
  - *By sending an email to the Council*
  - *Online using the appropriate form.*
- 4.10. In the 16 years since the 2006 SCI was adopted, the Planning Service has seen a significant shift in how the public communicate with the Council. There has been a significant reduction in letters received, with the vast majority of communication via direct email. Furthermore, the Planning Service no longer has any fax messaging service. When consulting on planning applications, the Planning Service will send letters to surrounding properties, and will use email to consult local ward councillors and local/statutory consultees.
- 4.11. The SCI provides a "Call In" for Amenity Societies, which triggers a referral to planning committee where a valid planning objection is received (and the officer recommendation is for approval). This is not proposed to change. Community Groups do not have a Call In right, but any comments they make on applications are given full consideration as part of the assessment by an officer. This is also not proposed to change in the SCI. Similarly, Member Call In would remain although it is proposed that it is suggested that this is restricted to within ward boundaries.

## **5. Direction of Travel and next steps**

- 5.1. There are several areas of proposed modernisation and improvement within a new SCI and the wider Planning Service Improvements. The following paragraphs set these out by topic, and how the Planning Service proposes to progress these.

Dealing with repetition

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- 5.2. A key area for update in the SCI will be the removal of repetitious information, namely the Scheme of Delegation and committee processes. These are contained within the Council's Constitution. The role of the SCI is to set out how the Council will consult and engage, whereas the Constitution sets out how the Council makes decisions. The repetition of other Council policies and decision making arrangements, does not allow the Council to work flexibly, nor respond to changing patterns of communication or work practices. This was particularly evident during the Covid-19 Pandemic.
- 5.3. The SCI is proposed to be much more concise and strategic in nature, setting a minimum level of requirement which can be expanded as necessary through via advisory notes hosted on the Council's website. This would enable standards to be set but give the Council greater flexibility to respond quickly should circumstances change. Furthermore, by removing repetition, this would make the document as a whole easier to read and provide clarity on its purpose. The removal of details around the scheme of delegation would not change current working practices. This would mean that when the constitution requires updating, the SCI does not and vice versa.
- 5.4. Any future proposals to committees and the scheme of delegation would form part of the Council's Constitution review which has separate reporting and approval processes to the SCI. A change to the Councils Constitution requiring Full Council approval.

Reflecting modern ways of working

- 5.5. The current SCI reflects ways of working and communication that was largely paper based. It is proposed to ensure that email and online methods of communication are prioritised, reflecting the changes seen over the last 16 years. References to newsletters and fortnightly meetings to review cases with amenity societies are also proposed to be removed as these are no longer held as well as any other references to working practices which are no longer followed.

Updating legislation and policy position

- 5.6. Throughout the SCI all legislative and policy references will be updated. This will include the status of the SCI which is now no longer defined by Government as a development plan document.

Formalising the role our Amenity Societies

- 5.7. A process for formalising the role of amenity societies was endorsed by the LDWG. It is proposed to explore how best to formalise their role and recognise the value that our community groups bring to our decision making whilst ensuring a smooth process that works in the wider public interest. This is subject to engagement with Amenity Societies, community groups and Members outlined in Section 6 of this report.

Promoting pre-application engagement

- 5.8. Whilst the SCI is unable to force any developer to undertake pre-application engagement, it is a useful document to be clear that there is an expectation that early engagement takes place. As part of this, it is proposed that there is a clear expectation that for major developments, a pre-application Local Meeting is held to inform proposals as they develop.

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## Local meetings

- 5.9. With the requirement to undertake pre-application engagement, it is intended to remove the Local Meeting trigger for planning applications post submission. This is to ensure that discussions take place at a point when there is a chance to influence a scheme.
- 5.10. The Planning Service is committed to progressing other internal service improvements that do not require formal approval, and will update Community Groups and Amenity Societies via the Community Forum.

## **6. Undertaking a period of engagement with the Public and Members**

- 6.1. The Planning Service has an established Community Forum. This is a meeting with our Community Groups and Amenity Societies. The purpose of the Forum is to:
  - Seek a positive working relationship between the Planning Service and our Community Groups
  - To update on changes to the planning system, policy work and Council Strategies
  - To provide direct feedback to Officers
  - To discuss planning issues thematically
- 6.2. The Planning Service will consult on a draft SCI formally, but also update on its progress via the Community Forum.
- 6.3. The Community Forum is also used to progress internal Local Democracy Review projects, which do not require formal approval.
- 6.4. A Community Forum was held on 26<sup>th</sup> July 2022. Officers briefed on Local Democracy Review projects and stated that the Planning Service is seeking to formally recognise the value of our Community Groups and Amenity Forums in the planning process. Officers are not seeking to impose any formal way of recognising groups, but instead through a period of engagement are seeking to understand how groups in the borough operate and who they represent.
- 6.5. Following the meeting, a questionnaire was sent to all Community Groups and Amenity Societies, with officers seeking to understand how:
  - Community Groups/ Amenity Societies are constituted
  - When the group was established and its membership size
  - Their topic(s) and geographical area of interest
  - How they respond to planning applications
  - How does their membership reflect the diversity of the boroughs population
  - How regularly they meet and if membership has a cost.
  - If they are a member of the London Forum of Amenity and Civic Societies
- 6.6. Officers have requested that responses are received by 9<sup>th</sup> September 2022 in order for them to be reviewed ahead of a special Community Forum meeting

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planned for 6th October 2022.

- 6.7. A drop-in session for Members was held on 28<sup>th</sup> July 2022. Two members attended, and an overview of Local Democracy Review projects was presented. Questions were taken regarding plans to promote proactive engagement from developers at pre-application stage. These form an existing work-stream proposal.
- 6.8. A further drop-in session for Members is planned on 6<sup>th</sup> September 2022 and an update will be given to SDSC.
- 6.9. An all Member briefing is planned on 12<sup>th</sup> September 2022 to update on progress of the Local Plan and Local Democracy Review.
- 6.10. The Planning Service will continue with its programme of internal improvements and update the public via the Community Forum.
- 6.11. Further Community Forum meetings are already planned and will be used to discuss how best to recognise Community Groups and Amenity Societies in the planning process, using the results from the questionnaire as a basis for discussion. Updates from the ongoing engagement programme will be presented to Members via informal updates.

## **7. Work to date**

- 7.1. There has been a number of improvements delivered as part of the Local Democracy Review as part of an ongoing review of internal processes.
- 7.2. Planning Committees
  - Use of closed sessions for legal advice – to ensure robust decisions
  - Uploading of Officer presentations with the agenda
  - Preparation and use of committee protocol notes
  - Member training
  - All committees webcast and recorded
- 7.3. Reports
  - All reports (delegated and committee) are written in a new accessible format
- 7.4. Publication of consultation responses
  - All consultation responses are uploaded to the website. This does not include neighbour responses/ objections due to data protection legalisation.
- 7.5. Training
  - Member committee training provided.
  - Specialist training for Climate Change provided. Financial Viability is organised for October 2022 and future sessions will be planned on a range of topics.
- 7.6. Local Requirements List
  - The Local Requirements List have been drafted for public consultation

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(from 5<sup>th</sup> - 22<sup>nd</sup> August 2022) and will be adopted on the w/c 5 September 2022. The Local Requirements lists have been updated to reflect the 2021 London Plan and provide a new local requirement for the submission of a Community Audit. This is a requirement for developers to identify buildings that have community uses/ other uses of social/ economic value. This may include health provision, education, community, play, youth, early years, recreation, sports, faith, criminal justice and emergency facilities.

#### 7.7. Decision Notices

- A review has commenced of Decision Notice templates, with a proposal to simplify and amend to accessible formats. The first draft is now being reviewed by officers and will be tested in a back office system before further drafting of other decision templates is carried out.

### 8. Financial implications

- 8.1. There are no financial implications anticipated based on the current direction of travel. This will be reviewed as draft proposals are formulated following further engagement with the Public and Members.

### 9. Legal implications

- 9.1. 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.

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

- 9.2. 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.

- 9.3. 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 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

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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>

- 9.4. There are no legal implications. This report seeks to update on a direction of travel and engagement with the public and Members. There are no draft proposals at present.

## **10. Equalities implications**

- 10.1. Changes to the SCI will have equalities implications. These will be considered in full as draft proposals are prepared. This report seeks to update on a direction of travel and engagement with the public and Members. There are no draft proposals at present.

## **11. Climate change and environmental implications**

- 11.1. There are no climate change or environmental implications. This will be reviewed as draft proposals are formulated following further engagement with the Public and Members.

## **12. Crime and disorder implications**

- 12.1. There are no crime and disorder implications. This will be reviewed as draft proposals are formulated following further engagement with the Public and Members.

## **13. Health and wellbeing implications**

- 13.1. There are no health and wellbeing implications. This will be reviewed as draft proposals are formulated following further engagement with the Public and Members.

## **14. Background papers**

- 14.1. Lewisham Statement of Community Involvement

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

## **15. Glossary**

<b>Term</b>	<b>Definition</b>
Statement of Community Involvement	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
Amenity Society	A group set up with a specific interest in built environment conservation and heritage. Linked to a specific conservation area.
Community Group	A group set up with a specific interest to represent a community with a defined area of interest to promote benefit residents.
Residents Association	A group set up who live in a particular area, could be a street, collection of local streets or a single development site who have a specific interest in their local area.

## 16. Report author and contact

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

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