



Sustainable Development Select Committee

Local Democracy Review update

Date: 19 June 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 proposals for a new Statement of Community Involvement.

The Sustainable Development Select Committee is recommended to:

- Note the consultation feedback and associated amendments to the Draft Statement of Community Involvement and advise of any comments prior to referral to Mayor and Cabinet for adoption.

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

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

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.

October 2022 – Community Group Meeting continuing engagement with amenity societies including the responses received from the July questionnaire.

October 2022 – an update of the Local Democracy Review project to Sustainable Development Select Committee

1 February 2023 – M&C meeting for approval to start public consultation

February 2023 – Community Group Meeting continuing engagement with amenity societies, highlighting ongoing formal consultation of SCI.

20-February – 3 April 2023 – formal public consultation undertaken. A total of 21 representations were received.

1. Summary

- 1.1. The purpose of this report is to provide the Sustainable Development Select Committee with an update on the draft Statement of Community Involvement was published for public consultation in February 2023. This document and the proposals within it were prepared following the October 2022 SDSC meeting.
- 1.2. A primary objective of the Statement of Community Involvement (SCI) is to set out how the Council will carry out its statutory consultation on planning applications.
- 1.3. 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 consultation feedback and associated changes to the Draft Statement of Community Involvement and advise of any comments prior to referral to Mayor and Cabinet for adoption.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

3. Policy Context

3.1. The content of this report is consistent with the Council's 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
- 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 existing 2006 Statement of Community Involvement (SCI) is a legal document, widely recognised as being out of date with methods of communication and legislation. A new SCI is necessary to meet legal obligations in setting out how the Council engages in the preparation of planning policies and statutory consultation of planning applications. The details of planning policy engagement in the SCI are not proposed to be varied as these were revised in 2020 as a partial amendment in order to enable the Local Plan to proceed. For planning applications, the SCI seeks to clarify and simplify the guidance on the consultation process for planning applications and remove duplication from other documents, namely the Constitution.

4.2. Within the SCI, it is proposed to emphasise the importance of developers/applicants undertaking pre-application engagement and to prepare stand-alone accompanying guidance for developers and applicants on how to undertake good pre-application engagement with the public and ward Cllrs.

4.3. Public consultation on the draft SCI took place between March and April 2023. The majority of the SCI raised no significant objections, and the consultation responses and proposed revisions are detailed below. There

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

were two major areas of public interest, which this report proposes new ways forward to address:

1. The provision of Local Meetings
2. Formal recognition of Amenity Societies

5. Consultation responses and proposed SCI amendments

- 5.1. The draft SCI for consultation sought to deal with the following key areas and was presented as single document having taken account of previous updates in respect of planning policy preparation.
 - Dealing with repetition
 - Reflect modern ways of working
 - Updating legislation and policy position
 - Promoting pre-application engagement
 - Proposals for Local Meetings
 - Proposals to formally recognise Amenity Societies
- 5.2. A public consultation of the SCI was undertaken for six weeks between 20 February and 3 April 2023, and involved:
 - Consulting (by digital mail-out) to consultation bodies and regular applicants to the planning service. This included our known Amenity Societies and Community Groups and regular planning agents.
 - Publication of the draft SCI on the Lewisham website Consultation Hub
 - Promotion of the consultation via the Community Forum
 - Email reminders to Amenity Societies and Community groups of the consultation
- 5.3. A total of 21 consultation responses were received, consisting of 11 Amenity Societies and Community Groups (and a further 4 representations of individuals affiliated to those groups), 1 Ward Councillor and 5 residents from the borough.
- 5.4. The representations focused on the removal of the decision-making details (the constitution), legalistic language and digital exclusion. The representations were focused on two key areas in relation to Local Meetings (when and how they take place) and the formal recognition of Amenity Societies.
- 5.5. Following the close of the consultation period, representations were received from the London Forum of Amenity and Civic Societies, welcoming that the Council is seeking to formally recognise Amenity Societies but raising concern at the detailed proposals around London Forum membership.
- 5.6. The following paragraphs summarise the comments received and the proposed response that informs the draft SCI for adoption.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

Dealing with repetition

- 5.7. The role of an SCI is to set out how the Council engages on the preparation of planning policies and undertakes statutory consultation of planning consultations. The existing SCI contains repetitious information, namely details around decision making which are copied from the Constitution. The SCI is now out of date regarding the scheme of delegation following the adoption of the 2023 Constitution.
- 5.8. The representations received raise objection to the removal of the decision-making sections repeating parts of the constitution citing a lack of clarity for how decisions are made.

Response

- 5.9. There is no legal requirement for an SCI to repeat information from the Constitution, and its inclusion within a new SCI would result in a repeat of the existing SCI which has proven to be inflexible. It is proposed to make much greater use of the Council website to explain the planning process which it is proposed will include a simpler representation of the planning decision making process and the scheme of delegation within the Constitution. As such it is not considered appropriate or necessary to include details of the Constitution within the SCI.

Reflecting modern ways of working

- 5.10. The current SCI reflects ways of working and communication that was largely paper based. The draft proposes modern methods of communication which are already working in practice. Representations received have raised concern that the SCI is too digital focused and therefore this may exclude some people from participation, particularly regarding Local Meetings.

Response

- 5.11. The consultation of planning applications is a statutory requirement and there are no proposals to change the existing practice of sending letters to surrounding occupiers to notify of a planning application.
- 5.12. In addition to the publication of a site notice and press notice (for certain applications where legislation requires).
- 5.13. It is proposed to amend the ability of the Council to reply to emailed representations via email but those who do not have an email contact would still be contacted by letter. Officers are satisfied that the changes would not exclude those who are less digitally able.
- 5.14. A number of representations raised concern with anticipated online format for Local Meetings, on the issue of digital exclusion and perceived participation limits. Officers have considered these concerns and propose alternative more inclusive arrangements for Local Meetings set out in this report at Part 6, para 6.6.

Updating legislation and policy position

- 5.15. 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. Representations were

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

received raising concern at the use of legalistic language throughout the document.

Response

- 5.16. While references to legislation and some technical terms are unavoidable, it is recognised that the SCI should minimise the use of abbreviations. The final version will also provide a full glossary with a simple explanation for unavoidable technical language in some circumstances.

Promoting pre-application engagement

- 5.17. There was strong support for the promotion of pre-application developer engagement as a means of the public having influence as schemes are developed.

Response

- 5.18. Officers intend to prepare a stand-alone best practice developer engagement protocol, which will be available on the Council website. This guidance will significantly elevate the importance of good developer engagement. The guidance will consider best practice examples from across London and be an item considered at Overview and Scrutiny Committee in July 2023.

Local Meetings

- 5.19. Local Meetings are public meetings held for an application that is chaired by a local ward Member and attended by the developer/ applicant and an officer to take notes. The existing SCI requires that these take place prior to a decision being made.
- 5.20. The draft SCI proposed that Local Meetings were held at pre-application stage and triggered at a threshold of 50 + new residential units.
- 5.21. The SCI consultation revealed strong support for Local Meetings and collaborative resident and ward councillor engagement in development proposals prior to planning application submission. Although, there were concerns raised as to when a Local Meeting may be held in the pre-application process and also at the proposed trigger. Further concerns were raised regarding the anticipated online format raising issues of digital exclusion and perceived limits on general participation.

Response

- 5.22. The proposals to publish best practice developer engagement protocol has provided the opportunity for the concerns regarding Local Meetings can be positively addressed through new proposals regarding when they take place and in what format. Proposals for Local Meetings are set out in this report in Part 6, para 6.5.

Amenity Societies

- 5.23. Proposals for the formal recognition of Amenity Societies in the planning process were annexed to the SCI consultation. The consultation asked groups for:
- Their Society name, membership size, date of information
 - Specific Conservation area of interest including a map,

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

- Topic of interest (i.e. conservation, transport, ecology)
 - A copy of their adopted constitution
 - How groups activities and work are undertaken, outreach to the wider community,
 - Membership of London or National forum
- 5.24. The consultation proposed that groups which cover more than one Conservation Area or a very small area, have a small membership or single-issue focus may not be generally recognised as Amenity Societies, but would still be consulted on planning applications.

Response

- 5.25. Despite early engagement and general support prior to the formal consultation commencement, there was a very low level of engagement from Amenity Societies with not a single fully completed response to the consultation.
- 5.26. This report sets out a suggested way forward for the formal recognition of Amenity Societies in part 6, para 6.9 and 6.10.

Other comments

- 5.27. Representations received have asked what 'weight' the community forum has. The Community Forum is not a decision-making body but is a place to facilitate open conversations on thematic planning issues between the planning service and the boroughs Amenity Societies and Community Groups.

6. Proposed way forward for Local Meetings and Formal recognition of Amenity Societies

Local meetings

- 6.1. Having considered the representations received, Officers recognise that proposals to move Local Meetings earlier in the process would not necessarily capture all potentially controversial development schemes, nor give the public certainty when Local Meetings may happen.
- 6.2. Changing the threshold to a lower residential figure and broader categories would increase the number held quite significantly (11 Local Meetings held in 2022, only 3 of which were for major developments with the majority for minor, including householder applications).
- 6.3. The SCI consultation also showed strong support for the preparation of good developer led pre-application engagement protocols. The aim of the developer protocol is to place a much greater emphasis on earlier engagement with communities so that they are better informed and have the chance to genuinely influence a scheme, well before the submission of a planning application. This will now be an item for discussion at Overview and Scrutiny Committee in July 2023, which will review best practice examples in the borough and across London which will inform the planning service's guidance and seek to elevate the importance of this document for Lewisham.

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

- 6.4. The final guidance would be published on the website and promoted by the planning service, with the aim of increasing trust between the public and developers, and communities who will be able to share their local knowledge and expertise, which should improve the quality of schemes and reduce controversy when applications are submitted.
- 6.5. With the elevated guidance for the developer protocol to address public support for meaningful pre-application engagement, it is proposed to retain Local Meetings at application stage (with a trigger of 20 valid planning objections) as a backstop measure so that most controversial cases continue to benefit from the existing arrangements – being a meeting or drop-in session attended by the developer, ward councillors and officers prior to a decision being made by Planning Committee. It is proposed that householder schemes are excluded from the Local Meeting trigger given their limited impact.
- 6.6. In seeking to address concerns regarding online meeting arrangements for Local Meetings, the SCI proposes that Local Meetings are expected to be held in accessible formats, including online and hybrid meetings which ideally make use of a suitable local venue.

Formal recognition of Amenity Societies

- 6.7. Following the close of the consultation, representations were received from the London Forum of Civic and Amenity Societies who welcomed the recognition of Amenity Societies in the planning system, but objected to the proposals as set out for the following reasons:
 - The London Forum does not vet members constitutions, nor provide a constitution for members to adopt. Instead, they seek to satisfy themselves that applicants meet the following criteria (accept London Forums objectives set out in their constitution; have enduring purpose and that membership is open to all residents/ households in their area of benefit)
 - London Forum membership is diverse, covering entire boroughs to a single conservation area. They do not support the imposition of a fixed structure such as one Amenity Society per conservation area. The London Forum consider that community engagement works best when it emerges bottom-up and uneven granularity may be untidy, but it is more authentic.
 - Appears that amenity societies that represent conservation areas will be recognised, the voice of the community needs to also be heard in areas that do not enjoy conservation area status.
- 6.8. The London Forum have asked for the reference to membership to be deleted from the SCI but state a willingness for the Council to adopt or adapt the informal criteria for Forum membership.
- 6.9. Given the very low level of engagement from groups and the comments from the London Forum, Officers propose that a further period of engagement takes place to consider the exact arrangements for recognising Amenity Societies.
- 6.10. This engagement would take place directly with Amenity Societies and is a process that sits would sit outside of the SCI. This would mean that the

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

adoption of a new SCI would not begin the process of establishing local criteria for formal recognition of groups. The changes to call in powers for amenity societies has been established by the Council's new Constitution so this would remain unaffected by the proposals.

7. Next steps

- 7.1. Officers after taking account of any comments from SDSC, propose to refer the SCI for adoption at Mayor and Cabinet. The SCI would then be placed on the Council website and come into immediate effect.
- 7.2. Further engagement for formal recognition as set out above, would continue to take place with Amenity Societies to find a proposed way forward.

8. Financial implications

- 8.1. The cost implications of arranging Local Meetings at application stage could be mitigated via a higher threshold that captures the most controversial cases.

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

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

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>

10. Equalities implications

- 10.1. The Council's Comprehensive Equality Scheme for 2020-2024 provides an overarching framework and focus for the Council's work on equalities and helps ensure compliance with the Equality Act 2010.
- 10.2. Concerns have been raised at the potential for digital biased consultation. There are no proposals to change how the Council consults on planning applications – as this is a statutory requirement set by the Government.
- 10.3. Officers propose further engagement with Amenity Societies about the best way to formally recognise them in the planning process. This will be addressed outside of the SCI itself.

11. Climate change and environmental implications

- 11.1. The adoption of a new SCI would have a positive impact on climate change and the environment by reducing the need to send paper-based communications in response to emails.

12. Crime and disorder implications

- 12.1. There are no crime and disorder implications.

13. Health and wellbeing implications

- 13.1. There are no health and wellbeing implications.

14. Background papers

- 14.1. Lewisham Statement of Community Involvement
<https://lewisham.gov.uk/myservices/planning/policy/ldf/statement-of-community-involvement>
- 14.2 Sustainable Development Select Committee October 2022
<https://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=136&MId=7915&Ver=4> (Item 4)
- 14.3 Mayor and Cabinet 11 February 2023
<https://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=139&MId=7981&Ver=4> (Item 9)

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>

14.4 Glossary

Term	Definition
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.
Amenity Society	A group set up with a specific interest in built environment conservation and heritage.
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.
Local Meeting	A public meeting held for an application that is chaired by a local ward Member and attended by the developer/ applicant and an officer to take notes.

15. Report author and contact

15.1. Michael Forrester – Head of Development Management, Planning Service

15.2. Michael.forrester@lewisham.gov.uk

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

16.1. Shola Ojo – Principal Accountant, Financial Services

16.2. 02083147778 - Shola.Ojo@lewisham.gov.uk

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

17.1. Paula Young, Senior Planning Lawyer

17.2. 02083146784 – Paula.Young@lewisham.gov.uk

Is this report easy to understand?

Please give us feedback so we can improve.

Go to <https://lewisham.gov.uk/contact-us/send-us-feedback-on-our-reports>