



Mayor and Cabinet

Proposed changes to the Statement of Community Involvement

Date: 12 January 2021

Key decision: Yes

Class: Part 1

Ward(s) affected: All

Contributors: Executive Director Housing, Regeneration and Public Realm

Outline and recommendations

The Councils existing Statement of Community Involvement dates from 2006 and has a requirement to refer planning applications to the Design Panel. The Government supports the use of design review and National Planning Practice Guidance states that design review is most effective when applied at the earliest stage of development and at pre-application stages.

Lewisham seeks for developments to be of the highest design quality, and has an independent Design Review Panel, who recommend that major and significant development is brought to the panel ideally at pre-application stage in order to be the most productive and beneficial. By bringing development to the Panel early, applicants have time to respond to panel advice and address design concerns prior to an application being made.

It is recommended that:

Mayor and Cabinet authorise a change to the Councils Statement of Community Involvement to refer schemes at pre-application stage for design review and amend the term Design Panel to Design Review Panel, being the updated reference.

Timeline of engagement and decision-making

July 2006 – The Current Statement of Community Involvement was adopted.

June 2020 – temporary modifications to the SCI which will be reviewed after a 3 months period.

September 2020 – temporary modifications to the SCI agreed for a period of 3 months for planning decisions and format of local meetings. Additional updates to the SCI for Local Plan preparation and consultation.

1. Summary

- 1.1. The Councils existing Statement of Community Involvement (SCI) dates from 2006. There is a need to review existing process through updates in national policy and guidance.
- 1.2. The SCI requires that certain planning applications are referred to the Design Panel, taking place once a planning application is received. National Guidance, and the Council's independent Design Review Panel recommend that design reviews take place at an early stage at pre-application stages.
- 1.3. It is therefore recommended to amend the existing SCI requirement to align with National Guidance and the terms of the Lewisham Design Review Panel.

2. Recommendations

- 2.1. It is recommended that Mayor and Cabinet:
- 2.2. Authorise an amendment to paragraph 6.9 of the Councils Statement of Community Involvement so that the requirement to refer certain schemes to the Design Panel applies at pre-application stage and not at application stage and;
- 2.3. Amend the reference to the Design Panel so as to read Design Review Panel.

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
- 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

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- 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 applications.
- 4.2. In particular, at section 6.9, page 28, it states that planning applications will be referred to the Design Panel. Diagram 1 sets out the Design Panel requirement within the existing Statement of Community Involvement.

Diagram 1 – processes as set out in existing 2006 SCI

Stage / how the Council will consult	
6.9	<p>Comments by Amenity Societies Panel and Design Panel</p> <p>The Design Panel</p> <p>The following planning applications will be referred to the Design Panel:</p> <ul style="list-style-type: none"> • planning applications for major new development and significant alterations to existing buildings with scope to impact on the borough's townscape. Major development is defined as commercial buildings proposing 1,000sq.m. or more of new floorspace or 10 or more residential units, and such other developments which the Council's Head of Planning considers would benefit from design advice. • applications for listed building consent involving substantial demolition of any listed building and any application for listed building consent involving alterations to Grade I and Grade II* listed buildings • any significant new buildings proposed within conservation areas.

- 4.3. Since the adoption of the SCI in 2006, the Government has introduced the National Planning Policy Framework, which was recently updated in July 2021, and publishes National Guidance.
- 4.4. The National Planning Policy Framework (2021) states at paragraph 133:
- 4.5. *Local Planning authorities should ensure that they have access to, and make appropriate use of, tools and processes for assessing and improving the design of development. These include workshops to engage the local community, design advice and review arrangements, and assessment frameworks such as Building for a Healthy Life51. These are of most benefit if used as early as possible in the evolution of schemes, and are particularly important for significant projects such as large scale housing and mixed use developments. In assessing applications, local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels.*
- 4.6. National Guidance 'Design: process and tools' states that:
- 4.7. *Design review is most effective when applied at the earliest stage of development. It*

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can be followed up at further stages as projects evolve, including pre-application and are implemented, referencing and building upon recommendations made in previous design reviews.

- 4.8. Recommendations from design review panels can be used to support decision on applications so development proposals need to show how they have considered and addressed them.
- 4.9. The Lewisham Design Review Panel state:
- 4.10. Comments from the panel will be fed into the assessment of pre-application schemes, planning applications and appeals.
- 4.11. Schemes should be brought to the panel as early as possible within the design process in order to ensure a productive and beneficial outcome for all parties. By bringing a development to the panel early, design teams have an appropriate time to respond to panel advice and have a better chance to address design concerns prior to application – thus providing more assurances for the developer and helping to de-risk the planning application.

5. Partial changes to SCI relating to Design Panel referral

- 5.1. There is a clear need for design review, in order to ensure that the highest design quality is achieved in schemes, and that this is best achieved earlier in the planning process.
- 5.2. It is proposed to amend the requirements of the SCI at section 6.9 so that schemes are referred at pre-application stage. Design review at an application stage is considered too late in the process as the design is finalised through submission of an application. The Design Review Panel referral should be undertaken at the pre-application stage, to supports the Council in delivering high quality developments and ensures that design review is undertaken early enough to inform a scheme.
- 5.3. Applicants would be expected to show how their scheme has evolved as a result of local engagement and consultation including the Lewisham Design Review Panel in their submissions, most likely as part of the Design and Access Statement/ Planning Statement.
- 5.4. **Diagram 2 – referral of schemes at pre-application stage**

Stage / how the Council will consult	
6.9	<p>Comments by Amenity Societies Panel and Design Review Panel⁷</p> <p>The Design Review Panel</p> <p>The following pre-applications will be referred to the Design Review Panel:</p> <ul style="list-style-type: none"> ● <u>proposals</u> for major new development and significant alterations to existing buildings with scope to impact on the borough’s townscape. Major development is defined as commercial buildings proposing 1,000sq.m. or more of new floorspace or 10 or more residential units, and such other developments which the Council’s Head of Planning considers would benefit from design advice. ● proposals for listed building consent involving substantial demolition of any listed building and any application for listed building consent involving alterations to Grade I and Grade II* listed buildings ● <u>proposals</u> for any significant new buildings within conservation areas.

- 5.5. The SCI refers to the Design Panel, who are now known as the Lewisham Design Review Panel. It is recommended that the terms in the SCI are updated to reflect the

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current naming convention.

6. Financial implications

- 6.1. Design Review panel sessions at pre-application stage are paid for by the applicant. Those held at application stage, often are a cost to the Planning Service and an added constraint on officer time.
- 6.2. By requiring design review at an earlier stage, this will improve the design quality of schemes which should enable a smoother planning process with less public opposition to design and reduced risk of lengthy and costly planning appeals.

7. Legal implications

- 7.1. The Council as the local planning authority has a legal obligation to prepare a statement of community involvement (the SCI). The SCI must be reviewed at least every five years.
- 7.2. The proposed amendments will bring the SCI up to date with guidance contained within the NPPF.
- 7.3. 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
- 7.4. 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.
 - 7.5. 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 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>
 - 7.6. The legal implications of amending the SCI to be effective immediately have been taken into account. It is lawful to take decisions on the basis of the new SCI if approved by Mayor and Cabinet. The legitimate expectation that decisions will be taken in accordance with the published SCI and its procedures is important.

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- 7.7. For the reasons set out in this report, it is considered necessary to revise the requirement for Design Panel referral to pre-application stage.
- 7.8. Any comments received will be reported verbally to Mayor and Cabinet when this report is considered.

8. Equalities implications

- 8.1. The advice from the Design Review Panel is an important means of achieving planning policy on high quality design in new developments. The earlier that the Design review is held as part of pre-application discussions, Officers will be able to ensure that developments promote equal opportunities, including use of sustainable technology to address air quality and climate change, landscape and play space, tenure blind housing and affordable housing.

9. Climate change and environmental implications

- 9.1. The Design Review Panel advise on creating the highest quality and most sustainable forms of development. The earlier that feedback from the DRP is incorporated into a scheme by an applicant, the more likely it is to be successful in addressing sustainable development and climate change matters.

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/myservices/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.
Design Panel/ Design Review Panel (DRP)	Design review is an independent assessment of development proposals by a panel of multidisciplinary professionals and experts, which can inform and improve design quality in new development. It is not intended to replace advice from statutory consultees and advisory bodies, or be a substitute for local authority design skills or community engagement.

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14. Report author and contact

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