

SCRUTINY
20 JULY 2020

REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

MID DEVON STATEMENT OF COMMUNITY INVOLVEMENT JULY 2020

Cabinet Member: Cllr Graeme Barnell
Responsible Officer: Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

Reason for Report:

To respond to Scrutiny Committee's request to consider the revised Mid Devon Statement of Community Involvement (SCI) July 2020, and also temporary amendments in light of Government restrictions on people's movement and the need for social distancing. The Statement of Community Involvement sets out the policy of the Council to the involvement of those with an interest in the development of land in the area when the Council is exercising its planning powers.

RECOMMENDATION(S):

That Scrutiny Committee note the contents of this report and the following recommendations which are to be considered by Cabinet on 6th August and Council on 26th August:

- i) **The Mid Devon Statement of Community Involvement (SCI) July 2020 (Appendix 1) is adopted and published on the Council's website.**
- ii) **The temporary amendments to the Mid Devon Statement of Community Involvement (SCI) July 2020 (Appendix 2) are adopted until 31st December 2020 and published on the Council's website.**
- iii) **Delegated authority be given to Head of Planning, Economy and Regeneration in consultation with the Cabinet Member for Planning and Economic Regeneration to review and update the temporary amendments to the Mid Devon Statement of Community Involvement (SCI) July 2020 (Appendix 2 should Government advice change or the Regulations be further amended in terms of restrictions on the movement of people and gatherings. Such review to include withdrawal of the temporary amendments in advance of 31st December 2020 should circumstances allow.**

Financial Implications:

The revised Statement of Community Involvement commits the Council to carrying out specific consultation procedures which will have financial implications.

Budget and Policy Framework: The Statement of Community Involvement forms part of the Council's policy framework.

Legal Implications:

The preparation of a Statement of Community Involvement is a requirement under Section 18 of the Planning and Compulsory Purchase Act 2004. Failure to follow the revised Statement of Community Involvement (once adopted) could lead to the Council's planning policy documents being found unsound and decisions legally challenged.

Risk Assessment:

Failure to follow the revised Statement of Community Involvement (once adopted) could lead to the Council's planning policy documents being found unsound and decisions legally challenged which would waste significant Council resources.

Equality Impact Assessment: A full Equality Impact Assessment has been prepared as part of the Local Plan Review Evidence Base. The Statement of Community Involvement stipulates that the Council will adopt an inclusive approach to community involvement ensuring as far as possible all sections of the community can be involved.

Impact on Climate Change: No direct impacts on climate change have been identified.

Relationship to Corporate Plan:

Implementation of the revised Statement of Community Involvement will help to ensure that our services are accessible and meet the needs of our community as well as helping to maximise the potential health and well-being of our communities. It will therefore help deliver all four of the Corporate Plan priorities.

1.0 Introduction

- 1.1 A Statement of Community Involvement (SCI) is required by section 18 of the Planning and Compulsory Purchase Act 2004. It is intended to set out in detail how the Council will consult on its local plans, supplementary planning documents and planning applications. If the Council does not accord with its provisions in publicising a local plan then it may be found unsound. A planning

application which has not been consulted on in accordance with the SCI could be legally challenged and planning permission potentially quashed.

- 1.2 The Council's existing SCI was adopted in 2016 to reflect changes in legislation and national planning policy at that time. This review has been undertaken to take account of the revised National Planning Policy Framework published in June 2019 and to reflect the provisions of the Neighbourhood Planning Act 2017 which requires Councils to set out the local planning authorities' policies for giving advice in relation to neighbourhood planning. A number of amendments are also proposed to the Council's approach to consultation on planning applications. These reflect recent changes to Government legislation as well as ongoing review of cost implications associated with consultation procedures. The revised SCI is shown in **Appendix 1** to this report with the revisions to the SCI adopted in 2016 identified in **bold** with ~~strikethrough~~ for deletions from the text of the underlining for additions to the text.

2.0 Proposed Revisions

- 2.1 The majority of the revised Statement of Community Involvement remains the same as the 2016 version. Principally, it sets out how the Council intends to engage with communities through the planning process. It states that the Council will adopt an inclusive approach to community involvement ensuring as far as possible all sections of the community can be involved. It also requires the Council to promote the earliest possible consultation with interested parties and produce planning documents in plain and clear language, aimed at being understood by non-planning professionals. However, the Council will balance wide involvement in the planning process with the need for effective operation of the planning system. This difficult balancing act will reflect the level of resources available to the Council, the level of discretion that the Council has over a particular decision and the likely social, environmental and economic impacts of the policy or proposal under consideration.

Neighbourhood Planning Support

- 2.2 The Neighbourhood Planning Act 2017 (Section 6) requires authorities to set out in their Statement of Community Involvement their policies for giving advice or assistance to neighbourhood planning groups. Consequently, Section 6.0 of the revised SCI sets out the level of support to be provided by the Council at each key stage of the plan preparation process including the area designation, submission, examination, referendum and adoption.

- 2.3 The Council has a duty to support neighbourhood planning groups during each of these stages. This extends to agreeing and formally designating a neighbourhood area, and arranging the subsequent examination and referendum for a neighbourhood plan. Mid Devon District Council is required to fund these stages. An indicative cost of £5,000 - £7,500 can be expected for an examination although this ultimately depends on the complexity of the content proposed within a draft neighbourhood plan. The cost of referenda is likely to cost approximately £1.80 per elector and will therefore vary considerably depending on the population of the neighbourhood area. However, Mid Devon District Council is able to claim £20,000 from the Government for each neighbourhood plan following a successful examination and once a date is set for a referendum, where a neighbourhood plan has not previously been made for that area. In most cases, it is expected that this will cover or be close to the total cost of arranging the examination and referendum.
- 2.4 Notwithstanding the above, it is considered that the Council can provide support to neighbourhood plan groups over and above the minimum required, where resources allow. Therefore, the revised SCI stipulates that the Council can provide further support, where feasible which may include:
- Initial advice on suitability and scope of a neighbourhood plan;
 - Ongoing advice and support throughout the process including technical input into key stages. This will be focussed on the conformity of the Neighbourhood Plan with national and local planning policy;
 - Share existing information and evidence base work held by the local planning authority as appropriate.
 - Practical assistance such as mapping and IT advice;
 - Guidance and interpretation of the relative legislative requirements;
 - Provide constructive comments on the emerging neighbourhood plan or order proposal prior to submission and discuss the contents of any supporting documents, including the basic conditions statement.
 - Provide relevant contact information for consultation with statutory consultees and advice on undertaking consultation, publicity and engagement.
- 2.5 This additional support reflects the Council's positive approach to neighbourhood planning and the level of support currently being provided to

neighbourhood plan groups by the Planning Service. The support does not include the project management for the preparation neighbourhood plans.

Consultation on planning applications

- 2.6 Since 2016 members of the public have increasingly used electronic means for communication across all engagement activities for the planning process in Mid Devon.
- 2.7 In 2018 a cost analysis of the consultation process for planning applications was carried out by the Council in partnership with CIPFA. The report of 30th October 2018 identifies that the cost of the consultation process for planning and other applications was in the order of £111,000 per annum including the cost of staff time. Changes are suggested to the SCI (policy SCI/7) to reduce these costs whilst still complying with the legislative requirements set out by the Government and providing our customers with an efficient planning application consultation process. Following initial application publicity upon its validation, it is proposed thereafter to encourage a customer self-service approach through monitoring the updates and material relating to the application on the website. This approach is already in operation by other Councils within the region.
- 2.8 Accordingly, the following key changes are proposed to the Planning Applications section of the SCI:
 - Consultation on amendments and variations – The revised SCI stipulates that this will be carried out in accordance with the regulations. Customers who are interested in a particular application are also advised to monitor the website to keep up to date with changes.
 - Direct notification during the planning application process (assessment/determination) - . The Council will carry out direct notification on applications where there has been a substantial change to the planning application, and update information on each application on its website and it will be for anyone interested in an application to monitor information on the website. This will be the primary means for anyone interested in an application to gain updates over its progress, whether additional information or plans have been received, any comments submitted and whether it is to be determined under delegated powers or by planning committee.

3.0 Temporary amendments due to Covid-19 and restrictions on movement and gatherings

- 3.1 The country is currently facing the unprecedented challenge arising from the coronavirus COVID-19 pandemic and a national emergency has been declared. In order to combat the spread of the virus limitations are in place to reduce physical contact, movement and gatherings. At the time of writing this report the most vulnerable in society by age and underlying medical condition are being 'shielded' via self-isolation in order to reduce exposure, although there is an expectation there may be a degree of relaxation to this approach in short order. All the population are deploying social distancing to reduce infections and save lives. The impact upon society has been profound.
- 3.2 The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (Revised) place restrictions on the movement of people and gatherings, which impact on the ability of the Council to fulfil some of the requirements that are set out in the SCI.
- 3.3 The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020 amend, on a temporary basis until 31st December 2020, certain requirements placed on local planning authorities and applicants for development requiring an Environmental Impact Assessment (EIA) for publicity and inspection of documents where the authority or applicant (as the case may be) is not able to comply with a particular requirement because it is not reasonably practicable to do so for reasons connected with the coronavirus. The regulations gives more flexibility to local planning authorities to meet their publicity requirements so that they can continue to make sound decisions on planning applications.
- 3.4 The Government has made it clear that measures need to be taken to help the economy and Councils are being asked to make every effort to continue to provide vital public services. On 23rd March 2020 the Chief Planner for England within the Ministry of Housing, Communities and Local Government issued advice on planning decision making:

'We understand that some councils are concerned about the implications of COVID-19 for their capacity to process planning applications within statutory timescales. It is important that authorities continue to provide the best service possible in these stretching times and prioritise decision-making to ensure the planning system continues to function, especially where this will support the local economy.'

We ask you to take an innovative approach, using all options available to you to continue your service. We recognise that face-to-face events and meetings may have to be cancelled but we encourage you to explore every opportunity to use technology to ensure that discussions and consultations can go ahead.... We encourage you to be pragmatic and continue, as much as

possible, to work proactively with applicants and others, where necessary agreeing extended periods for making decisions'

- 3.5 Government guidance issued on 13th May 2020 for Covid-19 and plan making states:

"Where any of the policies in the Statement of Community Involvement cannot be complied with due to current guidance to help combat the spread of coronavirus (COVID-19), the local planning authority is encouraged to undertake an immediate review and update the policies where necessary so that plan-making can continue. Local planning authorities will need to assess their Statements of Community Involvement to identify which policies are inconsistent with current guidance on staying at home and away from others or any superseding guidance. This could include, for example, holding face-to-face community consultation events or providing physical documents for inspection. The local planning authority should then make any 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. Local planning authorities are strongly encouraged to use online engagement methods to their full potential."

- 3.6 **Appendix 2** includes a schedule of temporary amendments to the SCI. These temporary amendments are necessary due to the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (Revised), and the Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020 that will remain in force until 31st December 2020. They also reflect the Government Chief Planner's advice and the Government's recent guidance for Covid-19 and plan-making. It is intended the temporary amendments remain in place until 31st December 2020, but shall be kept under review and requirements of the Statement of Community Involvement that have been removed may be re-introduced sooner should Government advice change or the regulations be amended in terms of restrictions on the movement of people and gatherings.
- 3.7 While the temporary amendments indicate where some of the requirements of the SCI may not be able to be met, some policies in the Mid Devon Statement of Community Involvement (SCI) July 2020 (**Appendix 1**) include permanent revisions for 'other forms of on-line engagement', which can provide for greater flexibility and choice of methods to engage with communities. For example, these methods could include on-line videos and virtual meetings, workshops and focus groups.

4.0 The views of other Member Groups

- 4.1 The Planning Policy Advisory Group has considered the revised SCI and its temporary amendments at its meeting on 24th June 2020 and recommended that Cabinet approve the document for adoption by Council subject to the following amendments:
- SCI/4 – Deletion of “(as determined by the Planning Service)”
 - SCI/4 – Paragraph 5.4 – Insert “digital/physical” after “made in writing” to clarify how representations will be accepted.
 - SCI/6 – Paragraph 6.1 – Clarify meaning of bullet point two with regards to housing requirements. This has now been updated to state “Upon request, set out a housing requirement...”
 - Section 7.0 Planning Applications – Delete paragraph 7.5. The following paragraph numbers have also been amended accordingly.
 - SCI/7 Application Consultation – Paragraph 7.15 – Include reference to public question time as follows: “There is also a public question time at the beginning of the meeting for those present to ask questions about any item on the agenda, or to speak briefly by way of background or introduction to those questions, including planning applications.”
- 4.2 There is no requirement in legislation for local planning authorities to consult when reviewing and updating their Statement of Community Involvement, however the Council has previously done so in the interests of transparency and inclusive engagement in the planning process. However, in this instance, the changes sought are necessary to respond to the updated Government requirements in connection with Neighbourhood plans, the effects of the ongoing COVID-19 pandemic and to reflect temporary Regulations introduced by Government. This ultimately narrows the scope of any consultation and the Council’s ability to conduct the consultation in a meaningful way. Accordingly, it would not be proportionate to hold a public consultation on these changes.

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Circulation of the Report: Cllr Graeme Barnell

List of Background Papers:

Mid Devon Statement of Community Involvement (Adopted October 2016)

Chief Planning Officer Letter – Update on financial support for neighbourhood planning in 2018/19
(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/717060/180605_Chief_Planner_Letter_NPG_18-19_-_revised.pdf)

The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (Revised) <http://www.legislation.gov.uk/uksi/2020/350>

The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020

http://www.legislation.gov.uk/uksi/2020/505/pdfs/uksiem_20200505_en.pdf

Government guidance on Covid-19 and plan-making
<https://www.gov.uk/guidance/plan-making#covid19>