

Meeting:	Executive
Meeting date:	14/03/2024
Report of:	Corporate Director of Place - Neil Ferris Alison Cooke, Head of Strategic Planning Policy
Portfolio of:	Executive Member for Housing, Planning and Safer Communities

Decision Report: Statement of Community Involvement update

Subject of Report

1. The Statement of Community Involvement (SCI) sets out the Council's proposals for how the community will be involved in the production of planning documents and through the Development Management process, as required under the provisions of the Planning and Compulsory Purchase Act (2004). It forms part of the Statutory Development Plan for the city.
2. This report requests members to agree an update to the SCI for consultation purposes.

Benefits and Challenges

3. The existing SCI was adopted in 2007 and was supplemented by an update in 2020 to cover the restrictions introduced by the Covid pandemic regulations. This update was considered a temporary update for the duration of the Covid pandemic and its aftermath.
4. The 2007 SCI was the first City of York Council planning document to be adopted under the new planning system. It covered a wide range of consultation techniques on planning related issues, concentrating on the Local Development Framework (which was superseded by the current Local Plan in legislation) and planning applications. National Planning Policy Guidance has subsequently encouraged authorities to use digital media (including social media

tools and other platforms) to communicate with communities, where appropriate. The recommended approach builds in flexibility to allow for new and emerging technologies, and different ways of working, to be considered, as necessary.

5. Additionally, new legislation has emerged since the 2007 SCI, such as the Localism Act 2011 and subsequent Regulations regarding Neighbourhood Planning and Community Infrastructure Levy. Whilst we have used the current SCI to ensure our consultations have been compliant with the Regulations, a revision to the document presents an opportunity to cover these policy areas in detail.
6. The updated SCI [Annex C] details consultation expectations for any future planning policy documents - Local Plan, Joint Minerals and Waste Plan, neighbourhood plan, supplementary planning documents - and planning applications through the Development Management process. The revised SCI aims to streamline our approach to consultation and allow flexibility to respond to new techniques and methods. This reduces the risk of the SCI becoming out of date as legislation and requirements change over time. Whilst it sets out relevant techniques and timescales that may be used for each type of consultation, for planning policy, it also dictates that a Consultation Strategy be approved prior to commencing consultation which will set the scope and be appropriate to the document type, stage and requisite techniques available/ applicable.
7. Consultation on the SCI also allows the development of a contact database for planning matters. In line with our privacy notices, we can only use the details relevant to the matters people have previously registered an interest in. This will need to be updated as the current Local Plan process concludes to ensure we contact people who continue to be interested in the process or are up-to-date contacts for our Statutory consultees.
8. The recommended approach to consult on the SCI allows public comment on the approach. Whilst this is not specifically required (see policy section below), this will be the first comprehensive update since 2007.

Policy Basis for Decision

9. A key aim of the planning system is to strengthen community and stakeholder involvement in the development of local communities. Under the provisions of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to prepare an SCI which sets out the Council's proposals on how the community will be consulted on planning policy documents and planning applications.
10. In deciding who to consult, there is a clear distinction between statutory and non-statutory consultees. Regulations set out what bodies constitute a statutory consultee required as part of the planning process. The Council has also legal requirement to make information available to interested residents and organisations, as well as a legal duty to consult with 'specific' and 'general' consultation bodies; 'Specific' consultation bodies are groups that have expertise and knowledge in a particular subject whilst 'general' consultation bodies may include voluntary and other groups with an interest in the local area.
11. The regulations also include a 'duty to co-operate' which places a legal duty on local authorities to engage "*constructively, actively and on an ongoing basis*" with relevant strategic policy makers. During the preparation of the Local Plan, and any associated planning policy documents (such as SPD's), the Council must formally consult the specific and general consultation bodies at all stages.
12. For planning policy documents, the Regulations require that the Council must produce Consultation Statements at key stages of development plan (Local Plan) preparation, which outline in more detail the precise scope and means of consultation as well as reporting on the key outcomes. These Consultation Statements should be read in conjunction with the SCI.
13. A separate legal requirement exists under the Neighbourhood Planning Regulations that requires the body preparing a Neighbourhood Plan (Parish Council or Neighbourhood Forum) to undertake consultation prior to submission of the final plan to the Council. As part of meeting Basic Conditions for Submission, they must produce and submit a Consultation Statement outlining the methods of consultation in the pre-submission stages of the plan's production. Once submitted, obligations for submission consultation sit with the Council, at which point the SCI is relevant.

14. For planning applications, alongside the statutory consultations, we consult specialists within the Council and external amenity and advisory groups, as appropriate. Parish Councils and Neighbourhood Planning Panels are also consulted about applications within their areas. Additionally, there is no statutory requirement to consult on the following types of applications but interested parties can choose to be notified about them via Public Access¹ as well as sign up to receive alerts about new planning applications in an area:
- certificates of lawfulness of proposed use or development;
 - certificates of lawfulness of existing use or development;
 - internal alterations only to a Grade II listed building;
 - advertisements;
 - approval of details; and
 - non-material amendments.
15. Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations (as amended) requires that local planning authorities should review their SCIs at least once every 5 years to ensure that policies remain relevant and effectively address the needs of the local community. Whilst the adopted SCI was subject to a partial review in 2020 to take account of new Covid Pandemic regulations, which affected consultation techniques, a comprehensive update is now required.
16. Paragraph 035 of the National Planning Policy Guidance (NPPG) states that *“There is no requirement for local planning authorities to consult when reviewing and updating their Statement of Community Involvement. We would encourage authorities to publish documents forming part of their evidence base as they are completed on their website in an accessible format, rather than waiting until options are published or a local plan is published for representations, to keep communities informed and involved. We would encourage authorities to use social media tools and other platforms to communicate with communities, where possible.”*
17. The Council’s Resident Engagement Strategy was approved by Executive in April 2021. It is based on good practice developed by the Local Government Association in consultation with local authorities “the New Conversation Guide” and the Local

¹ <https://www.york.gov.uk/SearchPlanningApplications>

Government Authority engagement framework, “Continuum of Involvement” sometimes known as the *Ladder of Engagement*.

18. Although not all consultations are statutory, consultations are increasingly becoming grounds for successful judicial reviews as they can lead to “unlawful decisions”². The LGA’s New Conversation Guide provides a toolkit to support officers develop and deliver consultations with this in mind.
19. When considering the council’s four core commitments:
 - **Equalities and human rights** : The SCI builds on lessons learned throughout implementation of the Council’s resident engagement strategy, discussed at September 2023’s Scrutiny Committee. Lessons learned about how best engage the disabled community, younger residents and people who typically don’t engage, ensure broad and representative participation by providing a blend of consultation techniques that are accessible and inclusive. This recognises that although online engagement might be preferable in some circumstances, to ensure accessibility, there are other occasions when face to face discussions in accessible venues might be more appropriate, for example. The aim of the SCI is to ensure the way in which the Council consult on planning matters is transparent and who we will consult in the process. On this basis, the SCI aligns with the Council Plan core commitment regarding equalities and the way we operate to achieve this.
 - **Affordability**: The SCI recognises that consultation should be available to people affected by the planning proposals, and as a result, consultations will always be available free of charge to the participant.
 - **Climate and environment**: When developing consultations techniques and material, the Consultation Strategy will consider how reducing carbon emissions of materials, or travel, will be incorporated.
 - **Health and wellbeing**: where possible, to encourage participation, and support mental wellbeing during consultations, planning materials will be provided in plain English, demystifying the process as much as possible and,

² [Where others went wrong.pdf \(local.gov.uk\)](#)

recognising the complexities of the planning system, aiming to reduce concern.

Financial Strategy Implications

20. Production of the SCI has been in-house coordinated across the Strategic Planning Policy and Planning & Development Services teams.
21. Consultation will be targeted across email, social media and via the Council's website. Costs should be limited to contacting those previously on our policy database who have only provided a postal address to ensure they are informed of the consultation and requirement to re-register their interest in the process. Further costs may be incurred for face-to-face meetings, subject to agreement of the consultation strategy.

Recommendation and Reasons

22. (i) Members are requested to approve the draft revised SCI (Annex C) for public consultation

(ii) The consultation strategy for the SCI is delegated to the Corporate Director of Place in consultation with the Executive Member for Housing, Planning and Safer Communities

Reason: To update the Statement of Community Involvement as the regulatory consultation document for planning purposes.

Background

23. The Council's original SCI was adopted in December 2007, as the first document to be produced as part of the Local Development Framework and it continues to form part of the authority's Development Plan.
24. The 2007 document sets out the methodology and key principles on how the Council intended to consult on the Local Development Framework suite of documents. Similarly, it also set out the methodology and key principles for consultation on planning applications and the Development Management process.

25. The Council published an SCI update in November 2020, which was in response to the Coronavirus (COVID-19) Pandemic and updated guidance from the Government regarding planning matters and consultation. This was appended to the SCI 2007 to ensure it was read in conjunction with the previous arrangements (see background report).
26. The revised SCI covers:
- Plan-making for the Local Plan, Minerals & Waste Plan and Neighbourhood Plans;
 - Supplementary planning documents (SPDs);
 - Community Infrastructure Levy; and
 - Development Management process for planning applications.
27. For plan-making, changes have been made in order to reflect the contemporary process of plan preparation under the NPPF and to clarify when and how formal consultation will take place in preparing plans. The updated SCI also presents that:
- The Local Development Scheme (LDS) sets the programme for preparing plan making documents ensuring that interested parties can keep track of progress³;
 - its legal duties requiring consultation with statutory, specific and interested parties, as set out above (para 10-13).
28. Neighbourhood plans is a new topic area reflecting the introduction of neighbourhood planning legislation. This section covers the 5 key stages of neighbourhood plan preparation and the responsibilities of the Council when a plan is under preparation as well as the Council's consultation duties post submission by the neighbourhood planning group preparing the plan. The consultation process broadly reflects the consultation principles set out for Local Plan documents but also any specific regulatory requirements, including the referendum process.
29. The section in the existing SCI relating to consultation on planning applications has been reviewed to update and streamline and make the information provided more accessible. This has been achieved while retaining a requirement to consult that accords with the statutory requirements and encourages additional consultation proportionate to the development proposal.

³ The latest LDS was approved by Executive on 14 December 2022 (item 67)

Consultation Analysis

30. Consultation on the 2007 SCI took place in accordance with the Regulations set out under Paragraphs 9-14.
31. Consultation since adoption of the SCI in relation to planning policy documents and Development Management has been undertaken in line with the SCI 2007 and 2020 Addendum, where necessary.
32. At each consultation stage, a database of contacts has been updated in accordance with our privacy notices for the Local Plan, Neighbourhood Planning and Development Management. This has ensured those interested parties have been kept up-to-date from that point forward, where applicable.

Options Analysis and Evidential Basis

33. The following options are available to Members:
 1. To update the SCI in the previous format;
 2. To update the SCI in a revised, succinct format;
 3. To consult on the revised SCI;
 4. To not consult on the revised SCI.
34. The latest adopted SCI was published in 2007. Government guidance prescribes that this should be updated every 5 years and since its publication, relevant consultation methods, the regulatory framework and best practice have evolved, particularly following the pandemic and temporary change to consultation expectations. It is therefore considered that an update to the SCI must be undertaken.
35. Options 1 and 2 would both update the content to align with contemporary methods and guidance. However, option 2 is recommended over Option 1 for the reasons stated under the 'benefits and challenges section'. Principally, this makes the information more succinct and accessible for those seeking to check the Council's commitment to planning consultations. Further, it allows flexibility at each stage of required consultation on planning policy documents to ensure it is appropriately tailored to the consultation stage and include the relevant bodies/organisations at the time of the consultation. It will also allow changes to be made to

Development Management consultations should these be progressed through the regulatory framework.

36. As set out under paragraph 16, there is no regulatory requirement to consult on a revised SCI, just to publish and ensure it is accessible on the Council's website. Both Options allow the publication of a new SCI. However, option 3 is preferred to allow public consultation on the revised document given the length of time since the original document, and additional sections included in the revised document. In line with the requirements in the SCI for planning policy matters, we would recommend as part of this option that a consultation strategy is developed and agreed prior to consultation aligned with the Council's Resident Engagement Strategy.

Organisational Impact and Implications

- **Financial** – The majority of consultation is dealt with through online activity with limited costs. These costs can be contained within ongoing revenue budgets.
- **Human Resources (HR)** - No Implications
- **Legal** - Under the provisions of the Planning and Compulsory Purchase Act 2004, Local Planning Authorities are required to prepare an SCI which sets out the Council's proposals on how the community will be consulted on planning policy documents and planning applications.

Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations (as amended) requires that local planning authorities should review their SCIs at least once every 5 years to ensure that policies remain relevant and effectively address the needs of the local community.

Whilst there is no legal requirement to consult on the contents of the SCI, a public consultation on the draft SCI would follow best practice.

- **Procurement** - No implications anticipated.
- **Health and Wellbeing** – Opportunities to feed into consultation from the Public Health team and wider services will be identified as part of planning policy consultation and engagement

strategies. This should ensure that health and wellbeing matters are effectively considered and consultation can be targeted, where necessary. For Development Management, we anticipate that current arrangements for consultation on applications will continue where they are identified to be applicable.

- ***Environment and Climate action*** - No implications
- ***Affordability*** – No Implications
- ***Equalities and Human Rights*** - The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions).

An Equalities Impact Assessment has been carried out and is annexed to this report at Annex A. In summary, the results of the assessment demonstrates the proposal support the equalities and human rights ensuring that opportunities to engage with planning consultations is equal. There are opportunities to advance equality and foster good relations through targeted and specific consultation in plan-making, which will be subject to continuing monitor and review. The development of an appropriate consultation and engagement strategy for plan-making consultations should lead to positive engagement.

- ***Data Protection and Privacy***- Data protection impact assessments (DPIAs) are an essential part of our accountability obligations and are a legal requirement for any type of processing under UK GDPR. Failure to carry out a DPIA when required may leave the council open to enforcement action, including monetary penalties or fines. DPIAs helps us to assess and demonstrate how we comply with all of our data protection obligations. It does not have to eradicate all risks but should help to minimise and determine whether the level of risk is acceptable in the circumstances, considering the benefits of what the council wants to achieve. As there is no personal data, special categories of personal data or criminal offence data being processed to inform the options for approval in this report, there is no requirement to complete a DPIA for it. This is evidenced by completion of DPIA

screening questions AD-03890. However, there will need to be consideration and completion of DPIAs where required, as part of the work required to implement the approved option(s) from this report.

- **Communications** - The development of individual consultation and engagement strategies for planning policy documents will allow targeted input for communications, including appropriate social media campaigns and press releases.
- **Economy** - No Implications.

Risks and Mitigations

37. In compliance with the Council’s Risk Management Strategy, the main risks associated with updating the SCI are risks arising from failure to comply with the regulatory framework for planning.

Wards Impacted

38. All Wards will be impacted by this decision.

Contact details

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Background papers

[Statement of Community Involvement \(2007\)](#), incorporating the Statement of Community Involvement Update (2020)

Resident engagement strategy [Agenda for Corporate Services, Climate Change and Scrutiny Management Committee on Monday, 25 September 2023, 5.30 pm \(york.gov.uk\)](#) item 5

Annexes

- Annex A: Equalities Impact Assessment (EIA)
- Annex B: Data Protection Impact Assessment Screening (DPIA)
- Annex C: Statement of Community Involvement (Draft, 2024).

