

**STRATEGIC PLANNING,
SUSTAINABILITY AND
TRANSPORTATION COMMITTEE**

10 July 2018

Statement of Community Involvement Consultation Draft

Final Decision-Maker	Strategic Planning, Sustainability and Transportation Committee
Lead Head of Service/Lead Director	Rob Jarman, Head of Planning and Development
Lead Officer and Report Author	Mark Egerton, Strategic Planning Manager, and Sue Whiteside, Principal Planning Officer
Classification	Public
Wards affected	All

Executive Summary

The Council has a duty to maintain an up-to-date Statement of Community Involvement (SCI), and to review adopted SCIs at least every 5 years. The current SCI was adopted in 2013, and requires updating to reflect changes in legislation and the way in which the Council provides its planning services. In accordance with statutory provisions and best practice, the SCI sets out in detail when and how the Council will consult and/or inform statutory consultees, stakeholders and the general public in the plan making and development management processes. This report seeks approval of the draft SCI (attached at Appendix 1) for a statutory 6-week public consultation. The report also seeks delegated authority to format the draft SCI (Appendix 1) using corporate branding. Following consultation, a further report on the key issues raised by respondents, together with recommended amendments to the SCI, will be presented to this Committee.

This report makes the following recommendations to this Committee:

That the Statement of Community Involvement Consultation Draft (attached at Appendix 1) is approved for public consultation.

Timetable

Meeting	Date
Strategic Planning, Sustainability and Transportation Committee	10 July 2018

Statement of Community Involvement Consultation Draft

1. INTRODUCTION AND BACKGROUND

- 1.1 Local planning authorities are required to prepare a Statement of Community Involvement (SCI) under the [Planning and Compulsory Purchase Act 2004](#) (as amended), and to review them every five years as a minimum. The SCI must set out when and how stakeholders and the local community can:
- Participate in the preparation of local plans¹, neighbourhood development plans (also called neighbourhood plans) and supplementary planning documents; and
 - Engage in the process of decision making on planning applications.
- 1.2 The SCI is itself subject to a prescribed 6-week consultation period, and this report is seeking approval to consult statutory consultees and the wider community on the consultation methods set out in the draft document attached at Appendix 1. The draft SCI (Appendix 1) will need formatting using corporate branding, and it is proposed to undertake this task prior to public consultation.
- 1.3 The revised draft SCI reflects revisions to planning legislation that have occurred since 2013 (when the Council's previous SCI was adopted) and changes in the way in which the Council provides its planning services.
- 1.4 Planning regulations² include lists of specific and general consultation bodies, including parish councils and neighbourhood forums, to which draft plans or planning applications may be sent. The decision on which statutory consultees might be appropriate to consult is dependent on the complexity of plans and on the type of planning application submitted. In addition to statutory consultees and the general public, where relevant, it is also important to consult and/or notify hard-to-reach groups and local stakeholder groups. Examples of such groups are set out in the draft SCI.
- 1.5 [The Localism Act 2011](#) introduced the 'duty to cooperate', whereby neighbouring authorities and other relevant organisations must work together on strategic cross-boundary planning issues that affect their areas. As part of fulfilling its legal requirements, the Council will prepare and endeavour to agree 'statements of common ground' with the County Council, neighbouring local authorities and other appropriate authorities, including those prescribed in legislation.

¹ Kent County Council is responsible for the consultation undertaken on its Minerals and Waste Local Plans, and these plans are not covered by this SCI

² [The Town and Country Planning \(Planning\) \(England\) Regulations 2012](#) or [The Neighbourhood Planning \(General\) Regulations 2012](#) for local plans or neighbourhood plans; and [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) or [The Planning \(Listed Buildings and Conservation Areas\) Regulations 1990](#) for applications

The plan making process

- 1.6 Local plans are the subject of two rounds of mandatory public consultation and independent examination before they are adopted and become part of the Maidstone Development Plan³. Consultation during the early stages of evidence gathering and plan preparation is flexible although, once an Issues and Options scoping paper or an initial draft plan is available, best practice dictates the use of a voluntary 6-week consultation to invite views from the public. The extent of any further consultation on a plan that has previously been the subject of a voluntary 6-week public consultation, and the period of additional consultation, will depend on the scope of the amendments and will be at the discretion of the Council. The public has further opportunity to comment on a local plan during the latter stages of its production, through a prescribed statutory 6-week consultation period and independent examination.
- 1.7 Acknowledgements of receipt of representations made on plans will be issued but responses to the individual issues raised by respondents is not practical, due to the volume of comments received during consultations and the breadth of issues raised by the public. A summary of the key issues raised by respondents, together with recommendations, will be reported to this Committee, and the public can view and download Committee reports and decisions from the website. Representations received during the early stages of plan production (Regulation 18) help to shape and refine the local plan before the 6-week statutory consultation on the pre-submission version of the plan (Regulation 19) is undertaken. Representations made during this latter stage are given consideration by the Inspector during the examination into the plan.
- 1.8 Supplementary planning documents (SPDs) are not subject to independent examination because they can only expand on the policies and/or proposals in local plans which have already been examined. Their preparation is governed by planning regulations and informed by community involvement, including a 4-week statutory public consultation period on a draft plan. Adopted SPDs do not form part of the Maidstone Development Plan but are a material consideration in the determination of planning applications. All representations will be acknowledged, but respondents will not receive an individual response to the issues raised.
- 1.9 Parish councils and neighbourhood forums are responsible for preparing neighbourhood plans for their designated neighbourhood areas. Neighbourhood plans are subject to two rounds of mandatory public consultation in addition to an independent examination and a local referendum before being 'made' (adopted) by Maidstone Borough Council. Consultation during the early stages of neighbourhood plan production is undertaken by the parish councils or neighbourhood forums but, following submission of a neighbourhood plan to the Council, the Council is responsible for a statutory 6-week public consultation and for the arrangement of the examination. Representations submitted during the

³ The Maidstone Development Plan comprises adopted local plans (including those prepared by Kent Council) and 'made' (adopted) neighbourhood plans

statutory 6-week consultation period are given consideration by the independent Examiner (the Council is a consultee). A post-examination neighbourhood plan (as modified by the Examiner) is a material consideration in the determination of planning applications and following a successful referendum, once made, a neighbourhood plan forms part of the Maidstone Development Plan.

- 1.10 Legislative changes now require local authorities to include neighbourhood plans in their SCIs, so there is inevitably some overlap with the neighbourhood planning protocol⁴. A report updating the protocol, to reflect recent legislative changes and to review practices and decision making arrangements, is included as part of this agenda.
- 1.11 The SCI makes clear the extent of consultation to be undertaken at each stage of the plan making process for local plans, supplementary planning documents and neighbourhood plans. For neighbourhood planning, the SCI sets out the consultation to be undertaken for the designation of neighbourhood forums and neighbourhood areas, as well as the plan production stages. Additionally, the responsibilities for each stage of neighbourhood plan production are highlighted.
- 1.12 To encourage community involvement, a range of communication methods are proposed to be used at the various stages of the plan making process. Dependent on the type of plan and its consultation stage these methods may include, but are not limited to: publicising activities through the website and in the press; use of the consultation portal for the submission of representations; sending out notifications of consultations to statutory bodies, stakeholders and everyone on the Council's consultation database; and arranging more focused exhibitions, meetings and/or workshops targeting appropriate stakeholders. The advantage of being flexible in how the Council engages with the public at various stages of plan making, rather than prescribing strict methods of consultation, is illustrated by the potential preparation of a Communications Strategy for the review of the Maidstone Borough Local Plan.
- 1.13 Ward Councillors also have an important role to play through Committee meetings where they can represent the views of their local communities and impart local or expert knowledge of their areas, and by engaging with the public during consultations.

The development management process

- 1.14 Depending on the type of planning application, applications are determined by Planning Committee or the Development Management team under the Council's scheme of delegated powers. Decisions on planning applications take account of the Maidstone Development Plan and any other material planning considerations. Whereas the Council consults statutory consultees and the public on planning documents, the SCI stresses that statutory bodies are 'consulted' on planning applications whilst members of the public are 'notified'. Involvement is voluntary for members of the public, and the Council is able to take decisions on planning applications without responses

⁴ Approved by Strategic Planning, Sustainability and Transportation Committee on 18 April 2016

from the public following prescribed consultation periods.

- 1.15 The SCI sets out the Council's approach to pre-application advice and consultation, including the use of planning performance agreements where appropriate. For major proposals, the Council encourages applicants to approach the local ward Councillor(s), parish council or neighbourhood forum, and the local community in advance of making a formal planning application.
 - 1.16 The Council publishes a weekly list of planning applications, and details of individual planning applications are published on the website. Planning regulations require certain specified types of applications to be publicised by way of a site notice, a public notice in local newspapers and, in some cases, by notification to adjoining owners or occupiers. Parish councils and neighbourhood forums are automatically notified of planning applications within their areas. The extent of a consultation on a planning application and the range of consultees to be consulted varies according to the nature of the planning application and its location. Re-consultation or notification of amendments to planning applications is at the Council's discretion, and will depend on the nature of the amendments proposed to the application.
 - 1.17 Certain development falls into permitted development rights under [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#). In some cases, before permitted development rights can be used, the developer must first obtain prior approval from the Council in relation to specified aspects of the development. The paragraph on permitted development rights is included in the SCI to illustrate that there are some instances when the public will not be informed of a development proposal.
 - 1.18 The public can engage in the appeals process, which is managed by the Planning Inspectorate in accordance with their published [procedural guidelines](#), but there are no provisions for third parties, including objectors, to appeal.
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2. AVAILABLE OPTIONS

- 2.1 Option A: The Committee could decide not to approve the revised draft SCI for public consultation, and to retain the SCI which was adopted in 2013. This option would not meet the Council's statutory duties, in particular the requirement to undertake 5-yearly reviews as a minimum, and the currently adopted SCI does not reflect changes to planning legislation and the Council's planning practices. The risks associated with not updating the SCI at this point are low, but these will increase over time as the review of the Maidstone Borough Local Plan progresses through its consultation stages to examination, when the Inspector will consider whether such consultations have been undertaken in accordance with an up-to-date SCI.
- 2.2 Option B: The Committee could decide to approve the revised draft SCI for public consultation.

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

3.1 Option B is the preferred option. The Council will fulfil its statutory duties by updating the SCI and undertaking public consultation on a new draft document. Changes in legislation governing SCIs require local authorities to:

- Undertake 5-yearly reviews of their SCIs;
- Set out the Council's consultation processes for the preparation of neighbourhood plans in SCIs; and
- Explain how the Council will support and advise parish councils and neighbourhood forums during the preparation of their plans.

Although not subject to examination, an SCI is required to undergo public consultation prior to its adoption by Council. Consequently, this report recommends that the draft SCI (Appendix 1) is approved for public consultation.

4. RISK

4.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. That consideration is shown in this report at paragraph 2.1. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 Although the SCI is not a development plan document, and consequently it is not subject to examination, a draft version is nevertheless subject to a statutory 6-week public consultation period. If the draft SCI is approved for consultation by the Committee, public consultation is planned to commence on 29 June 2018.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

6.1 If approved by the Committee, the consultation draft (Appendix 1) will be formatted, with corporate branding and appropriate graphics added to the document prior to publication of the consultation.

6.2 Statutory bodies, stakeholders and everyone whose details are held on the Council's consultation database will (subject to data protection requirements) be informed of the consultation. Details will be made available on the website, and a public notice advertising the event will be placed in the Kent Messenger.

6.3 The key issues arising from representations, together with an appropriately amended SCI, will be presented to this Committee with a view to recommending that the SCI is referred to Council for adoption.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	It is not expected that the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's overall achievement of its aims as set out in section 3.	Rob Jarman, Head of Planning and Development
Risk Management	Risks are already covered in the risk section 4.	Rob Jarman, Head of Planning and Development
Financial	The proposal set out in the recommendation is within already approved budgetary headings, so there is no requirement for new funding for implementation.	[Section 151 Officer & Finance Team]
Staffing	The recommendations can be delivered with current staffing levels.	Rob Jarman, Head of Planning and Development
Legal	A statement of community involvement sets out an LPA's policy for consultation and engagement, both in the preparation and revision of local development documents and in dealing with planning applications (section 18(2), Planning and Compulsory Purchase Act 2004). SPS&T is the appropriate Committee	Russell Fitzpatrick, Lawyer (Planning), Mid Kent Legal Services
Privacy and Data Protection	Accepting the recommendations will increase the volume of data held by the Council. We will hold that data in line with the General Data Protection	Cheryl Parks, Legal Officer (Planning), Mid Kent Legal

	Regulations and locally adopted policies.	Services
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment.	[Policy & Information Manager]
Crime and Disorder	There are no specific implications for a negative impact on crime and disorder arising from the recommendation in this report.	Rob Jarman, Head of Planning and Development
Procurement	Undertaking public consultation as recommended does not require the procurement of any services, expertise or materials.	Rob Jarman, Head of Planning and Development

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Draft Statement of Community Involvement 2018

9. BACKGROUND PAPERS

There are no background papers.