

Environment and Communities Committee

Date of Meeting:	20 th January 2022
Report Title:	Notice of Motion: Protect the Right of Communities to Object to Individual Planning Applications
Report of:	Jayne Traverse, Executive Director of Place
Report Reference No:	EC/27/21-22
Ward(s) Affected:	All

1. Executive Summary

- 1.1.** A Notice of Motion, set out below, was referred by Council at its meeting on 20 October 2021 to the appropriate Committee, this being the Environment and Communities Committee and therefore a report is required to be taken to this committee within two meeting cycles in accordance with the Council Procedure Rules in the Constitution.
- 1.1.1.** *Notice of Motion: Protect the Right of Communities to Object to individual Planning Applications - This Council believes planning works best when developers and the local community work together to shape local areas and deliver necessary new homes; and therefore, calls on the Government to protect the right of communities to object to individual planning applications.*
- 1.2.** The purpose of this report is to set out the Council's current procedures for engaging stakeholders on planning matters, as established in the Statement of Community Involvement (SCI), and to request approval for proposed updates to this document.
- 1.3.** The report provides a summary of the Government's proposals on planning reform that were consulted on in 2020, the Council's response to the proposals, and the current status of the reforms.
- 1.4.** The report also recommends that the Chair of the Committee writes to the Secretary of State for Levelling Up, Housing and Communities calling on Government to protect the right of communities to comment on individual planning applications.

2. Recommendations

2.1. That the Committee:

- 2.1.1. Approve the updated Statement of Community Involvement, January 2022 attached at Appendix 1.
- 2.1.2. Authorise the Chair of the Committee to write to the Secretary of State for Levelling Up, Housing and Communities calling on Government to protect the right of communities to comment on individual planning applications.

3. Reasons for Recommendations

- 3.1. The SCI was updated in 2020 to reflect legislative procedures introduced to respond to the Covid Pandemic, particularly in relation to consultation and the publication of planning documents. Parts of this legislation expired on 31st July this year, and the remaining legislation will expire on 31st December 2021. Therefore, it is necessary to remove these provisions from the Council's SCI. The SCI also provides an updated Service Level Agreement in regard to neighbourhood planning and how the council will support neighbourhood plan making groups in the authority.
- 3.2. In October 2020, the Council submitted a response to the Government's 'Planning for the Future' White Paper. The White Paper set out extensive reforms to the current planning system and included measures that would see site allocations in a local plan gain consent on the adoption of the plan. This proposal would potentially remove the need to submit a planning application when allocated sites came forward and therefore remove an opportunity for the public to comment on, and the Council to determine, the detail of a proposal. In its response to the White Paper, the Council raised concern over this and, given the length of time since the original consultation took place, it is timely to re-emphasise the Council's position to the new Secretary of State for Levelling Up, Housing and Communities.
- 3.3. The Council's Corporate Plan 2021-25 seeks to ensure that Cheshire East is a thriving and sustainable place where new development is appropriately controlled to protect and support our borough. The Corporate Plan also seeks to ensure the Council is an open and enabling organisation that is fair and transparent, and that the Council increases local democracy. The recommendations in this report support these ambitions.

4. Other Options Considered

- 4.1. The Council is obliged to prepare a Statement of Community Involvement under section 18 of the Planning and Compulsory Purchase Act 2004. The proposed SCI is updated to reflect the expiration of legislation put in place to minimise the transmission of Covid-19.
- 4.2. From 31st December 2021 there is no legal basis for the Council to continue to follow this approach and therefore retaining the SCI in its current form would render the document out of date.

- 4.3. There is no requirement for the Council to write to the Secretary of State for Levelling Up, Housing and Communities, however, given the length of time since the original consultation on planning reform took place, and the on-going government review of planning reform, there is an opportunity to re-emphasise the Council's position on a key matter.

5. Background

5.1. Statement of Community Involvement

- 5.2. The SCI sets out how the public can expect the Council to engage with stakeholders regarding its town and country planning function, both in relation to development management, through the planning application process, and the development of planning policy documents including the Local Plan.
- 5.3. The Council can always choose to do more than is set out in the SCI, but it can never do less. Consequently, there may be occasions where it is necessary and appropriate to adopt a more detailed level of engagement where circumstances dictate, and the measures set out in the SCI should be considered the baseline approach to the matters outlined in the document.
- 5.4. The first SCI for Cheshire East was prepared in 2010 and updated in 2018 to ensure that the Council's approach reflected the changes in planning policy, legislation and regulations brought about since then.
- 5.5. In October 2020, the SCI was revised to reflect the status of various planning policy documents including the Site Allocations and Development Policies Document (SADPD - part two of the Local Plan Strategy), the Minerals and Waste Plan and the Crewe Hub Area Action Plan. It was also revised to ensure alignment with recent legislation introduced to respond to the Covid-19 pandemic which no longer required planning documents to be held at local offices and libraries during consultation and removed the obligation on the Council to hold physical public engagement events.
- 5.6. In terms of Development Management, the principles of the previous SCI remain the same but the updates that were made to the legislative background in response to the pandemic have now expired and therefore such references are proposed to be removed from the SCI. The current Publicity on Planning Applications Protocol will also be updated alongside the SCI and made available on the Council's website.
- 5.7. A schedule of proposed changes the SCI is set out at Appendix 1.
- 5.8. **Reforms to the Planning System: The Council's response to the 'Planning For the Future' White Paper:**
- 5.9. In the summer of 2020, the government published its white paper setting out extensive proposals to reform the planning system. Consultation ran between 6th August 2020 to 29th October 2020.

5.10. The White Paper sought to make the planning system more responsive and efficient primarily by:

- 5.10.1. Changing how local plans are prepared by introducing a zoning approach through designation of growth areas (areas for significant new development); renewal areas (existing developed areas); and protected areas (areas of heritage, countryside, Green Belt, national parks etc);
- 5.10.2. Speeding up the consent process by ensuring that land allocated as a growth area will benefit from outline planning permission on the adoption of the local plan, with any reserved matters to be dealt with primarily by officers (not committees);
- 5.10.3. Re-focusing public engagement away from the planning application stage to the development of the local plan.
- 5.10.4. Moving away from writing policies and instead, focusing on clear development standards and design codes (this represents a move away from the exercise of planning judgement, and towards compliance with rules);
- 5.10.5. Introducing a statutory requirement to produce plans within 30 months, supported by:
 - 5.10.5.1. reducing and removing the evidential burden placed on plan making with a reduced role for sustainability appraisal, environmental assessment and the removal of the duty to co-operate;
 - 5.10.5.2. Removing the requirement to establish housing needs locally, instead taking a national approach, with Local Planning Authorities (LPAs) being mandated a target, which takes account of local constraints, rather than establishing it themselves; and
 - 5.10.5.3. Establishing a national suite of development management policies linked to the three zones.
- 5.10.6. Promoting the use of digital tools for consultation, engagement and document production, particularly the use of map-based geographic information systems;
- 5.10.7. Creating a focus on quicker consent routes for good design, supported by local design codes, either within the local plan or through the neighbourhood planning process; and
- 5.10.8. Replacement of S106 and CIL with an 'Infrastructure Levy' that authorities can spend widely and borrow against.

5.11. The Council raised concerns over a number of matters set out in the white paper and in particular drew attention, at Question 9 of its response, to the loss of democratic oversight and community input into planning decisions as a result of proposals to grant consent at the local plan making stage and

remove the need to submit a subsequent planning application, following allocation of a site.

- 5.12.** The Council set out that efficiencies in the planning process must not be achieved at the expense of local community ability to input, shape and determine the development of an area.

5.13. Current Status of Planning Reforms

- 5.14.** The Government is yet to publish the full consultation feedback and its analysis and has not confirmed a new approach to planning reform.

- 5.15.** In June 2021 a Housing Communities and Local Government parliamentary committee report on 'The future of the planning system in England' made a variety of recommendations on the proposed reforms, including, amongst other matters, that government should reconsider its 'zonal' approach to local plans, removal of the requirement to produce local plans within 30 months, the need to provide additional funding to planning departments, and the retention of the ability for members of the public to have their say on individual planning applications.

- 5.16.** No formal course of action has been published to date and on 15th September 2021 Michael Gove MP was appointed as Secretary of State for Levelling Up, Housing and Communities taking on the remit of planning reform.

- 5.17.** Whilst various media reports have speculated on the elements of the white paper that may be taken forward or abandoned, in its autumn budget the government included £65million to support implementation of a new digital planning system and £1.8billion to support delivery of homes on brownfield land.

- 5.18.** Currently, the planning reform agenda has been paused whilst the new Secretary of State considers a way forward. Therefore, given the length of time since Cheshire East's submission on these matters, it may be prudent to issue a letter setting out the Council's concerns for the benefit of the new Secretary of State.

6. Implications

6.1. Legal

- 6.1.1. The preparation of a Statement of Community Involvement is a requirement of section 18 of the Planning and Compulsory Purchase Act 2004. The Statement should set out the Council's policy as to how people who have an interest in development in their area can be involved in our principal planning functions.
- 6.1.2. Section 6 of the Neighbourhood Planning Act 2017 requires Local Planning Authorities to set out in their SCI the policies for giving advice or assistance on proposals for the making, or modification, of Neighbourhood Development Plans.

6.1.3. The Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 amends the Local Planning regulations to make provision for Local Planning Authorities to make their plans available digitally for public inspection, removing the need to place hard copies in local libraries and primary offices.

6.1.4. There are no legal implications in regard to writing to the Secretary of State.

6.2. Finance

6.2.1. The cost of engagement and communication set out in the CSI is funded from existing Planning Service budgets. In drawing up appropriate policies for community involvement in planning, the Council needs to balance the cost of each form of engagement with the benefit that it accrues to stakeholders and the public.

6.3. Policy

6.3.1. The SCI prescribes the Council's policies on how it will involve people in its planning processes. These policies involve a combination of mandatory and discretionary activities

6.4. Equality

6.4.1. The Council needs to ensure that its policies and processes for planning engagement enable all sections of the community to be involved in the plan making and decision making process. The SCI provides flexibility to overcome barriers to engagement and sets out how this may be achieved.

6.4.2. Under the Council's public sector equality duty, the authority needs to consider the effect of its policies on members of society with protected characteristics. As such, an Equality Impact Assessment has been completed on the SCI and is included as Appendix 3 to this report.

6.5. Human Resources

6.5.1. The administration of the planning function and its adherence to the Council's SCI is a duty that falls on existing staff in the planning service and will not require additional staff resources to implement.

6.6. Risk Management

6.6.1. The decision to update the SCI is, like all decisions of a public authority, open to challenge by Judicial Review. The risk of legal challenge to the SCI has been minimised by the process through which the amendments are prepared and checked by both officers and members, to ensure proposals are in accordance with relevant legislation and current guidance.

6.7. Rural Communities

6.7.1. There are no direct implications for rural communities specifically.

6.8. Children and Young People/Cared for Children

- 6.8.1. There are no direct implications for children and young people / cared for children specifically.

6.9. Public Health

- 6.9.1. The removal of measures that limited public interaction may have a public health impact but the legislation that requires this approach is set out by government, and forms part of the government road map to recovery from the impacts of Covid 19.

6.10. Climate Change

- 6.10.1. Whilst the SCI now includes the ability to host public meetings and provide physical copies of documents, the council will continue to increasingly rely on digital engagement practices established through the pandemic which will reduce the need for individuals to travel to access planning documents and reduce the resources required to print and deliver such documents to various locations. The impact of this may be small but cumulatively over time, will help the Council to reduce its carbon footprint and achieve environmental sustainability by reducing energy consumption.

Access to Information	
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Appendices:	Appendix 1: Schedule of Proposed Changes to the Statement of Community Involvement. Appendix 2: Cheshire East Councils Response to the Planning for the Future White Paper (October 2020) Appendix 3: EQiA (draft)
Background Papers:	n/a