

# **North East Derbyshire District Council**

## **Cabinet**

**10 September 2020**

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| <p><b>Temporary Amendments to the Statement of Community Involvement to enable Public Consultation on the Local Plan during the Coronavirus (Covid-19) Pandemic</b></p> |
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**Report of Councillor C Cupit, Deputy Leader of the Council and Portfolio Holder for Environmental Services**

This report is public

### **Purpose of the Report**

To request that the Cabinet agree amendments to the Statement of Community Involvement (SCI) needed to account for Covid 19 restrictions and thereby enable the next round of Local Plan consultations to be carried out in accordance with it.

### **1 Report Details**

#### **Background**

- 1.1 The Council is currently in the advanced stages of production of the North East Derbyshire Local Plan. The next key stage in the process is to undertake public consultation on proposed Main Modifications to the Plan. This is an essential stage and must be undertaken before the Inspector can finalise her report on the 'soundness' of the Local Plan. There are no specific regulatory requirements related to a Main Modifications consultation and, following the Planning Inspectorate guidance 'Procedure Guidance for Local Plan Examination (June 2019)', the Council would usually follow the 'scope and duration' of consultation held at the Submission stage as set out in the adopted Statement of Community Involvement (SCI).
- 1.2 The SCI requires that hard copies of consultation material is made available at deposit venues. These deposit locations comprise the council's main offices and public libraries throughout the district, including the mobile library service. The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) also require that hard copies of documents are made available (regulation 35), whilst this does not directly reference consultation on main modifications, it is reasonable to expect that similar requirements would apply. It does however apply to the need to make hard copied of the adopted documents available.
- 1.3 In March 2020 the Government issued guidance on social distancing and shielding of vulnerable people, in an effort to combat the spread of coronavirus (COVID-19). This had the effect of closing all public buildings, such as libraries and the public areas of the Council's Main Offices. Whilst the Government has since reduced the national threat level from Coronavirus (Covid-19) and is progressively introducing

measures to relax these restrictions, there is the ongoing risk that full or targeted lockdown and restrictive measures could be re-imposed if there is a resurgence in infection rates

- 1.4 On 13 May 2020 MHCLG published changes to plan-making guidance in response to the coronavirus (COVID-19) pandemic to enable Plans to progress through the system. This included planning guidance on reviewing and updating Statements of Community Involvement (NPPG new paragraphs 076-078). In July 2020 The Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 were published which temporarily remove the requirement in 2012 Regulations (Reg.35) to make documents available for inspection, at Council's main office and other deposit venues (defined in the SCI) during the period 16th July 2020 to 31st December 2020.
- 1.5 The updated Guidance states that where any of the policies in the SCI cannot be complied with due to current (or superseding) 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. 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 and will also need to take reasonable steps to ensure sections of the community that do not have internet access not disadvantaged.
- 1.6 On the basis of the above it remains prudent to introduce amendments to the Council's SCI in line with the Government's updated guidance to temporarily amend consultation requirements. This will then enable plan-making to continue through the modifications stage to adoption should deposit venues have to close again due to tightened restrictions in the future,

### **Statement of Community Involvement & Proposed Temporary Provisions**

- 1.7 The Statement of Community Involvement (SCI) is a statutory planning document which the Council is required to prepare by Section 18 of the Planning and Compulsory Purchase Act 2004. Further more detailed requirements in relation to public consultation measures are also set out in the:
  - Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended),
  - Neighbourhood Planning (General) Regulations 2012 (as amended), and
  - Environmental Assessment of Plans and Programmes Regulations 2004 (as amended)
- 1.8 The Council's SCI was adopted in April 2014 and has informed the preparation of the current emerging Local Plan. It reflects the requirements contained in the 2012 Regulations and sets out the Council's approach to consultation in the District, which in respect of local plan-making includes measures, such as holding public meetings and exhibitions where appropriate and providing access to hard copies of consultation material at specified deposit locations.

- 1.9 It should be noted that a full review of the Council's SCI is scheduled to take place once the new Local Plan has been adopted. This is in line with Section 10a 2012 Regulations (as amended), which requires that from April 6, 2018 local planning authorities must review their SCI every five years, starting from the date of adoption of the SCI. The timing of this will enable customer experiences from across the plan-making process to feed into the review; at the same time as providing a natural end point to the temporary arrangements set out below.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 The Government is clear about the need to progress plan making throughout the Coronavirus (Covid-19) pandemic and has issued guidance to Councils to support them in making temporary changes to their SCI's to enable consultation to take place. It is therefore considered appropriate to update the SCI to temporarily suspend the provisions that relate to making copies of Local Plan documents available to view at key locations throughout the District (i.e. at the Council offices and Local Libraries) and charging for hard copy documents; where this is necessary due to the most up to date national or local provisions in relation to social distancing and shielding of vulnerable people related to the Coronavirus (Covid-19) pandemic.
- 2.2 Where such national or local restrictions are in place, the Council should carefully consider whether it is safe, feasible and appropriate to carry out the consultation, in a way that does not prejudice the ability of people to be engaged in terms of fairness and equality. Where it is found to be appropriate to continue with consultation it is proposed that the Council implements the following measures:
- i. **Website** - the primary method for consultation will continue to be focussed on the Council's website.
  - ii. **Access to Documents** - hard copies of key consultation documents and material will be made available and posted out where possible (free of charge) on request to those individuals that are unable to view the consultation documents online and are unable to view hard copies at local deposit venues, either due to the closure of those venues, or due to social distancing/shielding restrictions.
  - iii. **Making Representations** - should anyone be unable to submit a response online or by email and be unable to leave their home to post a response, the Council will consider bespoke measures on a case by case basis to enable people to respond, including arranging for the collection of the letter.
  - iv. **Consultation Timescales** - consideration will be given to extending the time period for accessing documents and responding, with arrangements kept under review throughout the consultation period.
  - v. **Information** - The facilities outlined at b & c above will be communicated in consultation material and on the Council's website.
  - vi. **Timeframe for Measures** - these measures will remain in place for a maximum of 12 months, or until such time as the Government issues new plan-making/SCI guidance in relation to Coronavirus (COVID-19) restrictions. It is the Council's intention that these measures will be reviewed sooner as

part of a scheduled full review of the SCI following the conclusion of the Examination into the Local Plan

### **3 Consultation and Equality Impact**

- 3.1 The SCI as adopted was subject to public consultation. However, there has been no public consultation on the proposed amendments due to the nature of the changes, which are temporary and in response to a national crisis. Similarly an equality impact assessment has not been undertaken, but it is considered that the changes proposed are in the interests of providing equality of access to information and engagement during the Coronavirus (Covid-19) pandemic.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 One alternative would be to delay any consultation on the Local Plan until such time as the provisions of the adopted SCI can be complied with. However, this option was rejected because it would introduce additional delay to the local Plan process and would be against Government advice summarised at paragraphs xxx of this report.
- 4.2 Another alternative would be to continue with the Local Plan and not amend the SCI. This option was rejected because it would introduce the likelihood of consultation processes failing to meet the requirements of the SCI, which is a requirement of the regulations. This would put the plan at significant risk of a successful legal challenge.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

- 5.1.1 There are likely to be increased printing and postage costs resulting from increased demand for hard copies of consultation documents.
- 5.1.2 Failure to comply with the requirements of the adopted SCI presents a risk of legal challenge to the Local Plan which could bring with it significant associated costs. However, the changes to Plan-making guidance in response to the coronavirus (COVID-19) pandemic published by MHCLG on 13 May 2020 provide a strong basis to make these changes and minimise the risk of a successful legal challenge.

#### **5.2 Legal Implications including Data Protection**

- 5.2.1 The legal implications are addressed at 5.1.2 above. There are no data protection issues arising from this report.

#### **5.3 Human Resources Implications**

- 5.3.1 The amendments could result in more staff time being required to manage the consultation process and respond to the requirements of individuals who may be affected by Covid-19 restrictions. However, this is not expected to be significant and current resource levels are adequate.

## 6 Recommendations

- 6.1 That the Council's Statement of Community Involvement is amended to allow for the temporary suspension of the provisions that relate to making copies of Local Plan documents available to view at key locations throughout the District and charging for hard copy documents; where this is necessary due to national or local restrictions that may be in place as a result of the Coronavirus (Covid-19) pandemic.
- 6.2 That the following measures are implemented where necessary:
- i. **Website** - the primary method for consultation will continue to be focussed on the Council's website.
  - ii. **Access to Documents** - hard copies of key consultation documents and material will be made available and posted out where possible (free of charge) on request to those individuals that are unable to view the consultation documents online and are unable to view hard copies at local deposit venues, either due to the closure of those venues, or due to social distancing/shielding restrictions.
  - iii. **Making Representations** - should anyone be unable to submit a response online or by email and be unable to leave their home to post a response, the Council will consider bespoke measures on a case by case basis to enable people to respond, including arranging for the collection of the letter.
  - iv. **Consultation Timescales** - consideration will be given to extending the time period for accessing documents and responding, with arrangements kept under review throughout the consultation period.
  - v. **Information** - The facilities outlined at b & c above will be communicated in consultation material and on the Council's website.
  - vi. **Timeframe for Measures** - these measures will remain in place for a maximum of 12 months, or until such time as the Government issues new plan-making/SCI guidance in relation to Coronavirus (COVID-19) restrictions. It is the Council's intention that these measures will be reviewed sooner as part of a scheduled full review of the SCI following the conclusion of the Examination into the Local Plan

**7 Decision Information**

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| <p><b>Is the decision a Key Decision?</b><br/> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br/> <i>BDC: Revenue - £75,000</i> <input type="checkbox"/><br/> <i>Capital - £150,000</i> <input type="checkbox"/><br/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/><br/> <i>Capital - £250,000</i> <input type="checkbox"/><br/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p> | No  |
| <p><b>Is the decision subject to Call-In?</b><br/> (Only Key Decisions are subject to Call-In)</p>  | No  |
| <p><b>Has the relevant Portfolio Holder been informed</b></p>   | Yes |
| <p><b>District Wards Affected</b></p>   | All |
| <p><b>Links to Corporate Plan priorities or Policy Framework</b></p>  | All |

**8 Document Information**

| Appendix No   | Title          |
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| <p><b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p> |                |
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