

Report	Amendments to the Council’s adopted Statement of Community Involvement
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Department	Planning Policy
Exempt?	No

Purpose of report:

The purpose of this report is to gain the consent of the of the Planning Committee to carry out public consultation on a small number of proposed amendments to the Council’s adopted Statement of Community Involvement.

Synopsis of report:

This report sets out how officers are recommending that the Council, in its role as Local Planning Authority, amends the digital format of representations which it will accept in response to planning consultations from email to standardised web form.

This approach is recommended to significantly reduce the risk of breaches of the General Data Protection Regulation (GDPR) legislation occurring, with regards to the accidental publication of personal data.

To enable this change, a limited number of amendments to the Council’s adopted Statement of Community Involvement are required.

Recommendation(s):

That the Planning Committee AGREES that:

The proposed amendments to the Statement of Community Involvement, as presented in the extracts at Appendix 1, are published for public consultation for a period of 4 weeks between 3rd January and 31st January 2024.

1. Context and background of report

1.1 Regulation 18 of the Planning and Compulsory Purchase Act 2004 requires each Local Authority to prepare a Statement of Community Involvement (SCI). The SCI is a document that explains the process by which a Local Authority involves the community and other stakeholders in the key processes that affect the spatial development of an area: including during the formulation of Local Development Documents and as part of the consideration of planning applications / enforcement processes.

1.2 In accordance with regulation 10A of the Town and Country Planning Act (Local Planning) (England) Regulations 2012 (as amended), these documents should be

updated every 5 years. The last comprehensive update of the SCI was undertaken in 2021, with adoption occurring in the same year.

- 1.3 The adopted SCI outlines the minimum standards for public consultation that will take place during the production of various planning policy documents and during the planning application and enforcement processes. However, the document also includes a range of additional consultation techniques which can be/are already utilised by the Council during consultation / engagement. Before any consultation is undertaken, officers carefully consider the nature of the planning document to be consulted upon and then decide the relevant consultation techniques which need to be used to ensure effective engagement.
- 1.4 The SCI also provides details of the Council's role in the preparation of neighbourhood plans and local development orders, although the process is community led. The stages at which the Council's assistance is required is clearly set out in the SCI. This is intended to assist and support the neighbourhood fora in Runnymede.
- 1.5 The Government has proposed to remove the requirement for Local Authorities to prepare SCIs and introduce new requirements. More can be read about the Government's proposals in the consultation titled [Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms](#) which was published in July 2023 (see paragraphs 136 to 141). However at the time of writing, SCIs are still required, and most of the sections in the Levelling Up and Regeneration Act directly related to development management and plan-making have not commenced and will require further changes to legislation.

2. Report and, where applicable, options considered and recommended

Background

- 2.1 In processing planning applications, the Council handles a very significant quantity of documentation. The Council handles in the region of 2000 planning matters each year (not all are planning applications). Even assuming an average of 15 documents per matter, the Council will process and publish in the region of 30,000 documents each year. Each one of these documents could have any amount of personal data in it at any point. Whilst some of these such as planning application forms are in a standardized format, a large proportion of supporting documents are in non-standardised formats where personal data could be unexpectedly included in any section.
- 2.2 The Planning Technical Administration team review the documents submitted and look to redact personal data as thoroughly as possible. Unfortunately this is a human process and is susceptible to occasional human error. With circa 30,000 documents, even a very low error rate of 0.001% would result in 30 potential GDPR issues.
- 2.3 At RBC one of the most sensitive areas when it comes to GDPR, is neighbour representation letters. These are received in a variety of formats and information is often split between attachments and email bodies, making it unpredictable where personal data may be contained.
- 2.4 Recently, a number of incidents have occurred where the personal details of those responding to planning consultations have not been fully redacted and have been published online as a result of human error. These have been relatively minor breaches, however have led to complaints from residents and third parties.

- 2.5 This issue has been discussed with the Council's GDPR team who has recommended that the Planning Department looks to address this issue as a matter of urgency.
- 2.6 There are a number of options available to address this issue. The first option is to stop publishing neighbour representations entirely. There is no statutory requirement to publish neighbour letters. Not publishing them is an approach being taken in a growing number of Boroughs, particularly in London. This approach is however **not the recommended approach** for Runnymede for a number of reasons. Firstly, residents and councillors value seeing the issues being raised in letters, secondly this option is not expected to address the issue as it generates Freedom of Information requests from applicants and third parties which means that the redaction work needs to be done later in the process and carries the same risk.
- 2.7 The better and **recommended approach** is that the Council stops accepting comments by direct email and instead uses a standardised webform which would enable most of the personal data within a letter of representation to be separated from the substance of a person's comments on submission.
- 2.8 Such an approach is taken in a number of Boroughs including in Surrey. Elmbridge and Tandridge in particular only accept electronic comments via webform.
- 2.9 The approach at Runnymede would be that comments can be submitted by webform, or by attachment via the webform. This would allow shorter comments to be submitted via the form only, however would still provide residents with the opportunity to provide a comprehensive document where required on more complex matters. Those submitting attachments would be advised not to include personal data in the attachments at point of submission. The documents would continue to be reviewed by the Planning Technical Administration Team.
- 2.10 To support this change in approach, the following amendment to the SCI is proposed at paragraph 4.15 which currently reads:
- "Applications, including all of their supporting information, are made available on the Council's website. Comments can be made in writing direct to the Council through the online consultation option or via e-mail. We will also accept comments made in letter format"*
- 2.11 It is proposed that this text is replaced with the following text:
- "Applications, including all of their supporting information, are made available on the Council's website. Comments and supporting information can be submitted in writing direct to the Council through the Planning Representations Comments Form which can be accessed on the Council's website. We will also accept comments made by postal letter"*
- 2.12 The SCI is currently silent in terms of how representations can be made in response to planning policy consultations. To ensure consistency across the Planning Department, the following new text is proposed to be introduced at 1.34:
- "Anyone who wishes to respond to a planning policy consultation will need to make their comments in writing direct to the Council through the Planning Representations Comments Form which can be accessed on the Council's website. This form provides the facility to attach further supporting documentation. We will also accept comments made by postal letter"*

- 2.13 Both of the proposed amendments can be viewed in the extracts from the adopted SCI as attached at Appendix 1.
- 2.14 It is envisaged that this approach would have three tangible benefits to the Council which are:
- Standardised formatting – By requiring comments to be submitted through a standardised webform, all submissions will be uniform in their construction. This will enable officers to be able to process them more efficiently.
 - Automatic redaction – The standardised webform will require a number of fields to be completed before the representation can be completed, submitted and published. The intention is to program this in such a way that all fields containing sensitive data (such as the name and address fields) will not be published on the website and only the substance of the comments will be visible to the public. Including any personal details in the substance of a person's comments will be discouraged.
 - Freeing up resources – Currently the Technical Administration Team and Planning Policy Team redact representations as required. Automating this process will free up these officers to complete other tasks to support the service area.

3. Policy framework implications

- 3.1 Every Local Planning Authority is currently required to prepare an SCI in line with the provisions contained in the Planning and Compulsory Purchase Act 2004. As officers are recommending a material change to the content of the Council's adopted SCI in relation to the way that it receives representations during the planning consultation process, it is considered best practice to consult local stakeholders on the proposed amendments so that the Council can consider any views expressed before formalising any changes to the SCI and its planning consultation processes.

4 Resource implications/Value for Money

- 4.1 Any costs associated with the amendment of the SCI itself, and any subsequent changes to the Council's processes will be met within the existing annual budgets allocated to the different teams within the Planning Department, and within existing resource.

5. Legal implications

- 5.1 The Information Commissioner's Office (ICO) upholds information rights in the public interest. They have various powers to take action for a breach of the GDPR or the Data Protection Act 2018.
- 5.2 Tools at the ICO's disposal include assessment notices, warnings, reprimands, enforcement notices and penalty notices (administrative fines). For serious breaches of the data protection principles, they have the power to issue fines of up to £17.5 million or 4% of an organisation's annual worldwide turnover, whichever is higher.

5.3 There are other associated risks with sensitive information being disclosed such as reputational damage to the Council and harm to the individual.

6. Equality implications

6.1 The Council has a Public Sector Duty under the Equalities Act 2020 to have due regard to the need to:

a) Eliminate unlawful discrimination, harassment or victimisation;

b) Advance equality of opportunity between persons who share a Protected Characteristic and persons who do not share it;

c) Foster good relations between those who share relevant and persons who do not share those characteristics;

in relation to the nine 'Protected Characteristics' stated within the Act.

6.2 An Equalities screening has been carried out in support of this report. This screening has assessed that there are unlikely to be any potential negative impacts on any protected characteristics if the proposed amendments to the SCI are adopted. Instead it is anticipated that there would be positive impacts for all parts of the community as a result of the decreased likelihood of a data breach occurring which could release sensitive personal information, potentially related to protected characteristics into the public domain. Allowing stakeholders to still respond to planning consultations by postal letter will continue to ensure that those who are unable to respond digitally, which could include older people, are not excluded from the planning process.

7. Environmental/Sustainability/Biodiversity implications

7.1 No environmental /sustainability/biodiversity implications are anticipated by the proposed amendments to the SCI given that the amendments only seek to amend the format of digital communication which the Council will accept for planning consultations.

8. Risk implications

8.1 The changes proposed to the SCI as shown in Appendix 1 are designed to limit risks associated with sensitive information being accidentally disclosed due to human error. Such disclosures can cause reputational damage to the Council as well as harm to the individual whose information has been disclosed. Only allowing representations to be submitted through an online webform as proposed through this report is expected to minimise these risks.

9. Other implications

9.1 None identified.

10. Timetable for implementation

10.1 If the Committee agrees to allow public consultation to occur on the proposed amendments to the Statement of Community Involvement, this consultation will occur between 3rd and 31st January 2024. It is proposed that the outputs from the

public consultation will be reported to the Planning Committee at their meeting of 28th February 2024. At this point, if after consideration of the stakeholder comments, officers remain of the view that the proposed amendments to the SCI should be made, the amended SCI will be recommended for adoption.

11. Background papers

- None

12. Appendices

- Appendix 1 – Extracts from the adopted 2021 Statement of Community Involvement