

To: Cabinet
Date: 8 June 2020
Report of: Head of Planning Services
Title of Report: Addendum to Oxford City Council Statement of Community Involvement in Planning 2015 in relation to the Coronavirus pandemic

Summary and recommendations	
Purpose of report:	Cabinet is requested to approve an addendum to the Oxford City Council Statement of Community Involvement in Planning 2015 in relation to the Coronavirus disease pandemic.
Key decision:	Yes
Cabinet Member:	Councillor Alex Hollingsworth, Cabinet Member for Planning and Housing Delivery.
Corporate Priority:	A Vibrant and Sustainable Economy; Meeting Housing Needs; Strong and Active Communities; A Clean and Green Oxford.
Policy Framework:	Statements of Community Involvement are part of the legislative framework within which local plan documents are prepared. In addition, the aims and commitments in the Statement of Community Involvement in Planning (SCI) are consistent with the Council's Public Engagement Policy Statement.
Recommendation: That Cabinet resolves to:	
1. Approve the Addendum to the Statement of Community Involvement in Planning 2015 (set out at Appendix 1 to this report)	

Appendices	
Appendix 1	Addendum to Oxford City Council Statement of Community Involvement in Planning 2015
Appendix 2	Risk Assessment
Appendix 3	Equalities Impact Assessment

Introduction and background

1. The purpose of this report is to seek approval to make an addendum to the Oxford City Council Statement of Community Involvement in Planning 2015 (Appendix 1) in relation to the Coronavirus pandemic.
2. The Statement of Community Involvement in Planning (SCI) is a vital document which sets out the City Council's approach to involving the community and stakeholders in the production of planning policy documents and planning control decisions in the city. The SCI sets out how the City Council will involve the community when preparing planning policy documents and deciding on planning applications. In summary, it is about how the Council informs, involves and consults local people in its planning decisions.
3. Coronavirus (Covid-19) is an infectious disease caused by a newly discovered coronavirus. In order to control the spread of the virus and the pandemic in the UK, the government introduced several restrictions from March 2020 including social distancing measures.
4. As a result of Covid-19 and the restrictions implemented by the UK government, a number of public places have been closed and are not open to the public.

Publication Requirements set out under the current Statement of Community Involvement in Planning 2015

5. Paragraph 3.11 of the current Statement of Community Involvement in Planning 2015 (SCI) states "*Throughout the process of preparing development plan documents and supplementary planning documents, from the earliest stages through to adoption, we will keep the community and stakeholders informed of progress in the following ways:*
 - *The latest version of any formally published consultation documents will be available on the City Council website and at relevant deposit points⁶ throughout the city;[and]*
 - *The final, adopted versions of documents will be published on the City Council website and at relevant deposit points throughout the city;”*
6. Paragraph 4.3 of the current SCI states "*There are then certain stages where the City Council is required to carry out formal consultation in accordance with the Regulations⁹ as follows:*
 - e). *Publicity/submission consultation - Once the neighbourhood planning group has submitted their Neighbourhood Plan to the City Council, the City Council will publish the plan and supporting documents in accordance with the regulatory requirements¹⁰ on the City Council website. Copies of these documents will also be available at the main council offices (St Aldate's Chambers).*
 - f). *Decision on a Neighbourhood Plan - The City Council will send a copy of the Neighbourhood Plan, the supporting documents and comments received at the submission stage to an appointed examiner for independent examination. Hearing sessions, if required (at the discretion of the Examiner), will be open to the public to attend but only those invited by the Examiner may participate in discussions. The*

City Council will then publish the Examiner's report and decision statement on the City Council website, and make it available to view at the City Council's main offices (St Aldate's Chambers), before proceeding to arrange (subject to a favourable Examiner's report) the referendum.

g). Referendum - At least 28 days before the referendum takes place, the City Council will publish the following documents on its website (hard copies will also be made available at the main City Council offices, St Aldate's Chambers): the draft Neighbourhood Plan; the Examiner's report; a summary of the representations submitted to the Examiner; a statement that the City Council is satisfied that the plan meets the basic conditions; general information on town and country planning to ensure voters have sufficient knowledge to make an informed decision; and an information statement that provides detailed information on the referendum arrangements.

7. Paragraph 5.7 of the current SCI states "*The City Council will make information available about planning applications using the following methods:*

- *Availability of plans – plans and documents submitted as part of a planning application are available to view online at the main City Council offices (St Aldate's Chambers) during office hours. Paper copies of documents for major planning applications are available in reception, or for other types of planning application are available to view by making an appointment with the relevant case officer in advance.*

8. Paragraph 5.13 of the current SCI states:

- *Reports for applications being determined at committee are available for public inspection at the City Council's main offices (St Aldate's Chambers) and on the City Council website usually one week before the committee meeting.'*

Implications of Covid-19 to the Publication Requirements set out under the Statement of Community Involvement in Planning 2015

9. Due to the restrictions imposed by the UK government in relation to COVID-19, there are a number of current methods of publication requirements stated in the current SCI which are not currently possible to adhere to:

- The council is not able to publish the latest version of any formally published consultation documents and/or the final, adopted versions of documents at relevant deposit points throughout the city as they are closed to the public;
- Plans and documents submitted as part of a planning application are not available to view online at the main City Council offices (St Aldate's Chambers) as it is closed to the public;
- The council is not able to make paper copies of documents for major planning applications available in its reception as it is closed to the public; and
- Other types of planning applications are not available to view in the Council's reception by making an appointment with the relevant case officer in advance, as it is closed to the public.

Proposed Addendum to the Statement of Community Involvement in Planning 2015

10. There are a number of requirements set out in the Statement of Community Involvement in Planning 2015, which are not currently possible to adhere to due to the restrictions imposed by the UK government in relation to COVID-19. As a result of this, there are a number of paragraphs in the Statement of Community Involvement in Planning 2015 that need to be temporarily amended as they relate to the publication and deposition of hard copies of documentation as well as undertaking site visits. These amendments are set out in the proposed SCI addendum at Appendix 1.
11. The paragraphs which need to be temporarily amended are 3.11, 4.3 (stages e), f) and g)), 5.7 and 5.13. These amendments only apply until the UK government removes social distancing measures and/or advises that the City Council offices and deposit points can be opened to visitors again.
12. The addendum includes measures that the City Council will implement during the period of time in which social distancing measures are in force and public venues remain closed.

Temporary measures relating to Planning applications covered by paragraph 5.7 and 5.13 of the Statement of Community Involvement

13. The Council's Planning service is still determining planning applications during the coronavirus pandemic. There is a robust system to determine applications remotely. The Council has the technology to be able to do this. The following temporary changes to some of the working practices around site visits and hard copy documents are proposed, these relate to paragraph 5.7 and 5.13 of the SCI and are set out below. The SCI also encourages effective pre-application engagement and the Council would encourage applicants to discuss with their case officer the approach to pre-application consultation at the current time to ensure it is effective at informing proposals.

Hard Copy Documents

14. The Council is currently unable to make available hard copies of planning application documents in either the Council offices or local libraries as these offices are closed to the public. In certain circumstances, the Council has a statutory duty to make hard copy documents available for inspection at the Council offices and at other locations. In the current circumstances, these documents will be available on the Council website. The public will still be advised of relevant applications by site notices and/or press notices. In addition every planning application has an appointed case officer that the public can contact should residents encounter any issues in accessing these documents.

Site Visits

15. As part of the current government advice on social distancing, officers are minimising site visits to properties.
16. However officers are currently reviewing what information they have available to them to make a decision, whether this be by doing site visits from the public realm, reviewing planning histories, and contacting applicants to undertake virtual site visits by requesting photographs with guidance from the officers. This is not the case for all applications but applicants may be asked to provide photographs. Any

site visits that officers do carry out and where access onto site is essential will be governed by social distancing requirements and the applicant will be asked a series of triage questions in advance of the visit being arranged.

Temporary measures relating to Planning Policy documents covered by paragraph 3.11 of the Statement of Community Involvement

17. The following measures will be utilised in the absence of being able to deposit hard copies of planning policy documents where set out in paragraph 3.11 of the SCI. These seek to ensure that local people are still able to participate in planning processes and minimise the impact of not being able to make hard copies of planning policy documents available for inspection.

- Make documents and associated information available online - The City Council will make the relevant documents available online via the Council's website (<https://www.oxford.gov.uk/planning>).
- Notification to all individuals, businesses and organisations on the existing Local Plan database of any formally published documents – The Council will inform all persons and organisations on the Local Plan database of formally published policy documents including consultations documents, submission of development plan documents Inspector reports, and final adopted versions of documents. This will indicate how and where the relevant documents can be viewed on the Council's website. Included within this correspondence will be the contact details of a named officer including phone number and email address which can be used to discuss any problems they may have in accessing documents via the website. Notifications will be sent by email and also by letter posted to anyone who has not provided an email address previously.
- Public notices at normal deposit points and the Town Hall - A public notice will be posted at the Council's main office (St. Aldates Chambers), the Oxford Town Hall and all public libraries listed in the published Statement of Community Involvement as deposit locations. The notices will be posted in a position that can be seen and read from the public highway or other publically accessible vantage point. The notice will inform the reader of the relevant document or consultation and how and where documents can be viewed on the Council's website. The notice will also give a name, phone number and email address for an officer who can be contacted by any person who is encountering difficulty in accessing the documents online.
- Public notice in local newspapers - A similar public notice will also be published in the two main local newspapers – the Oxford Mail and the Oxford Times. The notice will inform the reader where the relevant documents are on the Council's website. The notice will also give a name, phone number and email address for an officer who can be contacted by any person who is encountering difficulty in accessing the documents online.
- Press releases - A press release will also be published and sent to local media outlets to raise awareness through local news. This will include where relevant documents can be found on the Council's website. The press

release will also give a name, phone number and email address for an officer who can be contacted by any person who is encountering difficulty in accessing the documents online.

- Social Media – The Council will also disseminate information via other usual social media channels about relevant planning documents and/or consultations. This will include where the relevant documents can be found on the Council’s website and a name, phone number and email address for an officer who can be contacted by any person who is encountering difficulty in accessing the documents online.

18. The Council also acknowledges that future consultations on development plan documents and supplementary planning documents that take place during this period of restrictions may not be able to include physical meetings, events etc. which are listed as possible consultation methods in Table 1 and 2 of the SCI. As set out at paragraphs 3.9 and 3.10 in the SCI an appropriate consultation programme for each document is required and this should consider appropriate measures for the individual document being prepared.

Neighbourhood Planning

19. For Neighbourhood Planning, deposit of documents within the neighbourhood area will also need to take account of government guidance. The Ministry of Housing, Community and Local Government has published a new section to the online planning guidance relating to neighbourhood planning specifically about the impact of the Coronavirus pandemic and neighbourhood plans. This will concern those parish councils and neighbourhood forums preparing neighbourhood plans who may be at a stage close to carrying out a public consultation or submitting their plan to the Council. The guidance indicates however that no referendums can be carried out now until May 2021.

20. When the relevant qualifying body’s office or other appropriate publicly accessible venues are not available, measures should be put in place by the relevant qualifying body (e.g. a Parish Council or Neighbourhood Forum) to ensure access to assistance, with notices including an email address and phone number, so that anyone having problems viewing the documents can discuss the consultation and seek assistance to view them.

21. Wolvercote Neighbourhood Plan’s referendum is now postponed until 6th May 2021 due to the regulations linked to the Coronavirus Act 2020. The Government is committed to keeping these regulations under review, so they may be amended or revoked in response to changing circumstances. In response to these delays, this neighbourhood plan can be given significant weight in decision-making, so far as the plan is material to the application. This is due to the fact that the council has issued a decision statement detailing its intention to send the neighbourhood plan to referendum. This was approved at Cabinet in October 2019. If when the referendum takes place the majority of those who vote on it are in favour the council will then consider a report to make the plan. It is at that point it would become part of the development plan.

Financial implications

22. The cost implications of taking these temporary measures are anticipated to be minimal/neutral to the normal requirements of the Statement of Community Involvement.

Legal issues

23. An addendum to a Statement of Community Involvement can be made without consultation. This is confirmed in the National Planning Policy Guidance under paragraph 035 (Reference ID: 61-035-20190723, revision date: 23 07 2019).

24. Some of the requirements of the Statement of Community Involvement to deposit hard copies of documents for public access reflect procedural regulatory requirements for major applications and planning policy documents. It is therefore possible for people to legally challenge the process in the High Court on the basis that the relevant regulations that require hard copies to be made available at appropriate points in the respective processes have not been complied with. Any individual challenging the planning process under these procedural requirements would need to demonstrate that they had been substantially prejudiced as a result. The Council considers the measures taken represent reasonable and practical steps that should effectively limit the prospect of any prejudice arising as a result of not being able to deposit hard copies.

Level of risk

25. If a challenge was to be made to the High Court on the basis that hard copies were not available in the deposit locations, the person aggrieved would need to show that they had been substantially prejudiced by the failure to comply with the relevant procedural requirement. It is considered that, given the temporary measures being taken to minimise the impact of not complying with the relevant procedural requirements, the risk of a successful challenge on this ground is low.

26. In addition, Government published an update to guidance on 13th May¹ that included further temporary measures to make it easier to operate the planning system. Within this it explains that where any of the policies in the Statement of Community Involvement cannot be complied with due to current 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. It goes on to explain that the local planning authority should then make any temporary amendments necessary to allow plan-making to progress, and that continue to promote effective community engagement by means which are reasonably practicable and strongly encourages the use of online methods.

27. The steps taken in regard to progressing this addendum and the temporary measures contained within it reflect this guidance.

¹ <https://www.gov.uk/guidance/plan-making#covid19>

Equalities impact

28. The Equalities Impact Assessment (Appendix 3) concludes that there is no evidence that there will be a significant negative impact on any area; however monitoring arrangements will ensure this is kept under review.
29. Ensuring that the Council minimises the equalities impacts of the current pandemic is a key focus of the additional measures proposed in the SCI addendum. As set out in the body of the report, it is considered that these measures would ensure that the Council's Public Sector Equality Duty as set out in Section 149 of the Equality Act 2010 is appropriately discharged as the measures being put in place will ensure that persons with protected characteristics continue to be able to participate in this planning process.

Conclusion

30. Officers recommend the Cabinet authorises the addendum proposed to the Statement of Community Involvement in Planning 2015.

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Background Papers: None