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**DARLINGTON LOCAL DEVELOPMENT FRAMEWORK:  
STATEMENT OF COMMUNITY INVOLVEMENT IN PLANNING**

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**Responsible Cabinet Member(s) - Councillor David Lyonette,  
Regeneration and Planning Portfolio**

**Responsible Director(s) - John Buxton, Director of Development and Environment**

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**Purpose of Report**

1. To consider the comments made in response to consultations on the draft Statement of Community Involvement (SCI).
2. To seek Members' agreement that the recommended responses to comments on the draft SCI be passed to Council for its endorsement.
3. To seek Members' agreement that Council be recommended to agree that a revised SCI, subject to 'plain english' editing, be submitted to the Government for independent examination, as required by the Town & Country Planning (Local Development) (England) Regulations 2004.
4. To seek Members' agreement that arrangements for providing the Council's prompt response to any objections and representations received on the submitted SCI be recommended to Council.

**Information and Analysis**

**Information**

5. *Previous Consideration:* At its meeting on the 21 September, Cabinet resolved (Min C81 (3)(a)), amongst other things, that consultation on the draft Darlington Borough Council Statement of Community Involvement (draft SCI), as appended to that covering report, be undertaken as soon as practicable after commencement of the relevant provisions of the Planning & Compulsory Purchase Act 2004.
6. *The Document:* The draft SCI sets out when and how the public and other stakeholders can get involved in shaping our new Local Development Framework. It also sets out what the Council does to involve the public in determining planning applications, and what it will expect potential developers to do before they submit 'significant' planning applications. The Council must comply with the SCI when it prepares its local development documents, or else face the possibility of an independent Inspector recommending that a development plan document, prepared without the community involvement indicated in the SCI, be withdrawn.

7. *Consultations:* In accordance with regulatory requirements, a six week period for public and other stakeholder engagement was set up, from 14 October to 25 November. The draft SCI was published and placed on the Council's website, together with a simplified 'Take Part in Planning' brochure and a document explaining 'Why We Plan'. Advertisements were placed in the local press, and officers attended five consultation events; a further consultation, with the Youth Parliament, took place in January.
8. *Consultation Responses:* 77 written responses were received, together with a range of verbal comments made at the consultation events. These, together with the suggested Council's response, were reported to Environment Scrutiny Committee on 17 February. The main concerns raised in consultation responses related to the details of the proposed pre-application community engagement for 'significant' planning applications. Objections were received to the thresholds proposed for defining 'significant' developments, to the apparent omission of stakeholders from pre-application consultations, and to the potentially excessive cost to developers of carrying out these consultations.
9. Several responses queried the nature of the publicity proposed. Suggestions made included more use of the internet, the need for clearer information and location plans to be made available, and more prominent advertisements in the press. A wide range of suggestions as to other types of developments to which the pre-application community engagement guidelines should apply included wind power, development likely to affect main roads, mobile phone masts, developments in sensitive locations and housing in the countryside or on sports fields. Concerns were also raised about whether the effort would be worthwhile, both in terms of getting more people involved (rather than the same people more often) and in actually speeding up the determination of any subsequent planning application.
10. Of the other (non pre-application community engagement) issues raised, several people mentioned the need to widen the types of people getting involved; one felt it was predominantly the more prosperous white home owners, with little involvement of, for example, young people, community groups and gypsies. Several respondents mentioned the importance of feedback on comments made, whilst concerns were also raised that the new system is so complex it may discourage public debate.
11. A statement setting out a summary of all of the comments received and the Council's proposed responses, as required for submission to Government with the SCI, is set out at **Appendix 1**. The consequent proposed changes to the SCI are listed in **Appendix 2**.
12. *Other Considerations:* As mentioned in the report to Cabinet in January on the Council's first Local Development Scheme (LDS), since the draft SCI was prepared, the relevant Act provisions and associated regulations have come into force, accompanied by the Government's new Planning Policy Statement 12: Local Development Frameworks and a companion guide 'Creating Local Development Frameworks'. As regards the content and preparation of the SCI, there is little new that has not been trailed in earlier drafts, though the latter does include a suggested framework for ensuring that pre-application community engagement is proportionate to the type and scale of development proposed (see paragraph 13 below).

## Analysis

13. *Pre-application Community Engagement*: the SCI must set out clearly the Council's policy for consulting on planning applications. Whilst there is no obligation to include guidelines on pre-application community engagement on 'significant' proposals, there is strong encouragement from the Government to do so; it fits in with one of its six key principles for community involvement in planning, that of 'front loading' involvement, so that communities can have more input into schemes and better applications result. It is also an element that other Tees Valley Authorities (Middlesbrough and Redcar & Cleveland Councils) and neighbouring Hambleton District Council have included in their draft SCIs. The thresholds for identifying 'significant' developments proposed in the Darlington SCI are the same as those proposed by these other authorities, and are already well established in development control and in Government statistical reporting. In contrast, to revise the thresholds either upwards (as several developers would like) or downwards (as some residents and local interest groups would like) would be to introduce more readily challenged arbitrary thresholds. Furthermore, it would put the Council's expectations in this area out of step with neighbouring local authorities. This may make it more difficult to persuade developers to comply, and if set more stringently than others', may discourage potential investment to the Borough.
14. Consideration has also been given to adopting a three-tier approach, as set out as an example in the Companion Guide to PPS12. However, it is felt that this approach adds complexity and reduced flexibility in tailoring the nature and extent of pre-application consultations on a case-by-case basis.
15. It is therefore proposed to retain the thresholds set out in the draft SCI, but with the addition of clauses to allow planning officers to use their discretion
  - (a) to request that pre-application community engagement be carried out on proposals below the stated thresholds where the type of development and/or the sensitivity of the location means it is likely to generate particular interest
  - (b) to agree with developers, a consultation plan that is proportionate and appropriate to the nature of the development proposed, to avoid unnecessary costs to the developer.
16. *Other consultation responses*: a number of useful suggestions about what to include in the document were also received, and wherever possible and appropriate, changes are proposed to the SCI to reflect the suggestions made by respondents. For example, the Environment Agency asked that more detail be given on the community involvement that will take place around the sustainability appraisal of plan documents; a new diagram illustrating this is included in Chapter 2. Elsewhere, it was suggested that any meetings arranged should be at times when the affected community can visit and that venues should be accessible; both these points have been addressed by adding these aspects to the stated Guiding Principles for community involvement.

## Outcome of Consultation

17. A report on the consultations carried out on the draft SCI and the proposed changes to it was considered by the Environment Scrutiny Committee at a special meeting on 17 February. That Committee also considered the responses to a reconsultation on the guidelines for pre-application community engagement.
18. Twenty-three responses were received to this reconsultation, of which only five indicated that the proposed changes would not satisfy them. Concerns expressed included that the proposed guidelines may halt development in Darlington, that the consultations would be a waste of money, that the sanctions on developers not complying with the guidelines are too weak and that the threshold for residential development should be set much higher. A full schedule of the comments received and the recommended Council response to these is set out in **Appendix 3** to this report.
19. Members of the Environment Scrutiny Committee sought, in relation to the recommended Council responses to comments and changes to the draft SCI suggested by officers in Appendices 1 and 2 to the report to the 17 February meeting:
  - (i) amendment to the officer comment in response to comment made by Inspector Unsworth (Appendix 1, page 8) regarding high levels of consultation fatigue amongst those consulted;
  - (ii) clarification in the SCI of the role of Members at pre-application stage;
  - (iii) clarity about whether the pre-application community engagement guidelines would apply in instances where the thresholds or 'sensitivity' thresholds were crossed as a result of the incremental or cumulative effect of developments.
20. In relation to (i) the following rewording clarifies the recommended response: "Agree, but care should be taken to avoid 'consultation fatigue' on matters where little interest is shown. Consultations should be when a real opportunity to influence plans is available."
21. In relation to (ii) the Members Code of Conduct indicates that the restrictions on activities apply only to those members who are involved in the determination of planning matters. The extent of Members' activities at pre-application stage therefore depends on whether they are so involved or not, in the same way as currently applies to applications that have been submitted.
22. This can be clarified in the SCI by replacing the existing sentence in Chapter 4 about the Members' Code of Conduct under the existing heading 'What Role Will Elected Councillors Have?' with "You should be aware that prior to a decision being made on a planning application, the activities of Councillors who are involved in the determination of planning matters, e.g. serve on Planning Applications Committee, are strictly limited by the Council's Members Code of Conduct."
23. In relation to (iii) the alteration of an existing phrase on p10, below point d. of the draft revised SCI, would be appropriate. It would read "There may also be proposed developments below those thresholds that are regarded as 'significant' and warranting pre-application community engagement, because of the sensitivity of the type of development, its proposed location or its sensitivity, given the potential cumulative effect of the proposal, when taken with other approved or proposed developments".

24. For simplicity these recommended changes outlined in paras 20-23 have been incorporated in Appendices 1 and 2 of this report.
25. The revised SCI proposed to be submitted to the Government for Independent Examination (subject to editorial changes to simplify the language – see paragraph 20 below), is attached at **Appendix 4**. This also incorporates the changes outlined in paras 20-23.

### **Next Steps**

26. *Plain English:* To address concerns about the complexity of the draft SCI, it is proposed that before it is submitted to the Government, the SCI is sent to the Plain English Campaign (PEC) for editing, and the award of Crystal Mark status. The Crystal Mark is the only internationally recognised mark of document clarity, and whilst the editing process may change the wording of the document, revisions will not be incorporated if they alter the sense.
27. By securing its first Crystal Mark for this document, the Council would be demonstrating that it is making particular efforts to reach as wide a range of people as possible about planning matters, and it would mark a step change from previous approaches to producing documents for community involvement. The PEC's editing service has already been used successfully by the Council's Community Services Department, in the preparation of their document, "Changing Practice - A compact between the Voluntary, Community and Public Sectors in Darlington".
28. *Public Consultations:* At the same time as the SCI is submitted to the Government, the Council must publish a notice and invite representations within a specified period of 6 weeks. An Independent Inspector will then consider all the representations received after submission, hear any objectors that wish to be heard at a Public Examination, and assess the 'soundness' of the SCI. This is expected to take place over the summer with the Inspector publishing his binding report in the autumn. It is anticipated that the Council will be in a position to adopt the SCI in November 2005. However, the timing of the Inspectorate's involvement is subject to change, depending on the outcome of discussions with them on a Service Level Agreement for the processing of all the Local Development Framework documents.
29. *Responding to Representations:* The Planning Inspectorate has indicated that it expects local authorities to submit a summary of the main issues raised in representations within 2 weeks of the close of the 6 week consultation period (or as agreed by the Council with PINS through its Public Service Agreement). Also in this period, the Council must consider whether it wishes to propose any further changes, though there is strongly worded Government advice that these (if any) should be limited to minor wording changes only.
30. Because of the limited timescale available to deal with representations, it is recommended that the Director, in consultation with the Portfolio holder, be given delegated powers to consider the representations and decide if any further changes to the SCI are needed.

## **Legal Implications**

31. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

## **Section 17 of the Crime and Disorder Act 1998**

32. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

## **Council Policy Framework**

33. Some of the issues contained within this report do represent change to the Council's policy framework, and agreement of the SCI therefore needs to be referred to Council.

## **Decision Deadline**

34. For the purpose of the 'call-in' procedure this does not represent an urgent matter.

## **Key Decisions**

35. In accordance with the Council's constitution, this is classed as a Key Decision as it affects two or more wards within the Borough.

## **Recommendation**

36. It is recommended that :-
37. The suggested responses to comments made during consultations, set out in Appendices 2 and 4 of this report, be recommended to Council as its response.
38. Cabinet recommend to Council that the Statement of Community Involvement, as attached to this report, be agreed for submission to the Government, following completion of 'plain English' editing.
39. Cabinet recommend to Council that delegated powers be conferred on the Director of Development and Environment, in consultation with the Regeneration and Planning Portfolio Holder, to agree the Council's response to representations on the submitted SCI, including making changes to it, where necessary, prior to its Independent Examination.

## **Reasons**

40. The recommendations are supported by the following reasons :-

- (a) An adopted SCI is required under Government regulations.
- (b) The SCI will provide clarity to all about the community engagement that will take place in the production of the Local Development Framework.
- (c) The Council's prompt response to representations made on the submitted SCI is required by the Planning Inspectorate.

**John Buxton**  
**Director of Development and Environment**

## **Background Papers**

None other than those referred to in this report

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