



meeting

**COUNTY COUNCIL**

date

**18 MAY 2006**

agenda item number

REPORT OF THE CABINET MEMBER FOR ENVIRONMENT AND  
SUSTAINABILITY

**THE MINERALS AND WASTE DEVELOPMENT FRAMEWORK  
STATEMENT OF COMMUNITY INVOLVEMENT - SUBMISSION DRAFT**

**Purpose of Report**

1. To present to County Council the Submission Draft Statement of Community Involvement. Members are requested to discuss and consider the document and, if satisfied, approve it. Such approval would enable this document to be submitted to Government and be published to allow a statutory six-week period of public consultation and an independent examination.

**Background**

2. As a requirement of the Planning and Compulsory Purchase Act 2004, the County Council must prepare a Statement of Community Involvement (SCI) setting out how the Council will consult and involve the local community and other interested bodies and organisations when carrying out its planning functions. These are:
  - preparing new development plans and other documents that will make up the Minerals and Waste Development Framework; and
  - determining planning applications for minerals and waste development and the County Council's own development such as schools and roads.
3. Public consultation has always been an important part of planning and the County Council's methods and approaches have been improved and developed over time in line with good practice. However, the new planning system means that all planning authorities must now reassess how they consult and involve communities in order to meet new standards and expectations. Once adopted, the SCI will form part of the Minerals and Waste Development Framework and the County Council must adhere to it when carrying out all of its planning functions.

## **Preparation of the SCI - Stages Completed to Date**

4. The SCI has to go through one informal and two formal stages of public consultation and an independent examination, before it can be adopted. The informal and first formal consultation stages have now been completed. This report seeks approval to carry out the third and final consultation stage which will be on the draft submitted to the Secretary of State for an independent examination, a copy of which is **attached** as Appendix 1 to Members' reports only and will also be available on the County Council's website from 11 May 2006 (via the County Council Diary).
5. The first informal consultation stage, which looked at key issues, took place in early 2005. The response to this exercise helped prepare a full 'Pre-Submission Draft' SCI which was approved by Cabinet on 9 November 2005. That draft was then subject to the first formal consultation exercise which ended in February 2006.
6. The remainder of this report considers the response to the Pre-Submission Draft and the changes that are proposed before the draft SCI is submitted to the Secretary of State. The report also explains what remaining stages the SCI has to go through before it can be adopted including the role of the independent examination and the new 'tests of soundness'.

## **Response to the Pre-Submission Draft SCI**

7. A total of 635 representations were made by 80 organisations and individuals. These representations comprised 555 objections and 80 statements of support. A few responses also provided information and general comments such as explaining their role in consultation. The representation numbers were swelled by a large response from various local action and other groups and individuals mainly in the Ashfield and Mansfield areas. This appeared to be driven by concerns over possible future waste management proposals in these areas and how such proposals would be subject to community involvement before decisions were made.

## **Early and Late Representations**

8. A few representations were received a few days after the deadline. These have been accepted on the basis that to reject them at this stage could be counter-productive. A few representations were also received before the 6 week consultation period commenced on 6 January. (A quirk of the system is that it is possible to be too early as well as too late.) These representations have also been accepted.

## **Invalid Representations**

9. 31 objections had to be rejected as invalid because they concerned matters such as waste policy issues that fell beyond the scope of the SCI. All parties making such representations were advised and were given an opportunity to challenge this decision if they disagreed. No challenges have been made to date.

## **Main Issues Raised by Representations to the Pre-Submission Draft**

10. Most sections of the SCI received representations whether in support or objecting. Many objections were quite detailed or comprised qualified support seeking minor changes. None fundamentally queried the whole thrust of the SCI. The most substantial points included a wish to see much more extensive 'near neighbour consultation' with respect to development plan allocations and planning applications. A number of representations also put forward additional methods of community involvement.

## **Response to Representations to the Pre-Submission Draft**

11. The large response provided a good test of how local communities and individuals perceived and understood the SCI and what concerned them. Over 50 changes have been made to the submission Draft. Most are in direct response to concerns raised in representations whilst some are other updates and improvements to the coverage and clarity of the document. The most significant change is the addition of a new series of tables (Tables 5a-d) which, for each planning document or planning application, set out who will be consulted at what stage and what consultation and community involvement measures will normally be used. Loaning documents to people with mobility problems has also been added as a new community involvement measure.
12. Details of the County Council's proposed response to all representations are set out in a separate report, **attached** as Appendix 2 to Members' copies only and will also be available on the County Council's website from 11 May 2006 (via the County Council Diary).

## **Statement of Pre-Submission Consultation and Publicity**

13. In accordance with the regulations a Statement of pre-submission consultation and publicity has also been prepared. This is essentially a factual summary of the consultation and other publicity measures that the County Council carried out prior to the submission draft stage. A pre-publication copy has been placed in the Local Government Library, County Hall for information.

## **Role of Consultant**

14. The proposed changes have been assessed by an independent planning consultant in order to advise if the submitted SCI is likely to meet all of the 'tests of soundness' that will be a key consideration at the independent examination. (The relevance of these tests is explained in more detail below.) A number of detailed changes have been made in response to advice from the Consultant. A copy of the consultant's report has been placed in the Local Government Library, County Hall for information.

## **What Happens Next?**

15. Subject to Council approval, the Draft SCI, Statement of Response to Representation to the Pre-Submission Draft and any other relevant documentation will be submitted to the Secretary of State in accordance with the

regulations. They will then be subject to an independent examination by a Government appointed inspector. These documents will also be published to allow a final statutory 6 week period of public consultation. All parties making representations and other consultees will be notified. Any representations made at this stage will have the right to be considered at the independent examination.

### **The Independent Examination and ‘Tests of Soundness’**

16. The independent examination replaces the Public Inquiry stage under the previous planning system. A key difference is that the independent examination considers the whole document, not just objections to it as was the case at a Public Inquiry. If there are no objections there will still be an independent examination. The Government anticipates that the independent examination for an SCI will be dealt with by written representations only, although all parties have the right to be heard in person if they so wish. The other key change is that the Inspector's recommendations are binding. There will be no modifications stage as such and the SCI will proceed straight to adoption following approval by Members to implement the Inspector's recommendations. The County Council's right to dispute the Inspector's recommendations would have to be pursued via a legal challenge.
17. The Planning Inspector will assess whether or not the document is ‘sound’ i.e. fit for purpose. For the SCI there are nine ‘tests of soundness’ to consider. These include procedural matters (e.g. have the correct consultation measures been carried out?), links to the County Council's other community involvement initiatives, suitability of community involvement measures proposed, feedback and review mechanisms. To assist with this process all parties making representations at the submission draft stage are advised to focus on these tests in support of any representations they wish to make. The representation form will explain this new approach.

### **Dealing with Late or Other Representations on the Submission Draft Which Are Not Duly Made**

18. In line with established practice and Government guidance the intention is not to accept representations which are late or otherwise not duly made. The importance of meeting the statutory deadline will be stressed on the representation form and consultation letters. To do otherwise risks delaying the independent examination and is ultimately unfair to those parties who have responded correctly and on time. Where representations are not accepted the party making them will be notified and advised of the reasons and given two weeks to respond if the reasons given are disputed. This approach should minimise the risk of subsequent complaints and potential legal challenges on the grounds of unfair treatment. Planning Authorities do nevertheless have discretion and there may be exceptional circumstances where this should be exercised. Where officers believe this to be the case it is recommended that such exceptions are agreed with the Director of Environment.

## **Timetable**

19. The timetable for the preparation of the SCI to adoption is detailed in the County Council's Minerals and Waste Development Scheme. This is currently being updated and, following approval by Cabinet on 7 June, a new scheme is expected to be brought into effect on 20 June. This indicates that the independent examination is scheduled to commence in October 2006. Adoption of the SCI is timetabled for January 2007.

## **Service Diversity Review**

20. A corporate Equality Impact Assessment (EIA) was carried out when the Pre-Submission Draft went before Cabinet last November. This indicated that the SCI would have a positive differential impact on disability, race and age. This was not unexpected as an important aspect of the SCI is to try to involve hard to reach groups where special community involvement measures are required. Changes made to the submission draft include a greater emphasis and new references to these issues which should help improve the scope of public consultation on the County Council's planning functions.
21. The SCI will be subject to the County Council's new Service Diversity Review procedure, the successor to the EIA. The intention is to carry out this review after the next public consultation stage has been completed. The results can then form part of the evidence submitted by the County Council to the independent examination and any relevant issues raised by any representations can also be taken into account.

## **Key Decision**

22. This report leads to a Key Decision as there would be a significant effect on communities in two or more electoral divisions in the County Council area. Notice of intention to make the decision was published in the County Council's Forward Plan on 9 January 2006.

## **RECOMMENDATION**

23. It is RECOMMENDED that the County Council:
  - (a) approve the publication of the Submission Draft Statement of Community Involvement;
  - (b) approve the Response to Representations to the Pre-Submission Draft;
  - (c) allow the Director of Environment to make any detailed editing changes to the above documents prior to formal publication;
  - (d) approve the publication of all statutory notices to allow the public consultation exercise to be carried out;
  - (e) allow the Director of Environment to exercise discretion in accepting late or any other representations to the submission draft that are not duly

made, subject to such discretion being exercised only where exceptional circumstances apply.

COUNCILLOR STELLA SMEDLEY  
Cabinet Member for Environment and Sustainability

### **Legal Services' Comments**

County Council is authorised to take the decision set out in the report. [SHB 4.5.06]

### **Director of Resources' Financial Comments**

Whilst there are no direct financial implications arising, any subsequent costs would need to be contained within existing budgets. [DJK 8.5.06]

### **Background Papers**

Statement of Pre-Submission Consultation and Publicity  
Ben Hunt Planning Ltd – advice on Statement of Response  
File of representations to Pre-Submission Draft.

### **Electoral Division(s) Affected**

All.

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25 April 2006 (2.5.06)