

**Draft Statement of Community Involvement**

**November 2020**

**Consultation response**

**from CPRE Shropshire Branch**

**January 2021**

1. **Introduction**
	1. CPRE Shropshire welcomes the opportunity to comment on the Draft Statement of Community Involvement (DSCI) for Shropshire which is out for consultation for 12 weeks from 9 November 2020 to 1 February 2021.
	2. The DSCI was first published for the Cabinet meeting on 7 September 2020 and was released for consultation in an unchanged form (subject to a change of date on the front cover) on 9 November 2020.
	3. It is disappointing, and perhaps an indication of the pressure on the staff tasked with the preparation of the document, that both versions of the DSCI contained a large number of proof-reading errors, including references to outdated legislation. This gives a poor impression of the quality control procedures within Shropshire Council. We are submitting separately a “Track Changes” version of a Word document derived from the published pdf document, which gives an indication of the proof-reading corrections that should have been made prior to either stage of publication.
	4. We emphasise that this “Track Changes” document deals only with proof-reading corrections in the original DSCI as published for consultation. It does not include any of the other further changes that we are suggesting below also be made to the DSCI.
	5. The statutory requirement is that Shropshire Council has an up-to-date and adopted Statement of Community Involvement. The existing SCI was adopted as long ago as March 2011. It is debatable whether the current Regulation 19 consultation on the Local Plan is truly valid without an up-to-date and adopted SCI being in place first.
2. **Consultation principles**
	1. The DSCI deals with how Shropshire Council consults its public. CPRE Shropshire responds frequently to such consultations. We have responded at length to the series of consultations on the Local Plan Review and to other policy consultations, and we review planning applications on a weekly basis and respond as appropriate. Our comments below are largely derived from our experience of such consultations.
	2. In regard to consultation issues we have frequently referred to the Gunning principles of consultation as below:

The Gunning principles are that:

1. Consultation must take place when the proposal is still at a formative stage
2. Sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response
3. Adequate time must be given for consideration and response
4. The product of consultation must be conscientiously taken into account
	1. We suggest that these principles should be incorporated into the DSCI, with a statement that Shropshire Council will abide by them.
	2. There is also the Government’s own *Code of Practice on Consultation*, published in 2008 (see [Layout 1 (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/100807/file47158.pdf)). Although this refers to Government consultations there seems no reason why its seven consultation criteria should not also be adopted at the local government level. These criteria are:

Criterion 1: *When to consult*: Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2: *Duration of consultation exercises*: Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3: *Clarity of scope and impact:* Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4: *Accessibility of consultation exercises*: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5: *The burden of consultation:* Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees’ buy-in to the process is to be obtained.

Criterion 6: *Responsiveness of consultation exercises*: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7: *Capacity to consult:* Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The Code of Practice states that these criteria should be reproduced in consultation documents.

* 1. We suggest that the above Criteria should therefore also be incorporated into the DSCI, again with a statement that Shropshire Council will abide by them.
	2. Some frequently recurring themes in relation to consultation principles are:

***Notification***

* 1. There are still significant numbers of people who do not engage easily with electronic communication, and/or who are not internet-savvy, and/or who are not aware that a consultation is happening, even though they might well be affected by the outcome. Shropshire Council should not rely wholly on electronic forms of communication but must also continue to engage with its public by traditional means. This is particularly so when decent broadband and mobile coverage is still patchy in all too many parts of the county.

***Adequate time***

* 1. The periods allowed for consultation have varied considerably, without any reason being stated for how these variable lengths of consultation have been determined. For instance, the time given for the consultation on this DSCI is 12 weeks, for a 27 page document. In stark contrast, the time given for the Regulation 19 consultation on the Draft Local Plan is only 7 weeks, over the Christmas holidays, during a national Covid-19 lockdown, for a 359 page document backed up by over 16,000 pages of evidence documents, about 2,600 of which were new for this latest stage of the consultation process. This Regulation 19 consultation is therefore disproportionately short.
	2. The Council should set out some principles determining how long a consultation should be, in proportion to what is required *“for intelligent consideration and response”* of *“the reasons put forward for the proposal”.* However, in the majority of cases involving policy, we suggest that the Council should adopt Criterion 2 above so that consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible. As noted, that is, in fact, the sensibly adopted duration of this present consultation on the DSCI, which is in stark contrast to the disproportionately short period allowed for the Regulation 19 consultation.

***Sufficient reasons***

* 1. The ‘sufficient reasons’ referred to in the Gunning Principles will include an Evidence Base where one is put forward to support a consultation, as it has been at each of the six consultation stages of the LPR.
	2. Where Key Evidence documents are listed within the consultation document then they must be made available, with a similar title, in the Evidence Base. This has not been the case at the last two stages of consultation on the Draft Plan, which partially invalidates the consultation process. Considerable time can be lost by consultees in a paper chase, looking for missing documents and frequently checking the Evidence Base to see if they have yet appeared.
	3. It would be better if the Council did not launch a consultation without first ensuring (1) that all stated Evidence (i.e. the “sufficient reasons”) are actually available and (2) that the Evidence Base is easily accessible, logically ordered, and does not involve a ‘paper chase’.

***Conscientiously taking responses into account***

* 1. During the Local Plan Review process we ‘debated’ with officers whether they had actually taken due note of what was said in responses.
	2. For instance, at the Issues and Options stage of the LPR, in early 2017, the consultation document appeared to offer a choice of three levels of housing growth (question 4 in the survey questionnaire). Analysis of responses indicated that 88% of members of the public, 74% of Town and Parish Councils and 51% of all respondents preferred the lowest option (‘Moderate Growth’). Only 36% of all respondents preferred the highest option (‘High Growth’), of which 88% of landowners, developers and agents preferred that highest option.
	3. Nevertheless, the Council’s preference at the next stage of consultation was for the highest (‘High Growth’) option. In its consultation response summary officers stated, in apparent justification for this stance, that “*whilst there was a slight preference for the ‘moderate’ growth option, there was also a good level of support for ‘high’ levels of housing growth”*.
	4. In subsequent exchanges between us, officers’ justification for the ‘High Growth’ preference was that (1) a consultation is not a referendum, (2) responses to consultations do not stand alone, but that headline preferences expressed by a proportion of respondents are weighed both against (3) specific comments made, and (4) against existing and emerging evidence. They also effectively said that they knew what was best for most people, that what they were really looking for was good arguments, and that if we disagreed we could argue the case in front of an Inspector.
	5. We, on the other hand, continue to maintain that if consultees are offered a direct choice between multiple options in a consultation, as they were in Question 4 of the Issues and Strategic Options consultation, then the Council should not simply over-rule the results of the resulting poll.
	6. Where such multiple options are offered in a consultation it should be made clear within that consultation whether or not Shropshire Council will take notice of the numbers preferring each option. To do otherwise is potentially misleading. It would be even better if this policy is spelt out within a revised DSCI.
1. **The COVID-19 crisis**
	1. The current COVID-19 crisis adds further challenges for consultation. In view of the fact that the current DSCI is out for consultation during this crisis, some mention should be made within the DSCI of the amendments to the legislation connected with consultation that have been enacted to take account of the crisis.
	2. One of the above-mentioned Gunning principles of public consultation is that adequate time must be given for consideration and response. The fact that both this DSCI consultation and the Regulation 19 consultation on the Draft Plan are taking place during a full national lockdown that will not end until after both consultations are over casts doubt on whether such adequate time has been given. Despite the amendments to legislation, it remains the case that the lockdown places restrictions, and often increased commitments, on people as well as restricting the ability to view physical documents. Both of these limitations restrict the ability to engage as normal with the consultation process.
2. **The online survey**
	1. We have not completed the actual online survey (1) because of the extensive nature of our response, (2) in order to keep and disseminate a copy of this response and (3) in order that our responses are not judged solely by which button we click on a computer survey. However, we reproduce below the online survey questions and our responses to them.
	2. We believe that there is enough information in our response to give you the information you seek in the *“About you”* section of the online survey, most of the questions in which are not in any case relevant to us as an organisation.

**Section 1: Introduction and background**

Q1 Do you agree that Shropshire Council should maintain an up to date Statement of Community Involvement that reflects National Planning Policy?

*Options: Yes; No; If no, please state why.*

* 1. Yes, we do agree, but Shropshire Council has failed to do this. Page 4 of the DSCI states that *“This Statement of Community Involvement (SCI), has been reviewed to link in with the review of the Local Plan”*. The DSCI should have been updated long ago and it is perplexing that the Council is publishing such an update right at the end of the series of consultations on the Local Plan Review, and for a period that is largely coterminous with the Regulation 19 consultation on that Draft Local Plan. The Council had a statutory duty to update the SCI well before then, which it failed to discharge.

**Section 2: Statement of Community Involvement and Local Planning**

Q2 Do you agree that the SCI has considered all of the relevant legislation and regulations?

*Options: Yes; No; If no, please state which other legislation and regulations should be considered in our SCI*

* 1. Yes, we do agree but, again, Shropshire Council has failed to implement fully what is set out in Section 2. At paragraph 2.6 it has failed to provide the required annual updates of the Authority Monitoring Report (AMR), the last version of which on the website is currently that for the year 2016/17. The absence of up-to-date AMRs will, in some consultations, limit the ability to refer to up to date information. At paragraph 2.7, the Local Development Scheme has also been out of date for long periods during the series of consultations on the Draft Plan.

**Section 3: Community Involvement in the Planning Policy Process – Guiding principles**

Q3 Do you agree with these guiding principles for consultation and the methods Shropshire Council will use?

*Options: Yes; No; If no, please provide more details*

* 1. Yes, we do agree with the guiding principles, although, as stated above, the Gunning principles of consultation and the seven Criteria from the Government’s own *Code of Practice on Consultation* should be explicitly set out within the DSCI and this section would be the best place for that.
	2. We also support the thrust of Shropshire Council’s methods, although some detail could be amended, as follows:
* Paragraph 3.3, second bullet point (in the middle of page 9): The General Public should not be restricted to just the elements of it as stated here. All members of the general public could potentially be affected by planning policy documents.
* Paragraph 3.3, second bullet point (at the bottom of page 9): The stated aim is to *“Provide sufficient information to enable an effective response to any consultation”*. As noted above, not all relevant and sufficient information has currently been provided for the current Regulation 19 consultation on the Draft Plan. Consultations should not begin until all stated Key Evidence is available.
* Paragraph 3.3, fifth bullet point (at the bottom of page 9): The stated aim is *“all comments will be made publicly available and the council will report on all consultation stages”*. The DSCI should spell out in more detail what form the report will take. Such a report should make plain how the Council has taken consultation responses into account in any documents influenced by the consultation. For instance, the *“Summary of Responses to the Consultation on the Regulation 18: Pre-Submission Draft of the Shropshire Local Plan (Published: December 2020)”* lists the responses from the 2,507 numbered respondents in meticulous detail, which is in accordance with the first aim that “*all comments will be made publicly available”.* However, it does not contain any report to indicate how these comments have been taken into account in moving to the Regulation 19 stage. The Council should expand this aim to include reference to such a report providing “clear feedback” on what aspects of consultation responses it has taken on board, in line with Criterion 6 above.
* Paragraph 3.3, sixth bullet point (at the bottom of page 9): The stated aim is to *“hold consultation events at appropriate locations in the borough”*. Firstly, “the borough” should presumably be replaced with “the county”; this version of the DSCI is presumably derived from a version used within one of the pre-unitary Shropshire District Councils. Secondly, some reference should be made to the restricted Covid-19 arrangements, which preclude any such consultation events, and also restrict or ban people’s ability to view physical documents in libraries etc.
	1. Page 10 of the DSCI moves from paragraph 3.3 directly to paragraph 3.8, with no intervening paragraphs 3.4 to 3.7. The bullet point at the top of page 10 puts an onus on Town and Parish Councils to cascade news of consultation events to the wider local communities. This is not always possible for smaller Councils, which have very limited resources, often restricted to a part-time and overworked parish clerk, and which sometimes do not meet at regular enough intervals to effectively organise such publicity.

**Section 4: How Shropshire Council will consult the Community for Plan making and decision taking on planning applications**

Q4 Do you agree with these consultation methods and timescales?

*Options: Yes; No; If no, please comment on the areas of consultation not covered by the SCI or whether different areas of the Planning process need to be consulted on differently*

* 1. No, we do not agree with the timescales shown in the tables under paragraphs 4.1, 4.2 and 4.3. As indicated above, the Council should adopt the recommendation in the Government’s *Code of Practice on Consultation,* Criterion 2 and state that consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
	2. The present proposal within the DSCI for consultation periods that are for a *“Minimum of 6 weeks (excluding Bank Holidays)”* can be particularly disadvantageous to some Parish Councils which do not meet often enough to be able to give due formal consideration to a consultation within that short time frame.
	3. Consultations should also, as far as possible, avoid holiday periods, particularly during the summer holiday period and over Christmas/New Year when Council offices are closed. Most people will have restricted time to attend to consultations at those times and many Parish Councils do not hold meetings in August or December. If consultations do straddle a holiday period they should be extended in length by at least a fortnight.
	4. We do not agree with the proposal at the foot of page 17 that planning applications should be notified using only site notices or press notices. As well as that provision, neighbour notifications should continue to be sent out as they are presently. It is unreasonable to expect everybody to patrol the streets, lanes, gates and lampposts on a weekly or daily basis looking for site notices in case there should be a nearby application that might affect them. If a planning application is occurring next to them, it seems reasonable to expect that they should continue to receive direct notification from the Council. It is surprising that there was no consultation question asking specifically whether respondents thought the current neighbour notification procedure should be dropped. The only apparent reference to this proposed change seems to be within the Cabinet report dated 7 September 2020, under the heading *“Proposed revisions to the SCI”*. It would have been helpful to respondents if this summary of proposed revisions had also been included in the Get Involved page, as well as a link to the current 43 page 2011 SCI. As it is, respondents have been given no clear way of telling what important provisions in the 2011 SCI have been changed in the current DSCI.
	5. The second paragraph at the top of page 18 suggests that press notices will be issued only for major applications and significant departures from the Development Plan although, four paragraphs further on, unspecified notifications for other types of application are also mentioned. Press notices should continue to be issued for the same range of applications as at present and those should also be specified in that second paragraph at the top of page 18. We monitor planning applications and the press notices on a weekly basis, and we have noticed that relevant planning applications often do not appear in the press notices for some time after validation. Anything that could be done internally to help to capture them in those press notices as soon as possible would be welcome.
	6. Paragraph 4.9 should be expanded to make it clear that, although Parish and Town Councils can indeed trigger a committee referral request, that request is only likely to be implemented under certain limited circumstances, as set out in the Council’s Scheme of Delegation for determining planning applications.
	7. Our understanding on this score is that such applications will only go to committee where the Parish Council (1) puts up material planning reasons contrary to the officer’s view, (2) the Officers in consultation with the committee chairman or vice chairman and the Local Member agree they are material, and (3) those contrary reasons cannot be overcome by conditions or negotiation. Furthermore, the internal procedure re Parish and Town Council involvement is that a final officer recommendation is made (with report written) and if this is contrary to the Parish or Town Council’s comments, then the views of the local member are sought as to whether the decision should remain delegated or be put forward for committee determination. Only then, will the chair and vice chair be made aware of the proposal.
	8. This should be spelt out in the DSCI, rather than giving the false impression that it is within the gift of a Parish or Town Council to obtain a committee referral.
	9. If the Council wishes to be more open, it might be a good idea to include within the DSCI some indication of the small number of planning applications that do go before planning committees.

**Section 5: Local Consultee Database**

Q5 Do you agree with the policies Shropshire Council will follow in managing its consultee database?

*Options: Yes; No; If no, please comment on what other factors we need to consider as part of this section of the SCI?*

* 1. The Council’s planning policy database is presumably continually updated as and when the team becomes aware of any new contacts who have an interest in the planning process. It is a perennial problem that many people simply are not aware of important consultations that could affect them. Is it possible to make use of other databases available to the Council, in order also to notify greater numbers of other harder-to-reach contacts?

**Section 6: Resources and monitoring**

Q6 Do you agree with the principle of enhancing electronic communications as part of the planning process?

*Options: Yes; No; If no please give details of what other factors we need to consider*

* 1. Yes and No! For frequent users of the system like ourselves and our members it is hugely helpful to have all information available electronically, as long as it is presented in an easily accessible way. Generally, the Council’s systems are very good in this respect and certainly are much more user friendly and complete than the planning websites for the neighbouring local authorities of Telford & Wrekin Council and Powys County Council. Sometimes, however, it can be a bit of a paper chase finding relevant documents. In this respect, it is disappointing that the internal search facility on the Council’s home page is abysmal at finding things. It is usually more productive to use a Google search, which often locates documents on the Council’s website much more effectively.
	2. However, as stated above at paragraph 2.7 there are still significant numbers of people who do not engage easily with electronic communication, and/or who are not internet-savvy, and/or who are not aware that a consultation is happening, even though they might well be affected by the outcome. Shropshire Council should not rely wholly on electronic forms of communication but must also continue to engage with its public by traditional means. This is particularly so when decent broadband and mobile coverage is still patchy in all too many parts of the county and will remain so until there is universal fast broadband cover throughout Shropshire. Even then, there will still be significant numbers of people, particularly within Shropshire’s ageing population, who would not engage with the internet and who would still prefer traditional means of communication. These harder-to-reach people should not be disenfranchised just because it is easier, cheaper and less resource-intensive to adopt wholly electronic communications.

Q7 Do you agree with the level of monitoring proposed in the SCI and the possible revisions that may be required in the SCI

*Options: Yes, No, If no, what other areas of monitoring of the SCI do we need to consider*

* 1. Yes, we agree that the SCI’s implementation should be monitored, particularly to include better ways of engaging with the public and of listening to them. The term “locality working” is unclear and a definition of what is meant by it could be included in the glossary.

Q8 Please make any additional comments on this consultation and the Statement of Community Involvement

1. **Summary**
	1. In summary, and in response to Question 8 above, the main points we raise above are:
2. The DSCI needs to be thoroughly proof-read.
3. The update of the DSCI should have been carried out some time ago, rather than being left to the last minute in order to tie in with the statutory requirements connected with the Regulation 19 consultation on the Draft Plan.
4. The general principles of consultation in the Gunning principles and in the seven Criteria within Government’s own *Code of Practice on Consultation* should be spelt out within the DSCI.
5. The recent Covid-19 related legislation concerning consultation arrangements should be summarised or referenced in the DSCI.
6. Consultations should be for a minimum of 12 weeks, as recommended by Government. Some Parish Councils do not meet often enough to be able to give due formal consideration to a consultation that is for only 6 weeks.
7. Consultations should, as far as possible, avoid holiday periods, or be for a significantly extended period if they do straddle a holiday period.
8. Consultation material should be mainly in electronic form but should not be wholly so; traditional methods should still be used until the County has complete fast broadband cover.
9. The Council should not rely on hard pressed Parish and Town Councils to disseminate consultation material.
10. If a direct choice between multiple options is offered in a consultation the Council should ensure that its policies reflect the results of the poll on those options.
11. Reports on consultations should explain how the Council has arrived at its conclusions from those consultations.
12. Neighbour notifications of planning applications should continue to be issued.
	1. We look forward to receiving the Council’s feedback on this submission.