

# Statement of Community Involvement (SCI)



How Malvern Hills District Council intends to consult the community on the preparation of planning policy documents and on major planning application

## Temporary Amendments due to Covid-19 Restrictions

October 2020

# Contents

## Executive Summary

### 1. Introduction

- Aim of the Statement of Community Involvement
- The Status of the Statement of Community Involvement
- Commitment to Equalities
- Consultation on the SCI Review

### 2. Consultation on Plan-making

- Introduction
- The Basics of Plan-making
- Preparation of Development Plan Documents
- Producing a Supplementary Planning Document
- Who and How

### 3. Neighbourhood Planning

### 4. Consultation on planning applications

- Introduction
- Pre - application discussions
- Giving local communities a say before applications are submitted
- Notification and consultation arrangements for applications
- <https://www.malvern hills.gov.uk/planning/commenting-on-a-planning-application>
- How your comments are dealt with
- Speaking at Committee
- Role of Councillors
- Post decision and Enforcement Matters
- Cross-boundary applications
- Consultation on Conservation matters

### 5. Feedback and further advice

- Monitoring customer satisfaction
- Queries about community involvement
- Further guidance and advice

## **6. Appendices**

1. Principles of Consultation
2. Glossary
3. Contact Details

## **Executive Summary**

By involving the whole community in the planning process Malvern Hills District Council (MHDC) can ensure that a strategy for development of the area is created that meets the aspirations of the widest possible range of people, communities, organisations and businesses.

The Statement of Community Involvement (SCI) provides a framework for future consultation and community engagement but it is intended to be a flexible approach to all future consultation.

Certain requirements for consultation on plan-making and planning applications are set out in legislation. The sections on plan making and consultation on planning applications meet the minimum requirements of national legislation as stated within the document. The document seeks to address and expand upon these provisions where appropriate and within the available resources.

**Section 1. Introduction** sets out context and legal status of this document.

**Section 2. Consultation on Plan making** provides guidance on:

- The stages of production of Development Plan Documents and Supplementary Plan Documents, including public consultation;
- Who MHDC will consult on planning policy documents in accordance with national legislation;
- MHDC's procedure for handling of representations and comments from the public, organisations and interested stakeholders; and
- MHDC's arrangements for publicity and availability of consultation documents.

### **Section 3. Neighbourhood Planning**

This section sets out how MHDC will support groups who preparing Neighbourhood Development Plans or Community Right to Build Orders and how the council will engage local communities at those stages of the process where the duty to undertake consultation falls to the Local Planning Authority.

**Section 4. Consultation on planning applications** provides information on:

- The MHDC's approach for publicity for different types of development.
- Pre-application discussions and encouragement of pre-application consultation for applications.
- How MHDC consults on and advertises planning applications, in accordance with statutory requirements.
- Consultation arrangement for cross-boundary applications.

- Consulting on conservation matters (Listed buildings, conservation areas, protected trees and important hedgerows); and
- How comments are handled.

**Section 6. Feedback and further advice** provide information on who to contact with queries and sources of further guidance and advice on planning matters.

Overall, temporary amendments have been made to the document to adapt to restrictions of movement and social contact currently in place due to the Covid-19 pandemic. Once any restrictions have been totally lifted the district council will revert to the original version of the SCI adopted in February 2018 or update if applicable.

## **1. Introduction**

**Please Note: Terms underlined in black are defined in the Glossary.**

### **Aim of the Statement of Community Involvement (SCI)**

1.1 The aim of the Statement of Community Involvement (SCI) is to act as a guide and reference point for:

- How MHDC intends to involve people in the preparation of local planning policy documents (Section 2).
- How MHDC will support neighbourhood planning activities (Section 3).
- How MHDC intends to involve people in the determination of planning applications (Section 4).
- Further guidance and advice (Section 5).

1.2 Planning shapes the places where people live and work, so it is right that they should be able to take an active part from the beginning of the plan making process. By involving the whole community in the planning process MHDC can ensure that a strategy for development of the area is created, that meets the aspirations of the widest possible range of people, communities, organisations and businesses.

1.3 The SCI provides a framework for future consultation and community engagement, but it is intended to be a flexible approach to all future consultation. Certain requirements for consultation on plan-making and planning applications are set out in legislation. The SCI seeks to address and expand upon these provisions where appropriate and within the available resources.

1.4 It is important to note that whilst MHDC will always consider any relevant comments in respect of the development of a policy document or a planning application, it will not always be possible or appropriate to decide the matter in accordance with the comments(s) received. There may be other material considerations, such as requirements of legislation, or national or local policies to which the council must adhere.

## **The Status of the Statement of Community Involvement**

1.5 The preparation of a Statement of Community Involvement is a requirement of the [Planning and Compulsory Purchase Act 2004 \(as amended\)](#). The [Localism Act 2011](#) re-emphasises the importance of enabling communities to contribute towards shaping the places where they live.

1.6 This SCI is a [Local Development Document](#) and once adopted it will become a statutory part of the council's Local Planning Policy Framework. It will supersede MHDC's previously adopted SCI (September 2014). The Neighbourhood Planning Act (2017) introduced a new requirement for SCIs to set out how the Local Planning Authority will support groups undertaking neighbourhood planning hence the need for the SCI to be updated activities

## **Commitment to Equalities**

1.7 Local authorities need to have regard to the [Public Sector Equalities Duty](#), as referred to in the [Equalities Act 2010](#), in respect of considering people with '[protected characteristics](#)' in decision making. Under the Equality Act 2010 a public authority must, in the exercise of its functions have due regard to the need to:

- a. Eliminate discrimination, harassment and victimisation.
- b. Advance equality of opportunity.
- c. Foster good relations between persons.

MHDC will ensure that its Planning Service, in terms of public consultation on emerging planning documents and planning applications, have due regard to this statutory duty and due regard to the authority's strategy on equality (see <https://www.malvern hills.gov.uk/planning/commenting-on-a-planning-application>)

The SCI has been temporarily amended to adapt to the restrictions of movement and social contact currently in place resulting from the Covid-19 pandemic. The National Planning Policy Guidance (NPPG) directs that there is no requirement for a local authority to consult when reviewing and updating its Statement of Community Involvement. In addition, given the difficulty of foreseeing any changes to the Covid-19 restrictions and possible timescales this document has not been undergone a period of public consultation. In time if more fundamental changes to the document are required the need for a period of public consultation will be reviewed.





# Plan-making

## **2. Consultation on Plan-Making**

### **Introduction**

2.1 This section provides an overview of how formal planning policy documents are prepared by MHDC and how MHDC will involve people in the preparation of these documents at each of the main preparation stages. Minimum legal requirements for consultation are set out in the [Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#). The council may exceed these requirements where it considers this would improve engagement and where resources allow, and which conform to the current protocols and rules on movement set out in Government guidance.

### **The Basics of Plan-making**

#### **What are Local Development Documents?**

2.2 Local Development Documents (LDDs) is the collective term used to describe, Development Plan Documents (DPDs) (such as the South Worcestershire Development Plan) and Supplementary Planning Documents (SPDs). Collectively the DPDs comprise the 'Local Plan' which must set out strategic policies and site allocations for the area it covers. DPDs have the statutory weight of the development plan behind them. Supplementary Planning documents explain in more detail the implementation of policies set out within the Local Plan but they cannot introduce new planning policy.

#### **National policy and the duty to co-operate**

2.3 The [National Planning Policy Framework](#) (February 2019) sets out the Government's vision for the planning system and the national planning policies that development plan documents must be consistent with. The Framework stresses the importance of a plan-led system and reiterates the role of early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses to produce a Local Plan that reflects the vision and aspirations of local communities.

2.4 The [Localism Act](#) (2011) abolished regional planning and led to the revocation of the remaining Worcestershire County-level structure plan policies. The Act includes a 'duty to co-operate' which requires planning authorities and other 'prescribed' public bodies to actively engage on cross boundary strategic matters. For example, housing, transport and flood risk can have impacts that cross administrative boundaries. The council will continue to positively address

strategic cross boundary issues in its plan making. This duty is additional to the basic legal requirements for consultation when plan making.

### **Local Development Scheme (LDS)**

2.5 The Local Development Scheme (LDS) sets out MHDC's plan making programme over a three-year period and can be viewed on MHDC's website (<https://www.malvern hills.gov.uk/planning/planning-policy>). The LDS has been prepared in cooperation with the other South Worcestershire Councils (Worcester City, Malvern Hills District Council and Wychavon District Council) to set out a three-year work plan and is updated annually. The LDS allows residents/ businesses/ stakeholders to know in advance when MHDC will be consulting on documents that may be of interest to them. It also identifies and programmes our intentions regarding updates to this Statement of Community Involvement (SCI).

### **Development Plan Documents (DPDs)**

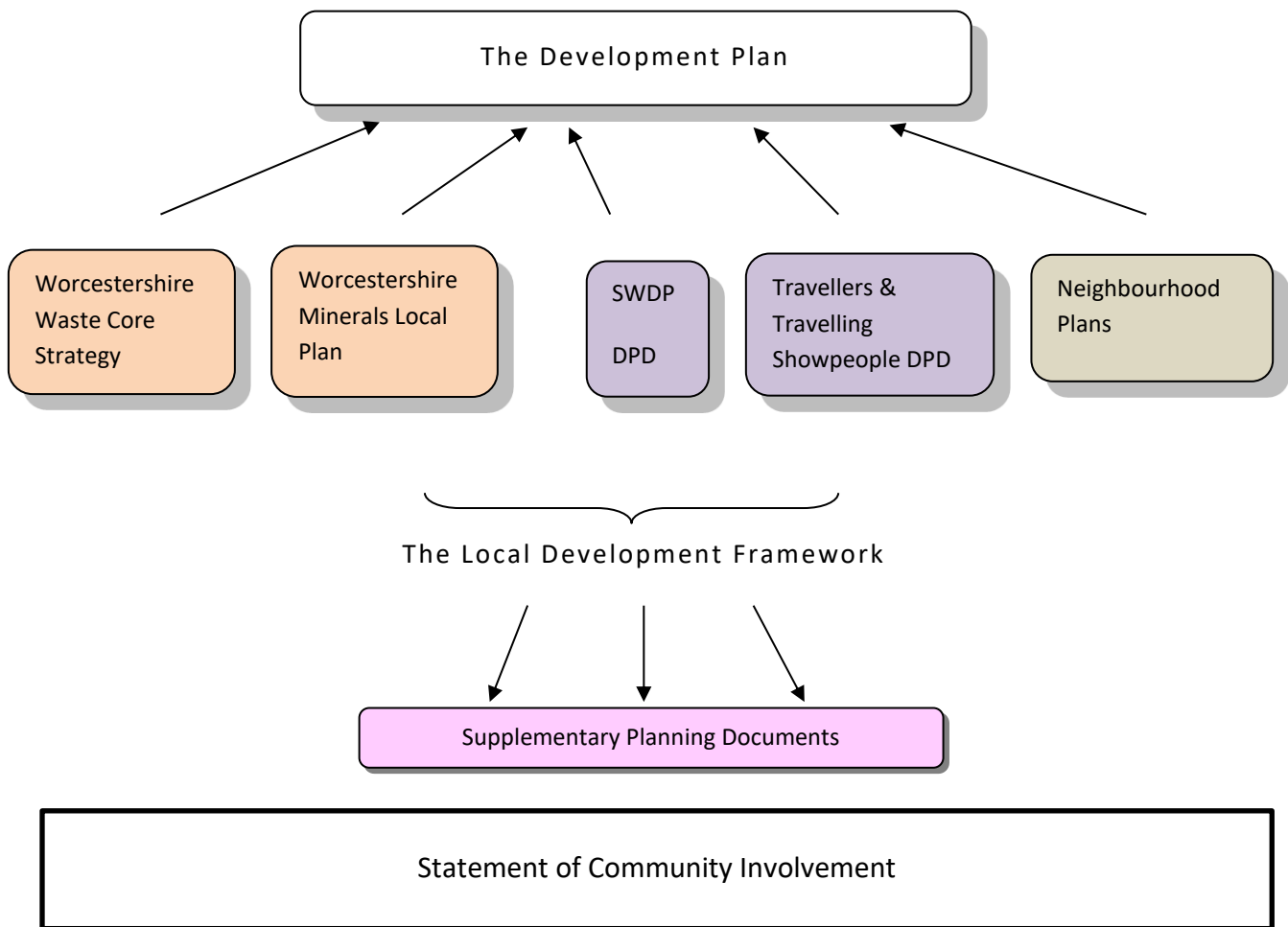
2.6 Development Plan Documents are statutory plans which, including any minerals and waste plans at county level, make up the 'development plan'. Planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The term 'Local Plan' is used to describe the DPDs produced by Local Planning Authority.

### **Supplementary Planning Documents (SPDs)**

2.7 Supplementary Planning Documents (SPDs) do not have development plan status and cannot set out new policy, rather they provide more detailed guidance and interpretation on DPD policies, for instance in relation to the development of specific sites or on particular issues such as design. SPDs can be a material consideration in planning decisions.

2.8 A list of the Supplementary Planning Documents which MHDC intends to prepare and adopt, and the timescale for doing so, is set out within the LDS. Figure 1 illustrates the relationship between DPDs and SPDs which will make up MHDC's Local Development Framework.

## 2.9 Figure 1. The Local Development Framework



### Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA)

2.10 Sustainability Appraisal (SA) seeks to assess the environmental, social and economic effects of the implementation of the proposed policies contained in policy documents or the effects of not having these policies.

2.11 All DPDs must be subject to a Sustainability Appraisal. Most DPDs and some SPDs are also subject to a Strategic Environmental Assessment (SEA), the latter normally being incorporated into the SA via a combined 'Sustainability Report'. The Sustainability Appraisal Scoping Report, which sets out the methodology for the appraisals, will be updated as necessary and be the subject of consultation with relevant stakeholders each time a DPD is prepared to ensure that it provides for an up-to-date and appropriate appraisal of the likely

impacts of the document's policies. The Sustainability Report will be published alongside the relevant DPD.

2.12 Natural England, Historic England and The Environment Agency are 'Strategic Environmental Assessment Consultation bodies' who will be specifically consulted on the requirement for and on the scope of any Strategic Environmental Assessments (SEAs).

### **Preparing a Development Plan Document**

2.13 Development Plan Documents need to follow a statutory process set out in the Town and Country Planning (Local Planning) (England) Regulations 2012, through to adoption as set out in Figure 2 below. Possible consultation methods at each stage are set out in Figure 4.

**Figure 2. Process for Producing a Development Plan Document (DPD)**

<b>Stage</b>	<b>Process and Requirements</b>
1. Preproduction	<ul style="list-style-type: none"> <li>• Collect evidence and set out wider policy framework.</li> </ul>
2. Informal consultation -  Informal and early engagement	<ul style="list-style-type: none"> <li>• Informal consultations may be carried out and the nature/extent of these will be determined by the specific requirements of evidence gathering or subject matter.</li> <li>• Consider issues and alternatives.</li> <li>• Consult on the Scope of the SA/SEA.               <ul style="list-style-type: none"> <li>• Any form of consultation would need to conform to current protocols and rules on movement and social distancing.</li> </ul> </li> </ul>
3. Consultation -  Preferred Options	<ul style="list-style-type: none"> <li>• Prepare 'preferred options' draft document.</li> <li>• Consult over six-week period in line with Regulation 18.               <ul style="list-style-type: none"> <li>• Appropriate methods to engage with people constructively will be sought. Whilst, at the same time, ensuring that current restrictions and guidelines on movement and social distancing are followed.</li> <li>• Normally public events form part of the consultation approach to the Preferred Options stage. However, these will only be held if the Covid-19 regulations permit at the time.</li> </ul> </li> <li>• Council to consider the comments made<sup>1</sup>.</li> </ul>
4. Publication -  Publish Proposed Submission Document, SEA/SA Report for final representations.	<ul style="list-style-type: none"> <li>• Statutory stage.</li> <li>• Minimum of 6 weeks is provided to make 'representations' on the plan, its sustainability appraisal and supporting evidence (Regulations 19 and 20).</li> <li>• These representations will be considered by the Inspector at the Examination.</li> </ul>
5. Examination -  Submission of Plan for Independent Examination	<ul style="list-style-type: none"> <li>• Main issues raised in the representations at Regulation 19/20 summarised and made publicly available.</li> <li>• Plan submitted to Secretary of State for Independent Examination in line with Regulation 22.</li> <li>• Independent Examination (LPA to provide 6 weeks prior notice to people who have requested to appear, Regulation 24).</li> <li>• Examination likely to involve public Hearing Sessions although this may be via remote session if Covid-19 restrictions are still being enforced.</li> <li>• Planning Inspector issues report if no main modifications required.</li> </ul>
6. Main Modifications	<ul style="list-style-type: none"> <li>• Optional Stage (20(7C) 2004 PCPA) -where the Council agrees, the Inspector can propose changes or 'main modifications' to the plan (including to add 'omission sites', i.e. additional sites put forward by objectors to the DPD) to avoid it being found 'unsound'.</li> <li>• Planning Inspector issues report.</li> </ul>
7. Adoption -	<ul style="list-style-type: none"> <li>• Plan adopted by the Council if agreed as 'sound' by Inspector (in accordance with Regulation 26).</li> </ul>

<sup>1</sup> It is important to note that any comments made at this stage will not be carried forward to the Independent Examination. If anyone is not satisfied that their comments have been properly considered, they must comment again on the Proposed Submission Document in order for their comments to be considered by the Inspector.

Publish Plan, Adoption statement, SA Report, details for inspection, Consultation Statement.	<ul style="list-style-type: none"> <li>• Committee meetings can be viewed remotely by the public and arrangements can be made for public involvement if Covid-19 restrictions prevent attendance in person of both councillors and members of the public.</li> </ul>
8. Monitor & Review	<ul style="list-style-type: none"> <li>• Monitor plan to make sure the plan is achieving its aims.</li> <li>• Plan may be reviewed where necessary.</li> </ul>

## Preparation Stages in More Detail

### Stage 1. Pre-Production

2.14 This is the evidence gathering stage where MHDC will collect the relevant social, economic and environmental data and information and review the national policy context. There may be informal meetings and discussions with consultees and identified stakeholders at this stage to consider any specific issues arising during the evidence gathering process. Any meetings of this nature would need to use methods which continue to maintain social distancing, e.g. remote teleconference, or Microsoft Team or Zoom meetings.

### Stage 2. The Informal Consultation Stage

2.15 At this stage, consultation will be informal and will vary depending on the nature of the document. This will normally involve informal meetings to discuss issues and options with relevant groups and public sector bodies. The aim of this stage is the 'front loading' of community involvement and interested parties are encouraged to put forward their ideas at the early stages and thus participate in developing the document, including raising reasonable alternatives. An issues and option document, papers or leaflet may be produced for wider consultation.

2.16 At this stage, any previous relevant consultation exercises and the comments received in respect of these will also be taken into consideration in the development of a Preferred Options Draft document.

2.17 At this stage there will also be consultation with the appropriate bodies on a Scoping Report for the Sustainability Appraisal and Strategic Environmental Assessment.

2.18 The use of appropriate methods to engage with people constructively whilst ensuring that current restrictions and guidelines on movement and social distancing will be followed at all times.

### **Stage 3. Consultation on a Preferred Options or Draft Document**

2.19 This stage will be a formal six-week consultation period on a 'Preferred Options' or draft document. Public consultation will take place, as appropriate (see Figure 3). However, temporary amendments have been made to these requirements which will ensure that the minimum standards for publicity and consultation also take account of restrictions covered by Government legislation and regulations relating to the Covid-19 pandemic. Consultation notifications will be sent to relevant consultees and all others who have requested to be notified will be advised of its availability. Meetings or exhibitions may be arranged during this period to discuss the draft document.

2.20 Consultation will take place on the Sustainability Appraisal Report and Strategic Environmental Assessment.

2.21 MHDC will consider all the comments received in response to this public consultation stage and revise the document according to the planning merits of the comments/representations made. It is important to note that any comments/representations made at this stage, or the earlier stages, are not a consideration for the Examination Inspector. If anyone is not satisfied that their comments have been taken adequately responded to, they must comment again, at the Publication Stage set out below to have their comments considered by the Inspector.

### **Stage 4. Publication of Proposed Submission Document**

2.22 The amended DPD, now called the 'Proposed Submission Document' will be published, and a formal six-week period will occur during which final representations can be made. The Sustainability Report and Consultation Statement which summarises the consultation that has been undertaken in connection with the preparation of the DPD to-date will also be published. Representations at this stage must be made in relation to Tests of Soundness (as set out in the NPPF). The nature of any consultation will conform to the guidance and regulations on movement and social distancing.

2.23 Following this period, MHDC will submit the Proposed Submission Document together with all the other relevant evidence, the representations received and a Statement of Representations to the Secretary of State for Housing, Communities and Local Government.



## **Stage 5. Examination**

2.24 All Stage 4 (publication) representations will be considered by the Independent Inspector appointed by the Secretary of State, who will conduct an Examination into the 'Soundness' of the DPD (see the [Planning Inspectorate's guide to Examinations](#)). The Inspector will consider most comments by way of written submissions and these will carry equal weight as appearances in person at an Examination.

2.25 There will normally be a Pre-Hearing Meeting at which the Inspector will set out how they will deal with duly made representations. Sometimes the Inspector will request an Exploratory Meeting to address or clarify any outstanding issues and explore how best to proceed with the Examination.

2.26 Arrangements for the independent examination to be undertaken by remote sessions may need to be considered depending on the Covid-19 guidance and regulations on movement and social distancing enforced at the time. Where necessary this will be implemented in association with the Inspector and Programme Officer.

## **Stage 6. Main Modifications (if required)**

2.27 During the Examination, the Inspector may invite the council to make a formal request to them to propose changes, known as proposed 'main modifications', to address issues of soundness or legal compliance. The council will normally consult on any such 'main modifications' for a period agreed by the Inspector. Any further representations received would then be considered by the Inspector (not the council) who may re-open the hearing sessions if they think this is necessary. Minor changes, such as typographical corrections, factual corrections, factual updates or other changes which taken together do not 'materially affect the policies' of the Plan, do not require further consultation.

## **Stage 7. Adoption**

2.28 Following the examination, MHDC will receive an Inspector's report. Should MHDC wish to adopt the Plan MHDC must follow the Inspector's recommendations and if any Main Modifications are recommended, amend the Plan accordingly. There is a short period during which MHDC can seek to clarify factual matters. Following consideration by MHDC of the Inspector's Report, the final Plan can be adopted by the MHDC, provided the Inspector has concluded the plan is sound or can be made sound with the main modifications.

2.29 A six-week period will follow for the submission to the High Court of any legal challenge to its adoption. MHDC must publish the Plan, Adoption Statement, SA Report and details of where these can be inspected, in accordance with [Regulation 26 of Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#).

### **Producing a Supplementary Planning Document (SPD)**

2.30 The process for preparing and adopting Supplementary Planning Documents (SPDs) is shorter than for DPDs as they are not subject to an examination process. Figure 3 sets out the process for preparation through to adoption in accordance with statutory process, as set out in in the [Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#). Possible consultation methods at each stage are set out in Figure 3. However, temporary amendments have been made to the requirement which will ensure that the minimum standards for publicity and consultation also take account of restrictions covered by Government legislation and regulations relating to the Covid-10 pandemic.

#### **Stage 1. Evidence gathering**

2.31 Initial consultation on SPDs will be informal and will be targeted at particular groups and individuals depending on the subject matter or location to be dealt with by the SPD. Consultation techniques (see Figure 4) will vary depending on the nature of the SPD. This informal consultation will seek to influence the scope and content of the SPD and it is likely that a scoping paper will be prepared and publicised in order to encourage input from interested parties. At this stage, any previous relevant consultation exercises and the comments received in respect of them will also be considered.

## Stage 2. Consultation

2.32 Following initial consultation in stage 1, a draft SPD will be prepared. This will then be the subject to formal public participation as required by Regulation 13. Parish and town councils, charitable and voluntary bodies who may have a particular interest in the SPD, and all others who have requested to be notified, will be advised of the availability of the document. Any methods employed must conform to the protocols and rules on movement, gatherings and social distancing that apply at the time.

**Figure 3. Preparing a Supplementary Planning Document (SPD)**

Stage	Process and Requirements
1. Evidence gathering –  Preparation and  early engagement	<ul style="list-style-type: none"> <li>• Collect evidence. Informal consultations may be carried out and the nature/extent of this will be determined by the subject matter of the document.</li> <li>• Work with relevant groups and organisations in accordance with the latest Government guidance and restrictions on movement and social distancing.</li> <li>• Consider issues and alternatives in the production of a draft SPD.</li> <li>• Screen to determine whether an SEA is required.</li> <li>• Report on the consultation undertaken is summarised within a Consultation Statement (Regulation 12).</li> </ul>
2. Consultation –  Publication of draft SPD and public participation	<ul style="list-style-type: none"> <li>• Statutory stage where a minimum of 4 weeks will be provided to comment on draft SPD and any supporting evidence, including the Consultation Statement (Regulation 13).</li> <li>• Documents made available for inspection including on the Council’s website.</li> <li>• Notifications will be sent to relevant groups and organisations and all those who have requested to be notified.</li> <li>• Parish and Town Councils will be notified.</li> <li>• Comments considered by officers and SPD amended.               <ul style="list-style-type: none"> <li>• Generally approaches to consultation on SPD do not involve face to face meetings, however in the event of this being considered necessary, e.g. for a masterplan public events will only be held if the Covid-19 regulations permit at the time.</li> </ul> </li> </ul>
3. Adopt –  Publish SPD,  Adoption Statement, Consultation Statement	<ul style="list-style-type: none"> <li>• Amended SPD and summaries of consultation responses received presented to Planning Committee for adoption under Regulation 14.               <ul style="list-style-type: none"> <li>• Committee meetings can be viewed remotely by the public and arrangements can be made for public involvement if Covid-19 restrictions prevent attendance in person of both councillors and members of the public.</li> </ul> </li> <li>• Adoption Statement produced, and relevant people notified.</li> <li>• Six-week period for legal challenge.</li> </ul>
4. Monitor	<ul style="list-style-type: none"> <li>• Final SPD is monitored, to make sure it is achieving its aims.</li> <li>• SPD may be reviewed, where necessary.</li> </ul>

2.33 The draft SPD will be made available on council's website. This publicity will offer an opportunity for individuals and organisations to contribute their views. Depending on the nature of the SPD, the consultation may be further publicised through a local exhibition or display, or meetings may be held to discuss the draft document employing methods which continue to maintain social distancing.

### **Stage 3. Adoption**

2.34 All comments received will be considered and the SPD will be amended in the light of these comments as appropriate. Following consideration by MHDC's Planning Committee and Executive Board, the final document will be adopted. MHDC will publish the final document, Adoption Statement and Consultation Statement. There will then be a six-week period for legal challenge through the High Court.

2.35 **Table1. Consultation method by document type** (\* Face to face meetings will only be concerned if the Covid-19 regulations and restrictions on gatherings permit at the time)

	Consultation letters & emails	Website	Media releases	Informal discussions with Officers	Structured response form	Formal meetings	Exhibitions & displays	Focus groups	Acknowledgement of all comments received within relevant time period (see para 3.6.10)
<b>SCI</b>									
Informal Consultation	✓	✓	Possibly	✓	✓	Possibly*	✗	✗	✓
<b>DPDs</b>									
Informal Consultation	Possibly	Possibly	Possibly	✓	Possibly	Possibly*	✗	✓	✗
Public Participation (Reg 18)	✓	✓	✓	✓	Possibly	Possibly*	✓	✗	✗
Publication for final representations (Reg 19/20)	✓	✓	Possibly	Possibly	Possibly	✗	✗	✗	✓
Main Modifications (if necessary)	Possibly	✓	Possibly	✗	Possibly	✗	✗	✗	✗
<b>SPDs</b>									
Informal Consultation	Possibly	Possibly	✗	✓	Possibly	Possibly*	✗	Possibly*	✗

Formal Public Participation (Reg 13)	✓	✓	Possibly	✓	Possibly	Possibly*	Possibly*	✗	✗
--------------------------------------	---	---	----------	---	----------	-----------	-----------	---	---

## Who and How

2.36 This section outlines who will be consulted and how MHDC will do this, and how we will accept and respond to the comments received.

### Who will be Consulted?

2.37 The minimum legal requirements for consultation and public participation for Local Development Documents are set down in the [Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#). Specified bodies must be consulted where MHDC considers that the body may be affected by what is proposed. These 'specific consultation bodies'<sup>2</sup> are defined in the Regulations as:

- Worcestershire County Council
- Parish and town councils (within or sharing a boundary with, the plan area)
- Adjoining councils (county, district, unitary and parish/town)
- The Police and Crime Commissioner
- Adjoining Police and Crime Commissioners
- The Coal Authority
- The Environment Agency
- Historic England (Historic Buildings and Monuments Commission for England)
- Marine Management Organisation
- Natural England
- Network Rail Infrastructure Limited (England)
- Relevant<sup>3</sup> telecommunications companies
- Relevant<sup>3</sup> Clinical Commissioning Group(s)
- NHS Commissioning Board
- Relevant<sup>3</sup> electricity and gas companies
- Relevant<sup>3</sup> water and sewerage companies
- Homes England

2.38 The 2012 Regulations also require consultation with other interest groups, which cover a whole range of voluntary, community, special interest, amenity

---

<sup>2</sup> Specific Consultation Bodies are set by Government and the most recent regulations should be consulted to ensure the relevant bodies are contacted.

<sup>3</sup> 'Relevant', i.e. 'if it exercises functions in any part of the local planning authority area' as defined by Part 1 of Town and Country Planning (Local Planning) (England) Regulations 2012.

and business interests, referred to as 'general consultation bodies'. MHDC maintains an up to date database of such contacts.

2.39 In addition to the above, MHDC is committed to both formal consultation and informal discussions with other local authorities and non-governmental organisations in accordance with the Duty to Corporate on an ongoing basis.

2.40 The South Worcestershire Councils (SWC) maintain a database of contact details of organisations and individuals who have requested to be kept informed of planning policy documents. This is kept up to date and can be amended at the request of an individual or organisation. The consultation database includes a large number of groups, organisations and companies and individuals.

2.41 If you want to be added to or removed from this database please contact [contact@swdpdevelopmentplan.org](mailto:contact@swdpdevelopmentplan.org) or speak to a member of the Planning Policy team by telephoning 01386 565000. Email contact details are preferred to save administration costs.

### **Access to information**

2.41 Consultation documents will be made available in electronic and hard copy format to view at MHDC Council House and public libraries (see Appendix 3) which are open, publicly accessible and where Covid-19 restrictions on social distancing and movement can be safely observed. MHDC seeks to produce its policy documents in an accessible and easy to read format; and documents for inspection, meetings and exhibitions will be held at accessible and appropriate locations. For those who do not have internet access, other formats, e.g. alternative formats are available on request. The use of social media and online technology, where appropriate, as a temporary alternative to face to face engagement through means such as online exhibitions, virtual drop in events on video platforms, e.g. via Microsoft Teams or Zoom will be considered.

2.42 Consultation notification e.g. letters and e-mails, may be accompanied by specially designed comment forms to assist people with their responses. The council's planning officers can provide guidance and assistance when required.

### **Receipt of representations**

2.43 MHDC can receive written representations and comments by email or letter through its online consultation software. At the formal stages of the process, those making representations will be encouraged to use the official forms supplied, although all written comments, however received, will be registered. Representations made by telephone will only be accepted in very



special circumstances where those commenting have difficulty using written methods of communication. MHDC encourages people to submit responses electronically as this helps us to accurately store and analyse your comments/representations. Additional hard copies of the documentation will be made available to individuals if access to buildings is limited or regarded as impractical or unsafe for the individuals concerned.

### **Dealing with your comments**

2.44 All comments/representations submitted on planning policy documents and the respondent's name and contact details will be entered on to the database maintained by the SWC<sup>4</sup>. Comments and personal details will be held securely by MHDC for seven years following the date of adoption of the planning policy document. Your details will not be passed onto third parties however, they will be used to notify you of progress with the document that you have made comments on and any subsequent planning policy consultations, if you do not wish to receive these notifications please let us know. MHDC will acknowledge e-mails, letters and petitions (via lead name) made on DPDs at the Proposed Submission stage and will set out whether the comments are duly made. MHDC will not acknowledge receipt of comments made at Issues and Options and Preferred Options stages of DPDs; or at consultation stages for SPDs. Letters and corresponded are sent via either email or imail to avoid handling of documentation by individuals to help limit any risk to health.

2.45 All duly made comments on the relevant planning policy document will be analysed and carefully considered. How they are considered and reported will depend on the stage a document has reached. Individual written responses to the comments received will not normally be sent. The following paragraphs set out how any comments received will be taken into account.

2.46 At early and informal stages comments may be reported to Planning Committee as a summary information report. All comments will however be available to inspect in full on request. Addresses and contact details will not be published. Generally anonymous comments are not accepted for consultation purposes. Exceptionally, at the early and informal stages, MHDC may allow anonymous comments through specific engagement exercises where overall outcomes will be summarised e.g. workshops/ focus groups. If so, these will be carried out in accordance with current guidelines and restrictions relating to Covid-19.

---

<sup>4</sup> In accordance with the 2018 General Data Protection Regulation.

2.47 At the Draft Document stage for DPDs or following consultation on a draft SPD, comments will be reported to the decision making body, i.e. Planning Committee/Executive Council, as summaries or as a summary report. All comments will be available to inspect in full on request.

2.48 These summaries or summary reports will be considered alongside the officer report and recommendations and will be made available via MHDC's website. Addresses and contact details will not be published.

2.49 For DPDs, MHDC must prepare a Consultation Statement for publication alongside the Proposed Submission DPD, which summarises the consultation that has been undertaken to date in connection with the preparation of the DPD.

2.50 For SPDs MHDC must prepare a Consultation Statement for publication alongside both the draft and final versions of the SPD, which summarises the consultation that has been undertaken in connection with the preparation of the document.

2.51 For DPDs at the formal Proposed Submission stage, representations made in relation to the Tests of Soundness or legal compliance matters will not normally be considered by MHDC as they will be passed to the Inspector. These representations will be assessed and along with a summary of key issues raised, will form a Statement of Representations. All the original comments as submitted will be sent to the Inspector when the Plan is submitted for Examination and will be published via MHDC's website in full but with addresses and contact details removed (redacted). All comments will be available to inspect in full upon request.

2.52 It is important to note that whilst MHDC (or Inspector) will always consider any relevant comments in respect of the production of a policy document, it will not always be possible or appropriate to decide the matter in accordance with the comments(s) received. There may be other material considerations, such as requirements of legislation, or national or local policies to which MHDC must adhere.

### **What are 'duly made' comments?**

2.53 For comments to be considered 'duly made' they must:

- a) be received within the timescales set out for the specific consultation period.
- b) relate to the document, its content, or its preparation.

- c) not be anonymous.
- d) not be offensive, libellous, or otherwise breach the law e.g. inadmissible.

2.54 Whilst all duly made comments will be considered and welcomed, it may not be possible to take all comments on board and at the Examination only soundness or legal compliance issues can be addressed by the Inspector.

2.55 It is important that comments are sent in on time as late comments at the formal stages cannot be accepted. Please also be aware that there may be size limits on email attachments that can cause failure of delivery; it is advised to check MHDC's website for advice on size limits. If large documents are being emailed, it would be advisable to email well before the deadline and check that MHDC has received them before the deadline expires. Please ensure comments are sent to the correct email address which will issue an automated receipt.

### **Publicity and availability of documents**

2.56 All formal draft and final documents will be available via MHDC's website. All draft versions will be available for information even after the consultation period has closed, until such time as the document is finally adopted. Copies will be available for inspection at the Council House and public libraries (see Appendix 3 for locations). These will be publicly accessible locations where Covid-19 restrictions on social distancing measures are in place and can be safely observed.

2.57 Copies will also be available for purchase in hard copy form or CD upon request. MHDC will consider reasonable requests for documents in other formats e.g. large print versions, alternative languages.

2.58 The South Worcestershire Councils currently host a dedicated SWDP website which can be accessed directly at [www.swdevelopmentplan.org](http://www.swdevelopmentplan.org) or through each council's website. This hosts all the documents relating to the jointly prepared SWDP and all the joint SPDs and other documents produced collaboratively. It also gives access to an interactive Policies Map where 'site allocations' can be viewed.

### **Charges for documents**

2.59 All consultees and interested parties will be encouraged to use MHDC's website for viewing or downloading documents, although it is appreciated that this is not appropriate for everyone.

2.60 Consultation notifications will normally be sent by e-mail with a link to the relevant document on the website or the document provided as an attachment. Where people do not have access to e-mail or cannot use this method for specific reasons, a letter can still be sent, but correspondence by email is preferred where this is possible in order to minimise costs.

2.61 A scale of reasonable charges for documents will be published on MHDC's website and reviewed periodically.

### **3. Neighbourhood Planning**

3.1 Neighbourhood planning was introduced by The Localism Act 2011; it gives local communities powers to help shape the areas in which they live. Unlike Development Plan Documents, neighbourhood plans are produced by local communities themselves with the support of the Local Planning Authority. Neighbourhood Plans can allocate land or establish policies for the development of land in a neighbourhood if the majority of voters that turned out in the neighbourhood give their approval. These plans must be in general conformity with the strategic policies in the South Worcestershire Development Plan and have regard to national planning policy.

3.2 Neighbourhood plans, once adopted, are statutory plans which carry equal weight to any Local Plan. Neighbourhood Plans should not simply restrict development and they must be prepared in accordance with The Neighbourhood Planning (General) Regulations 2012 (as amended).

3.3 In parished areas only the parish council or a group of parish councils can prepare a Neighbourhood Development Plan. In non-parished areas a Neighbourhood Forum must be formed to prepare a neighbourhood plan.

3.4 The council, as the Local Planning Authority (and relevant body), has a duty to support the preparation of a neighbourhood plan. The steps that the MHDC will take to fulfil its duty are set out below:

3.5 As the local planning authority our main role is to provide advice, support and give direction to help communities produce a neighbourhood plan, or any of the other rights. As part of this commitment we will:

- Determine applications for the establishment of Neighbourhood Forums within the statutory timeframes.
- Determine applications to designate the 'neighbourhood area' following an application by a parish council or Neighbourhood Forum within the statutory timeframes. This establishes the area that the neighbourhood plan will cover.
- Work with groups to understand the scale and scope of prospective neighbourhood planning in our area.
- Clearly set out the local policies which are considered to be strategic and which therefore Neighbourhood Plans must be in general conformity with the strategic policies of the South Worcestershire Development Plan.

- Manage community's expectations and what they can or cannot do by providing clear and concise information about the role of neighbourhood plan.
- Share evidence and information on planning issues and on funding or skills for neighbourhood/community planning.
- Advise on appropriate community engagement techniques, survey analysis, and appraising feedback. These will need to comply and be in conformity with any guidelines or regulations in force at the time on gatherings, movement, and social distancing. To this end the Government has published guidance on alternative approaches to undertaking effective consultation whilst Covid-19 restrictions prevent face to face meetings and public gatherings.
- Provide advice on assessments and evidence base documents.
- Provide advice on national and local plan policies as well as other appropriate regulations or legislation.
- Help to interpret economic and housing need and liaise with external partners where appropriate.
- Provide advice on draft policies and an informal view as to whether they are in general conformity with the relevant local and national policies.
- Provide a formal consultation response at the draft plan consultation stage.
- Pay for, through government grant funding, and make arrangements for the independent examination of the neighbourhood plan and work with the qualifying body to take forward the recommendations within the Examiner's Report.
- Make arrangements for and pay for the referendum through government grant funding.
- If a neighbourhood plan subsequently passes the referendum by a simple majority of votes (i.e. more than 50% of the turnout), fulfil the legal duty to 'make' (adopt) the neighbourhood plan as part of the development plan and publish it on the council's website.

### **Designating a Neighbourhood Area**

3.6 With the exception of applications which are for an entire parish area, the council will undertake a six-week consultation on applications to designate a Neighbourhood Area. Consultation will be undertaken by publicising the application on the council's website and by placing notices within the area as considered appropriate.

## **Designating A Neighbourhood Forum**

3.7 When considering applications for the designation of a neighbourhood Forum, the council will undertake a six-week consultation. The consultation methods will be the same as those which are set out for consultation on the designation of a Neighbourhood Area. Where appropriate, consultations on the designation of a Neighbourhood Area and a Neighbourhood Forum will be combined.

## **Pre-Submission Consultation and Publicity (Regulation 14)**

3.8 Before submitting a neighbourhood plan to the council, the qualifying body must undertake consultation for a minimum of six weeks. A consultation statement will need to be submitted with the neighbourhood plan setting out details of all the consultation undertaken and demonstrating how the requirements of Regulation 14 have been met. The council is not responsible for undertaking the consultation but will offer the following support to the Qualifying Body:

- Details of statutory consultation bodies and any general consultation bodies considered appropriate to the neighbourhood plan area/content.
- Advice on how to publicise the consultation.
- Advice on exhibition locations/content. These will need to comply with the regulations and restrictions relating to Covid-19 that are in force at the time.
- Advice on documenting, summarising, and responding to representations.
- The council will also provide a formal response to the consultation.

## **Publication**

3.9 Once the neighbourhood plan is submitted to the council it will undertake a six-week 'publication' period. All of those bodies and individuals named in the qualifying body's consultation statement will be notified and the submitted Neighbourhood Plan will be published on the council's website and made available in at least one suitable deposit location within the Neighbourhood Area wherever possible. All representations received at this stage are considered by the independent examiner. Comments and personal details will be held securely by the council for seven years following the date of adoption of the planning policy document. Your details will not be passed onto third parties however, they will be used to notify you of progress with the document that you have

made comments on and any subsequent planning policy consultations, if you do not wish to receive these notifications please let us know.

### **Examination**

3.10 The council will organise and fund an examination. Most neighbourhood plan examinations are conducted using written representations, however, where the examiner calls a hearing session this will be publicised appropriately. These will need to comply with the regulations and restrictions relating to Covid-19 that are in force at the time and held remotely if necessary.

3.11 The examiner's report will be made available on the council's website and in the deposit locations previously used in relation to the Plan. These will be in locations that are publicly accessible and where Covid-19 restrictions on social distancing measures are in place and can be safely observed. A letter will also be sent to those who made representations at the Publication stage and those who have requested to be notified. Following receipt of the examiner's report, the council will consider its content and publicise a decision notice which will include a referendum date if appropriate.

### **Referendum**

3.12 The council will organise and pay for a referendum. Unless the examiner recommends a larger referendum area or the plan is a business neighbourhood plan, only those people who are on the electoral role within the neighbourhood plan area will be eligible to vote. If it is not possible to hold a referendum that allows for the casting of a vote at a Polling Station due to Covid-19 restrictions, postal votes will be provided as an alternative by the Returning Officer for the council. If 50% of those voting are in favour of the Plan then the council will make/adopt the neighbourhood plan unless that would breach any EU / UK order or convention. Following that a decision statement will be publicised in the same ways as the examiner's report and referendum.



# Planning Applications

## **4. Consultation on Planning Applications**

### **Introduction**

4.1 This section sets out MHDC's intentions for consideration of:

- Significant development (see paragraph 4.13 for a definition).
- Pre-application (Procedure for consultation and notification).
- Planning applications (Procedure for consultation and notification).

4.2 The SCI must set out standards of consultation to be achieved by the local authority in making decisions on planning applications. Planning applications can range from modest extensions to existing dwellings to major development schemes including urban expansion or regeneration. The county council are the planning authority in respect of development involving mineral extraction and waste disposal and their own SCI will set out arrangements for the processing of such applications.

4.3 Planning legislation sets out a minimum standard of publicity and notification of applications to the local community, depending on the nature of the application. The wider involvement of the community and stakeholders at the early stage of the planning process is of benefit to the public, individuals, organisations and the development industry. The district council will continue to meet the requirements associated with statutory requirements.

4.4 The SCI therefore provides an important framework to engage the wider community in development proposals, especially those that are deemed to be 'significant', and throughout the various stages of the development management process. Although the planning application process is the stage most associated with public involvement, there can also be a more limited form of consultation at the pre-application stage.

### **Pre - application discussions**

4.5 MHDC encourages any person contemplating development, including house extensions, to have informal discussions with planning officers as early as possible. MHDC charges for pre-application advice for most types of development. This is so ensure that the council can provide the best possible advice and a higher quality service. Further details on pre-application advice is provided on the MHDC website:

<https://www.malvern hills.gov.uk/planning/planning-advice-and-guidance>

MHDC will continue to publicise the availability of such advice and provide guidance for officers, councillors and the public alike.

4.6 The chargeable pre-application service is intended for specific proposals, to provide applicants with an indication as to whether their scheme is likely to gain planning permission or not, what the key policies and planning issues are likely to be, and what information they would need to submit with an application. Officers will also be able to advise whether an application falls within the tiers of 'significant development' (see page 36). Furthermore, in accordance with good practice guidelines and national performance indicators, MHDC will offer a development team response to major proposals. A nominated case officer will coordinate the input of other specialist advice on an initial scheme. MHDC promotes the use of Planning Performance Agreements to formalise this project management process and the methods of community engagement. The Pre-application stage is an opportunity for developers to engage with communities and to seek clarification of who to engage with, e.g. infrastructure providers.

4.7 MHDC recognises that applicants will normally wish to keep pre-application discussions confidential and MHDC will endeavour to respect this. However, under the provisions of the [Freedom of Information Act 2000](#), MHDC may have to make public any information it retains unless one of the statutory exemptions apply.

### **Giving local communities a say before applications are submitted**

4.8 Whatever the scale of development proposed, applicants or developers are always best advised to discuss the proposals with the owners/occupiers of neighbouring land/property prior to making an application. Such informal discussion can often help to allay fears within the community on the nature of the development. Moreover, an applicant may be able to make changes to a proposal to accommodate a neighbour and avoid an objection at the formal application stage. Dependent on scale, pre-application discussion should also include the key consultees on the type of development proposed such as the Highway Authority and the Environment Agency.

4.9 For development proposals that fall within Tiers 1 to 3 of significant development (see page 37), MHDC will expect applicants and developers to have carried out initial consultation with the local community. This is in line with Section 122 of the Localism Act 2011, which introduced a statutory requirement for prospective developers to consult local communities before submitting planning applications for major development proposals. This is intended to give local people an opportunity to comment on proposed developments which may have an impact on them, and to collaborate on issues

such as design at an early stage, when they still have an opportunity to influence proposals before they are finalised.

4.10 For Tier 1 and 2 development, this initial engagement should normally take the form of a public exhibition of the proposals, held locally, and advertised on site and in the local press. Where applicable the local parish or town councils and ward councillors should also be notified. Officers will normally be able to advise on any local community groups or user groups that should be involved. In respect of Tier 3 development, the applicants are encouraged to notify the local parish or town councils and ward councillors of the proposal.

4.11 In all instances any events will need to have regard to Covid-19 guidance and regulations on public gatherings, movement, and social distancing in place at the time. If these prevent exhibitions and public meetings applicants and developers will be expected to employ appropriate techniques to achieve this remotely.

4.11 If and when an application is submitted for significant development, MHDC will expect the developer to include with the application a Consultation Supporting Statement outlining what consultation has been carried out and how the results of the exercise have been taken into account in the submitted scheme. MHDC recognises that over and above the legal requirements of the Localism Act 2011, pre-application consultation with the local community cannot be enforced, nor can an application be rejected in the absence of a supporting statement. However, in the absence of comprehensive pre-application engagement the additional notifications and consultation that MHDC will have to undertake may delay the consideration of the application.

### **Notification and consultation arrangements for applications**

4.12 As soon as a planning application that it is the responsibility<sup>5</sup> of MHDC to determine has been submitted and validated, MHDC will undertake consultation with the local community.

4.13 Government advice requires that that the SCI should pay particular attention to 'significant' planning applications e.g. those development proposals which merit wider publicity and consultation with the local community. The nature and type of publicity and involvement will be

---

<sup>5</sup> The district council receives planning applications from the county council and neighbouring local authorities. The relevant local authority is responsible for consultation before determining these applications.

dependent on the nature of the proposal and a 'tiered' approach has been adopted by the district council as follows.

<p><b>Tier 1: Large scale and controversial applications not in accordance with the Development Plan</b></p> <ul style="list-style-type: none"> <li>• Development Plan 'departures' that have to be referred to the Secretary of State, for instance, proposals for 'development out of town centres' in excess of 5,000 sq m of retail, leisure, office or mixed commercial floor space, as per the <a href="#">Town and Country Planning (Consultation) (England) Direction 2009</a>.</li> <li>• Development falling within Schedule 1 of the <a href="#">Town and Country Planning (EIA) Regulations 2011</a>. Large scale development and infrastructure like power stations, chemical installations and waste disposal facilities.</li> </ul>
<p>Figure 5 outlines consultation arrangements for such applications.</p>
<p><b>Tier 2: Applications broadly in accordance with the Development Plan but raising controversial issues</b></p> <ul style="list-style-type: none"> <li>• Development falling within Schedule 2 of the Town &amp; Country Planning (Environmental Impact Assessment) Regulations 2011.</li> <li>• Applications requiring a full transport assessment (i.e. where development will have wider transport implications).</li> <li>• Applications for development proposed on existing playing fields and subject to the Town and Country Planning (Consultation)(England) Direction 2009.</li> </ul>
<p>Figure 5 outlines consultation arrangements for such applications.</p>
<p><b>Tier 3: Applications of local significance as determined by the Local Planning Authority</b></p> <ul style="list-style-type: none"> <li>• Applications for 'major' development, which have to be advertised under Article 13 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.</li> <li>• Planning applications for telecommunication development for the erection of masts that exceed 15 metres in height.</li> </ul>
<p>Figure 5 outlines consultation arrangements for such applications.</p>

4.14 The district council's procedures for notifying the public meet the requirements laid down in planning regulations and comprise the following:

- The listing of the application details on MHDC's website including a facility to enable people to comment online at <https://www.malvern hills.gov.uk/planning/commenting-on-a-planning-application>

- A notification to the owners or occupiers of property adjoining an application site advising of an application and the period to make comments. For information on making comments, please visit <https://www.malvern hills.gov.uk/planning/commenting-on-a-planning-application>
- Where the proposal is 'major' development as defined in the Regulations, the application will be advertised in the local press and by means of a site notice displayed by MHDC.

4.15 MHDC will also carry out consultation with statutory and appropriate bodies, such as the local parish councils, the Highway Authority, the Environment Agency and drainage companies. Consultation with non-statutory consultees may also be undertaken.

4.16 The consultation arrangements for all types of planning applications are shown in Figure 5.

**Figure 5. Consultation arrangements for applications**

	<b>Significant development</b>			<b>Other applications</b>
	Tier 1	Tier 2	Tier 3	
<b>Pre-application Consultation</b>				
Pre-application exhibition/development brief*	✓	✓		
Pre-application consultation with town/parish councils	✓	✓	✓	
<b>Formal Planning Application Consultation</b>				
Public access to view submitted plans via MHDC's website	✓	✓	✓	✓
Submitted documents available on MHDC's Website	✓	✓	✓	✓
Notify Parish Councils	✓	✓	✓	✓
Letter to adjoining occupiers	✓	✓	✓	✓
Site notice (discretionary)**	✓	✓	✓	✓
Listing in local newspapers (discretionary)**	✓	✓	✓	✓
Statutory consultees	✓	✓	✓	✓

\* Face to face meetings or exhibitions will only be convened if the Covid-19 regulations and restrictions on gatherings permit at the time.

\*\*It is not a statutory requirement advertise all planning applications in local newspapers or via a site notice. The district council in the majority of cases where there is no legal requirement to erect a site notice or place an advert in a newspaper will not use these forms of consultation.

### **How your comments are dealt with**

4.17 The comments made by individuals and groups, the local community, and specialist technical bodies will be taken into account by planning officers, before determining applications under the scheme of delegated decision making. Where applications are to be determined by elected members all consultation responses will be reported in writing or verbally to the relevant committee before the application is determined. Only consultation responses that raise material planning considerations can be considered relevant when determining a planning application. Comments will be balanced with all other material considerations in relation to the provisions of the Local Plan and national planning policy, where relevant, when a decision is made on an application. In order to ensure consistency in the determination of planning applications, the assessment of the case will be overseen by a senior officer, prior to making a formal recommendation or decision.

4.18 Comments on planning and related applications will be held on the application file and made publicly available for others to see. Where an application is reported to the Planning Committee, comments will be summarised in the committee report. Full copies of all consultation responses will also be made available.

4.19 Councillors will have access to all comments received prior to making a decision at Planning Committee. Respondents are encouraged to return comments within the stated period. However, late comments will normally be collated via Committee late papers or reported verbally prior to a decision being made at Committee.

### **Speaking at Committee**

4.20 Where applications are reported to Planning Committee, MHDC operates a public speaking scheme where an objector/supporter or parish / town council can address the Committee for a specified time. Objectors need to indicate that they wish to speak to the Planning Committee within their representation and request to be notified of the relevant Planning Committee date. Further guidance on the arrangements for Planning Committee are available on MHDC's website at:

<https://www.malvern hills.gov.uk/planning/commenting-on-a-planning-application>

Further to the Covid-19 social distancing restrictions meant that Planning Committee meetings were initially undertaken remotely the council has now reintroduced meetings of the Planning Committee from July 2020. The opportunity for public speaking was reintroduced following consideration at the meeting of the Council in September 2020.

### **Role of Councillors**

4.21 Councillors are an important source of local knowledge and advice on local issues. However, on planning matters local councillors operate under a formal code of conduct and it is therefore important that they do not have, or appear to have had, a closed mind on a proposal which they may need to consider formally at a later stage. Therefore, whilst lobbying of councillors may be appropriate, their main role in pre-application discussions is providing information on procedures/policy and sign-posting the community to sources of advice within MHDC.

### **Post decision and Enforcement Matters**

4.22 As soon as possible after a formal decision is made on an application, the details of the decision will be listed on MHDC's website, including a summary of the reasons for refusal or the conditions imposed on a permission.

4.23 Where development takes place without the necessary consents and causes material harm to the local environment, MHDC will normally pursue appropriate enforcement action.

4.24 Retrospective applications will be sought or encouraged where it is thought that breaches of planning control can be regularised by the planning process. The statutory consultation process for planning applications as set out earlier in this section will be followed. The enforcement process, available on MHDC's website provides further information on such matters.

<https://www.malvern hills.gov.uk/planning/other-planning-services/planning-enforcement>

### **Appeals**

4.25 Only applicants have a right of appeal; there are no third-party rights to appeal a decision. All those neighbours and consultees originally notified of the application will be written to providing details of the appeal and how to make their views known. All previous consultee responses relevant to the appeal will be copied to the Planning Inspector appointed to determine the appeal. For informal hearings and public inquiries the district council will



publicise the date, time and location of the hearing/inquiry, notify the local media, and if appropriate erect a site notice. If necessary, these formal public events will be held remotely if Covid-19 restriction apply at the time.

### **Local Development Orders**

4.26 There are two types of Local Development Orders (LDOs):

1. Those instigated by Local Authorities to increase permitted development rights within a specific area.
2. Those that maybe introduced by emerging Government Guidance to reduce the need for planning applications.

The extent and type of engagement will be proportionate with the context of the LDO and consultation will go wider than the area covered by the LDO.

### **Article 4 Directions**

4.27 There are two types of Article 4 Directions:

1. Site/area specific, whereby consultation will take places with those with an interest in the site/area. Further guidance is contained within [Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995](#) (June 2012).
2. District wide, whereby consultation will take place through a statutory notice/website notification.

### **Cross boundary applications**

4.28 Where applications are received near to or adjoining the district boundary the relevant neighbouring local planning authority will be consulted if the proposed development is likely to affect that district. The decision whether to consult the neighbouring authority will be based on the scale and nature of the proposed development. The neighbouring authority will be given 21 days to make representations. The authority receiving the planning application fee is normally responsible for all neighbour and other consultations relevant to the determination of the application regardless of local authority boundaries. The application itself will be determined principally by the policies within Local Plan.

4.29 In some cases, an application site may fall within the boundary of more than one local planning authority. In such cases the applicant must submit the application to all planning authorities. Local planning authorities have discretion as to how to determine cross boundary applications, and as such, each application will need to be considered on a case by case basis. Without special

measures being put into place, each authority can only determine the application relating to the part of the site in its own area and will also be responsible for carrying out the necessary consultation within their area. However, this would be contrary to the advice of Government guidance, which encourages joint working between local planning authorities in relation to the use of their planning powers. Accordingly, this will normally either be through setting up a joint committee, or by devolving decision making powers to the authority receiving the fee.

### **Consultation on Conservation and other matters**

4.30 MHDC's website will be used to provide information about the service and activities undertaken by the Heritage and Conservation Team. MHDC will consult with the public on the following activities and initiatives. MHDC will not acknowledge comments received or inform respondents of decisions when determining these matters but all relevant material will be available on the district council's website. Any decision on these or other matters may be appealed either via an appeal to the planning inspectorate or via judicial review of MHDC's decision.

- Conservation Area designation or review; addition to the Local List; and introduction of Article 4(2) Directions

4.31 MHDC will notify property owners where there is a listed building considered to be at risk and advise of changes to, additions or removals from the Statutory List. Property owners will also be notified where a building, structure or historic designed landscape is under consideration for inclusion on the Local List and advise them of additions and removals from the list. In the case of Conservation Area designation or review MHDC would also normally engage in meetings with the parish / town council (where applicable) and local community groups. Information would also be available for the public to view on MHDC's website and in the Customer Service Centre.

- Service of Tree Preservation Orders

4.32 In making, serving, reviewing or revoking Tree Preservation Orders (TPOs), MHDC will consult with those landowners and residents deemed to be affected by the Order. This will involve sending copies of the Order to the interested parties, including the local councillor and parish/town council (where applicable), and inviting comments within the statutory 28-day period. Where the landowner cannot be identified a copy of the Order will be posted on the tree(s) affected. MHDC will consider all representations received within 28 days

of the date of serving the Order and a decision on whether to confirm (make permanent) or modify the Order will be made within 6 months of the date of serving the TPO. Officers will confirm the Order under delegated powers or decide whether to refer the decision to Planning Committee to determine. Where no objections are received the Order will be confirmed without reference to the Planning Committee.

- Applications for works to protected trees and important hedgerows

4.33 Applications for works to trees covered by a Tree Preservation Order (TPO) will be determined within 8 weeks of the date of receipt. Notification for works to trees in Conservation Areas will be determined within 6-weeks from the date of receipt. If the works detailed in the notification are not considered appropriate and the trees are considered worthy, MHDC will place a TPO on the tree(s). Consultations on proposed works to protected trees will be undertaken with the local councillors, parish/town council and other interested parties where appropriate. Details of applications for works to trees covered by a TPO and within Conservation Areas are published on MHDC's website which is updated on a daily basis. Officers have delegated powers to determine all such applications and notifications (with the exception of works to protected trees on council owned land and applications/notifications submitted by district councillors or certain Malvern Hills District planning officers), taking into account representations received. Following any decision, a decision notice will be sent to the applicant.

- Applications for works to important hedgerows

4.34 All applications to remove hedgerows under the [Hedgerow Regulations 1997](#) will be determined within 6 weeks of the date of receipt. Consultation will be carried out with all relevant statutory and interested bodies. All comments received will be taken into account in making a decision on whether to consent removal or issue a Hedgerow Retention Notice.

# Feedback & Advice

## **5. Monitoring, Feedback and further advice**

### **Monitoring and feedback**

5.1 MHDC can obtain feedback on its planning services via:

- Customer satisfaction questionnaires that are sent out with all decision notices. Direct contact with Officers is also encouraged to improve the Development Management service.
- MHDC's 'Compliments and complaints' system (as per paragraph 5.5).

5.2 MHDC intends to develop a range of indicators, which will try to measure the effectiveness of the SCI. We will use the Authorities' Monitoring Report (AMR) to assess the performance of the SCI. Reporting will have regard to outputs such as:

- Numbers of people engaged in planning policy consultations;
- Satisfaction ratings;
- Participation in public speaking;
- Seeking direct feedback on specific consultation exercises.

5.3 It is proposed not to establish a formal review period for the SCI. However, a review will be undertaken if the AMR indicates that there is a substantial level of dissatisfaction amongst parish/town councils and those with 'protective characteristics' on the nature of involvement in the preparation of planning policy documents or decisions on planning applications, or when other key stakeholders advise that key development targets are not being met because of the degree of public involvement. A review will also be triggered by material changes in primary legislation, planning regulations or government advice, which affect the terms of the SCI as adopted.

### **Queries about community involvement**

5.4 If customers have any queries about a plan-making community involvement exercise, MHDC's website should be checked for details, or contact MHDC's Planning Policy team by telephoning 01386 565000.

5.5 If customers have comments or feedback with their experience of a Council led community involvement exercise, MHDC has an online 'Compliments and complaints' system, this can be accessed via <https://www.malvern hills.gov.uk/about-your-council/compliments-and-complaints>. Alternatively, you can contact the Planning Policy team by telephoning 01386 565000.

## **Further guidance**

5.6 The Planning Portal is the Government's website that offers clear guidance on the planning system, which can be viewed at [www.planningportal.gov.uk](http://www.planningportal.gov.uk).

5.7 In addition, Planning Aid England provides free, independent and professional planning advice to communities and individuals who cannot afford to pay professional fees. Planning Aid England's advice is available to view at [www.rtpi.org.uk/planningaid](http://www.rtpi.org.uk/planningaid) and can help you to:

- Understand and take part in the planning system.
- Take part in the preparation of plans.
- Comment on planning applications.
- Apply for planning permission.
- Appeal against a decision.
- Represent yourself at appeals or public enquiries.

## **Further Advice**

For more information see the SWDP website [www.swdevelopmentplan.org](http://www.swdevelopmentplan.org) or email [contact@swdevelopment.org](mailto:contact@swdevelopment.org).

# Appendices

## **6. Appendices**

### **Appendix1: Principles of Consultation**

#### **Co-ordination and Partnership:**

- We will avoid duplication of effort
- We will share best practice with our partners
- We will ensure that the direction and nature of our engagement and consultation activities influences our services and plans

#### **Inclusivity**

- We will use all our skills and experience to ensure that there is equal access to consultation opportunities
- We will reach out to all communities within the district
- We will include work to support residents and groups that do not normally engage with MHDC – sometimes referred to as “hard to reach”

#### **Clarity of Purpose**

- We will ensure that our consultation activities stand firmly on all these principles
- We will only implement specific community engagement and consultation processes when there is real opportunity for people to inform, influence, or change what we do and how we do it
- We will be open and honest
- We will not prejudge our intended actions
- We will be clear about why specific options have been chosen

#### **Integrity and confidentiality**

- Community participation in our consultation activities will be valued and nurtured by MHDC
- We will honestly interpret any information we receive
- We will respect the rights of our residents and others participating in consultation to decide how much information they want to reveal about themselves
- We will ensure that in respecting confidentiality we are taking into account relevant legislation



## **Communication**

- We will ensure that measures are taken to not only encourage residents to respond to council proposals with their views but to ensure that doing so is easy and clear
- We will reduce the number of occasions when residents feel under pressure to respond with undue haste to surveys and other consultation activities
- We will ensure that our written communication is checked so it is easy to read and understand
- We will have clear and strong feedback processes in place
- We will explain what has been done as a result of consultation and engagement activity
- Use appropriate methods to engage with people constructively whilst, at the same time, ensure that current restrictions and guidelines on movement and social distancing relating to the Covid-19 pandemic are followed



## **Appendix 2: Glossary**

**Development Plan Document (DPD):** Spatial planning documents that are subject to independent examination. They can include a Local Plan; Core Strategy, site specific allocations of land and Area Action Plans (where needed).

**Consultation Statement:** sets out details of who was consulted on a draft Plan, how they were consulted, the main issues and concerns raised, and how these have been addressed.

**Duly made (comments):** Term referring to assessment of comments received during public consultation. To be considered 'duly made' they must:

- be received within the timescales set out;
- relate to the document, its content, or its preparation;
- not be anonymous; and
- not be offensive, libellous or otherwise breach the law i.e. inadmissible.

**Equality Act 2010:** An Act of Parliament of the United Kingdom. The primary purpose of the Act is to codify the complicated and numerous Acts and Regulations, which formed the basis of anti-discrimination law in the United Kingdom.

**Examination:** An examination chaired and undertaken by an independent inspector into representations on a Local Development Plan document (LDD) including its legal compliance and the overall "soundness" of the LDD.

**Exploratory Meeting:** A meeting, which an Inspector will call where they have serious concerns about some aspect of the submitted DPD.

**Independent Examination:** An examination undertaken by an independent inspector into representations on a Development Plan Document (DPD), including its legal compliance and overall soundness. Likely to include 'Hearing Sessions'.

**Independent Inspector:** Someone employed by the Planning Inspectorate, an independent agency of Government appointed by the Secretary of State to preside over inquiries into development plans and rule on planning appeals.

**Legal Compliance:** Before a Development Plan Document can be adopted it must be found to be 'Legally Compliant'. This means that MHDC must have complied with all the legal requirements, set out in legislation, necessary to prepare and adopt a Development Plan Document.

**Local Development Documents (LDD):** The collective term used to describe the Statement of Community Involvement, Supplementary Planning Documents and Development Plan Documents.

**Local Development Order (LDO):** Local Development Orders are made by local planning authorities and give a grant of planning permission to specific types of development within a defined area.

**Local Development Scheme (LDS):** This is a public statement of a local authority's programme for the production of Development Plan Documents. The scheme will be revised when necessary, either as a result of the Monitoring Report, which should identify whether the local authority has achieved the timetable set out in the Scheme, or if there is a need to revise or prepare new development documents.

**Local Plan:** used to describe the DPDs produced by an individual council. The purpose is to guide long-term decisions about the future of south Worcestershire and day to day development management decisions about individual planning applications. For more information see the SWDP website [www.swdevelopmentplan.org](http://www.swdevelopmentplan.org)

**Local Strategic Partnership (LSP):** A group of public, private, voluntary and community organisations and individuals, who are responsible for preparing the Sustainable Community Strategy.

**Localism Act 2011:** An Act of Parliament that changes the powers of local government in England.

**Main Modifications:** A stage of the Development Plan process.

**Major Development:** relates to planning applications and includes: a) Residential Development comprising 10 or more dwellings or if the number of dwellings is unknown, the site area is 0.5ha or more; OR b) Any other use where the floor space proposed is 1,000 square metres or more OR if the site area is one hectare or more.

**National Planning Policy Framework ('the Framework'):** This was published in February 2019 and replaces previous national planning guidance, formerly enshrined in a series of planning policy statements and guidance notes. The Framework sets out much of the Government's planning policies for England and how these are expected to be applied. The Government expects it to provide a framework within which local people and their accountable councils produce their own local and neighbourhood plans. The Framework

constitutes guidance for local planning authorities and decision-takers both in drawing up plans and as a material consideration in determining applications.

**Neighbourhood Plan:** A plan prepared by local neighbourhood groups, such as a Parish or Town Council or Neighbourhood Forum for a particular neighbourhood area (made under the Planning and Compulsory Purchase Act 2004) and Neighbourhood Planning Act 2017. These plans are created in partnership with local planning authorities and set within the context of a strategic plan and national policy framework. These plans provide a detailed account of local civic needs and wishes

**Planning Obligations:** Legally enforceable agreements between a planning authority and a developer, or undertakings offered unilaterally by a developer, which ensure that necessary mitigating works related to development are undertaken; these are sometimes called "Section 106 Agreements" (s.106 Agreements).

**Planning Performance Agreements:** An agreement set out between the local planning authority and applicant on large scale planning applications. Further information is provided via the 'planning portal' at: <http://www.planningportal.gov.uk/planning/planningpolicyandlegislation/currentenglishpolicy/goodpracticeguides/performance+agreements>

**Planning and Compulsory Purchase Act 2004:** An Act of the Parliament of the United Kingdom. It substantially reformed the town planning and compulsory purchase framework in the United Kingdom. It both amended and repealed significant parts of the existing planning and compulsory purchase legislation in force at the time, including the Town and Country Planning Act 1990, and introduced reforms such as the abolition of Local Plans and Structure Plans, and their replacement with Local Planning Policy Frameworks.

**Pre-Hearing:** A 'Pre-Hearing' meeting which occurs between the Inspector, local planning authority and those wishing to be involved in the examination of the submitted DPD, prior to the Hearing Session.

**Preferred Options:** The chosen options/ways forward to tackle issues identified in a guidance document.

**Pre-Submission Document:** The final draft version of a Development Plan Document upon which the public, developers and landowners are consulted.

**Protected characteristics:** These include: age; disability; gender reassignment; marriage and civil partnership, pregnancy and maternity; race; religion/ belief; sex; and sexual orientation. See Equalities Act 2010.

**Screen (Screening):** The process of deciding whether a plan or programme needs a strategic environmental assessment.

**Site Allocations:** Land shown on the policies map that has been allocated for a proposed land use in a Development Plan Document.

**Soundness:** A term used to describe that the production of a DPD is based on sound judgement, evidence, is consistent, and delivers its intentions.

**South Worcestershire Development Plan (SWDP):** The Local Plan for Worcester City, Malvern Hills and Wychavon. This document sets out the development strategy, site allocations and development management policies for the three South Worcestershire Councils.

**Stakeholders:** Groups, individuals or organisations who may be affected by, or have a key interest in, a development proposal or planning policy. They may often be experts in their field or represent the views of many people.

**Statement of Community Involvement (SCI):** This sets out the standards to be achieved by the local authority in involving the community in the preparation, alteration and continuing review of all Local Development Documents and planning applications. The SCI is a clear public statement enabling the community to know how and when they will be involved in the preparation of Local Development Documents and how they will be consulted on planning applications. The SCI is not a Development Plan Document but is subject to an independent examination.

**Strategic Environmental Assessment (SEA):** The European Directive 2001/42/EC on 'the assessment of the effects of certain plans and programmes on the environment' is known as the Strategic Environmental Assessment or SEA Directive.

**Sustainability Appraisal (SA):** The Planning and Compulsory Purchase Act 2004 requires Local Development Documents to be prepared with a view to contributing to the achievement of sustainable development. Sustainability appraisal is a systematic appraisal process. The purpose of sustainability appraisal is to appraise the social, environmental and economic effects of the strategies and policies in a Local Development Document from the outset of the

preparation process. This will ensure that decisions are made that agree with sustainable development requirements.

**Sustainability Appraisal Scoping Report:** Establishes the scope of, and methodology for, the Sustainability Appraisal and guidance document in question, and identifies appropriate information that may be of relevance to the study.

**Supplementary Planning Document (SPD):** SPDs are Local Development Documents that explain how policies in Development Plan Documents will be implemented. They do not form part of the Local Plan and cannot allocate land, but are material considerations when determining planning applications.

**Transport Assessment (TA):** A comprehensive and systematic process that sets out transport issues relating to a proposed development. It identifies what measures will be required to improve accessibility and safety for all modes of travel, particularly for alternatives to the car such as walking, cycling and public transport, and what measures will need to be taken to deal with the anticipated transport impacts of the development.

### Appendix 3: Contacts and where to view documents

Policy Plans  
Malvern Hills District Council  
The Council House  
Avenue Road  
Malvern  
Worcestershire  
WR14 3AF

c/o [policy.plans@wychavon.gov.uk](mailto:policy.plans@wychavon.gov.uk)

<b>Malvern Library</b> Graham Road Malvern WR14 2HU	<b>Upton-Upon-Severn Library</b> School Lane Upton-Upon-Severn WR8 0LE	<b>Tenbury Wells Library</b> 24 Teme Street Tenbury Wells WR15 8AA <b>The library is temporarily closed due to Covid-19 restrictions</b>
<b>Martley Library (Village Hall)</b> Berrow Green Road Martley WR6 6PQ <b>The library is temporarily closed due to Covid-19 restrictions</b>	<b>Welland Library (Village Hall)</b> Marbank Road Welland WR13 6NE <b>The library is temporarily closed due to Covid-19 restrictions</b>	

NB. Until the Covid-19 restrictions are lifted it may not be possible to view the relevant documents at these locations if they are closed to the public.