

Draft statement of community involvement – Consultation response from Merton Borough Liberal Democrats.

Please find below the response of Merton Liberal Democrats to the 2019 consultation “Draft statement of community involvement”

All bold headings refer to the numbered headings within the consultation document.

General comment

We recognise the many changes that have taken place and acknowledge the work the Council is doing to meet new legal and statutory requirements. However, we have concerns with what is being proposed in two specific (but interconnected) areas:

-) Limiting access to planning representations, and
-) Merton Council’s interpretation of General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

We also make additional comments in relation to neighbourhood planning, and planning conditions/s 106 agreements.

3. The benefits of involving the local community

We are pleased to see the Council acknowledge the importance of involving the local community. In particular, the point you make that the Council is “Benefiting from the detailed local knowledge and perspective of local people and community organisations/groups.” We want to ensure that councillors and residents have the information necessary to be able to make informed representations on planning applications, and that refer to material considerations. An accessible, easy and low cost way of assisting people to do this is by having representations made available on the Council’s website. This allows residents and councillors to have a rounded view and as broad perspective on an application as possible, and to contextualise their own representations.

4. Accessible consultations and engagement

We agree that “Plain English” should be used for communications about planning, and would request that documents such as standard letters inviting people to PAC etc be included within this.

5. Our approach to involving the local community in planning

We are pleased that the Council wants to “Promote the use of electronic methods of consultation including email and the Council’s website to make involvement easier, quicker and more cost effective”, but note that this is not promoted if access to planning representations is not part of this approach.

6. General Data Protection Regulation (GDPR) / 8. Consultation on Planning Applications / How to comment on a planning application

We note that the requirement to redact certain information from planning

representations is set out in the Planning department privacy notice and that that privacy notice states that “Sometimes we might decide it is necessary, justified and lawful to disclose data that appears in the list above. In these circumstances we will let you know of our intention before we publish anything.”

Notwithstanding the Council's position that publishing planning representations online risks disclosure of personal information that should be redacted under the Council's privacy notice, this is also a risk when hard copies of representations are made available to residents as per para 8.29 (and indeed it has been suggested to us by officers that representations may be emailed out to residents). The risk of disclosure is not an inherent risk of the information being made available online, but a risk of human error – stopping online publication does not reduce the risk of human error.

In fact, the negative implications of disclosure is compounded by the hard copy/email method, as the person whose details are being shared inappropriately has no real means have becoming aware of it. It is now much more difficult for a resident to become aware of exactly how the Council is publishing their personal data in relation to planning representations – which has implications for the exercise of their rights under the Data Protection Act 2018/GDPR (eg the rights of erasure or rectification).

Para 8.29 asserts that “All personal details will be removed by the Council in accordance with General Data Protection Regulations”. This seems an unclear comment as not all personal details are to be removed, simply those that are indicated under the privacy notice as to be redacted. Indeed, the privacy notice itself indicates that sometimes the Council will determine to publish information that would normally be redacted.

We would ask that the Council seek formal legal (and possibly ICO) advice with interpreting the implications of GDPR and the 2018 Act in this area.

7. Neighbourhood planning

We believe that the Council should proactively work with local communities to create Neighbourhood Plans for local neighbourhoods to give people real control over the development in their area, by turning residents' views into planning rules. It should be an ambition for the Council for Neighbourhood plans to be developed and put in place.

8. Consultation on Planning Applications / How to comment on a planning application

We would ask that further guidance could be given, and perhaps a protocol can be developed for planning case officers, for how residents might input into potential planning conditions and the subject of s 106 agreements to mitigate the impact of developments.