

Report to Planning and Licensing Committee



Date of Meeting	2 nd July 2020
Portfolio	Councillor Carol Wardle, Development & Housing
Report Author	David Allen
Public/Private Document	Public

Approval of Revised Local List for Validation of Planning Applications for Public Consultation

Executive Summary

- 1.1 The Local Planning Authority (LPA) benefits from powers to require that planning applications are accompanied by such information as it considers necessary; such information must be set out in an adopted Local List. The Council's current Local List is out of date; work has been undertaken by the Planning Service to produce a new Local List which is reflective of current requirements, meets the relevant statutory tests and which will provide clear guidance to prospective applicants.
- 1.2 Delegated authority is sought to carry out public consultation on the Local List, in accordance with best practice guidance. It is intended that a final version of the Local List will be returned to the Planning & Licensing Committee for adoption following a review of the consultation responses received and, where appropriate, incorporation of such feedback.

Recommendations

- 2.1 It is recommended that the Planning & Licensing Committee delegate authority to carry out public consultation on the draft revised Local List ('Validation of Planning Applications – Local List' July 2020) to the Head of Planning Services, in consultation with the Portfolio Holder for Planning, Development and Housing.

Reason for Recommendation

- 3.1 The Council's current Local List is now out of date; the absence of a current and technically effective list exposes the Local Planning Authority to increased risk of challenge on validation requirements, leads to delays in the process of validating planning applications and results in a lack of clarity for users of the Development Management service.
- 3.2 The opportunity has been taken to comprehensively review the content of the list in order to ensure that it is reflective of current requirements and to provide clearer, more succinct guidance to applicants. Requirements set out in the revised list meet the associated statutory tests in that they are relevant, necessary and will be material to the

consideration of an application, where requested.

- 3.3 National Planning Practice Guidance advises that consultation on the revised list should be carried out with the local community, applicants and agents prior to adoption of a final Local List.

Key Points for Consideration

- 4.1 Section 62(3) of The Town and Country Planning Act 1990 makes provision for Local Planning Authorities to require that an application for planning permission includes particulars, information and evidence as they consider necessary. Article 11(3) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires that such information requirements must be set out in a list published by the Authority and that such a list must be reviewed and republished every 2 years.
- 4.2 The Council last comprehensively reviewed and adopted its Local List in December 2010. The current list is therefore out of date, the contents is not reflective of changes in legislation, guidance and requirements which have occurred in the intervening period and the Local Planning Authority is unable to enforce the contents of the list.
- 4.3 The need to update the list has provided an opportunity to comprehensively reconsider both the format and the contents of the list. The document is now comprised of a clear, easy to interpret table layout which identifies information requirements, the types of application or circumstances in which such information may be required, the legislative and policy drivers behind requiring the information and sections providing further detail and signposts to further advice. In addition, indicative checklists are provided in appendices to the list itself, which may be used by applicants in preparing their submission.
- 4.4 It is recognised that local validation requirements can be perceived as a burden by developers and applicants; care has therefore been taken to ensure that the list complies with statutory requirements introduced under the Growth and Infrastructure Act 2013. Accordingly, items are only included on the list on the basis that to require such information will be reasonable, having regard to the nature and scale of development, and related to a matter which it is reasonable to think will be a material consideration in the determination of an application.
- 4.5 It is important to note that items of supporting information set out under the list will not be required in all circumstances. Whether information is required is dependent on the individual facts and circumstances of each development proposal and is determined by the LPA at the pre-application or validation stages; in the majority of instances relatively few, if any, of the additional items included on the Local List are required of an applicant.

- 4.6 Guidance, including indicative thresholds of when information will likely be required, is set out within the list. A wealth of guidance on material planning considerations is also available within the Government's National Planning Practice Guidance. The Council provides a successful pre-application planning advice service, through which prospective applicants may receive advice on development proposals in advance of submitting a formal application; this well-established process allows for the provision of advice to prospective applicants on the particular information which will be required in support of their application.
- 4.7 In tandem with the adoption and publication of the updated Local List, the LPA is proposing to comprehensively update the relevant sections of the Planning and Building pages of the Council's website. This will provide further accessible and streamlined guidance, with a particular focus on householder and small-scale commercial development. Whilst the adoption of the core Local List document is essential to meet the statutory requirements and the accompanying checklists are expected to prove useful to applicants, the updated online guidance is expected to be the principal route by which applicants will access the information.

Alternatives Considered

- 4.8 It is necessary for the Council to produce a Local List in order to require that planning applications are accompanied by sufficient information such that relevant material considerations may be fully considered throughout the determination process.
- 4.9 The only possible alternative would be that the Council does not adopt an updated Local List, which would render the Local Planning Authority unable to require submission of information at validation stage, beyond that which is required by virtue of the light-touch 'National Information Requirements'.
- 4.10 The absence of an effective Local List has the potential to significantly impact on timescales for the determination of applications (which are subject to scrutiny by the Government) as the Authority either has to withhold determination of the application until such time as information is received or may, in certain circumstances, require that applications are refused on the basis of insufficient information, thus increasing the likelihood of an appeal by the applicant to the Secretary of State.
- 4.11 In the year April 2019-20, only 43% of all applications received by the Local Planning Authority were 'right first time' i.e. they were a valid submission containing all of the requisite information. This impacts significantly on the ability of the Authority to quickly determine applications and creates significant time, cost and resource burdens for the validation team. Publication of a Local List provides applicants the opportunity to review and understand what information will be required in advance of submission, allowing them to submit valid applications.
- 4.12 The absence of an up to date Local List also has the potential to harm the

Council's reputation, in terms of the Local Planning Authority's ability to quickly and efficiently process planning applications, and with respect to the Council's obligations to ensure applicants are provided with guidance on submitting the right information and facilitating a co-operative Development Management process, as set out in the National Planning Policy Framework and National Planning Practice Guidance.

Costs and Budget Summary

- 5.1 There are no specific financial implications involved in producing the revised Local List, which has been prepared in-house and within existing budgets.
- 5.2 It is noted, however, that adoption of the list is expected to assist applicants in submitting applications that are 'right first time' and therefore reduce existing time, resource and cost burdens on validation officers.

Risk and Policy Implications

- 6.1 The Local List, its content and production is governed by the requirements of Section 62 of The Town and Country Planning Act 1990 and Article 11 of The Town and Country Planning (Development Management Procedure) (England) (Order) 2015 (the 'DMPO'). Failure to adopt an updated Local List increases the risk of challenge to the Council under Article 12 (Validation Dispute) of the DMPO.
- 6.2 Consultation on revisions to the list is not a statutory requirement, however, it is considered best practice and is recommended within the National Planning Practice Guidance.
- 6.3 The content of the Local List is compatible and compliant with the content of the Council's adopted Local Plan.
- 6.4 There are no personnel implications arising from the production, consultation and future adoption of the revised Local List.
- 6.5 Equality impacts have been taken into account in the production of the revised Local List; the list is considered to have a neutral impact.

Consultation

- 7.1 Public involvement in the preparation of the updated Local List is considered best practice and is encouraged by the Government in the National Planning Practice Guidance. It is therefore intended that the draft Local List will be published for consultation for a period of six weeks.
- 7.2 In light of accessibility issues posed by the current COVID-19 pandemic, distribution of consultation material to local libraries will not

be possible. During the consultation period the draft list will be published on the Council's online Consultation Hub. The consultation will be promoted through existing Council communications channels and identified stakeholders (those applicants/agents who most frequently use the Council's Development Management Service and planning consultees in external organisations) will be notified of the consultation and invited to participate by way of direct letter or email.

Background Papers	Place of Inspection
Validation of Planning Applications – Local List July 2020	Members' Lounge
Summary Document of Proposed Changes to Local List	Members' Lounge

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