

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL
SUBJECT:	REVIEW OF 1APP REQUIREMENTS (VALIDATION OF PLANNING APPLICATIONS): REPORT ON PUBLIC CONSULTATION
DATE OF DECISION:	15 MARCH 2011
REPORT OF:	PLANNING AND DEVELOPMENT MANAGER
STATEMENT OF CONFIDENTIALITY	
Not applicable	

BRIEF SUMMARY

- (i) The Planning and Rights of Way Panel approved a public consultation exercise at its 23 November 2010 meeting. The Government has required all local planning authorities (LPA's) to review their local requirements in terms of the validation of new planning applications.
- (ii) This report updates Members on the comments received in writing, analyses their merits as to whether the local criteria ought to now be adjusted and seeks final ratification of the adjusted criteria.
- (iii) The purpose for such a review is tied to a move to the Development Management approach to securing new development to support sustainable economic growth. This is intended to offer developers greater certainty in terms of the information LPA's require to quickly validate and process planning applications, related to the aims and objectives of the Development Plan for their area, given the Government's commitment to a 'plan led' planning system in England.

RECOMMENDATIONS:

- (i) Give approval to the use of the adjusted validation criteria for the various types of 1App application form set out in Appendices 1 and 2 to this report for Development Management purposes. (N.B. changes made for 15.3.2011 PRoW Panel are ***emboldened/italicised*** with the note '***(ADDED FOR 15.3.2011 PANEL)***' and in Appendix 2 with **** behind them***).

REASONS FOR REPORT RECOMMENDATIONS

1. To comply with a requirement of Central Government to revise validation criteria advertised to the public by 31 December 2010.

DETAIL (Including consultation carried out)

Introduction

2. The revised criteria have been in use to validate all new applications since 1 January 2011. I am not aware of any issues that have arisen since the introduction of those new criteria.
3. The Public consultation exercise ended on 24 February 2011. In total, 427 separate persons/organisations were advised of the changes and their views sought.
4. A total of 9 written responses have been received. These are reported and analysed below.

Responses to the public consultation exercise

Madison Property Developments Ltd

5. A general statement is made that if criteria are made more onerous, the more costly it will become to make an application. A claim is made that Southampton is failing to meet its stated housing targets by 60% year on year. It is asserted that developers will choose to develop in other local authority areas where the validation criteria are not so onerous / costly and that such criteria will increase an application's carbon footprint to Southampton's cost in the future.

Response

6. ***The City Council as local planning authority has not had much difficulty meeting its housing targets and certainly not since the first adoption of a statutory local plan for the City in 1996. The current economic climate is a factor in making it more difficult in meeting the target at present.***

From 2006 to 2026 the housing target is 16,300 (which annualised is 815). From 06-09 we provided in excess of this target, in 2009/10 we had 525 completions which was below the 815 annualised requirement. However, we are still above the cumulative target having seen 3726 completions so far in comparison to a target of 3260.

If the local distinctiveness and identity of Southampton and the amenity of its citizens are to be protected and enhanced, robust criteria must be in place to ensure the policies of the Development Plan are implemented.

No evidence has been submitted to suggest that developers are seeking to invest in other local authority areas. Southampton is a major urban centre and whilst the recession has seen a decline in investment generally, no convincing evidence exists to demonstrate that:-

- (a) Southampton has been disproportionately affected compared to other local authority areas, nor***
- (b) that such affects are directly attributable to local validation criteria used by the local planning authority, nor***
- (c) that other than the use of paper to prepare necessary reports to demonstrate a proposal's acceptability in planning terms, should have any appreciable bearing on the carbon footprint of development proposals, which may actually also facilitate a reduction in CO₂ emissions by the way something is carefully designed and planned.***

7. With regards to criterion 1 (production of site sections and the stating of finished levels in a development) clarity is sought on the word 'sloping' for consistency.

Response

8. ***Southampton is a city of varied and in some cases extreme topographical changes both within and between development sites and***

neighbouring land.

A developer should have a detailed knowledge of the site and how the design solution will be informed by existing site levels.

It is difficult to be prescriptive in these cases but it is recommended to offer clarity that if existing site levels fall by over 1 metre in any direction across the site or if finished levels would create this effect, then this requirement should be met by the developer. Policy SDP23 could also be a reason justifying the provision of such information to support an application and has been added to Appendix 1 for criterion 1.

9. With regards to criterion 2 (roof plans) clarity is sought on the word 'significant', used in the context of the phrase "required for all planning applications involving significant extensions to roof forms and new buildings" for consistency.

Response

10. *Again it is difficult to be prescriptive in these cases related to existing roof forms. Where the visual sense of the original roof would be lost or the extension completely dominate the roof surface, an accurate plan should be provided to assess the visual acceptability of those proposals. This is a matter of judgement when validating the application. Where less than 40% of any original roof surface would remain, these plans ought to be provided by the developer to help validate the application and allow neighbours to fully understand the proposed development.*
11. With regards to criterion 16 (sustainability checklist) the need to complete this at all is questioned. Instead, it is suggested that conditions are imposed if proposals are found to be acceptable.

Response

12. *A widely used definition of sustainable development was drawn up by the World Commission on Environment and Development in 1987: "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." The Government's overarching principle is to achieve sustainable development, set out in Planning Policy Statement 1 (Paragraph 3).*

The sustainability of the development should be addressed at the earliest possible stages. Factors such as layout, orientation and design must be carefully considered in order to ensure that sustainability is maximised and policy CS20 requirements are met. The sustainability of the development is an important factor in deciding if the development is acceptable, therefore this information must be provided upfront as policy CS20 may not be met if it has not been considered at planning application stage.

For example, SUDS measures must be fully integrated with the overall plan for a development at an early stage to ensure that the maximum benefits are achieved and, most importantly, SUDS measures are not added after the key elements of the development layout have been determined. When this is achieved land-take is accounted for early and

the SUDS features are invariably less costly to construct and are more effective as a drainage system.

Developers are aware of the Council's requirements under Policy CS20 of the City of Southampton Local Development Framework Core Strategy (January 2010) and should design their proposals in accordance with these. Developments should demonstrate how CO2 reductions will be achieved to guard against climate change. No changes are therefore proposed to this criterion.

13. With regards to criterion 18 (transport assessment/statement), clarity is sought on the word 'major', used in the context of the phrase "All major developments".

Response

14. ***Major developments are those involving:-***
- ***the creation of 10 or more dwellings or residential development on sites greater than 0.5 ha:***
 - ***any other non-residential building of additional 1,000m² gross or more floorspace or non-residential development on sites greater than 1.0 ha, or,***
 - ***Waste Development***
- in the Development Management Procedure Order 2010.***
- It is recommended that a note be added to the text.***

15. With regards to criterion 22 (land contamination assessment), the need to supply this at all is questioned. Instead, it is suggested that conditions are imposed if proposals are found to be acceptable.

Response

16. ***By committing to the Development Management approach, developers are encouraged to enter into pre-application discussions with the local planning authority. This can be useful in terms of identifying the constraints and opportunities a site offers, which should be used to inform the design solution proffered and hopefully documented in design and access statements where these are required.***

Developers are at liberty to contact the Contaminated Land Team within the Environmental Health Service to understand whether a site is close to or built upon a potentially contaminative use, so as to inform their design proposals. The requirement is not prescriptive in terms of what such an assessment must contain. Sometimes a simple desk top analysis of historic mapping may be adequate, coupled with the results of a site walkover survey by a competent person, trained in such matters.

The great majority of development in the City is of a residential nature, constituting a vulnerable end user. An urban centre, by its very nature contains industry and land fills associated with historic waste disposal, which can be in close proximity to new residential development or extensions to existing housing. It is considered prudent to retain this criterion to protect the end users of sites.

17. With regards to criterion 34 (context), clarification is sought that the local planning authority will refuse to validate if this requirement is not met.

Response

18. ***This is set as a mandatory requirement for 5 different types of 1App form – full permission, full permission/conservation area consent, full permission/listed building consent, full permission/advertisement consent and outline, some matters reserved. It is listed as a conditional requirement for two other categories – Outline, all matters reserved and S.73 (removal or variation of planning conditions).***

It should be a matter of good practice to demonstrate the development will have no harmful impact on the amenities of occupiers of adjoining land and fit well with its surroundings, whether in terms of use and/or appearance.

Policy SDP7 and CS13 from the Development Plan for Southampton give a clear Policy mandate for harmonious development. This criterion should therefore be maintained and strictly adhered to when deciding whether or not to validate these types of application.

Where not at issue though (for example development proposals which sit in isolation from neighbouring built form) a note could be added to the criterion that where a reasoned case is made in a statement to accompany the application, this requirement may be waived.

Les Weymes Planning Consultancy Ltd

19. A general statement is made that developers are facing economic pressures to gain funding for their developments, which can be impacted on by the need to fund research and assessment studies in advance of gaining some confidence by a positive decision listing conditions.

Whilst understanding the 36 criteria listed is not difficult for a professional engaged in regularly making applications, it could appear overwhelming to those with little experience in such matters.

What is important with pre-application enquiries to understand validation criteria is that the response needs to be timely to make the Development Management approach beneficial. Improving developer confidence in that would assist speedy validation.

Concern is also expressed in times of recession of the formulaic planning agreement contributions that – it is claimed – are frustrating the delivery of quality developments to aid economic recovery, especially when occupied and contributing to Council Tax/Uniform Business Rate income to the City Council. Costly delays can be caused when validation is held up.

Again the use of planning conditions is instead advocated so developers can seek funding with a degree of confidence to then undertake the various (sometimes costly) studies.

Response

20. ***Without detailed case analysis and evidence from Mr Weymes it is difficult to evaluate or justify any specific adjustment that could be made to the local criteria, albeit being a professional working in planning in the private sector and with many years experience, it is***

clear the comments would not have been made lightly, but with the aim to improve the system.

The great majority of applications received by the Council are householder proposals to extend or alter dwellings. The 1App validation criteria for these are fewer and less onerous than for more complicated proposals and should not be overwhelming to the non-professional. A duty officer system exists to help applicants understand the information required, prior to submission.

Planning officers do understand the financial realities facing developers in these difficult times, but unless applications are rigorously assessed for adequate information to properly determine applications and their compliance with the Development Plan, no particular changes should be made as a result of this consultation response. Applicants already have the ability to submit a viability statement with their proposals if they are concerned planning agreement contributions would ultimately make their proposals unviable. The Council currently makes a charge to have such assessments verified by an independent valuer.

Some matters do go to the heart of whether proposals are acceptable in principle. For example, if a residential development were proposed close to a known noise source, the local planning authority should satisfy itself that reasonable living conditions would result for the new residents. It would therefore be appropriate to submit a noise assessment/acoustic report to demonstrate that. It would not be appropriate to reserve such a matter by condition, only to find out that the site was not suitable for residential use because of its noise environment, with no practicable way of mitigating the effects of noise.

Where matters of principle are involved and go to the heart of the acceptability of proposals, then developers should invest in the certainty and acceptability of their schemes. After all, if built out, they will need to sell or let those developments. If they are not attractive to prospective occupiers then they could remain empty and not make their contribution to the City's economic recovery.

The Ramblers Association

21. Does not object to any of the proposed changes as they impact upon the validation of planning applications in Southampton.

Response

22. **Noted.**

The Theatres Trust

23. Does not object to any of the proposed changes as they impact upon the validation of planning applications in Southampton. The Trust is a statutory consultee under The General Permitted Development Procedure Order 2010. The Trust would require any applicant making an application to change a theatre to any use within Class D2 (Assembly and leisure) or from a church within Class D1 to a theatre, to offer strong written justification for that change within their design and access statements.

Response

24. ***This is appreciated and would help the statutory consultee to comment on such applications. It is recommended that a conditional requirement be added to 1App the following form types listed in Appendix 2, where the development would affect a Theatre or where a theatre is being proposed within an existing church:-***

- 4 (Full permission),***
- 5 (Full permission/conservation area consent),***
- 6 (Full permission/Listed Building consent),***
- 11 (s.73 – vary/remove conditions),***
- 21 (Minor Material amendment).***

Highways Agency

25. Does not object to any of the proposed changes as they impact upon the validation of planning applications in Southampton.

Response

26. ***Noted.***

Southampton Federation of Residents' Associations (SFRA)

27. Consider that the criteria are more suited to those regularly making applications but less understandable for residents who may wish to object. The SFRA therefore intend to attend the Panel meeting when this report is considered to address the Panel.

Concerns are expressed that any implications resulting from the following items could influence the criteria:-

- Unresolved judicial review into Houses in Multiple Occupation (HMO) / article 4 issue (criticism is levelled at the Environment Cabinet Member's working party membership, which is considered to be unbalanced in the context of the Government's plans for 'a big society and a request is made to view officer's proposals before they are heard and voted on by Cabinet);
- the Government's Localism Bill (still awaiting second reading);
- scrapping of housing targets;
- scrapping of maximum parking standards.

Response

28. ***It is noted that SFRA will wish to address the Panel. However, the local planning authority cannot defer having a set of local validation criteria in place, for risk of the Government merely imposing national criteria upon Southampton.***

I wonder if the SFRA have confused this process with determining the merits of applications, rather than the information necessary to validate an application. If matters change concerning national planning legislation, which have a bearing on how certain applications are to be validated, then the appropriate time to review 1App criteria would be then, not now.

The rights of anyone to challenge the planning merits of a validly made planning application remain unaffected. The local planning authority will listen carefully to the deputation on this item and then recommend to Members whether it is appropriate to alter the wording of any of the local criteria.

Oakmount Triangle Residents' Association (OTRA)

29. Does not object to any of the proposed changes as they impact upon the validation of planning applications in Southampton and particularly as they affect the Oakmount Triangle Conservation Area, where an Article 4 (2) Direction is in place to remove certain permitted development rights on residential properties.

Paragraph 12 of the 23.11.2010 report is welcomed. This is the part that encourages applicants to engage with their neighbours in order to explain how their design solutions have been formulated. A plea is repeated that during re-application discussions, the local planning authority, in their written response to the applicant, encourage the applicant to contact OTRA to discuss their proposals.

Whereas national criteria require the submission of a design and access statement in Conservation Areas, even for work that is minor and might otherwise have been permitted development; OTRA ask validating officers to apply the principle of proportionality in terms of what is included in such statements.

Concerns already expressed to the Team Leader of the Historic Environment Team are reiterated. These relate to charging for pre-application advice. No fee is required for an application where permitted development rights have been withdrawn by an Article 4 (2) Direction. It is therefore considered irrational that householders be charged £35 each occasion they require advice as to whether some minor works to their home require planning permission, but at the same time that advice offered over the telephone can sometimes lead to misunderstandings (the example of whether a window in a flank wall, visible from a highway yet not facing it, is cited). OTRA ask for such fees to be dropped, where the works ordinarily would not have required permission and that a note to this effect be placed on the relevant planning webpage.

Response

30. ***Officers will be advised to add a standard paragraph to written pre-application responses in the OTRA area, encouraging applicants to contact OTRA before submitting their planning application. It is not however considered appropriate to invalidate applications where no such contact is made.***

Officers do apply their discretion when validating applications in terms of the proportionality of information submitted.

The issue about charging for pre-application advice, where such works would have ordinarily have been permitted development does not relate to the local validation criteria being discussed under this report.

However, Members may wish to instruct the Planning and Development Manager separately on this matter, albeit this decision should also

involve the Cabinet Member for the Environment Directorate, as it has financial implications for the Council. Officer time is still involved in giving such advice and I would recommend that no changes are made to the charging regime in this regard.

Sport England

31. Refers to a consultation guidance checklist offered to other local planning authorities last year when they were reviewing their local criteria and gives a weblink to Section B of its development control guidance note. No specific comment is made on Southampton's revised local criteria though.

Response

32. ***The weblink did not function however, looking at the enclosure there is a Section B listing criteria very similar to national and local criteria used by Southampton but with an obvious focus on the submission of evidence where playing fields are involved in development proposals, including where any pitches are marked out and photographs (including aerial photography) of same.***

It would therefore be appropriate to adjust criterion 13 (Open space assessment) and 23 (Photographs and photomontages) to make a conditional local requirement that where development proposals affect a playing field, they should meet the validation criteria set out by Sport England and provide a (working) weblink to that further advice. This should be made a conditional requirement for the following types of 1App form:-

- 4 (Full permission),***
- 5 (Full permission/conservation area consent),***
- 6 (Full permission/listed building consent),***
- 7 (Full permission/advertisement consent),***
- 8 (Outline – some matter reserved),***
- 9 (Outline – all matters reserved),***
- 10 (reserved matters),***
- 11 (S.73 – vary/remove conditions),***
- 20 (Demolition - Prior Approval) and***
- 21 (Minor Material Amendment/S.73).***

East Bassett Residents' Association (EBRA)

33. Have no specific comments on any of the proposed changes as they impact upon the validation of planning applications in Southampton.

Simplification involving minor development proposals is welcomed, but it is feared that some unscrupulous developers will exploit this to deliver low quality development proposals out of character with the surrounding area.

Concerns are also expressed where applicants make outline applications where all matters are reserved, which is likely to result in a lack of overall cohesion and design for the site.

Response

34. ***Noted. Again, EBRA seem to focus more on the merits of what is submitted, rather than whether the application has sufficient information to allow it to be validated.***

Officers too when exercising their professional judgement, share EBRA concerns and can require the submission of further information after validation. This is especially so where there are relevant planning concerns about proposals not being compliant with the requirements of the Development Plan for Southampton and adopted supplementary planning advice.

Clearly the advice in PPS1 and PPS3 on design allows a local planning authority to refuse schemes – Paragraph 13 (iv) of PPS1 advises – “Design which fails to take the opportunities available for improving the character and quality of an area should not be accepted”. Developers will be aware of this and that is why the Government has moved to the development management approach to encourage pre-application discussion and greater community involvement when formulating development proposals.

Options for action by the Local Planning Authority

35. To adopt the adjusted local validation criteria for Development Management purposes.
36. To not adopt such revised criteria and risk those making planning applications challenging LPA's that refuse to validate applications, whereby the Government could require that validation take place only using the national criteria.

Conclusion and preferred option recommended by Officers

37. It is recommended that the revised local validation criteria set out in ***Appendix 1*** to this report, be adopted for Development Management purposes.
38. The mechanism of judicial review and appeals against non-determination still exist to challenge the decision of a LPA not to validate an application. The local criteria are important and help Southampton to retain its spatial character and local distinctiveness as a settlement.

RESOURCE IMPLICATIONS

Capital/Revenue

39. Within existing budget for the Planning and Sustainability Division.

Property/Other

40. None.

LEGAL IMPLICATIONS

Statutory Power to undertake the proposals in the report:

41. Planning and Compulsory Purchase Act 2004

Other Legal Implications:

42. None

POLICY FRAMEWORK IMPLICATIONS

43. None

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SUPPORTING DOCUMENTATION

Appendices

1.	List of local validation criteria, their importance/relevance and Development Plan and SPG/D basis, adjusted in the light of this report and the consultation responses received.
2.	Matrix of 1App form types set against local validation criteria in Appendix 1

Documents In Members' Rooms

1.	None.
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Integrated Impact Assessment

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	No
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Other Background Documents

Title of Background Papers	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	Guidance on information requirements and validation (DCLG - March 2010)
2.	Development Management Policy Annex: Information requirements and validation for planning applications (March 2010)
3.	Change to the Town and Country Planning (General Permitted Development)(amendments)(England) Order 2010
4.	Report to Planning and Rights of Way Panel 23 November 2010 on the review process for local validation criteria in the 1App system.

Integrated Impact Assessment and Other Background documents available for inspection at:	DCLG website
WARDS/COMMUNITIES AFFECTED:	All