

<b>DECISION-MAKER:</b>	<b>PLANNING &amp; RIGHTS OF WAY PANEL</b>		
<b>SUBJECT:</b>	<b>Review Of Information For The Validation Of Planning Applications</b>		
<b>DATE OF DECISION:</b>	<b>11 FEBRUARY 2020</b>		
<b>REPORT OF:</b>	<b>HEAD OF PLANNING AND ECONOMIC DEVELOPMENT</b>		
<b><u>CONTACT DETAILS</u></b>			
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## STATEMENT OF CONFIDENTIALITY

N/A

## BRIEF SUMMARY

Every planning application that is submitted to the Council has to include a set level of detail before it can be made valid. The detail required varies depending upon the application complexity.

In 2013 Central Government sought to simplify the validation of planning applications in order to make the process less onerous on both the Local Planning Authority and the applicant. The Council's validation lists are split into national and local requirements. The Council revised its local validation requirements in April 2015 and our current lists can be viewed on our website or [here](#).

The revised National Planning Policy Framework (2019) suggests that validation requirements should be kept under constant review with a minimum period of 2 years recommended (paragraph 44 refers). The NPPF also explains that only information that is '*relevant, necessary and material to the application in question*' should be sought.

Officers have recently undertaken`. This report seeks the approval of the Panel to revise these requirements and follows consultation with internal consultees and an email drop to local planning agents and applicants.

## RECOMMENDATIONS:

- (i) Approve the proposed changes to the local validation requirements as detailed at **Appendix 1** and paragraph 18 of this report, and delegate authority to the Head of Planning & Economic Development to update our systems and the Planning Portal accordingly; and
- (ii) Delegate authority to the Head of Planning & Economic Development to review and approve changes the local validation requirements in the future, in line with NPPF recommendations, following regulation changes and the necessary public consultation.

## REASONS FOR REPORT RECOMMENDATIONS

1. To comply with the requirement of Central Government to revise the validation criteria for planning applications in accordance with the Development Management Procedure Order (2015) (as amended) and the NPPF (2019).

## ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. To continue using the existing validation checklists. This option is not recommended as it would not be in accordance with Government recommendations, and would leave the Local Planning Authority (LPA) vulnerable to appeals made in respect of validation disputes. The proposed changes increase the level of detail that can be sought at the outset thereby improving the ability for all stakeholders to engage effectively in the planning application process.

## DETAIL (Including consultation carried out)

3. The Town and Country Planning (Development Management Procedure) Order (2015) sets out the steps local authorities must take when they receive, consider and determine planning applications and includes statutory information requirements for the validation of planning applications known as 'Mandatory National Information Requirements'.
4. The Procedure Order is supported by the National Planning Policy Framework (NPPF 2019), which sets out policy requirements for information that should be submitted with certain types of application. The Town and Country Planning (General Permitted Development) Order (as amended) (2015), also sets out provisions that should be met by an applicant when undertaking permitted development; particularly in relation to applications for prior notification.
5. Southampton City Council also currently has a list of additional requirements that it considers necessary for the validation of planning applications, known as 'Local Information Requirements', which is informed by national and local planning policy. The National and Local Requirements together comprise a 'Validation Checklist'. A validation checklist is used to validate a planning application on its receipt. Different checklists exist for different types of development. The validation criteria that appears on a checklist varies between the type of application submitted; generally a major planning application will have to meet more validation criteria than a householder application in order for it to be validated.
6. At present the LPA can consider that the validation requirements have not been met and seek further information. It can decline to validate an application until this information has been submitted. Whilst the National Requirements must be met in order for an application to be validated it is down to the discretion of the LPA to decide what it requests to be submitted from the Local Requirements (Local List).
7. The Local List was last reviewed in 2015, and since that time additional information is needed at the validation stage, particularly in respect of affordable housing, air quality and nitrates. This report follows consultation on the matters that require an update, and recommends that the Local List is updated to reflect the additional requirements set out at **Appendix 1**.

8. In short these relate to:
- a) Sustainable Drainage – with the Government making details a validation requirement for all Major development;
  - b) Affordable Housing – where any viability submissions will be expected at the validation stage and not following validation and public consultation;
  - c) Pre-app Fees – particularly for schemes using a Planning Performance Agreements to ensure payment is made with the application;
  - d) Heritage Statements – already a validation requirement but further details, particularly in relation to archaeology, are explained;
  - e) Air Quality Reports – details required for schemes outside of Management Areas which can also be affected;
  - f) Contaminated Land – already a validation requirement but, seeks to clarify what is required and when; and
  - g) Sustainability Checklist – already a validation requirement but adds a requirement for some applicants to provide a nutrient calculation.
9. Consultation took place prior to Christmas with emails sent to some 450 recent users of the Planning Service. It has now been at least 8 weeks – the statutory minimum – since consultation was undertaken. Only 2 replies were received.
10. The respondents made the following points:
- **SUSTAINABLE DRAINAGE STRATEGY**  
*Our view is this is a double up of building regulations and not are required for planning.*
  - **AFFORDABLE HOUSING**  
*This has been the case since the adoption of the local plan and the transparency is welcome. The transparency must apply to council and privately owned sites. It would be advantageous if past studies are then uploaded to the web for both council and privately owned sites.*
  - **PPA AGREEMENTS**  
*The council has an experienced team of officers and although we as agents sometimes disagree. We respect their views. We have worked with the more senior officers for many years and so they can offer value and help and so we see no issue with this.*
  - **HERITAGE STATEMENTS**  
*We ask the council to tread carefully with this matter as generally these buildings are left by owners as more expensive to refurbish than their worth.*
  - **AIR QUALITY**  
*We do not think a site outside the AQMA should require this.*
  - **CONTAMINATED LAND**  
*This is a double up of building regulations and many appeals have allowed the council to understand this. The requirement is costly and will deter land owners from running planning as noted above. We urge the council to accept environmental searches as this will only deter delivery if not.*

- **NITROGEN**

*We ask the council to run a forum on this matter as nitrogen is mostly from agriculture and not housing. This is again a cost to deter delivery.*

11. In response to this points the proposed changes are largely enforced upon the Council by changes to national planning legislation and guidance. Officers are grateful for the feedback and recognise the additional cost that could arise, but also operates an open book appraisal for all schemes that cannot deliver a fully policy compliant scheme. The proposed changes are not considered to be too onerous in this context, and will improve the quality of planning applications, whilst providing stakeholders with more upfront information which will better inform their responses.

12. The second respondent suggested that the wording regarding the need for off-site parking surveys, set out in our current local requirements, should better reflect the wording of the adopted Parking SPD. This latter request is supported and the following change is also, therefore, recommended:

13. Transport Statements and Transport Stress Survey

Best practice for developments of 1 – 49 units. The statement should set out the transport issues relating to a proposed development site, and details of the development proposal and how this will impact on these existing transport issues. It is also best practice for all new development, where maximum parking standards are not met, to indicate parking stress within that area in accordance with the methodology of the Lambeth Model parking survey under the following criteria:

- 1) *Carry out a survey between 22.00 and 06.00.*
- 2) *Conduct 2 surveys on 'normal days', outside of school holiday times and avoiding bank holidays etc. Ideally one week day and one week end day*
- 3) *The survey area should be within 200m radius of the site.*
- 4) *The survey should record how many parking spaces are available at the time of the survey.*
- 5) *Photographic evidence should support the information being provided.*
- 6) *A 1:1000 plan of the survey area should be provided clearly showing the locations of the available parking spaces. The plan will need to clearly identify areas of available parking, whilst parked areas, dropped kerbs and parking restrictions also need to be clearly marked to provide a clear picture of how much kerbside parking space was available at the time of the survey.*
- 7) *The parking spaces must be a minimum of 6m long to be counted between vehicles, although 5m is adequate when there is free access one end.*
- 8) *The plan should be accompanied with a written summary of the findings of the survey listed by street, stating the number of parking spaces available for use on the street, and the number of unoccupied or vacant spaces, and then expressing this ratio as a percentage of available space. The survey should be presented clearly identifying the date, time, and day of the week, with the plan and any photographs.*

## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

14. The changes can be met through existing budgets

### **Property/Other**

15 None

## **LEGAL IMPLICATIONS**

### **Statutory power to undertake proposals in the report:**

16. The following legislation and policy framework is relevant to ensuring an up to date validation process:

- Planning and Compulsory Purchase Act (2004)
- DCLG: Guidance on Information Requirements and Validation (2010)
- Streamlining the Planning Application Process - Government Response (2013)
- The Town & Country Planning (DM Procedure) Order (2015 as amended)
- The Town & Country Planning (General PD) Order (2015 as amended)
- National Planning Policy Framework (2019)
- National Planning Policy Guidance (NPPG)

### **Other Legal Implications:**

17. None

## **RISK MANAGEMENT IMPLICATIONS**

18. None

## **POLICY FRAMEWORK IMPLICATIONS**

19. None

<b>KEY DECISION?</b>	No	
<b>WARDS/COMMUNITIES AFFECTED:</b>	Citywide	
<b>SUPPORTING DOCUMENTATION</b>		
<b>Appendices</b>		
1.	Extract from Consultation – Additional Local Requirements	
<b>Documents In Members' Rooms</b>		
1.	None	
<b>Equality Impact Assessment</b>		
<b>Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.</b>		<b>No</b>
<b>Data Protection Impact Assessment</b>		
<b>Do the implications/subject of the report require a Data Protection Im</b>		<b>No</b>
<b>Assessment (DPIA) to be carried out.</b>		
<b>Other Background Documents</b>		
<b>Other Background documents available for inspection at:</b>		
<b>Title of Background Paper(s)</b>	<b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b>	
1.	None	

**APPENDIX ONE  
CONSULTATION LETTER SENT TO 456 AGENTS AND APPLICANTS  
PROVIDES DETAIL & JUSTIFICATION FOR VALIDATION CHANGES**

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Dear Sir/Madam

**Consultation – Validation Requirements & Pre-application Charging**

I write to you regarding the above matters as you are on our system as having submitted a pre-application enquiry and/or a formal planning application to the City Council’s Planning Department within the last 12 months. As such, we wanted to advise you of a couple of proposed changes to the Planning Service that may affect you in the future. Your comments are welcomed on the following changes, which are still open to change and have yet to be finalised:

**Planning Application ‘Local’ Validation Requirements**

Our current validation lists for planning applications are available on the Council’s website, and explain what is needed before a planning application can be validated. Since the lists were last reviewed it has become evident that we need to make additional changes as explained and set out below, and update the web links as follows:

- **Sustainable Drainage**

The Water Act (2014), as supported by ministerial statements, introduced the requirement for all new major developments (ie. 10 or more dwellings/1,000sq.m of commercial floor space) to provide details of sustainable drainage alongside the planning application. The Council’s Planning Department has been seeking this information at the validation stage since 2015. It is proposed, however, to introduce this national requirement as a formal validation requirement in Southampton. The following changes are proposed:

Flood risk assessment & Sustainable Drainage Strategy	<p>Planning applications for development proposals of 1 hectare or greater in Flood Zone 1 and all proposals for new development located in Flood Zone 2 and 3 will require a Flood Risk Assessment - See link <a href="http://www.environment-agency.gov.uk/research/planning/93498.aspx">http://www.environment-agency.gov.uk/research/planning/93498.aspx</a>. See also the Strategic Flood Risk Assessment <a href="http://www.southampton.gov.uk/environmental-issues/flooding/development-flood-risk/level2-flood-risk-assessment.aspx">http://www.southampton.gov.uk/environmental-issues/flooding/development-flood-risk/level2-flood-risk-assessment.aspx</a></p> <p>A Sustainable Drainage Strategy is required for all MAJOR Development (10 or more dwellings/1,000sq.m of commercial floor space) and shall evidence your approach to surface water management.</p>
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- **Affordable Housing**

Southampton has an acute housing need, and its planning policies seek to secure a contribution towards affordable housing from all new major residential development. The viability of a scheme is a material consideration, and where development cannot support the required affordable housing contribution its viability can, currently, be independently tested ahead of an officer recommendation. In order to ensure the smooth processing of planning applications that trigger affordable housing it is proposed to introduce a validation requirement that affected schemes provide either an ‘Affordable Housing Statement’; detailing how the policy requirements are to be fully met, or an open book viability appraisal that will then be independently tested at the applicant’s expense. The details of any viability appraisal will be made publically available on Public Access alongside the other planning application details. The following changes are proposed:

<p>Affordable Housing Statement &amp; Viability Assessments</p>	<p>For schemes that include a net increase of 10 or more residential units and provide policy compliant levels of ‘onsite’ affordable housing the specific details of the affordable offer shall be set out in an Affordable Housing Statement.</p> <p>For all applications that include a net increase of 10 or more residential units where the proposal does not meet policy requirements or developer contributions, and this is being justified on viability grounds, a detailed Viability Assessment is required to be submitted with the planning application alongside the fee for an independent review. Please note that the Viability Assessment will be made publicly available in the same manner as the other documents that form part of the planning application submission, and the expectation is that the applicant will pay any costs needed to have the Assessment independently verified for the Council.</p>
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- **Planning Performance Agreements**

The City Council offers a pre-planning application service. For significant major development our preference is to encourage applicants to enter into a Planning Performance Agreement (PPA), where a bespoke programme for delivering the pre-application service is designed, and the bulk of the fee is payable at the point that the formal planning application is lodged. The Council’s Planning Department intend to make the payment of the full pre-application fee a validation requirement for the avoidance of any doubt. The following changes are proposed:

<p>Pre-application fees</p>	<p>For those applications that have followed a pre-application ‘Planning Performance Agreement’ – normally for significant major schemes - the pre-application planning fee residual shall have been paid prior to the validation of the subsequent planning application.</p>
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- **Heritage Statements**

Our current requirements for a Heritage Statement do not explain what to do when development may affect possible archaeology. Additional clarification is considered useful with a link to further information. The following changes are proposed:

<b>Heritage Statement</b>	<p>Required if the development involves work to a heritage asset.</p> <p>A heritage asset is a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions because of its heritage interest. Heritage assets include designated heritage assets e.g. Listed Buildings and Conservation Areas, and other assets identified by the Local Planning Authority e.g. Locally Listed Buildings. Heritage assets also include assets with archaeological interest.</p> <p>The Statement should include the following:</p> <ol style="list-style-type: none"> <li>1) A description of the heritage asset and its setting.</li> <li>2) An assessment of the significance.</li> <li>3) An explanation of the design concept for the proposed development.</li> <li>4) Description of the impact of the proposed development. Photos should also accompany the statement.</li> </ol> <p>In the following cases, planning applications involving ground disturbance shall be submitted with a Heritage Statement that includes an appropriate archaeological desk-based assessment and, where necessary, a field evaluation:</p> <ul style="list-style-type: none"> <li>• development affecting any site identified as being of archaeological interest (during the pre-application) where ground disturbance is proposed, particularly in Local Areas of Archaeological Potential 1 to 15</li> <li>• Major development sites over 0.25 hectares in the rest of the city</li> <li>• Significant infrastructure works</li> <li>• Works to scheduled monuments (which will also require Scheduled Monument Consent).</li> </ul> <p><a href="https://www.southampton.gov.uk/planning/heritage/archaeology-planning.aspx">https://www.southampton.gov.uk/planning/heritage/archaeology-planning.aspx</a></p>
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- **Air Quality**

It has been well publicised recently that the air quality in Southampton needs to be improved: <https://www.southampton.gov.uk/environmental-issues/pollution/air-quality/>. New development within the City, therefore, needs to make a contribution to such improvements but currently only planning applications for major developments within designated Air Quality Management

Areas need to provide further details at the application validation stage. The following changes are proposed.

Air Quality Assessment	<p>All Major Development (10 or more dwellings/1,000sq.m of commercial floorspace)</p> <p>All development, excluding householder development, inside or adjacent to any designated Air Quality Management Area (AQMA)</p> <p>All development, excluding householder development, inside or within 200m of any statutorily designated nature conservation sites</p> <p>All development involving an energy facility or industrial processes where there are direct emissions into the air</p> <p><a href="http://www.southampton.gov.uk/environmental-issues/pollution/air-quality/air-quality-planning.aspx">http://www.southampton.gov.uk/environmental-issues/pollution/air-quality/air-quality-planning.aspx</a></p>
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- **Contaminated Land**

The current requirements for the submission of contaminated land assessments do not explain that residential development is a vulnerable use. Whilst planning conditions will still be applicable it is considered appropriate that all Major planning applications include a Land Contamination Assessment at the validation stage. The following changes are proposed:

Land Contamination Assessment	<p>Required where:</p> <ul style="list-style-type: none"> <li>• All Major Development (10 or more dwellings/1,000sq.m of commercial floorspace)</li> <li>• Contamination is known or suspected to exist at the site and the application proposes a vulnerable use such as residential</li> <li>• Development is within 250 metres of a currently licensed or historic landfill site.</li> </ul> <p>For further guidance please see link: <a href="https://www.southampton.gov.uk/environmental-issues/pollution/contaminated-land/development-potentially-contaminated-land.aspx">https://www.southampton.gov.uk/environmental-issues/pollution/contaminated-land/development-potentially-contaminated-land.aspx</a>. A Main Investigation as described in BS 10175:11 is required when recommended by the Preliminary Investigation due to the potential for land contamination to affect the proposed development.</p> <p>Environmental searches will not be accepted as a Land Contamination Assessment.</p>
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- **Sustainability Checklist & Nitrogen Budget Calculations**

Natural England have recently advised that there is a likely significant effect on the internationally designated sites (Special Protection Areas, Special Areas of Conservation, potential Special Protection Areas) in the Solent due to the

increase in wastewater from the new development. In order to understand the impacts Natural England advises that a nitrogen budget is calculated for new development and the simplest way for the Council to seek this information is to amend its current 'Sustainability Checklist' so that applicants can complete a Nitrogen Budget Calculation in addition to providing the existing questions relating to energy, water usage and wider credentials with regard to sustainable development.

<p>Sustainability Statement Checklist &amp; Nitrogen Budget Calculation</p>	<p>The Sustainability Checklist should be completed for all applications, new build or conversion of:</p> <ul style="list-style-type: none"> <li>• 1 or more residential units and/or overnight accommodation (such as hotels)</li> <li>• All non-residential applications of 500 sq m or more floorarea</li> </ul> <p>to show how the developer has considered and complied with the requirements of LDF Policy CS20 – Tackling and Adapting to Climate Change of the Core Strategy (2015)</p> <p><a href="https://www.southampton.gov.uk/planning/planning-permission/sustainability-checklist.aspx">https://www.southampton.gov.uk/planning/planning-permission/sustainability-checklist.aspx</a></p> <p>The revised checklist includes the requirement for the applicant to calculate the scheme's likely nitrogen budget. Where the Council's checklist is not used a planning application will not be validated without this calculation.</p>
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- **Biodiversity Net Gain**

Finally, with the Environment Bill 2019 progressing to Committee stage, ahead of becoming law, it is likely that the above checklist will be amended further in due course to also ensure that applicants set out how they will achieve the mandatory 10% biodiversity net gain across their scheme. More information can be found here: <https://www.gov.uk/government/news/government-introduces-ground-breaking-environment-bill>