

DR/35/13

committee                      DEVELOPMENT & REGULATION

date                              23 August 2013

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**MINERALS, WASTE and COUNTY COUNCIL DEVELOPMENT**

**National and local requirements for the validation of planning applications.**

Report by Head of Environment, Planning and Economic Growth

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**1.            PURPOSE OF REPORT**

The report seeks the Committee's endorsement of an updated validation checklist and supplementary guidance for the national and local requirements for the validation of planning applications that are submitted to Essex County Council, as advised by the National Planning Policy Framework.

Subject to the endorsement of the Committee, the validation checklists and supplementary guidance would be adopted and for published on the Council's website. Once adopted, the Checklist would be kept under regular review. It is also proposed that any minor amendments, necessary to reflect statutory changes, changes in government guidance or the council's policy/guidance, would thereafter be made as required without undertaking a full review or consultation, where appropriate. Any major revisions to the Checklist would be referred to the Committee for approval.

**2.            BACKGROUND**

The primary drivers for revision are contained within the NPPF (paragraph 193) and the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 3) Order 2012, which came in to force 31 January 2013. This Order altered requirements for outline application requirements and importantly requires local planning authorities to have an up-to-date (less than 2 years old) validation checklist to locally reflect the current national requirements.

More recently, the Growth and Infrastructure Act 2013 (GIA) amends section 62 of the Town and Country Planning Act 1990, which governs what information LPAs can require in support of a planning application. The GIA introduced limits on LPAs powers to require information with planning applications, so that such requests are reasonable and relate to matters that

are likely to be only material to determination of the planning application. These limitations are, namely:

- Information requests must be reasonable having regard, in particular, to the nature and scale of the proposed development; and
- May require the particulars of, or evidence about, a matter only if it is reasonable to think that the matter will be a material consideration in the determination of the application.

More recently, further changes were introduced<sup>1</sup> prescribing that a local authority can no longer compel a developer to provide information because it is on a local validation list. If an applicant considers that the information requested on a local list does not meet the tests set out in the NPPF and the Act, they can now challenge the need to provide it.

The current checklist, adopted in 2008, gained the ratification of the Council's Development and Regulation Committee on 30 May 2008 and subsequent Cabinet Member Approval.

### **3. SUMMARY OF CHANGES TO THE ADOPTED GUIDANCE**

A copy of the draft supplementary guidance and validation checklists are set out at Appendix 1 of this report.

Due to the varying nature of applications determined by the Council, it was previously agreed in 2008 that separate checklists should be used in order to make the checklist clearer and more user-friendly. Within the proposed revision, there are five validation checklists to ensure the correct and commensurate information accompanies the different types of applications. The validation checklist required depends on the type of application submitted and have been updated as follows:

- Validation Checklist 1: Full / outline / reserved matters / variation (non-compliance) with condition(s) applications.
- Validation Checklist 2: Applications for lawful development certificates applications.
- Validation Checklist 3: Applications for listed building consent, conservation area consent & scheduled monument consent.
- Validation Checklist 4: Non-material amendments or minor material amendments (this is a new checklist designed to reflect the nature of the applications and provide more certainty to developers in regards to requirements);

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<sup>1</sup> Chief Planning Officer for the department for Communities and Local Government announced the commencement of Section 6 of the GIA and The Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2013 (SI 2013/1238) from the 25th June 2013

- Validation Checklist 5: Requests for EIA screening opinions and/or scoping opinions (this is a new checklist designed to reflect the nature of the requests and provide more certainty to developers in regards to requirements).

There are a number of changes proposed within the supplementary guidance, to bring up-to-date information requirements and improve the clarity and structure of the previous document. In summary, the changes within the revised supplementary guidance are as follows:

- Improved structure and clarity in terminology for the requirements. There is also further information regarding the policy drivers for the requirements, with improved links to new and relevant policies and guidance which will provide further information for prospective applicants;
- Further information on what is needed for specific types of applications, consents and requests;
- Improved clarity on 'paper copy' requirements and electronic submissions in readiness for the adoption of the new planning case management system.
- Further clarity for potential applicants covering:
  - a. The need for and contents of a Habitats Regulation Assessment;
  - b. The need for and content of Health Impact Assessments;
  - c. Landscaping and/or Visual Impact Assessments;
  - d. The contents of a planning statement.
- Clarity regarding agricultural impact (in relation to aftercare and restoration of sites) and the contents of an economic statement;
- Addition of the following requirements:
  - a. All applications over 0.1 hectare in size will be required to submit a 'Biodiversity Checklist' to ensure all applications appropriately assess the potential biodiversity impacts of a scheme;
  - b. Hydrological and hydro-geological assessments (if applicable for the scheme proposed).

#### **4. CONSULTATIONS**

45 statutory consultees, groups and authorities including District/Borough/City Councils were directly notified of the proposed changes to the document. As a result, 10 replies were received.

On balance, the feedback received was generally positive and informative with relevant additional information being included within the checklist. The checklist has accordingly been amended to reflect the issues raised following the consultation process. The final checklist has also been benchmarked against other County Council validation checklists for consistency.

## **5. CONCLUSION**

The reasoning behind the provision of validation checklists is to provide clear and specific guidance of what is required to be submitted with any type of planning application from the outset. It will also assist the council, as a mineral, waste and county planning authority, to ensure it adopts a consistent approach towards the validation process.

The revision to the requirements has been required due to the rapidly evolving national policy context, best practice and legislation, stemming from the government.

The revised draft of the validation checklists and supplementary guidance has been updated in the light of changes to the National Requirements. Primarily these requirements are contained within the NPPF (paragraph 193), the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 3) Order 2012, The Growth and Infrastructure Act 2013 and The Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2013. The update also reflects other recent changes in National Guidance and Legislation.

Without an up-to-date and relevant validation checklist there are restrictions as to what information Planning Officers can request in support of a planning application. Additionally, there are now formal routes for applicants to challenge the need for information in individual cases, even if it is contained as a potential requirement within the local validation checklist.

Having an up to date local validation checklist ensures the council can request reasonable and commensurate information that will be material to the individual planning application. This should reduce the unnecessary information requirement on the developer in turn helping streamline further the planning application process.

## **6. RECOMMENDATION**

That the Committee endorse the validation checklists and supplementary guidance document, attached at Appendix 1.

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## **BACKGROUND PAPERS**

- Guidance on information requirements and validation (March 2010)
- The National Planning Policy Framework (adopted March 2012)
- Town and Country Planning (Development Management Procedure) (England) (Amendment No. 3) Order 2012 (adopted January 2013)
- Growth and Infrastructure Act (adopted 2013)
- All other documents used in the production of the validation guidance are publically available in full and are hyperlinked within the document.

## **LOCAL MEMBER NOTIFICATION**

Countywide