

**This report is Public.**

## **Local Validation List Report**

<b>Committee</b>	Planning Committee
<b>Date of Committee</b>	21 March 2024
<b>Portfolio Holder</b>	Portfolio Holder for Planning and Development, Councillor Dan Sames
<b>Date Portfolio Holder agreed report</b>	11 March 2024
<b>Report of</b>	Assistant Director Planning and Development, David Peckford

### **Purpose of report**

To set out the consultation responses to the proposed local validation list and to approve the use of the list when validating planning applications.

### **1. Recommendations**

The Planning Committee is recommended to:

- 1.1 Approve the Local Validation List, with the finalised wording of the list and appendices delegated to the Head of Development Management, prior to publication.

### **2. Executive Summary**

- 2.1 This report sets out the comments received following consultation of the proposed local validation list, a response to those comments and a recommendation to approve the use of the list when validating planning applications.
- 2.2 The use of a local list is supported by the government within the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).
- 2.3 The list sets out additional information required to be submitted with an application above that required by the national validation requirements.
- 2.4 The information requirements set out within the proposed local list are not intended to add any additional burden to development, but to ease the fair and timely assessment of planning applications by being consistent and reducing delays.

### **Implications & Impact Assessments**

<b>Implications</b>	<b>Commentary</b>
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<b>Finance</b>	There are no financial implications arising from this report. Kelly Wheeler, Finance Business Partner, 12 March 2024			
<b>Legal</b>	The approval of a local list follows the guidance within the National Planning Policy Framework and the Planning Practice Guidance Shahin Ismail, Interim Head of Legal Services 12 March 2024			
<b>Risk Management</b>	Any arising risk will be managed through the service operational risk and escalated to the Leadership Risk Register as and when necessary. Celia Prado-Teeling, Performance Team Leader, 12 March 2024			
<b>Impact Assessments</b>	Positive	Neutral	Negative	Commentary
<b>Equality Impact</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		There are considered to be no equality implications arising from use of the local validation list.
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		There are considered to be no equality implications arising from use of the local validation list.
<b>Climate &amp; Environmental Impact</b>		X		There are considered to be no implications arising from use of the local validation list, as it just requires the information (on climate and environmental impacts) to be submitted at the start of the application process
<b>ICT &amp; Digital Impact</b>		X		Applications will still be submitted in the same way with use of existing equipment and software etc
<b>Data Impact</b>		X		Applications will be stored in the same way using the planning software and following GDPR
<b>Procurement &amp; subsidy</b>		X		There are considered to be no procurement and subsidy implications arising from use of the local validation list.
<b>Council Priorities</b>	Not applicable			
<b>Human Resources</b>	Not applicable			
<b>Property</b>	Not applicable			
<b>Consultation &amp; Engagement</b>	Consultation was undertaken with those who have regularly or recently submitted planning applications to Cherwell District Council			

	The consultation ran for 8 weeks from 17 <sup>th</sup> January 2024 to 11 <sup>th</sup> March 2024.
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## Supporting Information

### 3. Background

- 3.1 Government legislation sets national validation requirements for planning applications. This is quite limited in information to: application fee, plans and drawings; ownership certificates, design and access statement (for some applications); and fire statements for example. However, applications also require a number of additional information to be submitted with them to be able to assess their acceptability ie ecology surveys, transport statements, landscape assessments; archaeology and so on.
- 3.2 As such, by following the national validation requirements only, applications will be validated without necessary additional information and applicants may be asked to submit this during the consideration of the application and can delay assessment and determination of the application.
- 3.3 The NPPF therefore supports the front loading of planning applications. It states that the *'right information is crucial to good decision-making'* (para 43). It goes onto state that *'Local planning authorities should publish a list of their information requirements for applications for planning permission'* (para 44).
- 3.4 The previous local validation checklist for Cherwell District Council was adopted in 2013. The National Planning Practice Guidance (NPPG) states that a local validation list should be reviewed at least every 2 years. This is to ensure the inclusion of any key legislative or policy changes.
- 3.5 A key change presently is the introduction of mandatory Biodiversity Net Gain (BNG) provision, which will impact minor and major development from 2<sup>nd</sup> April 2024.
- 3.6 The local validation list will ensure applications can be registered promptly, and the information provided should help officers have all requirements met to make a timely decision of an application.

### 4. Details

#### Government Guidance

- 4.1 The NPPF and NPPG advise that Local planning authorities should take a proportionate approach to the information requested in support of planning applications when devising their local list.
- 4.2 The local list is prepared by the local planning authority to clarify what information is usually required for applications of a particular type, scale or location. In addition to being specified on an up-to-date local list published on the local planning authority's website, information requested with a particular planning application must be:
- reasonable having regard, in particular, to the nature and scale of the proposed development; and
  - about a matter which it is reasonable to think will be a material consideration in the determination of the application.
- 4.3 If a local planning authority asks for information which is not necessary, then applicants can either provide the information, or use the appeals procedure to resolve disputes over the information to be provided with a planning application.
- 4.4 The local list is required to be reviewed at least every 2 years. Cherwell District Council's local list was adopted in 2015 and is now out of date.

#### **Process for reviewing its local list as set out by the NPPG**

- 4.5 The recommended process for reviewing and revising local lists is set out in the NPPG and involves the following 3-step process:

- *Step 1: Reviewing the existing local list*

Local planning authorities should identify the drivers for each item on their existing local list of information requirements. These drivers should be statutory requirements, policies in the National Planning Policy Framework or development plan, or published guidance that explains how adopted policy should be implemented.

Having identified their information requirements, local planning authorities should decide whether they need to revise their existing local list. Where a local planning authority decides that no changes are necessary, it should publish an announcement to this effect on its website and republish its local list.

- *Step 2: Consulting on proposed changes*

Where a local planning authority considers that changes are necessary, the proposals should be issued to the local community, including applicants and agents, for consultation.

- *Step 3: Finalising and publishing the revised local list*

Consultation responses should be taken into account by the local planning authority when preparing the final revised list. The revised local list should be published on the local planning authority's website.

Information requested with a particular planning application must meet the [statutory tests introduced by the Growth and Infrastructure Act](#).

### Proposed Local List

- 4.6 The local list has been updated to take into account latest legislation, policy and guidance. A significant addition is requirements for Biodiversity Net Gain (BNG) following introduction of mandatory BNG provision by the government, which impacts on major development and minor development from 2<sup>nd</sup> April 2024.
- 4.7 The proposed local list is attached at appendices 1, 2 and 3.

### Consultation and engagement

- 4.8 Consultation on the list was undertaken with those who have regularly or recently submitted planning applications to Cherwell District Council. Parish Councils, elected members and regular consultees were also consulted. The consultation ran from Monday 17<sup>th</sup> January 2024 until midnight on Monday 11<sup>th</sup> March 2024.
- 4.9 There was a link on the landing page of the Planning section of the Council's website, which detailed the consultation process, and outlined how consultation responses can be submitted through email or post.
- 4.10 A total of 11 email responses were received. Any personal information supplied within the responses that could identify anyone has been redacted and will not be shared or published in the report. Further information on data protection is available in our general consultation's privacy statement on the Council's website. Any spelling or grammar errors have been corrected.

### Response to consultation

- 4.11 Below is a list of the representations received and an officer response and whether the checklist is/will be changed in light of the comment.

Reference:	Representation	Officer Response
RW15012024	The removal of "do not scale" should not be required, as Architect's PI insurers require that wording as people try to print out on a different sized paper and try to scale.	The sentence has been adjusted to include "unless for planning purposes" to be specific that the planning officer can scale the plans.
RW15012024	Not all documents should be the same size, as different drawings require different paper sizes.	Removed the reference to the same size, although added a sentence to ensure plans are submitted on the right paper size to be scaled correctly.
RW15012024	A design statement requirement should follow	This is not a requirement and is only part of the guidance to

	national standards and the guidance only says they are 'welcome', which does not provide clarity.	make a proposal obvious to officers.
RW15012024	A heritage impact assessment should not be required for any building within a Conservation Area. For example, a small residential rear extension should not require a heritage impact assessment, as the submitted drawings are sufficient to demonstrate any heritage impact, and a planner's judgement/ability to understand a drawing is crucial.	A heritage impact assessment should be proportional in size to the proposed development. Reference should be made to the Conservation Area, a Character Appraisal (where relevant), any nearby listed buildings.
RW15012024	Are heritage impact assessments required for works associated with non-designated heritage assets? If so, how do we clarify what is a non-designated heritage asset?	A heritage impact assessment would not be required for a non-designated heritage asset at the point of registration, but may be asked for within the life of an application if the officer believes it would help the determination.
NS16012024	Producing detailed plans at 1:20 scale when the application is made would be onerous for smaller scale projects, or larger commercial projects where the principle of consent is yet to be established.	Noted, this has been re-phrased to highlight that it would be ideal to help the process but not essential. The registration process would not be held in the absence of these plans.
APC27012024	When an amended planning application is submitted to CDC and consulted on, it be made clear to the consultees in the amended application and consultation documents, exactly how the application has changed from the original application.	This would be preferred for officers, although it is not considered to be a requirement for an additional statement to be submitted at the registration stage. While it would be valuable, the Council do not consider this to be a requirement under the validation checklist.
GP30012024	A biodiversity self-assessment form should be submitted for householders.	Officers do not consider a self-assessment form to be relevant to the local requirements at this point. All eventuality cannot be accounted for, and the assessment for householders could be difficult to do if people are not trained. Further, if something is picked up within the application that is not picked up from a form this could cause further delay.

GP30012024	A sustainability statement form should be submitted for minor applications.	This request is being considered but concerns are raised that this may be considered unduly onerous for all non-major applications to be required to submit a sustainability statement form
BPC07022024	Parking assessments should be essential for any residential developments, of any size, since Bloxham has so little parking space in the village.	Parking and Servicing Provision documents are a 'Potential' requirement for all residential developments, which is considered to be reasonable.
BCP07022024	Heritage assessments should be marked as essential for any development in the Conservation Area.	The Council agree and this has been changed to 'Essential'.
BCP07022024	Amended applications should be made clear what the content of the new application and documents are, and how they change from the original application.	This would be preferred for officers, although it is not considered to be a requirement for an additional statement to be submitted at the registration stage. While it would be valuable, the Council do not consider this to be a requirement under the validation checklist.
SMT08022024	The Council don't have their own 'file naming principles' so this could be confusing.	'File naming principles' removed from the guidance.
JN13022024	Question to the word/lettering on the table of 'potential/P', is there a definition or a fuller explanation as to when certain documents may potentially be required?	The requirement is outlined within the appendices, and if it is not specified within that bit, it will not be required to be submitted at registration stage.
NC01032024	Detailed plans at 1:20 is not defined when these would be requested.	This has been re-worded to be a suggestion, rather than a requirement.
NC01032024	The requirement for a design statement is too vague and onerous given the pre-existing statutory scope of Design and Access Statements within current legislation.	A separate statement would not be required beyond a statutory design and access statement. Not all applications require a design and access statement, so it is encouraging those that do not require one to submit one (for instance, householder applications).
NC01032024	It is important to emphasise that existing permissions are likely to be the subject of approved design and access statements and possibly design codes.	Officers do not consider there to be any unnecessary repetition, as any approved documents would not change through the checklist.

NC01032024	The format of the table could lead to lengthy debates about whether a document is essential or a potential requirement.	The registration team will be briefed on the document as to when to request the additional information and when to register the application.
NC01032024	A householder application could include a Flood Risk Assessment and ecology reports.	The explanation in appendix 1 outlines when these elements would be required, which a householder would likely know in advance of a submission.
NC01032024	There should be a clear differentiation between requirements for outline and reserved matters applications, as the requirement for reserved matters would be onerous.	The requirements would likely be met at outline stage, and would not require any repetition at the reserved matters stage if information has already been resolved at outline.
NC01032024	Validation requirements should be ' <i>confined to information required to directly address those statutory reserved matters</i> '. Some applications are hybrid planning permission for comprehensive mixed-use development. It is essential that reserved matters are processed in a timely manner to provide business certainty and hence delivery.	There would not be any repetition requested for reserved matters if there have already been elements resolved.
NC01032024	The validation checklist should not require material unrelated to a reserved matters application which is governed by existing conditions or obligations on a planning permission, unless reserved matters approval is directly dependent on for example, approval of surface water drainage for a phase of development. Equally, the checklist should not request information on matters which are not the subject of existing conditions – to do so would equate to 'retrofitting'	Officers concur with this view, and re-iterate the points above that additional information would not be required for a reserved matters application if the information has been agreed at outline stage.
NC01032024	The conditions category should differentiate between Section 73 applications (variation of conditions) and applications to expunge or discharge conditions. Applications to discharge conditions should only be accompanied by the	The use of all condition types together is considered to be acceptable, and information will only be requested in relation to the relevant condition.

	information relating to the matter to be discharged.	
NC01032024	The checklist cross references the Environment Bill. Unless exempt, developments will need to submit the Statutory Biodiversity Metric and relevant Biodiversity Net Gain (BNG) information as part of the planning application. It would be helpful if the exemptions could be set out to assist applicants e.g. the fact that planning permissions (for major development) granted before 12 <sup>th</sup> February 2024 aren't subject to the new Statutory BNG.	Officers do not consider it relevant to repeat statutory requirements or exemptions, as they are not relevant to the local requirement.
MPC06032024	When amended planning applications are submitted and consulted on, it should be made clear to consultees in the amended application and consultation documents how the application has changed from the original.	This would be preferred for officers, although it is not considered to be a requirement for an additional statement to be submitted at the registration stage. While it would be valuable, the Council do not consider this to be a requirement under the validation checklist.

## 5. Alternative Options and Reasons for Rejection

- 5.1 The following alternative options have been identified and rejected for the reasons as set out below:

Option 1: Not to Approve. The Planning Committee could decide not to approve the use of the list. This would mean the Council couldn't insist on the additional information set out in the appendix being submitted with the applications which would not front load the application and likely to lead to delays/continued delays in assessing planning applications. Therefore affecting the Council's performance.

## 6 Conclusion and Reasons for Recommendations

- 6.1 In conclusion, the use of the local validation list would front load planning applications and ensure officers have the necessary information to process them and assess their impacts. This would enable timely decisions on applications.
- 6.2 Officers therefore recommend that the Planning Committee approve the use of the Local Validation List, with the finalised wording of the list and appendices delegated to the Head of Development Management, prior to publication.

## Decision Information

<b>Key Decision</b>	No
<b>Subject to Call in</b>	Yes
<b>If not, why not subject to call in</b>	Not applicable
<b>Ward(s) Affected</b>	All

## Document Information

<b>Appendices</b>	
<b>Appendix 1</b>	Local Validation List
<b>Appendix 2</b>	Validation Checklist Requirements – Guidance Document
<b>Appendix 3</b>	Validation Checklist – Ecology and Biodiversity Requirements
<b>Background Papers</b>	None
<b>Reference Papers</b>	None
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