

<b>PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE</b>	<b>AGENDA ITEM No. 6</b>
<b>20 DECEMBER 2016</b>	<b>PUBLIC REPORT</b>

Cabinet Member(s) responsible:	Councillor Hiller - Cabinet Member for Growth, Planning, Housing and Economic Development	
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## REVIEW OF LOCAL LIST FOR VALIDATION OF PLANNING APPLICATIONS

<b>RECOMMENDATIONS</b>	
<b>FROM:</b> Corporate Director of Growth and Regeneration	<b>Deadline date:</b> December 2016
It is recommended that the Planning and Environmental Protection Committee endorses the revisions to the local list.	

### 1. ORIGIN OF REPORT

- 1.1 This report follows previous reports to Planning and Environmental Committee which have updated the local list for validation of planning applications. The last report went to Committee on 3 September 2013. The list has been republished since then when national policy changes have required amendment e.g. the introduction of Sustainable Urban Drainage Systems (SUDS).

### 2. PURPOSE AND REASON FOR REPORT

- 2.1 To inform the Committee of the proposed changes to the Local Validation List requirements.
- 2.2 This report is presented to the Committee under terms of reference 2.6.1.6, of Part 3 of the Constitution “to assess and review the performance of the services which fall within the terms of reference of the Committee.”

### 3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If Yes, date for relevant Cabinet Meeting	<b>N/A</b>
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### 4. BACKGROUND

- 4.1 The Development Management Procedure Order (DMPO) is the main piece of secondary legislation (stemming from the main Planning Acts) that sets out how Local Planning Authorities (LPAs) must process planning applications from their receipt and validation through to determination and appeals. Planning applications must be submitted with particulars that are set out in national requirements and particulars set out in the local list of requirements which is determined by each LPA. This report is mainly concerned with the latter.
- 4.2 The DMPO requires that local requirements must be “reasonable having regard, in particular to the nature and scale of the development and about a matter which it is reasonable to think will be a material consideration in the determination of the application.”

- 4.3 The National Planning Practice Guidance (NPPG) provides additional guidance and further detail as to what LPAs can request to accompany an application and how validation should be dealt with.
- 4.4 When planning applications are received in Planning Services, they are checked to make sure they are “valid” i.e. the application contains all of the information and plans necessary to enable the case officer to properly assess the proposal and make a recommendation. Only when an application is valid is it consulted on and the determination period (8 weeks for minors/householder applications and 13 weeks for a major applications) commences.
- 4.5 The National Planning Practice Guidance (NPPG) sets out what validation requirements are. A completed application form is always required. National information requirements also include the following:
- Plans and drawings;
  - Ownership Certificate and Agricultural Land Declaration;
  - Design and Access Statements (for some planning applications); and
  - Specific requirements for outline applications and those subject to and Environmental Impact Assessment.
- 4.6 Local information requirements can be set by the Local Planning Authority (LPA) to enable the authority to address local circumstances and development plan policy requirements. Such requirements must be set out on a formally adopted “local list” which must be published. Peterborough City Council’s local list is published on its website in the Planning and Building Control web pages:

[www.peterborough.gov.uk/council/planning-and-development](http://www.peterborough.gov.uk/council/planning-and-development)

## 5. REVIEW OF THE LOCAL LIST

- 5.1 The NPPG requires that Local Planning Authorities review their local lists at least every two years. The requirements of the local list should be driven by statutory requirements, the National Planning Policy Framework or the development plan (i.e. Peterborough City Council’s planning policies). In accordance with the NPPG, we have undertaken an eight week consultation on the proposed changes to the local list with our regular planning agents and our Parish Councils.
- 5.2 The proposed review of the current local list requirements is set out at **Appendix A**. The key changes can be summarised as follows:
- More clarity on the documents/drawings required for certain types of application;
  - Introduction of the need for applications in Flood Zones 2 and 3 (unless on an allocated site) to be accompanied by a Sequential Test/Assessment;
  - Amend the requirement for Tree or Arboricultural Surveys to include two tiers of information (dependent upon the type of application);
  - Clarification on the need for a Structural Survey;
  - Merging the need for a Landfill Statement with Land Contamination Assessment;
  - Additional requirement for new out-of-centre retail/leisure developments to be accompanied by a Sequential Test/Assessment;
  - Additional requirement for developments affecting any designated heritage asset to be accompanied by a Heritage Statement;
  - Additional requirement for major developments to be accompanied by a table setting out open space provision; and
  - Requirement for reserved matters applications to be accompanied by any additional supporting information which is set out in conditions attached to the outline planning permission.
- 5.3 Five responses have been received to the consultation, two from local agents, two from developers and one from Peakirk Parish Council. The comments received are set out below, together with the response to each comment.

## 6. PEAKIRK PARISH COUNCIL

6.1 The Parish Council has commented that the requirements for a Noise Assessment should also include vibration so that where new development might give rise to vibration or be affected by existing vibration this is adequately assessed alongside noise.

6.2 **Response:** Vibration could result in disturbance to nearby occupiers or future occupiers of new development and could therefore result in non-compliance with policies PP3 and PP4 of the Peterborough Planning Policies DPD. The Council's Principal Pollution Control Officer agrees that vibration should be included for clarity. The Local List will therefore be amended to include vibration with noise requirements where vibration might be an issue.

## 7. PLANNING AGENTS AND DEVELOPERS

7.1 **Plans** – Location Plans - will there be no scale bar or north point needed?  
The current PCC requirements go beyond the requirement set out in the Development Management Procedure Order which states the applicant must submit “a plan which identifies the land to which the applicant relates.” The red line does not always need to extend to an adopted road.

**Response:** The current national and local standards for plans are to be retained so a scale bar and north point will be required on locations plans. The current requirements we apply to location plans are taken from the NPPG which are more precise and we intend to keep those requirements. However, we will state that only an OS based plan will be required as long as that plan is up to date. We will take a pragmatic approach where it is not possible, for example, to name two roads on the plan due to the site location. We agree that the red line does not always need to extend to an adopted road but in some cases it is necessary. We currently look at this on a case by case basis and will continue to do so.

7.2 **Environmental Impact Assessment** – concern over what is a green field site and what is brownfield as some old abandoned commercial sites may be asked for this.  
Environmental Assessment does not need to be a requirement of the local list as the LPA must deal with such development in compliance with the EIA regulations.

**Response:** The requirement for an Environmental Impact Assessment (EIA) is determined via the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Whether an Environmental Statement (ES) is necessary depends on the scale and nature of the development and its impact on sensitive areas. EIA is not particularly about whether a site is a green field or a brownfield site.

We have reviewed the Environmental Assessment proposals and agree that we do need to set out the requirements on the local list but instead we will provide some guidance on how applications will be dealt with where the proposal might be EIA development but the application is submitted without an ES.

7.3 **Flood Risk Assessment** – Only sites in Flood Zone 3 should need a flood risk assessment  
Where the application site is allocated for development paragraph 104 of the NPPF states that a FRA is not required.

**Response:** Flood Risk Assessment and the requirements for submission are governed by national policy and guidance (NPPF and NPPG), therefore FRA is often required for sites in flood zone 2 and sites with critical drainage issues.

We have added clarification to confirm that allocated sites will not require an FRA.

7.4 **Tree or Arboricultural Survey** - This is excessive and only trees that are covered by a tree preservation order or in a conservation area should require a survey.  
Disagree that Tree Protection Plans and Arboricultural Impact Assessments are an arbitrary requirement to make applications valid.

**Response:** Policy PP16 of the Peterborough Planning Policies DPD states that planning permission will only be granted where existing trees making a significant contribution to the landscape or biodiversity value of the local environment are protected and retained (subject to not compromising a good design solution for the site) and the requirement for tree surveys is set out in the policy. The policy does not just refer to trees that are protected by Tree Preservation Orders or in Conservation Areas. Flexibility is built in as the local list requirement offers an alternative if advice has been obtained at the pre-application stage from the LPA/tree officer which states a tree survey is not required or a more limited submission will be acceptable.

There seems to be a misunderstanding about this requirement therefore we have re-worded it to try to make it clearer. In most cases a full arboricultural survey will not be required and basic information will suffice. Clarification is also provided in respect of reserved matters applications.

It has been decided to add this requirement for tree surveys because there are often instances where the application form states no trees are present but when the site is visited by the case officer this is not the case. Lack of information about trees causes delays in processing applications and therefore our ability to meet government targets.

7.5 **Biodiversity Survey and Report** – the check list is acceptable.

**Response:** We note the comment. The current checklist and requirement for surveys if the checklist shows this is necessary is being retained as required by policy CS21 of the Peterborough Core Strategy and policy PP16 of the Peterborough Planning Policies DPD

7.6 **Archaeological Assessment** – this requirement is over the top for some sites near to Flag Fen but not inside the Scheduled Monument

**Response:** Buried archaeological remains outside of Scheduled Monuments or other designated areas are described “non designated heritage assets” in the NPPF which also requires the LPA to take such assets into account when determining planning applications. The scope of the works required will vary from site to site and should be agreed through pre-application discussions. All areas of archaeological potential are protected through policy CS17 of the Peterborough Core Strategy and PP17 of the Peterborough Planning Policies DPD.

7.7 **Structural Survey** – Planning applications do not need a structural survey as this is covered by building regulations

**Response:** Policy PP6 of the Peterborough Planning Policies DPD only allows conversion of an agricultural building in the open countryside to residential use if (amongst other criteria) it is not in such a state of dereliction or disrepair that significant reconstruction is required. Therefore, a structural survey may be necessary to demonstrate that the building is capable of conversion to comply with policy PP6.

Structural surveys are also required where a proposal involves demolition or alteration of the historic fabric of listed buildings, locally listed buildings or demolition of certain unlisted buildings in conservation areas.

7.8 **Transport Assessment** – Needs a table of what is considered to be significant.

**Response:** Paragraph 013 of the NPPG states that local authorities must “take a judgement as to what is significant on a case by case basis.” This is because what might be significant in one area in terms of number or type of vehicles generated may not be so significant in another area. Much will also depend on the capacity of the surrounding road network, therefore each case must be dealt with on its own merits. As such we are unable to add a table as suggested.

7.9 **Lifetime Homes details** – Registered social landlords think this should only be required for 50 or more dwellings

**Response:** Policy CS8 of the Peterborough Core Strategy requires that all developments of 15 dwellings or more provide 20 percent of those dwellings to Lifetime Homes Standards, hence for such schemes it is necessary for the applicant to demonstrate which dwellings will be built to the standard.

7.10 **Noise Assessment** – Needs to be categorised e.g. A roads or M roads or grade of train line or airports (e.g. Sibson)

**Response:** The NPPG only sets out a table for noise exposure hierarchy. The tables categorising noise sources such as roads were removed when the old planning policy guidance notes and statements were superseded and replaced with the NPPF (and now also the NPPG). The need for a noise assessment and its content should be dealt with at pre-application stage.

7.11 **Air Quality Assessment** – Criteria are needed

**Response:** The NPPG states that Air Quality Assessment should be proportionate to the nature and scale of the development and provides sources of obtaining information to assist with the production of an AQA. It does not contain standard criteria.

7.12 **Open Space** – This needs to be based on number of dwellings rather than the area and there are too many categories in the table. It needs to be mixed space as play grounds are not maintained or liked by registered social landlords.

Policy PP14 and Appendix B do not refer to LAPs, LEAPS etc. so clarification is needed on the terminology used to reflect the policy. The current average household size for Peterborough should be added for assistance.

**Response:** Open space standards are currently set out in policy PP14 and Appendix B to the Peterborough Planning Policies DPD. The standards are based on population numbers (which can be extrapolated into number dwellings according to dwelling sizes proposed). Only residential developments require public open space. The type of space required and set out in the table reflects the emerging Open Space Strategy and draft Local Plan. It is anticipated that developments requiring public open space will be subject to pre-application discussions i.e. this could be developments of 10 dwellings or more.

The table has been revised to reflect the current development plan policy terminology and also the emerging policy terminology. The average household size for Peterborough has been added.

7.13 **Advertisements** – Pictures would be better of examples of existing ones to reduce the cost of drawings.

**Response:** We have offered an alternative of either scale drawings or photographs/photomontages showing the proposed signs superimposed in the proposed locations. We cannot accept pictures of other signs shown in different locations to that proposed as approved (or refused) plans or drawings need to accurately reflect the proposals for the site concerned. The NPPG states (in line with the advertisement regulations) that the local planning authority can only take “amenity” and “public safety” into account when determining applications for advertisement consent. It is essential to understand therefore the exact location, position, size, design and illumination of all the proposed signs in order to make that judgement.

## **8. FURTHER CONSIDERATIONS**

8.1 Further to the above responses made above, it should also be borne in mind that;

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

8.2 These are statutory tests and are set out in Section 62 (4a) of the Town and Country Planning Act and Article 11(3) (c) of the Town and Country Planning (Development Management Procedure) Order 2015.

8.3 The proposed revised local list includes all potential requirements to cover each application type and the scale and nature of the development. Most of the local list requirements will not apply to householder and very small scale development.

8.4 The National Planning Policy Framework (NPPF) states that LPAs have a key role to play in encouraging other parties to take maximum advantage of pre-application engagement. To avoid delay, applicants should discuss what information is needed (to accompany a planning application) with the LPA and expert bodies as early as possible. Peterborough City Council Planning Services offers a pre-application service the details of which are set out on the planning pages of the PCC website. It is considered that local agents are aware of this service. Agents and applicants are encouraged to use this service because amongst the benefits this early engagement provides the LPA will be able to set out what the local list submission requirements will be. The pre-application response can therefore be submitted with an application to serve as a “check-list” as to what is required from the local list, making validation of the application simpler and quicker. Pre-application advice can help deal with those areas where there is a degree of flexibility as to what should be submitted or where a developer may be unsure. This will include reserved matters applications where we would expect there to be some discussion beforehand as to what should be submitted.

8.5 *Note: Where a condition on an outline specifically requires that certain information must be submitted with a particular reserved matter, that information must be submitted when the reserved matters application is submitted.*

8.6 It is intended that the fees for pre-application advice will be reviewed early in 2017 and reported to Committee.

## **9. CONCLUSION**

9.1 The revised local list sets out the information requirements across all topic areas and each is related to a national or local plan policy requirement. Which requirements are needed for an individual planning application will depend on the nature and scale of the application. Developers are encouraged to use the pre-application advice service to obtain early agreement with the LPA as to what will be required to be submitted to make an application valid.

9.2 The Local List will be reviewed again in two years' time or upon adoption of the new Local Plan whichever is sooner. This review will be reported to Committee. Minor changes might be needed in the interim and the planning pages of the website will be updated by officers as necessary to reflect such changes.

9.3 It is recommended that Committee endorses the revised Local List.

## **10. ANTICIPATED OUTCOMES**

- 10.1 If applicants/agents submit applications in accordance with the revised local list requirements and use the pre-application service where advised to do so, there will be fewer invalid applications. There would likely be less need for officers to request further information during consideration of the application. This then would aid the determination of applications within the government's target timescales.
- 10.2 However, sometimes there are disagreements that arise in terms of validation requirements. Applicants/agents do have the opportunity to formally challenge when an application is made invalid through a procedure set out in Article 12 of the Town and Country Planning (Development Management Procedure) Order (as amended). This procedure was introduced in 2013 and since that time, the Council has only received one challenge which is currently ongoing. It is not anticipated that the changes proposed would substantially increase Article 12 challenges.

## **11. REASONS FOR RECOMMENDATIONS**

- 11.1 In accordance with Section 62(3) of the Town and Country Planning Act 1990 and Part 11 (3) (d) of the Town and Country Planning (Development Management Procedure) Order, local authorities may only require information in addition to that on the national list of requirements, if the local list has been published or republished in the previous two years from submission of an application.

## **12. ALTERNATIVE OPTIONS CONSIDERED**

- 12.1 An alternative option would be to have no local list. However, this would result in undue delay in determination of applications due to a lack of information and more refusals of planning permission if the information were not to be forthcoming. The Local Planning Authority's performance would be detrimentally affected.

## **13. IMPLICATIONS**

- 13.1 There are no additional resource implications as a result of this report. There will be no impact on other service areas.

## **12. BACKGROUND DOCUMENTS**

- 14.1 None.

## **13. APPENDICES**

- 15.1 Appendix A – Currently Local List Validation Requirements with Proposals for Review.

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