

Bolsover District Council

Meeting of the Planning Committee on 27th November 2024

PREPARATION OF A DRAFT AND CONSULTATION ON A LOCAL VALIDATION CHECKLIST (LOCAL LIST) FOR PLANNING APPLICATIONS

Report of the Assistant Director: Planning & Planning Policy

Classification	This report is Public
Report By	Chris Whitmore Development Management and Land Charges Manager
Contact Details	01246 242591 chris.whitmore@bolsover.gov.uk

PURPOSE / SUMMARY OF REPORT

- The report seeks approval to prepare a final draft and consult on a Validation Checklist (Local List) for planning applications. The Local List will set out the information that will usually be required to be submitted with a planning application.
- Any proposal to adopt a Local List will be presented to a future planning committee meeting with the outcomes of any consultation exercise, Equality Impact Assessment and a final adoption draft of the document.

REPORT DETAILS

1. Background

- 1.1 Article 7(1)(c)(ii) of the Town and Country Planning (Development Management Procedure (England) (Order) 2015 and Planning Practice Guidance set out the minimum information needed for a planning application to be registered as valid and for the Local Planning Authority (LPA) to begin processing the planning application.
- 1.2 Paragraph 44 of the National Planning Policy Framework states that local planning authorities should publish a list of their information requirements for applications for planning permission. These requirements should be kept to the minimum needed to make decisions and should be reviewed at least every two years. Local planning authorities should only request supporting information that is relevant, necessary, and material to the application in question.

- 1.3 Planning practice guidance advises that a local planning authority may request supporting information with a planning application. Its requirements should be specified on a formally adopted 'local list' which has been published on its website less than 2 years before an application is submitted. It reiterates the requirement of paragraph 44 of the National Planning Policy Framework in that information required by local lists must be relevant, necessary, and material to the application in question and kept to the minimum needed to decide a planning application. These statutory tests are set out in section 62 (4A) of the Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act) and article 11(3)(c) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015.
- 1.4 Ensuring that planning applications are supported by enough information is crucial to ensure effective service delivery. It provides certainty for applicants, the Local Planning Authority, consultees and other interested parties and speeds up the decision-making process.
- 1.5 Currently, applications are submitted to the Local Planning Authority which meet national validation criteria, however, as is often the case with major and more complex minor planning applications, information that is fundamental to the assessment of such applications can be missing. This often includes protected species survey, drainage, retail impact and transport related information that is required prior to the assessment of a development proposal. This leaves the Local Planning Authority in a difficult position, as the information could be provided as part of an appeal, if it was minded to refuse planning permission on lack of information grounds and allowing additional time for this information to be presented post registration of an application results in significant delays in the determination of applications.
- 1.6 If a planning application is not supported by the information required by the national information requirements or an adopted local list, an application will not be registered as being valid and the formal process of considering and determining the planning application will not begin. The adoption of a local list will enable the Local Planning Authority to capture all key information required to determine an application at the validation stage to enable it to make decisions in a timely manner post registration / validation.
- 1.7 The ability to determine planning applications in a timely manner supports the Council's growth agenda and would put the Council in a stronger position should the Government adopt more stringent planning performance criteria. The previous Government consulted on proposals to deliver an accelerated planning system earlier this year (March 2024). Concerns were expressed regarding the high use of extensions of time in respect of the speed of decision making. To address this, it was proposed to introduce a new performance measure for speed of decision-making for the proportion of applications that are determined within the statutory time limit only. The statutory time limits are 8 weeks for applications for non-major development, 13 weeks for major development or 16 weeks where an application is subject to an Environmental Impact Assessment. The Government was looking to introduce the following performance thresholds:
 - 50% or more of major applications determined within the statutory time limit, and;

- 60% or more of non-major applications determined within the statutory time limit.

1.8 Whilst the above proposal would not preclude the use of extensions of time and planning performance agreements, there was an expectation that such agreements would only be used in exceptional circumstances. It is unclear as to whether the current Government will adopt new performance indicators that will assess performance against statutory time limits, however, the adoption of a local list (validation) will put the Council in a stronger position should they do so and will help speed up decision making, which in turn will help deliver development on the ground more quickly, ensure that consultations are more effective and focused on the information that is necessary and provide greater certainty to applicants and the Local Planning Authority that applications will not be refused on lack of information grounds. This is particularly important following the removal of free go submissions in December 2023, when the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023 came into effect, as this can be costly to a developer / applicant.

2. Details of the Proposal

2.1 Section 62(3) of the Planning Act 1990 states that the local planning authority may require that an application for planning permission must include—

- (a) such particulars as they think necessary;
- (b) such evidence in support of anything in or relating to the application as they think necessary.

2.2 Under provisions within Town and Country Planning (Development Management Procedure (England) (Order) 2015 a local planning authority may request supporting information with a planning application, as prescribed under Section 62(3) of the Act. Its requirements should be specified on a formally adopted 'local list'.

Information to be required

2.3 As set out in section 1 of this report, there are a number of benefits associated with the adoption of a local list. These include the delivery of development on the ground more quickly, more effective and focused consultations on the information that is necessary (resulting in more efficient working practices) and greater certainty to applicants and the Local Planning Authority, that applications will not be refused on lack of information grounds.

2.4 The local list must be prepared by the local planning authority to clarify what information is usually required for applications of a particular type, scale or location. Planning Practice Guidance advises that 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.
- 2.5 These statutory tests are set out in section 62 (4A) of the Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act) and article 11(3)(c) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015. A local list should be reviewed at least every 2 years.
- 2.6 The Local Planning Authority at Bolsover District Council is keen not to prohibit / frustrate new development coming forward and has prepared a provisional draft Local List at Appendix 1. This document has been prepared following a period of engagement with officers and some engagement with some consultees. It is very much a work in progress and will need to be fine-tuned to meet the information requirements of all consultees, be clear / fully accessible and take on board any comments received from developers and public following a period of consultation.
- 2.7 The provisional draft Local List has sought to set out the minimum information requirements to be able to assess most planning applications, with a greater emphasis on the information necessary to support more complex minor and major planning applications. The table includes triggers for submission of information contained within the Local List and the policy driver for the information to be able to demonstrate that the matter is a material consideration in the determination of the application. The Local List also contains national validation criteria to signpost applicants to the minimum information requirements necessary to register / validate all applications regardless of local information requirements.
- 2.8 Approval is sought from planning committee to continue to develop a Local List which contains clear triggers for information requirements for different application types to provide a more effective Development Management service and to deliver the benefits set out in paragraph 2.3.

Consultation and Engagement

- 2.9 Following the preparation of a final draft of a Local List it will be necessary to carry out a period of consultation. Ahead of this consultation, the Development Management Team will continue to work with consultees to develop local information requirements specific to the Bolsover District and in accordance with section 62 (4A) of the Town and Country Planning Act 1990, and will feed any comments received into a final draft document. It is anticipated that this work will conclude early January 2025.
- 2.10 There are no specific regulations relating to consultation in respect of the adoption of Local Lists. Planning practice guidance advises that where a local planning authority is looking to adopt a local list, the proposals should be issued to the local community, including applicants and agents, for consultation.
- 2.11 To empower the local community and developers to help shape the delivery of the Development Management Service, it is important that they have meaningful opportunities to have their say on any new working practices. In this respect it is considered necessary to have regard to the District Council's Statement of Consultation (December 2022) in respect of consultation on any Local List.

- 2.12 It is recommended that a four-week consultation period is undertaken early in 2025, with targeted emails to agents operating in the area and those registered on our online local plan database and separate advertisement seeking views of the Council's intention to adopt the Local List on the Council's website, with associated press release on the Councils social media platforms.
- 2.13 The outcome of this consultation exercise will be reported to Planning Committee early in the New Year.

3. Reasons for Recommendation

- 3.1 Member support for the preparation of a draft Validation Checklist is sought in advance of committing resources to the preparation of a Local List and to undertake consultation upon it.

4. Alternative Options and Reasons for Rejection

- 4.1 An alternative option for the Council would be to not to progress with the preparation of a Local List. Any relevant planning application would continue to be registered using the national validation requirements set by Article 7(1)(c)(ii) of the Town and Country Planning (Development Management Procedure (England) (Order) 2015 and Planning Practice Guidance. This would impact on the quality of planning application submissions and may prejudice the Council's ability to ensure that planning applications include the necessary information to be able to issue decisions in a timely manner. This could disadvantage the Local Planning Authority if a new performance measure for speed of decision-making for the proportion of applications that are determined within the statutory time limit is introduced, however, it is not clear at this time if such a measure will be introduced.

RECOMMENDATION(S)

That the Planning Committee:

- 1) Approves the preparation of a draft Validation Checklist (Local List) for planning applications for the purposes of a consultation exercise as outlined in the report;
- 2) Gives delegated authority to the Assistant Director of Planning and Planning Policy in consultation with the Chair and Vice Chair of Planning Committee to finalise the text of the consultation draft Validation Checklist prior to commencing the planned consultation exercise.

IMPLICATIONS:

Finance and Risk: Yes No

Details: There are no specific finance or risk issues arising from this report. There is a risk that the non-validation of an application for a Local List requirement could lead

to a non-determination appeal and an award of costs, however, there is an established procedure for dealing with validation disputes under article 12 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The consideration of the statutory tests for information requirement when considering validation disputes should ensure that such risks are minimal.

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details: There are no legal implications other than the information requirements not meeting the statutory tests in respect of specific development proposals. This would be a matter of judgement for the validating officer and can be resolved as part of the “article 12 notice” procedure.

On behalf of the Solicitor to the Council

Environment: Yes No

Please identify (if applicable) how this proposal / report will help the Authority meet its carbon neutral target or enhance the environment.

Details: There are no environmental implications.

Staffing: Yes No

Details: When the local planning authority receives an article 12 notice, it will need to consider the merits of the applicant’s case as to why the information requested does not meet the statutory tests. The local planning authority must then either issue a ‘validation notice’, stating that it no longer requires the information specified in the article 12 notice, or a ‘non-validation notice’ stating that it still requires the applicant to provide the information requested. This is similar to the existing procedure in respect of national validation requirements and the correspondence sent by Planning Technicians. Some training will need to be given to staff initially and the Local List will need to be clear / user friendly in terms of setting out when local information requirements apply. Once established the Local List will front load the information necessary to determine planning applications, saving officer and consultee time.

On behalf of the Head of Paid Service

DECISION INFORMATION

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: No significant impact on two or more district wards or expenditure above the thresholds.</p> <p>Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	<p>No</p>
<p>Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i></p>	<p>No</p>

District Wards Significantly Affected	All
Consultation: Leader / Deputy Leader <input type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	No

Links to Council Ambition: Customers, Economy, Environment and Housing.
<ul style="list-style-type: none"> Customers, Economy and Housing – Speeding up decision making, which will help facilitate the delivery of development more quickly on the ground.

DOCUMENT INFORMATION	
Appendix No	Title
1	First Draft of a Local Validation Checklist for Bolsover
Background Papers	
<i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive you must provide copies of the background papers).</i>	