

REVIEW OF THE LOCAL INFORMATION REQUIREMENTS FOR THE VALIDATION OF PLANNING APPLICATIONS

To: **Planning Committee**

Date: **18 June 2015**

From: **Head of Growth and Economy**

Electoral division(s): **All**

Purpose: **To consider proposed revisions to the Local Validation List**

Recommendation: **That members endorse the proposed revised list and guidance notes set out in Appendix 1 and Appendix 2**

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1.0 BACKGROUND

- 1.1 Since 6 April 2008 the validity of planning applications received by this authority (except those for mineral development) has been informed by the County Council's Local Validation List (LVL). The LVL sets out what information, over and above the national requirements, is necessary to accompany planning applications submitted to Cambridgeshire County Council.
- 1.2 The County Council supported the Government's proposal that local planning authorities (LPAs) review their existing local lists in accordance with the policy principles set out in a consultation paper and that where revision is necessary, the revised local list be published on the LPA's website by the end of December 2010. Our revised LVL was published in December 2010 and updated in April 2012 to reflect the changes to national planning policy arising from the introduction of the National Planning Policy Framework (NPPF). In response to a consultation in 2012 the County Council supported the Government's proposal that LVLs should be reviewed at least every two years.
- 1.3 A statutory instrument came into force on 31 January 2013 the effect of which is that for a LVL to carry any weight it must have been published within 2 years before the planning application is made. This applies to applications made on or after 31 July 2013. For this reason we reviewed our LVL in June 2013. The requirement to review the LVL every 2 years has been carried forward in the Town and Country Planning (Development Management Procedure) (England) Order 2015 so we are undertaking a 3rd review.
- 1.4 The key purpose of stipulating what a planning application must comprise is to ensure that LPAs have "up front" the information that is essential for a sound, timely and robust decision. It also means that statutory consultees and other third parties who look at and comment on applications can see clearly for what permission is being sought, and what the impacts (both positive and negative) are likely to be.
- 1.5 The key issue is that the right information must be available at an appropriate time to support good decision-making. The NPPF suggests applicants discuss information requirements with the LPA and key consultees early on. The 2013 changes supported this approach: they removed nationally-imposed requirements that are not needed for every application, allowing space for local agreement on what is needed.

2.0 THE 2015 REVIEW

- 2.1 Where the LPA considers that changes to its LVL are necessary the proposals should be issued to the local community, including applicants and agents, for consultation.
- 2.2 The proposed changes to the LVL have been informed by:
 - changes in Government guidance and planning policy, notably the introduction of the Planning Practice Guidance Suite;
 - the current development plan; and

- the experience of officers in its use over the past two years including anecdotal feedback from applicants, agents and consultees.

The rationale is to strike a balance between securing the information that is needed to determine the application and making the LVL as concise and non-daunting for applicants as possible. In reality, most applications only need be supported by a few of the items on the LVL and this should be agreed with the planning case officer at the pre-application stage.

2.3 It is proposed to add the following items to the current LVL:

Surface water drainage strategy – Paragraph 103 of the NPPF states that *“When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere ...”* Surface water drainage systems on all new development need to take this into account. In a Written Ministerial Statement (18 December 2014) the Secretary of State made it known that the Government expects *“local planning policies and decisions on planning applications relating to major development to ensure that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate”* and for *“avoidance of doubt this statement should be read in conjunction with the policies in the National Planning Policy Framework.”*

The NPPF states that a Flood Risk Assessment (which typically includes or makes reference to a surface water drainage strategy) should be provided for development in Flood Zones 2 and 3 or where the development site is greater than 1 ha in Flood Zone 1. The Ministerial Statement means that information on surface water drainage (the level of detail being relevant to the type of development and application) will also be needed for major development on sites that are less than 1 ha in Flood Zone 1 to enable decisions to be made on the suitability of the proposed drainage systems.

Construction traffic management plan - This has frequently been requested by the highway engineer when there are concerns about the impacts of construction traffic and how it will be managed. This is an aspect of development that is often of interest to local residents as well. We currently secure the information after permission has been granted by means of a “pre-commencement” condition. However, it would reduce work for developers and the planning and highway authorities if in relevant cases it is provided at the planning application stage. Furthermore, a well thought out construction traffic management plan which shows consideration to the local community may result in fewer objections and a swifter passage through the planning process.

2.4 Planning officers have discussed with transport colleagues changes to the following:

Item 12: Transport assessment or statement

Lack of relevant transport information is a common reason for delay in determining planning applications. In order to appropriately assess the acceptability or otherwise of many applications that come to the County Council the transport officers require additional information. The information that is most often lacking relates to existing levels and type of vehicles generated by a site and levels and types of vehicles that would be generated by the proposed development.

The 2013 guidance notes attempted to set thresholds above which a transport assessment or statement is needed. Some transport statements are rather formulaic and contain a lot of generic information that has little relevance to the proposal whilst at the same time omitting that which is necessary. We are working with transport and highway colleagues to improve the information in the guidance note.

3.0 THE REVIEW PROCESS

3.1 In 2013 the following were consulted on the proposed changes:

- district/city councils
- statutory consultees
- non-statutory consultees who commented in 2010
- applicants and agents who submitted a planning application since the 2010 LVL was published

Comments were received from just 2 parish councils and the County Council's own public rights of way and highways officers.

3.2 On 15 April 2015 we consulted:

- statutory and non-statutory consultees including district/city councils and CCC colleagues
- parish and town councils
- applicants and agents who submitted a planning application since the 2013 LVL was published

and invited comments on the proposed changes set out in section 2 above by 27 May 2015.

4.0 CONSULTATION RESPONSES

4.1 Haddenham, Sutton and Witcham Parish Councils – no comments to make.
Earith Parish Council – no objection.

St Ives Town Council - welcomed receiving the information and noted and approved the proposed additions.

Brampton Parish Council - welcome the proposal to add "Surface Water Drainage Strategy" to the Local Validation List along with reviews of the "Construction Traffic Management Plan" and the "Transport Assessment/Statement".

Ely Town Council – [to be provided after meeting on 1 June]

4.2 Middle Level Commissioners - We note that several reviews of the LVL have been undertaken by your authority but cannot readily recall being consulted previously. Nonetheless, we thank you for providing us with the opportunity to comment and hope that together with the recent meeting with your senior colleagues communication between us will improve as a result.

Like your Council, the Middle Level Commissioners and associated [Internal Drainage] Boards (IDBs) promote meaningful pre-application discussion, as encouraged in the National Planning Policy Framework (NPPF), as this enables any issues concerning flood risk/water level management, navigation and/or environmental issues to be dealt with and resolved prior to and not

during the planning process and offers us, your authority and the applicant more certainty in the decision making process and can ensure that our respective limited resources are maximised and not wasted.

When discussing related issues with developers we are aware of the requirements of, and thus refer to, the interests of other stakeholders in our responses. In this respect we would be pleased if when in discussion with any applicant, your authority could advise them to contact us concerning developments within or adjacent to our areas of jurisdiction. Further detail on both our Pre and Post-application procedure, including our requirement checklist, is available on our website.

In respect of planning applications, it is appreciated that the submission documents need to meet the current requirements and that the authority's requirements may not be the same as our own. The revised scheme to discharge condition 17 of F/2006/09/CW [Whitemoor] involved a significantly increased hardstanding which the Council considered to be non-material but from our perspective potentially increased flood risk.

Whilst the contents of the National Planning Policy Framework (NPPF) are noted and it is appreciated that your authority has to meet certain requirements, the Commissioners and associated Boards consider the NPPF to be a significantly retrograde step that, given the special circumstances within the managed Fenland environment, will increase the risk of flooding. In respect of the provision of FRAs and/ or drainage strategies, or indeed any other detailed technical document, concern is raised about the consideration and assessment of such documents and whether they or the implications are fully understood when reaching a decision.

We have recently had experience where officers have considered that an FRA was not required for a school extension, presumably because it did not meet the prescribed criteria, even though there is a history of flooding in the area, as highlighted in your Council's own detailed March SWMP.

We note that you are working with your Council's Flood and Water Management Team and wonder if the implications of SuDs and the County Flood and Water SPD which is being prepared should be considered and referenced to within the revised documentation.

Whilst the provision of a Construction traffic, transport assessment or statement would primarily be of concern to your colleagues in highways these are, in addition, often beneficial to us when considering the long term effects on our systems and the movement of "large" loads which may require the piping and/or filling of watercourses or require navigation closures. We encourage the provision of such documents in respect of wind turbines and whilst we realise that these are not of interest to your authority, some Boards, notably Sutton and Mepal Internal Drainage Board, have previously been concerned by the potential adverse impacts on flood risk/water level management systems both under its control or those that may affect it "externally" in respect of mineral and/or waste traffic related movements.

- 4.3 CCC's Historic Environment Team has helpfully updated the policy references in the Heritage Statement section of the LVL guidance document.

- 4.4 Alan James (interest in the planning process unstated) has provided comments in the following areas and summarised below:

Flood Risk Assessment and Surface Water Drainage Strategy

- The formal role of the Drainage Boards should be strengthened because they have greater local knowledge than the Environment Agency.
- The fenland District Councils should be consulted on proposals that may impact on “award” drains.

Carbon Dioxide Emissions and Carbon Lifecycle Analysis

- This is not included in the proposed revision although there are many references to “sustainability”. A “carbon lifecycle analysis” is an evaluation of not only all carbon dioxide emitted during construction but also emissions arising during use, maintenance and demolition/recycling for the lifetime of the proposed asset or structure and its products or uses.

Methane Emission Risk Evaluation

- This is not included in the proposed revision which should be extended to include a risk assessment of the possibility/probability of methane emissions. If there is a risk, a clear description should be given of the control measures that will be used to prevent or minimise those emissions.

Air Quality Standards

- The proposed revision notes the intention to make changes in the areas of construction traffic management and transport assessment or statement. However, there is no mention of the absolute limits which now apply to PM2.5 particulate emissions under the Air Quality Standards Regulations 2010 nor of the fact that following transfer of Public Health from the NHS, the County now has a direct duty of care for the health of its residents, this being in addition to its existing responsibility to assist government to achieve compliance with the Air Quality Standards.
- All planning applications which involve significant changes in traffic flows, particularly HCV traffic flows, should include an assessment of the impact on air quality in all affected communities and on the county background levels.

5.0 Discussion

Item 12: Transport assessment or statement

- 5.1 CCC’s Transport Assessment Team are currently reviewing the guidance they provide for applicants which also applies to applications that will be determined by the district and city councils. The LVL guidance currently states that a transport assessment is needed for development that has significant transport implications, including new schools. It is not proposed that this be changed and it is work that needs to be undertaken by a suitably experienced transport professional. The guidance moves on to transport statements which are needed where the proposed development has *some* transport implications. An attempt was made to give a threshold for school development – 30 pupils or the addition of a facility such as a children’s centre. For the reasons given in paragraph 2.4 above this does not always result in an appropriate level of information being provided by the applicant.

- 5.2 It has been agreed with transport officers that the LVL guidance on transport statements be amended to encourage applicants, particularly for school development, to agree the scope of the transport information that is necessary with CCC's transport officers at the pre-application stage. There will be some cases, dependent on the location of development, where information less than a professionally produced transport statement will suffice. In these instances there will be saving to the applicant on consultancy fees. However, it is essential that the applicant provides accurate information at both the pre-application stage and in the documents that are submitted in support of an application.

Response to points raised by Middle Level Commissioners (MLC)

- 5.3 Pre-application discussion – When developers ask for pre-application advice and their site is within an IDB area Council officers will always recommend that the MLC's (or when outside the MLC's area the IDB's) advice is sought at an early stage. Like the MLC we recognise the benefits of this. However, not all developers seek pre-application advice; fewer are doing so for mineral and waste development since charges were introduced. A number of applicants have reported that they have difficulty in getting a response from the MLC which was raised during the recent meeting between the MLC and the County Council. However, as a result of that meeting it is hoped that we have a better understanding of each others processes and we will continue to recommend that applicants contact the MLC (or IDB) via their website as early on in the process as possible..
- 5.4 Provision and assessment of FRAs – The Council aims to take a proportionate approach when requiring developers to provide information in support of planning applications. Officers are mindful of national guidance and the criteria for provision of FRAs set out by the Environment Agency.
- 5.5 CCC Flood and Water Team – Will be consulted on development proposals classed as "major" as required by the Development Management Procedure Order 2015. All mineral and waste applications, however small, are classed as "major". We are already recommending that applicants seek the Team's advice at the pre-application stage. The County Flood and Water SPD is being prepared for consultation this summer and is likely to be adopted later in the year. It is agreed that when it is in the public domain it will be referred to in the LVL guidance.

Response to points raised by Mr James

- 5.6 Flood Risk Assessment and Surface Water Drainage Strategy – The role of the Internal Drainage Boards (IDB) is outside the scope of the LVL review. They are consulted on planning applications where appropriate and those advised by the Middle Level Commissioners have a pre-application advice service for developers. The relevant district council is always consulted on CCC-determined applications. Whilst there are "award" drains in South Cambridgeshire there are not believed to be any in the fens which are covered by IDBs.
- 5.7 Carbon Dioxide Emissions and Carbon Lifecycle Analysis – The aim of the LVL is to ensure that sufficient information is provided by the applicant to enable the planning authority to assess the proposal against development plan

policy. Most local plans have a policy that requires non-domestic major development over 1000m² floorspace to either meet BREEAM Very Good standard or equivalent or to provide at least 10% of its energy requirements on site from renewable sources. For this reason the LVL includes a Statement of sustainable design and construction. It is considered a carbon lifecycle analysis could be included where relevant in this document.

5.8 Methane Emission Risk Evaluation – The LVL has a separate category for information required to support applications for waste management development (Mr James referred to methane generated by landfill sites and bio-digester plants). It is considered that rather than have a separate LVL item this is the appropriate place for information on methane emissions to be provided.

5.9 Air Quality Standards – the LVL has Air quality assessment as an item. Where this information is considered necessary the impact of emissions from traffic should be included. The district council's environmental health officers' advice should be sought by developers when scoping such work. Furthermore, the information in support of applications for waste management includes in certain circumstances the requirement for developers to provide a health impact assessment.

6.0 CONCLUSION

6.1 It is extremely disappointing that no applicants / agents have responded to this consultation; they are the main users of the guidance which has been designed to assist them in the submission of planning applications. The limited response from parish and town councils is not unexpected particularly since many never have County Council-determined applications in their area and are naturally more focussed on those they are consulted on by the district councils. On the basis that if people are unhappy with something they are usually minded to make their views known it is considered reasonable to assume that the poor response rate means that the vast majority of users of the County Council's development management service are happy with the LVL and the proposed changes to it.

7.0 RECOMMENDATION

7.1 It is recommended that the County Council's Local Validation List (June 2013) and accompanying guidance note be amended as described in section 2 of this report. The proposed revised LVL is Appendix 1 of this report and the revised guidance notes Appendix 2. The website references and hyperlinks will be checked immediately before publication on the County Council's website.

Source Documents	Location
Report to Planning Committee 4 June 2013	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/AgendaItem.aspx?agendaItemID=6928
Cambridgeshire County Council Local Validation List (June 2013)	http://www.cambridgeshire.gov.uk/info/20099/planning_and_development/234/planning/3