

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

To: **Planning Committee**

Date: **12 June 2017**

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 The Council has published Local Validation requirements for its planning applications for waste and County Council developments since at least December 2010. These validation requirements do not apply to mineral planning applications because these are treated differently by the legislation and use a bespoke application form. The current Local Validation List and Guidance Notes were approved by the Planning Committee on 18 June 2015 and are due to expire. Local Validation List information can only be required in relation to any relevant application if the Local Validation List has been published on the Council's website for less than 2 years [under the provisions of the Town and Country Planning Act 1990 as amended and The Town and Country Planning (Development Management Procedure) (England) Order 2015].
- 1.2 Cambridgeshire County Council's Local Validation List and Guidance Notes (LVL) set out what information is required, over and above the national requirements, to accompany the submission of planning applications so that they can be found to be valid and the Council can begin processing them. The importance of the LVL is that it ensures that sufficient details are submitted before processing of the relevant application begins so that they form part of the application from the outset to enable the relevant information to be taken into account at the earliest opportunity. The information includes requirements for specified plans and drawings, technical reports and other specified information.
- 1.3 The key purpose of stipulating what a planning application must comprise is to ensure that Local Planning Authorities (LPAs) have "up front" the information that is essential for a sound, timely and robust decision. A key issue is that the right information must be available at an appropriate time to support good decision-making. Previous legislative changes in 2013 removed nationally-imposed requirements that are now not needed for every application to enable the additional information requirements to be set locally.
- 1.4 Paragraph 193 of the National Planning Policy Framework 2012 provides that local planning authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals and reviewed on a frequent basis. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question. This is supported by the National Planning Practice Guidance. 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.
- 1.5 If an up to date Local Validation List were not in place relevant applications would have to be treated as valid and their processing begun irrespective of whether or not all of the appropriate information that would normally be required by means of a local validation list had been provided. Having appropriate information enables consultees, local residents, and officers to

appropriately assess relevant applications at the earliest opportunity. Having specified validation requirements removes uncertainty for agents and to ensure that there are consistent requirements for similar applications. It also helps to minimise processing costs and delays. For example time and costs would be incurred if significant new information is submitted during processing that can result in further consultation, notifications and advertisement being needed. The Local Validation List requirements and guidance notes are one of the matters that are discussed with applicants and agents at the pre-application stage.

2.0 THE 2017 REVIEW

- 2.1 Officers produced revised consultation drafts of the Local Validation List and Guidance Notes in April 2017. The 2015 Local Validation List and Guidance Notes were reviewed and updated, adding in reference to new guidance and clarification where appropriate, informed by experience of using the list and from listening to applicants and agents. Officers recognise the need to balance seeking adequate information without adding any unnecessary burden. Overall the changes made were minor and the required information content remained similar to that required by the 2015 list.
- 2.2 An additional section 22 'Additional Plans and Drawings' is proposed to be added, which would enable officers to ensure that the relevant details that are needed in plan form, including information for example related to changes in levels, are submitted. This would supplement the limited details that are set out in section 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Examples of other changes made, include adding additional guidance and explanation to the introductory section; including a link and drawing attention to the Council's optional chargeable pre-application service; and the Cambridgeshire Flood and Water Supplementary Planning Document that has been produced by the County Council's Flood and Water Team (2016) and has been adopted by the District Council's has been included. Links to websites have also been updated and will need to be checked again immediately prior to publication and it is proposed to continue to update them when it is known that any documents that are referred to have been superseded by new documents.
- 2.3 On 6 April 2017 a six weeks' consultation was carried out with consultees being given until 18 May 2017 to comment upon the proposed changes should they wish to do so. The consultation was registered on the Council's website and the following were consulted:-
 - statutory and non-statutory consultees including district/city councils, CCC colleagues and Councillors
 - parish and town councils
 - applicants and agents who submitted planning applications during the last 2 years since the previous review

3.0 CONSULTATION RESPONSES

The consultation responses that have been received are below, some of which are summarised:-

- 3.1 **Little Paxton Parish Council**: - Add to the validation checklist under the section relevant information required - Impact on the local infrastructure.
- 3.2 **Natural England**: - Natural England does not consider that this Local Validation Check List poses any likely risk or opportunity in relation to our statutory purpose, and so does not wish to comment on this consultation. The lack of comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment.
- 3.3 **Historic England**: - The type and amount of information required to assist you in the assessment of proposals which affect heritage assets (in accordance with the NPPF, particularly paragraphs 128, 129, 192 and 193) will vary in each case. The information provided should be proportionate according to circumstances, and should facilitate understanding of the significance of the heritage asset, and of the potential impact of the proposal on the significance. We would refer you to our *Charter for Historic England Advisory Services* (particularly sections 11 and 12) as a clear statement of the information needed in order to provide informed advice (<https://content.historicengland.org.uk/images-books/publications/charter-he-advisory-services/charter-for-he-advisory-services-second-ed-230915.pdf/>).
- 3.4 **Sport England**: - Recommends in addition to the national validation requirements set out within the Government's Planning Practice Guidance that planning applications affecting playing field land should provide sport specific information in line with its own published checklist, which is displayed on its website together with its Playing Fields Policy. This information will enable Sport England to provide a substantive response to applications on which it is consulted. It will also aid the LPA to assess an application in light of paragraph 74 of the NPPF and relevant Local Plan policies. The checklist presents the recommended requirements for all applications. It also indicates the information that Sport England recommends should be submitted where an applicant feels their development may meet with one of the exceptions to Sport England's Playing Fields Policy.
- 3.5 **Anglian Water**: - We would request a foul drainage strategy be submitted where relevant.
- 3.6 **Middle Level Commissioners (MLC)**: -

The Middle Level Commissioners provided some general comments which gave an introduction about their role as a statutory water level and flood risk management and navigation authority responsible for the maintenance of major watercourses within their catchment. In addition to their statutory role, the Commissioners provide a planning consultancy service to the Internal Drainage Boards (the Boards) within and adjacent to their area. The Boards are autonomous water level and flood risk management authorities that obtain support from the Commissioners' staff and supervise drainage at a more local level. The Commissioners and associated Boards are Risk Management Authorities as identified by Defra. Further guidance on their requirements can be found in their 'Standard Advice relating to Development Control and Flood Risk Issues (January 2017)' which is available at <http://middlelevel.gov.uk/wp-content/uploads/2017/03/Standard-Advice.pdf>. They requested that the Council, should planning approval be given, remind the applicant(s) agent(s) that the requirements under the Land Drainage Act must be complied with

before any work is commenced on site. They also recommended additional items to be considered as follows:-

(i) Water Level Management and Flood Defence Strategy Statement

This should apply to the planning applications that occur over a period of time, particularly if many developers are involved, such as, The Block Fen/Langwood Fen Master Plan, other minerals and waste operations, business/retails parks such as at Buckingham Business Park, March Trading Park and Weasenham Lane Industrial Estates, etc.

(ii) Water Management and Resources Statement. This should advise what actions have been undertaken to consider this issue and identify how water resources will be affected or could be improved as a result of the proposal. Such a statement could apply to most planning related matters from irrigation reservoirs, and their implications on agriculture, to urban developments, and the use of grey water recycling, etc. Certain applications may need to be supported by a statement identifying how water is managed to consider the de-watering of mineral works, treated effluent disposal, the use of storm run-off by rainwater collection, water transfer, water recycling etc. This could be applied to food processing/packing facilities, mineral washing facilities, papermills or urban development.

(iii) Infrastructure Statement. An Infrastructure Statement should identify and consider the detrimental impact on the proposals and detail any improvements that are required. All the above should include any pre-application consultation with the relevant operating authorities, including the Commissioners and associated Boards and advise in general terms on the philosophy behind the proposed strategy, i.e. unregulated discharge, use of attenuation facilities, maintenance and adoption of structures, grey water recycling, etc.

In relation to the 'Validation Check List Revised June 2017' they stated that no reference is made to the adverse impacts created by Treated Effluent Disposal and Dry Weather Flows, and presumably these would be included in a FRA?

Furthermore, they referred to the 'Guidance for Applicants and their Agents on the Local Validation List (Draft April 2017)' and used the numbering in the document to make comments on the following specific areas:-

4 Biodiversity survey and report: - Should a reference to the Great Fen Project Masterplan be included? Whilst it is accepted that environmental bodies such as Natural England and Wildlife Trusts are consulted as part of the planning consultation process, they often only refer to the larger more strategic sites such as Ramsar, SSSIs and CWSs. Often the smaller but equally important sites are overlooked. These sites will become particularly important as the projected development within Cambridgeshire occurs. The Commissioners and associated Boards have nature conservation duties under the Land Drainage Act 1991, the Wildlife and Countryside Act 1981 and are competent authorities under the conservation (Natural Habitats etc.) Regulations 1995 and we have previously encountered problems where developers refer to consultations undertaken as part of the planning process but ignore the biodiversity that exists on the site. For example, as a UK BAP species, water voles have specific legislation that protects them and their habitat. The Cambridgeshire Fens are a national stronghold for this species which are frequently present in wet ditches in our catchment. Even small ditches can hold valuable populations of water voles. Any works affecting our systems,

requiring our consent, or any works that affect any on-site open watercourses will, in general, require an Environmental Statement and a Risk Impact Assessment identifying any adverse impacts on the existing habitats and species together with any proposed mitigation. Where waterways, drains or ditches are involved this should include a survey of the natural habitat and species affected, especially for water vole signs, carried out by an experienced surveyor. Where possible appropriate plans and suitable photographs should be included. The Commissioners' Environmental Officer should be contacted at an early stage to determine our exact requirements concerning specific sites and to discuss potential mitigation measures. Planned mitigation measures should be presented with sufficient detail for it to be ascertained whether they are likely to be effective in benefitting the habitat or species or not. A Middle Level Biodiversity Action Plan has been produced that includes specific plans for each of the associated Boards in the Middle Level BAP Partnership. It lists the important habitats and species in the respective Districts, and actions that are being undertaken to preserve and enhance them. Copies can be accessed via the Commissioners' website.

5 Tree Survey/Arboricultural Report: - Any trees or landscaping adjacent to open or protected watercourses should be included in the report and shown on associated plans. Comments concerning the species, condition, size, canopy extent, future management and projected future life of any landscaping should be included within the report.

6 Flood Risk Assessment: - No reference or acknowledgment appears to have been made to the potential adverse impacts caused by Treated Effluent Disposal and Dry Weather Flows, for example, the dewatering operations involved in Mineral and Waste operations. In respect of Hazard Mapping and Development within the Floodplain, our position is as follows:

"The floodplain, its definition, derivation and extents have been an issue not only for the Commissioners and associated Boards but also other Internal Drainage Boards since its introduction. This has become of more concern since the elevated importance of the Sequential Test in the National Planning Policy Framework (NPPF). The definition and extents of a "floodplain" are matters for the planning authority to resolve with the relevant authority who prepared the hazard map, be it the Environment Agency (EA) for its various flood maps, the Local Planning Authority (LPA), for its SFRA, and/or the Lead Local Flood Authority (LLFA) for its SWMP. It is acknowledged that whilst there may be specific issues relating to future proposed aspects of development within the respective catchments we will not oppose it simply because it is within the floodplain. The main purpose of an Internal Drainage Board is to aim to manage flood risk up to an appropriate Standard of Protection (SoP). The Commissioners and associated Boards have policy statements available, which set out the SoP that they will seek to provide, floodplain or not. In addition, the Commissioners and associated Boards do not agree with the generic content of national policy, such as the NPPF, and argue that "The Fens" is a special case and should be considered as such."

Types of application that require this information The Commissioners and associated Boards do not agree with the requirements of the NPPG or the Environment Agency's generic requirements as they do not allow for the sensitive Fenland water level management/flood defence systems. In a similar manner, the Commissioners and associated Boards do not always agree with aspects of the County's Flood and Water SPD, March SWMP or individual

District Councils' SFRAs and WCSs. 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 the Case Officer is suitably qualified or fully understands the implications when reaching a decision.

What information is required? In respect of an Assessment, the Commissioners and associated Boards require adequate information to confirm that there is no material prejudice to our systems and operations, the local water level management systems or the local water environment. It should include or be supported by appropriate supporting documents including, as a minimum, hydraulic calculations, survey drawings, detailed engineering drawings and a risk impact statement, exceedance flows, climate change. This applies to both increases in rates of flow and volumetric discharges from both surface water and other discharges i.e. treated effluent and ground water.

Where to look for further assistance: - Further guidance can be found in BS 8533:2011 - Assessing and managing flood risk in development. Code of practice. We are pleased that a link to the Commissioners' website and appropriate documents has been included both in this section and section 7A.

7A Surface Water Drainage Strategy: - The use of any surface water disposal system will be considered where it can be proven that it is practicable, appropriate and can serve the site for the lifetime of the development. Current design standards, including an allowance for climate change, need to be met. On occasions where a large development is proposed, where phased development is required or the development may take several years to achieve fruition it will be necessary to provide adequate information including calculations to prove the viability of the long-term water level management strategy.

Infiltration Devices:- The use of soakaways or other infiltration devices for surface water/treated effluent disposal must meet the requirements of BRE Digest 365 Soakaway Design, CIRIA C697 - The SuDS Manual or other approved guidance and, therefore, provide an effective means of surface water/treated effluent disposal for the lifetime of the development. Experience with the use of infiltration devices in the area has shown that any infiltration rates are low and, therefore, on the whole they do not work unless there is a significant amount of space to install them. Unfortunately, housing density does not allow sufficient space. In addition, very few people know how to correctly undertake a permeability test, the associated calculations and design of the device.

Sustainable Drainage Systems (SuDS):- The Commissioners and associated relevant Boards would generally agree and acknowledge that SuDS are the preferred option in certain situations. However, they are not always the answer to the problem as they are not always the most suitable option and should not be seen as a 'golden solution'. Careful consideration needs to be given to the facility to be used, what is trying to be achieved and the nature of water level management in the area. The use of SuDS within a Fenland environment can increase the risk of flooding in some watercourses by reducing any self-cleansing, and reduced flows may also adversely affect biodiversity in the receiving watercourse detrimentally affecting the environment! Whilst SuDS

can generally be incorporated into larger sites, it is often difficult and not viable to use them on smaller sites. Given that the area is water stressed it would be appropriate, where possible, to “think outside the box” and allow for SuDS devices to form part of a hydrological train where the retained water could be used for water harvesting, irrigation purposes etc. See Water resources and efficiency below.

Maintenance Contribution:- It is considered that the issues of long-term funding, management and maintenance arrangements for the upkeep of the facilities in perpetuity, particularly those associated with flood risk and water level management including SuDS, **must** be supplied early within the decision-making process. This should include arrangements for adoption by an appropriate public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Prior funding from an external source, say via the proposed Community Infrastructure Levy, may be required if this is to work correctly. Failure to do so may lead to an unacceptable burden on the ratepayer. Economic constraints **must not** be accepted as a justification for non-inclusion of such arrangements.

Written Ministerial Statement – Whilst the contents of the statement are noted it is important to consider the wording of the document. It does not infer that the use of SuDS is always required or appropriate, it advises that in areas of flood risk there is an expectation that priority should be given to their use unless demonstrated to be inappropriate.

9 Landscape Impact Assessment: - The philosophies raised in item 4 Biodiversity and 5 Tree Survey/Arboricultural Report above should be followed.

10 Landscaping Proposals: - See item 5 Tree Survey/Arboricultural Report above. Please note that consent will generally not be given for any part of a tree or similar landscaping within the associated maintenance access strip. Any un-consented planting or any other landscaping encroaching within the respective maintenance access strip will be removed at the applicant's expense. In exceptional cases consideration may be given to the planting of an individual tree within the associated maintenance strip area if it is proposed as part of a specific BAP species, or related plan, and critical to the ecological requirement of that plan. It is imperative that funding for management and maintenance of the landscaping is resolved.

11 Landscaping and Biodiversity Enhancement Management: - See item 10 Landscaping Proposals above. Black Poplars and other native species are preferred for Biodiversity Enhancement schemes.

12 Transport Assessment or Statement: - 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, highway realignment or require navigation closures. We encourage the provision of such documents in respect of mineral and waste and renewable energy developments and whilst we realise that these are not all 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 and water level management systems both under its control or those that may affect it “externally” in respect of traffic related movements.

Finally, they set out some standard text under ‘other matters’ in relation to the following headings:

- The impacts of potable water supply;
- Watercourses protected under the Land Drainage Act 1991 (LDA) and associated byelaws;
- Hazard mapping and development within the floodplain;
- Flood risk and water level management;
- Water resources and efficiency;
- River and waterside settings and corridors/green infrastructure;
- Biodiversity and protected habitats and species;
- Treated effluent disposal/dry weather flows; and
- Partnership working.

4.0 Consideration of the Consultation responses

- 4.1 Little Paxton Parish Council's request that impacts upon local infrastructure be considered within the relevant sections has been added to the Validation Guidance Notes general scoping information within “The information required” sections of Sections 7 Flood Risk Assessment, 7A Surface Water Drainage Strategy and 12 Transport Assessment or Statement.
- 4.2 Natural England had no comments to make.
- 4.3 An additional link has been added to the Validation Guidance Notes Section 8 Heritage under the “where to look for information” section to draw attention to the additional information recommended by Historic England in paragraph 3.3 above.
- 4.4 The information referred to by Sport England is mainly covered by Section 20 Open Space / Playing Field Assessment of the Consultation Draft April 2017 of the Local Validation Guidance List Notes. Furthermore, as a new addition to the proposed validation list 2017, officers have included an additional Section “22 Plans and Drawings (including cross-sections where necessary)”, which will ensure that officers are able to request that information relating to proposed changes in levels forms part of applications at submission stage that propose such changes to inform Sport England and others and to seek to ensure that such matters can be assessed at an early stage.
- 4.5 Anglian Water has requested that a foul drainage strategy be submitted where relevant. Although they were not precise in what constituted ‘appropriate applications’ within their response or the relevant section they wanted this added to, officers can confirm that this information is included within the overall requirements within Section 5 Sustainable Design and Construction, which requires sustainable design and construction statements for all new schools and all development, which would create new floorspace more than 1000 square metres. Using the relevant local planning policies set out in this section, this would trigger the need for information in relation to a sustainable foul drainage strategy. However, to ensure that this aspect is not overlooked, a

reference to needing to provide information in relation to a foul drainage strategy as part of the design has been added to the guidance.

- 4.6 Middle Level Commissioners (MLC) has made detailed comments, which are set out in paragraph 3.6 above (including generic comments and guidance that has been summarised for the purposes of this report). However, when considering their response it is important to note that this LVL guidance does not relate to business/retail parks, food processing/packing facilities, paper mills nor general urban development, which normally fall to district councils to determine. Nor does it cover the County Council's Minerals applications as explained in paragraph 1.1 of this report. It does include waste, which is already covered specifically by Section 21, which requires Information in support of applications for the storage, treatment or disposal of waste. Furthermore, Section 5 'Sustainable Design and Construction', Section 7 'Flood Risk Assessment', Section 7A 'Surface Water Drainage Strategy', and Section 21 'Information in support of applications for the storage, treatment or disposal of waste' all require information relating to some form of water management. Additionally, a strategy statement would more appropriately be dealt with in relation to planning policy rather than the processing of a single application. As referred to in paragraph 4.1 above it is proposed to add reference to infrastructure to existing sections 7,7A and 12. Given this, and the need to ensure that the information required is only that essential to enable proper consideration of the planning application without adding additional burden, it is considered that that LVL guidance already adequately covers the additional items set out in points (i)-(iii) and the 'Validation Check List Revised June 2017' of the MLC comments without the need to recommend additional requirements.
- 4.7 It is considered that adding a reference to the Great Fen Project Master Plan is unlikely to assist applicants and agents to provide additional information in relation to the submission of a specific planning application. In addition to Natural England and Wildlife Trusts, the County Council consults its own Ecology Officer whose advice includes species and sites of local nature conservation importance as well as of national and international significance. A link to the Middle Level Biodiversity Manual 2016 has been added to Section 4 in relation to 'where further information can be found'. Section 6 relating to trees seeks information on trees and hedges on the application site or likely to influence the development already includes all such trees irrespective of whether they are near to a watercourse or not and already seeks the requested information.
- 4.8 A requirement to include information relating to treated effluent disposal and an assessment of the impacts of dry weather flows when relevant has been added to section 5 'Statement of sustainable design and construction' in instances where the development is being designed to connect to a public sewer and section 21 'Information in support of applications for the storage, treatment or disposal of waste'.
- 4.9 The Council consults specialist consultees when dealing with a planning application in considering submitted technical information. Planning case officers are not therefore expected to be qualified in all of the technical disciplines, which may fall to be assessed during the consideration of a planning application.

- 4.10 Regard has to be had to the National Planning Policy Framework 2012 when considering planning applications. Relevant Codes of Practice are normally available upon payment links only. Given this the code of practice has not been added as no freely available link was found. The validation list requirements can only seek that reasonable to determine a relevant planning application and should not include additional information that may be required by other bodies to assess their own requirements or applicable under separate byelaws outside of the planning remit.

5.0 CONCLUSION

- 5.1 Officers have given careful consideration to the consultation responses that have been received and have made amendments to the consultation draft to produce the Local Validation List and Guidance Notes (June 2017), which is recommended as below.

6.0 RECOMMENDATION

- 6.1 It is recommended that the County Council's Local Validation List and Guidance Notes (June 2017) attached as Appendices 1 and 2 respectively be approved for use and publication on the Council's website and that the Head of Growth and Economy be authorised to enable officers to update links and references to documents within the Local Validation List Guidance Notes (June 2017), which become outdated and/or be superseded during the period that the 2017 list is in use.

Source Documents	Location
Local Validation Guidance List Report to 18 June 2015	https://cmis.cambridgeshire.gov.uk/cc_c_live/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/130/Committee/8/Default.aspx
Cambridgeshire County Council Local Validation List and Local Validation List Guidance Notes (June 2015)	https://www.cambridgeshire.gov.uk/business/planning-and-development/planning/submitting-a-planning-application/