

DATE OF COMMITTEE
16th March 2017

REPORT OF PORTFOLIO HOLDER FOR REGENERATION

PLANNING APPLICATIONS - STREAMLINING INFORMATION REQUIREMENTS AND VALIDATION

EXEMPT INFORMATION

None

PURPOSE

To seek member approval to the revised information requirements for planning applications.

RECOMMENDATIONS

1. **Approve the revised information requirements for planning applications as set out in the appendix to this report for consultation**
2. **Authorise consultation on the revised information requirements for a period of 6 weeks in accordance with statutory requirements**
3. **Authorise the Portfolio Holder for Regeneration, the Corporate Director (Growth, Assets & Environment) and the Solicitor to the Council and Monitoring Officer to make any minor amendments arising from the consultation exercise and to adopt the revised information requirements.**

EXECUTIVE SUMMARY

Section 62 of the Town and Country Planning Act 1990 says that the Borough Council 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

The validation stage for planning applications is the point from when the Borough Council receives an application to confirming that all necessary information is present and other pre validation requirements have been met. Getting the validation stage right is essential to an efficient planning system.

Information requirements for planning applications fall into 2 categories. The first relates to national requirements which include a need to make the application on an appropriate applications form (with ownership certificates), plans of the development and a nationally set fee. The second relates to local requirements (the local list) such as the need for ecological surveys or information relating to ground contamination.

The Government's policy on local information requirements can be found in the National Planning Policy Framework. Paragraph 193 of the NPPF states 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.

If the Borough Council does not have an up to date 'local list' in place they would not be in a position to insist on submission of important information and could as a consequence be in a difficult position when it comes to determining planning applications.

Applicants have the opportunity to challenge local planning authorities if they consider that they have been unreasonable in requesting information that is not pertinent to the application that has been submitted.

The recommended process for reviewing and revising local lists involves the following 3-step process:

- *Step 1: Reviewing the existing local list*

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

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

- *Step 2: Consulting on proposed changes*

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

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

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

Information requested with a particular planning application must meet the statutory tests introduced by the Growth and Infrastructure Act.

The Local Validation List was last reviewed in 2013 and officers consider that there is scope for revising the validation requirements, on a regular basis, in accordance with Government advice. The draft 'local list' being presented for consideration by Cabinet is attached as an appendix to this report and reflect the policy drivers in the NPPF, published guidance and the provisions of the Tamworth Local Plan 2006-2031 which have come into force since the publication of the last validation list.

If no substantive objections are received then it is intended that the Portfolio Holder for Regeneration and the Corporate Director (Growth, Assets & Environment) and the Solicitor to the Council and Monitoring Officer should be given the authority to adopt the revised criteria on behalf of the Borough Council. In the event that substantive objections are received, which have not been resolved by discussion by your officers, a further report will be presented to the Cabinet for consideration.

RESOURCE IMPLICATIONS

The cost of carrying out the consultation exercise will be met from within the development management budget

LEGAL/RISK IMPLICATIONS BACKGROUND

If a local list is not adopted there would be no mechanism for ensuring that all information required to make an objective decision is available. This in turn could affect the quality of the decision which, if challenged at appeal, could result in cost awards against the Council

An applicant can challenge the requirements of the local validation list by sending the Council a notice under article 12 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. This must set out the reasons why the applicant considers that the information requested by the local planning authority, in refusing to validate the planning application, does not meet the statutory tests.

When the Council receives an article 12 notice, it will 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.

The Council must respond to an article 12 notice within the statutory time period for determining the application in question. Depending on the type of application, this would be 8, 13 or 16 weeks after the day the application is received, or an extended period agreed in writing between the applicant and local planning authority. Where possible, local planning authorities are encouraged to respond to such notices as soon as possible to facilitate further negotiations between the parties. If the statutory time period has already passed or will pass in 7 working days or less, the local planning authority must respond to the article 12 notice within 7 working days.

After receiving a non-validation notice and after the relevant time period has passed without the local planning authority granting or refusing to grant planning permission, an applicant may appeal to the Planning Inspectorate against non-determination of the application.

In such cases, the statutory time period will be considered to have begun at the point where the Council has received the fee, documents and other information necessary to validate the application, but excluding the disputed information specified in the article 12 notice. The Planning Inspectorate will consider the merits of the validation dispute and the appeal itself.

If the Council fails to respond to an article 12 notice or determine the application within the relevant time periods, the applicant has a right of appeal to the Planning Inspectorate against non-determination.

SUSTAINABILITY IMPLICATIONS

All planning decisions should have sustainability at their heart. In the absence of good information to support planning decisions sustainable development may not result

BACKGROUND INFORMATION

The Town and Country (Development Management Procedure)(England) Order 2015

REPORT AUTHOR

John Gunn – Development Manager

LIST OF BACKGROUND PAPERS

National Planning Policy Framework
Tamworth Local Plan 2006-2031

APPENDICES

Local Validation Criteria