

REPORT OF:	STRATEGIC DIRECTOR OF GROWTH & DEVELOPMENT/ DEPUTY CHIEF EXECUTIVE
TO:	PLANNING AND HIGHWAYS COMMITTEE
ON:	14th DECEMBER 2023
ORIGINATING SECTION:	PLANNING (DEVELOPMENT MANAGEMENT SERVICE)
WARDS AFFECTED:	ALL
COUNCILLORS:	ALL

TITLE OF REPORT:

REVISED VALIDATION CHECKLIST FOR PLANNING APPLICATION SUBMISSIONS

1. PURPOSE OF THE REPORT

- 1.1 To engage the Planning and Highways Committee in the review of the Council's adopted Local Validation Checklist (LVC) listing the criteria and requirements for the formal submission of planning applications. In particular to:
- To brief the Committee on the proposed changes to the LVC; and,
 - To ensure that quality planning applications submissions are received and to provide certainty for applicants, agents and Officers alike on the validation requirements of planning applications.

2. BACKGROUND

- 2.1 Since 2008 Local Planning Authorities have been required to adopt and publish local validation requirements - a local list, which sets out what information, over and above the national requirements (i.e. application form, plans, fee, ownership certificate etc.), is necessary to accompany a planning application before it is registered by the Council as "valid". The Council's first Local List was adopted in 2008 and was last reviewed and updated in 2020.
- 2.2 In addition to the National Validation Requirements laid down by the Government, paragraph 44 of the National Planning Policy Framework (NPPF, 2023) states 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.*' The combined

use of the National and Local Validation Requirements provides both the authority and applicant with more certainty over the type of information required from the start of the process and helps to make sure that the information requested is proportionate to the type and scale of application being made.

- 2.2 The Town and Country Planning (Development Management Procedure) (England) Order 2015 details in Part 3, Article 11 (3) that Local Planning Authorities will only to be able to request information based upon a local validations requirement list produced within two years of the date of an application being submitted. This means the local validation requirements list will need to be revisited, revised and readopted prior to December 2025.

3. RATIONALE

- 3.1 The National Planning Policy Framework (NPPF) sets out that Local Planning Authorities should publish a list of their information requirements for planning related applications and that this should be reviewed on a frequent basis. Since the previous iteration in 2020 a number of new national policies and Planning Practice Guidance documents have been introduced by the Government and therefore an update is now required. Additionally, in accordance with the Development Management Order 2015, Local Planning Authorities are only able to request information based on a local validation requirement list where it has been produced within the last two years of the date of the submission of the application.

- 3.2 Since the 2020 LVC, the main amendments to the checklist which were consulted upon include:

- All references to any out of date regulations, or policies have been removed;
- Where regulations or planning practice guidance has changed, the text has been altered to reflect this change;
- The reference to fire safety and high rise residential buildings as a national requirement; and,
- The appendices to the LVC have been extended to include:
 - A Health Impact Screening Tool to aid ease of access for applicants' where the impact on local health is a material consideration;
 - An updated Agricultural Statement to include details of existing stocking types and numbers, labour and accommodation, and if a new dwelling is proposed, requiring details of any existing properties. This accords with similar templates used by other LPA's in East Lancashire
 - A summary of what should be submitted with any applications for wind turbines. This will ensure sufficient information is submitted with these types of application to enable Officers to accurately assess such applications;
 - Protected Species Statement – bats, barn owls and nesting birds;
 - Planning Obligation/Section 106 Statement/Heads of Terms;

- Checklist of recommended information requirements for planning applications affecting playing field land (Sport England);
- Sustainable Urban Drainage Systems (SuDS) pro forma, which is a requirement for any planning application for major development.

3.3 A formal six week consultation has been undertaken from the 6th October 2023 until 17th November 2023. This comprised a consultation page on the Council’s website. An email was also sent to regular agents to advise them of the consultation. In total the Council consulted 655 planning agents, consultants and interested parties on the proposed amendments. Eight responses were received, seven from statutory/non-statutory consultees, and one from a planning agent. Their comments are included within Section 9 of this report.

3.4 As a result of the public consultation period some text has been altered to ensure greater clarity for applicants. In addition, the comments of the consultees have been taken in to account, as detailed in Section 9 of this report, and have been included in the LVC.

3.5 In addition to the above, a Front Cover has been added and a page describing the scope and aims of the LVC. These are:

“The aim of this document is to provide the necessary information required to submit a valid planning application and enable Blackburn with Darwen Borough Council, the Local Planning Authority (LPA), to provide an efficient and effective registration and validation service.”

3.6 It is intended to benefit all customers of the Planning and Development Management Service by:

- Increasing the awareness of the type of information required to ensure an application is accepted;
- Promoting the use of pre-application discussions and advice;
- Speeding up the registration process;
- Ensuring consistency in the approach taken by Blackburn with Darwen Borough Council;
- Increasing the use of electronic delivery;
- Minimising the submission of additional information;
- Avoid delays during the planning process; and,
- Enabling Blackburn with Darwen Borough Council to provide applicants with certainty as to the information required.”

3.7 To summarise, the amendments brought forward do not materially change the document which was subject to public consultation.

3.8 This report sets out the updated requirements and seeks Members agreement to the updated document. A copy of the final draft version of the LVC is attached to the report.

4. POLICY IMPLICATIONS

- 4.1 It is considered that the update to the Local List will assist users of the document by containing more current and accurate information.

5. FINANCIAL IMPLICATIONS

- 5.1 None

6. LEGAL IMPLICATIONS

- 6.1 Town and Country Planning Act 1990 S62 (3) allows a local planning authority to require that a planning application must include such particulars that they think necessary and evidence in support of anything in or relating to the application as they think necessary. This power is providing that any requirement is not inconsistent with any requirement of the Town and Country Planning (Development Management Procedure) (England) Order 2015 or the National Planning Policy Framework.

7. RESOURCE IMPLICATIONS

- 7.1 None for the purposes of this report.

8. EQUALITY IMPLICATIONS

- 8.1 None for the purposes of this report.

9. CONSULTATIONS

- 9.1. Conservation Consultant response.

I have read through the updated Validation Checklist.

My comments are highlighted in red within the relevant sections.

L4 Structural Survey / Demolition Method Statement Structural surveys are required for: • The conversion of barns or other buildings outside the urban area • Applications for Listed Building Consent where requested during the pre-application process, or when structural alterations **and/or demolition of any part of the building** are proposed • Applications where the land is unstable Demolition Method Statements are required for: • Applications for prior notification of demolition • Applications involving demolition or site clearance

Should we also include

- **Demolition of relevant buildings in conservation areas**

L5 Tree Survey/ Arboricultural Survey Required for: Development with the potential to affect trees where: • Trees are on site • Trees are adjacent to the site and are within falling distance of the boundary • Trees could be affected by construction work • Trees could be affected by the delivery or storage of materials.

Should we also include reference to

- **Works to trees in conservation areas and TPO's?**

L18 Heritage Statement / Heritage Impact Assessment Required for: • Alteration or demolition of a Heritage Asset (designated or non-designated) • Alteration or demolition of any building in a Conservation Area (including householder) • Works to a Historic Park or Garden • Works affecting an area of archaeological interest • Proposals affecting the setting of a Heritage Asset.

Does this need some explanation of what a heritage asset and non-designated heritage asset are?

Would it be reasonable to explain that the requirement of a HS/HIA is to describe the significance of heritage asset(s) affected including any contribution made by their setting and that the level of detail required should be proportionate to the assets importance and be sufficient to understand the impact of the works on their significance.

Some other Validation Checklists I have seen include more detail on the type of plans/information expected for LBC applications i.e.

Suitable plan details, including cross sections and a Method Statement should be submitted for works which involve any demolition, replacement, or renovation of any historic fabric including works to walls/elevations, roof, windows and doors and specifications of any joinery/masonry. This will enable the Local Planning Authority to fully assess the impact of the proposed development on the significance of the designated heritage asset.

Ian Bond
Lead for Specialist Services
GrowthLancashire

RESPONSE:

It is agreed to include the amendments to L4 “Structural Survey/Demolition Method Statement Structural Surveys”, and L5 “Tree Survey/Arboricultural Survey”. With regards to L18 “Heritage Statement/Heritage Impact Assessment”, it is to include the additional requirement relating to suitable plan details etc.

9.2 The Coal Authority

“Dear Planning Policy Team

Re: Validation Checklist 2024 Consultation

Thank you for your notification received on the 6th October 2023 in respect of the above consultation.

The Coal Authority is a non-departmental public body sponsored by the Department for Energy Security and Net Zero. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

As you will be aware the Blackburn with Darwen area has significant coal mining legacy with features recorded at surface and shallow depths including; mine entries, coal workings and reported surface hazards.

In light of the above we are pleased to see that L26 of the Validation List sets out the requirements for the submission of a Coal Mining Risk Assessment when development is proposed. We also welcome the inclusion of signposting within the document, via the links included, to further information on coal mining legacy and guidance on Coal Mining Risk Assessments. .”

9.3 Historic England

13 October 2023

Dear Sir or Madam,

Blackburn with Darwen Borough Council - New Local Validation Checklist 2024

Historic England is the Government's statutory adviser on all matters relating to the historic environment in England. We are a non-departmental public body established under the National Heritage Act 1983 and sponsored by the Department for Culture, Media and Sport (DCMS). We champion and protect England's historic places, providing expert advice to local planning authorities, developers, owners and communities to help ensure our historic environment is properly understood, enjoyed and cared for.

Thank you for consulting Historic England on the above document. At this stage we have no comments to make on its content.

If you have any queries or would like to discuss anything further, please do not hesitate to contact me.

Yours faithfully,

Emily Hrycan
Historic Environment Planning Adviser (North West)
Historic England

9.3 Canal & Rivers Trust

planning@blackburn.gov.uk

Your Ref

Our Ref CRTR-POL-2023-40011

Friday 17 November 2023

Dear Sir/Madam,

Validation Checklist 2024

Thank you for your consultation on the above document.

We are the charity who look after and bring to life 2000 miles of canals & rivers. Our waterways contribute to the health and wellbeing of local communities and economies, creating attractive and connected places to live, work, volunteer and spend leisure time. These historic, natural and cultural assets form part of the strategic and local green-blue infrastructure network, linking urban and rural communities as well as habitats. By caring for our waterways and promoting their use we believe we can improve the wellbeing of our nation. The Canal & River Trust (the Trust) is a statutory consultee in the Development Management process, and as such we welcome the opportunity to input into planning policy related matters to ensure that our waterways are protected, safeguarded and enhanced within an appropriate policy framework.

Based on the documents and information available the Trust has the following **general advice** and ask that the document is updated to include the following matters:

Local Requirements

L4 – Structural Survey/Demolition Method Statement

This section sets out when structural surveys and demolition method statements may be required. The list of points also includes 'application where the land is unstable'. This is most relevant to the Trust as a statutory consultee and ensuring that the structural integrity of our waterway assets and infrastructure are safeguarded in of critical importance. Land stability and the consideration of the suitability of development with regard to ground conditions are material planning considerations as set out in paragraphs 174(e) and (f) and 183 of the National Planning Policy Framework (NPPF) and that the responsibility for securing a safe development in terms of land stability rests with the developer (para 184). This is subject to more detailed discussion in the National Planning Practice Guidance (PPG). We often find that developers often overlook this matter and consider the canal to be stable. This is not the case; the canal is over 200 years old and not built to modern engineering standards and is very susceptible to damage.

It is often the case that where development sites are adjacent to the canal that we ask for additional information related to the canal corridor to enable us to make a substantive response as a consultee on this matter. As a minimum this is normally a request for a cross section showing the development relative to the canal/cutting/embankment. We can then more easily ascertain the risk and mitigation that may be required.

We would welcome a further bullet point added under section L4 related to the point. This could be phrased in a similar way to drainage (L16) as set out within the draft document. For example, ***A scaled cross section shall be provided where development is with 15m of the canal corridor showing the development relative to the canal infrastructure. The Canal & River Trust consultation zone, can be checked here:***

<https://canalrivertrust.org.uk/specialist-teams/planning-and-design/our-statutory-consultee-role/planning-applications/when-to-consult-us>

Requiring this information at the validation stage would enable the Trust to provide a substantive response within 21 days and speed up the decision-making process.

L16 – Drainage Scheme

We welcome and support the inclusion of the need for a drainage scheme were the building is within our notified consultation zone.

Section 7 – Details of Sustainable Drainage

Within the 'Hierarchy of Drainage Option' section and method of discharging to a surface water body we note that the canal is included as an option as shown below.

Proposed method of surface water discharge		Is this proposed?		
Hierarchy Level 2: To a surface water body (select type) <i>NOTE: Consent from LLFA or Permit from Environment Agency may be required – refer to guidance</i>		Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
		<input type="checkbox"/> Main river	<input type="checkbox"/> Canal	<input type="checkbox"/> Other water body
<input type="checkbox"/> Ordinary watercourse				
If YES - Evidence Required		If NO – Evidence Required Tick ALL that apply		
<input type="checkbox"/>	Surface water body / watercourse survey and report	<input type="checkbox"/>	Plan showing nearby watercourses and waterbodies AND <input type="checkbox"/> Statement providing justification in your Sustainable Drainage Strategy <i>Note: Where discharge of any element in the hierarchy is discounted, an applicant should provide justification. If the reasoning for discounting a discharge of surface water to watercourse relates to issues associated with third party land or the securing of any other required consent, it may be necessary for the applicant to provide evidence to the local planning authority to support their proposed approach.</i>	

We would welcome a similar note being added as the 'consent from LLPA or Permit from EA.' We suggest this is expanded to include, 'consent from Canal & River Trust to discharge to the canal would be required'.

https://canalrivertrust.org.uk/media/document/BQcrktehtD_YrY6pbichIA/FjMAuJlnWsZl8R4gxEsFANS14FDZbwtQtHlob8i9_c/aHR0cHM6Lu9jcnRwcm9kY21zdWtzMDEuYmxyYi5ib3JllndobmRvd3MubmV0L2RvY3VtZW50Lw/0189adff6-9aeb-7c87-8151-fdf3b64aaa29.pdf

The above comments do not prejudice any further matters that might be raised at a later stage.

Please do not hesitate to contact me with any queries you may have.

Yours sincerely,

Tim Bettany-Simmons MRTPI
Area Planner

RESPONSE:

With regards to L4 "Structural Survey/Demolition Method Statement", it is agreed to include the requirement for a scaled cross section drawing to be provided within 15 metres of the canal corridor showing the development relevant to the canal infrastructure. With regards to Section 7 "details of sustainable drainage", it is agreed to include an additional note stating consent from the Canal & River Trust is required to discharge to the canal, with a link to the relevant guidance.

9.4 Planning Strategy

L28: Energy Statement

Required:

- For major development proposing enhanced emissions reduction (above Building Regulation Standards)
- **When requested as part of the pre-application process.**
- **6 months from the date of the CIfs SPDs adoption, all minor residential (1-9 dwellings) will be required to submit an energy statement**

~~All development must demonstrate how it has been designed to minimise its contribution to carbon emissions and climate change.~~ The Council will be supportive of exemplar developments which demonstrate how particularly high standards of environmental performance can be achieved in accordance with the adopted Local Plan.

Further guidance on producing such a statement and demonstrating consideration of the energy hierarchy through scheme design will be provided through the Council's Climate Impact Framework (CIF) SPD.

L35: Climate Impact Framework (CIF) (once the ~~form is available~~ SPD is adopted, and CIF form is available)

Required for:

- ~~All new residential developments (creation of 1 or more dwellings)~~
- Major residential developments
- Major commercial developments
- Minor residential developments (subject to the outcome of consultation on the draft CIF)

The Council is ~~expecting to~~ consulting on a draft SPD in the autumn of 2023, and ~~have is~~ expecting to have a completed final CIF SPD available ~~on~~ following adoption of the new Local Plan (2021 – 2037), expected in early 2024. Some requirements of the CIF remain subject to the outcome of that consultation, including whether minor residential developments should be required to complete and submit a CIF, and any applicable transitional periods which should apply. These requirements will be confirmed through the final CIF SPD.

- ~~6 months from the date of the SPDs adoption, all minor residential (1-9 dwellings) will be required to submit a completed CIF~~

A link to the online CIF form will be provided below when available. ~~Link to be inserted when available~~

RESPONSE:

The changes are agreed.

9.5 Public Protection

I write regarding your consultation on the new local validation checklist.

Please find below our comments on those sections relevant to us i.e. L20 – L24.

Comments are made under separate headings. Our comments are in red against the proposed details on the checklist which are in black.

L20 - Contaminated Land Survey

- When requested as part of the pre-application process In other cases this will be requested during the determination process if required.

The above is at odds with the standard application form that directs people to the following questions. I think the validation guidance needs to mirror this.

- If the development is on land that is known to be contaminated ie. Where the presence of contamination is already confirmed.
- Land where contamination is suspect for all or part of the site ie. Where the land has a significant industrial history or is adjacent to land that has significant industrial history or the potential to produce ground gas.
- A proposed use that would be particularly vulnerable to the presence of contamination ie Where the development is for housing, school or residential institution.

Extract from application form below;

Does the proposal involve any of the following? If Yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated

Yes

No

Land where contamination is suspected for all or part of the site

Yes

No

A proposed use that would be particularly vulnerable to the presence of contamination

Yes

No

L21 Noise Impact Assessment Required:

- For noise generating proposals in close proximity to residential properties In other cases this will be requested during the determination process if required.

We would recommend that residential development adjacent existing noise generating land uses are also included as a reason for a noise assessment

We note the additional guidance for wind turbine apps which is helpful although they are quiet a rare application for there to be specific guidance for. Is there a specific reason for the ? if we are adding in additional guidance for wind turbines there are many other noise generating uses we should be adding further guidance in for which would be much more well used or helpful ?

L22 Air Quality Assessment Required:

- When required by the Council's Air Quality Planning Advisory Note – please see the below link [Air quality advisory note | Blackburn with Darwen Borough Council](#)

To assist planning applicants, it would be helpful to include in the appendices the AQ PAN Section 3.1 'Classify the site – a five step process'. This will enable them to determine whether an AQA is required without having to read the whole of the AQ PAN.

L23 Odour Assessment Required:

- When requested as part of the pre-application process In other cases this will be requested during the determination process if required.

If the application site is likely to have a large odour generating potential such as a food factory or waste processing or disposal site.

It would be helpful if all eatery applications were required to submit our useful info doc

'Guidance note for developers – Control of odour and noise from Kitchen Exhaust Systems'

L24 Lighting scheme / Light Pollution Assessment Required:

- If neighbouring occupiers will be affected by the proposals In other cases this will be requested during the determination process if required.

How will the applicant assess the need for a scheme/assessment and can some additional guidance be provided ? Should the guidance docs ie, the ILP Guidance be referenced to assist applicants?

I trust that this assists and gives you a steer as to our comments. Please contact me if you have any further questions.

Best Regards.

John Wood
Principal Officer - Environmental Protection

RESPONSE:

With regards to L20 “contaminated land survey”, it is agreed to change the requirements as suggested.

With regards to L21 “noise impact assessment”, it is agreed to include residential development adjacent existing noise generating land uses are also included as a reason for a noise assessment.

With regards to L22 “air quality assessment”, it is agreed to insert the link to the published Planning Advisory Note, with a sentence to highlight Section 3.1 ‘Classify the site – a five step process’.

With regards to L23 “odour assessment”, it is agreed that a sentence be inserted to advise applicant/agents to contact Public Protection for a copy of the “Guidance note for developers – Control of odour and noise from Kitchen Exhaust Systems”.

No change to L24.

9.6 **SPORT ENGLAND**

Dear Sir/Madam,

Thank you for consulting Sport England on the above.

I attach a copy of the consultation guidance checklist prepared by Sport England.

Further information can also be found on our website at:

<http://www.sportengland.org/playingfieldspolicy>

If you have any queries please do not hesitate to contact us.

9.7 The Intelligent Design Service

Hi Emily,

Thanks for the clarification. Can I ask then, does the council have a separate validation list for the PD prior approval type applications, or is this just left to the legislation related to each particular PD class which states what matters can be taken into consideration?

Regards
Craig

Craig Buck MCIAT
Director

RESPONSE:

The requirements for the relevant prior approval applications is covered in the secondary legislation of the Town & Country Planning (General Permitted Development) Order 2015 (as amended).

10. RECOMMENDATION

- 10.1
- i.) That the consultation responses be noted;
 - ii) That the Committee note the content and issues described in the report; and,
 - iii) That the Local List of criteria for the validation of planning applications, as set out in the Appendix to this report, be endorsed and adopted by the Council.

Contact Officer: **Gavin Prescott (Planning Manager, Development Management)**

Date: **1st December 2023**

Background Papers: National Planning Policy Framework
Planning Practice Guidance