

Revised and Updated Validation Requirements for Planning Applications

A report by Head of Planning Applications Group to Planning Applications Committee on 20 January 2011.

To report back on the revised and updated version of the **Validation of Planning Applications** documents (incorporating the local validation requirements for planning applications submitted to the County Planning Authority), in compliance with 2010 Government requirements, following for public consultation exercise.

Recommendation: Members note the responses and proposed adjustments to the contents of the Validation of Planning Applications documents, and authorise the adoptions and publishing of the documents.

Local Member(s): All

Classification: Unrestricted

Background

1. Members received a report at the Planning Applications Committee Meeting on 12 October 2010 relating to the revisions and updating of the County Planning Authority's current version of the *Validation of Planning Applications* document, which was approved in June 2008 and subsequently published on the Council's website.
2. Validation is the process by which the Planning Authority decides whether it has sufficient and correct information with which to commence the processing of a planning application. To minimise uncertainty for planning applicants and potential delays in the processing, all Planning Authorities were required to adopt new national validation criteria, comprising the following:
 - completed application form
 - correct application fee
 - ownership certificate
 - agricultural holdings certificate
 - Design and Access Statement
 - site location plan
 - other plans and drawings necessary to describe the application
 - Environmental Statement where applicable.
3. Failure to supply the above information results in the application being declared invalid, but Planning Authorities are unable to treat applications as invalid if they meet these statutory minimum requirements, UNTIL they have adopted a local list of further information requirements. As well as setting out the national list of statutory information requirements, Government guidance makes provision for each Planning Authority to agree its own local list of further information requirements to reflect the particular local circumstances and planning policy requirements operating in their area.
4. The previous Government produced revised guidance in March 2010 (*Guidance on Information Requirements and Validation*) requiring planning authorities with published local lists to review them by the end of 2010. Such reviews should include revisiting the local lists, reporting any proposed changes to the Planning Authority, consulting relevant stakeholders on the proposed changes and then publishing a revised list. In revising their lists of local requirements, authorities are advised to consider the following principles:

Revised Validation Requirements for Planning Applications

- **necessity** – *driven by statutory requirements, adopted policies or published guidance*
 - **precision** – *clarity over which types of development require such information*
 - **proportionality** – *commensurate with the nature and scale of the proposal and sensitivity of its location*
 - **fitness for purpose** – *clarity on the information required, being proportional and concise*
 - **assistance** – *guidance on where further information can be sought.*
5. Given the changing landscape of planning policy and guidance since the County Council's 2008 document was published, we embarked on a general revision of the entire documentation, to update the changing policy context and emerging guidance and sources of further information, as well as to review the local information requirements with regard to the above principles. Noteworthy since the document was first produced is the demise of the Kent and Medway Structure Plan and the South East Plan, which together provided much of the policy drivers for the requirements, although the latter has been resurrected since the 12 October 2010 Committee Report following a legal challenge. It also needs to be borne in mind that relevant background information and guidance is evolving all the time, so any published document quickly becomes outdated; one advantage of publishing documentation on websites is that the detailed contents and references could be more regularly updated.
6. The latest guidance advises that local lists of information requirements should be presented clearly and precisely, and ideally in the form of a matrix of requirements (ie. in tabular form). I advised on 12 October 2010 that the County Council's documentation could be made more accessible and concise, if the requirements for County Council development proposals are separated out from those for waste developments, since the requirements vary greatly. In particular, the County Council developments include many minor scale proposals as well as some major building proposals, whereas the major waste proposals tend to be more complex and are often also subject to Environmental Impact Assessment. In the interests of proportionality and accessibility, I therefore produced two separate but companion documents, with each adopting a similar format, style and language despite the differing contents and requirements. It should be noted that it is not currently necessary to produce validation documents for mineral development applications; however, the waste development validation list should be taken as an example of the level of detail and range of information that the County Planning Authority would also expect to see in mineral related planning applications.

Consultations

7. Since the previous Report, I have carried out the necessary public consultation exercise, covering an 8 week period from 15 October to 13 December 2010, and involving our planning applicants, agents and consultants, statutory consultees on planning applications (including all Kent District Councils and Parish Councils), and any other interested parties, via the County Council's website based consultation system. Responses have been received from the following parties, with their views summarised and commented on in sequence:

Lympne Parish Council – Most simple applications are submitted through agents or by the applicant, but major applications invariably come from an agent. Whilst the tick box checklist is useful for individual applicants, it may be a little simplistic for agents. However, the checklist ensures that all the essential information is included in the

Revised Validation Requirements for Planning Applications

application and is therefore supported. The Parish Council would prefer to see proper technical drawings accompanying planning applications, rather than 'fuzzy', artistic representations, which detract from the process of considering the information needed to make a sensible and accurate judgement.

Comment - I agree that the use of validation checklist can tend to over simplify the requirements, especially for agents handling major applications, although it is the agents handling the more complex applications that tend to use the checklist. Whilst it is of less value for more routine applications, I would not want to discourage its use by those that find it useful. I share the concern over non-technical drawings, but these are usually only accepted by the County Planning Authority as supplements to proper scaled plans and elevational drawings, and can be useful in bringing plans to life for those less familiar in interpreting technical drawings.

Faversham Town Council – changes noted but no comments to offer.

Highways Agency – no comments to make.

The Coal Authority – supports the inclusion of Coal Mining Risk Assessments, given that the Coal Authority is introducing a new risk based approach to addressing issues of coal mining legacy and any resulting land instability as part of planning applications. Securing submission of a Coal Mining Risk Assessment as part of planning applications for operational development is a key aspect of this new approach, and it is therefore particularly important for consistency that this issue is included in Local Validation Lists where coal mining legacy presents potential risks to new development.

Comments noted.

Health Protection Agency – considers that they should still be able to comment on the public health aspects of future applications, bearing in mind that they rely on non-technical summaries and various risk assessments for that, and trust that those will still be part of planning applications.

Comments - I would confirm that none of the proposed changes affect the information relied on by the HPA.

Council for British Archaeology – the CBA are a statutory consultee on applications for Listed Building Consent involving demolition or partial demolition, and welcome the opportunity for more consistent quality of well documented applications. Listed Building Consent applications should be supported by a Heritage Statement which describes the significance of the building, its site and setting, and the impact of the proposals on that significance.

Heritage Statements should include:

- a statement of the significance of the historic building and its setting (its archaeological, architectural, historical or other interest)
- the Statutory List description of the building
- an assessment of the impact of the proposals on the significance of the building and its setting
- explanation of how the proposed changes will be managed to respect the significance of the building and its setting, together with any mitigation measures.

Revised Validation Requirements for Planning Applications

Applications for Hedgerow Removal may also require a Heritage Statement, such as where it forms part of a significant historic landscape or area of potential archaeological interest. Heritage Statements should also be required to support an application for development which affects land identified in the Historic Environment Record as of archaeological significance (or potential significance). PPS5 advises that applications should not be validated where the extent of the impact of the proposals on the significance of heritage assets cannot be adequately understood. Heritage Statements should be prepared by an appropriately qualified historic environment professional, with pre-application discussion with the relevant Local Authority conservation officer and/or historic environment service, with the Historic Environment Record being an essential source of information.

Comments - Whilst these views are understood and incorporated within our documentation as far as space allows, we are not in a position to invalidate planning applications on the basis of poor quality Heritage Statements, nor to require applicants to use particular professional advisors. In this regard, the guidance in PPS5 is at variance with the statutory validation responsibilities imposed on Planning Authorities, insofar as validation is more about ensuring the completeness of applications rather than setting quality standards. Although we have supplemented the section on Heritage Statements in the light of this response, the County Planning Authority does not handle applications for Listed Building Consent, Conservation Area Consent or Hedgerow Removal, so we have not altered the section on Listed Building Design and Access Statements .

Sport England – has forwarded its earlier consultation guidance checklist for Local Planning Authorities, together with Section B of its development control guidance note, which sets out their basic requirements for validation checklists. The former asks for the following documents to accompany applications where statutory consultation is required:

- application form;
- plans and photographs, including location plan, existing site plan (showing existing buildings, extent of playing fields, locations of sports facilities, alternative locations, significant features, site levels, etc.), proposed site plan (including proposed development, lost playing field, revised location of pitches, alternative provisions, levels and landscaping, etc.), detailed plans of any internal sports facilities, plus site and aerial photographs;
- land ownership certificate;
- Design and Access Statement;
- Planning Statement (including reasoning behind any playing field loss, assessment of any surplus sports and recreation facilities, assessment of the sports and recreation needs of new development, details of replacement facilities, relationship to sports strategies, details of management and maintenance of facilities, details of Community Use Agreement or Sports Development Plan, supporting evidence from potential users, Business Plan, plus technical details such as surfacing, floodlighting, fencing, etc.);
- Draft heads of terms of any Planning Obligations.

Comment – These requirements are understood but difficult to incorporate within our documentation because sport is not an area specifically identified in the prescribed list of validation information. Since some of the information being sought tends to go beyond the reasonable requirements of Planning Statements, we would normally require relevant planning applications to be accompanied by a dedicated statement relating to the sporting implications, which would cover most of the more esoteric aspects cited above. We have therefore added in the need for such details within the

Revised Validation Requirements for Planning Applications

Open Space Assessment category. Note that details of lighting specifications are required separately under Lighting Impact Study.

Kent Sports Unit – suggests that applicants should be required to liaise with Sport England before submitting applications that affect playing fields, because issues raised by Sport England during the planning consultation process invariably slow down the whole application process. If the applicant was required to consult Sport England at pre-application stage, it would aid applications progress through the system.

Comment - I agree that such pre-application liaison can be invaluable in avoiding later delays with the planning application, but we can only advise rather than insist on such liaison. However, we can add some strong advice to the guidance to encourage it.

Natural England – is generally supportive of the guidance and validation process, and offers the following comments:

- the inclusion of Natural England as a contact in the Validation Document should be extended to include their wider remit including landscape and some additional explanatory text is offered;
- the Biodiversity section of the Local Requirements should be extended to include geological diversity, including Kent's Regionally Important Geological Sites (RIGS);
- applicants should be guided under 'relevant Proposals' to the flow charts in their protected species standing advice, which indicates where different protected species are likely to be encountered;
- biodiversity enhancement measures should be requested under 'Item Content' for all developments, but proportionate to the scale and nature of the proposed development;
- reference should be made under 'Further Information' to the Kent RIGS website and their Ancient Woodland Standing Advice;
- the Landscape/Townscape Assessment section should include the need to consult the relevant AONB Unit where AONB impacts are likely to result from the proposed development;
- a full assessment of the development's impacts should not be limited solely to developments within the AONB, but include those within the setting of AONBs, and some additional text is offered.

Comment - We are able to incorporate most of this additional information and advice, but in the interests of concise brevity we are obliged to distil it to the bare essentials or substantially abbreviate the phraseology. Moreover, it has to be borne in mind that the main aim of the exercise is to streamline the planning application process rather than add to information requirements, so we need to be wary of overloading applicants with too much information to digest, or requiring planning applicants to provide a disproportionate amount of information and costly assessment surveys. Similarly, there is a limit as to how many organisations we can require applicants to liaise with at the pre-application stage, given that the likes of the AONB Units are included as consultees on relevant planning applications by the Planning Authority, but we have nevertheless included a cross reference in the Landscape Assessment section.

Kent Wildlife Trust – asks whether the references to Sites of Nature Conservation Interest be changed to Local Wildlife Sites (LWS), which they use to ensure consistency with PPS9? Also ask if Roadside Nature Reserves (LNR) could be added to the list of designated sites, which are designated by KWT with full support of Kent Highway Services? Digitised boundary information of LWSs and RNRs are available from the Trust.

Revised Validation Requirements for Planning Applications

Comment – LWSs are already included but we see no reason not to include RNRs as well. However, we need to be wary of over extending designations and the implications for costly survey requirements given the main objective of simplifying the planning process, rather than assisting consultees' data records.

KCC Natural Environment and Coast Team – refer to their Biodiversity Trigger List which they would like to see as part of the validation process, and make the following comments:

- Reference in the Validation Checklist to Ecological Surveys and Protected Species Surveys is confusing for applicants, and would be better as Biodiversity (Ecological Scoping Survey, Protected Species Survey, Mitigation Strategy and Enhancement Strategy);
- Policy drivers for Biodiversity should include the Natural Environment and Rural Communities Act 2006 (Natural England Standing Advice);
- The Trigger List for Ecological/Biodiversity Input to Planning Applications should be referred to under 'Relevant Proposals';
- Potentially any site countywide should be included under 'Locational Criteria';
- Suggest adding to 'Item Content' as follows – Where potential for ecological/biodiversity impacts is highlighted, eg. through the Trigger List or in pre-application discussions, an Ecological Scoping Survey will assess the potential for impacts on habitats and protected or notable species on or adjacent to the site as a result of the proposed development. Where recommendations for additional species-specific surveys are given, these must be carried out to best practice guidelines and the report must include details of the survey methodology used, details of the likely impact from the proposed development and provide details of mitigation, compensation and enhancement measures. Where internationally/nationally designated sites are likely to be affected as a result of the proposed development, the Environmental Impact Assessment Regulations will apply and appropriate levels of biodiversity/ecological information will be required in order to enable assessment of the significance of any impacts;
- The details under 'Further Information' is not exhaustive and could be updated in due course by linking to Natural England Standing Advice.

Comment – We are able to incorporate most of this additional information and advice, but in the interests of concise brevity we are obliged to substantially abbreviate the phraseology. The Trigger List is now to be referred to, but it was devised more as a tool for planning officers than for applicants. The 'Locational Criteria' already include potentially any site countywide, given the biodiversity enhancement aspirations of PPS9. The currency of the reference list is noted, but the list is constantly lengthening with the plethora of advice notes being produced on this subject. As mentioned above, the aim of the exercise is to streamline rather than add to information requirements, and the validation process should not be used as a means of getting planning applicants to supplement survey databases at their own cost.

Kent Downs AONB Unit – points out that the references to 'Green Belt Statement' should be amended to 'Greenbelt and/or AONB statement' as applicable.

Comment - The terminology used in validation documents is prescribed by the Government advice and cannot easily be varied, but more importantly Green Belt and AONB are dealt with separately (under Green Belt and Landscape respectively), which is entirely correct because one relates to urban containment policy and the other relates to protection of countryside (ie. two different policy objectives and two different

Revised Validation Requirements for Planning Applications

geographical areas). Nevertheless we have included a cross reference for clarification the Landscape Assessment section.

M Burgess (School Agent) – some clear guidance as to what constitutes a ‘minor’ application and what constitutes ‘significant’ impact (eg. on trees) would be helpful. The provision of many statements can be a major burden and substantial cost, and it would help prospective applicants to know the extent of the requirements in judging whether the benefits of the development are justified by the costs of the application.

Comment - ‘Minor’ development is defined as developments of less than 1000 m² of new floorspace or sites of less than 1 hectare, which excludes most school applications other than substantial extensions, rebuilds or brand new schools. The definition of ‘significant’ will vary according to the subject, location and methodology, but in the context of trees it would usually refer to the removal or substantial reduction of important trees, ie. those of rare/high species value, those of locally treasured visual amenity value, and/or mature trees in good health, shape and longevity. The onus of the requirements on planning applicants is appreciated and introducing some proportionality is an important reason for undertaking the whole review.

Summary and Conclusion

8. One of the most significant changes to be taken account of is the changing fortunes of the South East Plan and the relevance of its policies to the Validation Documents. In particular, since the documents were issued in 2008, the South East Plan has been introduced (9 May 2009), abolished (July 2010) and re-introduced (November 2010), and at present is subject to a further legal challenge over the Government’s intended abolition of Regional Spatial Strategies in the forthcoming Localism Act. Such continued uncertainty is hugely unhelpful, but since the South East Plan is currently in force again, its policies have been included in the revised version of the Validation Documents, with a footnote explaining that they might well cease to exist in due course.
9. Whilst the response rate to this consultation has been rather low, this is not unusual for an exercise with a low threshold of interest amongst for many stakeholders. However, the responses that have been received are very helpful in identifying gaps in requirements, information or guidance and we have been able to improve the contents of the Validation Documents as a result. It is noteworthy that most of the respondents are not planning applicants but rather consultees in the planning process (either statutory or non-statutory), and care has to be taken not to overload planning applicants with onerous or costly information requirements. Bearing in mind that the majority of planning applications are not of major scale or significant impact, I consider that it would be disproportionate to impose one-size-fits-all requirements on applicants, and arguably defeating the object of the whole streamlining exercise. There is an understandable temptation for consultees to err on the side of caution and to treat all applications as worst case scenarios, plus a real danger of planning applicants being used to fill gaps in the survey evidence available to consultee bodies, which is not the purpose of the planning system.
10. Under the circumstances, we have been able to adjust and supplement the Validation Documents following this consultation, but have had to temper some of the more elaborate requirements, pre-application liaison and pointers for further

Revised Validation Requirements for Planning Applications

guidance in the interests of necessity, precision and proportionality (as referred to in paragraph 3 above). However, it will be possible to put links to consultees' websites (where available), to enable planning applicants to take advantage of any advice being offered.

11. Note that a satisfactory equality impact assessment has been carried out on the Validation Documents, which are available to view in their latest amended form via the Planning Applications Committee page of the www.kent.gov.uk website.

Recommendation

12. I RECOMMEND that Members:

- NOTE the responses received and the proposed revisions and updates to the County Council Development and Waste Planning Applications Validation Documents;
- AUTHORISE the Head of Planning Applications to publish the revised and updated Validation Documents on the County Council's website; and
- DELEGATE to the Head of Planning Applications the more regular updating of the references to current policy documents and the technical and policy guidance cited in the Validation Documents, to ensure that they remain technically up to date in between further formal reviews of the contents.

Case Officers – Jerry Crossley/Andrea Hopkins	01622 221052/56
---	-----------------

<p>Background Documents –</p> <p><i>The Validation of Planning Applications: Guidance for Local Planning Authorities</i> (December 2007) Department for Communities and Local Government.</p> <p><i>Guidance on Information Requirements and Validation</i> (March 2010) Department of Communities and Local Government.</p> <p><i>Validation of Planning Applications</i> (October 2008) Kent County Council.</p> <p><i>Validation of County Council Development Planning Applications</i> (October 2010) Kent County Council</p> <p><i>Validation of Waste Planning Applications</i> (October 2010) Kent County Council.</p>
--