

## **New Validation Requirements for Planning Applications**

A report by Head of Planning Applications Group to Planning Applications Committee on 18 March 2008.

To advise Members on the introduction of new planning procedures taking effect from April 2008, relating to the validation of planning applications and the provision of new forms for the electronic submission of planning applications.

Recommendation: Members approve the draft local list of validation requirements and the carrying out of public consultation.

**Local Member(s):** All

**Classification:** Unrestricted

### **Background**

1. Important changes are being introduced by Government with effect from 6 April 2008, designed to streamline the planning application process by providing for planning applications to be submitted electronically and for Planning Authorities to adopt a consistent approach in their information requirements for determining planning applications.
2. The electronic submission initiative involves the use of standardised planning application forms as prescribed by Government. Hitherto, Planning Authorities have devised their own application forms on the basis of their own interpretation of the legislative requirements and their own information requirements. As a result, the content and format of application forms has varied across the country, although in Kent there has long been broad consistency in the documentation across the county, following earlier coordination by the Kent Planning Officers' Group. Henceforth, all applications must use the national forms, but can be submitted in electronic format, either by the Council's own website or via the Planning Portal website as an intermediary. Applications can still be submitted in hard copy, as long as the new forms themselves are used.
3. The information requirements initiative seeks to achieve consistency in the *validation* procedures that Planning Authorities follow. Validation is the process by which the Planning Authority decides whether it has sufficient and correct information with which to proceed to process an application. Hitherto, Planning Authorities have declined to entertain incomplete or inadequately supported applications, again on the basis of their own interpretation of the legislative requirements and their own information requirements. As a result, there has been some criticism of inconsistency and uncertainty for planning applicants, with some planning applications arguably unduly delayed from being processed and therefore determined. To minimise such uncertainty and potential delays, all Planning Authorities are now required to adopt new nationally consistent validation criteria. It is this latter initiative that this report is chiefly concerned with, since the new application forms are a mandatory requirement with very little latitude for adjustment or refinement at the local level.

### **Proposals**

4. Following ongoing research and pilot studies over the last few years, the Department of Communities and Local Government produced its latest guidance document on *The Validation of Planning Applications* in December 2007. The stated aim is to "provide a quicker, more predictable and efficient planing service," by "introducing a new standard

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electronic application form” and “new information requirements for the validation of planning applications.” The guidance is designed to implement Section 42 of the Planning and Compulsory Purchase Act 2004, and proposed amendments to the Town and Country Planning (General Development Procedure) Order 1995 will make these mandatory requirements for Planning Authorities and prospective planning applicants/agents.

5. The changes affect all types of planning related applications, including outline and full applications, approval of reserved matters (following outline consents), Listed Building consent, Conservation Area consent, advertisement consent, works to protected trees, certificates of lawful development, prior notification for telecommunications, etc. and variation of conditions. For County Planning Authorities (which deal with applications for minerals, waste and the county councils’ own developments) the range of relevant applications is restricted to outline, full, reserved matter, lawful development and variation of conditions. Determination of all the other types of application is the responsibility of the District Planning Authorities in Kent. Nevertheless, the information necessary for the County Planning Authority to validate and to assess the applications it receives can be equally far reaching in terms of its scope and content. Note that a separate application form for minerals operations has yet to be published, but is expected to come into effect in October 2008.
6. The Guidance sets out a national list of statutory information requirements for each type of application, but makes special 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 that locality. However, the Guidance implies that any local list should only include items selected from the Guidance’s prescribed list.
7. The national list includes the following documents:
  - 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.

Failure to supply the above information will result in the application being declared invalid. However, Planning Authorities are unable henceforth to treat applications as invalid if they meet these statutory minimum requirements, unless and until they have adopted a local list of further information requirements.

8. Planning Authorities are therefore encouraged to devise and adopt a list of local requirements either before 6 April 2008 or as soon after as they are able to. As already mentioned, the local requirements themselves should be selected from a list already prepared and included in the Guidance, with the possible exception of where the Planning Authority has some special local justification. To ensure further countywide consistency in the local requirements, the Development Control Forum of the Kent Planning Officers’ Group has jointly produced draft documentation for the *Validation of Planning Applications*, together with Validation Checklists of each of the 25 types of application that are dealt with.

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9. The *Validation of Planning Applications* document is too large to append to this Report in full, but a copy of the full document is available in the Members' rooms and available on request. A skeleton version of it is appended herewith as follows:

**Section 1** - an explanation of the new procedures and requirement;

**Section 2** – lists of the national information requirements and of the local information requirements for validation, including the Planning Policy Statement and Development Plan Policy justifications for the selected documentation [*substantially abbreviated here*];

**Section 3** – *Validation Checklists* for each of the different types of application, including the mandatory national requirements and the discretionary local requirements [*only the standard planning application checklist included here*].

The documents included within Section 2 very largely are drawn from the list of local requirements prescribed in the Government guidance, although some additional relevant documentation has been added in by the Kent Planning Authorities following discussions between the Kent District Councils and with other County Planning Authorities. However, it remains unclear as to how far additional documentation can be added to the local list, rather than requested of the applicant under the existing Town and Country Planning (Applications) Regulations 1988 as post-validation information, since it seems a largely worthless exercise to simply reproduce the prescribed list.

10. The Guidance recommends that Planning Authorities consult with 'relevant stakeholders' on their proposed local list, and provide a minimum period of 6 weeks for responses before formally adopting such lists. Responses should be reviewed and reported back to the relevant Committee before formally adopting a local list. Only thereafter would a Planning Authority's local list have any currency and be capable of being used in validating applications. Unless or until such a list is adopted, the Planning Authority cannot refuse to entertain any application that actually complies with the bare minimum (ie. national) information requirements. Whilst a Planning Authority will still be able to require further information in order to assess the proposals, typically as a result of consultations on the application, it should be noted that once an application has been validated then the time clock for its determination commences. Under the circumstances, I consider that it is crucial that the County Council adopts a local list as soon as possible and this report is the first step in that process.
11. The relevant stakeholders suggested in the Guidance include all statutory consultees (such as the Environment Agency, Natural England, other Planning Authorities, etc.), Parish/Town Councils, relevant voluntary and community groups, and agents/applicants' forums. Given the magnitude of parties potentially involved or interested across a County the size of Kent, I would intend to use the Councils' website to invite comments from those other than the statutory consultees. The Guidance also requires that Councils publish their adopted local lists on their websites, and review the lists every 3 years.

### Issues

12. The new procedures are generally to be welcomed for introducing some consistency and transparency to the planning decision process, but these important changes do have significant cost and resource implications in terms of implementation and administration. The extensive consultation exercise suggested by the Guidance is itself

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an onerous undertaking for a County as large as Kent, with several hundred other organisations and authorities that might reasonably be regarded as stakeholders.

13. Whilst the move to electronic submissions is also to be welcomed, the scale and complexity of many applications handled by County Planning Authorities, means that IT systems could quickly become overloaded with the submission of heavyweight documentation, especially if consultations are to be conducted electronically as well. Considerable costs could also be incurred in reproducing large size plans, Environmental Statements, etc. in hard copy, given that it is not practicable to assess and compare many large format drawings on screen, and certainly not on site, especially where accurate measuring and scaling is called for. Consultee bodies such as the parish councils will face similar problems in having to reproduce electronically transmitted drawings in order to assess them, since planning consultation involves considerably more than simply exchanging emails.
14. The prescribed electronic application form usefully provides greater consistency, but is disappointingly much longer than the existing documentation used across Kent without much more useful information being included. That is largely because the aim is to have one multi-use application form to cover all types of application and all types of development. When completed on-screen the new 1APP Form will automatically shrink to fit the type of application, but those applicants requesting paper versions will need the full 12 page version, which many applicants might find rather daunting.
15. Since the minerals version of the application form is yet to be published, our existing forms and guidance on minerals application will continue to be used in the interim. However, the currently published 1APP Form has to suffice for all waste applications, despite having scant coverage of some vital waste planning information. In particular details of volumes and throughputs of material, depths, rates of extraction/infilling and processing, access design, screening and planting, amenity issues (including noise, dust, odour, traffic, etc) and Environmental Impact Assessment and Appropriate Assessment are normally required in support of such applications.
16. Whilst the main objective of the changes is to streamline the planning application process, the mandatory list of national information requirements for validation remains woefully inadequate, despite representations from Planning Authorities. In particular, all Planning Authorities will have no option but to add to the *national* list with a plethora of documentation in their *local* list, simply to comply with all the relevant planning determination factors that other Government legislation and guidance already requires of them. Any simplification of the planning process is therefore purely illusory, other than for the most minor of applications.
17. Moreover, there is a danger that many of the stakeholders in the planning decision process may want to use this opportunity to 'up' their own information requirements, which might well actually run counter to simplifying or speeding up the process for applicants. Early responses from stakeholders so far has indicated that some agents will argue that the new requirements are too demanding and costly to comply with, whereas some consultee bodies would prefer more thorough supporting evidence to inform the planning decision process. Clearly, in reacting to the proposed consultation exercise, it will be important therefore for Planning Authorities to seek a balance between applicants wishing to submit as little information as they consider necessary/affordable and any consultee bodies intending to rely on the planning process to further develop their own baseline data records by imposing overly onerous requirements.

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18. Notwithstanding the daunting length of the combined national and local list of validation requirements, there remain some significant gaps in the technical information necessary to properly assess waste development applications. Under the circumstances, it will be necessary to require such further information under the existing provisions of the Town and Country Planning (Applications) Regulations 1988, where applicants have not supplied it, and if it cannot be incorporated in our local list at this stage. The main difference will be that such applications will in future be technically valid, albeit still inadequately supported for proper assessment, and any time taken up in awaiting such information will count as formal processing time and might well affect our overall performance statistics.

### **Conclusion**

19. I strongly advise that a local list of validation requirements for County Matter planning applications and County Council development applications be adopted as soon as practicable, including carrying out the recommended public consultation. A further report will be presented to the Planning Applications Committee in due course, outlining the results of the consultation exercise, with a view to adopting a final version of the local list.

### **Recommendation**

20. I RECOMMEND that Members:

- APPROVE the draft local list of validation requirements for the planning applications that the County Planning Authority is responsible for determining;
- APPROVE the carrying out of consultations on the draft local list of validation requirements with relevant stakeholders; and
- NOTE the introduction of the new planning application forms coming into effect on 6 April 2008.

Case Officer – Jerry Crossley
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Background Documents – The Validation of Planning Applications: Guidance for Local Planning Authorities (December 2007) Department for Communities and Local Government.
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**Item D3**

**Floodlit all weather pitch and extension of existing non-floodlit multi-use games area, The North School, Ashford – AS/06/2277**

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