

**DELEGATED**

**AGENDA NO:**

**REPORT TO PLANNING  
COMMITTEE**

**DATE 20<sup>th</sup> FEBRUARY 2008**

**REPORT OF CORPORATE  
DIRECTOR OF DEVELOPMENT  
AND NEIGHBOURHOOD  
SERVICES**

## **PLANNING GUIDANCE ON THE VALIDATION OF PLANNING APPLICATIONS**

### **SUMMARY**

- 1.1. This report invites the Planning Committee to note and endorse this document to assist officers of Stockton Planning Services in the validation of planning applications following consultation with interested parties as recommended by Central Government
- 1.2. The Government now intends to amend the Town and Country (General Development Procedure) Order 1995 (the GDPO) to introduce a mandatory standard application form and associated information requirements for validation of applications, from 6 April 2008. Different types of application and scale of applications will require different levels of information and supporting documentation to be submitted. However, in all cases the requirements will be specified by the local planning authority. Under the new arrangements, these will comprise a national core list that will apply in all cases and additional items specified locally from a list provided by central government
- 1.3. The purpose of this document is to outline the compulsory requirements of the Local Planning Authority and possible additional requirements for various planning applications in order for the Local Planning Authority to consider them as 'valid' planning applications.
- 1.4. This is aimed at enabling the Local Planning Authority to have sufficient information to confidently determine planning applications from the outset, in order to provide a fast and efficient planning service.
- 1.5. . The results of the consultation and analysis of representations now need to be considered by the Planning Committee for formal resolution and adoption of the local list

## **RECOMMENDATIONS**

***1. Approval to the amendments recommended for inclusion in the local requirements for the validation of planning applications as detailed in the report and the agreed amended list be used as the local requirements when validating applications under the proposed amended Town and Country Planning (General Development Procedure) Order 1995***

### **2. DETAIL**

2.1 This is a document to assist developers and Stockton Planning Services in the validation of planning applications. This document is intended to offer assistance and guidance to developers submitting planning applications detailing the expected requirements for a variety of types of planning application in order to achieve a quicker, more transparent and efficient planning service.

2.2 This document is intended to outline the current validation procedures of planning applications received by Stockton Borough Council, providing guidance on the information required to be submitted as part of a planning application.

2.3 This is aimed at lessening the ambiguity of what is classed as a valid planning application and enabling the Local Planning Authority to have sufficient information to confidently determine planning applications while offering a clear and detailed requirement from the outset in order to provide a fast and efficient service.

2.4 The national list sets out statutory requirements (which include the completed application form; the correct fee (where one is necessary); ownership certificates; agricultural holdings certificate; design and access statement (where one is necessary); the location plan; site plan; other plans and drawings or information necessary to describe the subject of the application; and environmental statement (where one is necessary) for applications).

2.5 The local list comprises additional information which local planning authorities can require to validate an application. Local planning authorities are encouraged to consult on and adopt 'local' lists drawn from a recommended nationally defined list which is set out on page 22. Where local planning authorities have not adopted a 'local list' then the default position for validating applications will be the statutory national requirements only. However, the combined use of the national and local list will afford both the authority and applicant more certainty when submitting applications and ensure that the information requested is proportionate to the type and scale of application being made. Appendix 1 to this report is the current list of local requirements which will be amended to include the proposed changes

2.6 The DCLG recommended process for determining information requirements for planning applications which has been followed was -

1. **Resolution to the relevant committee to consult on the proposed local list for different application types. 31<sup>st</sup> October 2007**
2. **Minimum period for consultation with relevant stakeholders should be 6 weeks. Consultation Period 12<sup>th</sup> December 2007- 31<sup>st</sup> January 2008**
3. **Relevant stakeholders were: -**  
 Statutory consultees (including the Environment Agency, Natural England, English Heritage, the Greater London Authority, Network Rail, the local highway authority, Regional Development Agency, Strategic Health Authority, County Council and statutory undertakers)  
 Parish/Town Councils  
 Relevant voluntary and community groups e.g. Residents Groups/amenity societies  
 Agents/applicants forums or representative group of agents  
 Groups or organisations referred to the adopted statement of community involvement.
4. Formal review of comments and report back for formal resolution and adoption of the local lists by the relevant committee 20<sup>th</sup> February 2007
5. Publication of the adopted local lists on the local planning authority website (and made available through the Planning Portal) in addition to paper copies being made available at planning reception or on request.
6. As this local planning authority has consulted and will be adopting local lists in accordance with the procedures outlined above, they can be used as the local requirements when validating applications under the amended GDPO.
7. Authorities are advised to review their lists every three years and if they are proposing to make amendments (other than minor amendments) should re-consult and adopt new lists. Minor amendments to take account of statutory changes or Government guidance may be made as required without undertaking a full review or consultation.

### **3 Responses to Consultation**

3.1 In addition to the comments reported below a comment was received from Yorkshire Forward expressing the view that it was important that the local list reflects sufficiently economic issues and provides an opportunity for seeking economic impact assessments where necessary.

### **4 Government Office for the North East**

4.1 Suggest the Council consider whether its local list could distinguish more clearly than at present the requirement for different types of application. Comments were also made in relation to more recent legislation, Government policy and the Statement of Community involvement which has changed since the original local list of requirements was produced. These have been noted and the relevant changes will be made.

## 5 Highways Agency

5.1 The Highways Agency considered the Transport Assessment section needs to clarify its approach mitigating the impact of the potential development (including on the SRN) by referring to Circular 02/2007 and the Guidance on Transport Assessments

Recommended for inclusion

## 6. English Heritage

6.1 English Heritage has drawn attention to their publication “A Charter for English Heritage Advisory Services which contains the range of information required for consultation with them.

6.2 General comments related to ensuring Planning or Heritage statements and Listed building or Conservation Area Appraisals should take account of the “impact on “and the “setting of” the historic environment which includes historic assets. There is a requirement for a statement of the significance of the historical and archaeological interest of the site as well as a statement of the justification of the works. This should relate to the same categories of information as in the English Heritage Charter.

6.3 Design and Access statements as set out in DCLG Circular 01/2006 must be fully reflected in checklists and reference to CABE ‘Design and Access Statements – how to write, read and use them’ may assist the applicant.

6.4 In particular Design and access statements should include a brief explanation of how the design has taken account of Para 3.5 of PPG15 in identifying the historical and special architectural importance of the building, the physical features of the building that justify its designation as a listed building and the building’s setting

Heritage Statement

6.5 Clarification is sought if the proposal involves the disturbance of archaeology or an area with archaeology potential. Is the statement desk based or will it involve a physical evaluation of the ground? (These comments are addressed by adopting the advice from Tees Archaeology which is set out later in the report)

6.6 Reference is made Major development proposal/ significant infrastructure works- it would be helpful to have some guidance on what is meant by major and significant and the thresholds which will trigger the need for such a statement. *(It is not possible to be prescriptive and will be a matter of each case being considered as a matter of fact and degree)*

Not recommended for inclusion

## Site Appraisal

6.7 – should include “contextual appraisal picking up the messages in Building in Context the joint English Heritage/ CABI guidance on buildings in Conservation Areas.

Recommended for inclusion

## Listed Building Appraisal and Conservation Appraisal

6.8 -These are two different things. A Conservation area character appraisal is not necessary for a planning application. Normally the local authority will already have prepared one. It is desirable for an applicant to demonstrate how a **scheme respects the appraisal and how it will preserve or enhance the character.**

Recommended for inclusion

## Design and Access Statement

6.9 – the design component of the statement should review the wider location through the appraisal irrespective of the size of the scheme. (The Design and Access Statement are subject to different legislation and could not be changed under this process.

Not recommended for inclusion

## 7 Environment Agency

7.1 - recommends change of description of flood risk/drainage assessment to Flood Risk and Surface Water Drainage Management. The indicative floodplain maps have been replaced with Flood Maps of Flood Zones. EA would require a site specific flood risk assessment appropriate to the size of the development in the higher risk zones 2 and 3, whilst all major development will require flood risk assessment regardless of zone in order that the impact of surface water drainage can be assessed. The change to PPS 25 has brought in an additional requirement for developers to complete a sequential test for development within the higher flood risk zones in order to establish that there are no more suitable sites available at lower flood risk.

Recommended for inclusion

7.2 Foul drainage- More mention should be made to the need to provide details of non-mains drainage including the suitability of ground conditions if soakaways/field drainage are to be used. Further consent is also required to discharge to watercourses from the Environment Agency. Circular 3/99 gives more information as well as the Environment Agency website

Recommended for inclusion

7.3 In Validation Checklist Annex A the tick box for Flood Risk Assessment should include sequential test result and foul drainage should be included in the list

Recommended for inclusion

## **8 Sport England**

8.1 At present there is no local validation requirements for developments affecting local playing field or involve the provision of, or loss of sports facilities. Sport England is anxious to ensure that the amount of information provide with an application of this type is sufficient to enable it to comment meaningfully on an application. It has produced a list of information requirements which can be subsumed within the Council's validation document. A copy of the list is attached at **appendix 2**  
*Recommended for inclusion*

## **9 The Theatres Trust**

9.1 -Would like to see justification for change of use within the planning statement from Sui Generis (Theatre) to D2 (Assembly and Leisure) or from a place of worship (D1 church to a theatre (Sui Generis). While the proposal may not require any physical change to the building they would most certainly have an affect on the environment.  
*Recommended for inclusion*

## **10 Countryside and Greenspace**

10.1-Would like to see more emphasis on the need for site contours highlighting any potential changes with accompanying "to scale" elevations  
*Recommended for inclusion*

10.2 -Would like to see all trees indicated that are present outside 10 metres or less of the development boundary to ensure that tree roots/canopies and potential future growth is considered in conjunction with the proposed development.  
*Recommended for inclusion*

10.3 -Would like to see in the arboriculture reports section "these reports must include an assessment of the trees and their compatibility with the proposed development; details of a tree protection scheme where necessary; plus details of proposed construction methods to mitigate potential impacts to trees on or adjacent to the development site.  
*Recommended for inclusion*

10.4 -Would like any areas of open space to be highlighted and how future maintenance is to be undertaken (Title transferred to SBC or Management Company)  
*Recommended for inclusion*

## **11 Tees Archaeology**

11.1 Tees Archaeology has commented that Archaeology is covered under three areas at the moment:-

Historical, Archaeological features and Scheduled Ancient Monuments

Heritage Statement

Listed Building appraisal and conservation area appraisal

Pre-application archaeological assessments normally take two forms:-

#### 11.2 Archaeological/Cultural Heritage desktop and walkover survey

This is where the developer commissions an archaeological consultant to examine the site to identify any issues/constraints including impact on setting of listed buildings and scheduled ancient monuments. While this is partly covered in the Heritage statement, standards can be enforced by requesting that *such assessments are carried out according to the standards set out in "Institute of Field Archaeologists. 1999. Standard and Guidance for Archaeological Desk Based Assessment."*

*Recommended for inclusion*

#### 11.3 Archaeological Field Evaluation

Where the developer commissions an archaeological consultant to carry out new fieldwork in order to characterise the importance of archaeological deposits and assess the impact of the proposed development on them. This needs to be covered and recommends that the Historical, archaeological features and Scheduled Monuments section is replaced with a new section "Archaeological Field Evaluation". The suggested text is:-

"Where pre-application discussions with the Borough Council, Tees Archaeology, or the developers own research identify sites of archaeological importance the Borough Council will normally require an Archaeological Field Evaluation. Archaeological Field Evaluations are designed to assess the impact of the proposed development on archaeological deposits to allow a reasonable planning decision to be made. If nationally important remains are found there is a presumption towards their preservation in situ. Preservation in situ can often be achieved by design to allow sensitive deposits to be preserved in open areas or beneath appropriately designed foundations. Archaeological Field Evaluation should be carried out the standards set out in *Institute of Field Archaeologists. 1999. Standard and Guidance for Archaeological Field Evaluation. Tees Archaeology should be contacted to agree a specification for the works and to monitor their standard in the field.*

*Recommended for inclusion*

11.4 Listed Building Appraisal should also refer to *Institute of Field Archaeologists. 1999. Standard and Guidance for the archaeological investigation and recording of standing buildings or structures and also references to PPGs 15 and 16.*

*Recommended for inclusion*

## 12. Ramblers Association

12.1 Comments in general on preferring the use of the word **must** rather than **should** or **may** as some of the topics are material planning considerations

## 12.2 Specifically on Rights of Way

Design and Access statement (2.2.1.) rephrasing of second paragraph to read “For large scale applications it may also be necessary to review not only the existing character of the site but also its wider location through a site appraisal. A good site appraisal should identify existing landscape features. Local architectural style or vernacular materials and assess the visual impact of the development upon the site whilst considering the sensitivity to change of the surrounding area. *The appraisal must identify existing rights of way (all are highways), adopted and unadopted highways and desire lines (see footnote)*

## 12.3 The footnote reads:

*Conclusive evidence of the existence of rights of way- footpaths, bridleways, restricted byways and byways open to all traffic- is provided by the authority’s definitive map, the rights of way officer will be able to advise on changes which may have not yet been recorded on the map. Adopted highways are rights of way and are listed in the authority’s list of streets. Unadopted highways are also rights of way. Public rights of passage may have been established over desire lines either by common or statute law. Often the title deeds to a property or parcel of land will show whether or not the land bears a charge.*

## 12.4 Site Appraisals (2.2.2)

The comments and suggested amendments above also apply to this section.

## 12.5 Other applications

-Would expect to see the requirements above applied to all proposals irrespective of size where they affect routes over which there are public rights of passage of one sort or another.

12.6 The Head of Technical Services has commented on the amendments recommended by the Ramblers Association that:-

- 1) Agree that the preferred wording should be '**must**'
- 2) Suggest the following changes

## Specifically on Rights of Way

Design and Access statement (2.2.1.) rephrasing of second paragraph to read “For large scale applications it may also be necessary to review not only the existing character of the site but also its wider location through a site appraisal. A good site appraisal should identify existing landscape features. Local architectural style or vernacular materials and assess the visual impact of the development upon the site whilst considering the sensitivity to change of the surrounding area. The appraisal must identify existing rights of way, adopted and unadopted highways and desire lines. The Highway Network Manager will be able to advice on the legal status of any recorded/unrecorded Public Rights of Way or Highway. The Footnote should also be removed  
Recommended the Head of Technical Services comments for inclusion

## 13 Scott Wilson Consultants

- Have made two comments



- 13.1 Considers the Council's interpretation of the Sage decision is incorrect and referred to an article in Planning Magazine in October 2007. Reference is also made to the proposed legislative change to allow local authorities the discretion at the request of the applicant to vary an existing permission where it considers the change sought is not material.

*As Members will be aware from advice given by the Council's Principal Planning Solicitor it is not just the Sage decision but the Henry Boot Homes Ltd v Bassetlaw DC (Court of Appeal) which has guided this and a number of Local Authorities across the Country. If a development is commenced before fully complying with the conditions precedent the whole development is unlawful  
Local Planning Authorities have no power to informally approve amendments to the permission or approved plans they can only rectify unlawful development by statutory application*

- 13.2 The second point is that there is no reference within Appendix B to vibration assessment; some Local Planning Authorities consider this to be a material consideration in some situations, for example developments close to railway tracks.

Recommended for inclusion

### **Corporate Director of Development and Neighbourhood Services**

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### **Financial Implications.**

Improved quality of applications submitted enabling the Local Planning Authority to have sufficient information to confidently determine planning applications while offering a clear and detailed requirement from the outset in order to provide a fast and efficient service and meet Government Performance targets.

### **Environmental Implications.**

As Report.

### **Community Safety Implications.**

Not Applicable.

### **Human Rights Implications.**

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

### **Background Papers.**

The Validation of Planning Applications. Draft Guidance for Local Planning Authorities

The Validation of Planning Applications Guidance for Local Planning Authorities

**Ward(s) and Ward Councillors(s).**

All