Cheltenham Borough Council

Cabinet – 18 February 2025

Local Validation List (Planning)

Accountable member:

Councillor Mike Collins – Cabinet Member for Planning and Building Control

Accountable officer:

Chris Gomm, Head of Development Management, Enforcement & Compliance

Ward(s) affected:

All

Key Decision: Yes

Executive summary:

This report sets out the background to local validation lists including what they are, the necessity for every local planning authority to have one and the importance of it being regularly reviewed, kept up to date and tailored to current local planning policy.

The national requirements for the content of a planning application are prescribed by legislation and are limited to a small number of documents and other supporting information which is mandatory. For this reason, legislation also enables local planning authorities to go further and supplement the national requirements with their own local requirements in the form of a 'local validation list' (sometimes referred to as a 'local validation checklist'). Once a local validation list has been adopted and published it is legally binding; an applicant is then obliged to submit the information set out in the local validation list when the application is first submitted and if they do not, the council can refuse to validate the application until that information is provided.

Requiring the submission of certain, prescribed supporting information upfront is advantageous to the council:

1. It can significantly expedite the assessment of the proposal because consultees and other third parties have the information that they require from the outset, rather than identify its absence through consultation responses, followed by a long delay while that absent information is prepared. Going forward, this will place the council in a much better position should the proposed removal of the ability to agree an extension of time (to statutory determination deadlines) come to fruition.

2. Helps to ensure that the information requested is proportionate to the type and scale of the application being made.

3. The local validation list is likely to raise the standard of applications and development more broadly because important supporting information will inform the design process rather than retrospectively justify the approach that has been taken.

The content of the draft local validation list is summarised within the report.

Recommendation: That Cabinet:

- **approves the draft Local Validation List (with its final published form/format/ appearance delegated to Head of Planning, in consultation with the Cabinet Member for Planning and Building Control).**

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1. Implications

1.1 Financial, Property and Asset implications

Signed off by: Ela Jankowska – Finance Business Partner, ela.jankowska@cheltenham.gov.uk

1.2 Legal implications

The Council may adopt local validation list for planning applications and consents and this power is an executive function. The proposed updated local validation list will sit alongside national information requirements and must accord with section 62 of the Town and Country Planning Act 1990 ("TCPA 1990"). Section 62(3) TCPA 1990 states: The local planning authority may require that an application for planning permission must include— (a) such particulars as they think necessary; and (b) such evidence in support of anything in or relating to the application as they think necessary. Under Section 62(4A) TCPA 1990 requirements on the local validation list: (a) must be reasonable having regard, in particular, to the nature and scale of the proposed development; and (b) may require particulars of, or evidence about, a matter only if it is reasonable to think that the matter will be a material consideration

in the determination of the application.

Under Article 11(2)(e) of the Town and Country Planning (Development Management Procedure) Order 2015, local planning authorities are not obliged to validate a planning application unless (among other requirements) the documents in the Council's local validation list have been submitted. However, Article 11(3) qualifies this requirement by providing that it only applies where the local validation list has been published or re-published within the two years before the date of submission of the application. The effect of this is that the local validation list is only binding on applicants if it is re-published every two years. There is no statutory requirement to consult on the review and publication or re-publication of the local validation list. However, the National Planning Practice Guidance advises that local planning authorities should, after reviewing existing local validation list, consult on changes before they are finalised and published.

The process to adopt the revised local validation list, as set out in this report, meets the relevant statutory requirements and complies with the NPPF and NPPG.

Signed off by: Charlotte Lockwood, Locum Senior Lawyer,
charlotte.lockwood@onelegal.org.uk

1.3 Environmental and climate change implications

Several requirements in the Local Validation Checklist relate to sustainable/nature policy which ensures impact in these areas are considered within the planning application process. The associated aim is to mitigate negative implications and improve sustainable urban development within the borough.

Signed off by: Maizy McCann, Climate Officer
maizy.mccann@cheltenham.gov.uk

1.4 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

- Working with residents, communities and businesses to help make Cheltenham #netzero by 2030
- Increasing the number of affordable homes through our £180m housing investment plan

1.5 Equality, Diversity and Inclusion Implications

See Appendix 2.

2. Background

2.1 When a planning application is first received, it must go through a validation process to ensure that the minimum level of information requirement by statute is present. Only when that minimum level of information has been received by the council can the application be validated, made public and the process of consultation and assessment begin. The national validation requirements, as predominantly set out in the [Town & Country Planning Development Management Procedure Order 2015 (as amended)](), are surprisingly narrow and are limited to:

- the application form;
- the correct application fee;
- existing and proposed plans/drawings;
- ownership certificate;
- a Design & Access Statement (in certain circumstances);
- an Environmental Statement (if EIA development);
- biodiversity net gain information (if a liable application); and
- a Fire Statement (in certain circumstances in relation to tall buildings)

2.2 It should be noted that the accuracy of the information supplied is the responsibility of the applicant. There are specific requirements under Section 65 of the Town and Country Planning Act 1990, local planning authority shall not entertain an application unless the requirements are met. Any person who knowingly or recklessly issues a false or misleading certificate is guilty of an offence. It is therefore the responsibility of the applicant to ensure certificates are completed accurately and with the appropriate evidence in place to support if requested.

2.3 Supporting information/documentation beyond that specified in national legislation can only be required by the local planning authority (at the validation stage) if that authority has adopted a 'local validation list' which prescribes that that information must be provided (in the relevant circumstances).

2.4 National government encourages the use of local validation lists in the Planning system; the government's position is set out at Paragraph 45 of the [NPPF]() (National Planning Policy Framework - 12 December 2024):

> "*Local planning authorities should publish a list of their information requirements for applications for planning permission. These requirements should be kept to the minimum needed to make decisions and should be reviewed at least every 2 years. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question*".

2.5 S62 of the Town and Country Planning Act 1990 (as amended by [s6 of the Growth and Infrastructure Act 2013]()) enables local planning authorities to produce

and publish a local validation list and gives them legal weight. The [Development Management Procedure Order (2015)](#) referenced above states that a local validation list only has legal effect if it has been, "*published (or republished) during the 2-year period immediately before the date on which the application is made*".

2.6 It is considered essential for the proper operation of the planning system in Cheltenham for the council to:

1. prepare, adopt and publish an entirely new local validation list; and

2. review, revise and republish that list on a rolling biennial basis.

3   Reasons for recommendations

3.1 The borough council currently has a local planning validation list in the form of a number of PDF checklists which can be downloaded from our [website](#). These validation checklists are for the most part historic and given the age are in effect guidance only and not legally binding on an applicant; a replacement local validation list is therefore imperative particularly given the Government's agenda in respect of delivery.

3.2 The local validation list is an important and useful tool to ensure that the authority has all of the key documents and supporting information required (upfront) to assess a proposal against local planning policy, as well as against any other relevant material consideration.

3.3 The requirements of any local validation list should be tailored to reflect the tests imposed by local planning policies; the required documentation should demonstrate how a particular proposal complies with the relevant planning policy and should ultimately assist the decision-taker with the subsequent planning assessment. It is this lack of connection between the existing checklist and current local planning policy which renders it obsolete.

3.4 The new (draft) local validation list has been written to reflect current, adopted planning policy namely those set out within The Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017) and The Cheltenham Plan (2020).

3.5 The new local validation list will ensure that, going forward, the information required to assess any given proposal against our adopted planning policies is produced ***prior*** to submission of the application and provided to us at the outset, before the application is first validated and registered. The new local validation list will be legally binding; it will be a legal requirement that the documents and supporting information prescribed within be submitted at the very beginning of the planning application process; this has a number of advantages:

1. It will significantly reduce delays encountered when further information is requested by the case officer several weeks into the processing of the application.

2. In many (but not all) cases, consultees will have the information that they need to assess the application upfront when they are first consulted; rather than having to be reconsulted later, when missing information is obtained.

3. By requiring supporting information upfront rather than several weeks into the process, it is more likely that that information / assessment forms part of an iterative, initial design process, rather than being an 'after thought' produced retrospectively to justify an element of the scheme. This should lead to higher quality development.

4. The number and scope of conditions imposed on a planning permission will likely be reduced as in some cases that information will have already been provided and submitted. This will reduce delays to implementation / commencement of development post approval.

5. It should overall improve the quality and consistency in applications received.

3.6 The draft 2024 local validation list version is available as an appendix to this report; the requirements of the draft list are summarised below:

- **Affordable Housing Statement** – required when the provision of affordable housing is a policy requirement. Required so that compliance with Policy SD12 (affordable housing) and the NPPF can be properly assessed (at the outset).

- **Viability Appraisal** – required when the provision of affordable housing is required as above but a sub-policy contribution is instead offered on financial viability grounds. Required so that compliance with JCS Policy SD12 can be properly assessed (at the outset).

- **Flood Risk Assessment** – required principally when the application site is in Flood Zone 2 (medium risk) or Flood Zone 3 (high risk). Required so that compliance with JCS Policy INF2 (flood risk management) can be properly assessed (at the outset).

- **Contaminated Land Assessment** – required on sites where there is a known contaminative use (including historic uses) plus the redevelopment of industrial or manufacturing sites and refuelling sites. Required so that

compliance with JCS Policy SD14 (health and environmental quality) can be properly assessed (at the outset).

- **Ecology Report / Assessment** – required for all major applications, demolition, woodlands, mature trees, watercourses, underground structures, derelict buildings and land. Required so that compliance with JCS Policy SD9 (biodiversity and geodiversity) can be properly assessed.

- **Arboricultural Impact Assessment** – required for any application where there is an impact on a tree (with certain exclusions). The AIA will include a tree survey. Required so that compliance with JCS Policy INF3 (green infrastructure) can be properly assessed (at the outset).

- **Heritage Statement** – required for all applications for Listed Building Consent as well as any planning application that is likely to impact upon a designated heritage asset (including its setting). Required so that compliance with JCS Policy HE2 (archaeology) can be properly assessed as well as Cheltenham Plan (CP) Policy SD8 (historic environment) (at the outset).

- **Landscape and Visual Impact Assessment (LVIA)** – required for major applications within the Cotswolds National Landscape (until recently known as the Cotswolds Area of Outstanding Natural Beauty - AONB). Required so that compliance with JCS Policy SD6 (landscape) can be properly assessed at the outset, as well as JCS Policy 7 (Cotswolds AONB).

- **Energy Statement** – required for all major applications so that compliance with JCS Policy SD3 (sustainable design and construction) can be properly assessed at the outset, as well as compliance with the Climate Change SPD.

- **Sustainable Construction Checklist** – required for all non-major residential applications; (i.e. 1-9 dwellings) this is a less onerous version of the Energy Statement required for major residential schemes. Required so that compliance with JCS Policy SD3 (sustainable design and construction) can be properly assessed at the outset together with compliance with the Climate Change SPD. Major residential applications will also need to submit a completed checklist alongside an Energy Statement to ensure that there is consistency in information gathering/reporting.

- **Transport Assessment** – required for all major applications likely to generate significant levels of vehicular movements. Required so that

compliance with JCS Policy INF1 (transport network) can be properly assessed (at the outset).

- **Travel Plan** – required for all major applications unless the proposal is unlikely to generate significant levels of vehicular movements. Required so that compliance with JCS Policy INF1 (transport network) can be properly assessed (at the outset).

- **Retail Sequential Test** – required for applications seeking consent for main town centre uses which are not located in an existing centre or in a location where new retail uses are supported by planning policy. Required so that compliance with JCS Policy SD2 (retail and city/town centres) can be properly assessed (at the outset).

- **Retail Impact Assessment** – required for retail and leisure proposals which exceed 2500m2 gross floor space should that development be neither located in an existing centre nor in accordance with the development plan. Required so that compliance with JCS Policy SD2 (retail and city/town centres) can be properly assessed (at the outset).

- **Health Impact Assessment** – required for major applications on 'strategic sites'. Required so that compliance with JCS Policy SD14 (health and environmental quality) can be properly assessed (at the outset).

- **Employment Skills Plan** – required for major applications for indoor commercial development of 1,000 sqm or more. Required so that compliance with JCS Policy EM3 (employment skills plans) can be properly assessed (at the outset).

- **Open Space Assessment** – required for all major residential applications and any application proposing or causing a loss or erosion of open space. Required so that compliance with CP Policy C12 (sport and open space in new residential development can be properly assessed (at the outset).

- **Noise Impact Assessment** – required for applications seeking consent for new commercial entertainment premises and any other proposal likely to generate significant levels of noise where there are residential receptors nearby. Required so that compliance with JCS Policy SD14 (health and environmental quality) as well as JCS Policy SD4 (design requirements) can be properly assessed (at the outset).

- **Self-Build / Custom Build Proforma –** required when a residential application is described as 'self-build'. Required so that we can be

confident that the proposal in question legitimately meets the definition of self-build; this is because such developments are BNG and CIL exempt.

- **Statement of Community Involvement** – required for all major applications so that the council can fully understand the nature of any pre-application involvement with the community.

- **Sustainable Drainage Strategy** – required for residential development and most new-build development over a certain threshold. Required so that we can be confident that the proposals have followed the SUDS hierarchy for surface water disposal in accordance with JCS Policy INF2 (Flood Risk Management).

3.7 S62 of the Town and Country Planning Act 1990 (as amended by s6 of the Growth and Infrastructure Act 2013) sets out the statutory tests for local validation lists (which are also summarised at Para 45 of the NPPF quoted above). It states that the particulars and evidence included in a planning application must:

a) be reasonable having regard, in particular, to the nature and scale of the proposed development; and
b) only be sought if it is reasonable to think that the matter will be a material consideration in the determination of the application.

3.8 It is considered that all of the validation requirements specified in the draft list comply with these statutory tests. All requirements relate to matters which are demonstrably material in respect of the circumstances prescribed. A reasonable and proportionate approach has been taken to devising the relevant thresholds with a sensible balance struck between requiring a wide range of supporting information and the need to avoid being too onerous or disproportionate in what is requested.

4. Alternative options considered.

4.1 Not replacing the current local validation list is not considered to be a realistic alternative option. As set out above, local validation lists must be published (or republished) at least every two years. A consequence of a local validation list exceeding two years since publication is that it ceases to have legal effect and an application must be validated even if the requisite information has not been provided. This is a highly undesirable way forward which will ultimately compromise the council's decision-taking ability as well as its timeliness.

4.2 The approach that the draft local validation list has taken is a middle ground between a light-touch validation list and one which is exhaustive; both of these alternative options were considered. The advantage of a light-touch validation list

is that it limits the burden imposed on the applicant, but this is at expense of decision taking. The advantage of an exhaustive validation list is that this provides the council with the comprehensive and complete information needed for decision-taking, but this would be too onerous on the applicant, excessive and highly disproportionate. It is considered that the option that has been selected (i.e. the middle ground) is the most appropriate.

5. Consultation and feedback

Cheltenham Borough Council

5.1 The draft local validation list has been circulated to all members of the council via email (14/11/24). Feedback received is summarised as follows:

- It should be a requirement [of the local validation list] that existing and proposed elevational drawings be provided on the same page so it is easy to compare;
- It should be a requirement that street scenes, ideally photo/montage, be provided so that we can properly understand the impact on the street scene and the impact on adjacent properties.
- Photographs should be provided with tree applications.
- Block plans should show the distance to the nearest residential properties.
- Definitions should come at the top of the document.

CBC Planning Agents' Forum

5.2 The planning agents' forum meets 2 or 3 times per year and is an opportunity for the Planning team to liaise directly with our most frequent planning agents (i.e. Planning consultants and similar) in Cheltenham. The agents' forum was briefed in respect of the draft local validation list at its most recent meeting on 28 November 2024; the feedback received is summarised as follows:

- The list should be in alphabetical order.
- There should be an ability to satisfy multiple requirements of the list in a single document, rather than separate documents; this should be made clear in the list itself.
- There should generally be a differential made between small majors and other major applications – so that scope and detail is proportionate.
- There should be one list for local and national requirements.
- There may be contractual or data protection reasons why all financial viability information should not be made public, presumably there are exemptions to full publication?
- BNG (Biodiversity Net Gain) requirements should be stated in the ecology section (for completeness) rather than under national

requirements.

- In respect of Heritage Statements, these should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on heritage asset's significance (as per para 200 of the NPPF). This should be stated clearly in the Local Validation List.
- Will the Cotswold National Landscape Board be consulted? – particularly in respect of the requirements for LVIAs (Landscape and Visual Impact Assessment).
- Thresholds are suggested in respect of Transport Statements (TA) and Transport Assessments (TA) - where schemes are likely to generate significant levels of vehicular movements (i.e. 50+ dwellings for TAs and 11-49 dwellings for TS').
- Travel Plans should be for 50+ dwellings (rather than all major applications as suggested).
- The retail sequential test requirements should exclude anything not defined as a main town centre use (in the NPPF).
- Need for clarification on use of terms such as 'town centre' and 'existing centres'
- A threshold of 50+ dwellings is suggested for Open Space Assessments and suggestion that open space must be 'public' to avoid confusion.
- Requirements for Noise Impact Assessments considered excessive – example given of extending a cinema's opening hours by one hour.
- Resistance to Self-Build Proforma
- A threshold of 50+ dwellings is suggested for Statements of Community Involvement.

Response to Consultation Feedback

5.3 It should be noted in addition to the consultation responses summarised above, a number of CBC officers have fed into the drafting process and their comments and suggestions are integrated into the draft local validation list, where appropriate.

5.4 Comprehensive comments have been received from a number of third-party stakeholders which it is not necessary to individually address here, there are however a number of key points that must be responded to:

5.5 It is agreed that the list should be in alphabetical order; that revision has been made to the current draft as members will note. The draft local validation list presented to cabinet will in any case likely be revised in respect of its format when published on the council's website, to meet online accessibility standards (the content will not be materially altered).

5.6 The published version will be clear that the various documents required to meet validation requirements need not be standalone documents; they may, for

example, form chapters of a wider-ranging document if the agent so chooses. It is the content that is key, not the format.

5.7 Various comments have been made in respect of the need for submitted documents to be proportionate to the scale and complexity of the application in question; this is agreed. It is not considered that the draft local validation list as currently drafted suggests otherwise. Ultimately validating officers will not be assessing the quality nor scope of the submitted document; that assessment is undertaken post-validation by the case officer and consultees concerned.

5.8 Specific thresholds (typically 50 dwellings) have been suggested for a number of documents, namely Transport Assessments, Travel Plans, Open Space Assessments and Statements of Community involvement. It is agreed that some form of black and white threshold for these documents (and all documents in the LVL) is preferrable over a subjective case-by-case approach (for consistency and ease of use) *however* in the case of transport and travel related matters this is incredibly difficult to set as each site, proposal and impact will differ. In the case of travel and transport related-documents, their inclusion (and scope) will therefore need to be agreed on a case-by-case basis with GCC involvement; this is the approach adopted by the other district/borough councils across Gloucestershire. In the case of Open Space Assessments and Statements of Community Involvement it is considered that the thresholds set in the LVL are appropriate (i.e. a SCI for all major development and an OPA for all major residential development and/or proposals involving a loss of open space). A threshold of 50 dwellings or more would be too high as such impacts can arise on developments of <50 dwellings.

5.9 It has been suggested that the requirement for Open Space Assessments be limited to proposals impacted upon *public* open space. The NPPF uses the term 'open space' which encompasses any open space of public value irrespective of whether it is 'public' in an ownership or access sense. It is not appropriate therefore to use the term 'public open space'. Similarly, references to town centre uses and existing centres etc (which have been questioned) are to be interpreted as per the glossary to the NPPF (2024); revisions to the local validation list are not considered to be necessary.

5.10 One suggestion made by a number of individuals is that the local validation list should require plans and drawings to be annotated with measurements, in particular the distances between existing and proposed buildings. Whilst there is sympathy with this suggestion, in practice it would be of limited and disproportionate value. If drawings were annotated with measurements, the accuracy of those annotations would need to be checked by officers, this would be impracticable. All drawings must already be drawn to a recognised scale and so accurate measurements can be obtained if needed.

5.12 Finally, concerns have been raised in respect of proposed thresholds for requiring a noise impact assessment. It is agreed that requiring such an assessment in cases where minor changes to hours of operation are proposed would be excessive and too onerous; this has therefore been omitted. As with any document required in relation to a planning application, this does not prevent it being requested later in the process, post-validation.

Key risks

See Appendix 1

Report author:

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Appendices:

    i.   Risk Assessment
    ii.   Equality Impact Assessment Screening
    iii.   Climate Change Impact Assessment
    iv.   Draft Local Validation List

Background information:

None

Appendix 1: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
	If the Local Validation List is not approved it places the local planning authority in a weaker position in requiring the submission of key information to support the efficient and timely assessment of planning applications	Head of Planning	3	2	6	Accept	Work with members and the agents forum in the preparation of the validation checklist	Head of planning	Cabinet decision

Appendix 2: Equality Impact Assessment

1. Identify the policy, project, function or service change

a. Person responsible for this Equality Impact Assessment

Officer responsible: *Chris Gomm*	Service Area: *Planning*
Title: *Head of Planning*	Date of assessment: *04 November 2024*
Signature: Chris Gomm	

b. Is this a policy, function, strategy, service change or project? — Policy

Policy

c. Name of the policy, function, strategy, service change or project

Local Validation List

Is this new or existing?	**Already exists and is being reviewed**

Please specify reason for change or development of policy, function, strategy, service change or project

Previous document out of date and obsolete

d. What are the aims, objectives and intended outcomes and who is likely to benefit from it?

Aims:	To ensure that all planning applications (and other application types) are accompanied <u>at submission</u> with the information required to assess the key planning issues / material considerations.
Objectives:	• Better quality decision-making • Speedier decision making with less delays caused by requesting key information after the statutory decision deadline has already been set. • Better quality consultation – because the information that consultees and members of the public etc. is there at the outset to comment on. • Reinforcing the emphasis on the applicant on requirements and accuracy of information provided.

Outcomes:	- An adopted up-to-date local validation list - The publication of the above on the council's website in an accessible format.
Benefits:	As per the objectives above.

e. What are the expected impacts?

Are there any aspects, including how it is delivered or accessed, that could have an impact on the lives of people, including employees and customers.	**Yes**
Do you expect the impacts to be positive or negative?	**Positive**

Please provide an explanation for your answer:
The adoption of a more comprehensive local validation list will ensure that third parties have a superior quantum and quality of information on which to comment. There may be a higher financial and time cost (initially) to applicants / developers in preparing this information but this is for this is for the benefit, including their own, as the decision on their application will be far better informed and likely dealt with within a shorter timeframe.

If your answer to question e identified potential positive or negative impacts, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

f. Identify next steps as appropriate

Stage Two required	**No**
Owner of Stage Two assessment	**N/A**
Completion date for Stage Two assessment	**N/A**