Kirklees Council Validation Checklist - Consultation Statement 2022

1. Introduction

a) The Validation Checklist is the list of documents/plans required for different types of planning applications when planning applications are submitted. The checklist sets out supporting information that is relevant, necessary, and material to the application in question.

b) The aim of this document is to set out what information will be required to submit a valid planning application and to enable Kirklees Council, the Local Planning Authority (LPA), to provide an efficient and effective registration and validation service

c) The consultation was undertaken between 12pm on 20th June 2022 and 5pm on 1st August 2022.

2. Background

a) The Validation Checklist has been produced in accordance with Paragraph 44 of the National Planning Policy Framework (NPPF), which advises that Local Planning Authorities should publish a list of their information requirements for applications for planning permission every two years.

b) The document is intended to benefit all customers of the Local Planning Authority by:

- Increasing the awareness of the type of information required to avoid delays with the validation process
- Promoting the use of pre-application discussions and advice, which will provide further guidance on validation requirements (Pre-Application Advice)
- Speeding up the registration process
- Ensuring consistency in the approach taken by Kirklees Council
- Increasing the use of electronic delivery
- Minimising the need for additional information requests during the lifetime of the planning application
- Aiming to avoid delays during the planning process
- Enabling Kirklees Council to provide applicants with certainty about the information required.

c) During the consultation there were 7 respondents and the responses can be viewed on the council's website[1]. Section 3 below sets out a summary of the responses received and the council's response.

[1] http://consult.kirklees.gov.uk/portal/pp/dm_validation/validation_guidance

3. Summary of the main Issues raised and the council's Response

The following table sets out a summary of the consultation responses received and the council's response.

Section of consultation draft	Summary of comments received	Council response
National Requirements (Table 3) - Flood Risk Assessments	It would be useful if applicants submitted a site layout plan which shows the extent of flood zones on the site by overlaying the flood map for planning on top, either as part of the FRA or as a separate plan.	Minor amendment: amend the 'what information is required' column to state that where applicable a site layout plan showing the extent of flood zones would add clarity for all parties.
National Requirements (Table 3) - Sequential Test	It should be made explicitly clear that Annex 3: Flood Risk vulnerability and flood zone compatibility (NPPF) only applies where the Sequential Test has been passed and is an aid to considering when the Exception Test is required.	Minor amendment: clarification by amending the 'where can I find further guidance' column to state that the consideration of the vulnerability classification and computability follow a successful Sequential Test. Link added to the Flood risk vulnerability and flood zone compatibility part of NPPG.
National Requirements (Table 3) - Sequential Test	In certain circumstances an Environmental Permit for a flood risk activity may be required where development takes place adjacent to a designated main river. It would be useful to make a reference to this requirement and provide a link to our website for further information https://www.gov.uk/guidance/flood-risk-activities-environmental-permits	Minor amendment: Add the planning permits link to the 'where can I find further guidance' column. This is not a planning applications requirement but the link is useful for applicants as they consider the implementation of their proposals.
Local List Requirements (Table 4) – Biodiversity Net Gain	The reference to using the 'Biodiversity Metric 2.0' is out of date. The requirement should refer to using the 'current version' of the Metric rather than specifying the version relevant at the time of printing. The link in the further guidance column will also need to be updated.	Minor amendment: remove reference to the specific metric version and instead refer to the most up to date Natural England Metric.
Local List Requirements (Table 4) – Drainage Strategy (Surface Water)	The required information could include a requirement for details of treatment for surface water runoff where works are proposed near watercourses to prevent any contaminated runoff reaching the watercourse i.e. use of silt/sediment traps. This is most likely to be an issue during the construction phase of developments.	Minor amendment: clarify that where sites are near watercourses, the Drainage Strategy should set out the approach to avoiding contamination of such watercourses.

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Local List Requirements (Table 4) – Drainage Strategy (Surface Water) Local List Requirements (Table 4) - Foul Drainage Assessment	The first and last paragraphs in the information required column relate more to flood risk than foul drainage and should perhaps be included in the section above it (Drainage Strategy).	Minor amendment: Location of text changed to a different section only. Move the following existing text from the 'Foul Drainage Assessment' section to the 'Drainage Strategy (Surface Water)' section above: "*Developers should seek opportunities for sustainable drainage systems within application sites, in preference to connections to watercourses or sewers, to reduce flood risk. These should be incorporated within the layout and form of the development*". Minor amendment: Moving the following existing text from the 'Foul Drainage Assessment' section to the 'Drainage Strategy (Surface Water)' section above: "*Where it is proposed to hard surface an existing domestic garden information will be required about the proposed surfacing materials and the drainage methods*."
Local List Requirements (Table 4) - Foul Drainage Assessment	In certain circumstances an Environmental Permit for a water discharge activity may be required for disposal of foul drainage to a non-mains system. It would be useful to make a reference to this requirement and provide a link to our website for further information https://www.gov.uk/guidance/discharges-to-surface-water-and-groundwater-environmental-permits	Minor amendment: Although outside the planning applications process, a link has been added to the Environmental Permit process in the 'Where can I find further guidance' section to assist applicants to find information about related processes.
Local List Requirements (Table 4) - Foul Drainage Assessment	In addition to completing the FDA form, applicants should clearly show on drainage plans the pipework to and from the treatment system and then to the point of discharge (e.g. soakaway or surface water body).	Minor amendment: Clarification text added about the content of the Foul Drainage Assessment to state '*An application should indicate how the development will treat foul water and any subsequent discharge of the treated effluent including the pipework from the treatment system and to the point of discharge (e.g. field soakaway or surface water body).*'

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Local List Requirements (Table 4) - Land Contamination Assessment	The Kirklees district is underlain by Secondary A aquifers; there are no public water supply abstractions as a result, but geology is able to support lots of local/private supplies. The west of the district is underlain by the Coal Measures which are particularly complex. For this reason, we would like to see sensitive environmental receptors e.g. 'ground and surface waters', included in the list of sensitive or vulnerable end users in the first column.	Minor amendment: Added impact on ground and surface waters as receptors.
Local List Requirements (Table 4) - Water Bodies Assessment	An additional requirement we recommend should be considered, and where necessary, used to validate an application, is the Water Framework Directive. The Water Framework Directive (WFD) is a European directive that imposes legal requirements to protect and improve the water environment. The WFD is translated into UK law by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.	Minor amendment: Added reference to Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 to the 'where can find further guidance' section.
Local List Requirements (Table 4) - Water Bodies Assessment	A Water Framework Assessment must be submitted to the body that grants permission for an activity that may impact on the ability of a water body to reach targets set in the River Basin Management Plan. In the case of planning permission, this is the council.	Minor amendment: Reference to such an assessment has been added. The assessment of impacts on water quality is already a requirement of NPPG but has been added as a row to the Validation Requirements list for completeness.
General Comments	The requirement for EIA/FRA are more subjective and would benefit from the agreement of the LPA. Since most require the involvement of a specialist with an associated fee many applicants will be pushed towards a pre-application based approach to establish what is required but the service is both time consuming and often inconclusive?	No change: The requirement for an Environmental Impact Assessment is set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Further guidance can be provided by the council through the formal pre-applications advice service. The NPPF and Kirklees Validation Requirements list set out the criteria to determine whether a Flood Risk Assessment is required.

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General comment	The front loading of costs is perhaps more palatable for larger developers but at a smaller scale the outlay becomes disproportionate? The NPPF seeks to encourage businesses to invest, expand and adapt but the costs associated with meeting validation criteria do the opposite? Providing additional information once an application has been approved with conditions is more palatable to the majority of applicants? Why can't this continue?	No change: The intention of the updated validation requirements is to ensure clarity for all parties in the planning process. It aims to ensure the Local Planning Authority has access to as much information as possible from the start to facilitate the decision making process. Such documents would be required during the life of the application in any case but front loading will enable a more efficient decision making process.
National Requirements/Local List Requirements	The level of information requested is largely prescriptive and specialist. This will inevitably become an inhibitor to innovation. And encourage a tick box mentality with potentially the same information repeated for each successive application? Who will determine if the information is appropriate for validation?	No change: The intention of the updated validation requirements is to ensure clarity for all parties in the planning process. It aims to ensure the Local Planning Authority has access to as much information as possible from the start to facilitate the decision making process. The Local Planning Authority will determine whether sufficient information has been submitted to validate an application.

Local List Requirements (Table 4) - Affordable Housing Provision and Financial Viability Assessment	Many housing schemes are Outline applications. Layout may be a reserved matter, how can a viability assessment be undertaken?	Minor amendment: Split the text from this section into two rows, covering affordable housing provision and viability assessments separately. This adds clarity as not all sites of this size will need to submit viability assessments if the policy requirements are met. Separate requirements:
		
		• Affordable housing provision
		  ○ Text also amended to refer to requiring an affordable housing plan at the full or reserved matters stage only
		
		• Affordable housing Financial Viability Assessment
		  ○ At the outline application stage, the estimated number of dwellings (and therefore required affordable housing contribution) allows the consideration of viability.

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Local List Requirements (Table 4) – Biodiversity Net Gain	Who determines what habitat boxes are appropriate? Do householders need to commission a PEA to build an extension?	Minor amendment: Clarification added that this part of the checklist refers to a Biodiversity Net Gain Statement which would not be required for householder applications. The requirements for Biodiversity Net Gain for minor applications would be negotiated through the planning applications process rather than being required at validation. Generally, householder applications will not require a Preliminary Ecological Assessment (PEA). However, if there is the potential for significant harm to ecological receptors, then this information will need to be provided (as set out under 'ecological surveys and reports' in the Validation Requirements' list).
Local List Requirements (Table 4) - Noise Impact Assessment	Requirement to be determined on a site by site basis? But its impossible to contact Planning Officers?	No change: Planning Officers will provide advice on this issue on a case by case basis.
General Comments	Overarching concerns relate to adding further financial burdens and complications for applicants. More and more technical reports are being requested through this latest draft validation document. Consider (a) the legal and policy basis for requests; and (b) proportionality and reasonableness in terms of the legal / policy framework as well as the burden placed on applicants - in terms of both time and cost.	The intention of the updated validation requirements is to ensure clarity for all parties in the planning process. It aims to ensure that the Local Planning Authority has access to as much information as possible from the start to facilitate the decision making process. The validation requirements checklist has been prepared in accordance with section 62(3) & the statutory tests set out in section 64(4A) of the Town and Country Planning Act 1990, and Article 11(3)(c) of The Town and Country Planning (Development Management Procedure) (England) Order 2015. Some amendments have been made to address consultation comments and add clarity about the requirements.

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Local List Requirements (Table 4) - Affordable Housing Provision and Financial Viability Assessment	It should not be a requirement to provide a plan showing the location of affordable units at the validation stage, because only upon the consultation with housing services will it become clear what type of affordable houses the local authority is ideally looking for.	Minor amendment: To add clarity, text amended to refer to requiring an affordable housing plan at the full or reserved matters stage only. It is accepted that site layouts can change over time but for a full or reserved matters planning application the initial proposal should set out the proposed location of the affordable housing units.
Local List Requirements (Table 4) - Air Quality Impact Assessment (AQIA) (including Monetary Damage Cost Assessments)	It needs to be clarified which particular roads in Kirklees generate 10,000 or more annual average daily traffic, otherwise it will be unclear to applicants whether or not an air quality impact assessment is required for cases within 20 m of such roads.	Minor amendment: A link has been added to the 'where can I find further guidance' column for this indicator where public information is available Map Road traffic statistics - Road traffic statistics (dft.gov.uk) Annual Average Daily Traffic (AADT) figures change over time so a list cannot be provided in this Validation Requirements list. However, applicants can check DfT count site data for some major arterial roads (see link). If a DfT count site is not located nearby, applicants would need to calculate their own AADT data based on up to date survey information.
Local List Requirements (Table 4) – Biodiversity Net Gain	The guidance states that 'All applications must demonstrate a biodiversity net gain e.g. habitat boxes for householder applications'. However, in accordance with The Environment Bill, which is likely to be implemented in Autumn 2023, householder applications will be exempt from the Biodiversity Net Gain requirement. See: https://www.placenorthwest.co.uk/insight/the-environment-bill-whats-next/	Minor amendment: Current planning policy which includes Policy LP30 of the Kirklees Local Plan and Chapter 15 of the NPPF state that all developments should aim to achieve a net biodiversity gain. However, clarification has been added that this part of the checklist refers to a Biodiversity Net Gain Statement which would not be required for householder applications. The requirements for Biodiversity Net Gain for minor applications would be negotiated through the planning applications process rather than being required at validation. The revised text also clarifies when 10% net gain applies.

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	We therefore consider that it would be a mistake to oblige householder applications to be accompanied by a BNG statement of any kind, because this is not actually backed up by law.	As detailed within the local plan (LP30 ii), *all developments will be required to minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist.*
Local List Requirements (Table 4) – Climate Change Statement	The requirement for such a statement for all types of applications will require technical (and costly) input and this represents a wholly disproportionate and unfair financial burden on householder and a proportion of minor applications. Also, for types of applications such as change of use applications where no physical works may be taking place, a climate change statement would be unnecessary. The same applies to advert applications.	No change: The Climate Change Statement will be required following a decision by the Kirklees Cabinet in June 2021. This is in the context of the Climate Emergency declared by Kirklees Council in January 2019. The Climate Change Statement should be proportionate to the scale of the development and should collate existing information from other reports into one statement rather than requiring additional technical assessments. The Statement provides the benefit of clearly setting out climate change considerations as schemes were devised.
Local List Requirements (Table 4) - Crime Prevention Statement	The guidance lists a whole range of developments that would require a crime prevention statement. However, under the heading, 'What information is required', the guidance states that, 'Applicant to submit as a supplementary section within the Design and Access Statement entitled Crime Risk Assessment.' Not all developments that are listed however, currently require a Design and Access Statement so this advice is somewhat confusing. This section should be re-worded in our view.	Minor amendment: The 'what information is required' section has been amended to state that the Crime Prevention Statement could be a standalone document or within a Design and Access Statement.
Local List Requirements (Table 4) – Drainage Strategy (Surface Water)	The guidance states that All applications (excluding householder) will be required to provide detailed information concerning surface water drainage. We feel that it is unreasonable to expect all applications to submit this information upfront at the validation stage. It will be financially costly for applicants to obtain all of the required information prior to knowing whether or not planning permission will be granted e.g. reports, plans, calculations etc, and for many minor applications, it will be completely unnecessary for	Minor amendment: Change to refer to details of the scheme being proportionate to the scale of the development. It is important that drainage is considered at the early stage of proposals to ensure a drainage strategy can influence the evolving layout.

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	the development being proposed e.g. change of use applications, extensions or alterations to existing premises. Whilst it is acknowledged that for some applications, a drainage strategy should be submitted as part of the application, in other cases, it is not felt necessary and could be requested at a later stage if required through conditions, which is currently the case.	
Local List Requirements (Table 4) – Lighting Assessment	These can cost in the region of £1,000 - £1,500 plus Vat and it is disproportionate and unreasonable in our view to require all illuminated advertisement consent applications to submit such an assessment.	Minor amendment: Clarification added that the level of information provided should be proportionate the scale of the proposals and that manufacturer specifications may be appropriate in some circumstances rather than an assessment to be procured.
Local List Requirements (Table 4) - Statement of Community Involvement	The validation check list will require a statement of community involvement for all major applications. The problem with this is that it presumes that statements of community involvement are compulsory for major applications in a legal / policy sense, which they are not. For example it is not always proportionate or reasonable to undertake formal public consultation prior to an application being submitted, and of course it adds to the financial burden of small to medium-sized developers in particular.	Minor amendment: Change to state that details should be submitted only where community consultation has taken place prior to submission of a planning application. Examples are provided when such consultation would normally be appropriate. The importance of involving a range of stakeholders at an early stage is referred to in the Development Management Charter and the council always encourages early engagement with the community who will be affected by planning applications (proportionate to the scale of the development).
Local List Requirements (Table 4) - Statement of Community Involvement	Reference is made to the council's statement of community involvement, as justification for this requirement, however this particular document does not compel applicants for major developments to undertake public consultation/community involvement exercises – it is more concerned with the Local Plan. The NPPF merely encourages applicants to engage with the local community, but again it is not compulsory.	Minor amendment: Reference to the Kirklees Statement of Community Involvement has been removed and replaced with reference to the Development Management Charter in the 'where can I find further guidance' column.

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Local List Requirements (Table 4) – Viability	Under the 'what information is required' header, reference should also be made to the RICS 'financial viability in planning: conduct and reporting' Professional Statement May 2019. Given that it is encouraged a suitably qualified RICS surveyor should prepare a viability appraisal, this professional statement is mandatory for RICS members to comply with in producing such appraisals.	No change: The council expect viability reports to be submitted which have been undertaken by suitably qualified persons.
General Comments	Thank you for consulting Historic England on the above document. At this stage we have no comments to make on its content.	No change: Noted.
Local List Requirements (Table 4) – Open Space/Sport and Recreation Assessment	Sport England recommends that planning applications affecting playing field land should provide sport specific information in line with the below checklist. This information will enable Sport England to provide a substantive response to applications on which it is consulted. It will also aid the LPA to assess an application in light of P.99 of the NPPF and relevant Local Plan policies.	Minor amendment: A link to the Sport England checklist has been added where the application relates to playing field land. This information is required in any case as part of applications affecting playing field land so this change adds clarity from the outset.
Local List Requirements (Table 4) – Crime Prevention Statement	Has the impending 'Protect Duty' legislation been considered here for public space developments?	No change: In relation to the 'Protect Duty' legislation, the Validation Requirements document has to be updated at least every two years. Amendments can therefore be made to reflect new legislative requirements once the Duty comes into force.
	Policy Drivers column – Add: • Crime and Disorder Act 1998 Section 17	Minor amendment: Add 'Crime and Disorder Act 1998 Section 17' to the Policy Drivers column
	Consider adding in academic references relating to crime and design.	No change: Specific research can be referred to in consultation responses from specialist officers during the lifetime of an application where applicable.
	Further Guidance section – add: Secured By Design link (https://securedbydesign.com)	Minor amendment: Add Secured by Design link to the 'Where can I find further guidance' section.

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Local List Requirements (Table 4) - Lighting Assessment	BS 5489-1: 2013 – The standard has now updated to BS5489-1:2020	Minor amendment: British Standard updated to reflect the latest 2020 version
	When it is required column – add: • Un-adopted roads for dwelling • Developments to be lit to levels of illuminance agreed by the LPA	Minor amendment: This response is more appropriately dealt with under the 'Crime Prevention Statement' section (Local Requirements, Table 4) as the lighting assessments are generally related to the impact of lighting proposed rather than use of lighting as a mitigation measure to alleviate crime. The issue has been covered by the changes below.
	Policy Drivers column – add: • NPPF S.8, S.12 • KLP LP24	No change: Policy LP24 and NPPF sections 8 and 12 are already referenced in the Crime Prevention Statement section of the checklist
	What information is required column – add: • In the interest of Crime Prevention, the developer is to provide details of the provision for street lighting levels for un-adopted roads and 'Private Drives'. The above should be added to address ongoing issues around the lighting provision for Private Drives and un-adopted streets.	Minor amendment: Sections added to the 'Policy Drivers' section of the Crime Prevention Statement section (Local Requirements, Table 4).
	Further Guidance column – add: • https://www.securedbydesign.com/images/PCPI_LIGHTING_GUIDE_web.pdf The above is the recommended Lighting Design Guide Document and is up to date	Minor amendment: Link added to the 'where can I find further guidance' section of the Crime Prevention Statement section (Local Requirements, Table 4)
General	We have noticed considerable variation in the quality of the plans which we are asked to consider. Some of them have been so short of detail that we have not felt able to come to a firm conclusion on whether or not to support an application. This problem would be eliminated, were all plans to conform to the draft validation requirements.	Comment noted: The updated validation requirements list aims to provide clarity about the types of plans required from applicants as part of planning applications submissions.

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General	There is no mention of the Holme Valley Neighbourhood Development Plan (NDP). We would be interested to know how the provisions of the NDP are incorporated into the validation requirements.	Minor amendment: Change to Section 5 and the Local List Requirements Introduction to refer the reader to the fact that the 'made' Holme Valley Neighbourhood Development Plan forms part of the development plan (alongside the Local Plan) if this application is within the relevant area covered by that plan.
Local List Requirements (Table 4) - Climate Change Statement Local List Requirements (Table 4) - Biodiversity Net Gain	We are pleased to note that Biodiversity Net Gain and Climate Change statements are required for ALL applications, including Householder applications (P.21/22). We have started to comment routinely when new build applications do not contain a climate mitigation statement.	Comment noted: As a result of other consultation comments, a minor amendment has been made to reflect that it is more effective for biodiversity net gain to be considered during the lifetime of the planning application for minor applications rather than at the validation stage. Major applications are required to produce a Biodiversity Net Gain Statement at validation stage.