

Validation of Planning Applications – Summary of Consultation Responses



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1. Introduction

On 25 July 2006, the Government issued a consultation paper on proposals for what comprises a 'valid application' and proposed regulation changes to the Town and Country Planning (General Development Procedure) Order 1995 ('GDPO') that would come into force on 6 April 2008. The consultation paper built upon proposals set out in section 5.2 of the *Changes to the development control system: Second Consultation Paper (March 2005)* and proposals relating to the introduction of a Standard Application Form for planning applications and associated consent regimes.

The consultation paper proposals included clarification on what is meant by and what comprises a 'valid planning application', to ensure that both local planning authorities and applicants could be certain of what is and what is not required by a local planning authority to enable the proper validation and determination of an application. The consultation paper set out:

- a core and mandatory Communities and Local Government list of information required for a valid application;
- proposals for a local planning authority's own list of additional mandatory information required by them to meet local circumstances;
- amendments to the GDPO specifying that an application is only valid if it provides the relevant information required by the form and the information required by the local planning authority in its published list; and
- changes to the GDPO to make it clear that, if an application does not meet the validation requirements it would not be valid and therefore not open to appeal on the grounds of non-determination.

The consultation paper also set out possible requirements for full and outline applications for the *Planning Application Requirements (Local)* list (itself based on lists in the March 2005 *Best Practice Guidance on the Validation of Planning Applications*) and a number of questions relating to the scope and implementation of the proposals. In addition, there was an opportunity to comment on whether the proposed changes should also be made to the Planning (Listed Building and Conservation Areas) Regulations 1990.

It is intended to implement the regulation changes to validation alongside the Standard Application Form, and to amend the GDPO, on 6 April. Local planning authorities started to use the Standard Application Form in May 2007. Other local planning authorities will start to use the form in later phases in a national roll out up until 6 April when the form will be mandated as the only legal method of submitting a planning application. When the electronic form is fully implemented on 6 April, it will be possible to complete and submit a planning application both on-line and in paper format.

This report contains the main themes which have emerged from the consultation exercise.

2. Respondents

A total of 107 responses were received from a range of public and private sector bodies and organisations:

Local Government – 42% (45 responses)

Private Sector – 24% (26 responses)

Other Representative Organisations – 20% (21 responses)

Statutory Consultees – 9% (10 responses)

Other – 4% (4 responses)

Other Government Departments – 1% (1 response)

Summary of Responses

Question 1

Do these proposals make it clear what makes an application valid?

65 of the respondents commented on this particular question and of these, the majority (62%) stated that the proposals are clear about what makes an application valid. Within this group, the majority (55%), were from local government, and 18% were from other representative organisations. However, 11% of respondents also considered that local lists should be tailored to specific types of application, particularly to major and minor applications. Some consultees commented that although the proposals themselves were clear regarding validation, the clarity of the process could not be judged until local planning authorities produced their own local lists.

A limited number of respondents (5%) felt that it was clear from the proposal which documents are required from an applicant, but less so as to how a local planning authority should respond if a document was submitted but was obviously inadequate. Some local planning authorities considered that more information should be included in the national requirements rather than left to local planning authorities' own 'local lists'.

The remaining (38%) respondents expressed a feeling of uncertainty over the clarity of the proposed validation changes. Of these respondents approximately a third of responses were from those in the private sector and also a third from local government. 15% of these respondents expressed concern about the proposals resulting in different validation criteria for each local planning authority across the country and thus resulting in further confusion. A more prescriptive approach by Communities and Local Government was therefore suggested over 'local' validation requirements.

Question 2

Should they be applied to both the planning application regulations and the listed building and conservation area regulations?

The overwhelming majority of respondents (96%) indicated that there should be a similar set of standards for listed building and conservation area applications. Respondents considered that this would achieve greater clarity for applicants as well as consistency across the board. Consultees suggested that validation lists for listed buildings and conservation areas need to be separate and that requirements on the lists need to be both detailed and clear.

Question 3

Should the proposals also apply to minerals applications given their exclusion from the Standard Application Form project at present?

78% of respondents agreed that the proposals should also apply to minerals applications and that a consistent approach was required. Of those respondents that did not consider that the proposals should apply to minerals applications, three-quarters were representatives of private sector organisations or from 'other' groups. The majority of these respondents commented that the minerals application process is extremely complex and should therefore be treated separately. A few respondents supported the option of adopting minerals application lists only when they are included in the Standard Application Form.

Question 4

Do they provide for the correct balance between the need for standardisation and consistency and the need for local flexibility and differences in policy?

Of the 70 responses to this question, 44% of respondents agreed that the proposals provided the correct balance between the need for standardisation and consistency and the need for local flexibility and differences in policy. The majority (over two-thirds) of these particular respondents were representatives of local planning authorities and considered that the flexibility to add to the core and mandatory Communities and Local Government list to reflect local circumstances was welcome. Comments included that the twofold approach provided a good balance between ensuring the provision of base information and locally specific information.

However, 20% of consultees indicated that they were unsure whether the balance between the need for standardisation and consistency and the need for local flexibility and differences in policy had been achieved. Whilst respondents stated that there was potential for finding the correct balance, there was a danger of local planning authorities adopting a 'safety first' approach to required supplementary information; however, if this could be 'regulated', the balance would then be correct.

36% of respondents (principally those from private sector organisations) stated that there was an imbalance within the proposals and that the aim of the 'localised lists' did not fulfil the Government's aim of standardising and simplifying the planning application process, and that these two aims of the proposals are mutually opposed. One consultee commented that there was little evidence to date of local criteria being applied flexibly in areas where local criteria have already been developed. There was also concern over the potential for local standards to require information to be submitted whether or not it was actually necessary to determine, let alone validate, an application.

Question 5

Does the requirement to consult and publish their checklists ensure that local planning authorities will act reasonably in relation to the information requested? Will this provide clearer guidance and support for applicants?

Of the 65 respondees who commented on this particular question, 49% considered that the requirement to consult and publish local lists would ensure that local planning authorities would act reasonably in relation to the information requested. 81% of those who considered the requirement to consult would ensure that local planning authorities would act reasonably were from local government. Almost a fifth of these respondents commented that the requirement for consultation will increase applicants' understanding of the requirement for documents. However, local planning authorities were generally of the opinion that the proposals did not provide sufficient information on exactly how local planning authorities should consult on their lists and that extra guidance was therefore required. 8% of respondents expressed uncertainty about the effect of the requirement to consult and publish local lists.

Of the 26 respondents who answered 'no' to this question, 50% were from the private sector and 38% from 'other' representative organisations. Concern was expressed that there was no guarantee that the requirement to consult on local requirements would ensure that comments were taken into account. In addition, it was unclear what status consultation responses would be given by local planning authorities. Other respondents considered that the introduction of the local lists effectively withdrew an applicant's option of appealing against non-determination when a local planning authority deemed an application invalid and that under the proposed system, a judicial review would be a costly option. The absence of any mechanism to challenge local lists effectively placed the local planning authority in a very powerful position.

Question 6

Do these proposals enable local planning authorities to request all the information needed to determine an application at an early stage?

Of the 54 respondents, 61% commented that the proposals enabled local planning authorities to request all information needed to determine an application at an early stage. Of this 61%, over half (58%) of the respondents were from local government and 18% from the private sector. Respondents generally considered that with the correct procedures in place, as outlined in the proposals, there should in most instances, be no reason for local planning authorities to request further information later in the determination process.

Conversely, 22% of respondents did not believe that the proposals encouraged the early gathering of information whilst others were uncertain as to how the proposals would influence early determination.

A few, 6%, of consultees commented that it was not possible to definitively state that all information would be provided at the earliest stage and that it was unreasonable to expect local planning authorities to be able to anticipate each and every piece of information needed to determine an application prior to each submission. 11% of respondents commented that they were concerned that local planning authorities could adopt a precautionary approach and seek more information than actually required. 11 respondents suggested that where additional information is sought post submission, there should be a time limit for its receipt.

Question 7

Will the proposals simplify the process of validating a planning application?

Of the 59 responses to this question, 46% (27) of consultees were confident that the proposals would simplify the process of validating a planning application. 16 of these 27 respondents were from local government, and 10 represented 'other' organisations or were statutory consultees. Over a quarter of those who considered that the proposals would simplify the validation process felt that the proposals should ensure that applicants are fully aware of the local planning authority's requirements for applications. 5% of respondents were uncertain about the effect of the proposals.

Just under half of respondents (49%) expressed concern that the proposals would not simplify the validation process. Of these, two thirds were from the private sector, other representative organisations or statutory consultees. Almost a quarter of the comments received expressed concern that the proposals would make the validation process more complex – by operating a national validation list alongside a local list for which each local planning authority could compile different requirements and create a nationally inconsistent approach to validation. 7% of respondents commented that whilst it should be possible to streamline the validation process, they certainly would not simplify it.

Question 8

Do these proposals alter the negotiating position between local planning authorities and applicants for the better or for the worse?

Of the 59 responses to this question, 16 commented that the proposals would alter the negotiating position between local planning authorities and applicants 'for the better'. A further 12 respondents noted that the proposals placed the local planning authority in a much stronger negotiating position. There was also an even split between those who considered that the proposals would allow both applicants and the local planning authority to benefit from clarity, consistency and transparency within the negotiating

phase of making an application and those that considered that local planning authorities could demand information that was surplus to the application, with having adverse implications for the applicant.

The majority of those from the private sector and other representative organisations believed that the negotiating position between local planning authorities and applicants would be altered for the worse. Additional comments were also made on the need for a mechanism to be introduced for resolving disputes about information requirements, particularly in view of the lack of an appeal procedure.

Question 9

Are there any extra requirements which should be included in the Communities and Local Government guidance beyond those listed in Annex C? Should any of the requirements in Annex C be updated or changed?

26% of the 72 respondents commented that there should be no more requirements included in Communities and Local Government guidance beyond those listed in Annex C. Half of this 26% commented that the list was already too long and that further requirements would further complicate the process.

The remaining three-quarters of the 72 respondents suggested a range of changes to the requirements contained within Annex C. These suggestions included the addition of:

- Statement of Community Involvement
- Environmental Impact Assessment
- Design and Access Statements

In addition, almost a third of the responses commented that more prescriptive guidance and advice was required alongside some of the requirements within the list.

Question 10

Should Communities and Local Government produce a model checklist of requirements which should accompany applications in specific areas/circumstances? Which policy requirements should be highlighted in this way?

Over three-quarters of the 57 respondents considered that a model list of requirements accompanying applications in specific areas/circumstances would be useful. Of these, over half (53%) were from local government and 14% from the private sector. Most of the comments stated that a model list approach would promote good practice and consistency, but that more detailed guidance would be useful for particular types of applications,

e.g. for major applications and for certain items on the lists, for example, transport assessments.

The remaining quarter of respondents did not think that Communities and Local Government should produce a model list of requirements to accompany applications in specific areas/circumstances or were uncertain about the proposal. Some respondents commented that the lists should be left to local discretion and should aim to suit local circumstances. Similarly, 14% of consultees commented on the difficulties of Communities and Local Government setting a definitive list and that the list could instead refer to best practice.

Question 11

Does the proposed timetable seem reasonable?

Of the 49 responses, almost two thirds (31) considered the proposed timetable reasonable, of which just over half were from local government and almost a third from 'other' representative organisations. A couple of consultees commented that the proposed timetable was only reasonable if the requirement for local planning authorities to consult on their local list of requirements prior to adoption was dropped.

The remaining consultees expressed concern about the timetable – one fifth being from local government with the majority being from private sector organisations. Concerns were raised about the integration of the new validation proposals with the requirements of the new Standard Application Form and whether the resources available at local planning authorities would be able to cope with the pressures of the new system.

Appendix A – List of Respondents

Local Government

Bournemouth Council
Basingstoke and Deane Borough Council
Birmingham City Council
Blaby District Council
Bracknell Forest Borough Council
Chelmsford Borough Council
City of Worcester Council
Cornwall County Council
Dartford Council
Derbyshire County Council
Ellesmere Rural Parish Council
Essex County Council
Greenwich Council
Hampshire County Council
Haringey Council
Harrogate Council
Hart District Council
Herefordshire Council
Hinckley and Bosworth Borough Council
Huntingdonshire District Council
Kennet District Council
Kent County Council
Lake District National Park Authority
Litchfield District Council
London Borough of Barnet
London Borough of Camden
London Borough of Hammersmith and Fulham
London Borough of Havering
London Borough of Hillingdon
NCDC Community Services
Norfolk County Council
North Dorset District Council
Northampton Borough Council
Reading Borough Council
Ribble Valley Borough Council
Rushcliffe Borough Council
Sheffield City Council
Somerset County Council

Suffolk County Council
Waverley Borough Council
Westminster City Council
Wycombe District Council

Private Sector

David Prince – Arboricultural consultant
Arqiva/National Grid Wireless
Atis Real
Biffa
Bob Griffiths – surveyor
Cemex
Community and Regional Planning Services
George Wimpey
Godsmark Architecture
Land Planning Associates
Landscape Planning
McCarthy & Stone Developments Ltd
Peter Pendleton Associates
Retirement Housing Group
Retirement Villages
Shireconsulting
SITA Suez
Taylor Woodrow
Telereal
TH Kingerlee
Trevor Roberts Associates
Turley Associates
Vail Williams LLP
Viridor Waste Management
Wilson Bowden

Other Representative Organisations

ALBPO (Association of London Borough Planning Officers)
Bat Conservation Trust
CBI
Country Land and Business Association
Environmental Services Association
Herpetological Conservation Trust
Home Builders Federation
House Builders Association
Local Government Archaeological Officers
Local Government Ombudsman
Mobile Operators Association
NISIP (National Industrial Symbiosis Programme)
Northamptonshire Chief Planning Officers Group

Planning and Development Association
Planning Officers Society
Quarry Products Association
RICS (Royal Institution of Chartered Surveyors)
Standing Conference on Land Contamination
The Horticultural Trades Association
The Law Society
West Midlands RTAB

Statutory Consultee

BAA
English Heritage
Environment Agency
Highways Agency
National Grid
Severn Trent Water
Sport England
Thames Water
The Wildlife Trusts
Wessex Water

Other

Cornwall College, Cambourne
Ordnance Survey
Rescue
University of Cambridge Estate Management

Other Government Departments

The Planning Inspectorate