

REPORT OF CHAIRMAN OF PLANNING AND LICENSING COMMITTEE

ADOPTION OF THE COUNTY COUNCIL'S POLICY ON THE VALIDATION REQUIREMENTS FOR PLANNING APPLICATIONS

Purpose of the Report

1. To advise Members of the results of a consultation exercise undertaken on the proposed changes to the County Council's Policy on the Validation Requirements for Planning Applications' and to seek Committee approval and adoption as Nottinghamshire County Council Policy.

Information and Advice

2. Since 2008 Local Planning Authorities have been required to publish a list of information they require to "validate" the planning applications they receive. This Validation list forms two components, the national requirements (which includes the completed standard planning application form, the submission of a fee, a certificate confirming ownership, a design and access statement where required and relevant plans), and secondly, specific local validation requirements known as the "**local list**". The local list sets out what further information and assessments need to be undertaken and submitted with the application depending on the nature and scale of the proposal, such as Heritage Impact Assessments, Flood Risk Assessments, Transport Assessments etc. Following a period of consultation with agents, statutory consultees and other relevant stakeholders the County Council adopted its Validation guidance in April 2008. This has been used for development management purposes as the basis on which applications have been validated since this time.
2. In January 2013, in a consultation document entitled "Streamlining the planning application process", the Government advocated a new approach to validation. Whilst acknowledging Local Lists as helpful guides in assisting applicants establish the information needed to validate applications, the current system was considered to be a "tick box" exercise with little consideration as to whether information requested was genuinely necessary. Also, applicants currently have no opportunity to challenge validation information requests from local authorities.

Paragraph 193 of the National Planning Policy Framework (NPPF) states;

"Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals and reviewed on a frequent basis. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question".

This requirement for information being proportionate to the scale and nature of the development proposed is further reiterated in the Growth and Infrastructure Act 2013.

4. To address the above issues, the Government has brought in amendments to the Development Management Procedure Order 2010 (DMPO). Amendment No.3 in 2012 requires local planning authorities to operate a local list that is no more than **two** years old. Since August 2013 if the list has not been reviewed within this period then only national validation requirements apply. As Nottinghamshire County Council's Local list was published over five years ago it is considered imperative that our list is reviewed and republished as soon as possible. A further amendment to the DMPO introduced a new provision enabling applicants to challenge the LPA's decision not to validate an application. If the applicant and the LPA cannot reach agreement through negotiation as to whether a piece of information is required to validate an application the applicant has the right to appeal against non-determination once the statutory timescales have elapsed.

The Review Process

5. The most recent Government guidance on information requirements and validation was published in 2010 and suggests the review process should follow 4 steps:
 - i) review the existing list,
 - ii) produce a summary report of the proposed changes,
 - iii) consult on the proposed changes for no less than 8 weeks, and
 - iv) finalise and publish the revised Local list.
6. Notwithstanding the Government's requirement for Local Lists to be no more than 2 years old it is considered timely to review the existing Local List to ensure that it refers to up to date planning legislation, policy and guidance. Following an internal review significant changes to the list are proposed, these are summarised below. The updated Policy Note on the Validation requirements for planning applications forms Appendix B to this report.

Proposed changes

7. The main changes comprise:
 - The removal of all references to Planning Policy Guidance Notes and Planning Policy Statements and replacement with references to the National Planning Policy Framework which was introduced in March 2012.
 - The inclusion of a new section on the right of applicants to challenge the County Council's request for validation information and the new appeals process against non-validation.
 - The insertion of a new paragraph encouraging the electronic submission of planning documents and the national standards for such documents.
 - An amended section setting out the reduced circumstances where Design and Access Statements must accompany planning applications in accordance with current legislation.
 - Amendments to all sections to make reference to current legislation, guidance and standing advice, such as Environmental Impact Assessment regulations, heritage assets and the County Council's reviewed Statement of Community Involvement.
 - Some formatting changes are included, together with the introduction of a new local validation criterion on landscaping and visual impact assessments.
 - All website references have been updated where necessary.

Consultation

6. Following approval of the proposed changes at Planning and Licensing Committee on 12th November 2013 officers have undertaken extensive consultation.
7. The consultation period ran for eight weeks from 18th November 2013 until 13th January 2014. Consultations included Nottinghamshire and adjoining District and Borough Councils, Nottinghamshire Parish Councils, and County Councillors. In addition over 100 letters and emails were sent to statutory and non-statutory consultees and to interested parties. The views of a selection of internal and external applicants and agents were also sought. Consultation letters and emails provided a link to the County Council's website where copies of the adopted and draft Validation Guidance could be viewed and downloaded.
8. Ten responses were received. A summary of the responses received and any proposed action forms Appendix B to this report. The updated Policy Note (including the changes made as a consequence of the consultation exercise, these changes are shown in red) forms Appendix A. Members should note that the further changes proposed as a consequence of the consultation are not considered to materially amend to Validation Policy to such an extent that would warrant a further round of consultation. The results of the consultation exercise were reported to Planning and Licensing Committee on 21st January 2014. Following discussions at that meeting the British Geological Survey's website details have been added to the '*Further information*' of criterion 19 Land Stability/ Coal Mining Risk Assessment.

Other Options Considered

9. Given the requirements set out in paragraph 4 above no options other than a full review were considered to be adequate to meet the Government's stipulation for Local Lists to be no more than two years old.

Next steps

10. If Members approve the proposed changes to the Validation Policy set out in this report then this will replace the original version adopted in April 2008 and will become County Council Policy. It will be known as Nottinghamshire County Council's Policy on the Validation Requirements for Planning Applications and will be retained as an on online document on the County Council's website available to view and download. It will form the basis on which planning applications are validated by the Council.

Reason for Recommendation

11. To inform Members of the results of the recent consultation exercise and to seek Members' approval and adoption of the updated Validation Policy to enable it to become formal Nottinghamshire County Council policy.

Statutory and Policy Implications

12. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users

13. It is considered that the proposed changes to the Validation Policy will assist users of the document by containing more current and accurate information.

RECOMMENDATIONS

- 1) It is RECOMMENDED that Members note the results of the consultation exercise undertaken on the proposed changes to the Policy on the Validation Requirements for Planning Applications.
- 2) It is RECOMMENDED that Members approve the proposed revisions to the Policy on the Validation Requirements for Planning Applications and adopt it as Nottinghamshire County Council policy and a formal replacement for that initially adopted in 2008.

SYBIL FIELDING

CHAIRMAN OF PLANNING AND LICENSING COMMITTEE

Constitutional Comments (SB 22/01/14)

Policy Committee has authority to approve the recommendation set out in the report.

Financial Comments (SEM 20/01/14)

There are no specific financial implications arising directly from this report.

**For any enquiries about this report please contact: Jane Marsden-Dale
Tel. 0115 969 6505**

Background Papers

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972:

Consultation responses received by NCC from ten parties between 15 November 2013 and 13 January 2014.

Electoral Division(s) and Member(s) Affected

All

Nottinghamshire County Council's Policy on the Validation Requirements for Planning Applications

Introduction

In order for the County Council to deal properly and efficiently with the planning applications it receives, it is essential that the correct information is submitted from the outset.

This note sets out what “**minimum**” **requirements** applicants need to submit to enable the proper validation and determination of applications. This will ensure that applications are “fit for purpose” and minimise the need for the submission of information at a later stage. This in turn will enable the County Council to provide an efficient planning service and help to achieve targets for the determination of planning applications.

The County Council recognises that the scale and type of applications vary and this will require the submission of differing levels of information and supporting documentation. This guidance note takes this into account in the scope of information needed for the various types of applications dealt with by the County Council. The National Planning Policy Framework (NPPF) states that “*Local planning authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals and reviewed on a frequent basis. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question*” (para.193).

Pre-Application Advice

The County Council encourages applicants and their agents to seek pre-application advice. This is particularly relevant for larger, more complex or potentially controversial proposals. This should help applicants identify the information and details that needs to be submitted with their application. Such an approach can help minimise delays later in processing the application and identify whether other consents may be required. The NPPF also encourages pre-application discussions; it states early engagement has the potential to improve the efficiency and effectiveness of the planning application system. In 2011 the Localism Act introduced a new requirement for applicants to engage with local communities before submitting applications. The details about which applications this applies to will follow once announced by the Government.

The Validation Process (including the right to appeal against non-validation)

All applications received by the County Council will be checked against the **Statutory national information requirements**, and the **Local information requirements (Local List)**. Most minor applications will be validated within 3 to 5 working days from the date of receipt and most major applications within 10 working days.

Invalid applications

Where an application does not contain all the information listed in the **Statutory national information requirements** the application will be deemed invalid under the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2010, as amended. The applicant will be informed in writing the

requirements necessary to validate it. There is no right of appeal against the Council's decision to invalidate the application; any challenge to the decision must be made through a judicial review.

Where an application does not include information (in sufficient detail) listed in the **Local information requirements (Local List)** that the Council considers should be provided, then the application will be treated as invalid and the applicant will be informed in writing what information is required to validate the application. In the event of a disagreement with the Council, the applicant may submit a written justification (using an Article 10A Notice, which may be submitted at any time during the course of the application) explaining why the information requested is not required in the particular circumstances of their application. The Council will consider any written justification and either agree that the information is not required and validate the application or invalidate the application where it can be demonstrated that the additional information **is** necessary to determine the application. If the dispute cannot be resolved the applicant has the right of appeal against non-determination on grounds of invalidity once the 8/13 week determination period has elapsed. The Planning Inspectorate will determine these cases.

Electronic submission

The County Council's preferred method of receiving applications is electronically via the Planning Portal.

The national standards for on-line submission of electronic planning documents are as follows:

Maximum single file size is 5 Mbytes;

Maximum 25 Mbytes file size (the sum of all document file sizes). Where these maxima are exceeded the information should be submitted off-line using CDROM/DVD;

Portable Document Format (PDF) is the recommended file format to ensure that they are accessible to consultees;

All drawings shall be saved in a single layer;

All drawings shall specify the printing page size for which the scale applies;

All drawings shall be correctly orientated for on-screen display

All drawings shall include a scale bar and key dimensions;

All documents and drawings shall be named in accordance with the Royal Institute of British Architects' naming conventions.

Scanned documents must be a minimum of 200 dpi resolution for black and white and 100 dpi for colour;

All photographs in PDF file format and no larger than 15 cm x 10 cm.

Information required for planning applications

Part One- Statutory national information requirements) that must be submitted with all applications, and

Part Two- Local information requirements (Local List) that must be submitted with planning applications depending on their type and scale.

Part One- Statutory national information requirements

The following forms, plans and information are compulsory and **must** be submitted with all applications unless otherwise stated.

The planning application form: Planning applications should be submitted electronically via the Planning Portal at www.planningportal.gov.uk. If you prefer to submit paper copies please provide one original, plus 3 additional copies. All applications

(except those for Minerals applications) must be made on the standard planning application form (1APP). Forms must be signed and dated with all relevant sections completed. All planning application forms, including Minerals forms, are also available to download at www.nottinghamshire.gov.uk.

The application fee: cheques should be made payable to "Nottinghamshire County Council". See Nottinghamshire County Council or Planning Portal websites for current fee schedule and exemptions. The Planning Portal's fee calculator can be used to calculate the correct fee.

Ownership certificates: A completed, signed and dated ownership certificate A, B, C or D confirming the ownership of the application site. These certificates are part of the standard 1APP form. For this purpose an 'owner' is anyone with a freehold interest, or leasehold interest the unexpired term of which is not less than 7 years. A notice to owners of the application site must be completed and served in accordance with Article 11 of the Development Management Procedure Order (DMPO), 2010.

Agricultural Land Declaration: A completed, signed and dated Agricultural holdings certificate should be submitted whether or not the site includes an agricultural holding. All agricultural tenants must be notified prior to the submission of the application. This certificate is not required if the application is for reserved matters, renewal of a temporary planning permission, or for the discharge or variation of conditions, a lawful development certificate or a non-material amendment to an existing planning permission.

Location plan: Unless submitted electronically, the original, plus three copies of the location plan are required. The County Council will require 8 copies for all minerals and waste applications for consultation purposes. The location plan should be at a scale of 1:1250 or 1:2500, based on a metric, OS map, indicate north point and give a drawing reference number. In exceptional circumstances, such as a development covering a large area, location plans of a smaller scale may be more appropriate to enable the application site to be identified. The application site should be edged clearly with a red line. It should include all land necessary to carry out the proposed development – for example, land required for access to the site etc. A blue line should be drawn around any other land owned by/under the control of the applicant, close to or adjoining the application site. The location plan should wherever possible show at least two named roads, surrounding buildings and features.

Site Plan: Unless submitted electronically the original, plus three copies of the site plan should be submitted at an appropriate scale for the development proposed. Plans should accurately show the direction of North and the proposed development in relation to the site boundaries and other existing buildings, with written dimensions including those to the boundaries. The site plan should also show the following, unless these would NOT influence or be affected by the proposed development; all the buildings, road and footpaths adjoining the site including access arrangements, all public rights of way, the position of all trees on the site and those on the adjacent land, the extent and type of any hard surfacing and any boundary treatment.

Other plans: Unless submitted electronically the original plus 3 copies of all other plans, the County Council will require 8 sets of plans for all minerals and waste applications. For details of specific plans required see the Guidance notes accompanying the planning application forms. This will vary according to the type of development proposed. All

plans should be at an appropriate scale and include a unique drawing reference number and a title. Plans which state do not scale are not acceptable.

Updated and superseded plans: If plans or supporting documentation submitted via the Planning Portal need to be replaced, the updated document should be clearly labelled and the County Council informed of the replacement document.

Design and Access Statement: A Design and Access Statement (DAS) must accompany applications for all **major*** developments (*as defined by the Development Management Procedure Order, 2010 see the definition towards the end of this document) excluding those for waste development and mining operations. A DAS is also required for applications in Conservation Areas where the floor space created is 100sqm or more.

Design and Access Statements should explain the design concepts and principles that have been applied to the proposed development and demonstrate how context has informed the scheme. Statements should also explain the approach to access and state how any consultation on access issues have been taken into account. (refer to article 8 of the Development Management Procedure Order, Amendment 2013 -SI 1238, for full details of DAS submission requirements). The level of detail required in a statement will depend on the scale and complexity of the application.

Further information

Town and Country Planning (Development Management Procedure) (England) Order 2010, and subsequent amendments

National Planning Policy Framework

DCLG: Guidance on information requirements and Validation, March 2010, and Streamlining the Planning Application Process- Government consultation Jan 2013 and Response June 2013

www.nottinghamshire.gov.uk, www.planningportal.gov.uk and www.communities.gov.uk

Part Two Local information requirements (Local List)

In addition to the national requirements above, the list below sets out further information and assessments that must be submitted with planning applications depending on their type and scale. This information is required to enable the validation of the application. As requirements will vary from case to case you are advised to contact us at an early stage if you are unsure about what information you will need to submit.

If not submitted electronically the original, plus 3 additional copies of all documents should be submitted, although more copies may be requested where a significant amount of consultation is to be carried out. All sections include references where further guidance may be found.

[A checklist is attached which should be completed and submitted with your application identifying the information that has been provided.]

1. Supporting Planning Statement

A statement required for **all** applications explaining the need for the proposed development and demonstrating how it complies with policies in the Development Plan and other relevant documents. Where a proposal does not comply with policy a statement must be provided to justify the need or set out overriding reasons as to why the proposal should go ahead. It should also include details of any consultation with Development Management or other County Council officers and wider community/statutory consultees undertaken prior to submission.

2. Environmental Statement

An Environmental Statement will be required if your proposal is likely to have significant effects on the environment. The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 require a developer to prepare an Environmental Statement for all Schedule 1 projects and some Schedule 2 projects. For detailed guidance, including indicative criteria and thresholds for proposals requiring environmental assessment, see documents listed below. A “screening opinion” can be obtained from the County Council as to whether the proposed development falls within the scope of the Regulations. The Regulations provide a checklist of matters to be considered for inclusion in the Environmental Statement and require the applicant to describe the likely significant effects of a development on the environment and to set out the proposed mitigation measures. You are entitled to receive a “scoping opinion” as to the key environmental issues the Environmental Statement should cover. Early consultation with Development Management Officers is recommended prior to making your application.

Further information

The Town and Country Planning (Environment Impact Assessment) Regulations 2011

Circular 02/99 Environmental Impact Assessment

www.gov.uk

3. Transport Assessment

A Transport Assessment (TA) will be required for all major developments (see definition at end of this document) and any other application where the proposed development has significant transport implications. The coverage and detail of the TA should reflect the scale of the development and the extent of the traffic implications. Information should include all existing and proposed vehicular and pedestrian movements to and from the site. Loading areas and arrangements for

manoeuvring, servicing and parking of vehicles should also be clearly identified. The assessment should describe and analyse existing transport conditions and explain how the development would affect those conditions and measures proposed to overcome any problems. A sustainable approach to transport should be explored for all proposals and the TA should give details of proposed measures to improve access by public transport, walking and cycling.

For smaller developments such as school extensions a TA might still be required because thresholds are not solely based on the size of the proposed development but also the sensitivity of the location; for example development which is likely to increase accidents or conflicts among motorised and non-motorised users, particularly vulnerable road users such as children, people with disabilities and elderly people. Government guidance on the indicative thresholds for carrying out transport assessments has been published by the Department for Transport. Applicants should submit details of employee numbers, an assessment of accessibility by non-car modes and an estimate of both vehicle and cycle parking spaces prior to the submission of an application in order that the County Council can advise on the level of assessment required.

Further information

The National Planning Policy Framework – Promoting Sustainable Transport (paras 29 – 41).

Guidance on Transport Assessment, - March 2007 published by the DfT

Highways 6C Design Guide – November 2011, updated 2012 and 2013
www.nottinghamshire.gov.uk

4. Draft Travel Plans

Where a development will generate a significant amount of movement a travel plan should be provided (NPPF para. 36). A travel plan is a long term management strategy that seeks to deliver sustainable transport objectives. It will normally be prepared alongside the transport assessment (see above). Draft Travel Plans should outline the way in which transport implications of the development are going to be managed in order to ensure the minimum environmental, social and economic impacts. The draft travel plan should have a strategy for its implementation that is appropriate for the development proposal under consideration. It should identify the travel plan coordinator, the management arrangements and the timetable of the plan.

School Travel Plans will be required for all planning applications involving new schools or significant extensions to existing schools - these should address parent, staff and pupil parking as well as vehicular and pedestrian access. For minerals and waste developments details to be submitted should include the amount of traffic movements that will occur during operating hours etc.

Further information

The National Policy Planning Framework (as above)

Using the planning process to secure Travel plans: Best Practice Guidance for local authorities, developers and occupiers - ODPM and DfT, 2002.

School Travel Plan officers, Road Safety Team, Environment and Resources Department, Nottinghamshire County Council.

5. Planning Obligations – Draft Heads of Terms

Where relevant, the draft heads of terms for a Section 106 agreement or unilateral undertaking should be provided with the submission of the planning application. Applicants should specify the County Council's requirements as established in any pre-application discussions.

Further information

National Planning Policy Framework – Planning Conditions and Obligations (paras 203 – 206)

Planning Obligations: Practice Guidance – July 2006 www.gov.uk

The Planning Inspectorate Advice Note 16 – Submitting Planning Obligations
www.planningportal.gov.uk

6. Flood Risk Assessment

Flood Risk Sequential Test

The NPPF states that development should not be permitted if there are reasonably available alternative sites appropriate for that development in areas at a lower risk of flooding.

Where a site has not been allocated, or sequentially tested by the Local Planning Authority, it is the responsibility of the developer in consultation with the LPA to demonstrate that the Sequential Test is passed. The requirements for the flood risk sequential test are set out in paragraphs 3 and 5 of the NPPF Technical Guidance.

Planning applications for proposals for new development in Flood Zones 2, 3a and 3b and for proposals of 1 hectare or greater in Flood Zone 1 should be accompanied by a Flood Risk Assessment (FRA). Information about these zones and their implications for development can be found in the Technical Guidance to the National Planning Policy Framework and on the Environment Agency's website. The FRA should identify and assess all forms of flooding to and from the development and demonstrate how these flood risks will be managed now and in the future, taking climate change into account.

Where a FRA is required this should be prepared by the applicant in consultation with the Local Planning Authority, the Environment Agency **and Internal Drainage Board where appropriate.**

Further information

National Planning Policy Framework – Meeting the Challenge of Climate Change, Flooding and Coastal Change (paras 93 – 108).

Technical Guidance to the National Planning Policy Framework – Flood Risk (paras 2 – 19).

Flood Risk Standing Advice - www.environment-agency.gov.uk

Association of Drainage Authorities - www.ada.org.uk/

7. Land Contamination Survey

A desktop survey to establish the extent of contamination and proposed remedial works will be required in support of all planning applications involving sites which have previously been used for industrial purposes, landfill or other potentially contaminating uses. Where contamination is known to exist more detailed investigation will be required this should be able to demonstrate whether the site is suitable for the proposed use taking into account pollution from previous uses and any measures for mitigation.

Further information

National Planning Policy Framework – Conserving and enhancing the natural environment (paras 120 – 122)

Landscape and Reclamation Team – Environment and Resources Department, Nottinghamshire County Council.

A guide to developing land in Nottinghamshire – 2009

8. Tree Survey/Arboricultural Implications

Where a proposal involves works that affect any trees or hedgerows within the application site, the position, species, spread and roots of trees should be illustrated accurately on the site plan. This must indicate any trees which are to be felled or are otherwise affected by the proposed development. For large scale proposals, or those on sites with significant tree coverage, it may be appropriate to submit further information during the course of the application following a detailed tree survey. The location of any trees within adjacent sites, including street trees, which may be affected by the application, should also be shown. Information will be required on which trees are to be retained and on the means of protecting these trees during construction works. This information should be prepared by a suitably qualified and experienced arboriculturist.

The felling of trees (thresholds apply) could constitute “deforestation” under the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999 (Statutory Instrument No. 2228/1999) for which the Forestry Commission is the competent authority, and may therefore require consent from the Forestry Commissioners. For further advice refer to the guidance issued by the European Commission in 2008 as detailed below.

Further information

BS5837; “Trees in relation to design, demolition and construction”, 2012

Nottinghamshire County Council - Tree Conservation and Maintenance Policy- July 2000

EIA Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment 2008-022

Forestry Commission East and East Midlands Area, www.forestry.gov.uk/midlands

Natural England’s Standing Advice on Species Protection and standing advice tools, www.naturalengland.org.uk/

9. Heritage Impact Assessment

A Heritage Impact Assessment should be submitted with all proposals affecting Heritage assets. ‘Heritage Assets’ include Listed Buildings, Conservation Areas, and Scheduled Ancient Monuments, Registered Parks and Gardens and sites of Archaeological Interest and assets identified by the local planning authority.

The Heritage Impact Assessment should describe the significance of the heritage asset affected, including any contribution made by its setting and the effect of the development on the asset. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the Nottinghamshire Historic Environment Record should have been consulted along with specialist officers at the County Council and at the relevant District Council.

Further information

National Planning Policy Framework – Conserving and enhancing the historic environment (paras 126 – 141)

PPS5 Practice Guide (PPS5 itself now replaced by NPPF)

DETR Circular 01/2001.

Conservation Officers – Nottinghamshire County Council and relevant District Council.

www.english-heritage.org.uk

10. Archaeological Assessment

Applicants submitting proposals on sites of archaeological interest will be required to undertake an archaeological assessment and where necessary carry out further archaeological investigations to allow the significance of the archaeology, as well as the impact of the development, to be understood. The results of this work will need to be included in the Heritage statement submitted with the application. The level of assessment required will depend on the archaeological sensitivity of the site. Advice should be sought from Archaeological Officers at the County Council. Documentation to support the application must be submitted in accordance with policy advice set out in the National Planning Policy Framework and PPS5 Practice Guide.

Further information

National Planning Policy Framework – Conserving and enhancing the historic environment (paras 126 – 141).

PPS5 Practice Guide

Archaeological Officer – Nottinghamshire County Council.

www.english-heritage.org.uk

11. Biodiversity and Geodiversity Assessment

Where a proposed development may have potential impacts on biodiversity and/or geodiversity, an assessment of these potential impacts should be carried out. For major development, this should take the form of an Ecological Impact Assessment (EclA).

Such assessments should include a desktop study (to include consultation with the Nottinghamshire Biological and Geological Records Centre) and the results of surveys to determine the presence/absence of notable habitats, protected species or species of principle importance for the conservation of biodiversity in England. Such work must be undertaken by a suitably qualified person, following nationally recognised guidelines.

When considering impacts on biodiversity and/or geodiversity, consideration should be given to both direct impacts (such as habitat loss) and indirect impacts (such as changes to hydrology, air quality, noise and disturbance). Where proposals include mitigation and/or compensation measures, information to support those measures will be needed. Proposals should seek to provide ecological enhancements wherever possible, and make provision for the maintenance and management of retained or created biodiversity/geodiversity features.

In addition, where proposals have the potential to affect a Special Area of Conservation or a Special Protection Area, then a Habitats Regulations Assessment (HRA) must also be undertaken.

For further advice please contact the County Council's Conservation Team.

Where appropriate, early consultation with Natural England is recommended, including use of the agency's Discretionary Advisory Service (DAS), together with its standing advice and detailed guidance.

Further information

National Planning Policy Framework – Conserving and enhancing the natural environment (paras 109 – 125).

Circular 06/2005 Biodiversity and Geological Conservation- Statutory obligations and their impact within the planning system and the accompanying guide- Planning for Biodiversity and Geological Conservation: A Guide to good practice 2006)

BSI: PAS 2010 Planning to halt the loss of Biodiversity

*Association of Local Government Ecologists: **Template for Biodiversity and Geological Conservation Validation checklists**, www.alge.org.uk*

Natural England - www.naturalengland.org.uk/

Nottinghamshire Wildlife Trust www.wildlifetrust.org.uk/nottinghamshire

DEFRA, <http://guidanceanddata.defra.gov.uk/habitats-regulations-assessments/>

12. Noise Assessment

A Noise Impact Assessment should be submitted with all applications for potentially noisy developments and uses where these are likely to raise issues of disturbance to the occupants of nearby existing buildings. Proposals for noise sensitive uses close to existing sources of noise should also be accompanied by a Noise Impact Assessment. These should be prepared by a suitably qualified acoustician and should include information on existing and proposed noise levels (including night-time noise levels where relevant) and where appropriate should recommend a scheme of measures to mitigate noise impact. Guidance is provided in the National Planning Policy Framework with specific guidance for minerals development, which can often be used to assess the noise impacts of waste development, in the Technical Guidance to the National Planning Policy Framework.

Further information

National Planning Policy Framework – Facilitating the Sustainable Use of Minerals (paras 142 – 149) and para 123.

Technical Guidance to the National Planning Policy Framework – Noise Emission (paras 28 – 31).

BS4142 Method for rating noise affecting mixed residential and industrial areas 1997.

Noise Policy Statement for England, DEFRA 2010

Environmental Protection Act 1990.

13. Air Quality Assessment

Proposals that impact on air quality or are potential pollutants should be supported by an air quality assessment indicating the change in air quality resulting from the proposed development and outlining appropriate mitigation measures. Specific guidance on the impacts of dust emissions from minerals development, which can often be used to assess the dust impacts of waste development, is provided in the Technical Guidance to the National Planning Policy Framework.

Further information

National Planning Policy Framework– Conserving and Enhancing the Natural Environment (paras 109 – 125).

Technical Guidance to the National Planning Policy Framework – Dust Emissions (paras 23 – 27).

A Breath of Fresh Air for Nottinghamshire- Nottinghamshire Environmental Protection Working Group, 2008.

District Council Environmental Health Officers.

Air Pollution Information Service (APIS) www.apis.ac.uk

14. Sunlighting / Daylighting / Lighting Assessment

Sun lighting/day lighting assessments are to be undertaken and submitted for all applications where there is a potential adverse impact upon current levels of sunlight/daylight enjoyed by adjoining properties or buildings, including their gardens or amenity space.

Where significant external lighting is proposed as part of a development (for instance, floodlighting of a multi-use games area) the application must include a layout plan with beam orientation, a schedule of the proposed equipment and the proposed measures to reduce any impact on neighbouring sites/properties.

Further information

British Research Establishment (BRE): Site layout planning for daylighting and sun lighting; a guide to good practice 2011

Lighting in the countryside; Towards good practice (1997)

15. Statement of Community Involvement

Where relevant, applications need to be supported by a statement detailing how the requirements for pre-application consultation set out in the Council's adopted Statement of Community Involvement Review has been met. In particular this should demonstrate that the views of the local community have been sought and taken into account in the formulation of development proposals.

Further information

Nottinghamshire County Council Statement of Community Involvement Review – adopted April 2013 (see www.nottscc.gov.uk)

16. Sustainability Appraisal

A statement, proportionate to the scale of the proposal should be submitted for **all** applications setting out the three dimensions to sustainable development; economic, social, and environmental (see NPPF para.7). It should include details of where a development will create jobs, lead to a net gain for nature, deliver better design and improve living conditions. Where relevant, the statement should consider ecology and biodiversity considerations, choice of construction materials, sustainable drainage systems, sustainable waste management, energy consumption - minimisation, supply and generation as well as any other relevant sustainability issues.

Further information

National Planning Policy Framework – Achieving Sustainable Development (paras 6 – 16).

17. **Rights of Way (footpaths, bridleways and byways)**

Proposals which affect a public right of way, even temporarily during construction phases, within or adjacent to the application site should indicate this on the submitted plans. A statement should be submitted outlining the details, including, where appropriate, the steps to be taken to comply with any legal requirement to stop up or divert the right of way. Early consultation with the County Council's Countryside Access Team is advisable.

Further information

*Countryside Access Team, NCC (countrysideaccess@nottscc.gov.uk).
Nottinghamshire County Council: Rights of Way Improvement Plan- 2007*

18. **Landscape and Visual Impact Assessments (LVIAs)**

Landscape and Visual Impact Assessments should be provided for all major developments which are subject to the Environmental Impact Assessment process and for all other development which, in the view of Nottinghamshire County Council, are likely to result in significant adverse effects on the landscape or visual amenity. This applies to applications in both rural and urban settings. This assessment should include photographs and/or photomontages as appropriate. Early consultation with the County Council's Landscape and Reclamation Team **and Natural England** is advisable.

Further information

"Guidelines for Landscape and Visual Impact Assessments" The Landscape Institute and Institute of Environmental Management and Assessment, April 2013

Landscape Institute Advice Note 01/11: Photography and photomontage in Landscape and visual impact assessment.

EIA Regulations, 2011

Landscape and Reclamation Team, Nottinghamshire County Council

*Natural England's **website (in particular sections on Landscape, National character Areas, Accessible Green Space Standards and Linking People with their natural environment)** – www.naturalengland.org.uk*

DEFRA: Construction Code of Practice for the Sustainable Use of soil on development sites

19. **Land Stability/Coal Mining Risk Assessment**

Planning applications for proposals involving built development or disturbance to the ground in Development High Risk Areas, as defined by the Coal Authority, and held electronically by the Local Planning Authority, should be accompanied by a Coal Mining Risk Assessment. Further information can be found on the Coal Authority website including an interactive map showing the extent of the referral area and the information required for inclusion in the Coal Mining Risk Assessment. If the development is subject to the Environment Impact Assessment process it is suggested that the Coal Mining Risk Assessment should be incorporated into the Environmental Statement.

Further information

National Planning Policy Framework - Conserving and enhancing the natural Environment.

Coal Authority website: www.coal.decc.gov.uk/services/planning

Coal Authority Planning and Local Authority liaison email

planningconsultation@coal.gov.uk

British Geological Survey: www.bgs.ac.uk

Definitions

Definition of major applications, (based on Town and Country Planning (Development Management Procedure) (England) Order 2010), development involving:

- the winning and working of minerals or the use of land for mineral-working deposits;
- waste development (i.e. operational development designed to be used wholly or mainly for the purpose of, or material change of use to treating, storing, processing or disposing of refuse or waste materials);
- the provision of a building or buildings where the floor space to be created by the development is 1,000 sq. metres or more; or
- development carried out on a site having an area of 1 hectare or more.

Definition of large-scale major applications, (based on DCLG Guidance issued August 2007 and DCLG Consultation on Planning Performance Agreements issued May 2007), development involving:

- provision of a building where the floor space to be created is 10,000m² or more,

Contacts

Further information and advice is available from the Development Management Team on 0300 500 80 80 or development.management@nottsc.gov.uk

Useful websites: www.nottsc.gov.uk and www.gov.uk

CHECKLIST**Planning Application address:**

	Yes	No	Notes/why information is not required for this application
• Essential Information as required by Part One			
1. Supporting Planning Statement			
2. Environmental Statement			
3. Transport Assessment / TAPA			
4. Draft Travel Plan			
5. Planning Obligation – Draft Heads of Terms			
6. Flood Risk Assessment			
7. Land Contamination survey			
8. Tree Survey/Arboricultural implications			
9. Heritage Statement			
10. Archaeological Assessment			
11. Biodiversity and Geodiversity Assessment			
12. Noise Assessment			
13. Air quality Assessment			
14. Sun lighting/day lighting/lighting Assessment			
15. Statement of Community Involvement			
16. Sustainability Appraisal			
17. Rights of Way			
18. Landscape and Visual Impact Assessments			
19. Land stability/ Coal Mining Risk assessment			

Please return this checklist with your planning application confirming which documents have been submitted.

SUMMARY OF RESPONSES TO CONSULTATION

Appendix B

Consultee	Summary of comments	Council's response	Proposed action / amendment to Validation Guidance
Anglian Water	Welcomed the opportunity to comment and confirmed that they have no comments to make.	Comments noted	No changes proposed
Environment Agency	<p>Requested that the following requirement be added to the Local List:</p> <p><i><u>Flood Risk Sequential Test</u></i> <i>The NPPF states that development should not be permitted if there are reasonably available alternative sites appropriate for that development in areas at a lower risk of flooding. Where a site has not been allocated, or sequentially tested by the Local Planning Authority, it is the responsibility of the developer in consultation with the LPA to demonstrate that the Sequential Test is passed. The requirements for the flood risk sequential test are set out in paragraphs 3 and 5 of the NPPF Technical Guidance.</i></p>	Request noted	Insert new wording within section 6 headed Flood Risk Assessment.
Marine Management Organisation	Welcomed the opportunity to comment and confirmed that they have no comments to make.	Comments noted	No changes proposed

SUMMARY OF RESPONSES TO CONSULTATION

Appendix B

<p>NCC- Property Group</p>	<p>Confirmed the Property Group has no adverse comments to make.</p>	<p>Comments noted</p>	<p>No changes proposed</p>
<p>Forestry Commission</p>	<p>Advised that the text does not make it clear around the issue of afforestation and deforestation and the process for an EIA (forestry). They added the felling of trees (thresholds apply) could constitute “deforestation” under the Environment Impact Assessment (Forestry) (England and Wales) Regulations 1999 (SI No. 2228/1999) for which the Forestry Commission is the competent authority, and may therefore require consent from the Forestry Commissioners. Their comments relate to Section 2 Environmental Statement and 8. Tree survey/ Arboricultural Implications.</p>	<p>Comments noted</p>	<p>New text added to the Guidance within section 8 headed Tree survey/ Arboricultural Implications to cover these comments. Also Forestry Commission details listed as a contact for further advice within the same section.</p>
<p>Natural England</p>	<p>Welcomed the opportunity to comment on the Guidance Note and provided a very comprehensive response. Their comments and requests for additional information related to pre-application advice, and Sections 8 - Trees, 11 - Biodiversity and Geo-diversity Assessments, 13 - Air Quality Assessments and 18 - Landscape</p>	<p>Their comments and request for additional information noted. To ensure consistency with the remainder of the Validation Guidance it is not considered to be appropriate to include all of Natural England’s points in the level of detail set out in their</p>	<p>New text added, including sources of advice inserted into Sections 8, 11, 13 and 18 of the Validation Guidance, as well as reference to ensuring consultation with Natural England during all stages of planning application process,</p>

SUMMARY OF RESPONSES TO CONSULTATION

Appendix B

	and Visual Impact Assessment, as well as comments regarding Protection of Soil, Green Infrastructure and Priority Habitat.	response.	including reference to their new Discretionary Advice Service.
Trent Valley Internal Drainage Board	Commented on Section 6- Flood Risk Assessment, recommended that where FRAs are required they should be prepared in consultation with the Internal Drainage Board (IBD) in addition to the Local Planning Authority and the Environment Agency. Further information relating to IBD's can be found on the Association of Drainage Authorities website.	Comments noted	New text added to Section 6 as suggested, including website address added to the further information section.
West Stockwith Parish Council	Commented that the consultation was discussed at the Parish Council meeting and agreed that the Council support this proposal with no major comments to add.	Comments noted	No changes proposed.
Erewash Borough Council	Commented that having reviewed the proposed new version of the Guidance confirm that the Borough Council has no comments to make.	Comments noted	No changes proposed.
The Coal Authority	Expressed concern that the Validation Guidance does not include provision for addressing issues relating to coal mining legacy and any resulting land instability. The Coal Authority suggested that a Coal Mining Risk Assessment should be	Their comments and request for additional information noted.	New section 19 added on land stability requiring the submission of Coal Mining Risk Assessments with all appropriate applications within the defined

	<p>submitted with all applications (certain exemptions apply) within the defined Development High Risk Areas as defined by the Coal Authority.</p>		<p>Development High Risk Areas.</p>
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