

Meeting:	Executive Member for Housing, Planning and Safer Neighbourhoods Decision Session
Meeting date:	04/12/24
Report of:	Claire Foale, Interim Director for City Development
Portfolio of:	Cllr. M Pavlovic, Executive member for Housing, Planning and Safer Neighbourhoods

Decision Report: Proposed consultation on draft validation checklist

Subject of Report

1. City of York Council is a Local Planning Authority (LPA) and has responsibility for planning within the authority area. One of the technical documents that the LPA should publish is a validation list which clarifies the locally defined requirements when submitting applications of a particular type, scale or location. These local validation lists should be consulted on prior to use and should be reviewed every two years.
2. CYC has not got an up-to-date validation list. To rectify this, officers have drafted, and internally consulted on, a validation list which reflects the policies in the Local Plan and current national policy; we are now seeking the Executive Member's consent to consult on this draft and subsequently to progress to its formal publication on the website in line with legislation.

Benefits and Challenges

3. The publication of an up-to-date local validation list is a requirement of the National Planning Policy Framework (NPPF). Without one, the LPA has no basis for making locally specific validation requirements on planning applications and there is a risk that applicants will refuse to provide information related to Local Plan requirements with their planning applications leading to delays in validation and assessment of applications.

4. The key benefit of a validation list is that it provides clarity of expectations and should lead to better quality planning applications that reflect the requirements of the policies within the Local Plan. With the correct information provided upfront there should be efficiency savings for the Council when dealing with planning applications.
5. The Executive Member is asked to approve that the draft validation list is published for public consultation. This will take place in accordance with a consultation strategy as detailed in the draft Statement of Community Involvement (SCI) and agreed by the Director of City Development. There are no significant risks associated with the public consultation, which should also help to identify any weaknesses or potential areas of conflict within the document thereby avoiding future risk.
6. As the requirements in the validation list arise from the policy requirements of the Local Plan there have been delays in bringing the list forward due to uncertainty relating to the exact wording of Local Plan policies. The Inspectors' Report on the Local Plan is expected imminently and it now seems appropriate to progress the validation list on the basis of the modified draft policies. Any changes the validation list, resulting from changes in Local Plan policies as required by the Inspector, are suggested to be dealt with via delegated authority to the Director of City Development prior to consultation.

Policy Basis for Decision

7. A validation list provides guidance on the national validation requirements for planning applications as set out in the Development Management Procedure Order 2015 (as amended). It also identifies local information requirements arising from the policies contained within the City of York Local Plan.
8. Paragraph 44 of the NPPF provides that "Local planning authorities should publish a list of their information requirements for applications for planning permission. These requirements should be kept to the minimum needed to make decisions, and should be reviewed at least every two years. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question."

9. The National Planning Policy Guidance (NPPG) provides further information on local validation lists and clarifies that the list must be up-to-date and published on the LPA's website. The information requested must be reasonable having regard to the nature and scale of the proposed development, and about a matter which it is reasonable to think will be a material consideration in the determination of the planning application. These statutory tests are set out in [section 62 \(4A\) of the Town and Country Planning Act 1990](#) (inserted by the Growth and Infrastructure Act) and [article 11\(3\)\(c\) of the Town and Country Planning \(Development Management Procedure\) \(England\) \(Order\) 2015](#).
10. The Validation List requirements are based on the adopted policies set out in the Local Plan. York's Local Plan is in the final stages of Examination and is anticipated to be adopted early in 2025, subject to formal conclusion of the Examination process with the Inspector's Report.
11. The provision of an up-to-date validation list supports the Council Plan and 10 year strategies where delivery is reliant on timely decision-taking. This is particularly relevant for the Economic and Climate Change Strategies. It also relates to all of the core commitments in the Council Plan regarding Affordability, Environment, Equalities and Human Rights, and Health Inequalities in so far as the validation list supports the submission of policy compliant planning applications thereby supporting the implementation of the Local Plan, which is the spatial development plan for the city.

Financial Strategy Implications

12. The financial implications for this proposal relate to the costs associated with carrying out a public consultation on the draft validation list. These costs will be related to officer time in administering the consultation and costs for posting out notification of the consultation to interested parties.
13. Some of the costs will be offset by the development management officer time saved in dealing with fewer invalid applications and validation queries, and through better quality planning applications.

Recommendation and Reasons

14. Recommendations for the Executive Member are:
- i. To agree to carry out a public consultation, in accordance with the draft SCI, on the draft validation list;
 - ii. To delegate authority to the Director of City Development to agree any minor changes to the validation requirements arising from any changes to the Local Plan required by the inspectors pre-consultation and arising from representations received during the public consultation;
 - iii. To delegate authority to the Director of City Development to agree a consultation strategy;
 - iv. To delegate authority to the Director of City Development to publish the final version of the validation list on the CYC website;
 - v. To delegate authority to the Director of City Development to authorise minor changes to the validation list in the future to reflect national or local policy changes.

Reason: To allow a regulatory compliant Validation List to be published

Background

15. A validation list is a technical planning document which identifies the supporting information that is required with a planning application; submissions which do not include the required information can be invalidated as they do not include the necessary information for the LPA to determine the application.
16. The NPPG details that the drivers for requirements on the local list should be statutory requirements, policies in the NPPF or development plan or published guidance that explains how adopted policy should be implemented. The draft list should be subject to consultation with the local community including applicants and agents. Once consultation is complete, responses should be taken into account when preparing the final list which should be published on the LPA's website.
17. Planning applications should be determined within a statutory timeframe (usually 8, 13 or 16 weeks) from the point at which the application is validated. Without an up-to-date local validation list, an application only needs to meet the basic national requirements to be validated, meaning that significant time can be lost within the determination period in negotiating the submission of additional

supporting information. Given the tight timescales involved this puts CYC at a disadvantage currently in determining applications within statutory timeframes, and at increased risk of non-determination appeals.

18. It is recognised that the draft validation list gives the LPA the authority to invalidate applications where necessary, but also they retain the discretion to validate any application even when all the local requirements have not been included. Individual circumstances may render certain requirements inappropriate, or it may be considered acceptable to validate an application pending further information in order to expedite delivery of the project.
19. As set out para 9, the Local Plan policies are the basis for the requirements set out in the validation list. This has resulted in a comprehensive list of documents to submit for different types of applications which will provide more certainty in terms of expectations for applicants and Development Management in processing submitted applications. The Validation List covers all policies in the Local Plan, where applicable.

Consultation Analysis

20. The draft validation list has been subject to internal consultation with technical officers. Their comments have been incorporated into the document which reflects the most up-to-date national and local planning policy position.
21. To carry full weight, the NPPG is clear that the document must also go out to public consultation, although details for this consultation are not defined in legislation. It is proposed that, in accordance with the draft Statement of Community Involvement (SCI), a consultation strategy is developed and approved by the Director of City Development. This consultation is likely to be of 6 weeks duration and citywide to ensure an opportunity for all interested parties to submit comments.
22. Following public consultation, the comments will be reviewed and the Validation List will be updated as necessary. We have recommended that these changes are approved via delegated Officer Decision to the Director of City Development.

Options Analysis and Evidential Basis

23. The options considered were:
 - i. To prepare and implement a local Validation List based on York's Local Plan policy;
 - ii. To continue without a local validation list, with planning applications validated only on national requirements.
24. Option ii was rejected as it would not result in the benefits highlighted above. Option i is likely to result in clarity for applicants regarding requirements for meeting local policies, better quality applications submitted and an efficiency in processing of applications.

Organisational Impact and Implications

25. The implications of implementation of a local validation list are predominantly in relation to stream-lining development management processes as highlighted above. The potential for better quality applications and therefore development is also noted. All of these factors will contribute to a more effective delivery of the development identified within the Local Plan.
26. **Financial:** Financial costs are associated with consultation.
27. **Human Resources (HR):** There are no implications arising from the consultation on, and implementation of, a validation list.
28. **Legal:** Section 62(4A) of the Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act) and article 11(3)(c) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015 set out the statutory tests which information requested with a particular planning application must meet.

In addition, the NPPG sets out the recommended process for reviewing, consulting on and revising local lists, as set out in the body of the report.
29. **Procurement:** There are no implications arising from the consultation on, and implementation of, a validation list.
30. **Health and Wellbeing:** There are no direct implications arising from the consultation on, and implementation of, a validation list, other

than ensuring receipt of relevant information for health and well-being in accordance with policy.

31. **Environment and Climate action:** There are no direct implications arising from the consultation on, and implementation of, a validation list, other than ensuring receipt of relevant information for environment and climate action in accordance with policy.
32. **Affordability:** There are no implications arising from the consultation on, and implementation of, a validation list.
33. **Equalities and Human Rights:** The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions).
An EQiA produced (Annex A) shows that there are no implications resulting from the consultation on, and implementation of, a validation list.
34. **Data Protection and Privacy:** The completion of the data protection impact assessment (DPIA) screening questions evidenced there would be no processing of personal data, special categories of personal data or criminal offence data for the implementation of a validation list, which means there is no requirement to complete a DPIA.
35. **Communications:** A communications strategy is to be agreed ahead of consultation. This should be agreed with communications.
36. **Economy:** There are no direct implications arising from the consultation on, and implementation of, a validation list, other than ensuring receipt of relevant information for economy in accordance with policy.

Risks and Mitigations

37. The NPPG states that local information requirements have no bearing on whether a planning application is valid unless they are

set out in a formally adopted local validation list which has been published on the LPA's website less than 2 years before an application is submitted.

38. CYC does not have an up-to-date list and therefore has no basis for requiring any locally specific validation requirements with planning applications. Currently, where applicants refuse to provide requested validation information this can lead to delays in validation. Should the LPA insist on submission of local validation requirements, without an up to date local list, this could potentially result in a non-determination appeal.
39. The implementation of an up-to-date local validation list as proposed in this report would mitigate this risk.

Wards Impacted

40. All wards would be impacted.

Contact details

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Background papers

Statement of Community Involvement - Executive [Decision](#) 14 March 2024 and [Draft SCI](#)

Annexes

Annex A EIA Validation list report
Annex B Draft validation list

Abbreviations

NPPF National Planning Policy Framework
NPPG National Planning Policy Guidance
LPA Local Planning Authority
SCI Statement of Community Involvement