

## **REPORT TO EXECUTIVE**

Date of Meeting: 5 July 2022

Report of: Director of City Development

Title: Local Validation List

### **Is this a Key Decision?**

Yes

### **Is this an Executive or Council Function?**

Executive

## **1. What is the report about?**

1.1 Planning legislation allows local planning authorities to adopt Local Lists, documents which set out the supporting information they require for applications for planning permission, in addition to the standard national requirements of: application form/ownership certificate, location plan, other plans/drawings, fee, etc. If all or some of the supporting information on the adopted Local List is not provided, then local planning authorities can delay validating the application until the information has been provided. However, in order to carry statutory weight, Local Lists must be published or republished, following a review of the local requirements, every two years.

1.2 The Council's adopted Local List documents, which are on the Council's website, were published in 2010 and 2011, and therefore are out-of-date and no longer carry statutory weight. A 6-week consultation on a new Local List was carried out between 17 June and 29 July 2021. The comments received have been taken into account in a final Local List, which has been brought to Executive to be formally adopted.

## **2. Recommendations:**

It is recommended that Executive:-

- (1) Formally adopts the final Local List; and
- (2) grants delegated authority to the Director of City Development to amend the Local List from time to time to ensure that the national requirements are kept up to date in accordance with any new planning legislation or amendments to existing legislation, and the technical guidance in section 4.0 of Appendix C remains up to date.

Executive is asked to note that:

Any amendments to the list of local requirements in Section 3.0 of Appendix C will require consultation before they can be carried out. The Local List would be brought back to Executive for re-adoption in these circumstances.

### **3. Reasons for the recommendation:**

3.1 To request supporting information with planning applications, a local planning authority must publish on its website its requirements on a formally adopted local list less than 2 years before the application is submitted. Local information requirements have no bearing on whether a planning application is valid unless they are set out on such a list.

### **4. What are the resource implications including non financial resources?**

4.1 The drafting and consultation on the Local List have already taken place. The Local List should lead to better quality planning applications that can be dealt with more efficiently by the Council, although some further administrative work will arise should applicants not provide the required information.

4.2 The Local List might reduce the number of speculative planning applications received and corresponding planning fee income. At the same time they can be a tool to encourage new growth and development to come forward in accordance with the Council's corporate priorities.

### **5. Section 151 Officer comments:**

5.1 There are no direct financial implications for Council to consider arising from the report. However, Members should note the potential consequences set out in section 4.2 above.

### **6. What are the legal aspects?**

6.1 Section 62 of the Town and Country Planning Act 1990 allows local planning authorities to require that an application for planning permission must include:

- Such particulars as they think necessary; and
- Such evidence in support of anything in or relating to the application as they think necessary.

6.2 Article 11 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) states that the provisions of section 62 only apply if the local planning authority has published or republished a list of requirements on its website during the 2 year period immediately before the date on which the application is made, and the particulars or evidence fall within that list and they are:

- Reasonable having regard, in particular, 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 application.

### **7. Monitoring Officer's comments:**

7.1 The Deputy Monitoring Officer has no additional comments.

Simon Copper (Deputy Monitoring Officer)

## 8. Report details:

### Background

- 8.1 Local lists are technical planning documents which primarily serve to allow local planning authorities to invalidate planning applications that do not include all the necessary information required to determine them. This means that the statutory time period (normally 8, 13 or 16 weeks) will not begin as soon as the application has been received by the Council (provided the basic national requirements have been submitted), and at least part of this period will not be spent by officers negotiating with applicants to submit the further information required, which puts the Council at a disadvantage in meeting the statutory time periods – increasing the risk of non-determination appeals – and fulfilling the ‘planning guarantee’, i.e. the Government’s policy that all planning applications should be decided within 26 weeks, or a year including any appeal. It should also reduce the need for reconsultation when additional information is provided during the course of an application and the extra time/costs associated with this.
- 8.2 However, local lists are also useful documents in setting out a framework to base pre-application discussions on with developers. In addition, as is the case with the revised Local List, they can include guidance on how to prepare the supporting information, with links to relevant technical guidance and key contacts, which helps to reduce some of the workload placed on officers. They can also be used as a checklist by officers when validating applications, helping to speed this process up and improving team consistency.
- 8.3 It should be noted that whilst local lists provide the statutory authority to invalidate applications when this is considered necessary, the Council still has the discretion to validate applications even if they do not include all the local requirements on the list. The reasons for this maybe unique to the site or the proposal concerned, or where it has been agreed with the developer to validate an application early in order to help them to deliver the project, on the understanding that the necessary information will be submitted during the course of the application at a later date. This would most likely require an extension of time being agreed or a Planning Performance Agreement.
- 8.4 There is a formal mechanism that applicants can use if they do not agree that insufficient information has been submitted in order to validate their application. The applicant can submit an article 12 notice setting out the reasons why the information requested does not meet the statutory tests in article 34(6)(c) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) (see 6.2 above). Officers will consider the merits of this and either validate the application or issue a non-validation notice. In the case of the latter, if the application has not been determined within the relevant statutory time period, the applicant can appeal to the Planning Inspectorate against non-determination. However, officers will endeavour to resolve any validation disputes informally with the applicant. Pre-application discussions will mean that most validation disputes should be avoided.
- 8.5 Whilst officers have been operating without an up-to-date local list for several years and have therefore needed to validate planning applications on the basis of the national requirements alone, the Council’s positive approach to pre-application discussions with

developers has helped to ensure that in the main applications have been submitted with the necessary supporting information to determine them. However, this has not always been the case. The revised Local List has been prepared taking into account the key legislative/policy drivers since the current Local List documents were published, including: new/amended legislation, the National Planning Policy Framework (2021), the Core Strategy (2012) and the Devon Waste Plan (2014). It has also taken into account that the Council declared a climate emergency in July 2019. The intention will be to review the Local List as required when the 'drivers' for the items on it are changed and at least once every two years to ensure that it remains up-to-date and can be used to validate planning applications going forward.

### Consultation

8.6 The Consultation Draft of the Local List that was consulted on between 17 June and 29 July 2021 is attached at Appendix A. The consultation was for 6 weeks in accordance with the consultations charter. The Consultation Draft was published on the Council's website during this period. Electronic copies were sent to statutory and non-statutory consultees, and agents and developers who regularly submit applications in the City. The responses to the consultation and officer's comments are shown in the table at Appendix B.

### Final Local List

8.7 The comments received were taken into account in the final Local List, which is attached at Appendix C. This version also included national and legislative updates since the Consultation Draft was published.

## **9. How does the decision contribute to the Council's Corporate Plan?**

9.1 The decision to adopt the final Local List at Appendix C will support all the corporate priorities:

- Delivering Net Zero Exeter 2030
- Promoting active and healthy lifestyles
- Building great neighbourhoods
- Providing value for money services
- Leading a well-run council

## **10. What risks are there and how can they be reduced?**

- (1) There are minimal risks. Most local planning authorities have adopted local lists. The Local List must be reviewed and republished at least every 2 years to maintain its statutory weight. Therefore, it can be updated over time in order to take into account new statutory and policy/guidance 'drivers', such as the emerging Exeter Plan.

## **11. Equality Act 2010 (The Act)**

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal potential impact has been identified on people with protected characteristics as determined by the Act and an Equalities Impact Assessment has been included in the background papers for Member's attention.

## **12. Carbon Footprint (Environmental) Implications:**

12.1 There are no direct carbon/environmental impacts arising from the recommendations. However, the Local List includes a requirement for Sustainability/Net Zero Carbon Statements for major development proposals in order to minimise carbon emissions from these developments.

## **13. Are there any other options?**

13.1 The other option is to not adopt the Local List and continue to validate planning applications based on the national requirements only. However, this will mean that the benefits outlined in this report will not be met.

**Director of City Development, Ian Collinson**

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## **Local Government (Access to Information) Act 1972 (as amended)**

Background papers used in compiling this report:-

Equalities Impact Assessment – Local Validation List

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