

To: Planning & Regulatory Committee

Date: 20 December 2023

By: Planning Development Manager

District(s) All

Electoral Division(s): All

Case Officer: Jessica Darvill

Purpose: For Decision

Grid Ref: N/A

Title: SURREY COUNTY COUNCIL'S LOCAL LIST: REQUEST FORMAL ADOPTION OF LOCAL LIST FOR THE VALIDATION OF COUNTY DEVELOPMENT AND COUNTY MATTERS PLANNING APPLICATIONS

Summary Report

This report is to advise Members of the responses in regard to the recent consultation on the proposed Local List for the Validation of Planning Applications received by Surrey County Council (the "Local List") and the amendments that have been made as a result. The Local List is prepared by the County Planning Authority to clarify what information is usually required for applications of a particular type, scale or location.

Officers request that the committee formally adopt the revised and updated Local List allowing for periodic reviews of the Local List and for Officers to update technical notes, in engagement with relevant consultees, when and if required.

The recommendation is that members adopt the revised and updated Local List of Validation of County Development and County Matters Planning Applications and for this Local List to come into effect from 3 January 2024.

Introduction and Background

1. Section 62 of the Town and Country Planning Act 1990¹ ("the 1990 Act") "Applications for planning permission" sets out a number of provisions² relating to the making of a planning application and what information a Local Planning Authority considers necessary (including evidence) to be submitted in support of anything in or relating to the application as they think necessary³. Section 64(4) states that the requirement under 62(3) in respect of an application must be reasonable having regard, in particular, to the nature and scale of the proposed development; and may require particulars of, or evidence about, a matter only if it is reasonable to think that the matter will be a material consideration in the determination of the application."
2. Article 11 of the DMPO specifies, for applications seeking planning permission or permission in principle it must include: (a) the form and manner in which the application must be made; (b) particulars of such matters as are to be included in the application;

¹ [Town and Country Planning Act 1990 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

² Section 62(1) the making of an Order i.e. the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO2015)

³ Section 62(3) and 62(4) and 62(4A)

(c) documents or other materials to accompany the application alongside when a local planning authority must send an acknowledgement of an application. This includes at (e), receipt of the particulars or evidence required by the authority under section 62(3) of the 1990 Act. The receipt of particulars only applies if, before an application is made, the LPA publish or republish a list of requirements on their website (a Local List or a Validation Checklist), such list to be published or republished during the 2 year period immediately before the date on which the application is made. Further guidance on this, including consultation, is set out in the Planning Practice Guidance and in the NPPF at paragraph 44.

3. The Local List are lists of the information required for different types of applications. Paragraph 44 of the National Planning Policy Framework (NPPF) (2023) makes it clear that Planning Authorities should only request supporting information that is relevant, necessary and material to the application. Paragraphs 43 and 44 of the Planning Practice Guidance (PPG) (dated 2014)⁴ requires all planning authorities to review their Local List, consult on amended Local List and then adopt the amended Local List every two years.
4. The Local List prepared by a Local Planning Authority clarifies what information is required for applications of a particular type, scale or location. As well as reference to the up-to-date Local List, for particular planning applications further information may be requested. Information requested must be reasonable having regard to the nature and scale of the proposed development; and about a matter which is reasonable to think will be material consideration in the determination of the 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) 2015⁵.
5. On 27 November 2020 Surrey County Council formally adopted a Local List for the Validation of County Development and County Matters Planning Applications. The Planning Department has now reviewed and updated its Local List.

Process For Reviewing the Current Local List

6. The process undertaken for reviewing the current Local List is outlined below. The Local List affects all types of planning applications handled by the County Planning Authority including applications for express planning permission, Listed Building consent, variation of conditions, and extensions of time.
7. The recommended process for reviewing and revising Local Lists is outlined in the PPG: Making An Application paragraph 44⁶, involves the following 3-step process:

- ***Step 1: Reviewing the existing Local List***

Planning Authorities should identify the drivers for each item on their existing local list of information requirements. These drivers should be statutory requirements, policies in the National Planning Policy Framework or development plan, or published guidance that explains how adopted policy should be implemented.

Having identified their information requirements, Local Planning Authorities should decide whether they need to revise their existing local list. Where a

⁴ Paragraph references as follows; Paragraph 043 reference ID: 14-043-20140306; and Paragraph 044 reference ID: 14-044-20140306

⁵ Paragraph 040 reference ID: 14-040-20140306

⁶ Paragraph 044 reference ID: 14-044-20140306

Planning Authority decides that no changes are necessary, it should publish an announcement to this effect on its website and republish its local list.

- **Step 2: Consulting on proposed changes**

Where a Planning Authority considers that changes are necessary, the proposals should be issued to the local community, including applicants and agents, for consultation.

- **Step 3: Finalising and publishing the revised Local List**

Consultation responses should be taken into account by the Planning Authority when preparing the final revised list. The revised local lists should be published on the Planning Authority's website.

8. The current Local List for Surrey County Council comprises of:

- **Introductory Information** – Setting out what types of application the document is intended for, the purpose of the document, where there is a dispute between the County Planning Authority and the applicant as to whether an application is considered invalid.
- **National Requirements** – e.g. site plan, block plan, floor plans, elevations etc.
- **Annex 1** – the local list requirements for Minerals applications
- **Annex 2** – the local list requirements for Waste Management applications
- **Annex 3** – the local list requirements for County Own Development (Regulation 3 applications)

9. Paragraph 47⁷ of the PPG states that sometimes delays can occur if there are concerns about the validity of an application. In such circumstances Local Planning Authorities are advised to discuss these concerns with the applicant at the earliest opportunity; and give clear advice about what steps need to be taken to address their concerns. Paragraph 48⁸ recognises if further information is required it must form part of the Local List and meet the statutory tests.

10. The purpose of the Local List is to provide guidance to applicants and agents on the validation requirements of planning applications submitted to the County Planning Authority (CPA). It will:

- Provide greater certainty to applicants about the type and extent of information required as part of their application at the earliest possible stage.
- Enable Surrey County Council's Planning and Regulatory Committee to have all the information it needs to determine applications in a considered and timely manner.
- Minimise the need to request additional information from the applicant at a later stage thereby making the determination process more efficient.
- Ensure greater consistency in registering and validating applications submitted to the CPA.

⁷ Paragraph: 047 Reference ID: 14-047-20140306

⁸ Paragraph: 048 Reference ID: 14-048-20140306

11. A number of minor changes are proposed to the current Local List, the majority of which are updating the current text to bring it in line with current Government legislation and good practice guidance. A copy of each of the annexes is attached to this report. The CPA has followed the guidance in the PPG and the statutory tests set out in section 62 (4A) of the Town and Country Planning Act 1990 and Article 11(3)(c) of the DMPO being:
- a. reasonable having regard, in particular, to the nature and scale of the proposed development; and
 - b. about a matter which it is reasonable to think will be a material consideration in the determination of the application.
12. Officers consider that the changes proposed to the Local List would meet the above.

Consultation

13. Paragraph 044⁹ of the PPG states that where Planning Authorities consider changes to the Local List are necessary, consultation should be undertaken with the local community, applicants and agents. Responses to this consultation should be taken into account by the Planning Authority when preparing the revised Local List after which the Local List should be approved and published on the Planning Authority's website.
14. An internal consultation exercise took place between October 2022 and April 2023 to provide initial feedback on the current adopted Local List. During this time relevant statutory consultees were contacted via email and meetings were held with Development Management Officers from the CPA to determine whether changes were required to the current adopted Local List.
15. Following feedback from this consultation, a second formal consultation exercise took place between 22 May - 17 July 2023 on the proposed amended Local List. The consultation was undertaken via the Surrey Says consultation hub online and was available to the wider public on the planning pages on the Surrey County Council webpage. Applicants and agents who had submitted planning applications to the County Council in the last 5 years; alongside statutory consultees, non-statutory consultees, parish councils and residents associations; alongside colleagues in the Planning and Development Service within Surrey County Council were also invited to take part in the consultation exercise¹⁰.
16. In response to the consultation, a total of 14 comments were received from individuals/organisations, which included: six from statutory and non-statutory consultees, two from planning agents, three from Parish Council's and/or Residents Associations, and three from local residents. A summary of the comments raised are included below with Officers responses to these comments.

Summary of Responses Received

17. Statutory Consultees and Non-statutory Consultees

Local List Introduction and National Requirements

- a) Consultee raised concern on the title of the document referring to 'Local List' which is also used and identified within planning terms as referring to a list of undesignated heritage assets so could be misleading.

⁹ Paragraph: 044 Reference ID: 14-044-20140306

¹⁰ A total of 453 emails were sent.

Annex 1 – Minerals

- b) Consultee highlighted minor typo regarding the title of Section 10 being Heritage Statements rather than Heritage Assessments.
- c) Consultees raised the requirement for a Drainage and Water Supply Report to be included to ensure that required upgrades to the infrastructure network is identified and delivered alongside new development to prevent adverse impacts in the form of internal and external sewer flooding and pollution of land and water courses and/or low water pressure. The Validation Checklist should therefore seek to ensure that there is adequate water and wastewater infrastructure to serve all new developments.
- d) Consultee queried the planting species detailed in the Landscaping Scheme requirements for urban and rural settings.
- e) Consultee raised that Climate Emergencies have been declared and commitment to keeping fossil fuels in the ground and achieving carbon neutrality by 2030. Therefore, requested that a carbon statement for greenhouse gas calculations for extraction and the process of extraction is included.

Annex 2 – Waste Management Development

The comments raised by statutory and non-statutory consultees for Annex 2 are the same points raised for Annex 1 – Minerals Related Development listed above.

Annex 3 – Regulation 3

The comments raised by statutory and non-statutory consultees for Annex 3 are the same points raised for Annex 1 – Minerals Related Development listed above.

Officers' response to comments raised by statutory and non-statutory consultees.

In regard to point (a) the use of the term Local List is taken from the PPG Paragraph 039 Reference ID: 14-039-20140306 (see [Making an application - GOV.UK \(www.gov.uk\)](http://www.gov.uk)) and therefore Officers do not propose to change it. No further actions required.

In regard to point (b) Officers made appropriate amendments and the Section 10 title is now Heritage Statement across all three annexes.

In regard to point (c) Officers have included a new sub section on the Drainage and Water Supply Report within the Water Environment Chapter across all three annexes.

In regard to point (d) Officers have amended the Landscaping Scheme requirements to ensure that for both urban and rural settings native species are encouraged, and non-native species will be considered on a case-by-case basis. This has been amended across all three annexes.

In regard to point (e) the validation checklist requirements are based on national and local plan policies and therefore as this has not been included within national policies it cannot be included as a requirement in the validation checklist. Officers are also aware that this level of detail will be specific to individual proposal/applications and also specific to boroughs and district requirements and therefore this detail of information could be requested once the application is valid and consultee responses are sought.

18. Planning Agents

Local List Introduction and National Requirements

- a) Planning agents highlighted general minor amendments to acronyms and typos.
- b) Raised that outline planning applications should also be detailed within the document.

Annex 1 – Minerals Related Development

No comments to make.

Annex 2 – Waste Management Development

No comments to make.

Annex 3 – Regulation 3

- c) Planning agents highlighted general minor amendments to typos.
- d) Query raised regarding open space in Section 9.4 that it should be clear whether school playing fields are formally considered an 'open space'. It was raised that they are not (typically) public however any proposed loss of field is often objected to. Clarity on how this is considered under planning definitions of 'open space' might help.
- e) Query raised regarding airport safeguarding in Section 10 with the use of drones in restricted areas by the applicant during the project and construction of the development.
- f) Point raised regarding providing a definition of what a priority habitat or species is; and inclusion of a link to a map identifying priority habitat is within Preliminary Ecology Assessment section (Section 3).
- g) Query regarding distances and buffer zones within the Ancient Woodland section (Section 4.5) and a discrepancy with the Natural England and the Forestry Commission Guidance.
- h) Query raised on the requirement and the requirements of a Heritage Statement.
- i) Inconsistencies identified within the Community Engagement section (Section 12) and reference to pre-application advice. The Community Engagement section should refer only to the process of engaging with the community to gather feedback on proposals and not pre-application advice.
- j) Query raised whether there is a validation requirement to demonstrate Biodiversity Net Gain.

Officers' response to comments raised by planning agents.

In regard to points (a) and (c) Officers have corrected the minor typos and amendments.

In regard to point (b) the Local List Document now includes details of what is required for outline planning applications, as well providing details on what is required for other types of planning applications including: non-material amendments, details pursuant, section 73 applications, and prior approval for demolition.

In regard to point (d) Officers comment that the locations for 'open space' are allocated by the district/borough as open spaces in their local plan and assessment and therefore it is not for the CPA to determine whether it should be considered it as an open space or not. No further action to be taken on this comment.

In regard to point (e) as this will be specific to individual cases/projects this is not a requirement for validation, such requirement might be requested during the consultation period on planning applications by the relevant consultees. No further action to be taken on this comment.

In regard to point (f) Officers recognise that the definition for priority habitats is outlined in the governments guidance: [Habitats and species of principal importance in England - GOV.UK \(www.gov.uk\)](http://www.gov.uk). As this is publicly available Officers do not consider that it needs to be included within the validation checklist as a link.

In regard to point (g) Officers have reviewed and amended the distances and buffers zones within the Ancient Woodland sections to reflect guidance.

In regard to point (h) this section was reviewed by the County Historic Environment Planning Manager who considers the section fit for purpose, so no further action has been taken on this comment.

In regard to point (i) Officers have amended the Community Engagement section to remove duplications and include the reference Statement of Community Involvement (SCI) link.

In regard to point (j) Officers have included a sub-section within the Ecology chapter on requirements for Biodiversity Net Gain.

19. Parish Councils and Residents Associations

Local List Introduction and National Requirements

No comments made relevant to the context of this document.

Annex 1 – Minerals

- a) Parish Council raised concern regarding the priority of protecting the Green Belt and open countryside including the following:
- The use of Green Belt land for mineral extraction and waste disposal should be resisted more vigorously. Waste processing such as recycling or recovery should be subject to stringent control. This is especially the case for any land in the Green Belt falling into the existing AGLV¹¹ and AONB¹² boundaries.
 - Applications concerning or in proximity to land under existing agricultural use or comprising semi-natural habitat, rich in biodiversity (SNCI¹³, Ancient woodland and SSSI¹⁴), which provides a public amenity and recreational benefits should be resisted.
 - Metropolitan waste products or substances should not be deposited on the Green Belt, and their processing in it should be strongly restricted.
 - Existing regulations to prevent abuse should be strengthened and more strictly enforced. Loopholes should be closed, including the deposition of material on open Green Belt land under the guise of improving it for claimed agricultural or related business reasons.
 - Highway assessments should act to prevent unsuitable haulage routes, large numbers of heavy goods vehicles and employees driving to and from such sites. They should also take into account as priorities the need to keep roads clean and in good repair, the risks of flooding, the avoidance of noise and other forms of pollution, the risk to wildlife, the possibility (including in the medium and long term) of contamination and the proximity of residential areas or areas of high scenic or environmental value.
 - The cumulative consequences of extraction and waste disposal or processing in an area are significant due to the impact on communities living and working nearby.
 - The parish council believes that Environmental Impact Assessment should be required more regularly.
 - There should be a viable, detailed and enforced plan for how a site will be restored in the future, and penalties for non-adherence. Full details of materials and management, plus a clear timescale, should be included. The long term impacts of any such activity should be minimal or non-existent.

¹¹ Area of Great Landscape Value

¹² Area of Outstanding Natural Beauty

¹³ Site of Nature Conservation Interest

¹⁴ Special Site of Scientific Interest

Targets for measurable biodiversity gains should be included, and should be met, again with penalties for non-compliance. Contamination should not be tolerated.

Annex 2 – Waste Management Development

The comments raised by the parish council for Annex 2 are the same points raised for Annex 1 – Minerals Related Development listed above.

Annex 3 – Regulation 3

The comments raised by the parish council for Annex 3 are the same points raised for Annex 1 – Minerals Related Development listed above.

Officers' response to comments raised by Parish Councils and Residents Associations.

In regard to point (a) Officers comment that the points raised by the parish council are valid points of concern, however, these comments are considered to relate to planning applications and are to be considered on a case-by-case basis when the application is being assessed and/or determined and are not requirements that can be included within the local list. The local list is designed to stipulate the information to be provided for an application to be submitted. Points raised regarding the restoration plan could be conditioned on a site-by-site basis.

20. **Residents**

Local List Introduction and National Requirements

No comments made relevant to the context of this document.

Annex 1 – Minerals

- a) Resident raised that current operator ignores legislation regarding opening hours and causes noises and considerable air pollution daily.
- b) Resident raised that Neighbourhood Plans should be referenced.
- c) Resident raised that in general there are too many escape routes for constraints that the natural environment needs to benefit from. Waiting till time of remediation can be too long or unaffordable.

Annex 2 – Waste Management Development

- d) Resident raised that current operator ignores legislation regarding opening hours and causes noises and considerable air pollution daily.
- e) Resident raised comment that it is far too soft on the environmental costs.

Annex 3 – Regulation 3

- f) Resident raised that current operator ignores legislation regarding opening hours and causes noises and considerable air pollution daily.
- g) Resident raised that presumably in UK legislation amphibians collectively will all be elevated to the status enjoyed by the Great Crested Newt.

Officers' response to comments raised by Residents.

In regard to points (a), (d) and (f) Officers consider that the local list for validation is not designed to address this, as this is a complaint about a specific site and therefore would need to be dealt with via the complaints procedure. Therefore, no further actions to be undertaken regarding this.

In regard to point (b) Officers have included the reference to neighbourhood plans within Appendix 1 of all of the three annexes.

In regard to points (c) and (e) Officers consider that the local list is not designed to address this, as this will be considered on a case-by-case basis and will require input from technical consultees and where appropriate conditions stipulate to control the development. Therefore, no further actions to be undertaken regarding this.

In regard to point (g) Officers have updated the Ecology section to reflect legislation and guidance.

Summary of Changes Following Consultation

21. The Schedule of Modifications shows the summary of actions taken by officers in response to these comments made during the consultation period. The Schedule of Modifications are attached as separate documents to this report. In summary the comments in the main relate to the updating of the links to references and guidance documents and some inaccuracies which have been corrected. Within the Local List document Officers have included further detail on what is required for specific planning applications such as those for non-material amendments, details pursuant, section 73 applications, prior approval for demolition and outline planning permission. Within Annexes 1, 2, and 3 details on the requirements for the Green Belt, landscaping, and environmental amenities (such as air quality) sections have been updated. In addition, Annexes 1, 2 and 3 Great Crested Newts and Biodiversity Net Gain (BNG) have been included as new sub sections within the Ecology Chapter and Drainage and Water Supply Report has also been included as sub section within the Water Environment Chapter. Furthermore, within Annex 3, details on Special Protection Areas (SPAs) has also been included as a sub section within the Ecology Section. The Schedule of Modifications shows the summary of actions taken by officers in response to these comments.

Equalities and Diversity Implications

22. Under the Public Sector Bodies (Websites and Mobile Applications) (No.2) Accessibility Regulations 2018 all content that Surrey County Council control (including PDFs) on our website must meet minimum accessibility standards by the 23 September 2020. In order to meet these standards the documents have remained in the same format as what was previously published in November 2020.

Other Implications

23. The Local List will be monitored and reviewed periodically to ensure that the document is kept up to date with changes in legislation and policy. Officers request that the committee endorse the periodic review of this document and also allow officers to update technical notes, in engagement with relevant consultees, when and if required.

Conclusion and Recommendations:

Conclusion

24. Following the expiration of the consultation period and amendments made as a result, Officers now request that the Planning and Regulatory Committee adopt Surrey County Council's Local List for the Validation of Planning Applications.

Recommendation

25. To **ADOPT the** Revised and Updated Local List of Validation of County Development and County Matters Planning Applications allowing for periodic reviews of this document

and Officers to update technical notes, in consultation with relevant consultees, if necessary.

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Annexes:

- Schedule of Modifications – Introduction Text
- Schedule of Modifications – Annex 1
- Schedule of Modifications – Annex 2
- Schedule of Modifications – Annex 3
- Local List Introductory Text
- National Validation Requirements
- Final Version – Annex 1
- Final Version – Annex 2
- Final Version – Annex 3

Sources/Background Papers:

The deposited application documents and plans, including those amending or clarifying the proposal, responses to consultations and representations received as referred to in the report and included in the application file and the following:

- [Statutory Instrument 2015 No.595 The Town and Country Planning \(Development Management Procedure\) \(England\) \(Amendment\) Order 2015](#)
 - [National Planning Policy Framework](#)
 - [National Planning Policy Guidance](#)
 - [Growth and Infrastructure Act 2013](#)
-