Belfast City Council

Subject:	Public Consultation on Planning Application Validation Checklists
Date:	19 December 2022
Reporting Officer(s):	Kate Bentley, Director of Planning and Building Control
Contact Officer(s):	Ed Baker, Planning Manager (Development Management)

Restricted Reports					
Is this report restricted?		**Yes**		**No**	X
If Yes, when will the report become unrestricted?					
After Committee Decision					
After Council Decision					
Some time in the future					
Never					

Call-in					
Is the decision eligible for Call-in?		**Yes**	X	**No**	

1.0	**Purpose of Report or Summary of Main Issues**
1.1	The Department for Infrastructure ("Department") is undertaking public consultation on its proposed introduction of Planning Application Validation Checklists. This would enable Planning Authorities to themselves stipulate the minimum level of information needed with applications on submission (for those applications to be made "valid").
1.2	A copy of the public consultation is provided at **Appendix 1.**
1.3	The purpose of this report is to formulate the Council's response to the consultation.
2.0	**Recommendation**
2.1	That the Committee fully supports the introduction of Planning Application Validation Checklists and gives delegated authority to the Director of Planning and Building Control to finalise the wording of the consultation response.

3.0	**Main Report**
3.1	Background The Department for Infrastructure is undertaking public consultation on its proposed introduction of Planning Application Validation Checklists. This would enable Planning Authorities to themselves stipulate the minimum level of information needed with applications on submission (for those applications to be made "valid").
3.2	A copy of the public consultation is provided at **Appendix 1**. The closing date for the consultation is 06 January 2023.
3.3	Current information requirements for planning applications The bar for submission of a planning application in NI is particularly low and this is the root cause of many of the systems problems from a Development Management perspective.
3.4	Article 3 of the [Planning (General Permitted Development) Order (Northern Ireland) 2015](#) sets out the minimum level of information needed to be provided with an application for it to be "valid" and processed. The information that is required only includes: • Written description of the proposal • Address of the application site • Name and address of the applicant (and agent where applicable) • A plan identifying the application site showing its relationship with adjacent land ("red line") • A plan identifying neighbouring land owned by the applicant ("blue line") • Such other plans that describe the proposal • Ownership certificate • Planning fee
3.5	There is also a requirement for Major applications to be accompanied by a Pre-Application Community Consultation Report and certain applications to be supported by a Design and Access Statement[1].
3.6	There are specific additional requirements for applications for outline planning permission, approval of reserved matters and renewal of planning permission.
3.7	However, there is currently no legal requirement for applicants to provide other essential information, even despite in some cases the information being a planning policy requirement. For example, there is no legal requirement for an application to be accompanied by the following information: ➢ Planning Statement ➢ Contextual design information such as streetscapes, 3D modelling or CGIs ➢ Heritage statement ➢ Archaeological investigation report ➢ Transport Assessment ➢ Parking survey ➢ Contaminated land report ➢ Noise and odour assessments ➢ Air quality assessment ➢ Lighting assessment

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[1] Required for applications for Major development, Listed Building Consent and for one or more dwellinghouses, and proposals that are equal a greater than 1,000sqm <u>and</u> are in a Conservation Area, Area of Outstanding Natural Beauty, World Heritage Site or Area of Townscape Character.

	➢ Drainage Assessment ➢ Flood Risk Assessment ➢ Ecological report ➢ Viability justification ➢ Planning Statement ➢ Etc.
3.8	Belfast City Council contacted the Department in 2016, raising the importance of statutory Planning Application Validation Checklists support by legislation. Improving the quality of planning applications is a key recommendation in both the Public Accounts Committee and NI Audit Office reports on the NI planning system[2]. The Department proposes to introduce Validation Checklists in its review of the implementation of the Planning Act (Northern Ireland) 2011.
	Impact of "incomplete" planning applications
3.9	The inability for Planning Authorities to mandate the minimum level of information to be provided with applications has a seriously detrimental impact on the whole process. It significantly adds to processing times, places additional burdens on staff and consultees, wastes time assessing proposals without the key information, sets up conflict with customers, frustrates communities, residents and third parties and essentially creates "failure demand" (work that could have otherwise been avoided).
	Belfast City Council Application Checklist
3.10	Recognising the crucial nature of this issue and the importance of front-loading the application process, the Council published its Application Checklist in November 2018. This provides guidance to customers on the information they need to provide with their application at the start of the process, depending on the nature of the proposal, its scale and whether the site is subject to any particular constraints. Implementation of the *Application Checklist* was phased, initially only applying to medium and scale Local applications, then Major applications and finally to all applications, except householder applications and applications for Advertisement Consent.
3.11	The Council's *Application Checklist* has had a very positive impact on the quality of planning applications on submission and has now been culturally embedded in the process, particularly for larger scale and more complex applications. It has had an extremely positive impact on service delivery as evidenced by a review undertaken by the Planning Service in February 2021. A copy of the review is provided at **Appendix 2**. It concluded that introduction of the *Application Checklist* had been an 'undoubted success'. It contributed significantly to improved application performance in 2019/20 with the Council achieving the statutory Local target for the first time at 14.0 weeks average processing time. It also directly assisted the Council in achieving what was at the time its best ever processing time for Major applications at 37.0 weeks. The review was submitted to the Department, which acknowledged its importance and went on to directly inform its recommendation to bring forward Planning Application Validation Checklists.
3.12	However, the Planning Service recognises the limitations of the *Application Checklist* because it is advisory only and does not have statutory weight. In effect, it has been a "work-around" of the existing limited legislation. Ultimately, the Council is unable to compel applicants to provide the information. Whereas in England and Wales, Planning Authorities have been able to publish Planning Application Checklists for many years, mandating the information that must be provided with applications for them to be processed.

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[2] See Planning Committee reports of 15 February and 14 April 2022 on the NIAO and Public Accounts Committee reports respectively.

3.13	Planning Authorities are measured on the average time for processing applications with "Day 1" being the date when the bare minimum level of information is provided. The "clock does not stop" to allow for the submission of the necessary additional information to properly assess and process the application. This significantly lengthens application processing times and makes it difficult for Planning Authorities to achieve statutory targets.
	DFI Consultation
3.14	The Department is proposing to amend the Planning (General Development Procedure) Order (Northern Ireland) 2015 to enable Planning Authorities to publish planning application 'validation checklists' to address poor quality or incomplete applications entering the planning system.
3.15	Like the Council's *Application Checklist*, a validation checklist will provide guidance to applicants about the level and type of information required to be submitted with an application. Although in this case it will have statutory weight and the information will be mandatory rather than discretionary. The requirements should be proportionate to the nature and scale of the proposal.
3.16	Planning Authorities will be able to prepare and publicise the validation checklists above the minimum statutory requirements summarised at paragraph 3.4 and will allow it to require the types of additional information set out at paragraph 3.7, where it is deemed necessary to support the processing of the application.
3.17	The Department proposes to introduce a "dispute mechanism" like in England and Wales, otherwise the only recourse for an applicant, should it wish to challenge the information requirements on a case-by-case basis, would be through judicial review. This would enable the applicant to challenge the necessity for the requested information on grounds that it is not reasonably required. The Planning Authority would have ability to either agree with the applicant and validate the application or disagree and serve a "validation notice" on the applicant, confirming the need for the information. The applicant would then have the right to appeal (although there are different approaches to this in England and Wales).
	Assessment
3.18	Officers advise that this is the most significant and important consultation by the Department on the Development Management process since the transfer of planning powers to local government in 2015. The inability for Planning Authorities to mandate the information necessary to properly assess and process applications at the beginning of the process goes to the root of many of the problems experienced by the NI planning system.
3.19	The Council's *Application Checklist* has had a very positive impact on improving the quality of applications submitted in Belfast but ultimately it is discretionary and is limited by reason of it not having statutory weight. It is considered crucial that statutory Planning Application Validation Checklists are introduced as quickly as possible in Northern Ireland
3.20	The provision of a dispute mechanism is considered reasonable and necessary.
3.21	It is also considered necessary that Validation Checklists are subject to public consultation before they are published. This will ensure appropriate scrutiny of the process.
3.22	It is recommended that the Committee fully endorses the introduction of Planning Application Validation Checklists and gives delegated authority to the Director of Planning and Building Control to finalise the wording of the consultation response.

4.0	**Financial & Resource Implications**	
4.1	The ability for Planning Authorities to specify information requirements for particular types of application will have a significant impact on efficiency and timely processing of planning applications.	
5.0	**Equality or Good Relations Implications / Rural Needs Assessment**	
5.1	No adverse impacts identified.	
6.0	**Appendices – Documents Attached**	
	Appendix 1 – Public Consultation on Planning Application Validation Checklists (DfI)	
	Appendix 2 – Belfast City Council Review of the Application Checklist	