

## **Mid Kent Planning Services Local Validation Checklist Report on Public Consultation.**

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The planning Validation Local Checklist consultation, which must be used when submitting a planning application to both Maidstone and Swale Borough Councils, was published for public consultation between 14 June and 28 July 2024.

The draft version was also placed on the websites for both Swale and Maidstone Borough Councils, emailed to 1,048 agents and 13,513 subscribers of consultations' mailing list.

Twenty-one responses were received. These are summarised below.

Following consideration, responses to feedback on the consultation are set out below:

### **Response No 1**

There should be an assessment on the impact of local services such as schools, hospitals, GP Surgery, etc. This is amongst the biggest concerns, alongside transport and utilities infrastructure, and does ever seem to be taken into account.

Although a small increase in household size in isolation probably not an issue, but when it occurs several times in a small area, it goes under the radar.

**Comment:** Assessment on the need for infrastructure is by consultees on major applications. Maidstone Borough Council collects Community Infrastructure Levy from liable developments which is available to fund bids for eligible infrastructure. For Swale Borough Council the threshold for requiring developer contributions towards infrastructure is set at 10 dwellings as set out in the Developer Contributions SPD, which is referred to in policy DM14 of their Local Plan.

**Recommendation:** No action necessary.

### **Response No 2**

The level of cost and red tape involved in just getting an application validated is crippling development opportunities in the UK  
It is no longer fun to work in the sector and Councils are adding insult to injury, by charging for invalidation and then going past target dates without a care in the world, if most businesses operated how council planning departments did, treating their clients with utter contempt and overcharging for the poorest level of service, they would go bust in weeks streamline the service, all consented are conditioned to the hilt in any event, so make some of this stuff conditional, reduce the work, reduce the costs.

**Comment:** Neither Maidstone nor Swale currently charge for invalid applications. The full fee is returned to the applicant.

National requirements are set by Central Government. Part A requirements set out in the Local List have been kept to a minimum to ensure the balance between the need for frontloading information and

the determination of the application.

**Recommendation:** No action necessary.

### Response No 3

**Comment:**

Approve

**Recommendation:** No action necessary

### Response No 4

As usual no thought goes into what is needed in providing facilities for 17,0000 proposed houses, let's take water for instance, each individual uses around 145 litres of water per day say an average of 2 persons per household that is 290 litres so round that up to 300 litres per day per household multiply that by 17,000 that gives you a total of 5,100,000 litres per day. Bewl Water holds 31,000,000 million litres of water if we had no rain for 7 days Bewl Water would be as dry as bone, so it gives you the scale of the problem.

We move onto the traffic issues just imagine around 32,000 extra cars on the roads then the hospitals then schooling the output needed to supply all the houses with gas and electricity you have not thought any of this Maidstone Borough Council are totally clueless what you should be saying to all the water gas electricity sectors you provide concrete proof that you can furnish all this development without cuts before one single brick is laid. The infrastructure surrounding the electricity supply is even more dire some Councils are saying the grid cannot support even 100 homes and are delaying any housebuilding programs.

**Comment:** This does not appear to relate to the validation checklist.

The provision of water, gas, electricity etc is dealt with under different legislation.

**Recommendation:** No action necessary.

**Response No 5**

I need to know WHERE the planning is BEFORE I can make a decision or comment, I the planning is for the area of Lenham.

**Comment:** This does not relate to the validation checklist.

**Recommendation:** No action necessary.

**Response No 6**

Well done to Maidstone for drafting 20% biodiversity NET GAIN required on all new residential developments.

Considering all our green spaces have already been built on especially those on the borough boundary with TMBC, this is very welcome. We need to continue to protect our green spaces.

**Comment:** None

**Recommendation:** No action necessary.

**Response No 7**

1. Insisting on A1 paper for plans and drawings is not realistic. Drawing offices may use them but not all applicants and agents (including not all architects) have the ability to do so. A3 seems to work perfectly well for all other LPAs and is by far more inclusive.

2. B5 Renewable energy assessment. This is incredibly onerous. How are individuals meant to be able to do this? This is for every building?? How can a householder reasonably be expected to do this for a new garage? This requires specialist input. Please think about what you are asking people to provide up front for something that may not even get approved. The whole process is going to be limited to those who can afford to make the application at this rate!

**Comment:**

**1.** Validation checklist preferred size is A1 – it is not a requirement. The objective is to minimise the number of separate drawings submitted for a scheme. Also, documents are preferred to be submitted electronically.

**2.** The requirement is in line with adopted policy, submitting these details at validation stage it is at the applicants' discretion and information required would always be proportionate to the scale of the development and where appropriate.

**Recommendation:** Maidstone: Change wording of B5 (Renewable energy assessment) to more closely align with the Local Plan Review Policy LPRQD1.

**Response No 8**

The document content is fine overall, however it is not written in plain English, it contains a lot of jargon that for a small household applicant would be confusing and there is no glossary. Also document ends abruptly - uncertain p49 is the last page.

**Comment:** It is written as clearly as possible. The final version will be on both authorities' websites as web pages and clearly define the end.

**Recommendation:** No action necessary.

**Response No 9**

Why has the compulsory installation of Solar Panels on all new builds or major refurbishments not been included on the guidelines?

Why is there no requirement for new multi homes development to show how they are going to ensure that there is sufficient water supply and wastewater treatment provision in the planning application. Please reply to redacted

**Comment:** The requirement for the use of renewable energy is in line with adopted policy.

Major developments would trigger a consultation to water providers or sewage undertakers. These elements are considered under separate legislation.

**Recommendation:** No action necessary.

**Response No 10**

There seems to be an absence of a requirement to include Biodiversity Net Gain for commercial developments and should have its own page or section. Your own three headline changes refer only to residential.

**Comment:** The matters relating to Swale's requirement refers to BNG as a whole, rather than splitting it out by development types, as the above comment suggests.

Maidstone has a 20% BNG policy for residential development but commercial development would still be subject to national BNG policy.

**Recommendation:** No action necessary

**Response No 11**

Not stringent enough on environmental and biodiversity requirements. Far too easy for big developer to get round the stated requirements. It should be absolutely mandatory for ALL newbuild developments to include solar panels and it still isn't on there.

**Comment:** These are validation requirements, rather than assessments against adopted policies, which is how planning applications must be assessed. A response to matters regarding solar panels is dealt with under Response No 9.

**Recommendation:** No action necessary

**Response No 12**

A6 - 'Roofs warmed by the sun' includes almost every building in the borough. This definition needs better clarifying.

A7 - In regard to hedge pruning, some sort of phrase such as 'pruning, beyond that normally undertaken for general maintenance' needs to be included, or else, again, almost every hedge in the entire borough could be captured by this definition.

**Comment:** A6: It is agreed that the wording can be rationalised.  
A7: It is agreed that the wording should be amended as suggested.

**Recommendation:** Rationalise A6 & A7 wording, refer to standing advice and guidance.

**Response No 13**

No adverse comments

**Comment:** Noted.

**Recommendation:** No action necessary.

**Response No 14**

Climate change will make agricultural land for food production vital and valuable - every scrap of land will be wanted. I see no mention of any protection of farmland for development in the draft? Ignoring this today will have dire consequences for the future.

**Comment:** The above is a comment related to planning policy matters in relation to agricultural land.

Loss of best and most versatile grade farmland would be considered as part of a planning application.

**Recommendation:** No action necessary.

## **Response No 15**

I would like to see greater scope for assessing the relevance of the need to submit additional requirements or documents to avoid wasting time and resources i.e flood risk assessment when all proposed works are above ground floor on an existing building such a loft conversion.

Section A4 page 5 refers to developments in conservation areas and the requirements for a Heritage Statement - and some applications have no obvious impact on the area.

Section A5 page 6 refers to all developments in flood zones and the requirement for a Flood Risk Assessment - site specific information is supplied by the Environment Agency who are already stretched and it takes almost as long to produce a flood risk assessment with zero risk.

Government Planning Policy Guidance for planning departments generally state the requirements to save time and resources for local authorities and applicants so blanket requests for additional documents at validation stage do not meet the requirements.

I would suggest validation submissions to include the mandatory documents and all additional document requests from the Planning Officer based on an impact assessment in the case officer notes.

**Comment:** Flood Risk requirements follow national planning guidance. It is common practice for Heritage Statements to be required as set out in the validation checklist. It does say that it can be proportionate to the development.

**Recommendation:** No action necessary



## Response No 16

I wish to advise the following concerns with the Draft Local Validation Requirements list as follows;

Page 1 - paper size. You state your preference for drawings is A1 but many architects work to an A3 format. National guidance does not require drawings to be provided in A1 and whilst you state this as a preference in the draft document, it should be made clear that plans of other sizes will be accepted. I can see this causing confusion with your validation team staff who will start to invalidate applications if plans are not provided at A1 size.

Page 2 - You state validation will NOT take place until the fee is received. Please be aware that the legislation allows you only one day from when the fee is paid to you as the start validation date. Currently validation dates are being applied incorrectly as they validate when they pick up the application and not on the fee received date (submission from the Portal plus 1 day only).

A8 - The Appropriate Assessment must be carried out by the Local Planning Authority. It cannot be carried out by the Applicant. This should be made clearer in the 'information required' section.

A13 - The Kent & Medway Biodiversity Gain Statement is not in alignment with National Guidance and its completion should not be made a validation requirement. The Kent Statement requires the metric to be completed even when a proposal is exempt. The National Guidance does not require this.

B6 - It should be made clear that this validation requirement is not applicable to development under Permitted Development, as Town Centre Uses Impact Assessments are not required under Permitted Development.

B11 - There is contradiction in the wording here. The information required states 'Mineral Assessment' but the last sentence recognises that this is only 'where necessary'.

**Comment:** Paper size – It is a preference, rather than being mandatory. The objective is to minimise the number of separate drawings submitted for a scheme.

**Fee / Validation** – The Validation Date of an application will always be as specified by the applicable legislation.

**A8 - Appropriate Assessment** This is a fair point.

**A13 - Biodiversity Net Gain** – The requirement for the Kent & Medway Biodiversity Gain Statement is triggered when a Biodiversity Gain Plan is required. So if exempt, it would not need to be provided.

**Permitted Development** – The validation checklist is for planning applications.

**B11 - Minerals Assessment** – Amend wording with clear guidance on the exemptions

**Recommendation:** Further clarity added in relation to Appropriate Assessment (A8) and Minerals assessment exemptions (B11).

### **Response No 17**

I agree with the proposals.

**Comment:** Noted.

**Recommendation:** No action necessary.

### **Response No 18**

I strongly believe that in addition to a Flood Risk Assessment (Section A5), a worked through proposal for the discharge of surface water and foul drainage should be provided for ANY development which involves more work than an extension to a single existing property. This should as a minimum include a CCTV survey of any existing drainage on the site and ensuring that a copy of the Public Sewer records is obtained to potential clashes / issues. It should be noted that Southern Water will not permit a build-over of their assts (i.e. anything within 3m in plan) for a new building / structure. They will only permit build-overs in relation to extensions of existing properties.

Whilst we are aware that currently a drainage strategy is expected to be provided for developments of 5-10 properties or greater. However, in my role as Consultant Engineer, it is unfortunately commonplace to pick up smaller projects (post-planning) find that drainage has either not been considered at all, or that the strategy proposed is entirely inappropriate - classically showing a 'soakaway to engineers design', when the development is on impermeable clay.

Given the ever increasing use of brownfield sites / small 'infill' sites, I

am of the strong opinion that it is absolutely vital that a Drainage Strategy is properly considered, and any potential issues picked up before planning is approved to avoid the situation where a site has planning permission but is in fact completely un-buildable in reality.

In my view, there's no such thing as an outline drainage design – either it works, or it doesn't! Therefore, I feel strongly that appropriate investigations (infiltration tests etc.) are undertaken as part of the planning process to prove there is a solution, rather than left as an afterthought and just hoping 'it'll be ok'.

I am aware that this will 'front load' projects a little more (and yes, potentially will bring more work to Consultant Engineers such as myself). However, the reality is that there are a large number of sites we have been asked to work on where we've had to inform the Client that they simply can't build what they have planning for.

Ultimately, the information gained by looking at this earlier will save money and time when it comes to the actual construction, and it will be know for certain that it can actually be built!

For example, we picked up a project in the for a Client who had just bought a site in the north of Maidstone on a brownfield site which had been given permission to build a row of three small terrace houses, only to find that there was a Southern Water sewer passing at considerable depth within 1.5m in the road. It was not possible to divert the sewer – it was too deep / too large diameter from Southern Water to even consider it. As a result, our Client has had to pay an Architect for the scheme to be redesigned (losing one of the units in the process) and having to make completely new planning application.

I think it is fair to say that the cost of the redesign and second planning submission our Client has had to pay would far exceed any engineering fees for a drainage strategy for the original planning application. Not to mention it would have avoided Public money being wasted on considering a planning application which was completely un-buildable.

I strongly believe that the benefits of introducing the requirement of a considered Drainage Strategy would (in the overall development process) outweigh any disadvantages.

**Comment:** Drainage matters, for smaller scale developments are dealt with via Building Regulations/other legislation.

For major development there is a requirement to deal with surface water drainage and Southern Water and the Lead Local Flood Authority

are consulted. However, ultimately planning permission is one part of a wider consenting regime to allow development to be implemented.

**Recommendation:** No action necessary

### **Response No 19**

We have reviewed the document and have the following concerns relating to these specific requirements:

- Requirement A12 Waste Minimisation and Recycling Assessment Report (page 18): We understand the requirements of Policy DM1 however the storage of waste would be demonstrated on a proposed site plan and waste minimisation and recycling is normally covered in a supporting planning statement and thus a separate statement is deemed to be excessive.
- Requirement B5 Renewable Energy Assessment (page 29): The proposed threshold would mean a Renewable Energy Assessment would be required for a site as small as a single dwelling or a simple change of use/conversion. A specialist energy consultant would need to carry this out which would be an additional cost to an applicant which is considered to be excessive for schemes of that size we would request that the threshold is raised to apply to major development proposals.
- Requirement B12 Public Art Guidance (page 37): We think this would be more appropriate as a planning condition. For developers to undertake engagement with artists to calculate costs and timescales for delivering of art projects before planning permission is even granted is too onerous. In many cases the applicant is the landowner with no housebuilder on board – especially in the case of outline planning applications therefore this level of detail will not be possible to provide at the validation stage.
- Requirement B13 Active Transport Statement (page 38): This is doubling up on a transport statement. Transport statements are required to include consideration of active transport i.e walking and cycling infrastructure. This is already effectively covered by a transport statement so would be more appropriate to reference under B9 (page 34).
- Requirement B17 Design and Health Impact Assessment (Page 42): Under the information required here it refers to a Design and Access statement – this is inconsistent as a Design and Access Statement is different to a Design and Health Impact Assessment. It is expected that

a Design and Access Statement is required for major applications. Design and Health Impact Assessments are more related to strategic scale development so if a Design and Health Impact Assessment is to be required for a development, we would suggest that the threshold is increased to residential development of 100+ dwellings or development of floorspace of 2,500 sqm or more.

**Comment:**

A12 - If covered within the planning statement then that is fine, but not all applications have a planning statement.

B5 - The Assessment would be proportionate to the development and in accordance with current policy and guidance.

B12 - Part B is not required information at validation stage, it is information that may assist in the determination of the application.

B13 - Can be covered in one document, but if one is not needed for a development and the other is allows for both documents.

B17- Part B is not required information at validation stage, it is information that may assist in the determination of the application. Wording of statement title to be changed.

**Recommendation:** Wording of B17 (Design and Health Impact Assessment) altered to allow for correct titling of document

## **Response No 20**

Dear Sir,

I am grateful that you have informed me of the proposed changes and are seeking my response. I have now considered these and set out brief comments below.

A1: application form.

Some clients do not want their names and addresses included on the application form: instead, they want everything to go through their agent. Is it not, therefore, possible to remove this particular requirement?

A4: Heritage Statement.

In the past I have been asked to provide such a Statement where the need for such a thing is, at very best, extremely tenuous. Officers appear to adopt a tick-box approach and make this an absolute requirement instead of using realistic judgment. If such a Statement is genuinely required, then it should be requested after submission of the application.

A6. Ecology survey.

Here, the Council seeks to require ecological surveys on land some distance beyond a SSSI. It is considered that the 200m buffer is excessive, as is the list of things that are likely to be affected . Clients get very frustrated at having to spend considerable sums of money in order to demonstrate that there is no or minimal impact.

A7: tree survey.

The need to provide a survey/assessment where trees or hedges not subject to TPOs, along with "pruning work" is excessive. The same argument applies to proposals that "have the potential" to affect retained trees.

A12: waste minimisation.

The 10/0.5ha. threshold is far too low. Moreover, the objective of achieving zero net landfill is wishful thinking -just like net zero emissions.

B4: s106 Agreements.

A lot of time and money is going to be spent by all parties if these are submitted prior to determination, especially if councillors then refuse permission. (This is even worse if they do so against officers' advice). Better to wait until the council resolves to grant permission.

B5: renewable energy.

Is this really necessary?

B7: structural survey.

MBC uses planning officers who are not professionally qualified in such matters to assess these surveys. They often criticise them if they do not agree with the principle of the proposed development.

B9: transport statement.

The 10-39 unit threshold is too low. Delete this requirement.

B11: Minerals.

This is a catch-all requirement, even when the proposed development is small. The construction of just a few dwellings in a minerals reserve area makes no difference to the viability of those reserves. Indeed, what minerals operator is going to acquire a site of less than, say one or two acres ? Such a site simply isn't viable.

B12: public art

The 50 unit threshold is too low. This is simply a development tax. Indeed, the whole issue of paying for public art is debateable.....

B13. Active transport statement.

The threshold is too low. Make it 40.

B14. Statement of social value

Is this really necessary? It needs only apply to restricted areas.

B16. Housing intensification

Again, this is unnecessary. It constitutes an attempt to provide justification for refusing HMO applications. The Council will need to reduce its windfall allowance if it pursues this requirement.

B17. Design and Health Impact assessment.

Is this really necessary? The threshold is too low. Indeed, I recall a time when an Local Planning Authority required a D&S for the change of use of an estate agent's office into a hairdresser's salon!

B19. Biodiversity enhancement plan.

This is completely unnecessary.

The fact of the matter is that all of this generates additional work not just for applicants -but also for council officers. (and this is at a time when you are considerable over-stretched and under-staffed. You really need to think about what is absolutely necessary, rather than simply bowing to the green/anti-development lobby.

I would be happy to meet to discuss these matters in more detail, should you find that helpful.

Name and address - redacted

**Comment:**

**A1** – The applicants full name and address is required on the application form. If there is also an agent, they too must provide their full name and address. All correspondence will be sent to the agent. We will not redact the names and addresses of either as they are required to be completed on the application form.

**A4** – It is common practice for these to be required and they should be proportionate to the proposals submitted.

**A6** –In terms of the list, it is guidance as to when protected species may be present – each individual case would need to be individually assessed. Councils have a duty under legislation in terms of protected species.

**A7** – The impact upon trees and hedges is set out in local and national policy and therefore providing detail regarding the impact upon them is considered to be necessary.

**B4** – On reflection, (SBC) reducing the requirement to 'Draft Heads of Terms' and removing 'Draft Section 106 Agreement' would be appropriate. MBC suggested minimum 'Draft Heads of Terms'

**B5** – This is necessary, to demonstrate how local and national policies have been complied with.

**B7** - Relevant local plan policies support the applicant demonstrating that conversions capable without significant re-construction, a structural survey can seek to demonstrate this.



**B9** – This threshold, considering the NPPF wording, is considered appropriate and proportionate.

**B11** – This is considered necessary to allow for a consideration against the relevant policies in the Kent Minerals and Waste Local Plan.

**B12** - This is necessary, to demonstrate how local and national policies have been complied with.

**B14** - This is necessary, to demonstrate how local and national policies have been complied with.

**B16** - This is necessary, to demonstrate how local and national policies have been complied with.

**B17** - This is necessary, to demonstrate how local and national policies have been complied with.

**B19** – This is necessary, to demonstrate how local and national policies have been complied with.

**Recommendation:** B4 – amended. No other action necessary.

## Response No 21

The energy and climate change team at Kent County Council wanted to comment on the following consultation:

Consultation on Planning Validation Checklist changes - Local Validation Requirements (2024 Review)

Below is a suggestion for wording around Adaptation which we believe might be useful.

Climate Change Risk Assessment For development

Information Required:

Proposals which meet the thresholds should undertake a Climate Change Risk Assessment which measures the likelihood and severity of potential climate risks and their impacts on different receptors. Adaptation actions to address these climate risks should also be identified - for example, the inclusion of green and blue infrastructure.

Rationale:

The 2018 Met Office Climate Projections indicate that Kent is set to experience hotter, drier summers; warmer, wetter winters; more frequent severe weather events; and sea level rise, presenting a significant number of risks to the county. Climate change adaptation is therefore essential to reduce the vulnerability of communities and infrastructure to current and future hazards in line with Section 14 of the National Planning Policy Framework (2023). Incorporating proactive adaptation measures within planning applications will ensure that resilience is built into the design of new developments, to adequately prepare for climate change impacts.

Regarding the B5 proposed renewable energy assessment below, we wanted to add:

- where "carbon dioxide emissions" are referred to, this should be replaced with "CO<sub>2</sub>e, carbon dioxide or equivalent", to encompass the broader GHG impact, if possible to measure.
- When renewable energy technologies are listed below in the rationale, they should state "including but not limited to", to future proof the guidance for newer innovative technologies not listed.
- A further information point could state something like "when considering the operational CO<sub>2</sub>e emissions of building developments and conversions, the comparison should be made between conversion or demolition, and due consideration should be given to the plan with

the least emissions.

- Can developers consider reduction in the “building-energy performance gap”, (from Wikipedia - A building-energy performance gap is a disparity between the energy consumption predicted in the design stage of a building and the energy use in actual operation).
- Where new and retrofit lighting is mentioned in a development, it should always be detailed as LED.
- There could be mention of new and retrofit homes being measured as EPC C or above or “Net Zero Ready”, but this standard may be detailed in the MBC Local Plan instead and not appropriate to mention in this guidance.

Kind regards,

Personal details redacted

**Comment:** There is merit in the points above. However, given the stage at which the review of the Local List is at, and uncertainty as to whether there is a policy basis to request such detail, adding as part of the Local List will not be taken forward at this stage. This may, however, be considered during the next review period.

**Recommendation:** No further action but to review as part of the next update.

In addition, Maidstone and Swale Planners made the following changes to the consulted version of the Validation Checklist:

- Deleted “*and environmental benefits*” from the Plan Submissions section.
- Clarified date of validation.
- Clarified the status of Part A and B.
- Clarified the layout of BNG requirements for Maidstone & Swale and statutory weblink (A13).

During the consultation the following changes were also introduced by:

The Environment Agency: A5 – Site Specific Flood Risk Assessment requirements and

Defra: A13 – updated Statutory Biodiversity Metrics weblink.