



**PLANNING COMMITTEE**

**9<sup>th</sup> February 2023**

**REPORT OF HEAD OF PLANNING & BUILDING CONTROL**

**Section 106 Customer Guide and Householder Validation Checklist**

**1. PURPOSE OF REPORT**

To inform Members of the Planning Committee of the outcome of public consultation, and the subsequent implementation of:

- i. Updated Section 106 Customer Guide.
- ii. New Householder Local Validation Checklist.

**2. RECOMMENDATIONS**

That the Committee notes the outcome of consultation and the intended implementation date of Wednesday 1<sup>st</sup> March 2023.

**3. FINANCIAL IMPLICATIONS**

None arising directly from this report.

**4. POLICY IMPLICATIONS**

Within Council policy. All planning applications relate to local and national planning policy and guidance.

**5. LEGAL IMPLICATIONS**

Planning Obligations are primarily negotiated as part of the determination of planning applications in accordance with the National Planning Policy Framework 2021 (NPPF), Community Infrastructure Levy Regulations 2010 (Regulation 122)(as amended), policy DEL1 of the Black Country Core Strategy, policy GP3 of Walsall Unitary Development Plan and adopted Supplementary Planning Documents.

**6. EQUAL OPPORTUNITY IMPLICATIONS**

None arising from the report. The Development Management service is accredited by an Equality Impact Assessment.

**7. ENVIRONMENTAL IMPACT**

The updated S106 guide and the introduction of a householder local validation checklist will help to improve the quality of planning application submissions and in turn help to ensure development results in positive environmental impacts.

8. **WARD(S) AFFECTED**

All.

9. **CONSULTEES**

Regular developers and planning agents, Council Legal Team, other relevant Council service areas and teams have been consulted in the preparation of these documents.

10. **CONTACT OFFICER**

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11. **BACKGROUND PAPERS**

All published.

**Mike Brereton**  
**Group Manager, Planning**

## i. Updated Section 106 Customer Guide

- 12.1 This guide is not a formal document requiring adoption, rather it is a document which aims to provide helpful advice and guidance to customers of the Development Management Service on all matters regarding Section 106. It is intended that the guide will be regularly reviewed and updated where necessary to ensure it remains up-to-date and takes account of any emerging local and national changes on the scope, purpose and use of Planning Obligations.
- 12.2 Key sections of the draft guide were presented at the most recent planning agent and developer forum on 20<sup>th</sup> October 2022 which were positively received.
- 12.3 This guide will help to provide service efficiencies in the processing of Section 106 Agreements which was identified as a key recommendation as part of the Planning Advisory Service (PAS) Peer Challenge review in 2021.
- 12.4 This is an update to the existing published S106 customer guide which has been updated and expanded to include standard definitions, clauses and a specific section on the agreed process in relation to securing mitigation payments towards relevant development falling within the Cannock Chase SAC 15km Zone of Influence.
- 12.5 Consultation has been carried out with planning agents and developers that frequently submit planning applications to Walsall Council, and with relevant internal colleagues and external organisations between 30<sup>th</sup> November and 29<sup>th</sup> December 2022. A total of 4 x responses were received and these have been summarised in Table 1 below.

**Table 1 – Responses to S106 Guide Consultation**

<b>Name of Respondent</b>	<b>Respondent Feedback</b>	<b>LPA Response</b>
Lambert Smith Hampton	<i>Section 11 (Viability)</i> – minor tweaks to existing wording.	Noted and amended.
Strategic Housing Team, Walsall Council	<i>Section 11 (Viability)</i> – suggests inclusion of sub-section to include First Homes eligibility criteria.	Noted and amended.
NHS Black Country	Discussions on healthcare related S106 matters being progressed as part of Local Plan preparation and future focussed SPD.	Noted, no changes required.
Planning Policy Team, Walsall Council	<i>Section 2 (What are Planning Obligations)</i> – minor tweaks to wording on driver of planning obligations.  <i>Section 8 (Key S106 Thresholds)</i> – minor tweaks to wording and heading.  <i>Tables 2 &amp; 3 (Terms of Reference)</i> – reference to tables required.	Noted and amended where necessary.  <i>Section 16 (Affordable Housing Tenure)</i> retained to provide helpful up-to-date guidance to customers which can be reflected in any future revised SPD which carries greater weight in the

	<p><i>Section 11 (Viability)</i> – minor tweak to text regarding some Development Plan policies allow consideration of viability.</p> <p><i>Section 14 (MIP Clause)</i> – minor additional text and tweaks.</p> <p><i>Section 15 (Affordable Housing)</i> – minor additional text and question on the purpose of enforceability section.</p> <p><i>Section 16 (Affordable Housing Tenure)</i> – Asks whether this section should be contained within an SPD.</p> <p><i>Section 19 (Cannock Chase SAC)</i> – Tweaks to text required regarding mitigation requirements arising from the Habitat Regulations. Reference should be made to HRA form as validation requirement and statement of willingness form if that is to be used.</p>	<p>decision-making process over and above this informal guide.</p> <p><i>Section 19 (Cannock Chase SAC)</i> – HRA form will become a local validation requirement in the future planned wider local validation checklist as it doesn't apply to the current householder local validation checklist referred to in this report. The LPA does not intend to introduce the statement of willingness form as the existing agreed process already provides sufficient measures to secure the necessary mitigation payments.</p>
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12.6 The guide has been updated where necessary and appropriate taking into account the above feedback. Where it has not been possible to make suggested amendments an explanation has been provided in Table 1 above. The final guide is provided in Appendix A.

12.7 The final guide will be checked and re-formatted where necessary prior to its implementation on Wednesday 1<sup>st</sup> March 2023 to ensure the document complies with the necessary accessibility standards for publishing documents online.

**ii. New Householder Local Validation Checklist**

12.8 This checklist has been produced to help Development Management customers understand what needs to be submitted to support a householder planning application (works to an existing house).

12.9 There is no mandatory requirement for a Local Planning Authority to implement a local validation checklist. However, applications that are accompanied by the necessary supporting information up-front helps the LPA to make an informed decision within government set timeframes. The checklist will also provide a clear set of validation requirements to Development Management customers at the outset providing them with greater clarity, certainty and transparency in the overall process.

12.10 When the information required by this checklist has not been submitted with an application and is considered by the LPA to be reasonable and necessary to assess the application correctly, the LPA will declare the application invalid. This avoids unnecessary delays being otherwise incurred during the lifetime of an on-hand planning application which usually leads to public and consultee re-consultations which could have been avoided. Delays also usually mean that extensions of time have to be sought and agreed to extend the determination period accordingly to

facilitate the consideration of any necessary supporting information submitted later in the overall application process.

12.11 Key sections of the draft checklist were presented at the most recent planning agent and developer forum on 20th October 2022 which were positively received.

12.12 It is anticipated that the introduction of this checklist will encourage better quality householder planning application submissions. It will also help to provide service efficiencies and speed of decision-making which were identified as key recommendations as part of the Planning Advisory Service (PAS) Peer Challenge review in 2021. It is intended to develop and introduce an additional wider local validation checklist for all other planning application types later this year drawing on the work already done for this householder checklist.

12.13 Consultation has been carried out with planning agents and developers that frequently submit planning applications to Walsall Council, and with relevant internal colleagues between 30th November and 29th December 2022. A total of 2 x responses were received and these have been summarised in Table 2 below.

**Table 2 – Responses to S106 Guide Consultation**

Name of Respondent	Respondent Feedback	LPA Response
Planning Policy Team, Walsall Council	<p><i>Section 5 (bat and other surveys)</i> – minor tweaks to wording.</p> <p><i>Section 4 (What Should a Heritage Statement Contain?)</i> – minor tweaks to wording.</p> <p><i>LHV16 (Bat Preliminary Roost Assessment and Ecological Survey(s))</i> – Minor tweaks including reference to best practice guidelines.</p>	Noted and amended.
D J Building Design	<p><i>Section 6 (Simple Householder Validation Checklist)</i> – Bat and other surveys are a large expense and should be requested prior to passing an application rather than at validation stage.</p>	<p>Noted. However, these documents are necessary at the outset where required to support the assessment of the application. If they are left until later in the process once all other material considerations have been assessed this results in unnecessary delays and additional costs and resource impacts on the LPA.</p> <p>Customers are encouraged to seek pre-application advice on the likelihood of acceptability of a proposal prior to a formal planning application submission.</p>

- 12.14 The checklist has been updated where necessary and appropriate taking into account the above feedback. Where it has not been possible to make suggested amendments an explanation has been provided in Table 2 above. The final checklist is provided in Appendix B.
- 12.15 Detailed guidance on heritage, ecology and tree matters which was originally contained within the checklist itself has since been removed. This detail will instead be published alongside the checklist to ensure the main checklist document is concise and user-friendly. This provides other benefits including the ability to update each separate guidance note individually when required; these guidance notes can also be referred to in the wider validation checklist to be implemented later this year thus avoiding duplication.
- 12.16 The final checklist, and supplemental detailed guidance notes, will be checked and re-formatted where necessary prior to its implementation on Wednesday 1<sup>st</sup> March 2023 to ensure the document complies with the necessary accessibility standards for publishing documents online.

Appendix A

**Final S106 Customer Guide**

**Appendix B**

**Final Householder Validation Checklist**