

**REPORT OF: ASSISTANT DIRECTOR PLANNING, BUILDING CONTROL AND REGULATORY SERVICES**

**TO: EXECUTIVE**

**DATE: 12<sup>th</sup> MARCH 2024**

**Contact Details: Neil Watson**  
**Tel. No: 01282 661363**  
**E-mail: neil.watson@pendle.gov.uk**

## **VALIDATION REQUIREMENTS FOR PLANNING APPLICATIONS**

### **PURPOSE OF REPORT**

For the Council to agree and adopt the list of requirements for the submission of planning applications.

### **RECOMMENDATIONS**

- 1 That the validation requirements as set out in the document attached at Appendix A be agreed for public consultation.
- 2 That the final requirements for validation be delegated to the Assistant Director Planning, Building Control & Regulatory Services to agree taking into account comments from the public consultation.
- 3 That delegated authority be given to the Assistant Director Planning, Building Control & Regulatory Services to alter the validation checklist when necessary to deal with changes to the requirements for Biodiversity Net Gain.

### **REASONS FOR RECOMMENDATIONS**

- 1 In order to ensure Pendle has a formally adopted scheme.
- 2&3 In order to allow changes to the validation requirements for Biodiversity Net Gain to be made expeditiously and that they can be kept up to date.

## **1. ISSUE**

- 1.1 The Council has an adopted planning application validation list. There is a need to update this due to the commencement of the provisions in the Environment Act 2021. The list has to be updated every 2 years. The implementation of Biodiversity Net Gain ("BNG") has resulted in the need to revisit the list ahead of the scheduled 2-year normal cycle.

- 1.2 The statutory requirement to consider BNG is a requirement for almost all planning applications. It is being introduced in stages with major planning applications starting in February 2024 and minor applications in April 2024. There is also a list of exempt types of development such as for householder developments.
- 1.3 The process is twofold. Applicants are required to confirm whether their application is subject to BNG. If they consider it is not BNG development a statement to that effect is required for all applications.
- 1.4 Once an application is confirmed to be subject to BNG information regarding the condition of the ecology on site has to be submitted. This is in the form of a statutory metric. BNG can be provided on or off site depending on the nature of the site and the ability to retain and enhance biodiversity on site. Any enhancements have to be provided for a minimum of 30 years.
- 1.5 Legal agreements may be needed to secure the on-site provision if it is deemed to be significant provision.
- 1.6 The law then says that any planning permission granted has to be subject to a prescribed condition that is mandatory on every planning permission. This requires a developer to then submit a Biodiversity Net Gain Plan ("NGP"). The validation requirements need to deal with what is needed for the Council to consider the NGP as well as any legal agreements that may flow from that.
- 1.7 Defra had indicated that they were going to publish a model validation list but they have not done so. The view that is emerging from Defra and Natural England is that it is likely that there will be changes to the process as lessons are learnt from the national roll out programme. It is advisable to be able to react to such changes hence it is recommended that delegated authority is given to make changes when necessary in relation to BNG.
- 1.8 Alongside the validation list is a guide to BNG within Pendle. This is attached for information. It will be amended to include the validation check list once agreed.
- 1.9 Training for Members on BNG is being arranged to be provided via the Lancashire Wildlife Trust.

## **IMPLICATIONS**

**Policy:** None

**Financial:** None

**Legal:** Should the Council not adopt a validation checklist then only the statutory requirements can be applied to registering applications.

**Risk Management:** None

**Health and Safety:** None

**Sustainability:** None

**Community Safety:** The

**Equality and Diversity:** None

Appendix A – Validation requirements.

Appendix B – Pendle Non-statutory BNG Guide