

GUIDANCE ON CHANGES TO THE DEVELOPMENT CONTROL SYSTEM

1. This Circular provides guidance on changes to the operation of the development control system. The Circular covers:
 - Section 1 – the power for local planning authorities to make local development orders (coming into force 10 May 2006).
 - Section 2 – changes to the outline planning permission process (coming into force 10 August 2006).
 - Section 3 – the requirement for design and access statements to accompany applications for certain types of permission and consent (coming into force 10 August 2006).
 - Section 4 – powers controlling certain internal floorspace additions – such as mezzanines (coming into force 10 May 2006).
 - Section 5 – changes to the decision period for major planning applications (coming into force 10 May 2006).
2. The guidance contained in this Circular relates to England only. A further Circular will be issued when the measures are commenced in relation to Wales. References in this Circular to the “2004 Act” are to the Planning and Compulsory Purchase Act 2004. References to the “1990 Act” are to the Town and Country Planning Act 1990. References to the “Listed Buildings Act” are to the Planning (Listed Buildings and Conservation Areas) Act 1990. References to the GDPO are to the Town and Country Planning (General Development Procedure) Order 1995 and references to the “Listed Buildings Regulations” to the Planning (Listed Buildings and Conservation Areas) Regulations 1990.

3. Alongside the commencing of powers in the 2004 Act, these changes are also implemented through amendments to the GDPO¹ and the Listed Buildings Regulations² and the Town and Country Planning (Applications) Regulations³.

Section 1 – Local Development Orders (LDOs)

Legislative Provision

4. Sections 40 and 41 of the 2004 Act insert new sections 61A to D into the 1990 Act. In addition, Schedule 1 inserts a new Schedule 4A. These provide the legislative basis under which LDOs will operate. Further, more detailed, provision is contained in the inserted articles 2B and 25A of the GDPO.

Background

5. An LDO grants permission for the type of development specified in the LDO and by so doing, removes the need for a planning application to be made by the developer. An LDO can only be made to implement policy contained in a development plan document or in a local development plan. Certain types of development are already permitted without the need for planning permission. These permitted development rights are set out in the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO). The GPDO grants a general permission for various types of relatively small-scale and normally uncontentious development without the need to make a planning application to the local planning authority.
6. Permitted development rights under the GPDO are set at the national level. LDOs can therefore be seen as an extension of permitted development, but decided upon locally in response to local circumstances. LDOs allow local planning authorities to act proactively to implement a planning policy within their area.
7. As LDOs remove the need to apply for planning permission the potential developer would be able to progress with greater speed and certainty (subject to the development complying with the terms and conditions of the LDO). Associated costs may well be lower with an LDO as there will also not be a planning application fee or need to commit the resources associated with the preparation of an application.

Scope of LDOS

8. It is at the discretion of a local planning authority as to whether to make an LDO. An LDO may grant permission for development specified in the LDO, or for any class of development. The LDO can relate to all land in a local planning authority area, or only to a part of that land (including specific sites).

¹ The Town and Country Planning (General Development Procedure)(Amendment)(England) Order 2006 (SI 2006/1062).

² The Planning (Applications for Planning Permission, Listed Buildings and Conservation Areas)(Amendment)(England) Regulations 2006 (SI 2006/1063).

³ SI 1988/1812.

9. The scope of any LDO would reflect local circumstances and must be used to implement a policy contained in one or more development plan documents. It would be for local planning authorities to decide whether such proactive implementation of local development policy is desirable. LDOs will provide authorities with greater flexibility in attempting to implement policy.
10. On one level, LDOs could be used to extend permitted development rights across the whole of a local planning authority area. Such development is likely to be relatively minor and to which permission is invariably given – most likely small-scale householder development. A local planning authority may choose to take such an approach in order to reduce officer time spent on routine applications thus freeing resources to concentrate on more major applications and the development of a shared vision and strategy for its area.
11. LDOs could also be used to provide permission for certain types of development in parts of a local planning authority area. For example, a local planning authority may wish to make an LDO to assist in the regeneration of an employment area or industrial estate or guide development in areas where significant change is anticipated.
12. An LDO could also be site-specific to bring forward development of a particular site. This could be to assist with the provision of flagship development to be a catalyst for regeneration or to encourage the provision of housing on a particular site.
13. In practice, to ensure that such LDOs deliver the right type of development they may well need to refer to guidance, for example on design, produced by the local planning authority. In addition, local planning authorities should consider whether an LDO linked to a design code might allow the timely delivery of high quality developments. Guidance on design codes will be published separately.

Restrictions on LDOs

14. A local planning authority can choose to restrict the potential scope of an LDO. For example, an authority may direct in the LDO that permission does not apply in relation to a particular development or in particular areas. Similarly, it may choose to specify conditions or limitations within the LDO which will apply to the permission granted.
15. A number of statutory restrictions also apply to types of development permitted by an LDO. These prevent a local planning authority making an LDO⁴:
 - for development affecting listed buildings.
 - for development that is likely to have a significant effect on a European site⁵ and is not directly connected with or necessary to the management of the site.
 - for development of the type specified in Schedule 1 (“EIA development”) to the Town and Country Planning (Environmental Impact Assessment etc) (England and Wales) Regulations 1999 (“the EIA Regulations”).

⁴ See article 2B(15) of the GDPO.

⁵ Within the meaning of regulation 10 of The Conservation (Natural Habitats, &c.) Regulations 1994 – “the Habitats Regulations”

16. **Listed buildings** – The Listed Buildings Act and Planning Policy Guidance Note 15 set the legislative and policy framework that seeks to ensure the proper protection of the historic environment. Local planning authorities are prevented from making LDOs allowing development that would affect a listed building. This restriction applies not only to development to such a building, but also to other development that might have an adverse impact on the setting of such a building.
17. An LDO cannot remove the need for other forms of consent. So, for example, where conservation area consent is needed, an LDO would not remove the need for that, but could remove the need for planning permission for certain types of development in a conservation area.
18. **European sites** – LDOs are restricted from permitting development that is likely to have a significant effect on a European site. This restriction of the power to make an LDO covers potential development not only on such a European site, but also development in the vicinity that might affect the site.
19. Where a local planning authority has made an LDO and an area of land within the scope of the LDO is subsequently designated as a European site, the authority would be under a duty to review whether the LDO would have a significant impact on that site. Following that review, they will need to consider whether they will need to modify or revoke the LDO to ensure ongoing compliance with the statutory framework.
20. **EIA development** – An LDO cannot be made permitting Schedule 1 EIA development. Although, in practice, it is very unlikely that a local planning authority would seek to do so, given the large-scale nature of such development, for the avoidance of doubt, this is prevented.
21. Although a restriction applies in relation to Schedule 1 development, Schedule 2 development is not necessarily prohibited. An LDO can be made to permit such development subject to compliance with EIA requirements. The procedure to be followed before an LDO can be made in respect of Schedule 2 development will be set out in the EIA Regulations.
22. Following that procedure will ensure that any necessary assessment of the likely significant effects of a proposed development is carried out, but will not restrict the potential benefits that might accrue from the ability of local planning authorities to make such an LDO.
23. An LDO may be made where there is no known potential developer. In such cases it would be for the local planning authority to decide whether they wished to incur the necessary costs associated with carrying out an environmental impact assessment themselves. It is expected that LDOs will often be developed in tandem with the formulation of the development plan document to which it relates. Local planning authorities may be able to reduce the potential cost of producing an assessment by preparing it as an extension of the work required in producing a Strategic Environmental Assessment for their plan document. Where a local planning authority is aware of interest from a specific developer for development proposed by an LDO it is expected that they would seek to engage the developer in ensuring the requirement to have carried out the assessment is met.

Making an LDO

24. Local planning authorities are encouraged to make an LDO at the same time as the development plan document to which it relates. This will enable the authority to carry out consultation at the same time and thereby potentially reduce the overall resource cost of preparation. It will also allow those being consulted to see at the earliest possible stage how the authority intends to use an LDO to implement policies in the development plan document. However, there is no requirement for an LDO to be made at the same time. An authority may introduce an LDO at any time after a development plan document is in place.
25. Whilst an LDO can be prepared at any time, it can not be adopted until the development plan document (or documents) to which it relates have been adopted by the local planning authority or approved by the Secretary of State.

Conditions

26. Although an LDO can be made without conditions, it will often be necessary to impose conditions in the LDO to ensure that it is capable of delivering the objectives for which it is made. These conditions should set out clearly what development is, and is not, allowed. Alternatively, conditions could specify that development is in accord with other supplementary planning documents, for example, on design or a design code. Conditions could also require the developer to carry out an action in relation to the development, for example, notifying neighbours prior to commencement of works.
27. When seeking to impose conditions in an LDO the local planning authority should consider their suitability in the same way as they would for an ordinary planning permission.

Statement of Reasons

28. When preparing an LDO, a local planning authority must produce a concise statement justifying why an LDO should be made. This is known as a statement of reasons. The statement must include:
 - a description of the development which would be permitted.
 - a statement of the policies which the LDO would implement.
 - a plan or statement identifying the land to which the LDO would apply.
29. It will be important that the statement is clear as to the scope of the LDO and the purpose for which the LDO is made. The statement should avoid technical language and should be understandable to the lay person.

Consultation and Publicity

30. A draft LDO should be produced before formal consultation or publicity takes place, although it is recommended that informal consultation takes place before or during the drafting of the LDO.

31. When making an LDO, an authority must comply with the same publicity and consultation requirements as are required for the production of a development plan document. They must, in addition, consult any body who would have been a statutory consultee for an application for planning permission for the development in question.
32. Although the Commission for Architecture and the Built Environment (CABE) is not a statutory consultee, a local planning authority is encouraged to consult CABE where an LDO is intended to cover important design issues for significant sites or areas.
33. When a local planning authority is required to consult any person or body, they must send a copy of the draft LDO to that person or body together with a copy of the statement of reasons. They should specify a deadline for comments which must be at least 28 days after the date on which they send the documents to that person. The authority must not adopt an LDO until after the specified deadline for comments has passed and must take into account any representations received.
34. While local planning authorities are encouraged to carry out the consultation and publicity at the same time as they consult on a development plan document, an LDO does not require independent testing and is not subject to the Inspector's binding report. Where consultation takes place at the same time, an authority will need to bear in mind the likelihood that the development plan document to which the LDO relates might well change. If the policy in a development plan document to which the LDO relates is changed in such a way that the draft LDO needs to be revised, the local planning authority must re-consult on and publicise the revised draft LDO in the same way as before. Revisions not made as a result of a change to the development plan document, for example, to respond to more general responses to consultation, do not necessarily require further re-consultation. However, if the revisions are substantial, local planning authorities should re-consult on the proposed LDO.

Consultation with the Secretary of State

35. Before adopting an LDO, a local planning authority must send a copy of the draft LDO and statement of reasons to the Secretary of State. The authority must not adopt an LDO until either:
 - the Secretary of State has confirmed in writing that he does not intend to make a direction under section 61B(1) of the 1990 Act. or;
 - a period of 21 days has elapsed from the date on which the draft was sent to the Secretary of State, and the Secretary of State has neither notified the authority that he intends to make such a direction, or that he requires more time to reach his decision.
36. Where the Secretary of State gives a direction under Section 61B(1) requiring that an LDO is submitted for approval, he may approve or reject it. The Secretary of State may also, at any time, direct the local planning authority to modify an LDO, if he considers it unsatisfactory. However, an authority is not obliged to adopt the LDO – it can decide, at any time, not to adopt an LDO.

Register of LDOs

37. Local planning authorities must place all LDOs and their statements of reasons on a new Part III of the planning register. Part III contains two sections. Section 1 contains copies of draft LDOs and their statement of reasons which have been prepared but not adopted by the local planning authority. Part 2 contains copies of all adopted LDOs and their statement of reasons and particulars or any revision or revocation of an LDO, including the date when the revision or revocation took effect. A draft LDO and its statement of reasons must be placed on the register at the same time as they are sent to consultees. Adopted LDOs must be placed on the register within 14 days of the date on which they are adopted.
38. Revoked LDOs, and provisions which have subsequently been revised must remain on the register, but the register must make clear that they are no longer valid.

Report

39. A local planning authority must report to the Secretary of State each year on the extent to which the LDO is achieving its purpose. This should be done as part of its annual monitoring report submitted pursuant to section 35 of the 2004 Act. As part of its report, the local planning authority should set out the initial justification for introducing the LDO (as set out in the statement of reasons) and should compare the performance of the LDO against that justification.
40. It will be for the local planning authority to determine how it monitors the success of an LDO. How it seeks to do so is likely to depend on the type of LDO and the reason(s) for which it was made. For example, on large developments local planning authorities may wish to monitor progress through site visits. Alternatively, on smaller development, such as where permitted household development has been extended, a simple notification requirement may be an option.

Enforcement

41. Failure to comply with a condition attached to an LDO will be enforceable by the local planning authority in the normal way.

Revocation or Amendment of an LDO

42. Once made, a local planning authority can revise or revoke an LDO at any time. An LDO must be revised if the Secretary of State so directs, or if the relevant policies in one or more of the development plan documents to which it relates are revised or otherwise cease to have effect. The Secretary of State may revoke an LDO if he thinks it is expedient to do so, having first consulted the local planning authority.
43. If an LDO is revised or revoked, or a direction is made disapplying it to certain areas or classes of development, compensation may be payable where an application for planning permission which would previously have been permitted by an LDO is refused or is granted subject to conditions within 12 months from the date on which the LDO is revised or revoked.

44. Local planning authorities are encouraged to include a provision in every LDO which allows development which has started under the provision of the LDO to be completed in the event that the LDO is revoked or revised.
45. Where development is completed before the LDO is revised or revoked, it has been lawfully undertaken. There is therefore no need to introduce a provision of this type in respect of completed development.

Section 2 – Outline Planning Permission and Reserved Matters

Legislative Provision

46. The amendments to articles 1 and 3 of the GDPO modify the outline planning permission regime in relation to the information to be provided at the outline application stage and the matters that may be reserved.

Background

47. The planning system regulates development through the granting of planning permission. In doing so decisions must have regard to national, regional and local planning policies. To ensure development takes proper account of such policy objectives, its impact must be understood and evaluated. Adequate information is needed with the planning application to allow for such assessment.
48. Outline applications allow for a decision on the general principles of how a site can be developed. They are typically used where applicants are looking for formal agreement about the amount and nature of development that can take place on a site prior to preparing detailed proposals.
49. The amendments made to the GDPO, when taken alongside the requirement to submit a design and access statement, mean that outline applications will have to demonstrate more clearly that the proposals have been properly considered in the light of relevant policies and the site's constraints and opportunities. Information provided as part of the application will need to be such as to allow for proper consideration by both decision makers and local communities. They will also provide the basis for greater and better informed community involvement in the planning process.

Reserved Matters

50. Outline permission is granted subject to a condition requiring the subsequent approval of one or more reserved matters. A definition of outline planning permission and reserved matters is set out in article 1(2) of the GDPO. Reserved matters previously consisted of siting, design, external appearance, means of access and the landscaping of the site.

51. The changes made to the GDPO revise this so that reserved matters are:
- **Layout** – the way in which buildings, routes and open spaces are provided within the development and their relationship to buildings and spaces outside the development.
 - **Scale** – the height, width and length of each building proposed in relation to its surroundings.
 - **Appearance** – the aspects of a building or place which determine the visual impression it makes, excluding the external built form of the development.
 - **Access** – this covers accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
 - **Landscaping** – this is the treatment of private and public space to enhance or protect the site’s amenity through hard and soft measures, for example, through planting of trees or hedges or screening by fences or walls.

Information to be Submitted with an Outline Application

52. With an application for outline planning permission detailed consideration will always be required on the use and amount of development. In addition, even if layout, scale and access are reserved, an application will still require a basic level of information on these issues in the application. As a minimum, therefore, applications should always include information on:
- **Use** – the use or uses proposed for the development and any distinct development zones within the site identified.
 - **Amount of development** – the amount of development proposed for each use.
 - **Indicative layout** – an indicative layout with separate development zones proposed within the site boundary where appropriate.
 - **Scale parameters** – an indication of the upper and lower limits for height, width and length of each building within the site boundary.
 - **Indicative access points** – an area or areas in which the access point or points to the site will be situated.

Design and Access Statements Accompanying an Outline Application

53. Design and access statements play a particular role in linking general development principles to final detailed designs. A statement accompanying an outline application must explain how the applicant has considered the proposal, and understands what is appropriate and feasible for the site in its context. It should clearly explain and justify the design and access principles that will be used to develop future details of the scheme. Such information will help community involvement and informed decision making. The design and access statement will form a link between the outline

permission and the consideration of reserved matters. Further information on the use of design and access statements in the planning application process is set out in the following section of this Circular.

Requirements for Additional Information

54. The changes made to the outline planning permission regime do not affect a local planning authority's ability to require further information. This power⁶ enables the local planning authority which is to determine an application to direct an applicant in writing to supply any further information necessary for them to determine an application.
55. Similarly, under article 3(2) of the GDPO, where a local planning authority that is to determine an application for outline planning permission are of the opinion that, in the circumstances of the case, the application ought not to be considered separately from all or any of the reserved matters, they can within one month, beginning with the receipt of the application, notify the applicant that they are unable to determine it unless further details are submitted, specifying the further details they require.

Section 3 – Design and Access Statements

Legislative Provision

56. Section 42 of the 2004 Act substitutes a new section 62 of the 1990 Act and amends section 10 of the Listed Buildings Act so as to provide that a statement covering design concepts and principles and access issues is submitted with an application for planning permission and listed building consent. Section 42 also inserts a new section 327A into the 1990 Act, which prohibits, among other things, a local planning authority from entertaining an application unless it is accompanied by a design statement and an access statement, where required.
57. New article 4C of the GDPO and regulation 3A of the Listed Buildings Regulations sets out the detailed requirements of such a statement in relation to planning permissions and listed building consents respectively.
58. One statement should cover both design and access, allowing applicants to demonstrate an integrated approach that will deliver inclusive design, and address a full range of access requirements throughout the design process.

Background

59. PPS1⁷ sets out the overarching planning policies on the delivery of sustainable development through the planning system. Good design plays a fundamental role in achieving this. As PPS1 states:

⁶ The power is provided by section 62(3) of the 1990 Act and regulation 4 of the Town and Country Planning (Applications) Regulations 1988 (SI 1988/1812)

⁷ Planning Policy Statement 1: Delivering Sustainable Development (ODPM 2005)

“Good design ensures attractive, usable, durable and adaptable places and is a key element in achieving sustainable development. Good design is indivisible from good planning. Planning authorities should plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.”

60. A design and access statement is a short report accompanying and supporting a planning application to illustrate the process that has led to the development proposal, and to explain and justify the proposal in a structured way.
61. Design and access statements must not be used as a substitute for drawings and other material required to be submitted for determination as part of the planning application itself. They provide an opportunity for developers and designers to demonstrate their commitment to achieving good design and ensuring accessibility in the work they undertake, and allow them to show how they are meeting, or will meet the various obligations placed on them by legislation and policy.
62. The level of detail required in a design and access statement will depend on the scale and complexity of the application, and the length of the statement will vary accordingly. Statements must be proportionate to the complexity of the application, but need not be long.
63. Design and access statements help to ensure development proposals are based on a thoughtful design process and a sustainable approach to access; they allow the applicant to explain and justify their proposals; and they help all those assessing the application to understand the design and access rationale that underpins them. Statements should improve the quality of proposals.
64. Development proposals that are not based on a good understanding of local physical, economic and social context are often unsympathetic and poorly designed, and can lead to the exclusion of particular communities. A major part of a design and access statement is the explanation of how local context has influenced the design.
65. For local planning authorities, design and access statements will enable them to better understand the analysis which has underpinned the design and how it has led to the development of the scheme. This will help negotiations and decision-making and lead to an improvement in the quality, sustainability and inclusiveness of the development.
66. Design and access statements will allow local communities, access groups, amenity groups and other stakeholders to involve themselves more directly in the planning process without needing to interpret plans that can be technical and confusing. This will help to increase certainty for people affected by development and improve trust between communities, developers and planners. It will also enable the design rationale for the proposal to be more transparent to stakeholders and the local planning authority.
67. It should be recognised that design and access statements are a communication tool. They cannot set, or justify design and access policies and they cannot ensure high quality design and access by themselves. Local planning authorities should therefore

have clear design and access policies as required by PPS1 and PPS12, and the Town and Country Planning (Local Development)(England) Regulations 2004. These require that a local planning authority's local development documents include policies relating to design and access. They should use design and access statements to help assess the design of a proposal against the relevant policies and proposals set out in local development documents.

When a Design and Access Statement is Required

68. A design and access statement must accompany planning applications for both outline and full planning permissions. The elements to be described in design and access statements will be the same regardless of whether the application is for outline or full planning permission, but their scope will differ. What is required in both outline and detailed statements is explained below.
69. As set out in the GDPO design and access statements will be required for all planning applications except for:
 - a material change in the use of land or buildings, unless it also involves operational development.
 - engineering or mining operations.
 - development of an existing dwelling house, or development within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house, where no part of that dwellinghouse or curtilage is within a designated area. "Designated area" means a National Park, site of special scientific interest, conservation area, area of outstanding natural beauty, World Heritage Site and the Broads.
70. Design and access statements are not required for applications relating to advertisement control, tree preservation orders or storage of hazardous substances.
71. Once satisfied that the design and access statement meets the requirements of the GDPO, the local planning authority should place the design and access statement on the public register with the application to which it relates. Design and access statements should also be sent to consultees along with individual planning applications.

The Status of a Design and Access Statement and its Role in Decision Making

72. Statements will explain and justify proposals already set in the planning application, but they will also set out the principles and concepts that will be used when that proposal is developed in the future. In particular, for outline planning permission, applicants and local planning authorities should consider how they will ensure the relevant parts of the statement are adhered to for the drawing up and assessment of future details. This may be as part of the consideration of an application for approval of reserved matters or any other matter reserved by condition such as materials or landscaping details.
73. Fixing the principles contained within the statement to future decisions will be particularly relevant in the case of outline planning applications. Here, the local

planning authority should ensure that the development approved by an outline planning permission is constrained to the parameters described in the design and access statement submitted with the application and that any future decisions relating to that outline permission are consistent with the statement.

74. In some cases information provided may need to be amended as designs are worked up, especially where they are not only setting out objectives for the building or space, but also a process to achieve these objectives. For example, information on inclusive access may increase with the scheme from initial concept right through to building regulation approval. Local planning authorities may feel that additional information, building on the original statement, is required at the reserved matters stage. In such cases the local planning authority should consider setting out such a requirement through a condition on the outline planning application.

Pre-application Discussions and Negotiations

75. PPS1 advises that pre-application discussions are critically important and benefit both developers and local planning authorities in ensuring a better mutual understanding of objectives and the constraints that exist and that local planning authorities and applicants should take a positive attitude towards early engagement in pre-application discussions. Although not specifically required by either the GDPO or the listed building regulations it is considered good practice to use design and access statements as an aid to pre-application discussions. Statements can be a cost effective and useful way to discuss a proposal throughout the design process, whilst early discussion on the inclusive access component should help to establish any initial access issues.
76. Local planning authorities are urged to consult CABE at the earliest opportunity where they consider a proposal raises, or is likely to raise, significant design quality and access issues.

Presenting the Information

77. A design and access statement can be presented in various formats. For most straightforward planning applications, the statement may be only short, for some only a page may be needed, whereas for more complicated planning applications, a more detailed format and, perhaps, longer document is likely to be necessary. For larger or more challenging sites, the design and access statement may also include drawings and plans illustrating the various issues which the scheme has responded to. However, whilst its length and complexity may vary, what is important is that the document is concise, and effectively covers all of the design and access issues for the proposed development. It is also acceptable to submit a design and access statement in other formats, for example electronically, unless a local planning authority specifically require hard copy.
78. Design and access statements may include, as appropriate, plans and elevations; photographs of the site and its surroundings; and any other relevant illustrations. For large and complex schemes, a model of the proposed development in the context of its surroundings may also accompany the statement, but should not be a substitute for it. These illustrative materials must not be used as a substitute for adequate drawings submitted with the planning application.

79. Local planning authorities may need to make statements available in alternative formats (large print, audio tape etc) to comply with the requirements of section 21 of the Disability Discrimination Act 1995. Statements will be placed on the public register and should be available in alternative formats.

What is Required in a Design and Access Statement – the Design Component

80. The design and access statement should cover both the design principles and concepts that have been applied to the proposed development and how issues relating to access to the development have been dealt with. Statements should evolve throughout the design and development process.
81. A design and access statement should explain the design principles and concepts that have been applied to particular aspects of the proposal – these are the amount, layout, scale, landscaping and appearance of the development.
82. The **amount** of development is how much development is proposed. For residential development, this means the number of proposed units for residential use and for all other development, this means the proposed floor space for each proposed use.
83. Amount cannot be reserved within an outline application, although it is common to express a maximum amount of floorspace for each use in the planning application and for this to be made the subject of a planning condition. The design and access statement for both outline and detailed applications should explain and justify the amount of development proposed for each use, how this will be distributed across the site, how the proposal relates to the site's surroundings, and what consideration is being given to ensure that accessibility for users to and between parts of the development is maximised. Where the application specifies a range of floorspace for a particular use, the reasons for this should be explained clearly in the design and access statement.
84. The **layout** is the way in which buildings, routes and open spaces (both private and public) are provided, placed and orientated in relation to each other and buildings and spaces surrounding the development.
85. If layout is reserved at the outline stage, the outline planning application should provide information on the approximate location of buildings, routes and open spaces proposed. The design and access statement accompanying an outline application should explain and justify the principles behind the choice of development zones and blocks or building plots proposed and explain how these principles, including the need for appropriate access will inform the detailed layout. The use of illustrative diagrams are encouraged to assist in explaining this.
86. For detailed applications, and outline applications where layout is not reserved, the design and access statement should explain and justify the proposed layout in terms of the relationship between buildings and public and private spaces within and around the site, and how these relationships will help to create safe, vibrant and successful places. An indication should also be given of factors important to accessibility of the site for users, such as travel distances and gradients, and the orientation of block and units in relation to any site topography to afford optimum accessibility.

87. PPS1 makes clear that a key objective for new developments should be that they create safe and accessible environments where crime and disorder or fear of crime does not undermine quality of life or community cohesion. Design and access statements for outline and detailed applications should therefore demonstrate how crime prevention measures have been considered in the design of the proposal and how the design reflects the attributes of safe, sustainable places set out in *Safer Places- the Planning System and Crime Prevention* (ODPM/Home Office, 2003).
88. **Scale** is the height, width and length of a building or buildings in relation to its surroundings.
89. If scale has been reserved at the outline stage, the application should still indicate parameters for the upper and lower limits of the height, width and length of each building proposed, to establish a 3-dimensional building envelope within which the detailed design of buildings will be constructed. In such cases the design component of the statement should explain and justify the principles behind these parameters and explain how these will inform the final scale of the buildings.
90. For detailed applications, and outline applications that do not reserve scale, the design and access statement should explain and justify the scale of buildings proposed, including why particular heights have been settled upon, and how these relate to the site's surroundings and the relevant skyline. The statement should also explain and justify the size of building parts, particularly entrances and facades with regard to how they will relate to the human scale.
91. **Landscaping** is the treatment of private and public spaces to enhance or protect the amenities of the site and the area in which it is situated through hard and soft landscaping measures. Statements should also explain how landscaping will be maintained.
92. If landscaping is reserved at the outline stage, the outline application does not need to provide any specific landscaping information. However, the design and access statement should still explain and justify the principles that will inform any future landscaping scheme for the site.
93. For detailed applications, and outline applications that do not reserve landscaping, the design and access statement should explain and justify the proposed landscaping scheme, explaining the purpose of landscaping private and public spaces and its relationship to the surrounding area. Where possible, a schedule of planting and proposed hard landscaping materials to be used is recommended.
94. **Appearance** is the aspect of a place or building that determines the visual impression it makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.
95. If appearance is reserved at the outline stage, the outline application does not need to provide any specific information on the issue. In such cases the design and access statement should explain and justify the principles behind the intended appearance and explain how these will inform the final design of the development.

96. For detailed applications, and outline applications that do not reserve appearance, the design and access statement should explain and justify the appearance of the place or buildings proposed including how this will relate to the appearance and character of the development's surroundings. It should explain how the decisions taken about appearance have considered accessibility. The choice of particular materials and textures will have a significant impact upon a development's accessibility. Judicious use of materials that contrast in tone and colour to define important features such as entrances, circulation routes or seating for example will greatly enhance access for everyone. Similarly early consideration of the location and levels of lighting will be critical to the standard of accessibility ultimately achieved.

Appraising the Context

97. A design and access statement must demonstrate the steps taken to appraise the context of the proposed development. It is important that an applicant should understand the context in which their proposal will sit, and use this understanding to draw up the application. To gain a good understanding of context and to use it appropriately applicants should follow a design process which includes:
- **Assessment** of the site's immediate and wider context in terms of physical, social and economic characteristics and relevant planning policies. This may include both a desk survey and on-site observations and access audit. The extent of the area to be surveyed will depend on the nature, scale and sensitivity of the development.
 - **Involvement** of both community members and professionals undertaken or planned. This might include, for example, consultation with local community and access groups and planning, building control, conservation, design and access officers. The statement should indicate how the findings of any consultation have been taken into account for the proposed development and how this has affected the proposal.
 - **Evaluation** of the information collected on the site's immediate and wider context, identifying opportunities and constraints and formulating design and access principles for the development. Evaluation may involve balancing any potentially conflicting issues that have been identified.
 - **Design** of the scheme using the assessment, involvement, and evaluation information collected. Understanding a development's context is vital to producing good design and inclusive access and applicants should avoid working retrospectively, trying to justify a pre-determined design through subsequent site assessment and evaluation.
98. In the light of this understanding of the context, a design and access statement should explain how this has been considered in relation to its proposed **use**. The use is the use or mix of uses proposed for land and buildings. Use cannot be reserved within an outline application. Design and access statements for both outline and detailed applications should explain the use or uses proposed, their distribution across the site, the appropriateness of the accessibility to and between them, and their inter-relationship to uses surrounding the site.

99. In addition, the statement should explain how this context has been considered in relation to the physical characteristics of the proposal, that is, the amount, layout, scale, landscaping and appearance of the development.

What is Required in a Design and Access Statement – the Access Component

100. It is important to note that the requirement for the access component of the statement relates only to “access to the development”⁸ and therefore does not extend to internal aspects of individual buildings.
101. Statements should explain how access arrangements will ensure that all users will have equal and convenient access to buildings and spaces and the public transport network. The statement should address the need for flexibility of the development and how it may adapt to changing needs.
102. The design and access statement should also explain the policy adopted in relation to access and how relevant policies in local development documents have been taken into account. The statement should also provide information on any consultation undertaken in relation to issues of access and how the outcome of this consultation has informed the development proposals. This should include, for example, a brief explanation of the applicant’s policy and approach to access, with particular reference to the inclusion of disabled people, and a description of how the sources of advice on design and accessibility and technical issues will be, or have been followed.
103. Access for the emergency services should also be explained where relevant. Such information may include circulation routes round the site and egress from buildings in the event of emergency evacuation.
104. For outline applications, where access is reserved, the application should still indicate the location of points of access to the site. Statements accompanying such applications should, however, clearly explain the principles which will be used to inform the access arrangements for the final development at all scales from neighbourhood movement patterns where appropriate to the treatment of individual access points to buildings.

Statements Accompanying Applications for Listed Building Consent

105. Design and access statements will also be required for listed building consent. They will be similar to design and access statements for planning applications, although there will be some differences because of the differing nature of the application. Where there is a planning application submitted in parallel with an application for listed building consent, a single, combined statement should address the requirements of both. The combined statement should address the elements required in relation to a planning application in the normal way and the additional requirements in relation to listed building consent (see below).

⁸ Section 62(5) of the Town and Country Planning Act 1990 as inserted by section 42(1) of the Planning and Compulsory Purchase Act 2004.

What Should be Included in a Listed Building Consent Statement?

106. The design and access statement should explain the design principles and concepts that have been applied to the scale, layout and appearance characteristics of a proposal (information on use, amount and landscaping is not required for listed building consent design and access statements that do not also accompany a planning permission). Otherwise, scale, layout and appearance are broadly the same as outlined in previous paragraphs.
107. In addition to following the broad approach in drawing up the design and access statement in relation to applications for planning permission, a design and access statement relating to listed building consent should include a brief explanation of how the design has taken account of paragraph 3.5 of PPG15 (Planning and the Historic Environment), and in particular:
 - the historic and special architectural importance of the building.
 - the particular physical features of the building that justify its designation as a listed building.
 - the building's setting.
108. The statement will need to explain and justify the approach to ensuring that the listed building preserves or enhances its special historic and architectural importance. Where there is potentially an aspect of design that will impact on this, the statement should explain why this is necessary, and what measures within the approach to design have been taken to minimise its impact.
109. Similarly, the access component is broadly the same as for design and access statements accompanying applications for planning permission, but again with reference to the special considerations set out above.
110. The statement should make clear how the approach to access has balanced the duties imposed by the Disability Discrimination Act where the proposal is subject to those and the particular historical and architectural significance of the building (as judged by the aspects set out in paragraph 3.5 of PPG15). The statement should detail any specific issues that arise particularly with regard to the fact that the building is listed, the range of options considered and where inclusive design has not been provided an explanation as to why should be given. In alterations to existing buildings where the fabric of the structure restricts the ability to meet minimum levels of accessibility details should be provided of the solutions that will be put in place to minimise the impact on disabled people and ensure that any services provided within the building are made available in other ways.

Section 4 – Internal Floorspace Additions – Mezzanines

Legislative Provision

111. Section 55 of the 1990 Act (as amended by section 49 of the 2004 Act) and the newly inserted article 2A of the GDPO provides detailed provision on the application of the measure.

Background

112. From the coming into force date, internal floorspace increases, such as mezzanine floors, of 200 square metres or more in buildings used for retail purposes (other than for the sale of hot food), are classed as development and as such will require planning permission.
113. This measure is not intended to halt mezzanine development; rather it is intended to bring mezzanine development and other internal floorspace increases within planning control and thus subject to the same considerations as other retail extensions.
114. It is important that local planning authorities aim to determine planning applications in a timely manner as part of the quality service that they provide. For increases of 200-999 square metres the timeframe would usually be 8 weeks and for larger proposals of 1,000 square metres or more a decision could normally be expected in 13 weeks.
115. Mezzanines can be a quick, usually straightforward and flexible method of increasing floor space within a building. Additional floorspace within buildings can enable businesses to make better use of buildings and increase productivity from the same footprint, so making more efficient use of land. In the right locations, such development can contribute to the planning policy objectives set out in PPS6: Planning for Town Centres of promoting vital and viable town centres and supporting efficient, competitive and innovative retail activity with improving productivity.
116. But some such development could act against the objectives of planning policy for town centres. This might occur, for example, where mezzanine or other development is proposed which has the effect of increasing gross floorspace in an out-of-centre location where there isn't a need for additional retail floorspace or sequentially preferable opportunities for development exist. Such proposals might also have a negative impact on the vitality and viability of neighbouring centres.
117. Local planning authorities will need to have regard to the guidance set out in PPS6, as well as to the provisions of their development plan, when considering applications involving mezzanines or other internal floorspace increases.
118. In this context, the location of the proposal is important. Applications for development within primary shopping areas are unlikely to conflict with the key objective of PPS6 to promote the vitality and viability of centres, although they may raise other issues such as access requirements and the need for additional car parking. Where a local planning

authority believes that developments involving additional internal floorspace would promote the vitality and viability of its town centre, they may wish to consider making a Local Development Order (LDO). LDOs permit development of the type specified in the LDO and thereby remove the requirement for a planning application. Local planning authorities could therefore make an LDO that defines clearly the area within which development of this sort would be permitted. If they so wished, the local planning authority could further refine what is permitted by specifying a threshold above which planning permission would still be required. It should be noted though that LDOs can only be made to implement a policy contained in one or more development plan documents⁹.

119. The intended use of the mezzanine is also important. If the mezzanine is intended for an ancillary use, e.g. storage, display, or staff facilities, it is unlikely, by itself, to prejudice town centre objectives. However it may release floorspace elsewhere which can be used for retail purposes, which could act against town centre objectives where it is not within the primary shopping area. Where appropriate, planning authorities should consider limiting the use of mezzanines to specified ancillary uses by imposing suitable conditions on any permission and/or limiting the amount of floorspace within the building that can be used for retail trading purposes.

Section 5 – Decision periods for major applications

120. Article 20 of the GDPO is amended to make certain changes to the period within which a planning application must be determined (“the determination period”). Applicants have the right to appeal to the Secretary of State¹⁰ if their application is not determined within the periods set out in article 20(2) of the GDPO. The determination period for any application begins on the day *immediately following* the date on which a local planning authority receives the completed application and correct fee. The determination period is 13 weeks for applications for major development¹¹ and 8 weeks for all other applications. Where an Environmental Impact Assessment is required, the time period is 16 weeks and the environmental statement and accompanying documents must also have been received by the authority (see regulation 32 of the Town and Country Planning (Environmental Impact Assessment etc.) (England and Wales) Regulations 1999). In each case, the time period can be extended by agreement in writing between the local planning authority and applicant until such time as the applicant appeals to the Secretary of State.
121. **This guidance revokes that in paragraph 96 and paragraph 2 of Appendix A of the Department of the Environment Circular 9/95 to the Department of the Circular 9/95.**

⁹ Section 61A(1) Town & Country Planning Act 1990

¹⁰ Section 78(2) of the 1990 Act.

¹¹ See article 2(1).

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