

6 December 2006

Dear Sir/Madam

**PLANNING APPLICATIONS: ARRANGEMENTS FOR CONSULTING
COMMISSION FOR ARCHITECTURE AND THE BUILT ENVIRONMENT AS A
NON-STATUTORY CONSULTEE**

Introduction

This letter is to remind local planning authorities (LPAs) of the circumstances in which it is appropriate to consult the Commission for Architecture and the Built Environment (CABE) about schemes both at pre-application and planning application stages.

Since the publication of the Urban White Paper in 2000, the Government has been firmly committed to creating better, more liveable places through promoting better informed attention to design, physical activity and recreation. This is now at the heart of the Department for Communities and Local Government's agenda to create stronger communities and places in which people feel proud to live.

We have reformed the planning system and put in place a stronger policy framework. Planning Policy Statement 1, for example, emphasises the importance of good design as being an integral part of new developments coming forward through the planning system and makes clear that local planning authorities should plan positively for the achievement of high quality and inclusive design for all development. In addition, from 10th August 2006, Circular 01/06: Guidance on Changes to the Development Control System requires design and access statements to accompany most types of planning applications. The Local Government White Paper and PPS3 reinforce the place shaping and design responsibilities of the planning process.

CABE is the Government's advisor on architecture, urban design and public spaces. Its purpose is to demonstrate how better designed homes, public buildings and

green spaces can transform people's quality of life. In 2001, the former Department for Environment Transport and Regions agreed that CABE should become a non-statutory consultee in the planning process. A letter was sent to all Chief Planning Officers in May 2001 setting out the arrangements for consulting CABE, which is superseded by this letter.

CABE's Status

On 6th January 2006 CABE became a statutory body under s.87 of the Clean Neighbourhoods and Environment Act 2005 ("the Act"). As a public body, CABE is also subject to Freedom of Information requirements.

The statutory functions of the Commission are set out in s.88 of the Act and relate principally to the promotion, understanding and appreciation of architecture, and the design, management and maintenance of the built environment.

The Act gives CABE a specific power to take any steps it thinks appropriate for any purpose connected with the discharge of its functions. Such steps include, in particular, "providing advice and developing and reviewing projects (whether or not it is requested to do so)". (Sections 88(3)(b) and 88(4)(a) of the Act respectively).

However, the Act does not change CABE's status as a non-statutory consultee in the planning system. The present guidance on non – statutory consultation is set out in DOE Circular 9/95 and in the 'Statutory and Non-Statutory Consultation Report' published by DETR in January 2001.

The non-statutory consultation arrangements

We encourage and support CABE to work directly with architects, planners, designers, developers and clients to offer guidance on projects that will shape lives and improve people's quality of life through good design. CABE is doing this in a number of ways including reviewing the design of projects.

Design review is an important part of CABE's role. CABE provides a free advice service offering expert independent assessments of schemes at an early stage. The best time to make assessments is during design development before an application for planning permission is submitted. This approach is welcomed by CABE because advice given at this stage can have the greatest impact. Assessments are also carried out when an application has been submitted for planning permission and referred to CABE by the LPA. Occasionally CABE will offer comments, to which authorities should give appropriate weight, on other schemes.

We encourage LPAs to consult CABE as early as possible on schemes that are significant in some way¹. Significance is difficult to define precisely because it is not necessarily related to the size of a project, its location or type. Guidance on what is significant is set out below. This guidance will be kept under review in the light of experience.

¹ See also Paragraph 76 of DCLG Circular 1/2006

1 Proposals which are significant because of their size or the uses they contain

This category includes:

- Large buildings or groups of buildings such as courts, large religious buildings, museums or art galleries, hospitals, shopping and leisure complexes, mixed use schemes and office or commercial buildings;
- Major infrastructure projects such as stations, airports and other transport interchanges, bridges, power stations and substantial waste plants;
- Major changes in the public realm such as pedestrianisation schemes or proposals to create or enhance public spaces, parks and civic open spaces; and
- Large scale master plans, including spatial planning policies, Design Codes and other forms of design guidance for large sites or areas

2 Proposals which are significant because of their site

This category includes proposals which:-

- affect sensitive important views or are sited in such a way that they give rise to exceptional effects on their locality;
- are of particular regional or local significance; and
- are the subject of major public investment

3 Proposals which are significant as they have an importance greater than their size, use or site would suggest

This category includes proposals which:-

- are likely to establish the planning, form or architectural quality for future large scale development or re-development;
- are out of the ordinary in their context or setting because of their scale, form, materials or surroundings;
- are particularly relevant to the quality of everyday life and contain design features which, if repeated, would offer substantial benefits for society or, conversely, detriments; and
- are unusual or test cases which are likely to set precedents for national policy

Pursuant to its powers under the Act, CABE may ask to see proposals it considers significant even where applications have not been formally referred.

Consulting CABE

CABE's staff are happy to advise planning authorities on whether CABE considers a particular proposal to be significant and wishes to be consulted about it. LPAs

should consult CABE directly on proposals and CABE will then take a judgement on whether the proposal needs to be reviewed.

When consulting CABE as part of the formal planning process, authorities should set clear deadlines for comment, as for other consultees, having regard to the Government's Best Value Performance Indicators for handling planning applications and to the circumstances of the case.

If CABE does not want to become involved in a project on which it has been formally consulted it will say so in writing. In such cases, there is no need for CABE to be consulted formally again as part of the planning process.

If a planning application is called in by, or is subject to an appeal to, the Secretary of State, CABE should be notified of this fact, even if it has indicated previously that it did not wish to give its views on that application.

CABE's formal advice to LPAs will be set out in a letter copied to the interested parties. While advice on pre-application schemes will be provided in confidence, it should be noted that CABE is subject to the provisions of the Freedom of Information Act. CABE's advice on schemes that are the subject of a planning application will be made public, including via the CABE website. More information on confidentiality and FOI is available from CABE.

LPAs should be aware of the benefits of a CABE design review in terms of improving schemes and they should assess which schemes should be referred to CABE. If CABE considers that it should review a scheme which has not been referred to it, it can offer advice and review schemes under subsection 88 (4)(a) of the Act. In these circumstances, LPAs are asked to provide the necessary information and assistance to ensure that the review can consider all material information in a timely way.

Occasionally, when an application falls to be determined by the Secretary of State following a call-in or an appeal, it may be considered appropriate to ask CABE for advice on the architectural or design merits of the scheme. However, it should be noted that where CABE subsequently provides advice that has not been considered at an inquiry then it could be necessary to refer back to the parties if that advice constitutes new evidence.

Regional design review

Regional design review programmes have been established which are supported by, but not managed by, CABE. In order to ensure that nationally significant schemes, as set out in the guidance above, continue to be reviewed by CABE, planning authorities should inform CABE if they are considering sending a planning application to a regional design panel for consultation purposes or for a pre-application review.

When CABE is consulted on a scheme which could be reviewed by a regional panel, CABE may decide to refer it to the regional panel instead of reviewing the scheme itself.

While CABE will aim to avoid duplication of effort, referral to a regional panel will not exempt a scheme from review by CABE if the scheme is particularly significant.

Final Determination of Applications

CABE will often be able to offer advice on planning condition(s) and obligations that local authorities may wish to impose or negotiate to ensure that any development that is acceptable can be taken forward in a manner that ensures that design quality is maintained. Authorities are encouraged to take that advice. Exceptionally, CABE might request that a local authority impose a condition or seek an obligation that provides CABE with an ongoing advisory role in the development process.

If authorities propose to determine an application in a manner inconsistent with CABE's advice then they are asked to notify CABE of the recommendation that will be put to the decision maker and to provide a copy of any public report.

In all cases where CABE has been consulted authorities are asked to provide CABE with a copy of the decision notice and approved plans where permission is granted.

CABE services

As well as offering formal advice on planning applications, CABE offers other services through its enabling, skills and education programme and professional training courses. Please look at their website for more information (www.cabe.org.uk)

CABE can be contacted at:

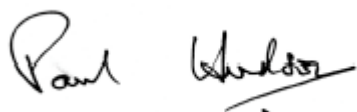
1 Kemble Street
London WC2B 4AN

020 7070 6700

Or through enquiries@cabe.org.uk

The Government will continue to keep this guidance under review and for this reason I welcome any feedback from local planning authorities.

Yours faithfully



Paul Hudson
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Department for Communities and Local Government