Streamlining the planning application process

Consultation

January, 2013
Department for Communities and Local Government

This document/publication is also available on our website at www.gov.uk/dclg

Any enquiries regarding this document/publication should be sent to us at:

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

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Introduction

1. An effective planning system plays an important role in supporting growth – promoting and enabling the homes, jobs and facilities that communities need, and minimising uncertainty and delay for those proposing or affected by development.

2. The Government has already taken important steps to ensure that the planning system fulfils this potential and in particular making sure that the planning application process is up to the task. The National Planning Policy Framework published in March 2012 contains strong policies on how local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. To complement these policies we are pursuing an ambitious programme of reforms to simplify and speed up the planning application process.

3. A consultation paper Streamlining Information Requirements for Planning Applications[1] was published in July 2012 and proposed greater scrutiny of local lists, changes to the outline stage of the planning application process, and amendments to the standard application form. Following consideration of the consultation responses, the Government has decided to take forward these proposals and the associated legislative changes to implement them will come into force on 31 January 2013. A report providing a summary of responses to the July 2012 consultation paper and the Government's decisions in the light of those responses has also been published[2].

4. The public response to the July 2012 consultation paper highlighted further action that could be taken to improve the planning application process by :

   - streamlining the requirements around the Design and Access Statements to focus on the developments where they offer the most benefit

   - looking at the broad powers that local authorities have to request information to validate a planning application to ensure that requests are genuinely necessary to consider the issues associated with a planning application

5. Detailed proposals seeking to address these issues are included in this consultation paper and, in the particular case of changes to validation procedures, are designed to complement the measures that are currently being taken forward as part of the Government's Growth and Infrastructure Bill that was introduced to Parliament on 18 October 2012.

6. Our proposals for Design and Access Statements seek to refocus the need for a statement on the developments where they offer the greatest value. This does not affect the Government's commitment to good design (and accessibility). The National Planning Policy Framework raises the bar on design standards and remains a key part of the policy framework against which the design merits and accessibility of a proposed development should be assessed.

7. In addition to the two areas for change identified above, this consultation paper also seeks views on changes to requirements for local authorities to include reasons for approval in decision notices granting planning permission for development.

[1] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8353/2169897.pdf
[2] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/43425/streamlining_information_requirements_response.pdf

8. The remainder of this consultation sets out these proposals in detail, along with a number of questions. We would welcome comments from any individuals or organisations with an interest in these proposals, which apply to England only.

The consultation process and how to respond

Topic of this consultation:	Streamlining the planning application process
Scope of this consultation:	Changes in relation to the statutory provisions for: (a) design and access statements (b) validation of applications (c) information set out in certain decision notices
Geographical scope:	These proposals relate to England only.
Impact Assessment:	A consultation stage impact assessment is attached to this consultation document.

Basic information

To:	This is a public consultation and it is open to anyone to respond. We would particularly welcome views from: Local planning authorities Developers & applicants Businesses Individuals who may be affected by the changes Community representatives and parish councils
Body/bodies responsible for the consultation:	Department for Communities and Local Government
Duration:	The consultation begins on 21 January 2013 and ends on 4 March 2013. This is a six week period.
Enquiries:	Darren McCreery E-mail: darren.mccreery@communities.gsi.gov.uk
How to respond:	By e-mail to: streamlining@communities.gsi.gov.uk A downloadable questionnaire form, which can be emailed to us, will be available on the Gov.uk website.

Legal background

9. The Town and Country Planning Act 1990[3] sets out the changes to land or buildings which constitute 'development' and which therefore require planning permission. Many types of development with minor impacts are given a national grant of planning permission through permitted development rights[4]. Development that does not benefit from permitted development rights requires an application for planning permission to the local planning authority for the area.

10. The Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended) [5] sets out the steps local authorities must take when they receive, consider and determine planning applications. The parts of the Order relevant to this consultation are:

    - Articles 6 and 10 – sets out the main framework through which local authorities request and consider information in support of planning applications[6]
    - Article 8 – sets out the thresholds and content for Design and Access Statements
    - Article 29 – sets out the requirements for local lists
    - Article 31 – sets out the requirements for local planning authorities to give notice of their decisions on planning applications

11. The Planning (Listed Building and Conservation Areas) Regulations 1990 (as amended)[7] (Listed Building Regulations) make procedural provision for applications for listed building consent and conservation area consent. The parts of the Regulations relevant to this consultation are:

    - Regulation 3A – sets out the required content for Design and Access Statements provided with applications for listed building consent[8]

12. The measures detailed in this consultation would be introduced through secondary legislation to amend the relevant Articles in the Development Management Procedure Order and Listed Building Regulations.

[3] Town and Country Planning Act 1990, Part III, Control over development.
[4] Granted under Town and Country Planning (General Permitted Development) Order 1995 (as amended)
[5] The Town and Country Planning (Development Management Procedure) (England) Order 2010 [SI 2010 No.2184]
http://www.legislation.gov.uk/uksi/2010/2184/contents/made
[6] Together with s.62 Town and Country Planning Act 1990
[7] The Planning (Listed Buildings and Conservation Areas) Regulations 1990 [SI 1990 No.1519]
http://www.legislation.gov.uk/uksi/1990/1519/contents/made
[8] The Planning (Applications for Planning Permission, Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2006 [SI 2006 No.1063]
http://www.legislation.gov.uk/uksi/2006/1063/contents/made

Proposals for change

Simplifying Design and Access Statement requirements

Background

13. Design and Access Statements were introduced by the Planning and Compulsory Purchase Act 2004 as a means of requiring applicants to explain how their design is a suitable response to the site and its setting, and demonstrate that the scheme can be adequately accessed by prospective users. Since their introduction, there have been concerns that they are excessively burdensome for many applications and have not led to better design outcomes.

14. The Development Management Procedure Order[9] sets out:

- the **thresholds** which identify those applications which must be accompanied by a Design and Access Statement; and
- the **content** which must be contained in any Design and Access Statement

15. From August 2006, all planning applications and listed building consent applications were required to provide a Design and Access Statement, apart from those for material change of use, engineering/mining operations or householder development in sensitive locations.

16. The Killian Pretty Review of the planning application process in 2008 recommended a revised and more proportionate approach to Design and Access Statements. This led to revised guidance[10] and regulations[11] introduced in 2010 aimed at streamlining the process.

17. Nevertheless, a large number of applications continue to require a Design and Access Statement[12]. In addition, their statutory content is still prescribed in some detail and applies to all Design and Access Statements, regardless of the scale or nature of development.

18. The July 2012 consultation paper Streamlining Information Requirements for Planning Applications asked respondents if they considered that there would be merit in reviewing the content of Design and Access Statements where these are being provided in support of outline applications.

19. Responses to this question indicated that, despite the changes made following the Killian Pretty Review, there is broad dissatisfaction about the proportionality and effectiveness of Design and Access Statements. Furthermore, respondents' concerns were not limited to those Design and Access Statements which accompany outline applications.

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[9] The requirements for listed buildings are set out in the Planning (Applications for Planning Permission, Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2006 [SI 2006 No.1063] http://www.legislation.gov.uk/uksi/2006/1063/contents/made

[10] Chapter 6, *Guidance on information requirements and validation*, DCLG, March 2010 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7727/1505220.pdf

[11] The Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2010 [SI 2010 No.567] http://www.legislation.gov.uk/uksi/2010/567/contents/made

[12] Table C, *Guidance on information requirements and validation*, DCLG, March 2010 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7727/1505220.pdf

Proposal

20. We propose to simplify the current legal requirements for Design and Access Statements. In doing so, we are seeking to amend:

- **A. the thresholds for Design and Access Statements**, in order to reduce unnecessary statutory burdens for those applications where due consideration of design quality and accessibility does not require the provision of a nationally prescribed document
- **B. the content of Design and Access Statements**, in order to reduce unnecessary complexity in the legislation that contributes to overly long and/or repetitive Statements whose content may be disproportionate to the scale and nature of development proposed, simply in order to comply with statutory requirements

A. Thresholds

21. In reforming the planning system, the Government has made a strong commitment to good design. This is clearly set out in the National Planning Policy Framework, which states that local and neighbourhood plans should include robust and comprehensive policies setting out the expectations for design in an area. It is this policy framework which ensures proper consideration of the design merits and accessibility of a proposed development. The Government attaches great importance to the design of the built environment and we expect planning policies and decisions to reflect this.

22. Within this strengthened policy context, we have reviewed the requirements to provide a Design and Access Statement. We want to avoid instances where a Statement adds little to the decision-making process, or design outcomes on the ground, whilst potentially adding significantly to the complexity and cost of preparing an application.

23. Removing the requirement to provide a Design and Access Statement for certain applications would remove statutory burdens on applicants without compromising design and accessibility. This would not affect an applicant's ability to explain and justify a particular design solution with reference to site-specific circumstances and local policy. However, such explanation would not need to take the form of a nationally mandated Statement in as many cases.

24. In light of these considerations we are proposing to reduce the number of applications where a Design and Access Statement is required. In future the requirement to provide a Design and Access Statement would be confined to those schemes where a more detailed explanation of the approach genuinely adds value.

25. We therefore propose to require Design and Access Statements with applications for major development[13]. Clearly developments of this scale can have a greater impact both on the immediate surroundings and the wider area and a Design and Access Statement could perform a valuable function in helping the local planning authority and third parties to understand the analysis underpinning the design of a scheme. Our proposals would however

[13] For the purposes of the Development Management Procedure Order, "major development" means:

(a) the winning and working of minerals or the use of land for mineral-working deposits;
(b) waste development;
(c) the provision of dwellinghouses where —
(i) the number of dwellinghouses to be provided is 10 or more; or
(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
(e) development carried out on a site having an area of 1 hectare or more;

exclude certain major developments such as mining operations or waste development where the form of particular schemes will largely be dictated by their function.

26. Recognising that in areas of historic value, smaller proposals may also have a significant impact on the character of an area, we propose to apply lower size thresholds where a Design and Access Statement will be required in conservation areas and World Heritage Sites. Similarly, applications for listed building consent will still require a Design and Access Statement.

27. While lower thresholds would apply, the intention is that even in such 'designated areas[14]' the majority of small developments would not require a Design and Access Statement but 'substantive' (although not major) developments and large extensions would be caught. As in other areas, development plan policies on design and heritage would ensure proper consideration of these matters for small developments.

28. In summary, we propose to require a Design and Access Statement to accompany applications for the following:

    In all areas:

    - major development (as defined in Article 2 of the Development Management Procedure Order) - excluding mining and waste development)
    - listed building consent

    In designated historic areas (conservation areas and World Heritage Sites):

    - the extension of an existing building where the floorspace created exceeds 100 square metres
    - the erection of a building or buildings where the cubic content of the development exceeds 100 cubic metres

29. The proposed amendments to the Development Management Procedure Order are set out in Annex 2.

Question 1. Do you agree with the proposal to reduce the number of minor applications which require a Design and Access Statement by raising the threshold?

Question 2. Do you think that major development is the right threshold for requiring a Design and Access Statement? If not, what should the threshold be?

Question 3. Do you agree with the proposals to require a Design and Access Statement for some smaller schemes in World Heritage Sites and Conservation Areas, in addition to major development and listed building consents?

[14] For the purposes of Design and Access Statements a designated area means a conservation area or World Heritage Site.

B. Content

30. National guidance[15] is clear that Design and Access Statements should be short reports which are proportionate to the complexity of the application. However, a common concern is that Statements are often too long, repetitive and disproportionate to the specific development proposed.

31. In part, this is because the required content of Design and Access Statements is prescribed in considerable detail within the secondary legislation and these requirements are applicable to every Statement, regardless of the development or works proposed.

32. To encourage a more proportionate approach to the content of Design and Access Statements, we propose removing some of the rigid statutory prescription in the Development Management Procedure Order and Listed Buildings Regulations. The changes proposed are :

- removing the requirement to explain the specific design principles and concepts that have been applied to "amount", "layout", "scale", "landscaping" and "appearance"
- removing the requirement to give details of maintenance in respect of access
- reducing the number of statutory definitions in respect of Design and Access Statements

33. Applicants will still be free to provide these details where relevant to the case – our proposals simply reduce the level of national prescription in favour of a more proportionate and locally specific approach. While retaining the overall purpose of Design and Access Statements, this allows applicants to better tailor content to the scale and nature of development and/or the stage in the development process.

34. The proposed amendments are set out in Annex 2.

Question 4. Do you agree with the proposed simplification of the statutory content of Design and Access Statements?

Question 5. Are there any further changes that could be made in respect of Design and Access Statements?

[15] Chapter 6, *Guidance on information requirements and validation*, DCLG, March 2010
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7727/1505220.pdf

Improving the validation stage

Background

35. To enable a local authority to consider and formally determine a planning application, it is important that sufficient information is provided by the applicant about the expected impact of the proposed development.

36. The validation stage for planning applications is the point from when a local authority receives an application to confirming that all the necessary information is present and other pre validation requirements have been met. Getting the validation stage right is essential to an efficient planning system. Effective practices at validation stage enable local authorities to get the right information to judge the impact of the development proposed.

37. Concern has been expressed that some local authorities require information that is not necessarily relevant to the planning application in question, and without giving full consideration to the costs that such information requests can impose on applicants. This issue was raised in a number of responses to the July 2012 consultation Streamlining Information Requirements for Planning Applications.

38. Following a court decision in 2009[16], applicants currently have no practical ability to challenge pre validation information requests from local authorities (other than through judicial review). The consequence of this is that, where an applicant is asked to produce a certain piece of information there is little choice other than to provide it. If the information in question was not necessary to the determination of the application, this leads to unnecessary costs for applicants.

Proposals

A new approach to validation

39. We want to encourage a shift in the way local authorities approach validation. Under Article 29 of the Development Management Procedure Order, local authorities are required to publish a local list of information requirements.

40. Local lists can be a very useful guide, helping applicants establish the information the local authority will require to validate a planning application. An up to date local list can give applicants certainty about what information is necessary at an early stage in the design process, reducing delays at the validation stage.

41. There is, however, concern that a potentially adverse consequence of the current system is that the existence of an item on a local list means that the applicant has no option other than to provide it. The current legal status of the local list has led to suggestions that some local authorities take a tick box approach to information requirements, with a lack of consideration being given as to whether the information being requested is genuinely necessary to validate the type of application in question.

42. Paragraph 193 of the National Planning Policy Framework makes it clear that local planning authorities should only request supporting information that is relevant, necessary and material to the application. We want this principle to apply to every piece of information requested by

[16] Newcastle Upon Tyne vs SSCLG (http://www.4-5graysinnsquare.co.uk/uploads/docs/section9/Newcastle_CC_v_Sec_of_State_for_Communities.pdf)

the authority. Provisions in the Growth and Infrastructure Bill introduced to Parliament on 18 October 2012 will give statutory weight to this policy approach.

43. We are also proposing to amend the Development Management Procedure Order to make it clear that, where a local authority requests an item of information on its local list, both applicants and local authorities must give full consideration to whether the information in question is really necessary and meets the tests set out in the Growth and Infrastructure Bill. This will provide a statutory frame of reference for any differences between the parties in a validation dispute.

44. This change will also complement the new requirement for local authorities to revisit local lists at least every two years, which will be in force from 31 January 2013.

45. Accordingly we propose to amend Article 29 of the Development Management Procedure Order to include new conditions on the information local planning authorities can request from applicants. The changes, as transposed from the Growth and Infrastructure Bill, are as follows:

- information requests should be reasonable having regard to the nature and scale of the proposed development; and
- information requests should relate to matters that it is reasonable to think will be a material consideration in the determination of the application

46. The proposed amendments to the Development Management Procedure Order are set out at Annex 2 of this consultation paper.

Question 6. Do you have any comments on the changes to local lists and validation, as set out in paragraphs 39-46 above and reflected in the draft legislation in Annex 2?

Right to challenge information requests

47. We think it is right that, where a local authority persists in refusing to validate a planning application on the grounds of purportedly insufficient information requested under the provisions of Section 62 (3) of the Town and Country Planning Act 1990, the applicant should have recourse to the planning appeals system.

48. Until 2009 applicants could, after the statutory timescale[17] had passed, appeal against non-determination under Section 78 of the Town and Country Planning Act. In 2009 the courts ruled that under the present statutory framework the Planning Inspectorate were unable to consider such appeals.

49. We think that some form of redress through the planning appeals system should be possible where there is a genuine impasse between an applicant and a local authority over the information required to validate a planning application. At present the only way forward for an applicant in a validation dispute is through judicial review.

50. In reinstating this right of appeal, we want to make clear that, as before, appealing against non-determination should be the option of last resort, pursued after other negotiation options have been exhausted. As the National Planning Policy Framework makes clear, we encourage pre application engagement and front loading of the process which should minimise the risk of disagreements about information requirements emerging. If a point of concern is raised by the local authority regarding the information necessary to validate an

[17] The statutory time limits are set out in Article 29 of The Town and Country Planning (Development Management Procedure) (England) Order 2010, as amended. These are 13 weeks for major development, and 8 weeks for all other development. An extended period of 16 weeks applies for applications subject to The Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

application, we expect both parties to seek to address that concern through negotiation in the first instance.

51. To help address the findings of the 2009 court judgement, provisions in the Growth and Infrastructure Bill make clear that any information requested by local authorities through the planning system must be proportionate to the scale and nature of the development proposed, and is a matter likely to be a material consideration in the determination of the application. This measure has been bought forward to place limits on the very broad power that currently exists in Section 62 (3) of the Town and Country Planning Act.

52. To reinstate the right of appeal, we also propose the introduction of a new and simple procedure whereby an applicant informs the local authority in writing, setting out why it thinks the information requested by the local authority to validate the application is not necessary. The local authority would have to respond to the applicant within the statutory time period for determining the application (or within 7 working days, in the exceptional circumstances where the statutory time period had already lapsed), either by validating the application or issuing a non-validation notice.

53. The serving of a non-validation notice (or failure to do so within the specified timescale) could then form the basis of a subsequent appeal. We propose to amend article 29 of the Development Management Procedure Order to refer to these 'non-valid applications' and this change would have the effect of allowing applicants to appeal against non-determination under Section 78 of the Town and Country Planning Act 1990.

54. This new procedure is considered necessary to address recent case law and give a clear legal status to an application where there is a validation dispute between the local authority and the applicant. It will also ensure that applicants give full consideration to the request from the local authority and justify why they consider the information is not necessary at this point in the planning process. This should ensure that appeals are only pursued in those circumstances where there is a genuine impasse between the applicant and local authority, and after negotiation has been exhausted.

55. Draft legal provisions that set out the notification procedure have been set out in Annex 2 of this consultation paper. As explained above, where an applicant had informed the local authority in writing of why it thinks the information requested is unnecessary, and the local authority had either issued a non-validation notice or failed to reply within the timescale set out, and the statutory time period for determination of the application had passed, an applicant would then be able to appeal against non-determination.

Question 7. Do you have any comments on the procedure for challenging information requests at the validation stage as set out in paragraphs 52-54 above and reflected in the draft legislation in Annex 2?

Changes to decision notices

Background

56. The Government is keen to streamline the planning application process for all parties, eliminating or reducing requirements where this will not harm the integrity or effectiveness of the decision taking process or the quality of decisions that are reached.

57. A point that has been put to the Government by the local government planning community is that the current requirement to provide on a decision notice to grant planning permission, a summary of reasons and a summary of the policies and proposals in the development plan which are relevant to the decision to grant planning permission, is both burdensome and unnecessary, because it duplicates material documented elsewhere.

58. Until December 2003 there was no statutory duty to provide this information for decisions to approve planning applications. This contrasted with the long-standing statutory duty to give full reasons for refusing planning permission or for the imposition of conditions – which we do not propose to change.

59. There are a number of reasons why it is appropriate to re-consider this requirement. The current requirement is to provide only a summary of reasons and relevant policies and proposals. The relevant officer reports (either for delegated decisions or for decisions to be taken by committee) typically provide far more detail on the logic and reasoning behind a particular decision than a decision notice. As it stands, in order to understand the full rationale for the decision the officer report would need to be obtained.

60. Since the introduction of the requirement in 2003, ease of access to information relating to planning applications has grown. There have been advances in information available online, with officer reports for both minor and major applications generally being available online. In addition, the minutes and decisions of planning committee meetings are also published electronically. Furthermore, the rights granted under the Freedom of Information Act (2000) have bedded in and familiarity with the powers granted under this Act has increased. As a result of these changes, there is now a greater level of transparency in the decision taking process.

61. The requirement to provide a summary of reasons and relevant policies and proposals adds little to the transparency of the process and does not affect the quality of decision-taking, but it does add to the burdens on local planning authorities because it requires a degree of duplication and additional work.

62. The local government planning community has also indicated that the requirement has resulted in instances of third party challenge, in relation to the adequacy of the reasons given on the decision notice. Yet this requirement only provides a summary of the reasoning now readily available elsewhere.

63. In the light of these considerations, we propose to remove the requirement to provide a summary of reasons for approval of a planning application and a summary of policies and proposals that are relevant to a decision to grant planning permission.

64. Removing this requirement would not preclude a local authority from providing reasons for approval on a written decision notice if they considered it to be necessary or beneficial, for example, in circumstances where the decision did not follow the recommendations set out in the officer's report. We do not, however, consider it necessary to continue to mandate this at a national level.

65. There is no need to amend the requirements in relation to listed building and conservation area consent. Following amendment in 2008[18] , Regulation 3(7) only requires local planning authorities to give reasons for their decision to grant consent subject to conditions or to refuse consent.

Proposal

66. We propose to amend Article 31 of the Development Management Procedure (England) Order (2010) to remove the statutory requirement for local planning authorities to include on decision notices both a summary of reasons and a summary of the policies and proposals in the development plan which are relevant to the decision to grant planning permission.

67. There will still be a requirement to give full reasons for each condition proposed and no changes are proposed in relation to the following current requirements:

- the need to provide full reasons where an application is refused permission;
- the duty in relation to applications accompanied by an environmental statement; and
- the duty in instances where the Secretary of State grants permission.

68. The proposed amendments to the Development Management Procedure Order are set out at Annex 2 of this consultation paper

Question 8. Do you agree with the proposal to remove the statutory requirement, when planning permission is granted, to provide a summary of reasons for approval and a summary of the relevant policies and proposal considered on written decision notices?

[18] Planning (Listed Building and Conservation Areas) (Amendment) (England) Regulations 2008. These regulations amend the Planning (Listed Building & Conservation Areas) (England)(Amendment) Regulations 2003.

Consultation stage impact assessment

69. An impact assessment setting out the costs and savings of these measures is included at Annex 1.

Question 9. Do you have any comments on the assumptions and analysis set out in the consultation stage impact assessment?

Question 10. In particular, do you agree that £500 is an accurate reflection of the costs associated with creating a Design and Access Statement for minor development? If not, what do you consider to be a more realistic figure?

Consultation questions – response form

We are seeking your views to the following questions on the proposals to streamline the planning application process.

How to respond:

The closing date for responses is 4 March 2013.

This response form is saved separately on the Direct Gov website.

Responses should be sent to: streamlining@communities.gsi.gov.uk

Written responses may be sent to:
Darren McCreery
Streamlining the planning application process – Consultation
Department for Communities and Local Government
1/J3, Eland House
Bressenden Place
London SW1E 5DU

About you

i) Your details:

Name:	
Position:	
Name of organisation (if applicable):	
Address:	
Email:	
Telephone number:	

ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

Organisational response ☐

Personal views ☐

iii) Please tick the box which best describes you or your organisation:

District Council	☐
Metropolitan district council	☐
London borough council	☐
Unitary authority	☐
County council/county borough council	☐
Parish/community council	☐
Non-Departmental Public Body	☐
Planner	☐
Professional trade association	☐
Land owner	☐
Private developer/house builder	☐
Developer association	☐
Residents association	☐
Voluntary sector/charity	☐
Other	☐

(please comment):	

iv) What is your main area of expertise or interest in this work? (please tick one box)

Chief Executive	☐
Planner	☐
Developer	☐
Surveyor	☐
Member of professional or trade association	☐
Councillor	☐
Planning policy/implementation	☐
Environmental protection	☐
Other	☐

(please comment):	

Would you be happy for us to contact you again in relation to this questionnaire?

Yes ☐ No ☐

ii) Questions

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Question 1. Do you agree with the proposal to reduce the number of minor applications which require a Design and Access Statement by raising the threshold?

Yes ☐ No ☐

Comments

Question 2. Do you think that major development is the right threshold for requiring a Design and Access Statement? If not, what should the threshold be?

Yes ☐ No ☐

Comments

Question 3. Do you agree with the proposals to require a Design and Access Statement for some smaller schemes in World Heritage Sites and Conservation Areas, in addition to major development and listed building consents?

Yes ☐ No ☐

Comments

Question 4. Do you agree with the proposed simplification of the statutory content of Design and Access Statements?

Yes ☐ No ☐

Comments

Question 5. Are there any further changes that could be made in respect of Design and Access Statements?

Yes ☐ No ☐

Comments

Question 6. Do you have any comments on the changes to local lists and validation, as set out in paragraphs 39-46 and reflected in the draft legislation in Annex 2?

Yes ☐ No ☐

Comments

Question 7. Do you have any comments on the procedure for challenging information requests at the validation stage as set out in paragraphs 52-54 and reflected in the draft legislation in Annex 2?

Yes ☐ No ☐

Comments

Question 8. Do you agree with the proposal to remove the statutory requirement, when planning permission is granted, to provide a summary of reasons for approval and a summary of the relevant policies and proposal considered on written decision notices?

Yes ☐ No ☐

Comments

Question 9. Do you have any comments on the assumptions and analysis set out in the consultation stage impact assessment in Annex 1?

Yes ☐ No ☐

Comments

Question 10. In particular, do you agree that £500 is an accurate reflection of the costs associated with creating a Design and Access Statement for minor development? If not, what do you consider to be a more realistic figure?

Yes ☐ No ☐

Comments

Thank you for your comments.

Consultation Information

About this consultation

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you want the information that you provide to be treated as confidential, please be aware that under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested. Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

If you have any queries or complaints regarding the consultation process, please contact:
DCLG Consultation Co-ordinator
Zone 6/H10 Eland House
London SW1E 5DU
email: consultationcoordinator@communities.gsi.gov.uk

Annex 1: Consultation stage impact assessment

Title: Package of further streamlining measures: design and access statements, validation requirements and decision notices. **IA No:** DCLG12032 **Lead department or agency:** Department for Communities and Local Government (DCLG) **Other departments or agencies:**	Impact Assessment (IA) **Date:** **Stage:** Consultation **Source of intervention:** Domestic **Type of measure:** Other **Contact for enquiries**: Darren McCreery 0303 444 4352

Summary: Intervention and Options

RPC: Awaiting validation

Cost of Preferred (or more likely) Option 2

Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (equivalent annual net cost to business on 2009 prices)	**In scope of One-In, One-Out?**	**Measure qualifies as**
£284 million	£149 million	£-18 million	Yes	Out

What is the problem under consideration? Why is government intervention necessary? Central Government and local planning authorities have powers to require the provision of specific information during the planning application process. The Government believes that some of this information adds unnecessary cost and complexity to the process, involving burdens for both applicants and local planning authorities. Reducing these burdens would contribute to the Government's wider commitment to reforming the planning system, to ensure it plays a more effective role in supporting sustainable development.

What are the policy objectives and the intended effects? To reduce delays and costs associated with the planning application process, with knock on positive benefits for users of the planning application process, by:

- A) Reducing the number of applications for which a Design and Access Statement is required, in order to decrease burdens for those applications where due consideration of design and access does not require the provision of a nationally prescribed document; and B) encouraging a more proportionate approach to completing Design and Access Statements by simplifying their statutorily prescribed content.
- Encouraging a more proportionate approach to the information local authorities request with planning applications by reintroducing the ability of applicants to challenge demands which are unreasonable in the circumstances of a particular case.
- Reducing current administrative burdens on local authorities by removing the requirement to give a summary of their reasons for approval (and provide a summary of relevant policies and proposals) in written decision notices granting planning permission.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1: Do nothing: No change to current requirements

Option 2 (Preferred Option) (i.) Remove the requirement to produce a Design and Access Statement where due consideration of these matters does not require the submission of a statutory document; and simplify the nationally prescribed content in cases where a design and access statement will still be required (ii.) reintroduce the ability for applicants to appeal against the decision of a local authority not to validate a planning application, and (iii.) remove the requirement for local authorities to give a summary of their reasons for approval (and provide a summary of relevant policies and proposals) in written decision notices granting planning permission.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** April 2015

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** Yes	**< 20** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)			**Traded:** n/a	**Non-traded:** n/a	

Evidence Base (for summary sheets)

Policy issue under consideration and objectives

The planning system provides a mechanism through which the impacts and external costs of development to third parties can be taken into consideration when new development is proposed. The planning system plays an important role in promoting the efficient use of land and considering and mitigating the adverse impacts that development can have on third parties. However, the requirement to apply for planning permission places an administrative burden on applicants, estimated at around £1.1 billion for businesses alone in 2006[1].

The Government has already taken important steps to ensure that the planning system operates effectively. A number of specific changes to simplify and speed up the planning application process are being undertaken to reduce burdens on applicants and local authorities which can add unnecessary costs and delays to the planning application process.

In July 2012 the Government published a consultation paper, *Streamlining information requirements for planning applications*, which sought views on proposals to introduce greater scrutiny of local lists, changes to outline planning applications and amendments to the standard application form. Legislative changes to introduce these proposals will come into force in January 2013.

Building on the July 2012 consultation, further measures to improve the operation of the planning application process are proposed and considered in this impact assessment:

- Reducing the number of applications for which a **Design and Access Statement** is required, in order to decrease burdens for those applications where due consideration of design and access does not require the provision of a nationally prescribed document;
- Encouraging a more proportionate approach to completing Design and Access Statements by simplifying their statutorily prescribed content;
- Encouraging a more proportionate approach to the information local authorities request at the **validation stage** by reintroducing the ability of applicants to challenge demands which are unreasonable in the circumstances of a particular case; and
- Reducing current administrative burdens on local authorities by removing the requirement to give a summary of their reasons for approval (and provide a summary of relevant policies and proposals) in **written decision notices** granting planning permission.

Current position

Design and Access Statements

At present Design and Access Statements are statutorily required for a large number of applications, including all development within a conservation area or World Heritage Site. As well as identifying which applications require a Design and Access Statement, the required content of such Statements is prescribed in some detail within the secondary legislation.

Local planning authority decisions not to validate

At present there is no right of appeal where a local authority refuses to validate a planning application. In such an instance an applicant has no redress other than through judicial review. This follows a court decision in 2009 that drew attention to the broad legislative powers of local authorities in this area, which are currently being addressed through the Growth and Infrastructure Bill.

[1] http://www.communities.gov.uk/documents/corporate/pdf/regulation-burden.pdf

Changes to Decision Notices

At present local planning authority decision notices granting planning permission must include a summary of their reasons for the grant of permission and a summary of the policies and proposals in the development plan which are relevant to the decision to grant permission.

A similar requirement applies to listed building consents and conservation area consents.

Options under consideration

Option 1 – do nothing – no change to the current position

Option 2 (preferred option) – amend existing requirements for

- Design and access statements.
- The validation of planning applications.
- Planning decision notices.

Summary of Preferred Option

Design and Access Statements

To reduce the number of applications which must be accompanied by a Design and Access Statement it is proposed to only require a Design and Access Statement with applications for:

In all areas:

- major development.
- listed building consent.

In designated historic areas (conservation areas and World Heritage Sites):

- The extension of an existing building where the floorspace created exceeds 100 square metres.
- The erection of a building or buildings where the cubic content of the development exceeds 100 cubic metres.

In addition, to ensure a more proportionate approach to the content of Design and Access Statements we propose to amend the prescribed content in secondary legislation by:

- Removing the requirement to explain the specific design principles and concepts that have been applied to “amount”, “layout”, “scale”, “landscaping” and “appearance”.
- Removing the requirement to give details of maintenance.
- Reducing the number of statutory definitions in respect of Design and Access Statements.

Appeals against local planning authority decisions not to validate

The proposal is to set out new conditions on the information local authorities can request and to formally reintroduce a right of appeal to allow applicants to challenge the views of local authorities where they decline to validate a planning application.

This complements measures in the Growth and Infrastructure Bill which are intended to place clear limits on the information local authorities can request as part of the planning application process. The Bill measures were introduced in response to concerns expressed on the July 2012 consultation paper. Whilst connected to this proposal, the impact of Clause 5 of the

Growth Bill is considered separately as part of the Growth and Infrastructure Bill Impact Assessment[2].

Reasons for approval
It is proposed to remove the current statutory requirement for local authorities to provide a summary of their reasons for approval (and provide a summary of relevant policies and proposals) in written decision notices granting planning permission.

Intended effects

The intended effects are set out by reference to the main affected parties, as set out below:

Applicants (including developers)
The measures will have a positive effect on applicants, which include businesses. Removal of the need to prepare a Design and Access Statement for non-major applications (apart from in designated areas) will reduce the costs associated with preparing a planning application. It would not affect an applicant's ability to explain and justify the design merits of a scheme but the vehicle for doing so would not be prescribed nationally for a greater number of applications. Simplification of the nationally prescribed content for the statements that remain in the system will reduce the cost of preparation to applicants.

The main impact of the reinstatement of appeal rights where local authorities fail to validate planning applications is considered to be behavioural. The threat of challenge, via a potential appeal against non-determination, is considered likely to result in a positive influence on the behaviour of local authorities in advancing information requests through the planning system in validating planning applications quickly and without delay, and giving greater consideration to whether information is genuinely necessary. A legitimate basis to challenge information requests will also potentially result in a reduction of costs for applicants where the right of appeal is successfully taken up. As we anticipate that use of this appeal measure will be a last resort, where there is a genuine breakdown in discussions between applicants and local authorities, we expect actual take up of the appeal route to be limited and as a result this has not been monetised.

Local authorities
We expect that the changes will encourage local authorities to take a more proportionate approach to requests for information, alongside the removal of the requirement for developers to submit a Design and Access Statement, will result in an overall reduction in the burden of information when having to consider applications. The removal of the need to provide a summary of reasons and development policies and proposals on decision letters where an application is approved will remove an unnecessary administrative process which will reduce burdens on local authorities, and may also result in a reduction in the grounds that third parties use in seeking judicial review of planning decisions.

Planning Inspectorate
Enabling the Planning Inspectorate to consider appeals against non-determination where no validation has taken place will effectively reintroduce the legal position that existed prior to 2009, when the courts questioned the use of this specific procedure. Such appeals, prior to 2009, were rare and we would expect this to continue to be the case when the provision is reintroduced. We expect therefore that this change will be absorbed in the Inspectorate's administrative budget for dealing with non-determination appeals more generally. Removal of the requirement for Design and Access Statements where these are not considered necessary will also result in less information to consider at appeal stage, leading to quicker and more proportionate consideration of appeals.

[2] https://www.gov.uk/government/publications/growth-and-infrastructure-bill-impact-assessment

Communities
The proposed reductions in the information submitted with applications should not have an adverse effect on communities, because the focus is firmly on removing unnecessary requirements, and will not change the requirement to provide information that is necessary for the determination of the application. By streamlining the statutory content of Design and Access Statements, the policy will bring the legislative framework into line with the Government's guidance[3] which states that Statements should be concise and proportionate to the scale of development proposed. The intended effect is to make Design and Access Statements simpler and less repetitive, which will have a positive impact on those seeking to understand the impact of developments.

We expect that removing the need to provide summaries of reasons or policies/ proposals will have very limited, if any, impact on communities. This is because this information is available from the relevant officer's report on the application and where appropriate minutes of the planning committee. Furthermore, whilst not a legal requirement, in general officer reports for both minor and major applications are uploaded onto the local authorities' electronic planning database and the minutes and decisions of planning committee meetings are also available online.

Summary of Costs and Benefits (Preferred Option)

Design and Access Statements
The proposed changes to the statutorily prescribed thresholds and content for Design and Access Statements will deliver both direct and indirect savings to businesses:

- Direct savings will stem from a reduction in the number of applications which must be accompanied by a Design and Access Statement.
- Indirect savings to applicants will result from simpler content requirements in instances where a Design and Access Statement is still required.

The proposed methodology for calculating the direct benefits to business is to estimate the average cost of preparing a Design and Access Statement and multiply this figure by the estimated number of applications for which one would no longer be required. However, this needs to be qualified by the fact that, in some contexts, it is likely to be in applicants' interest to explain and justify their design regardless of whether this is done within a statutory document.

In July 2009 the Government consulted on measures to reduce information requirements for planning applications, including amendments to Design and Access Statement provisions[4]. This paper assumed that for minor and householder applications, the cost of preparing a Design and Access Statement would start at £500. Given that we propose to exempt a larger range of application types from preparing a Design and Access Statement than in 2009, we consider that this figure may underestimate the savings to some extent. This nevertheless represents our current best estimate at present, which will be revised following the consultation exercise if necessary. To strengthen our evidence in this regard, the consultation document contains a specific question on whether £500 is an accurate reflection of the costs associated with preparing a Design and Access Statement for minor development.

We do not hold specific information on the number of applications which are currently accompanied by a Design and Access Statement, although we can use the statistical

[3] Chapter 6, *Guidance on information requirements and validation*, DCLG, March 2010
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7727/1505220.pdf

[4]
http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/documents/planningandbuilding/pdf/streamliningconsultation.pdf

breakdown of planning applications by type to provide an estimate. Table 1 indicates the average number of applications by type between 2009 and 2011. Over this period there were an average of 208,600 applications for householder developments, which (unless they are located in a designated area), do not require a Design and Access Statement under the current legislation. Under the proposed measures, most major applications (approximately 14,000 annually 2009-2011) will continue to require a Design and Access Statement. Accordingly, the measures would impact primarily on the category of minor developments (residential and non residential), of which Table 1 indicates there were approximately 125,500 annually between 2009 and 2011.

The current legislative provisions contain a complicated list of exemptions which make it difficult to confidently estimate how many of these 125,500 applications were accompanied by a Design and Access Statement and therefore, the extent of the savings arising from removing the requirement to prepare one.

Residential minor applications

Of the 125,500 average annual minor applications between 2009 and 2011, 49,600 were for residential development. In most cases, minor residential applications currently require a Design and Access Statement. The exceptions are a) applications to remove or vary conditions of an existing permission; and b) applications to extend the time limit for implementing an existing permission. Therefore, the proposal that only applications for major development would require a Design and Access Statement will have a significant impact on this category of applications. As such we have estimated that the proposal will remove the need to prepare a Design and Access Statement for 80% of the 49,600 annual cases (**40,000**). As well as recognising that certain minor residential applications already do not require a Design and Access Statement [see points a) and b) above], this figure reflects that such applications in designated areas will continue to require a Design and Access Statement.

Non-residential minor applications

Of the 125,500 average annual minor applications between 2009 and 2011, 75,900 were for non-residential development. Under the current provisions, applications for certain non-residential development are already exempt from providing a Design and Access Statement[5]. The proposed amendments will therefore have less of an impact on minor non-residential applications. We have therefore made a cautious estimate that the measures will remove the requirement for a Statement in only 20% of the 75,900 annual cases (**15,000**).

Together, we estimate that the proposals will remove the requirement to provide a Statement in around 55,000 cases (40,000 residential and 15,000 non-residential) of which approximately half will result in direct savings to businesses, with the remainder distributed amongst individuals and other organisations. Annual savings from certain applications no longer needing to be accompanied by a Design and Access Statement are estimated at £27.5 million. The 10 year net present value of these savings (assuming a constant level of applications) is £229 million.

This in turn is expected to result in annual savings to business of **approximately £14m** (using a cost of £500 per Statement, as set out above). Further indirect savings will potentially arise from the proposed simplification of the statutory content of Design and Access Statements in cases where a Statement is still required. However, we have not sought to quantify these further savings. These assumptions will be tested through consultation.

Local planning authority decisions not to validate

[5] Table C, *Guidance on information requirements and validation*, DCLG, March 2010 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7727/1505220.pdf

Clause 5 of the Growth and Infrastructure Bill introduces a provision that prescribes limits to information requirements associated with planning applications. As part of the implementation of this measure, the Department also proposes to bring forward complementary provisions through a change to the associated secondary legislation that defines validity[6] and delivers a genuinely more streamlined approach to the validation stage of the planning process, including the ability for applicants to appeal where they are unable to agree with a local authority whether an piece of information is necessary.

The Growth and Infrastructure Bill Impact Assessment[7] predicts that the limits in primary legislation will result in a reduction in costs for business through a shift in behaviour amongst local authorities towards a more proportionate approach towards information requirements. This saving is quantified as 10% saving in the overall cost of applying for planning permission, across 10% of the total number of applications progressed each year. The savings bought forward by these complementary provisions in secondary legislation, including the reintroduction of a right of appeal will augment the predicted savings set out in the Growth and Infrastructure Bill IA and further motivate improvements in behaviour. In summary the additional improvement in behaviour will be prompted by the fact that local authorities will want to avoid going to appeal and a greater impetus will be placed on them to ensure that information requests are genuinely necessary, proportionate and relevant to planning, reflecting the policy tests set out in the National Planning Policy Framework.

The average number of decisions made annually on householder applications, minor applications, and major applications between 2009 and 2011 has been used to estimate the savings. Decisions on householder and minor development applications totalled approximately 334,000 applications on average per year between 2009 and 2011 out of 449,000 applications in total or just over three quarters of all decisions. Major developments accounted for a further 13,700 decisions on average per annum.

Table 1 derives estimates of the savings which might arise for applicants as a result of our proposals. This is done by combining the applications data set out above with estimates of approximate costs for preparing a planning application - these are summarised in Arup research for the department[8]. For illustrative purposes, the analysis here assumes that proposals will result in a 10% saving in the overall cost of applying for planning permission, across 10% of the total number of applications progressed each year. As discussed above, this additional 10% will be in addition to the 10% saving already predicted as part of the Growth and Infrastructure Bill Impact Assessment[9]. This demonstrates an average saving of **£6.5 million** per annum.

[6] Article 10 and 29 of the Town and Country Planning (Development Management Procedure)(England) Order 2010 (As amended).
[7] https://www.gov.uk/government/publications/growth-and-infrastructure-bill-impact-assessment
[8] http://www.communities.gov.uk/publications/planningandbuilding/benchmarkingcostsapplication
[9] ibid

Table 1: Estimated savings for applicants under a central scenario assuming 10% reduction in costs[10]

Type of application	Average annual number of applications (2009-2011)	Number of applications benefiting p.a.	Cost per application	Savings per application	Total annual savings	Net Present Value (10 years)
Householder development	208,600	20,860	£687	£69	£1.4 m	£11.9m
Minor development – not dwellings	75,900	7,590	£1,085	£108	£0.8 m	£6.8m
Minor development – dwellings	49,600	4,960	£4,000	£400	£2 m	£16.5 m
Major development – dwellings	5,700	570	£24,873	£2,487	£1.4 m	£11.8m
Major development – not dwellings	8,000	800	£11,641	£1,164	£0.9m	£7.8 m
Total	**347,800**	**34,780**			**£6.5 m**	**£54.8m**

The change will also result in a reduction of costs in instances where applicants successfully challenge an information request advanced by a local authority through a non-determination appeal. In such an instance a local authority will demand a piece of information that the applicant refuses to provide. As there is now a recourse to the appeals system, the applicant will not need to produce the information that he or she would have previously, and the matter will get determined by the Planning Inspectorate. Irrespective of the outcome of such an appeal, the applicant would not have had to provide information that they would previously have done. However, as we expect that the appeal route will only be successfully used in exceptional circumstances, we have not sought to quantify this benefit. The key benefit, as set out above, is a shift in behaviour which we have sought to quantify in the above.

Of the total £6.5 million annual benefit, we estimate that around £4.1 million will accrue directly to businesses. This would encompass major development, minor development not involving dwellings and a proportion (50%) of minor development involving dwellings. The remaining £2.4 million would accrue to individual householders and other applicants categorised as non-business - for instance charities.

Reasons for approval

We consider that the removal of the requirement for local authorities to provide a summary of their reasons for approval (and provide a summary of relevant policies and proposals) in decision notices will have a minor, non-quantifiable impact on businesses through a potential reduced risk of legal challenge on the summary of reasons given. In the past there have been legal cases which have used these grounds as scope for challenging a planning decision.

[10] Numbers may not sum correctly due to rounding.

Implementation

Changes will be brought into effect by amending the Town and Country Planning (Development Management Procedure)(England) Order 2010 and the Planning (Listed Building and Conservation Area) Regulations 1990 (as amended).

Monitoring

The results of these proposals, and of wider planning reforms will be indicated by changes to the speed of validating applications submitted to local planning authorities and the speed of decision making more generally in the planning application process. We will also collect information from applicants, after changes have been implemented, to identify whether or not the desired outcomes have been achieved.

Annex 2: Draft statutory instruments

2013 No.

TOWN AND COUNTRY PLANNING, ENGLAND

Made - - - -	*2013*
Laid before Parliament	*2013*
Coming into force - -	*2013*

The Secretary of State, in exercise of the powers conferred by sections 59, 62, 74 and 333(7) of the Town and Country Planning Act 1990([11]), makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2013 and shall come into force on [date] 2013.

(2) This Order applies in relation to England only.

Amendment of the Town and Country Planning (Development Management Procedure) (England) Order 2010

2. The Town and Country Planning (Development Management Procedure) (England) Order 2010([12]) is amended in accordance with the following provisions.

Amendment in relation to design and access statements

3.—(1) For article 8 substitute—

"Design and access statements

8.—(1) Subject to paragraph (4), this article applies to an application for planning permission which is for–

(a) development which is major development;

(b) development consisting of the erection or extension of a building where any part of the development is within a designated area and—

(i) in the case of the erection of a building, the cubic content of the development exceeds 100 cubic metres; and

(ii) in the case of the extension of an existing building, the floorspace created by the development exceeds 100 square metres.

(2) An application for planning permission to which this article applies shall be accompanied by a statement ("a design and access statement") about—

(a) the design principles and concepts that have been applied to the development; and

(b) how issues relating to access to the development have been dealt with.

(3) A design and access statement shall–

(a) explain the design principles and concepts that have been applied to the development;

([11]) 1990 c.8. Section 62 was substituted by section 42(1) of the Planning and Compulsory Purchase Act 2004 (c.5) and amended by paragraph 5 of Schedule 12 to the Localism Act 2011 (c.20). Section 69 was substituted by section 118 of, and paragraphs 1 and 3 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 and amended by section 190 of the Planning Act 2008 (c.29) and by paragraph 7 of Schedule 12 to the Localism Act 2011.

([12]) S.I. 2010/2184. Article 31 was amended by S.I. 2012/2274.

(b) demonstrate the steps taken to appraise the context of the development and how the design of the development takes that context into account in relation to the proposed use;

(c) explain the policy adopted as to access, and how policies relating to access in relevant local development documents have been taken into account;

(d) state what, if any, consultation has been undertaken on issues relating to access to the development and what account has been taken of the outcome of any such consultation; and

(e) explain how any specific issues which might affect access to the development have been addressed.

(4) This article does not apply to an application for planning permission which is–

(a) for permission to develop land without compliance with conditions previously attached, made pursuant to section 73 of the Act;

(b) of the description contained in article 18(1)(b) or (c);

(c) for engineering or mining operations;

(d) for a material change in use of the land or buildings;

(e) for development which is waste development.

(5) In this article–

"cubic content" means the cubic content of a building measured externally; and

"designated area" means–

(a) a conservation area;

(b) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention Concerning the Protection of the World Cultural and National Heritage (a World Heritage Site)([13]).

Amendments in relation to applications and validation disputes

4.—(1) In article 10(3), at end of sub-paragraph (b) for the full stop substitute "; and" and after sub-paragraph (b) insert—

"(c) the particulars or evidence the authority require to be included in the application—

(i) are reasonable having regard, in particular, to the nature and scale of the proposed development; and

(ii) are about a matter which it is reasonable to think will be a material consideration in the determination of the application."

(2) At the beginning of article 10(5) insert "Subject to paragraph (5A)".

(3) After article 10(5) insert—

"(5A) A local planning authority may not issue a notice under paragraph (5) in relation to an application where they have received a notice from the applicant under article 10A."

(4) After article 10 insert—

"**Validation dispute**

10A.—(1) Where—

(a) the local planning authority require particulars or evidence to be included in an application; and

(b) the applicant considers any particulars or evidence required do not meet the requirements set out in article 29(4)(c),

the applicant may send a notice to the authority which must—

(i) specify which particulars or evidence the applicant considers do not meet the requirements set out in article 29(4)(c),

(ii) set out the reasons the applicant relies upon in holding that view; and

(iii) request the authority to waive the requirement to include those particulars or evidence in the application.

(2) Following receipt of the notice mentioned in paragraph (1) and not later than the date specified in paragraph (3), the local planning authority must notify the applicant either that—

(i) the authority no longer require the applicant to provide the particulars or evidence ("a validation notice"); or

([13]) *See* http:/whc.unesco.org/en/list

(ii) the authority continues to require the applicant to provide the particulars or evidence ("non-validation notice").

(3) The date specified in this paragraph is—

(a) the date the period specified or referred to in article 29(2) ("the determination period") ends, or

(b) where the notice mentioned in paragraph (1) is received—

(i) during the 7 working days immediately before the end of the determination period; or

(ii) on or after the end of the determination period,

the date which is 7 working days after the date the local planning authority receive the notice.

(4) In this article "working day" has the same meaning as in article 2(6)."

Amendments in relation to time period for decisions for non-validated applications

5.—(1) In article 29(1) after "valid application" insert "or a non-validated application".

(2) After paragraph 29(3) insert—

"(3A) In this article "non-validated application" means an application which consists of—

(a) an application which complies with the requirements of article 5 or article 6, as the case may be;

(b) in a case to which article 8 applies, the design and access statement;

(c) the certificate required by article 12;

(d) subject to paragraph (4), the particulars or evidence required by the authority under section 62(3) of the 1990 Act (applications for planning permission) but ignoring the particulars or evidence specified by the applicant in a notice given to the local planning authority under article 10A(1); and

(e) any fee required to be paid in respect of the application and, for this purpose, lodging a cheque for the amount of a fee is to be taken as payment,

and a non-validated application shall be taken to have been received when the application, and such of the documents, particulars or evidence referred to above, have been lodged with the appropriate authority mentioned in article 10(1), and the fee required to be paid has been paid."

(3) In article 29(4)—

(a) for "Paragraph (3)(d) only applies" substitute "Paragraphs (3)(d) and (3A)(d) only apply";

(b) in sub-paragraph (a), for "paragraph (3)" substitute "paragraphs (3) and (3A)"; and

(c) at end of sub-paragraph (b) for the full stop substitute "; and" and after sub-paragraph (b) insert—

"(c) the particulars or evidence the authority require to be included in the application—

(i) are reasonable having regard, in particular, to the nature and scale of the proposed development; and

(ii) are about a matter which it is reasonable to think will be a material consideration in the determination of the application."

Amendment in relation to the giving of reasons on decisions

6. In article 31(1)—

(a) for sub-paragraph (a) substitute—

"(a) where planning permission is granted subject to conditions, the notice shall state clearly and precisely their full reasons for each condition imposed;"; and

(b) in sub-paragraph (d) for "sub-paragraph (a)(iii)" substitute "sub-paragraph (a)".

Signed by authority of the Secretary of State for Communities and Local Government

Name
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

The Town and Country Planning (Development Management Procedure) (England) Order 2010 (S.I. 2010/2184) ("the 2010 Order") provides for procedures connected with planning applications in England.

Article 3 of this Order amends article 8 of the 2010 Order. Article 8 provides that certain applications for planning permission must be accompanied by a design and access statement, as well as specifying the content which must be included within such statements. The effect of the amendment is to reduce the types of applications which must be accompanied by a design and access statement, and to simplify their required content. Under article 8, a design and access statement is required with applications for major development (apart from waste development and engineering or mining operations). A design and access statement is also required with certain applications for the erection or extension of a building where the proposed development is located in a conservation area or a World Heritage Site.

Article 4 of this Order amends article 10 of the 2010 Order and inserts a new article 10A. Article 10 of the 2010 Order sets out the general requirements which apply to an application for planning permission. Article 5 of this Order amends article 29 of the 2010 Order. Article 29 of the 2010 Order sets out the time periods within which a local planning authority must determine a valid application. The effect of the amendments to articles 10 and 29 and new article 10A is to provide a right of appeal for non-determination of applications where an applicant considers that a local authority require particulars or evidence that do not meet the requirements set out in article 29(4)(c). In such cases, article 10A provides that the applicant may send the local planning authority a notice. Where an applicant sends such a notice the application is then described as a 'non-validated application'. On receipt of an article 10A notice a local planning authority could accept the notice and determine the application within the usual time periods. Alternatively a local planning authority could reject the article 10A notice. This Order amends article 29 to provide that the local planning authority are required to determine a non-validated application within the time periods set out. As with valid applications, if a local planning authority fails to determine a non-validated application within the time specified an applicant may proceed to appeal on grounds of non-determination under section 78 of the 1990 Act.

Article 6 of this Order amends article 31 of the 2010 Order. Article 31 provides that where a local planning authority determines an application for planning permission, they must issue a written notice of decision and set out the content of such notice. The effect of the amendment is to remove the requirement to include both a summary of reasons for the grant of permission and a summary of the policies and proposals in the development plan which are relevant to the decision to grant permission

An impact assessment will be prepared in relation to this instrument. The assessment will be placed in the Library of each House of Parliament and copies may be obtained from the Planning Directorate, the Department for communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU or http://www.communities.gov.uk.

2013 No.

TOWN AND COUNTRY PLANNING, ENGLAND

Made - - - -	*2013*
Laid before Parliament	*2013*
Coming into force - -	*2013*

The Secretary of State, in exercise of the powers conferred by sections 10 and 93 of the Planning (Listed Buildings and Conservation Areas) Act 1990([14]), makes the following Regulations:

Citation, commencement and application

7.—(1) These regulations may be cited as the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2013 and shall come into force on [ ] 2013.

(2) These regulations apply in relation to England only.

Amendment of the Planning (Listed Buildings and Conservation Areas) Regulations 1990: design and access statements

8.—(1) The Planning (Listed Buildings and Conservation Areas) Regulations 1990([15]) are amended as follows.

(2) In regulation 3A–

(a) in paragraph (2)—

(i) for sub-paragraph (a) substitute—

"(a) explain the design principles and concepts that have been applied to the works; and"; and

(ii) in sub-paragraph (b) for "the principles and concepts referred to in sub-paragraph (a)" substitute "those principles and concepts";

(b) in paragraph (3)—

(i) at the end of sub-paragraph (c) insert "and";

(ii) in sub-paragraph (d) for "; and" substitute a full stop; and

(iii) delete sub-paragraph (e); and

(c) delete paragraph (5).

([14]) 1990 c.9. Section 10 was amended by section 42 of the Planning and Compulsory Purchase Act 2004 (c.5). Section 93 was amended by paragraph 26 of Schedule 6 to that Act.

([15]) S.I. 1990/1519. Regulation 3A was inserted by S.I. 2006/1063 and amended by S.I. 2009/2262 and 2010/2185.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Planning (Listed Buildings and Conservation Areas) Regulations 1990 ("the 1990 Regulations") specify procedures connected with applications for listed building and conservation area consent in England.

Regulation 2 amends regulation 3A of the 1990 Regulations. Regulation 3A sets out the content which is required for design and access statements which accompany applications made under the 1990 Regulations.

The amendment removes the requirement for design and access statements to explain the principles and concepts that have been applied to the scale, layout, and appearance of the works to be carried out. The amendment also removes the requirement for a design and access statement to explain how features which ensure access to the building will be maintained. The effect is to streamline the content required in all applications for listed building consent.

An impact assessment will be prepared in relation to this instrument. The assessment will be placed in the Library of each House of Parliament and copies may be obtained from the Planning Directorate, the Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU or http://www.communities.gov.uk.