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Welsh Government

## Consultation Document

# Design in the Planning Process

Date of issue: **6 October 2014**

Action required: Responses by **16 January 2015**

## Overview

This consultation paper seeks the views of stakeholders on how, if the mandatory requirement for Design and Access Statements is removed from the development management process, we can support our national planning policy on design and facilitate the delivery of good design through the planning system.

## How to respond

The closing date for replies is **16 January 2015**. You can reply in any of the following ways:

### E-mail:

Please complete the consultation response form at Annex 1 and send it to:

[planconsultations-a@wales.gsi.gov.uk](mailto:planconsultations-a@wales.gsi.gov.uk)

[Please include "Design in the Planning Process Consultation" in the subject line.]

### Post:

Please complete the consultation response form at Annex 1 and send it to

Design Consultation  
Planning Policy Branch  
Planning Division  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

## Further information and related documents

**Large print, Braille and alternative language versions of this document are available on request.**

Further related information can be found here:

Planning Policy Wales  
[www.wales.gov.uk/topics/planning/policy/ppw/?lang=en](http://www.wales.gov.uk/topics/planning/policy/ppw/?lang=en)

Technical Advice Note 12: Design  
<http://wales.gov.uk/topics/planning/policy/tans/tan12/?lang=en>

Positive Planning – Proposals to reform the planning system in Wales

[www.wales.gov.uk/consultations/planning/draft-planning-wales-bill/?status=closed&lang=en](http://www.wales.gov.uk/consultations/planning/draft-planning-wales-bill/?status=closed&lang=en)

## Contact details

For further information:

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## Data protection

### How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is

an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published.

We would get in touch with the person and ask their views before we finally decided to reveal the information.

## Purpose of the Consultation

1. The Welsh Government is strongly committed to achieving the delivery of good design in the built and natural environment. Positive Planning, our recent consultation paper on reforming the planning system in Wales, set out our vision for a planning system which is positive in outlook and facilitates appropriate well designed development.
2. We established the Design Commission for Wales (DCfW)<sup>1</sup> in 2002 to promote good design. DCfW promotes, educates and disseminates design advice to all those involved in the design of the built environment.
3. Planning Policy Wales (PPW) sets out our national planning policy in respect of promoting sustainability through good design and planning for sustainable buildings, and sets out the role of local planning authorities in delivering good sustainable design. This is supported by the recently updated Technical Advice Note (TAN) 12: Design which provides advice for all those involved in the design of development on how good sustainable design can be facilitated through the planning system. We have a robust national planning policy on design and do not intend to undertake a fundamental review of the design section of PPW or TAN 12.
4. Following research and consultation, the Planning (Wales) Bill proposes the removal of the mandatory requirement for Design and Access Statements (DAS) from primary legislation<sup>2</sup>. However, the requirement for DAS will still remain in secondary legislation<sup>3</sup> and hence they will still be required to be submitted with planning applications. This approach gives us flexibility for the future in continuing to require DAS in the short term while we consider more effective ways to continue to raise design standards in the planning process.
5. This consultation paper seeks the views of stakeholders on how we can support our national planning policy on design and facilitate the delivery of good design, and communicate it, through the planning system without the future requirement for DAS.

## What are the main issues?

6. The requirement to submit a DAS is set out in legislation; they are a mandatory requirement for many planning applications. The DAS is a communication tool that must explain how both good and inclusive design principles have been considered and applied from the outset of the development process. Building Regulations Part M – Access to and use of buildings, provides guidance on external and internal access to the buildings and the use of their facilities.

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<sup>1</sup> [Design Commission for Wales](#)

<sup>2</sup> [Town and Country Planning Act 1990](#) and [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)

<sup>3</sup> [Town and Country Planning \(Development Management Procedure\) \(Wales\) October 2012](#) and [Planning \(Listed Buildings and Conservation Areas\) \(Wales\) Regulations 2012](#)

7. TAN 12 contains guidance on the preparation of a DAS, including its role and broad content. It was anticipated that the introduction of mandatory DAS in 2009 would add value to the planning and design process and would enable various stakeholders (such as local authorities, applicants, local communities and access groups) to engage more effectively in the process, and improve awareness of the various issues that should be considered. It was envisaged that DAS would result in an improvement in the quality, sustainability and inclusiveness of development.
8. In 2010 we published a report by GVA Grimley 'Study to Examine the Planning Application Process in Wales'<sup>4</sup> which highlighted key criticisms of DAS, such as perceptions regarding the process and additional costs, and recommended that the scope and content of DAS should be clarified in order to speed up and improve the validation of planning applications.
9. In response to the GVA report, the Welsh Government issued a policy clarification letter<sup>5</sup> which explained that the amount of information submitted within a DAS should be proportional to the development proposal, site location and the issues raised and should not be a reason for additional delays when processing planning applications. However, despite this DAS are still causing significant delays when processing planning applications. There have also been criticisms of DAS from the business and construction sectors in respect of the perceived additional costs associated with them.
10. More recently, the Welsh Government's Framework for Action on Independent Living (launched September 2013)<sup>6</sup> also cited DAS as being ineffective in promoting the consideration of inclusive access issues through the design process. The Framework included a commitment to undertake a review of the effectiveness of DAS including how they relate to the access requirements under Building Regulations.
11. The Welsh Government commissioned The Urbanists to undertake further research into the effectiveness of DAS in influencing the final design of development proposals as part of the planning application process. This also included consideration of the role of future Building Regulation requirements (Part M Access).

### **What is the current position?**

12. The research 'Review of Design and Access Statements in Wales'<sup>7</sup> was published in November 2013 and the report makes recommendations for refining and improving the process. The report found that DAS can vary significantly in terms of their quality. Indeed the weight attributed to a DAS became more significant when justifying proposals for potentially complex sites, both in scale and issues, and those located in more sensitive

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<sup>4</sup> [Welsh Assembly Government \(2010\) Study to Examine the Planning Application Process in Wales](#)

<sup>5</sup> [Welsh Assembly Government \(2010\) Policy Clarification Letter \(CL-03-10\) – Design and Access Statements](#)

<sup>6</sup> [Welsh Government \(2013\) Framework for Action on Independent Living](#)

<sup>7</sup> [Welsh Government \(2013\) Review of Design and Access Statements in Wales](#)

locations. In other cases DAS were often poor quality, only meeting the minimum requirements of the planning authority. The general perception of applicants is that the mandatory requirement for DAS has become a box ticking exercise used for validation purposes, having minimal impact on design quality and inclusive access.

13. The report indicates a key positive value of DAS is their role as a communication tool for multiple audiences. These include design officers, police architectural liaison officers, development management officers, access groups, committee members and the public. The research found that DAS have raised the profile of design and inclusive access, and give consistency as to how they are considered and presented in the planning process.
14. The nine recommendations of the report set out how legislation, guidance and procedures can be amended to improve the credibility and efficiency of the process. The primary recommendations, which would require changes to subordinate legislation, are summarised as follows:
  - Retain DAS as a communication tool, but only as a mandatory requirement for applications within certain categories (e.g. listed buildings/designations) and above certain dwelling/size thresholds (e.g. over 10 dwellings)
  - Expand Building Regulations (Part M) to include all external areas within the boundary of the development.
15. The remaining recommendations advise an array of best practice measures such as promoting effective pre-application meetings with developers and the use of stronger planning conditions. In applications below set thresholds, it is recommended that local planning authorities engage with building control colleagues or improved inspectors earlier in the process. This is to ensure that access issues that would affect the design of a proposal are considered from the outset.
16. The recommendations outline a possible way forward, based on retaining the mandatory requirement for DAS for large applications, to deliver the Welsh Government's commitment to good and inclusive design. However, the research has highlighted that there is no significant evidence that DAS are important in attaining good design and that they have done very little to broaden applicants' perception of inclusive access. While DAS have benefits as a communication tool, we are not convinced that this is sufficient reason to retain them as a mandatory requirement for many planning applications and consider resources should be focussed on alternative ways of securing good design and inclusive access. We believe expectations are best delivered through a planning system which is clear and transparent and expects design issues to be considered from the outset. This approach is in line with the ethos of Positive Planning to improve local delivery and promote efficient development management procedures.

## Why are we proposing change?

17. The actions arising from the Framework for Action on Independent Living and the preparation of a Planning (Wales) Bill provided an ideal opportunity to review both the requirement and the process, including how DAS sit alongside Building Regulation access requirements. The research paper forms part of the evidence base underpinning the Positive Planning consultation paper<sup>8</sup> and asked the question 'Should the mandatory requirement for DAS be removed?' which sought to evoke further debate and discussion on this issue.
18. A small majority of respondents (95 in total or 57.6% of those who directly answered the question) said they support the proposed approach. In particular, the majority of the responses from businesses, consultants and local planning authorities agreed with the proposal. Whereas other respondents, including local access groups and community safety organisations, felt DAS should be retained.
19. Respondents highlighted the following criticisms of DAS:
  - time consuming, costly and cumbersome to prepare
  - unnecessary for many applications
  - validation issues cause delays to the planning process
  - content are often too complex, repetitive, and irrelevant
  - not always used by local authority planning officers.
20. The responses also identified the following benefits of DAS:
  - as a communication tool, particularly for larger or more complex planning applications
  - explain design issues and highlight inclusive access and community safety considerations
  - provide a means for local access groups to engage in the planning process.
21. The responses also included a number of suggested alternative measures to promote good design and access that are summarised below:
  - Improving the pre-application process to consider issues of design and inclusive access
  - Improved use of design tools such as design briefs and masterplans
  - The use of Planning Statements
  - Improving local planning authorities' design expertise through training and better design education
  - Develop a more robust design policy
  - Develop an alternative way for assessing whether proposals provide suitable means of inclusive access
  - Amending Building Regulations relating to access.

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<sup>8</sup> [Welsh Government \(2013\) Positive Planning - Consultation Paper](#)

22. A summary of the consultation responses submitted by various stakeholders are published within the Positive Planning Consultation Paper – Summary of Responses Report<sup>9</sup>.
23. Following careful analysis of the consultation responses and taking into account the key findings highlighted in the research, the Planning (Wales) Bill proposes the removal of the mandatory requirement for DAS from primary legislation. The rest of this consultation paper examines, in light of this proposal, the work we are currently undertaking in relation to design and seeks your views on how we can support our existing policies on design and inclusive access, and mainstream the delivery of good design through the planning system, without the need for DAS.

### Related Work

24. We have already undertaken a substantial amount of work to promote and facilitate high quality design in the planning system:

- **Sustainable Buildings** - TAN 12: Design has been updated to include key planning guidance on sustainable buildings. We have also worked with DCfW to publish practice guidance<sup>10</sup> on sustainable building techniques which demonstrates how, through the design process, better sustainability standards can be achieved. Building Regulations are also being reviewed to examine how they can increase the sustainability of buildings in Wales.
- **Crime, Community Safety and Security** - National planning policy, TAN 12 and Circular 16/94: Planning out Crime identifies community safety as one of the key aspects of good design. Our policy position on this matter has not changed. Local authorities are under a legal obligation to consider the need to prevent and reduce crime and disorder in all decisions that they take.

We have supported action to design out crime in new housing for a number of years by requiring Secured by Design for social housing development funded by social housing grant.

We are currently giving consideration to the introduction of a mandatory standard of robustness for the security of windows and doors, through Building Regulations, for new domestic dwellings.

- **Heritage** - We are reviewing Planning Policy Wales Chapter 6: Conserving the Historic Environment. The revised chapter will be supported by a TAN on the Historic Environment. Both documents will complement the Heritage Bill and be consulted upon in 2015 after the Bill is introduced to the National Assembly for Wales.
- **Green Infrastructure** - Green Infrastructure is a network of high quality green and blue water spaces and other environmental features. We are

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<sup>9</sup> [Welsh Government \(2014\) Positive Planning - Summary of Responses](#)

<sup>10</sup> [Welsh Government \(2014\) Practice Guidance: Planning for Sustainable Buildings](#)



currently preparing clarification advice on how our existing policy and guidance can facilitate well designed Green Infrastructure.

**What are we seeking your views on?**

**Design Quality**

- 25. PPW and TAN 12 categorise five key objectives of good design and provide guidance on how to respond to these objectives following an appraisal of the context.

**Objectives of Good Design**



- 26. Our aim is that all new development meets the objectives of good design. We would like to ascertain whether the planning system is effectively delivering this aim.

**Q1** Is the planning system effectively delivering the five key objectives of good design? Give reasons for your answer.

## Local Development Plans

27. Local development plans should set out a vision-based strategy for the plan area. PPW sets out that development plans should provide clear policies setting out the design expectations of local planning authorities for various places and development proposals supported by the local development plan vision. Local planning authorities should encourage good quality design of buildings and spaces in their policies and should use these to eliminate poor quality development.
28. DCfW has produced a guide 'Good Design and the Local Development Plan Process'<sup>11</sup> with general principles on what to consider in developing a local development plan in order to achieve good quality places.
29. In the Positive Planning consultation we proposed issuing a suite of national development management policies to ensure that future local development plans are reviewed quickly.

<b>Q2</b>	Do you agree that a national development management policy on design would be beneficial?
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## Supplementary Planning Guidance

30. Local authorities can prepare area and site specific supplementary planning guidance, such as urban design frameworks and masterplans, to guide development in key areas or provide guidance on the way in which a particular site should be developed.
31. The 'Review of Design and Access Statements in Wales' identified that area or site specific guidance, such as masterplans and development briefs, can have a positive influence on design.
32. We propose to promote the use of area and site specific plans which seek to facilitate appropriate development and improve the design of development at an early stage in the design process.
33. TAN12 states that site context is the basis for a meaningful and sustainable design response. Site analysis, as identified in PPW, TAN 12 and Practice Guidance: Planning for Sustainable Buildings, is therefore the key starting point in the process of achieving good quality design. We therefore propose to run specific training events and produce practice guidance on this issue in order to assist the development industry and local planning authorities in this area.

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<sup>11</sup> [Design Commission for Wales \(2012\) Good Design and the Local Development Plan Process](#)

**Q3** Are area and site specific plans, such as masterplans, being used to positively plan for key development? Can you highlight areas of good practice?

**Q4** Do you agree that the Welsh Government should produce practice guidance on the process of site analysis to inform the development of well designed proposals?

### **Front Loading / Pre-applications**

34. Our proposals set out in Positive Planning outlined a number of proposals designed to promote 'frontloading' in the Development Management system.
35. The 'Review of Design and Access Statements in Wales' indicated that pre-applications are an important tool for planners to be able to proactively shape the quality of design of new development. Pre-application discussions enable design and access issues to be identified earlier in the process and to be addressed in the design stage rather than when the planning application has been submitted.
36. Practice Guide: Realising the Potential of Pre-application Discussions<sup>12</sup> provides advice to applicants and local planning authorities on how to make the most of pre-application discussions.
37. We are consulting separately on the processes associated with pre-application discussions. However, as part of this consultation we are seeking to identify how to ensure that pre-application discussions improve design.

**Q5** How can we ensure that pre-application discussions assist in the improvement of design quality and inclusive access of development? Can you highlight areas of good practice?

### **Planning Applications**

38. PPW sets out that the visual appearance of proposed development, its scale and its relationship to its surroundings and context are material planning considerations. It states that local planning authorities should reject poor building and contextual designs<sup>13</sup>.
39. We believe that PPW provides a robust national planning policy on design and, along with the advice in TAN 12 on achieving the key objectives of

<sup>12</sup> [Welsh Government \(2012\) Practice Guide: Realising the Potential of Pre-application Discussions](#)

<sup>13</sup> [Welsh Government \(2014\) Planning Policy Wales \(Edition 7\)](#)

good design; local planning authorities have a strong basis to assess planning applications. We would like to identify ways in which we can further assist local planning authorities, and others involved in the design of development, in the assessment of planning proposals.

**Q6** Other than further training or additional practice guidance what additional tools would assist you in assessing the quality of design in planning proposals?

### Access

40. National planning policy identifies that a key objective of good design is ensuring ease of access for all<sup>14</sup>. The principles of inclusive design are that it places people at the heart of the design process, acknowledges diversity and difference, offers choice where a single design solution cannot accommodate all users, provides for flexibility in use, and provides buildings and environments that are convenient and enjoyable to use for everyone.
41. Most improvements to access arrangements are likely to be achieved during the design process before a planning application is submitted. We propose a new question on the 1APP planning application form to identify where inclusive access has not been achieved and space to provide reasons why this was not possible.
42. The evidence has shown that applicants have routinely included statements regarding inclusive access within a DAS, however the issue has often been a 'bolt on' and not considered appropriately from the outset. The proposed amendments to the 1APP form will ensure that access issues are considered from the outset, and will reduce the burden of having to submit unnecessary information where inclusive access is agreed not to be an issue.

**Q7** Do you agree that the amendments to the 1APP form will ensure inclusive access issues are considered in development proposals?

**Q8** What information or other measure would assist local planning authorities assess planning proposals in terms of inclusive access?

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<sup>14</sup> [Welsh Government \(2014\) Planning Policy Wales \(Edition 7\)](#)

## Design Commission for Wales and Planning Advisory and Improvement Service

43. DCfW<sup>15</sup> promotes, educates and disseminates design advice to all those involved in the design of the built environment. DCfW provides bespoke training for local planning authorities, consultants and the private sector. DCfW also provides a free expert design review and consultation service, which allows early consultation with its independent expert team. DCfW also publishes case studies and produces good practice guides on design related issues.
44. We are in the process of establishing a national Planning Advisory and Improvement Service (PAIS)<sup>16</sup> which will have a co-ordinating role in identifying and disseminating good practice and standards and assisting in sharing expertise and resources between local planning authorities.

**Q9** How can the PAIS and DCfW mainstream good design and inclusive access in the planning process?

### Design Skills and Good Practice

45. It is important that local planning authorities have the skills to enable good quality development and raise the standard of design. Local planning authorities have a key role in developing design policies and guidance, helping applicants and potential applicants to respond effectively to the planning and design process and in determining planning applications. It is important that a team approach to achieving good quality development is employed by local planning authorities. The sharing of knowledge and skills, including input from the necessary departments, including decision makers and elected members is essential. This will maximise both the understanding of the importance of good design and ensure it is delivered on the ground.
46. The 'Review of Design and Access Statements in Wales' identified that design training and education can have a positive influence on design.
47. TAN 12 provides advice on how good design can be facilitated through the planning system. We would like to support this by working with the PAIS and DCfW to raise the design skills of local planning authority planners, and other built environment professionals, and increase the design awareness of elected members.
48. We already know about a significant amount of existing good practice on design and inclusive access but believe that it is important to continue to identify best practice to ensure that we learn from the best examples across Wales and elsewhere. We would like to use this consultation to

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<sup>15</sup> [Design Commission for Wales](#)

<sup>16</sup> [Welsh Government \(2014\) Planning Advisory and Improvement Service](#)

identify further examples of best practice in relation to achieving good design and inclusive access.

**Q10** How can we continue to raise the design skills of local authority officers and members and what further specific training is required?

**Q11** Is there scope for local planning authorities to work differently or more collaboratively on design issues? Do you know of any existing activity in this area?

**Q12** Can you highlight areas of good practice, from Wales or elsewhere, relating to any of the above, which promote and/or lead to the achievement of good design and inclusive access?

### **Design and Access Statements**

49. In light of the issues identified above we propose to remove the need to submit a DAS with any planning application and consider our proposed actions are more likely to achieve good design and inclusive access. We are seeking your views on the effectiveness of these measures in achieving our aims.

**Q13** Are there any benefits in retaining the requirement for Design and Access Statements for particular applications?

**Q14** Should the mandatory requirement for Design and Access Statements be removed from secondary legislation? Give reasons for your answer.

**Q15** We have asked a number of specific questions. If you have any related issues or ways which design can be improved through the planning system which we have not specifically addressed, please let us know.

### **Consultation questions**

50. Questions relating to this consultation are set out below. If you wish to respond please complete the Consultation Response Form at Annex 1.

51. Responses to consultations may be made public on the internet or in a separate report. If you would prefer your response to be kept confidential please indicate this by ticking the relevant box on the response form.

<b>Q1</b>	Is the planning system effectively delivering the five key objectives of good design? Give reasons for your answer.
<b>Q2</b>	Do you agree that a national development management policy on design would be beneficial?
<b>Q3</b>	Are area and site specific plans, such as masterplans, being used to positively plan for key development? Can you highlight areas of good practice?
<b>Q4</b>	Do you agree that the Welsh Government should produce practice guidance on the process of site analysis to inform the development of well designed proposals?
<b>Q5</b>	How can we ensure that pre-application discussions assist in the improvement of design quality and inclusive access of development? Can you highlight areas of good practice?
<b>Q6</b>	Other than further training or additional practice guidance what additional tools would assist you in assessing the quality of design in planning proposals?
<b>Q7</b>	Do you agree that the amendments to the 1APP form will ensure inclusive access issues are considered in development proposals?
<b>Q8</b>	What information or other measure would assist local planning authorities assess planning proposals in terms of inclusive access?
<b>Q9</b>	How can the PAIS and DCfW mainstream good design and inclusive access in the planning process?
<b>Q10</b>	How can we continue to raise the design skills of local authority officers and members and what further specific training is required?

**Q11** Is there scope for local planning authorities to work differently or more collaboratively on design issues? Do you know of any existing activity in this area?

**Q12** Can you highlight areas of good practice, from Wales or elsewhere, relating to any of the above, which promote and/or lead to the achievement of good design and inclusive access?

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**Q14** Should the mandatory requirement for Design and Access Statements be removed from secondary legislation? Give reasons for your answer.

**Q15** We have asked a number of specific questions. If you have any related issues or ways which design can be improved through the planning system which we have not specifically addressed, please let us know.