



CASE LAW AND PRACTICE GUIDE 2

DESIGN

The Inspectorate is currently reviewing the advice for its Inspectors, as part of this process a new guide on Design has been produced which supersedes the Inspector Handbook Chapter that was previously published on our website.

Relevant Guidance

[Planning Policy Statement PPS1 – Delivering Sustainable Development and its Supplement Planning and Climate Change](#)

Further guidance can also be found in

[PPS3 – Housing](#)

[PPS7 – Sustainable Development in Rural Areas](#)

[PPG13 – Transport](#)

[PPS5 – Planning for the Historic Environment](#)

[PPS22 – Renewable Energy](#)

Other publications

[By Design – Urban design in the planning system: towards better practice, DETR/CABE, 2000*](#)

[Safer Places – the Planning System and Crime Prevention, ODPM/Home Office, 2004*](#)

[Planning and Access for Disabled People: a Good Practice Guide, ODPM, 2003*](#)

[By Design – Better places to live \(companion guide to PPG3\), DTLR/CABE, 2001*](#)

[Guidance on Tall Buildings, English Heritage/CABE, 2007[†]](#)

[Manual for Streets \(March 2007\)](#)

[Manual for Streets 2 \(September 2010\)](#)

Site layout for sunlight and solar gain, BRE Information Paper 4/92, 1992

Site layout planning for daylight, BRE Information Paper 5/92, 1992

Site layout planning for daylight and sunlight: a guide to good practice, BRE, 1991

[Planning for Town Centres: Guidance on Design and Implementation Tools, ODPM, 2005](#)

[Good Practice Guide on Planning for Tourism, DCLG, 2006](#)

CABE has a wide range of publications on design, to be found at [\(CABE\)](#) www.cabe.org.uk/

Contents

1-3	Introduction
4	The Inspector's task
5	Urban design
6	Illustrative material
7-9	Conditions and legal agreements
10	Absence of evidence/representations

Introduction

1. The Government is committed to good urban design through its policies and their application. Policy on design is to be found primarily in [PPS1 Delivering Sustainable Development](#). The importance of good design is set out in paragraph 33 which states that:

'Good design ensures attractive usable, durable and adaptable places and is a key element in achieving sustainable development. Good design is indivisible from good planning.'

2. The importance of seeking to ensure good design is now also a statutory requirement as reflected by:
 - [section 42\(1\)](#) of the Planning and Compulsory Purchase Act 2004. It amends section 62 of the principal Act so that a development order (making provisions as to applications for planning permission to a local planning authority) must require, by virtue of clause (5), that an application is accompanied by 'a statement about the design principles and concepts that have been applied to the development' and 'a statement about how issues relating to access to the development have been dealt with'; and,
 - [section 183 \(Good Design\)](#) of The Planning Act 2008 which amends section 39 of the Planning and Compulsory Purchase Act 2004. Section 39 of the 2004 Act imposes a duty on persons or bodies exercising functions in relation to development plans in England and Wales to do so with the objective of contributing to the achievement of sustainable development. Section 183 of the 2008 Act amends section 39 of the 2004 Act requiring those persons and bodies, in complying with this duty, to have regard (in particular) to the desirability of achieving good design.
3. Recent years have brought a range of publications from Government departments and other organisations suggesting how the objective of improving design standards might be taken forward, including examples of well thought out policy¹. None of the publications purports to provide a blueprint for good practice but their collective purpose is to stimulate thought and suggest objectives and criteria that might be appropriate in particular circumstances

The Inspector's task

4. In assessing design the Inspector will be assisted by national policy and guidance, as well as by local development plan policy and supplementary planning documents or other guidance. The relevance and the weight ascribed to different policy aspects will depend on the circumstances of the case.

Urban design

5. [By Design - Urban design in the planning system: towards better practice](#) usefully sets out the objectives, or principles, of urban design. It also sets out the aspects of development form and the characteristics of physical development, which enable the objectives of urban design to be realised. These urban design principles, or aspects of development, apply equally to urban design in general and to the architecture of an individual building in particular.

¹ *From Design Policy to Design Quality*, RTPI/Bartlett School of Planning/Cardiff University, 2002

Illustrative material

6. Good design can be addressed only if there is adequate material to explain and illustrate the proposal. If there is a design issue in an appeal, the Inspector is entitled to expect illustrative material to address that issue. Checklist 2 in [By Design - Urban design in the planning system: towards better practice](#) sets out the information requirements for a planning application. At the same time, there may be matters which can be satisfactorily dealt with by a planning condition, or obligation if one has been offered.

Conditions and legal obligations

7. *Conditions* can be of vital importance in ensuring that an appropriate standard of design is achieved by new development. The model conditions in [Circular 11/95](#) may have to be tailored to the particular circumstances in order to achieve the desired objective. On occasion, implementation of only part of a proposal might have a harmful townscape impact, in which case, if the decision would otherwise have been to dismiss, a condition may be required to ensure completion of development in its entirety and as designed.² Conditions will more regularly be required to control the design details of a scheme (such as materials, finishes or window design) where the drawings show only in principle that a satisfactory solution is possible. Where such details are called for careful consideration must be given to precisely what is required. A condition to control external facing materials may have to require approval of samples or even sample panels (for example, of masonry) to ensure a satisfactory result.
8. In certain circumstances, conditions requiring the redesign of one element of a scheme may be appropriate and reasonable (where that element undermines an otherwise appropriate overall approach and is itself susceptible to change) but precision would be essential in the drafting of the condition. On larger schemes, where development will take place over a long period, outline permissions may require the detailed design to be in accordance with a brief or masterplan (which may itself, if not explicit in the application, be required to be approved by means of a condition). A condition requiring adherence to a masterplan may, if appropriate, allow for the up-dating of that plan.
9. Section 106 obligations can be used to cover matters which are integral to an acceptable design but which it is difficult properly to control by planning conditions. *'For example, they can be useful to ensure the provision of additional design features within or relating to the site which are closely related to the overall quality of the urban design outcome whilst not being a part of the planning application as such. Examples of this include the provision of public artworks on or around the site, the commitment to restore retained historic features and the delivery of environmental improvements to streets and public space which adjoin or give access to the development.'*³ Consideration may be given, as an alternative, to whether a negative condition (restraining a start to development, or its occupation, until particular works have been carried out in accordance with details first approved by the local planning authority) would achieve the necessary result.

Absence of evidence/representations

² For example, by preventing occupation or first use prior to completion in its entirety.

³ [Protecting Design Quality in Planning, CABE, 2003](#)

10. Exceptionally an Inspector may have concerns about the design quality of a proposal, even though this has not been raised by the parties. In such circumstances, he or she should draw this to the attention of the parties at the earliest opportunity and ask for their comments. If the matter is minor it may be possible to leave it to the day of the inquiry or hearing, but this should be avoided where it is likely to lead to a request for an adjournment.