

A+DS'S RESPONSE TO THE CONSULTATION PAPER ON DEVELOPMENT MANAGEMENT



Architecture+DesignScotland
Ailtearachd is Dealbhadh na h-Alba

EXECUTIVE SUMMARY

A+DS welcomes the opportunity to comment on the Development Management Consultation Paper which seeks to make the processes around planning applications fit for purpose and responsive to different types of development proposals; improve efficiency in determining applications; and improve public involvement in the consideration of proposals requiring planning permission.

Our key points with respect to the Consultation Paper are:

- A&DS would welcome clearer and fuller design discussion as early as possible in the life of a project. Early discussion centred on comprehensive design drawings, models, 3D illustrations or other graphic representations that adequately display the spatial nature of the proposal, can only be beneficial in reducing risk and uncertainty for the development community and encouraging greater and more meaningful public participation.
- The Development Management Consultation Paper (DMCP) is mainly about the processing of planning applications and related administrative procedures, rather than the environmental or design issues associated with individual applications. However, the opportunity exists to promote design quality within the DMCP especially through the use of design statements, pre-application discussions and processing agreements. For design issues to be properly dealt with it is imperative that they are adequately resourced with appropriately qualified staff and skilled design officers or consultants, together with the necessary support and backup of senior staff and councillors.
- It is of concern that the new procedures could introduce considerable delays to the development process by introducing a further layer of bureaucracy and this may do nothing to improve the efficiency of the process or the quality of the output. However, if the 'front loading' of the process contains appropriate design advice from qualified and skilled officers, this could reduce uncertainty and risk, possibly aiding greater efficiencies.
- The pre-application consultation will add a minimum of 15 weeks on to the developer's timescale, with many of the requirements being duplicated when the application is submitted for consideration. It is difficult to understand how these procedures will improve the decision making process; speed up the development process; or add clarity to the process; unless coupled with appropriate and skilled design advice from qualified staff. Furthermore, it is imperative that design advice given at the pre-application stage is adequately monitored to see how it influenced the final project.
- There is a danger that the public might perceive that with councils and developers entering into 'agreements' before applications are even considered 'deals' will have been done behind closed doors and that the system is even less accountable than at present.
- Design will always be a key consideration, regardless of the size or scale of development and it is imperative that notwithstanding procedural agreements and related issues, design should be at the heart of any pre-discussions,

discussions and meetings on the applications.

- No matter the scale of development, if it is poorly designed it can have a negative impact, which can reflect badly on the planning process. To avoid risk and uncertainty design matters must be at the forefront of any application submission.
- As we seek to encourage sustainable development, the principles established in SPP 1 – of energy efficiency through layout and design: the re-use of vacant and derelict land: and high quality design - must not be overlooked, when the new regulations are being introduced.
- A+DS welcomes the proposal that Design and Access Statements are required to accompany prescribed applications. This is in line with earlier advice contained in publications such as *Designing Places; PAN 68 (Design Statements)* and *PAN 78 (Inclusive Design)* and should help to focus time and effort on these important elements of development. Their proper consideration requires, and relies upon, properly qualified and skilled design officers or advisers being able to comment and respond timeously to such submissions.
- The requirement for a design statement should avoid being a 'paper exercise'. The statement must be properly assessed and considered by planning authorities when processing an application and this requires, and relies upon, authorities having access to appropriately qualified and skilled design officers or advisers. In this regard there are concerns regarding both the quantity and quality of staffing resource currently available to most planning authorities. There is little point giving authorities additional duties and responsibilities if they neither have the staffing skills nor the resources to assess properly the details contained within design and access statements.
- With significant additional duties and responsibilities it is essential that appropriate and adequate staffing and training resources are made available to local authorities to meet any deficiencies, particularly with regard to the consideration and assessment of design statements.
- A+DS supports the proposal that planning authorities will have to notify neighbours of planning applications and supports the various other changes proposed with respect to advertising applications, as it is felt that the more publicity given to applications, the more likely it is that the general public will become involved.
- Whilst recognising the resource implications and expectations that could be placed upon an organisation of the size of A&DS, we would welcome the opportunity - with respect to projects of national or major significance – to comment on design statements, pre-application advice, and process agreements.

Additional General Comments:

This detailed document is primarily aimed at local authorities who have the duty and responsibility to register and process planning applications. Much of the paper is devoted to administrative procedures, such as neighbour notification, consultations, advertising applications, etc. What does come through is the additional workload that local authorities will have to carry if the new procedures are to be properly implemented.

This causes a number of concerns, which will surely be expressed by others.

Firstly, the additional bureaucracy will do little to speed up the decision making process for planning applications. Although the idea of developer and authority agreeing a fixed timescale for the processing of an application may be sensible, it will automatically increase the timescale for processing development submissions beyond the two or four month period presently set for decision making, without necessarily improving the outcome.

Secondly, it is unlikely that the staff resources available to local authorities – both in terms of numbers and experience – will be able to cope with the anticipated workload. It is essential, therefore, that appropriate staff, training and skills are made available to planning authorities if the aims of the document are to be satisfactorily achieved. This is of particular relevance to design issues and related matters, where the evidence would suggest that there is a lack of qualified design staff in most local authorities.

Thirdly, if the range of 'permitted development' is to be extended, adequate care must be taken to ensure that the cumulative effect of such works would not have a negative impact on the built environment.

1.0 INTRODUCTION

- 1.1 Architecture and Design Scotland (A+DS) is Scotland's national champion for good architecture, design and planning in the built environment. It was established by the Scottish Government in April 2005. Architecture and Design Scotland is a Non Departmental Public Body (NDPB) which acts as a key delivery mechanism for the objectives of the Scottish Government's Policy on Architecture for Scotland. Our main aim is to inspire better quality in design and architecture in the public and private sectors to ensure that Scotland's built environment contributes in a positive way to our quality of life and our built heritage.

2.0 BACKGROUND

- 2.1 Through the Development Management Consultation Paper and associated Draft Regulations the government is seeking to allow communities a greater role at the pre-application stages of certain applications – to influence the nature of proposals themselves - and to allow enhanced scrutiny during the processing of such applications. In addition, new measures to ensure greater awareness of proposals and transparency of decision-making are to be introduced.

3.0 OBSERVATIONS ON THE DEVELOPMENT MANAGEMENT CONSULTATION PAPER

- 3.1 SPP 20 (The Role of Architecture and Design Scotland) confirms that in the drive for quality *A+DS will champion excellence in architecture and the built environment*. The SPP also recognises that *ultimately, the success of the planning system will be measured by the quality of development on the ground (whether new built or refurbishment) in terms of what it looks like, how it relates to the existing built environment, how well it functions and how long it lasts*. The Development Management Consultation Paper (DMCP) is mainly concerned with the processing of planning applications and related administrative procedures, rather than the environmental or design issues associated with individual applications. Nonetheless there are design consequences and opportunities in what is being proposed.

The background for many of the proposed changes relates to the pressure brought upon the government to consider the introduction of “third party rights of appeal”. It was concluded that this would create a significant barrier to the consideration of many much needed developments and, instead, the way ahead was reflected in the White Paper *Modernising the Planning System* and the 2006 Planning Act. The aim is to allow communities a greater role at the pre-application stages of certain applications; to allow enhanced scrutiny during the processing of applications; and to ensure greater awareness of proposals and transparency of decision-making.

The comments from A+DS seek to ensure that any changes to the planning process bring added value to the built environment.

- 3.2 The DMCP seeks a response to 49 questions, but few are of direct relevance to A+DS. However, the Consultation Paper raises a number of concerns as to the development control (management) process and the importance of design related issues in that agenda. It is with this in mind that A+DS has responded to the consultation.

- 3.3 At present most major applications are subject to informal pre-submission consultations, as both the developer and the local authority know the benefits to be gained from such meetings. If a developer follows this route at present it can often mean that any subsequent application is processed more easily and the decision notice issued quicker. Such consultations provide an early opportunity for the authority to ensure that the appropriate design principles are addressed through the development proposals, as suggested in *Designing Places*. Conversely, failure to go down the route of a pre-submission meeting can result in delays with local authorities requesting additional information, plans, etc. At present, the need for such meetings is accepted as 'best practice' by all parties.
- 3.4 The DMCP proposes that pre-application consultations become a statutory requirement for national, major, EIA and Schedule 1 applications. Whilst this proposal seems reasonable, care has to be taken to ensure that the agenda for such consultations includes design related issues and steps have to be taken to ensure that authorities still make resources available for planning staff to have pre-submission consultations for development proposals that might fall below the 'bar'. Even at a small scale poorly designed development can have a negative impact on the townscape and it is important that, as we seek to avoid the worst excesses of architectural globalisation, architectural design, urban design and design briefs are brought to the forefront of any application submission. Underlying all this is the feeling that local authorities do not have adequately skilled design staff to properly deal with this additional workload.
- 3.5 It is a concern that the new procedures will, almost certainly, introduce considerable delays to the development process. At a time when developers and society are seeking speedier decisions; when local authority planning staff resources appear to be diminishing; and when local authorities are ill-resourced to deal with design related issues it seems anomalous to be introducing a further layer of bureaucracy which is likely to do nothing to improve the efficiency of the process and little to improve the quality of the output.
- 3.6 The pre-application consultation (screening request and meetings with local communities) will add a minimum of 15 weeks on to the developer's timescale, with many of the requirements having to be duplicated when the application is submitted to the local authority for consideration. Thus staff resources, normally focussed on the administration and processing of submitted applications, will be partially diverted to new statutory duties relating to pre-application consultations. How 'front loading' the process is necessarily going to influence the quality of output is not clear.
- This additional layer of bureaucracy is being proposed when Scotland has been experiencing a year on year decline (since 2003) in the rate of processing of non-domestic applications: figures released in December 2007 show that only 44.6% of such applications are being processed in less than two months. All this at a time when most authorities are losing staff to the private sector and finding it increasingly difficult to recruit new staff with the appropriate skills and experience.
- It is difficult to understand how the proposed procedures will improve the decision making process; speed up the development process; or add clarity to the process. Indeed, there is a danger that the public might perceive that with councils and developers entering into 'agreements' before applications are even considered, 'deals' will have been done behind closed doors and that the system is even less accountable than at present.
- 3.7 In some cases the additional resource burden has to be accepted, especially when it will result in a fairer and better planning service. Such a case relates to

the servicing of neighbour notification notices which should, as proposed, be done by local authorities as it will ensure a more open and accountable development process. Elsewhere, however, steps need to be taken to ease the bureaucratic burden where possible and to bring forward proposals which will assist in stream-lining the development management process. Such service improvements can often be achieved through best practice advice (Planning Advice Notes) rather than the need for new regulations and legislation.

- 3.8 Over recent years authorities have been encouraged to increase their scope of delegated powers in an effort to speed up the decision making process. For example, it is accepted that minor applications can be approved and refused by officials, if the decision is in accordance with policy. The result is that for many authorities only controversial or major applications have to be submitted to Planning Committee for a decision. Even then there is often still an opportunity for the final decision to be referred to full Council if deemed appropriate. As far as can be established the present procedures appear to be efficient and effective as Planning Committees meet more frequently than the full Councils. Thus the requirement for certain applications to be referred to the full Council for ratification or refusal appears to be another backward step which would add little, if anything, to enhanced scrutiny procedures, but would certainly slow down the decision making process.
- 3.9 No matter the size or scale of development, design will always be a key consideration, as *'good design ensures attractive, usable, durable and adaptable places and is a key element in achieving sustainable development'* (PPS1 – Sustainable Development). It is, therefore, imperative that notwithstanding procedural agreements and related issues, design should be at the heart of any pre-discussions, discussions and meetings on the applications.
- 3.10 As planning seeks to encourage sustainable development, the principles established in SPP 1 (The Planning System) should not be overlooked, when new regulations are being introduced. In this respect it is imperative that steps are taken to ensure that new applications are encouraged to show how the proposed development considers *'the lifecycle of development from the outset'*; encourages *'energy efficiency through the layout and design of development'*; promotes *'the re-use of vacant and derelict land, particularly where it has a negative impact on quality of life and economic development potential'*; and aids *'the creation and maintenance of pleasant healthy, safe and crime free environments through high quality design'*. Requirements such as those should be the aim of the development process and the 'message' reinforced in the new regulations.
- 3.11 A+DS welcomes the proposal that Design and Access Statements are required to accompany prescribed applications. This is in line with earlier advice contained in publications such as *Designing Places; PAN 68 (Design Statements)* and *PAN 78 (Inclusive Design)* and should help to focus time and effort on these important elements of any development. A concern, however, is that it should not just become a 'paper exercise' and that these statements must be properly assessed and considered by planning authorities when processing applications. In this respect reference is made to the issue raised in Paragraph 3.5 above regarding both the quantity and quality of staffing resource available within most planning authorities. There is little point giving authorities additional duties and responsibilities if they neither have the staffing skills nor the resources to properly assess the details contained within the design and access statements. It is essential, therefore, that appropriate and adequate staffing and training resources are made available to local authorities to meet any

deficiencies in this regard.

Care will also have to be taken to ensure that the remit of the access panel is properly defined and that professional advice on design related issues can be made available to the access panel, if required. In addition, a closer working relationship between planning and building control at an early stage in the development process will be essential, if the views of the access panel are to be incorporated into the design element of planning applications.

Given the importance of design in any application – irrespective of size – it is felt that Option 1 (Paragraph 1 of the Consultative Draft) offers the more sensible proposal. For smaller proposals a modest design statement (perhaps without the requirement for an access statement) should suffice, with the information contained within Pan 68 providing the necessary guidance. For national and major applications it should be emphasised that A+DS is *'an approachable organisation able to offer informal and impartial advice to a range of stakeholders involved in the design process'* (SPP 20) and that for all aspects of architecture, design and planning the necessary advice can be provided. We believe that, notwithstanding its limited resources, A+DS should have a major role to play at this stage in the development process and this should be emphasised in the Paper.

- 3.12 Procedurally A+DS supports the proposal that planning authorities will have to notify neighbours of the application, within five working days of its validation and that applications cannot be registered until the requisite supporting documents are submitted. Various other changes are proposed with respect to advertising applications, site notices, etc., and in this regard it is felt that the more publicity given to planning applications (including the use of site notices), the more likely the general public will become involved: this is to be encouraged, particularly if the public will have an opportunity to comment on design issues at an appropriate and influential time. It would simplify matters if all the various timescales for advertising, service of notices, consultations, etc., were fixed to the same 21 days period.
- 3.13 Although A+DS acknowledges that it is not a statutory consultee (nor should it be one), it would be helpful if steps could be taken to ensure that the availability and range of its services was included within the report. This may help to encourage local authorities, and developers, to accept design as a key component in the development process from the outset and consult A+DS at key times in the planning process.
- In previous responses A+DS has expressed concern regarding the use of Local Review Panels to hear planning appeals, particularly if design was an issue in the appeal: this matter is still a concern, as it does not present the consideration of such appeals in an open, fair and accountable manner.
- 3.14 As stated in Paragraph 3.12 above, A+DS supports publicity for planning applications as being an appropriate method of encouraging public participation and in this respect the continued use of advertising 'bad neighbour' developments is to be welcomed. As such applications would generally be regarded as bad neighbours there is no point in seeking to 'spin' the description by using an alternative name. The proposed additions to, and deletions from, the list of 'bad neighbour' developments are reasonable.

4.0 CONCLUSIONS

- 4.1 A+DS welcomes the opportunity to comment on the detailed Development Management Consultative Paper. The Paper proposes significant alterations to the processing of planning applications including the introduction of new measures to ensure greater public awareness of proposals and transparency of decision-making. The new procedures will affect all involved in the development process.
- 4.2 The new procedures could introduce considerable delays to the development process. It seems unlikely that the introduction of a further layer of bureaucracy will improve the efficiency of the planning process and there is little evidence to suggest that it will improve the quality of the output.
- 4.3 The pre-application consultation will add a minimum of 15 weeks on to the developer's timescale and will largely be duplicated when the application is submitted for consideration. Staff resources will be diverted to new statutory duties relating to pre-application consultations and it is difficult to see how the new procedures will improve the decision making process; speed up the development process; add clarity to the process; or improve the quality of development. For example, the requirement for certain applications to be referred to the full Council for ratification or refusal appears to be a backward step which would add little, if anything, to enhanced scrutiny procedures, but would certainly slow down the decision making process.
- 4.4 It is imperative that notwithstanding procedural agreements and related issues, design should be at the heart of any pre-discussions, discussions and meetings on the applications.
- 4.5 The proposal that Design and Access Statements are required to accompany prescribed applications should be welcomed, as this is in line with earlier advice contained in publications such as *Designing Places; PAN 68 (Design Statements)* and *PAN 78 (Inclusive Design)*. However, it is essential that appropriate and adequate staffing and training resources are made available to local authorities to properly assess the details contained within the design and access statements.
Option 1 offers the more sensible approach for design statements and it should be emphasised in the regulations that A+DS is an approachable organisation able to offer informal and impartial advice to a range of stakeholders involved in the design process.
- 4.6 Procedurally it makes sense that planning authorities should notify neighbours of applications and the continued use of advertising 'bad neighbour' developments must be welcomed. However, there is no point in seeking to 'spin' the description of 'bad neighbour' developments by seeking to use an alternative name. The suggested additions to, and deletions from, the list of 'bad neighbour' developments are reasonable.
- 4.7 Whilst some of the recommendations may add clarity and transparency to the planning process, on balance it is difficult to see how the new arrangements will improve the overall delivery of service or improve the quality of the end product – development. The overall impression is that the new procedures will create more bureaucracy, more consultation and more delay, without necessarily improving the quality of design.