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Design Quality in Local Development Orders

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Design Quality in Local Development Orders

This document is intended as an aid to understanding the expectations of the Design Commission for Wales in relation to the use of Design Codes with Local Development Orders (LDOs) in Wales. It will inform Local Planning Authorities (LPAs), developers and other stakeholders regarding the role of the Design Commission for Wales and the proper consideration of good design quality, for development facilitated through LDOs and with the use of Design Codes.

It is intended as a helpful supplement to Welsh Government planning policy guidance 'Using a Local Development Order', on the nature, use and application of Local Development Orders (LDOs).

Annex 1 and 2 refer to relevant parts of the Welsh Government guidance on LDOs, their purpose and use, and to terminology associated with LDOs.

1. What is a Local Development Order?

A Local Development Order (LDO) is an order made by a local planning authority, extending permitted development rights, for certain forms of development, with regard to a relevant Local Development Document (LDD).

2. Consultation with the Design Commission for Wales

The Welsh Government guidance on LDOs encourages LPAs to consult beyond a specified list, with any bodies, statutory or otherwise, able to make useful input to the LDO.

The independent, expert comment of the Design Commission for Wales represents a material consideration in the planning process. Consultation with the Design Commission for Wales is appropriate in normal circumstances where good or best practice is to be demonstrated. It is also appropriate where an LDO is intended to embrace important matters of good design for significant sites or areas.

3. The Commission's expectations for Design Codes with LDOs

The Welsh Government considers the use of Design Codes as important to the making of LDOs in Wales in order to provide additional design certainty aligned with sustainable development objectives. The Commission therefore expects to see Design Codes, properly attached to sufficiently detailed masterplans and linked to the adopted LDP, within the conditions framework for LDOs. The Commission should therefore be consulted at the earliest possible opportunity.

4. What is a Design Code?

A Design Code can be described as a set of illustrated design requirements which direct and may advise, on the physical development of a site or area. The graphic or written components of a design code are detailed and precise, and will build upon a design vision such as a masterplan or other design and development framework for an area. (Source: Annex B, PPS3, DCLG, 2006)

Design Codes are developed to allow the successful implementation of masterplans, providing a mechanism for the control of layouts, public realm quality, building form and typology and if required, elements of architectural treatment.

Properly devised and applied, Design Codes can be effective mechanisms for delivery and development management within LDOs. They can assist coherent and well connected development, wider sustainability objectives and the achievement of high quality urban design and architecture. Design Codes can help streamline detailed planning permissions.

Design Codes are:

- A distinct form of detailed design guidance establishing with precision the two and three dimensional design elements of a development or area.
- Precise regarding the physical components, dimensions and qualities of a place.
- Delivery tools, and as such must be based upon a specific design vision/ masterplan for a site or an area.
- An aid to achieving a more certain, streamlined and coordinated development process.

Design Codes can attract benefits in addition to good design quality such as certainty of process, coordination of stakeholder objectives and enhanced economic value. However to be successful in realising those benefits, the use of codes must be supported by other important factors:

- Stakeholders must have access to the right design skills
- Masterplanning processes and documentation must be in place
- Developers must be committed to delivering good design quality
- Planning and highways authorities must be committed to good urban design practice and place-making
- It is vital to establish consensus among stakeholders regarding the vision for the site or area and the strategy for implementation

All Design Codes should carry the relevant status as part of the suite of Local Development Documents (LDDs), as set out in the Welsh Government guidance.

5. What should be included?

A Design Code should provide clear advice on the application of agreed design principles and on how quality standards should be met and/or used to achieve shared objectives and aspirations.

Stakeholders in the LDO making process, as with the more familiar planning process, should agree on design quality aspirations and standards, at the same time as spatial options are identified.

A Design Code should comprise detailed advice on the application of the agreed design principles across a range of spatial scales, and set down design and environmental standards to which developers must adhere.

The rationale for the use of an LDO will require the evaluation of its outcomes. The success of projects delivered through LDOs will be heavily dependent on the quality of the buildings, spaces and places that are developed. The Design Code must therefore be rooted in sound masterplanning and in the principles that stakeholders agree.

Design Codes can incorporate four levels of design advice: layout; block size enclosure; details of public realm and landscape; three dimensional form and building dimensions. If required they may also include architectural treatment. Useful examples can be found in codes developed for Newhall and other projects, where they are used to coordinate different developers and maintain design quality.

Design Codes should be developed in a professional, collaborative environment wherein there is a commitment to the delivery of a shared vision and objectives. The services of urban design, planning and architecture professionals will be required, alongside engagement with the stakeholder group, which will include developer, landowner, LPA, community and others. The process also requires clear leadership arrangements and adequate resources.

The Commission will seek code documents and processes which demonstrate that:

- The code has been developed with clearly defined and agreed processes for preparing and operating the code, and establishing leadership arrangements.
- Key inputs have been coordinated into the design coding process so as to draw together the skills, financial resources, and the roles and relationships that will create and implement the design code.
- The Code has been developed after careful appraisal of the local site and context, including a review of the existing policy and guidance framework, and is based upon well conceived and suitably detailed masterplan.
- Codes should be sufficiently flexible and effectively monitored and reviewed at regular intervals, to allow for changing contexts ranging from standards and materials to the economic and environmental.
- The Code has been properly devised, designed and tested; that it is well structured and written so as to properly express the intent of design code, and is robust in terms of viability, capacity to deliver quality and ease of use.

6. Using the Design Review Service and the LDO making process

In addition to consulting the Commission on the LDO and Design Code requirements, the Design Commission for Wales' Design Review service can also be utilised early to assist consultation processes and the development of masterplans and codes. The review process can facilitate engagement with community groups and other representatives involved in or affected by development proposals. The review process provides an opportunity for the expression of concerns and exchange of views, and for engagement with the local authority and development representatives and stakeholders. Consultation through Design Review can bring all or most of the parties together at the crucial early stages and can bridge the professional and lay viewpoints in a structured, constructive environment.

Further Information:

Design Commission for Wales Design Review Service

<http://dcfw.org/design/>

Newhall Design Codes

<http://www.studioreal.co.uk/projects/newhall-design-codes.php>

Upton Design Codes

http://www.northampton.gov.uk/downloads/Upton_Design_Code.pdf

Preparing Design Codes: A Practice Manual, DCLG, 2006

<http://www.communities.gov.uk/publications/regeneration/preparingdesigncodes>

TCPA Best Practice in Urban Extensions and New Settlements Report

<http://www.tcpa.org.uk/data/files/nsue.pdf>

LDO Examples:

Carnon Downs Local Development Order, Cornwall Council

<http://www.cornwall.gov.uk/default.aspx?page=27844>

Planning Advisory Service LDO Pilot projects:

<http://www.pas.gov.uk/pas/core/page.do?pageId=114302#contents-2>

Annex 1: Relevant references to Welsh Government Guidance on LDOs

Welsh Government Guidance on Making an LDO

The Welsh Government guidance explains that LPAs are encouraged to make an LDO at the same time as the development plan document to which it relates. This has the potential benefits of reduction in costs of preparation and of the earliest possible opportunity for consultation on how the LPA intends to use an LDO to implement policies in the development plan. There is no requirement for an LDO to be made at the same time and an authority may introduce an LDO at any time.

Whilst an LDO can be prepared at any time, it cannot be adopted until it has been approved by Welsh Ministers.

The guidance explains that although an LDO can be made without conditions, it will often be necessary to impose conditions in the LDO to ensure that it can deliver the objectives for which it is made. An LDO will grant planning permission, subject to any conditions and limitations specified in the Order (Section 61C of the 1990 Act).

The Welsh Government guidance also says that: ‘...conditions and limitations should set out clearly what development is and is not allowed, how it should be carried out and how it accords with supplementary planning guidance or a similar document/s. Integrated in the LDO framework will be conditions which can define requirements for compliance by reference to other documents, such as that contained within supplementary planning documents and design codes. For example, such a condition should be used to attach a set of design ‘rules’ for development permitted by LDO.’

The guidance notes that: ‘...A specified design code would be attached to an LDO by a condition, whereby the LDO grants permission for the development specified by the LDO, subject to a condition that the development complies with the specified code. When seeking to impose conditions in an LDO the LPA should consider their suitability in the same way as they would for an ordinary planning permission. Any non-compliance or breach of development control would be subject to normal enforcement powers.’

In the guidance it is noted that: ‘...any document referred to in the condition will need to meet the normal tests for conditions. The Specific Design Code and/or Design Guide attached to the LDO should be sufficiently detailed as to allow clear interpretation of what is allowed under the LDO...The specificity of guidance and conditions will depend on the circumstances of the LDO and the type of development involved. The LDO will specify the particular design code which will apply in each case.’

The guidance is clear that: ‘...in addition, to ensure that there is certainty as to the ongoing effect of the condition, the document must already exist and the reference to it in the condition should not allow the document to be substituted by a new version. That would have the unacceptable effect of allowing revisions to the LDO without complying with the normal statutory publicity and consultation requirements.’

Annex 2: Terminology

The following terms also occur in planning terminology, related to the use of LDOs:

The Town and Country Planning (General Permitted Development) Order 1995 (GPDO) is a set of regulations made by the Welsh Government which grants planning permission for specified limited minor forms of development.

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