



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Planning and Inclusive Design (Access Statements)

Final Interim Guidance *(see note on page 2)*

November 2007

Final Interim Guidance On Planning And Inclusive Design (Access Statements)

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Final Interim Guidance on Planning and Inclusive Design (Access Statements)

Please Note:

The following guidance is the Welsh Assembly Government's final interim guidance in relation to access statements. It is intended that it be replaced in due course by a revision to TAN12: Design.

The revised TAN12 will contain general guidance in the main body of the TAN in relation to inclusive design (as also to be defined in a revision to section 2.9 of Planning Policy Wales), to development plans, to the Disability Discrimination Act 1995 and to design and access statements, as well as specific guidance in an appendix in relation to design and access statements.

A draft of that TAN will be the subject of consultation by the Assembly Government later this year.

1. General

- Definition of Inclusive Design

- 1.1 Good design is inclusive design. The **principles of inclusive design**¹ 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
 - provides buildings and environments that are **convenient and enjoyable to use** for everyone.
- 1.2 Inclusive design should be considered from the outset of a project; it should extend from inception, through the planning process, detailed design, construction, occupation, management and operation.
- 1.3 It is a common misconception that inclusive design is primarily a matter for people with mobility impairments. On the contrary, as shown by the definition above, designing for all means that consideration should include the needs of all, including people with mobility impairments, people with sensory impairments and people with learning difficulties.

- Local Development Plans

- 1.4 Local planning authorities should include clear robust policies on design in their development plans, which should address local issues and be based on evidence. If the local planning authority has specific requirements for the content of design statements² currently required by TAN 12: Design and the content of access statements to accompany applications for planning permission or listed building consent, and/or intends to produce supplementary planning guidance, these should be signposted in the development plan.

¹ The Principles of Inclusive Design (They Include You.) (CABE, 2006). Definitions of design and inclusive design will be included in the proposed revision to section 2.9 of Planning Policy Wales (Welsh Assembly Government, 2002) later this year.

² Design statements are currently a policy requirement in TAN 12: Design (paragraph 4.8); consultation on Planning and Climate Change (Dec'06) confirmed the Assembly Government would pursue the introduction of the requirement for certain applications to be accompanied by a design statement; see introductory note to this final interim guidance.

1.5 The development plan can be used as a tool for specifying more rigorous design and access requirements than identified in legislation or national policy, provided there is evidence to justify such an approach. Both design statements and access statements should be seen as a method of assessing the particular proposal against both those relevant policies and proposals set out in the development plan and any relevant supplementary planning guidance. However, statements cannot set nor justify design and access policies; this must be done through development plans.

- Disability Discrimination Act 1995 (as amended 2005)

1.6 The Disability Discrimination Act gives a disabled person the right of equal access, on non-discriminatory terms, to employment, education, and in the provision of facilities, goods and services. The Disability Equality Duty (DED) under the Act places a general duty on all public authorities to promote equality for disabled people; the DED covers all aspects of a public authority's public functions, and this includes planning³.

2. Requirement for Access Statements under planning legislation⁴

2.1 An access statement is required by legislation to accompany **all planning applications** (outline and full) **except** for:

- engineering or mineral operations;
- householder development (i.e. development of an existing dwelling house, or development within the curtilage for any purpose incidental to its enjoyment) (N.B. all new dwellings will require an access statement);
- material change in use of land or buildings provided that this will not necessitate access by an employee, or provision of services (including goods or facilities) to the public, such as change of use from public land to private garden. (In other words, a material change of use where there will be employee and/or public access will require an access statement).

2.2 An access statement is required by legislation to accompany **all applications for listed building consent**, **except** for applications for interior works.

2.3 Access statements are not required for applications relating to advertisement control, tree preservation orders or storage of hazardous substances. (These are not developments requiring planning permission as defined by section 55 of the Town and Country Planning Act 1990.)

2.4 An application for **reserved matters** is not an application for planning permission and, as such, an access statement is not a statutory requirement. However, for an access statement to follow the 'living document' approach described later in paragraph 3.4, application for reserved matters should be accompanied by a progress statement updating what changes, if any, have occurred since the original access statement was submitted at outline stage.

³ Disability Rights Commission's Guide to the DED and DDA for Local Authorities: 'Planning, Buildings Streets and Disability Equality', (DRC 2006).

⁴ Article 4D of the Town and Country Planning (General Development Procedure) Order 1995 (SI1995/419) (the GDPO), and regulation 3B of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (SI1990/1519) (the LBC Regulations); as inserted by The Town and Country Planning (General Development Procedure) (Amendment) (Wales) Order 2006 (SI 2006/3390 W.310), and The Planning (Listed Buildings and Conservation Areas) (Amendment) (Wales) Regulations 2006 (SI 2006/3316 W.301).

3. Role of Access Statements

- *Access Statements and Inclusive Design*⁵

3.1 **Access statements are communication tools showing that the principles of inclusive design and access for people have been considered from the outset of the development process.** They should explain how the principles have been applied; or, where they have not been applied, why that is so. Considering and addressing inclusive design principles may not always lead to physical changes in the final development proposal. However, the extent to which they have informed and influenced design decisions for the final development must be fully described and explained.

3.2 These access statements will enable access issues, (particularly those related to site and plot gradients, to external matters such as parking, pedestrian routes, access into any building, and to external features such as doorways, windows and emergency escape routes), to be considered early in the design process, highlighting potential problems before detailed design work commences.

- *General Role of Access Statements:*

3.3 Access statements will benefit developers, applicants, local communities and local planning authorities; in essence, they will:

- inform decision-making from the pre-application stage to implementation on site;
- provide an opportunity for the applicant, and for developers and designers, to demonstrate their commitment to inclusive design and show how access arrangements make reasonable provision to ensure that all users will have equal and convenient access;
- help all those assessing the application to understand the rationale that underpins the development proposal, assisting in their negotiations and decision-making;
- enable local communities, access groups, amenity groups and other stakeholders to understand the rationale underpinning the development proposal and thus to make effective representation on proposals; and
- lead to an improvement in the quality, sustainability and inclusiveness of the development.

- *The 'Seamless Living Access Statement' – Good Practice*

3.4 An access statement should be seen, and used, as a 'seamless living document' that 'grows' as a project develops. A statement should be formed at the briefing stage – the strategic level (a time when decisions can have important implications for the success of any development) – and 'grow' as the various stages that inform and influence the design process are reached. These stages include applications for planning permission, listed building consent, and/or building control approval⁶ – all stages at which important decisions can be made that will affect the accessibility of the final development and its on-going management⁷.

3.5 A well-constructed access statement for a project will clearly identify how the principles of inclusive design are being addressed as the development progresses, with all statements submitted at the various stages being complementary to, rather than in isolation from, each other.

⁵ The definition of inclusive design (currently at section 1 above) will be included in the proposed revision to section 2.9 of Planning Policy Wales (Welsh Assembly Government, 2002) later this year and the proposed revision to TAN 12: Design.

⁶ Approved Document M of the Building Regulations recommends that Building Control access statements are provided for all domestic and non-domestic buildings, extensions and where there is a change of use.

⁷ Disability Rights Commission guidance on Access Statements, 2004 suggests an 'Access Statement Loop' comprising four stages to ensure continuity – strategic, planning, design, occupancy; (*also to be contained in DCfW proposed good practice guidance*)

3.6 A 'living document' such as this will help those assessing applications to identify how decisions made at the various stages impact on the overall accessibility of the final provision; this should enhance the decision making process.

4. Content of Access Statements

- Content of Access Statements for Planning Permission and for Listed Buildings Consent

4.1 An access statement will explain and justify the principles and concepts of inclusive design on which a development proposal is based, and how these will be reflected in individual aspects of the scheme. The following table indicates the broad content requirements of access statements.

Broad Content of Access Statements
<i>Applications for Planning Permission or for Listed Building Consent should:</i>
Explain <ul style="list-style-type: none"> - the policy or approach to inclusive design, and - how any policies relating to inclusive design in the statutory development plan and relevant local design guidance have been taken into account.
Explain how any specific issues which might affect people's access to the development have been addressed.
Detail how features which ensure people's access to the development will be maintained.
<i>In addition:</i> <i>Applications for Listed Building Consent should also (see paras 4.4-4.6):</i>
Include a brief explanation of how the approach to inclusive design takes account of: <ul style="list-style-type: none"> - WO Circular 61/96 (<i>Planning and the Historic Environment: Historic Buildings and Conservation Areas</i>), and - BS 7913:1998 – the Principles of the Conservation of Historic Buildings. In particular, a statement should include a brief explanation of how the policy or approach to inclusive design takes account of: <ul style="list-style-type: none"> - the special architectural or historic importance of the building; - the particular physical features of the building (including its architectural and/or historical significance) that justify its designation as a listed building; - the building's setting; and - the range of access solutions considered and reasons why the chosen solution is the best, both for improving access and for respecting the historic character of the listed building.

4.2 The following matters should be considered in relation to the preparation of access statements, but in considering them it is advisable to be mindful of the need for proportionality in terms of the proposal:

- It is good practice to explain how the applicant's policy or approach in relation to inclusive design fits into stages of the design process from inception to management of the finished development and be part of a **"seamless living access statement"** (see at para 3.4 above).

- It is a legislative requirement that an access statement relates **only to "access to the development"**⁸ (this includes access to all elements within the site) and should not extend to internal aspects of individual buildings. This does not mean that internal arrangements should not be considered as part of the design process at the application stage. For example, the location and design of doors, windows and emergency exits will depend on an understanding of the internal layout of a building.
- In defining the policy or approach to inclusive design, the statement should explain how access arrangements make reasonable provision to ensure that all users will have equal and convenient access, **both into the site from its boundaries to all of the new or extended buildings, and within the site**. Where an applicant considers such provision is not appropriate, then reasons should be provided in the access statement to support the case. The design of any parking spaces and parking layouts is an aspect of inclusive design that should be considered in access statements or by a cross reference to other accompanying material.
- The sustainability merits of **transport access into the site** will be covered by other parts of the planning application and accompanying design statement rather than specifically in the access statement. However, both access statements and design statements should cross-refer to the content of Transport Assessments (see TAN18: Transport) where these have been required for larger developments.
- For **outline applications**, where 'means of access' is reserved, it is good practice that the application should indicate the location of points of access to the site. Statements accompanying such applications should clearly explain the principles of inclusive design which will be used to inform the detailed proposals. The design principles should explain how the detailed design will address neighbourhood movement patterns within large sites and the principles to be applied to individual access points to buildings for all size developments.
- In defining the policy or approach to inclusive design, it is good practice that the statement address the need for **flexibility of the development** and how it may need to adapt to the varying requirements of inclusiveness over time.

4.3 There is much published **good practice** in relation to access statements. A bibliography is provided below.

- Specific Requirements Relating to Listed Buildings (see previous Table)

4.4 The previous table indicates the broad content of access statements relating to a listed building consent application. The statement will need to explain and justify the approach taken to ensure that the listed building preserves or enhances its special historic and architectural importance. A satisfactory solution can almost always be found so long as imaginative and innovative approaches are fully explored. *'Overcoming the Barriers, Providing Physical Access to Historic Buildings'* (Cadw, 2002) provides advice to those involved in the process and all viable alternatives need to be fully investigated so that such facilities are achieved without prejudice or damage to the character of the listed building. Welsh Office Circular 61/96 (*Planning and the Historic Environment: Historic Buildings and Conservation Areas*) already advises that applicants for listed building consent must be able to justify their proposals, indicating why works which would affect the character of a listed building are desirable or necessary; a justification statement could usefully refer to an access statement required by the LBC Regulations.

⁸ Section 62(5) of the Town and Country Planning Act 1990 as inserted by section 42(1) of the Planning and Compulsory Purchase Act 2004.

- 4.5 The access statement relating to the listed building consent application should make clear how the approach to inclusive design has balanced the duties imposed by the Disability Discrimination Act 1995 (as amended 2005) (DDA), where the proposal is subject to those, and the particular historical and architectural significance of the building. The statement should detail any specific issues that arise particularly with regard to the fact that the building is listed, the range of options considered and where inclusive design has not been fully provided, an explanation as to the reasons why this was not possible. Where alterations to existing buildings are proposed, and the fabric of the structure restricts the ability to meet minimum levels of accessibility, details could be provided of other adaptations or procedures that will allow duties imposed by the DDA to be met. These might include, for example, the use of portable equipment or changes to management practices.
- 4.6 Although it is not a statutory requirement for the statement to extend to internal aspects of listed buildings it would be preferable for applicants to clarify the approach that had been taken to any internal access proposals; this is particularly of relevance where the public visit the building and services are provided.

- Historic Parks and Gardens, Scheduled Ancient Monuments, World Heritage Sites, Conservation Areas and Locally Important Historic Assets

- 4.7 The access statement accompanying planning applications affecting historic parks and gardens included on the first part of the 'Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales' and scheduled ancient monuments must provide similar detail to justify the approach taken to ensure that it does not compromise the historic, archaeological or architectural integrity of such assets. In addition, proposals affecting scheduled ancient monuments will separately require scheduled monument consent. Planning applications affecting world heritage sites, and conservation areas must be considered in the context of *Planning Policy Wales*; locally designated assets in the context of a local planning authority's development plan.

- Access Officers and Local Access Groups

- 4.8 The content of access statements will benefit from engagement with local access groups and/or local authority access officers. Applicants should consider this engagement as part of pre-application work when proposals are either for significant residential development as defined by the local planning authority or for non residential development which generates intensive use by the public, such as leisure or shopping developments. Local planning authorities should consider agreeing a consultation protocol with local access groups.

- Presenting the Information

- 4.9 Submitted access statements:
- should be clear and concise and effectively cover all of the relevant principles for the proposed development;
 - should be proportionate in length and complexity to the type and scale of development proposed;
 - should justify and explain the conclusion in cases where the applicant considers there may be no implications of a development vis a vis inclusive design. It is likely for a number of applications that the access statement would be short and could merely advise that there are no relevant accessibility issues. Examples would be certain applications relating to variation of conditions, under section 73 of the Town and Country Planning Act 1990, which do require access statements such as change of opening hours / type of goods sold, and to listed building consent applications involving alterations to private domestic dwellings, and those other applications which do not involve accessibility, such as replacement windows;
 - should be combined with design statements in an integrated statement, but access matters should be clearly identified as meeting statutory requirements;

- may be combined for accompanying applications for planning permission and listed building consent, where there is a planning application submitted in parallel with an application for listed building consent; and
- should avoid using illustrative materials included with more complex schemes as a substitute for drawings that provide the necessary detail to support the approach to inclusive design claimed by the applicant.

5. Procedures

- Access Statement in Decision Making

- 5.1 An application will not be valid where an access statement is required by the GDPO / LBC Regulations but has not been submitted.
- 5.2 A local planning authority must not enter an application on the Planning Register unless accompanied by an access statement (where one is required) which meets the requirements of the GDPO / LBC Regulations. Where an access statement meets the requirements of the GDPO / LBC Regulations the local planning authority must place it on the public register of applications with the application to which it relates and consultees must be notified that it accompanies the planning application.
- 5.3 An access statement communicates how the application proposal accounts for accessibility to the proposed development for people and, where one is required, is a material consideration that the decision maker must have regard to when considering the application.
- 5.4 Although not specifically required by either the GDPO or the LBC Regulations, it is considered good practice to use access statements as an aid to pre-application discussions. Early discussion on inclusive design should help to establish any initial access issues.
- 5.5 In some cases information provided by an applicant when applications are submitted may need to be altered as designs are amended, especially where they are not only setting out objectives for the building or space, but also a process to achieve these objectives. For example, information on inclusive design may increase from initial concept right through to building regulation approval.
- 5.6 Planning conditions may be attached to a planning permission / listed building consent to take on board the relevant elements of access statements. For outline applications, any access considerations that are crucial to the development should be secured through conditions; a planning obligation should only be used where it is not possible to attach a valid condition.
- 5.7 Local planning authorities may feel that additional information, building on the original statement, is required at the reserved matters stage. In such cases the local planning authority should consider setting out such a requirement through a condition on the outline planning application.

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