



Letter to all :

Local Planning Authorities in Wales:  
- Chief Planning Officers

Copied to targeted recipients :  
- PINS Wales, WLGA , POSW , RTPi  
Cymru, DCfW, Planning Aid Wales, EA,  
RICS Wales, RSAW, BRE Global , Stroma  
Accreditation, HBF, EST.

Our ref : A-PAA-52-01-003/6  
Date : 16 November 2009

Dear Colleague,

## **POLICY CLARIFICATION LETTER CL-05-09**

### **Ministerial Interim Planning Policy Statement (01/2009) Planning for Sustainable Buildings**

1. In May 2009 the Welsh Assembly Government published a Ministerial Interim Planning Policy Statement (01/2009) 'Planning for Sustainable Buildings'. This introduced an innovative national planning policy expecting most new developments to meet a sustainable buildings standard from 1<sup>st</sup> September 2009.
2. Alongside the MIPPS (01/2009) a draft Technical Advice Note 22 'Planning for Sustainable Buildings' was published for consultation. The consultation ended on 31<sup>st</sup> July 2009 and a final TAN will be published early in 2010.
3. Planning Policy Wales, TANs and circulars together comprise national planning policy which should be taken into account by local planning authorities in Wales in the preparation of local development plans (LDPs). They may be material to decisions on individual planning applications and will be taken into account by the Welsh Ministers and Planning Inspectors in the determination of called-in planning applications and appeals.
4. A number of issues were raised in consultation responses concerning the scope and application of the MIPPS. The purpose of this Clarification Letter is to therefore to provide clarification on aspects of the implementation of the MIPPS, in advance of publication of the final TAN.



## POLICY SCOPE

5. The MIPPS (01/2009) set out expectations for sustainable building standards to be met for most residential development and non-residential development proposals. In designing to these higher standards a whole building approach is needed to improve the sustainability of new developments, which includes influencing the design, construction and materials used in the building's structure from the outset.
6. For the purposes of the MIPPS (01/2009) the standards set out in para 2.12.4 are intended to apply only to proposals for new built development (whether following demolition of existing buildings or not) above the relevant thresholds. Applications for permission for development which results from a change of use, or for extensions or refurbishment, are therefore not expected to meet the standards set out in the MIPPS.
7. However, where the policy expectations do not apply developers are nevertheless encouraged to consider the environmental sustainability of their proposals, as this is a material planning consideration of general relevance as set out in Planning Policy Wales and Technical Advice Note 12. Where a design and access statement is required, consideration of environmental sustainability must be included.
8. For those residential units which cannot be assessed under the Code for Sustainable Homes scheme (such as a sheltered housing scheme), it is expected that these will be assessed under the BREEAM<sup>1</sup> scheme and achieve the same minimum sustainable building standard expected for non-residential development proposals. The residential threshold will still apply in these circumstances.

## PRE-ASSESSMENT

9. To obtain a sustainable buildings standard as set out in the MIPPS (01/2009) there are three key stages of assessment. These are:
  - a) **Pre-Assessment** to identify the potential credits and overall score a development will achieve.
  - b) **Design Stage Assessment** leading to an 'Interim Certificate' (produced prior to construction of the individual building).
  - c) **Post Construction Assessment** leading to a 'Final Certificate'.
10. Only the design stage and post construction assessments are formal stages which are assessed and certified under the respective sustainable buildings assessment (i.e. Code for Sustainable Homes / BREEAM<sup>1</sup>).
11. It is unlikely that sufficient technical detail will be available for a developer to complete a formal design stage assessment prior to the submission of a planning application. It is therefore important that a developer carries out a pre-assessment of their proposal to achieve the minimum standards expected in the MIPPS (01/2009). This should arise from a full appraisal of context<sup>2</sup> and identify any constraints and opportunities arising from the site in meeting these standards.
12. There is no prescribed format for a pre-assessment, although templates have been published by the service providers. As a minimum a pre-assessment statement should set out :

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<sup>1</sup> Or an equivalent quality assured scheme

<sup>2</sup> See Technical Advice Note 12 'Design'

- a) a clear and reasoned statement that the proposed building/development has been designed to meet or exceed the minimum sustainable buildings standard expected;
  - b) the predicted overall score;
  - c) the predicted credits against Ene1; and
  - d) the environmentally sustainable design solutions proposed in order to meet the standard expected.
13. It is intended that the achievement of the standards set out in the MIPPS will be monitored and secured through the imposition of appropriate conditions where permission is granted. But it is important that conditions are realistic and capable of being complied with. The local planning authority will wish to avoid a situation where permission is granted, but the development subsequently proves to have been incapable of meeting the standards. The purpose of pre-assessment, therefore, is not to provide detailed evidence of every aspect of how the standards will be met, but to demonstrate generally that the developer has taken a realistic, considered and achievable approach.
14. Developers are encouraged to reflect the findings of a pre-assessment in the design and access statement<sup>3</sup>. In circumstances where design solutions are being proposed that affect the external appearance of a building and its relationship with its context, developers are encouraged to reflect this in the relevant drawings.
15. Local planning authorities should recognise that in meeting the relevant sustainable building standard there will be environmentally sustainable design solutions<sup>4</sup> proposed that will feature in the external appearance of a building. This may include a safe, secure and weather cycle storage unit, a storage unit for recyclable waste, or a biomass plant. Local planning authorities will need to take into account the sustainability benefits of these design solutions in considering other planning considerations which such features may raise<sup>5</sup>. In turn, developers should seek to identify and manage (e.g. by appropriate siting and location) all the planning implications of such features in designing their proposals.

## **SITE REGISTRATION**

16. Registration of a site is the initial stage of the process of assessment in accordance with the Code for Sustainable Homes or BREEAM<sup>6</sup>. Registration ensures that the development will be assessed against the standard in force at the time of registration. This enables the version used to remain the same across the site and throughout the carrying out of the development, irrespective of when it is commenced within the time limits imposed by planning permission. Registration therefore provides certainty to the developer, and also to the local planning authority in assessing whether the development will be capable of meeting the standards if permission is granted.
17. Site registration is a matter for the developer's discretion. However, for the above reasons, developers are strongly encouraged to appoint an assessor and register the site prior to submitting a planning application. Registration of a site needs to be carried out by a licensed assessor who registers the development formally with the service provider. Once a site is registered, it is given a unique registration number.

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<sup>3</sup> Requirements for design and access statements are contained in Technical Advice Note 12 'design'.

<sup>4</sup> Para 4.7 and 5.4 of Technical Advice Note 12 'Design'.

<sup>5</sup> Technical Advice Note 12'Design'

<sup>6</sup> Or an equivalent quality assured scheme

## EXAMPLE PLANNING CONDITIONS

- 7.1.2 An example of a set of conditions to secure the achievement of the standards is set out in the draft TAN 22 'Planning for Sustainable Buildings' for both residential and non-residential development.
- 7.1.3 The example conditions require that no building be occupied until the 'Final Certificate' (Post Construction Stage Assessment) has been issued. It is an essential part of the policy approach that the standards set out in the MIPPS are secured on those developments which are subject to the policy. Any delay in obtaining a 'Final Certificate' may be reduced as a significant proportion of the information needed for a Post Construction Stage assessment will have been collected as part of the Design Stage Assessment ('Interim Certificate').
- 7.1.4 It is for the local planning authority to decide whether the example condition is appropriate to the individual application. There may be instances where these example conditions are amended to reflect local and site specific circumstances, such as the phasing of sites and subsequent phasing of certificates at the design or post-construction stage.

A copy of this letter can be found on [www.wales.gov.uk/planning](http://www.wales.gov.uk/planning)

Yours faithfully



**Rosemary Thomas**

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