



Suffolk Design/ Design South East: Masterclass

Masterclass: Proactive Planning and Frameworks for Design Quality

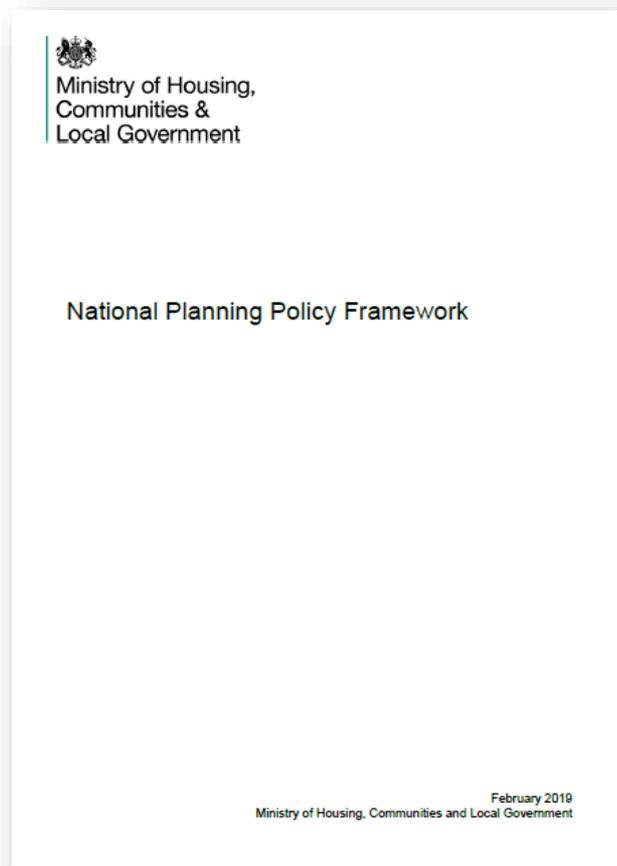
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Visiting Lecturer, School of Architecture, Planning and Landscape, Newcastle University

Outline

- What does proactive planning mean in policy and practice?
- What is the national context for achieving design quality through proactive planning?
- What frameworks are available to begin thinking about design governance: being on the front foot.
- What new approaches are local authorities adopting to realizing design quality? From design review to enforcement at Newham Council.

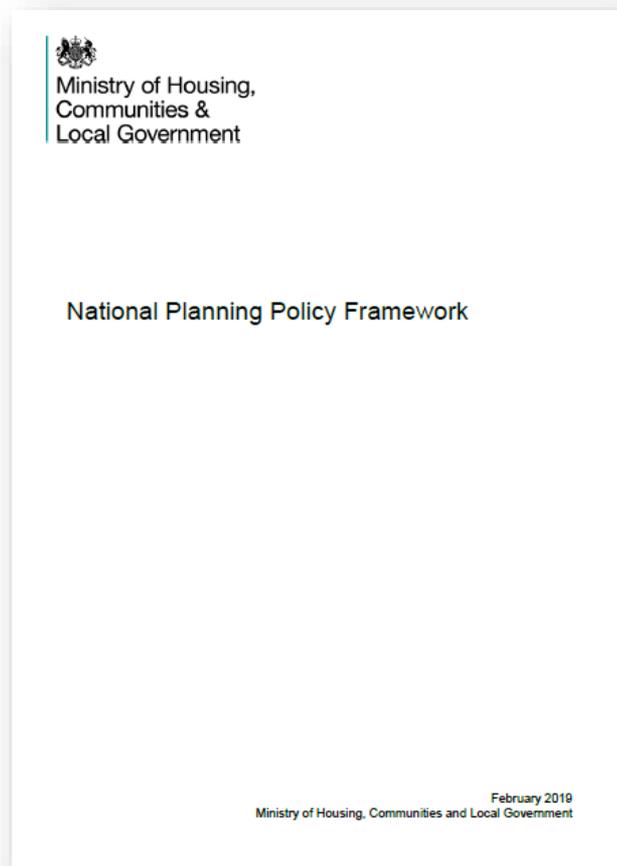
Proactive Planning in Current Policy



- Proactivity is relative.
- NPPF provides an insight into the policy basis for proactive planning:
 - **Decision-making** (para. 38)
 - **Tailoring planning controls to local circumstances** (para. 52), in relation to Neighbourhood Development Orders and Community Right to Build Orders
 - **Management of enforcement** (para. 58)
 - **Building a strong, competitive economy** (para.81), to provide economic vision and strategy for business investment
 - **Promoting health and safe communities** (para.94), to widen choice in education

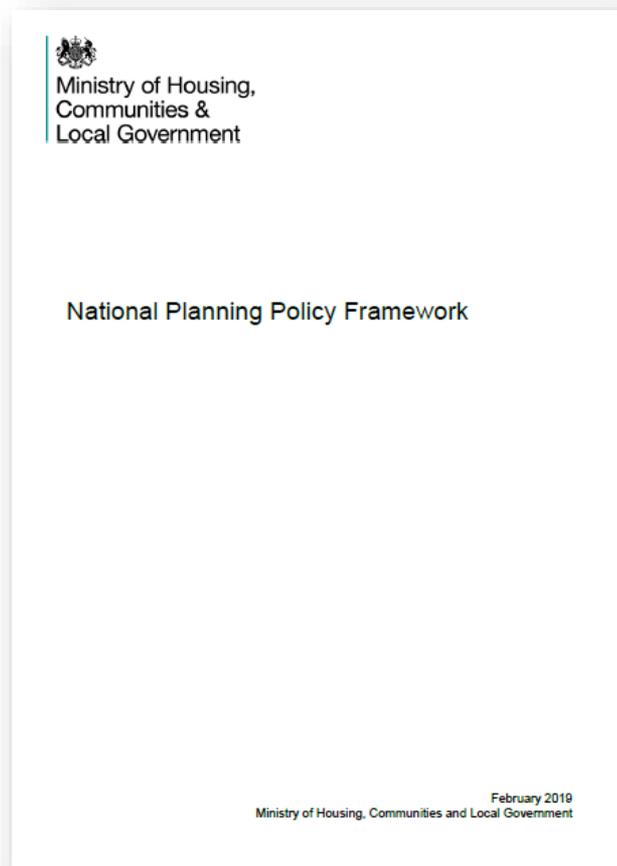
Resource: MHCLG. (2018a) *National Planning Policy Framework, July 2018*. (Cm9680) [Online-Internet]. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779764/NPPF_Feb_2019_web.pdf (accessed: 2 August 2018).

Proactive Planning in Current Policy



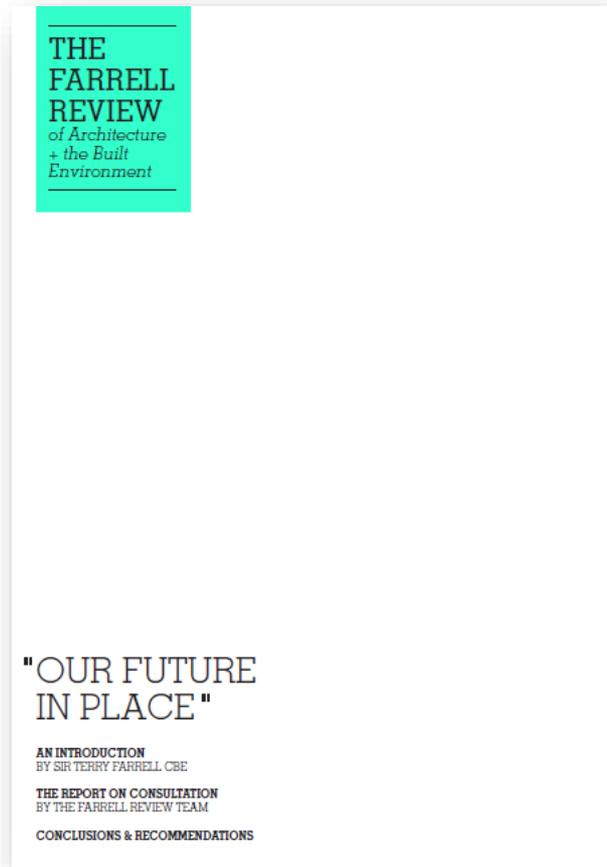
- NPPF provides an insight into the policy basis for proactive planning (continued):
 - **Effective use of land** (para. 119), identifying and helping to bring forward land to meet development needs, including through brownfield land registers and land in public ownership using their full range of powers, e.g. land assembly and use of compulsory planning powers
 - **Planning for climate change** (para. 149), in relation to mitigating and adapting to climate change, e.g. flood risk, coastal change, water supply, biodiversity and landscapes, and risk of overheating. Future resilience of communities and infrastructure, and where development is approved in vulnerable areas necessary manage risk through adaptation measures, e.g. green infrastructure.

Proactive Planning in Current Policy



- NPPF provides an insight into the policy basis for proactive planning (continued):
 - **Achieving well-designed places** (para. 123), design quality to be considered through the evolution and assessment of individual proposals.
 - Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes.
 - Applicants should work closely with those affected by their proposals to... take account of the views of the community
 - Applications that demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot.
- There is an onus on the local authority and the applicant to support a design process that is proactive in its approach to community engagement (or more ambitiously participation).

Proactive Planning in Recent Visions for Planning

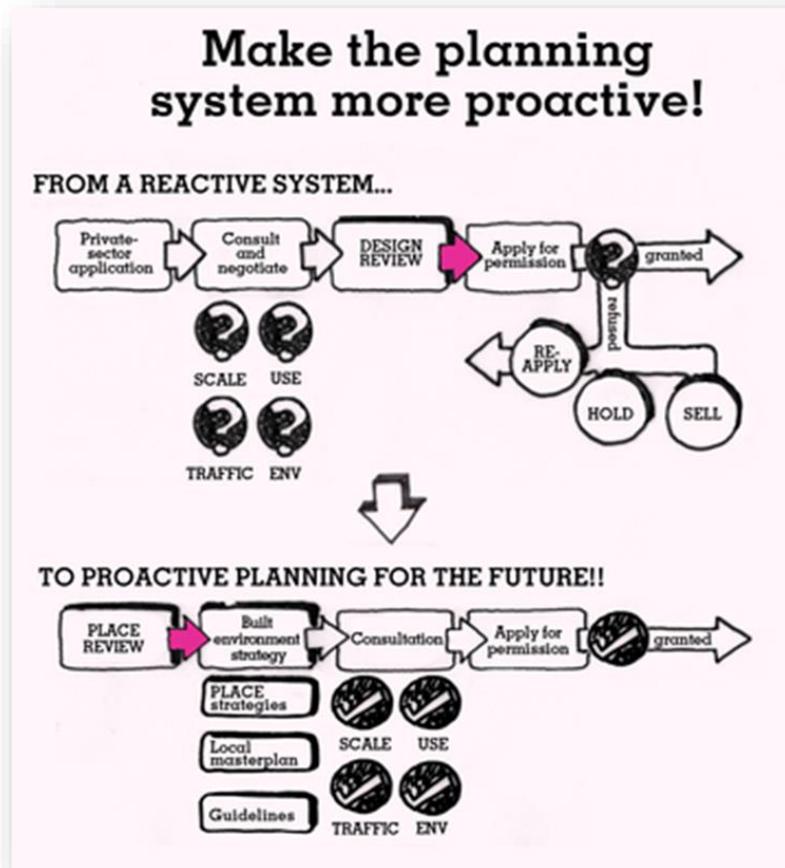


What is proactive planning and why is it a good idea?

- Identifies a planning system required to be too reactive and relying on development control and planners firefighting rather than thinking creatively about the future shape and form of villages, towns and cities.
- Everything is open to negotiation for every planning application and, as a result, huge amounts of time and resources are spent on issues that could have been predetermined by the collective vision shaped in collaboration with local communities, neighbourhood forms and PLACE Review Panels.
- Proactive planning would free up valuable time for local authority planners to develop masterplans and design codes... supported by local communities... reinvigorating the planning profession and its public perception.

Resource: Farrells. (2014) The Farrell Review [Online-Internet]. Available at: <http://www.farrellreview.co.uk/explore> (accessed: February 2019).

Proactive Planning in Recent Visions for Planning



Farrell Review Recommendations:

- Recommendation 19: PLACE Leadership Council, working between Government and industry to bring about a revolution in support for proactive planning... for the sustainability of our villages, towns and cities we have to reduce our reliance on reactive planning which is characterised by the current system of development control (or development management as it is now called).
- Recommendation 21: Local planning authorities should have interactive online forums for projects over a certain size, giving the public better access to planning debates about the future of their neighbourhoods...

Translating Proactive Planning to Practice

“...in the face of global and local challenges...there is a need to remember some of this early vision and to make planning proactive once again. This design dimension of planning requires planners do more than simply allocate sites, write policies and regulate development; it requires that they bring forward positive visions for change”

(Carmona 2018:101)

Translating Proactive Planning to Practice

- Tendency to identify proactive planning with the design-orientated practice and design expertise most closely associated with previous iterations of the planning profession.
- Proactivity is associated with processes that combine an attention to *physical planning* associated with past design cultures in planning, with the socio-economic and environmental aspirations, more closely associated with planning policy and processes in evidence today.
- Academic discourse been on a journey: still arguing that design should be central to the planning system, but now recognizes that *abstract* planning policy alone cannot be a substitute for truly proactive planning.
- Local authorities are often adept at applying technical standards, but find mainstreaming *higher order* aspects of design quality, e.g. linked to sustainable development challenging.

(Carmona 2018:102)

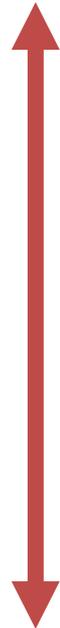
Potential for Proactive Planning in Development Control

Do some types of planning scenario have greater potential for proactivity?

Objective being decision-making to produce a place-based vision.

- **Total urban design:** complete control by a single design team over the design of a large area – buildings, public space and implementation.
- **All-of-a-piece urban design:** where schemes are parcelled out to different development/ design teams following an overall masterplan that acts to coordinate the pieces.
- **Plug-in urban design:** where infrastructure is designed and built in new or existing areas, into which individual development projects can be later plugged-in.
- **Piece-by-piece urban design:** the process of single uncoordinated developments coming forward as and when opportunities or the market allows, although guided by area objectives and policies.

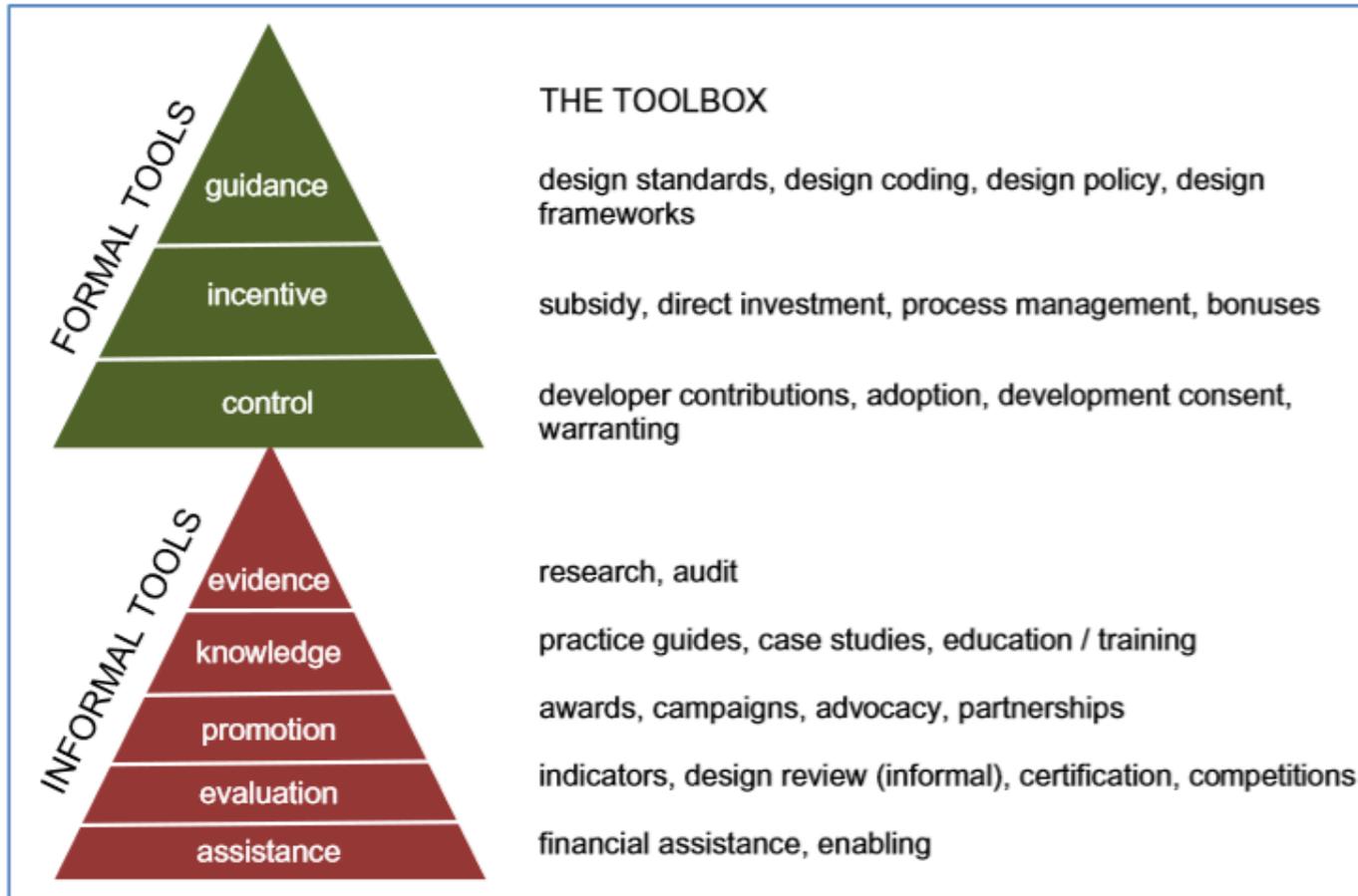
Proactive



Reactive

Resource: Lang, J. 2005. *Urban Design - A Typology of Procedures and Products*. Oxford: Architectural Press.

Framework for Proactive Planning for Design



Framework for design governance, including informal and formal measures, for the promotion of design quality in the planning and development process (Carmona 2018)

Formal and Informal Tools for Design Governance

What is in your power to do as a local authority or a partnership, given resources are finite?

Informal Tools

- **Evidence tools**, gather information through focused research about design and design processes to support arguments about the importance of design and assess what measures are effective, e.g. auditing projects.
- **Knowledge tools**, to articulate and disseminate knowledge about good and poor design practice, e.g. practice guidance's and education and training.
- **Promotion tools**, to make the case for better design taking knowledge proactively to different audiences, e.g. design awards and promoting partnerships between likeminded organizations.

(Carmona 2018:101)

Formal and Informal Tools for Design Governance

What is in your power to do as a local authority or a partnership, given resources are finite?

Informal Tools

- **Evaluation tools**, to systematically and objectively judge design quality and design processes, e.g. design indicators, design review, certification schemes (BFL), and design competitions.
- **Assistance tools**, proactive means to engagement the public sector in projects or shape decision-making, e.g. direct financial assistance to initiatives to create opportunities to engage in better design.

(Carmona 2018:101)

Formal and Informal Tools for Design Governance

What is in your power to do as a local authority or a partnership, given resources are finite?

Formal Tools

- **Guidance**, encouraging appropriate development through the production of enforceable plans and guides setting out the parameters that development will be negotiated and assessed, including:
 - design standards (technical standards),
 - **design coding** (place-specific codes),
 - design policy, and
 - **design frameworks** (flexible design propositions for large sites and specific conditions).

(Carmona 2018:101)

Formal Tools: Design Coding: Heartlands, Cornwall



Heartlands, Pool, Cornwall deploys design coding within a hybrid planning application to realize agreed design quality and coordinate planned variation among different teams of architects and fabricators (Courtesy of HTA Design LLP, 2015)

Formal Tools: Design Coding: Heartlands, Cornwall

Dwelle.ing House
Dwelle

The Lightbox House
Ash Sakula

My House
Mae Architects

Potton House
HTA Design

Little Big House
AOC

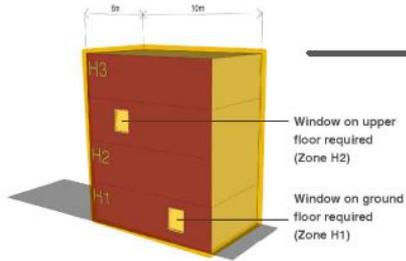
Bale Haus
White Design



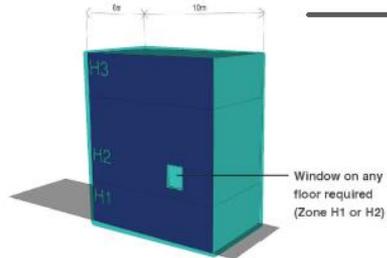
Heartlands, Pool, Cornwall deploys design coding within a hybrid planning application to realize agreed design quality and coordinate planned variation among different teams of architects and fabricators (Courtesy of HTA Design LLP, 2015)

Formal Tools: Design Coding: Heartlands, Cornwall

Corner Plots Diagram: side elevation and window requirements



End Houses Diagram: side elevation and window requirements



Corner plots and end houses require windows to the side elevations to create active frontages



Heartlands, Pool, Cornwall deploys design coding within a hybrid planning application to realize agreed design quality and coordinate planned variation among different teams of architects and fabricators. Design code constitutes a material consideration. (Courtesy of HTA Design LLP, 2015)

Formal Tools: Design Coding: Heartlands, Cornwall



Heartlands, Pool, Cornwall deploys design coding within a hybrid planning application to realize agreed design quality and coordinate planned variation among different teams of architects and fabricators. Design code constitutes a material consideration. (Courtesy of HTA Design LLP, 2015. Image by White Design)

Formal and Informal Tools for Design Governance

What is in your power to do as a local authority or a partnership, given resources are finite?

Formal Tools

- **Incentive**, encouraging higher quality private and public development and making poorer quality development less sensible for business, including:
 - State subsidy or direct investment requiring improved design outcomes.
 - Differentiating between high quality and low quality schemes during planning negotiation, e.g. higher density on demonstration of improved public realm.
- **Control**, often reactive and involves managing complex bureaucracy, including:
 - Approving or refusing planning permission and/or seeking enforcement action against measurable requirements or agreed outcomes.
 - Negotiation of developer contributions and planning obligations.

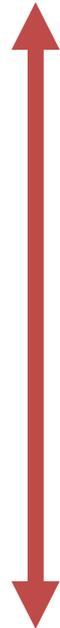
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Proactive



Reactive

Resource: Lang, J. 2005. *Urban Design - A Typology of Procedures and Products*. Oxford: Architectural Press.

National Picture for Design in Planning

Issues of *design expertise* among planners and *design capacity* within local planning authorities have been subject to research interest by a small number of invested academics and periodically by politicians and policy-makers:

- Growing awareness of the challenges meeting planning objectives such as sustainable development and regeneration linked to planners limited design expertise (Urban Task Force 1999, Lipton 2001).
- Calls for interprofessionalism as a means of assembling required expertise across teams and institutions (Egan 1998; Latham 1994).
- Academics and educators emphasis the importance of design within the planning process (Higgins and Forsyth 2006; Higgins and Karski 2000).
- Shortage of design expertise and awareness among planners and local planning authorities is consistently identified as a barrier to negotiating, agreeing and safeguarding design quality (Punter 1993).
- Planning practitioners in the 1990s identified they felt least competent and least appreciated in relation to their contributions to design quality.

How does it look now?

National Picture for Design in Planning

Knowledge and understanding of:	Skills and abilities in:
<ul style="list-style-type: none">• Aesthetic design theory and principles, e.g. scale, proportion, composition and perception.• Functional design theory and principles, e.g. how places work and develop, connections, sustainability• Relationships between physical form (aesthetic and functional) and socio-economic factors, e.g. open space design appropriate for context, users and maintenance.	<ul style="list-style-type: none">• Design policy formation• Site and contextual analysis• Design briefing and guidance• Conceptualising, visualising and appraising design, including two-dimensional and three-dimensional communication and making judgement about appropriate change.• Strategic design techniques, e.g. city and neighbourhood scale, urban design frameworks and masterplans.• Negotiating with elected members, designers, clients and other built environment professionals and the public.• Implementation process, e.g. market awareness and funding, legal implications, development process, project delivery and management.• Monitoring and evaluation of product and process, e.g. reflection on experience.

Urban Design Capacities required of Planners, adapted from Punter (1993) and Higgins and Forsyth (2006).

Design Review: Pre-Application Process

Newham Council

- 50 units or more (flexible to address significant and/or sensitive schemes).
- Links to approval process, e.g. coordinates with Strategic Planning Committee.
- Founded during period of limited resource to supply expertise throughout the process and booster talent within the local authority.
- Cultural change through elected member interest, relationship to the case officer and broader debate about what constitutes design quality.
- Part of a process of realising the design intent described during planning consultation and approval with what is delivered.

Delivering Design Quality Post-Planning Consent

Mayor's Design
Advisory Group

Shaping London

MDAG Recommendations:

- Fewer, more strongly enforceable planning conditions
 - Design quality is built into the planning consent and not subject to revision.
- Champion sharing of robust planning conditions and s106 clauses to secure quality
 - Explore the feasibility of establishing an online tool or menu for use by local authorities.
- Promote s106 clauses to ring-fence resources for design input
 - Retaining original design team.

Planning Conditions to Secure Design Quality?

Planning Conditions:

- Local planning authorities should consider whether otherwise unacceptable development could be **made acceptable** through the use of conditions. (para. 203).
- Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, **precise** and **reasonable** in all other respects. (para. 206).

National Planning Policy Framework (2012, p47, p54)

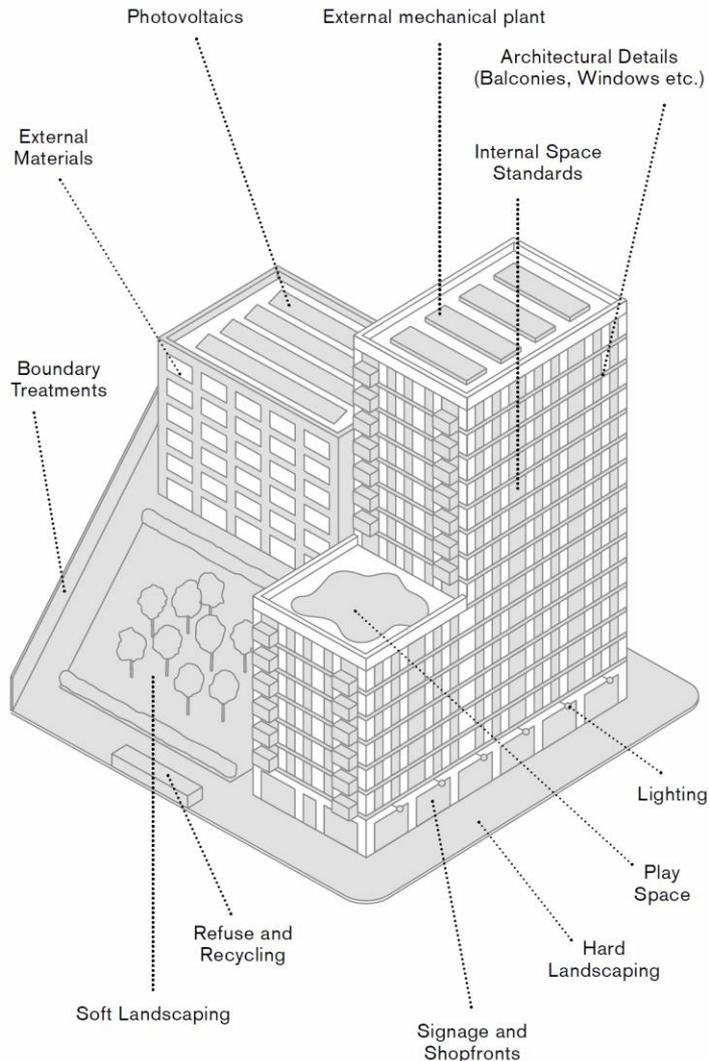
Planning Conditions to Secure Design Quality?

Necessary	<p>Will it be appropriate to refuse planning permission without the requirements imposed by the condition?</p> <p>A condition must not be imposed unless there is a definite planning reason for it, i.e. needed to make development acceptable in planning terms. If a condition is wider in scope than is necessary to achieve the desired objective, it will fail the test of necessity.</p>
Relevant to planning	<p>Does the condition relate to planning objectives & within the scope of the permission?</p> <p>A condition must not be used to control matters subject to specific control elsewhere in planning legislation (e.g. advertisement control, listed building consents, or tree preservation) or controls outside planning legislation which may provide an alternative means of managing matters (e.g. highways works requiring highways' consent).</p>
Relevant to the development to be permitted	<p>Does the condition fairly & reasonably relate to the development to be permitted?</p> <p>It is not sufficient that a condition is related to planning objectives: it must also be justified by the nature or impact of the development permitted. A condition cannot be imposed in order to remedy a pre-existing problem or issue not created by the proposed development.</p>

Planning Conditions to Secure Design Quality?

Enforceable	Would it be practicably possible to enforce the condition? Unenforceable conditions include those for which it would, in practice, be impossible to detect a contravention or remedy any breach of the condition , or those concerned with matters over which the applicant has no control.
Precise	Is the condition written in a way that makes it clear to the applicant and others what must be done to comply with it? Poorly worded conditions are those that do not clearly state what is required and when must not be used.
Reasonable in all other respects	Is the condition reasonable? Conditions which place unjustifiable and disproportionate burdens on an applicant will fail the test of reasonableness. Unreasonable conditions cannot be used to make development that is unacceptable in planning terms acceptable.

Proposed Planning Conditions

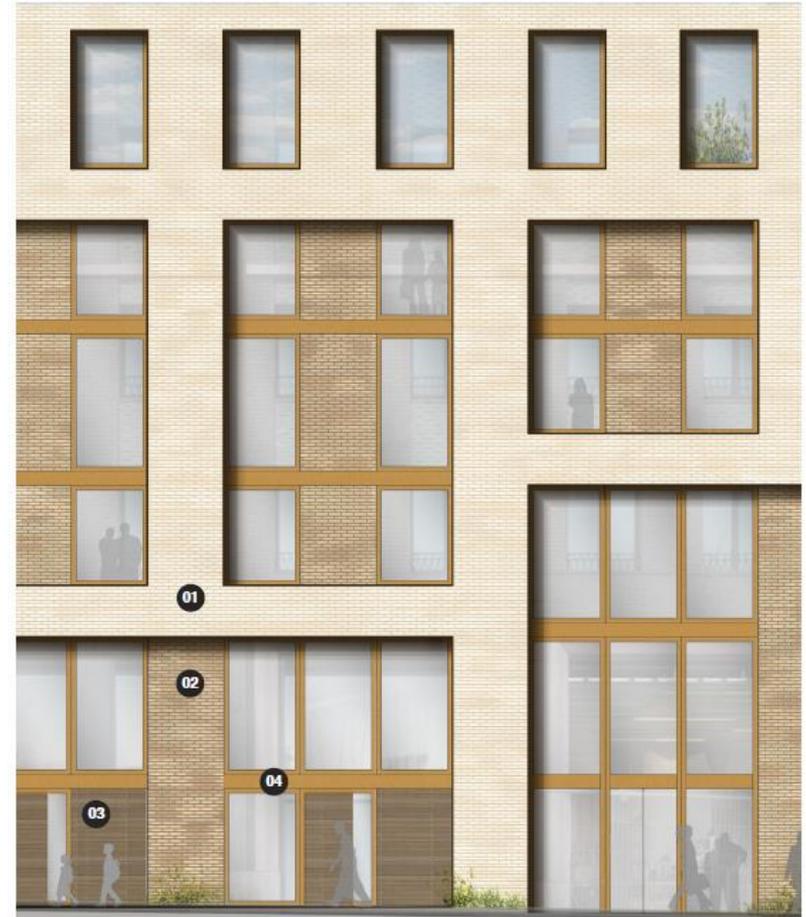


MDAG suggests:

- External mechanical plant/ photovoltaics
- **Architectural details/ external materials**
- Boundary treatments/ soft landscaping/ playspace
- Refuse and recycling
- Lighting
- Signage and shopfronts (not advertisement).

Planning Conditions: Implementation

Design and Access Statement prepared by the original architect described: “Bronze anodised metal window frames and spandrel panels.”

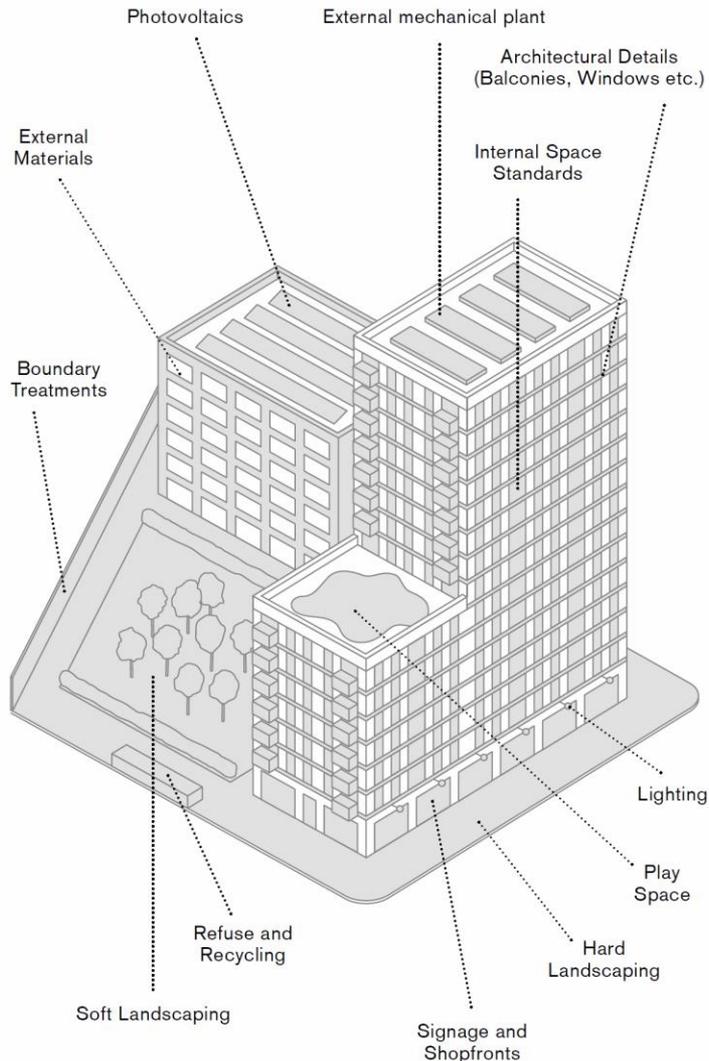


© Maccreanor Lavington, 2014. Gallions Quarter, Volume 1, Design and Access Statement.

Planning Conditions: Implementation



Proposed Planning Conditions

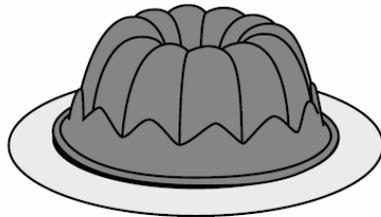


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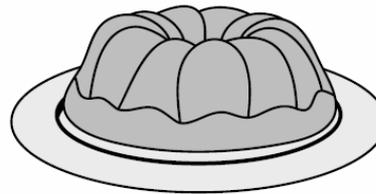
- External mechanical plant/ photovoltaics
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s106 Clauses to Secure Design Quality

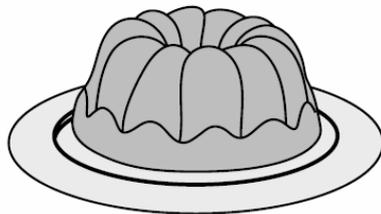
Planning consent



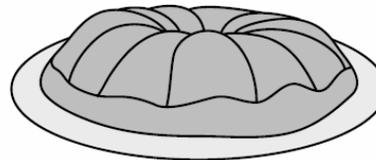
New design team



Site sold on



Amendments to details



Constructed project



© Mayor's Design Advisory Group, 2016, *.Shaping London.*

s106 Clauses to Secure Design Quality

Planning Obligation:

- Legally enforceable obligation entered into under Section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal.
- Planning obligations should only be used where it is **not possible** to address unacceptable impacts through a **planning condition**. (para. 203).
- Tests for planning obligation:
 - Necessary to make the development **acceptable** in planning terms,
 - **Directly related** to the development,
 - **Fairly and reasonably** related to the development. (para. 204)

National Planning Policy Framework (2012, p47, p54)

s106 Clauses to Secure Design Quality

Planning Obligation:

- Where obligations are being sought or revised, local planning authorities should take account of changes in **market conditions** over time and, wherever appropriate, be sufficiently flexible to **prevent planned development being stalled**. (para. 205).

National Planning Policy Framework (2012, p54)

s106 Clauses to Secure Design Quality

RIBA/ Herbert Smith LLP proposed a Model Drafting for a Section 106 Agreement (2010):

- Recitals
- **Design Monitoring Contribution**
- Design Team Statement
- Change of Architect
- Record of Design Team
- Non-Material Changes to the Planning Permission
- Design Professionals
- Restriction on Implementation
- Restriction on Occupation

s106 Clauses to Secure Design Quality

Design Monitoring Contribution

- Council will apply a cost to employ or retain design professionals to monitor the design quality of the development as detailed drawings are prepared and construction work commenced. Quality is consistent with approved drawings and Design and Access Statement.

Additional Monitoring Contribution

- Contribution for additional work and expertise required if the original architect is no longer engaged in the process.
- In theory the local authority could use the contribution to engage the original architect (if not retained by the developer as client advisor).

s106 Clauses to Secure Design Quality

Factors to consider if such a model were applied:

- Paying the contribution sum incentivises retaining the original architect, as with any contribution it may disincentivise development.
 - How and where should it be used within the local authority's 'development portfolio'?
- Provision for replacement in circumstances where the retained architect fails to perform.
- Interaction with the Community Infrastructure Levy, other Planning Obligations and Conditions.

s106 Clauses to Secure Design Quality: Emerging Practice?

“A well-known architect told me this week that there is a S106 condition in the planning consent on a scheme they have designed, inserted by the local authority, that designates a fee, agreed between the architect and the planning officer, should they not be novated on to the design-and-build contract. **Applause required here for the foresight and commitment to the cause of that planning officer.**”

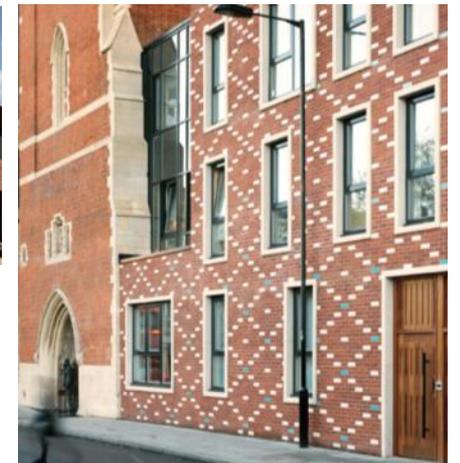
Martyn Evans, Building Design (20 June 2016)

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Mae LLP for Great Places Housing Group with Urban Splash, New Islington, Manchester (2011); Mikhail Riches as architect and developer, Church Walk, Hackney, London (2012); White Design for Low Impact Living Affordable Community (LILAC) Co Housing Group, Bramley Leeds (2013); Alison Brooks Architects for Linden Homes, Galliford Try, Harlow, Essex (2012); Maccreeor Lavington for Climate Engery Homes and Old Ford Housing Association, Rainham Close Passive Housing, Essex (2014); Ash Sakula for Igloo at Ouseburn Valley, Newcastle upon Tyne (2014). Proctor & Matthews for Countryside Properties, Abode at Clay Farm, Cambridge (2014); Pitman Tozer for Peabody, Mint Street, Bethnal Green, London (2014); Bell Phillips Architects for Royal Borough of Greenwich (2014).

Resources

- Carmona, M. (2018) 'The Design Dimension of Planning: Making Planning Proactive Again'. In: Ferm, J., Tomaney, J. (2018) *Planning Practice: Critical Perspectives from the UK*, London: Routledge., pp. 101-119.
- Farrells. (2014) *The Farrell Review* [Online-Internet]. Available at: <http://www.farrellreview.co.uk/explore> (accessed: February 2019).
- MHCLG. (2018) *National Planning Policy Framework, July 2018. (Cm9680)* [Online-Internet]. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779764/NPPF_Feb_2019_web.pdf (accessed: 2 August 2018).
- Urban Design London. (2017) *The Design Companion for Planning and Placemaking*, Newcastle upon Tyne: RIBA Publishing.
- Vincent, S. (2018) *Councillor's Companion for Design in Planning*, London: MHCLG.

Translating I for Proactive Planning in the Current Practice

- Bridge between practice aspirations and the
- Historic basis for ideas of proactivity... Fair to say that historically calls for proactive planning have been linked to architects' or architect-planners' interpretation of planning, design-orientation or implementation-orientation... Sorry for that...
Really envisaged for planning scenarios... Thinki
planning activity and scale. Word of caution. Rec
resource level unless you are relying on permit
- Need for clarity about the layers of design governance and their corresponding form of planning challenging/ potential linked to type of development.

Resource: Lang, J. 2005. *Urban Design - A Typology of Procedures and Products*. Oxford: Architectural Press.