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Building for Equality: Disability and the Built Environment Contents

3 Designing for equality

53. The planning system is a key means through which the quality of the built environment is regulated and 'good design' is generally recognised to be an important part of this. Mary Travers of the Planning Inspectorate explained:

Design is essential. It is part of good planning. At various policy levels, whether they are high-level policies in a strategic plan or more detailed design policies in a plan for a specific area that is going to undergo significant growth, the policies need to find the hooks and the triggers to ensure that those principles are carried through in the detailed design implications for the development.⁸⁸

54. In this Chapter we explore how the planning system—from national-level requirements, to local planning policy, and, ultimately, decisions on individual developments—can better design for a more inclusive built environment that enables disabled people to take part in society on an equal basis.

Inclusive design and the National Planning Policy Framework

55. The National Planning Policy Framework (NPPF) was described in 2012 as a key part of the Government's reforms to make the planning system less complex and easier to understand. Its introduction significantly reduced the volume of national policy on planning. The NPPF sets

out the Government's planning policies for England, and how these were expected to be applied. The framework states that:

It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.⁸⁹

The NPPF defines 'inclusive design' as "designing the built environment, including buildings and their surrounding spaces, to ensure that they can be accessed and used by everyone."⁹⁰ The Planning Practice Guidance which sits under the NPPF sets this out in more detail.

Box 1: Planning Practice Guidance: Design

Good design can help to create buildings and places that are for everyone. Planning can help break down unnecessary physical barriers and exclusions caused by the poor design of buildings and places.

Inclusive design acknowledges diversity and difference and is more likely to be achieved when it is considered at every stage of the development process, from inception to completion. However it is often mistakenly seen as a Building Regulations issue, to be addressed once planning permission has been granted, not at the planning application stage. [...] Thinking at the design stage about how the completed building will be occupied and managed can overcome many barriers experienced by some users. Too often the needs of users, including disabled people, older people and families with small children, are considered too late in the day.

Inclusive design should not only be specific to the building, but also include the setting of the building in the wider built environment, for example, the location of the building on the plot; the gradient of the plot; the relationship of adjoining buildings; and the transport infrastructure.⁹¹

The guidance goes on to identify the following 'issues to consider':

- proximity and links to public transport;
- parking spaces and setting down points in proximity to entrances;
- the positioning and visual contrast of street furniture and the design of approach routes to meet the needs of wheelchair users and people with visual impairments; and
- whether entrances to buildings are clearly identified, can be reached by a level or gently sloping approach and are well lit.⁹²

Source: <https://www.gov.uk/guidance/design>

56. Sense argued that the design process was essential for achieving inclusivity, as it addresses elements such as lighting, acoustics and navigation.⁹³ Trudi Elliott of the Royal Town Planning Institute (RTPI) pointed out that good design helps everyone: "Your average member of the community wants places their elderly mother can use and wants to be able to push a pram. All these things are the same requirements as if we want to make a place inclusive."⁹⁴

57. In practice, however, the Design Council argued that "inclusivity is insufficiently considered in the early stages of development and design"⁹⁵ and that implementation of the standards on inclusive design is patchy.⁹⁶ Others told us that, while the concept of 'good

design' is itself widely recognised within the planning system, accessibility was not always considered integral to that concept.⁹⁷

58. When we asked RIBA, the Design Council, the National Register of Access Consultants and the Project Leader for BEPE whether the criteria for design awards should include minimum accessibility criteria the answer was a resounding "yes",⁹⁸ but Leicester Disabled People's Access Group expressed frustration that public realm schemes that they see as 'exclusive' rather than 'inclusive' design seemed to be gaining such awards.⁹⁹

Box 2: Design inequality in practice

Stephen Ware gave evidence to us on behalf of RIBA, and gave us the following explanation of his experience, as a Deaf person, of design that was not inclusive. He said:

One of [the] things people are not aware of is about getting into buildings. Everything now is designed a lot with intercom buzzers. If you are deaf and you cannot speak, people do not understand you, sometimes, when you try to speak. How do I know when it is free? I have to press the buzzer, and I am holding on to the door. It is really quite difficult. People come down and they complain about why I have been pressing on the buzzer. They do not realise. [...] If there is a completely solid door, it is very difficult for me to see if I can get in.

[...] In a big company, somebody might have a pager for when the fire alarm goes off. A deaf person who does not have a vibrating pager will not know. For example, an old person who has lost their hearing will not know that the fire alarm has gone off. [...] We need flashing lights above, so people can actually see what is happening.

We need good lighting design as well. If it is very dark, it is very difficult to watch somebody who is signing, for example, because there is no light on the interpreter. For example, with doors you need something like lights so that people know somebody is knocking. [...]

If we have mirrors, and there is somebody behind you, then you can see everybody around. That is very positive, to see everybody in the room. You can see a reflection when someone is coming.

Source: Q105

59. Steve Quartermain, Chief Planner in the Department for Communities and Local Government, argued that the problem was not with the processes and systems, but with their application.¹⁰⁰ To some extent this is true, and we heard evidence of how built environment professionals did not always understand the "human aspect of how people use and interact with buildings", viewing accessibility as "a compliance-based thing".¹⁰¹ However, we also heard evidence that many local authorities will not take action if they do not understand that they are required to do so. Councillor Izzi Seccombe, speaking for the Local Government Association, explained:

You have a huge demand on just getting the churn of [planning] applications through the system and dealing with all the legality around it. This nice-to-do extra is not statutory. How do you create an environment that is going to be sustainable for older people? Are you talking about wider pavements in these areas, because there are going to be more mobility scooters? Are you putting in bus stops at the bottom of a hill, rather than at the top of a hill? Are you talking about where the shops sit? Are you talking about walking environments?

These are all the things that make their lives worth living and keep them independent for longer. Those are nice-to-dos. They are not statutory.¹⁰²

60. We asked the Minister for Housing and Planning if there was a risk that accessibility, and inclusive design, become 'nice-to-dos' when local authorities are under economic and other pressures. He argued that significant progress had been made, particularly in housing, and pointed to London and Peterborough as local authorities that were making "real progress".¹⁰³ He nevertheless acknowledged, again in the context of housing, that:

One of the things that we need to guard against is that in the urgent need to drive up quantity [...] we do not lose sight of quality in terms of design, the appearance and character of homes, but also accessibility and all of those issues.¹⁰⁴

61. The Minister told us that he was "determined that we do not fall into that trap"¹⁰⁵ and that the Neighbourhood Planning Bill had been amended to "place a duty on the Secretary of State to produce guidance for local planning authorities on how their local plans should address housing needs arising from old age and disability." This guidance is expected to be in place by the summer of 2017. ¹⁰⁶

62. While this is welcome, a duty to produce guidance is quite different to a requirement to do something, and even the guidance is restricted to housing—there have been no such improvements as regards the wider built environment. When we asked Councillor Seccombe whether there was a risk that local authorities may be breaching their public sector equality duty, she told us that "I do not think any local authority intentionally avoids its duties", but acknowledged that the capacity issues facing local authorities made it "a significant issue".¹⁰⁷ DCLG and the Planning Inspectorate were more positive: Steve Quartermain at the DCLG stated "it is a duty. It is the law",¹⁰⁸ and Mary Travers of the Planning Inspectorate that "it has been very rare" that inspectors found evidence of a breach of the duty.¹⁰⁹ In stark contrast, Sue Bott of Disability Rights UK was very clear that, in her view, local authorities were breaching the public sector equality duty in this area.¹¹⁰

63. Determining planning policy, and using it to make decisions, are also public functions. As such these functions are subject to the duty to make reasonable adjustments, including in anticipation of the needs of disabled people. A historic focus on service provision has meant that this is often not well known or understood, but it should not be ignored. There have been high-profile cases where this duty was found to have been breached by those exercising public functions, such as *ZH v Commissioner of Police for the Metropolis* (2013),¹¹¹ which concerned the failure of the police to adjust their standard emergency response procedures for people with Autism. Inclusive design is an important part of meeting this duty: the Code of Practice, using the example of service, has made it clear that:

Where there is a physical barrier, the service provider's aim should be to make its services accessible to disabled people and, in particular, to provide access to a service as close as it is reasonably possible to get to the standard normally offered to the public at large.¹¹²

We can see no reason why the same principle would not apply to the performance of public functions.

64. The National Planning Policy Framework tells local authorities that inclusive design is important but does not make its legal status sufficiently clear, with the result that inclusive design is being treated as a 'nice-to-do' and not a statutory requirement. Even putting aside the significance of inclusive design to our future built environment, this leaves local authorities at risk of breaching their obligations

to anticipate the need for reasonable adjustments and of failing in their public sector equality duty.

65. We recommend that the Government amend the National Planning Policy Framework and the National Planning Practice Guidance to incorporate a dedicated section on access for disabled people and inclusive design for local planning authorities and decision-takers. This should provide details of the requirements on how local planning authorities should address these subjects in terms of planning and design of the built environment and public spaces as well as housing.

The role of the Planning Inspectorate in Local Plans

66.Improvements to the NPPF will only be effective if carried through into Local Plans. While guidance exists in the NPPF and the relevant planning practice guidance, the key means for assuring that this guidance is followed in practice is examination of those plans by the Planning Inspectorate. We were therefore concerned to hear from the Planning Inspectorate that many local authorities had not yet undertaken the kind of evidence-gathering that would enable them to amend their plans so that they are “fully in accordance with what one might expect from the NPPF and [Planning Policy Guidance].”¹¹³ The RTPI reported that while many local plans did include policies covering access for disabled people, these were “not necessarily very prescriptive” or were limited to requiring developments to “demonstrate that they have taken the needs of people with disabilities into account”.¹¹⁴

67.While the Inspectorate told us that consideration of the public sector equality duty was “fundamental” to their inspectors’ consideration of the soundness of Local Plans, the manager responsible for the agency’s role in examining plans, Mary Travers, told us:

I am not aware that an inspector has ever found an entire plan unsound because of an issue about inclusivity, access or place-shaping design that might discriminate against those who have special needs.¹¹⁵

Rather than refusing to approve a plan in these circumstances, Mary Travers said that the Inspectorate’s approach would be to work with the local authority, and in some cases it would be willing to accept policies outside of a plan as sufficient.¹¹⁶

68.While we understand the desire to work in a cooperative manner, we do not think that this approach gives sufficient weight to the importance of accessibility for disabled people. **The Minister for Planning and Housing told us that “if plans are not consistent with national planning policy, inspectors should not be approving them.”¹¹⁷ We agree.**

69.The evidence that we have received indicates that the Planning Inspectorate may have approved Local Plans that pay insufficient regard to the needs of disabled people, risking a breach of the anticipatory reasonable adjustments duty and the public sector equality duty. The Equality and Human Rights Commission has the power to investigate both such possible breaches: section 20 of the Equality Act 2006 provides that the Commission can carry out an investigation where it has evidence to suspect that an organisation has failed to meet its reasonable adjustment duties, and section 31 provides that it can assess the extent to which or the manner in which a person has complied with the public sector equality duty. Should it prove necessary, both of these measures can result in enforcement action.

70. We recommend that the Equality and Human Rights Commission undertake a formal investigation into and/or assessment of the compliance of the Planning Inspectorate with the Equality Act 2010.

71. We recommend that, while this work is ongoing, the Government direct the Planning Inspectorate to pay closer attention to ensuring, as the NPPF sets out, that plans are founded on an inclusive design approach, and specifically that no Local Plan documents are to be judged 'sound' without evidence that they address access for disabled people in terms of housing, public spaces and the wider built environment.

Planning applications

72. The consideration and approval of planning applications provides a further opportunity for good policies on inclusive design and accessibility to be put into practice. However, this was a further area in which witnesses raised concerns. Hull Access Improvement Group reported that, although the situation had improved since the group's formation in 1981, the quality of developments varied depending on "the skills and priorities of the architect and the commitment of the developer and money available."¹¹⁸ Sue Bott, speaking for Disability Rights UK, told us of a new office block in central London that was not fully accessible. She felt that this was because "planners and employers tend not to think "actually, we might have disabled people working for us""¹¹⁹.

73. Leicester Disabled People's Access Group were concerned that where inclusive design was considered, it was given little weight in planning applications and could be over-ridden by other considerations. They gave the example of a decision to turn a car park outside the library of a University into an open air space—removing existing blue badge parking and leaving people with mobility impairments with difficulties accessing the library.¹²⁰

74. Councillor Douglas Johnson, a lawyer with expertise in disability and a local authority councillor with experience of 'good practice' developers, was concerned that the planning system "does not currently reward such developers when it does not provide an adequate check on less progressive ones."¹²¹ Steve Quartermain, the Government's Chief Planner, acknowledged that accessibility was not always the highest priority:

In any decision a planning authority makes, they weigh up the balances of the merits of the whole scheme. Inevitably, authorities will sometimes find themselves making some trade-offs.¹²²

75. While it may be true that, in making planning decisions, trade-offs will be required, provision for accessibility and inclusion should not be discounted without serious consideration—not least because this is a requirement of the public sector equality duty and the anticipatory reasonable adjustment duty.

76. We recommend that the Government make clear in the revisions to the NPPF (recommended above) that planning consent should only be given where there is evidence that a proposal makes sufficient provision for accessibility and inclusion.

77. We received a significant number of submissions expressing concern that the reason accessibility was at risk of being given insufficient weight in planning decisions was a loss of expertise within local authorities. This, it was argued, had happened partly as a result of the loss of the expertise brought by Access Officers—specialists in access and inclusive design

who often played an important part in advising decision makers and enabling the involvement of disabled people—as budgetary pressures led to a loss of such posts, and to reductions in the size of planning departments.¹²³ Where an Access Officer remained in post their local Access Group tended to view this as positive.¹²⁴ One former planning inspector told us that:

Access Officers were key to achieving many gains for disabled people by actively promoting inclusive access. Today, most Councils have deleted Access Officer posts on the basis that ‘inclusive access is now mainstreamed’. While that sounds positive, the reality is that local planning authorities have returned to the old way of doing things and inclusive access is an afterthought at best.¹²⁵

78. The Royal Town Planning Institute felt that “planners should and do consider the needs of all people in their day to day work”.¹²⁶ They were nevertheless concerned about the capacity of local government planning departments to deliver on all the demands being made of them, something that Chief Executive Trudi Elliot felt was the “biggest challenge” in the planning system.¹²⁷ She told us that “most planning authorities are kept going on the goodwill of their planning officers.”¹²⁸ The representative of the Local Government Association, Councillor Izzi Seccombe, agreed, pointing to the high turnover of planning officers as a hindrance:

my experience as a local member is that you can see an application go in with one planning officer and come out the other end with a totally different one. If you are lucky, it is only one change.¹²⁹

79. She felt that it was therefore “quite challenging” for officers to put into practice guidance and changing planning law.¹³⁰ In the White Paper *Fixing our Broken Housing Market*, published in February 2017, the Government recognised the importance of “boosting local authority capacity and capability to deliver, improving the speed and quality with which planning cases are handled”. The Government made commitments to:

Take steps to secure the financial sustainability of planning departments; ensure that the planning system has the skilled professionals it needs to assess and make the tough decisions we expect; and provide targeted support to address areas of specialist weakness.¹³¹

80. We share concerns that there has been a loss of expertise on inclusive design and access at local level over recent years. *The White Paper on housing offers an opportunity for the Government to work with local authorities on ensuring access to the specialist expertise necessary to support the creation of an accessible and inclusive built environment, and we fully expect it to take that opportunity.*

Training for built environment professionals

81. For inclusive design principles to be put into practice, it needs to be incorporated into the training of built environment specialists such as planners, designers, architects and building inspectors. The Design Council told us that, at present, inclusivity is not sufficiently built in to professional training:

It is overly viewed as a silo specialism, rather than as a core part of all built environment roles. Whilst this is true for designers and architects, it is especially true for roles that are not seen to have a remit for inclusivity. Key roles that are often overlooked include: building control and approved inspectors, planners, building services engineers, facilities managers, construction managers, contractors, design managers, engineers.¹³²

82. This concern was shared by the College of Occupational Therapists' Specialist Section in Housing, who stated that "it is rather shocking that inclusive design is not integral from the outset" of professional training. From this omission they concluded that "providing barrier-free environments for disabled and older people is not seen as important or attractive."¹³³ The RNIB felt that "access needs have [...] failed to fully penetrate the contemporary urban design sphere".¹³⁴ Leicester Disabled People's Access Group suggested that failures in training had led to built environment professionals 'adapting for disability', rather than designing inclusively.¹³⁵

83. The Government cited a number of initiatives designed to address this, chief among them the 'construction industry action plan,' led by professionals within the industry "to evaluate how inclusive design can be better integrated in industry practice."¹³⁶ The Government had also supported the creation of the Built Environment Professionals Education Project (BEPE) and the development of CPD training by the Design Council.¹³⁷ The BEPE Project Board told us that continuation of this support would be "critical" over the next few years, as the work of both their project and the Construction Industry Inclusive Environment Action Plan sought to change behaviours in "a fragmented and large industry".¹³⁸

84. We welcome evidence of strong government support for initiatives to improve training and education of built environment professionals in inclusivity and accessibility. We also welcome the work being done by the Design Council to produce an online Inclusive Design CPD module for built environment professionals by Summer 2017. We recommend that the Government assist the Design Council in securing funding to deliver an online Inclusive Design CPD module.

88 Q66

89 Department for Communities and Local Government, *National Planning Policy Framework* (March 2012), paragraph 57

90 Department for Communities and Local Government, *National Planning Policy Framework* (March 2012), Annex 2

91 Department for Communities and Local Government, 'The importance of good design', at para 012, (Accessed 20 April 2017)

92 Department for Communities and Local Government, 'The importance of good design', at para 012, (Accessed 20 April 2017)

93 Sense (DBE0103)

94 Q72 (Trudi Elliott, RTPI)

95 Design Council (DBE0125)

96 Design Council (DBE0125)

97 Ann Skippers MRTPI, FHEA, FRSA, AoU, Director of Ann Skippers Planning (DBE0080)

98 Q96

99 Leicester Disabled People's Access Group (DBE0066)

100 Q57

101 Q90 (Simon Turton)

102 Q60

103 Q209

104 Q209

105 Q209

106 Supplementary evidence (letter following oral ev) [DBE0192](#)

107 Q83

108 Q84

109 Q85

110 Q15

111 *ZH v Commissioner of Police for the Metropolis*, [2013] [EWCA Civ 69](#)

112 Equality and Human Rights Commission, *Services, Public functions and Associations: Code of Practice to the Equality Act 2010* (2011), para 7.57

113 Q78 (Mary Travers)

114 RTPI ([DBE0122](#))

115 Q87

116 Q87

117 Q210

118 Hull Access Improvement Group ([DBE0173](#))

119 Q16

120 Leicester Disabled People's Access Group ([DBE0066](#))

121 Councillor Douglas Johnson ([DBE0135](#))

122 Q67

123 Chartered Institute of Logistics and Transport in the UK ([DBE0180](#)); Design Council ([DBE0125](#)); Inclusion London ([DBE0097](#)); BSI Committee B/559 ([DBE0084](#)); Vision 2020 UK ([DBE0075](#)); Centre for Accessible Environments ([DBE0102](#)); Bristol Disability Equality Forum ([DBE0078](#)); Access Association ([DBE0057](#)); Annex 1: Note of Committee Outreach Events (Leeds)

124 Hull Access Improvement Group ([DBE0173](#)); Sheffield Access Liaison Group ([DBE0099](#)); Leicester Disabled People's Access Group ([DBE0066](#))

125 Mr Philip Barton ([DBE0050](#))

126 RTPI ([DBE0122](#))

127 Q59

128 Q59

129 Q58

130 Q58

131 Department for Communities and Local Government, *Fixing Our Broken Housing Market* (February 2017), para 2.14

132 Design Council ([DBE0125](#))

133 College of Occupational Therapists Specialist Section in Housing ([DBE0076](#))

134 RNIB ([DBE0110](#))

135 Leicester Disabled People's Access Group ([DBE0066](#))

[136 Department for Communities and Local Government \(DBE0124\)](#)

[137 Department for Communities and Local Government \(DBE0124\)](#)

[138 Built Environment Professional Education Project Board \(DBE0191\)](#)

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