

Design

The whittling away of wonderful ideas:
post-consent and the diminution
of design quality

Improving the post-decision
planning process to deliver
better places in the West of England

April 2021



Contents

Executive Summary	3
Statement on the Planning White Paper: Planning for the future	9
1. Introduction	
1.1 Background to the commission	10
1.2 Audience for this report	11
1.3 The research team	11
1.4 Research method and report structure	11
2. Research background - an on-going search for high design quality	13
2.1 What outcomes are being achieved and for whom?	13
2.2 What do we mean by post-consent?	16
2.3 What do we know about design quality and post-consent?	19
3. Design quality and the West of England - background and policy	22
3.1 Housing need	22
3.2 Placemaking and design quality	23
3.3 Post-consent and design quality in the West of England's plans	25
4. Design quality and the West of England - local authority practitioner' views on post-consent	28
4.1 Over-arching issues	28
4.1.1 Clarity of policy on design quality	29
4.1.2 Design and decision making	30
4.1.3 What level of design quality is being achieved?	32
4.1.4 To what extent is post-consent considered important for design quality?	34
4.2 Individual post-consent stages	36
4.2.1 Outline permission followed by reserved matters	36
4.2.2 Planning conditions	40
4.2.3 Non-material and minor material amendments	42
4.2.4 Monitoring and compliance	43
4.2.5 Enforcement	46
4.2.6 The role of Planning Obligations and the Community Infrastructure Levy (CIL)	48
5. Case Studies	50
5.1 Introduction	50
5.2 Case study headline findings	54
6. Conclusions and recommendations for improved practice	62
Area for action 1 - re-frame post-consent	64
Area for action 2 – resource and empower officers	65
Area for action 3 – implement specific improvements to post-consent processes	67
Area for action 4 - widen the conversation	71
Action for action 5 – build trust by improving knowledge	72
Selected references	73

Executive Summary

The aspiration to achieve high quality design outcomes in the delivery of new homes is high on the political agenda and at the forefront of contemporary debates on future planning reform in England. Most recently, proposed amendments to the National Planning Policy Framework to strengthen its design focus and a new National Model Design Code, both published for consultation in January 2021, have been heralded by some as signalling “a moment of potential national change in the relationship between design, planning and development in England” (Carmona 2021).

A national political profile for design outcomes reflects – at least in part - the mixed success in recent times in attaining high quality outcomes in new development. Whilst there are commendable examples across England of well-designed schemes contributing positively to place-making, there are also examples of developments where better design outcomes could, and should, have been reached. The Housing Design Audit for England (Place Alliance, 2020) found that the design of new housing in the South West of England is overwhelmingly ‘poor’ or ‘mediocre’ and moreover suggested that one in five housing developments nationally should have been refused planning permissions on design grounds.

Furthering understanding of what influences both high-and poorer quality outcomes is vital in seeking to ensure that new homes are more consistently delivered to high design standards. Whilst there has been considerable research focused on design issues both pre-application and at the planning application stage, one clear knowledge gap is about post-consent: the journey of new developments from the point of receiving planning permission through to on-site construction and occupation. This is a complex journey which encompasses all the work associated with planning conditions, reserved matters, non-material and minor-material amendments, monitoring, compliance and, as a last resort, even enforcement. From a design quality perspective, the key questions are: can this journey result in a reduction in the quality of development, such that the final built scheme appears quite different from that contained within the original permission, and if so, what can be done to ensure against any diminution in quality post-consent?

These are the questions that this research report, commissioned by the West of England Combined Authority on behalf of the four Unitary Authorities in the West of England, and with the support of the Local Government Association, seeks to address. Motivated by a collective concern about a reduction in the quality of development between the granting of planning permission and delivery on the ground the authorities wanted to understand more about the inter-relationship between post-consent and design quality and reflect upon how they might strengthen their own services in order to better support development quality post-consent.

The findings presented in this report are based upon an in-depth review of practice focused on the West of England including: policy and documentary review; interviews with policy, design, development management, and enforcement officers; and four development case studies, one in each of the four authorities.

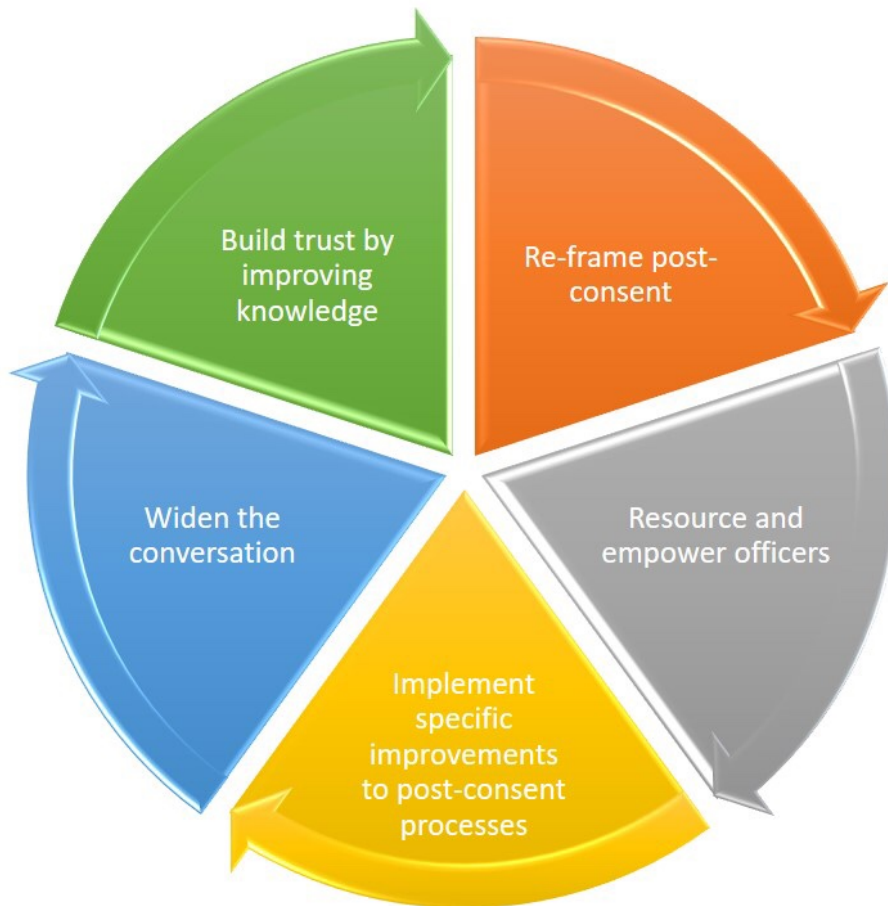
Our overarching findings are that:

- whilst the policy bar on design quality is considered high, both nationally and locally, this bar is not always easy to achieve in decision making. **A scheme's design might be perceived 'good enough' or even just 'not harmful' when balanced against other potential benefits** of a development, particularly its contribution to housing supply and employment;
- **governing 'good design'** can be challenging, where some design elements are perceived as subjective. The lack of a five-year housing land supply has rendered the local authorities less able to negotiate on important aspects of design;
- despite some perceived improvements in the design quality of more recent schemes, the overall narrative was of a **'mixed picture'** in the West of England with several **'disappointing'** outcomes;
- post-consent is **not always viewed as an integral part of the development process**, yet post-consent is a crucial stage at which key details are agreed and change can occur;
- whilst not a fundamental determinant of overall design outcomes **the way in which post-consent planning processes unfold can allow for a significant decline in the overall quality** of a delivered scheme;
- where post-consent change does occur, there is the need for a **clearer and more consistent response** from local authorities based on a **stronger understanding** of what really matters in design terms; and
- all **officers reported a lack of local authority resource** for the effective management of change post-consent, resulting in a more pragmatic rather than optimal approach to handling design amendments.

Our findings in relation to individual elements of the post-consent journey are that:

- securing planning permission through an **outline planning application with reserved matters** is considered particularly problematic for ensuring design quality. The majority of interviewees perceived full applications to afford greater control over design quality;
- whilst perceived as a critical safeguard for ensuring quality, if **planning conditions** are not properly worded, and if authorities are not resourcing the discharge of conditions sufficiently they do not provide that quality safeguard;
- **non-material and minor-material amendments** are being increasingly used by developers to ‘chip’ away at the original design intent of schemes. Managing the cumulative impact of multiple non-and minor material amendments can be challenging;
- local authorities have scant resource to **monitor individual consents**, despite the strong appetite and perceived utility of doing so as a way of ensuring quality at delivery. There is, in particular, a lack of control / over-sight on what happens on major sites;
- **enforcement action** is reactive and exclusively complaint driven. The expediency of enforcement action is perceived to be judged by ‘harm’ rather than language of aspiration and enhancement inherent in design policy. With few on-site neighbours, local authorities receive few complaints about major housing developments. This is perceived as ‘allowing’ some major housebuilders to ‘routinely’ leave out key elements; and
- neither the **Community Infrastructure Levy** nor **planning obligations** were seen as significant mechanisms for ensuring high quality design post-consent. However, there is appetite to explore opportunities for ways in which both mechanisms could be used more creatively in relation to design quality, drawing on emergent experience from elsewhere.

Our report concludes by making a number of recommendations for improved practice focused on five areas for action:



These actions are derived from our main conclusions as follows:

Area for action	Conclusion	Focus of recommendations
1. Re-frame post-consent	Post-consent is <i>not always viewed as an integral part of the development process</i> from project inception to on-site delivery, occupation and ongoing management, yet post-consent is a crucial stage at which key details are agreed and change can occur. There is a need for far greater over-sight, interest and management of post-consent processes at a strategic level to reduce the potential for erosion of quality at this stage.	Recommendations 1A – 1D are focused on changing the way post-consent processes are viewed, and ensuring clear strategic leadership for, and communication about, post-consent. These start on page 64.
2. Resource and empower officers	Officers do not always feel that they have the resources, confidence and knowledge (or access to knowledge) to best support a development's journey at post-consent. This is fundamentally impacted upon by the way departments and disciplines are structured and the way in which outcomes are measured.	Recommendations 2A – 2E focus on skills, competencies and confidence, resources, continuity and performance indicators. These start on page 65.
3. Implement specific improvements to post-consent processes	Any loss of design quality post-consent is not necessarily a fundamental flaw in any one particular post-consent stage, but nevertheless more careful consideration is needed regarding effective operation of each stage in practical terms.	Recommendations 3A – 3I focus on actions intended to strengthen the role of each individual post-consent stage in supporting design quality. These start on page 67.

4. Widen the conversation

Bringing forward successful – high quality – development is enhanced by successful collaboration between local authorities, communities and developers. The focus of this research has been on local authority practice, but this needs to be widened to encompass broader perspectives on the post-consent process.

Recommendations 4A – 4C recognise the need for more understanding of the post-consent journey from the perspective of all players. They cover conversation, best practice, and the potential for a design quality kitemark.

These start on page 71.

5. Build trust by improving knowledge

Not all local authority players trust that developers' appetite for post-consent design changes are for legitimate reasons. In turn, not all developers perceive local authorities to provide the most effective and efficient service at post-consent. Project-based experience varies hugely as the case studies in this report demonstrate: however, continuing to improve knowledge of post-consent experiences is a critical part of building trust.

Recommendations 5A – 5D set out an agenda for further research to build on the foundations provided by this report.

These start on page 73.

The recommendations encompass both the strategic and more focused points of detail. Whilst the recommendations are intended to be mutually reinforcing, they are not sequential: taking action in one area is not dependent on another. This aims to enable each local authority to prioritise their response to the recommendations according to their corporate and policy objectives and resources. Some recommendations will particularly benefit from collective action across the West of England, but also – as indicated in area for action 4 – a broader conversation with a wider range of players.

We believe that with the implementation of all or some of these recommendations the same design quality expectations pre-consent can be more effectively upheld post-consent. Importantly, whilst these recommendations are the output of a West of England focused study, they have broader applicability with the potential for implementation across a wider geography to support the aspiration for high design quality in developments right across England.

A key first step is for the acknowledgement of the important role that post-consent plays in design quality, followed, in quick succession, by the development of an action plan by each local authority- and by WECA- in response to this report's recommendations.

Statement on the Planning White Paper: Planning for the future

On the 6th August 2020, the Government launched, 'Planning for the Future', a consultation paper on major reforms to the planning system in England. The proposals in this paper are potentially far-reaching and include the introduction of a zonal style system in preference to the current discretionary system, and the categorisation of land into growth, renewal and protected areas, each with different routes to securing planning consent.

Consultation on these proposals ran until 29th October 2020.

The empirical research presented in this report was conducted between January and July 2020, prior to the announcement of the White Paper. The methods were not, therefore, able to take account of the reform proposals.

As a consequence of this, and the uncertainty that remains about the final nature of the reforms, the research findings and recommendations presented here are based on the planning system in its current form. However, we do not disregard the proposed reforms, which set an important direction of travel. Of particular relevance are the White Paper proposals for automatic grant of outline planning permission in growth areas, which would mark a substantial shift in the point at which decisions occur in the planning process, and the questions the White Paper poses about design and the aesthetic quality of development and the reforms needed to improve this.

In setting out our recommendations, we highlight:

- those findings that directly reflect the direction of travel proposed in the White paper;
- those findings that would need further reflection in a re-configured system; and
- those findings that are relevant, whatever form the planning system takes.

1. Introduction

1.1 Background to the commission

In January 2020, the Centre for Sustainable Planning and Environments (SPE) at the University of the West of England, Bristol (UWE) was commissioned to produce a report into ***improving the post-decision planning process to deliver better places in the West of England***. This commission comes against the backdrop of substantial planned housing growth across in the West of England and a clear aspiration to ensure that new development is of the highest quality. Quality, as this report will cover, can be easy to state, hard to describe, and even harder to achieve in practice, but there is agreement that achieving high-quality development requires commitment from project conception right through to construction details and ongoing maintenance and management.

Despite this aspiration for the highest quality, the four West of England Authorities perceive there are instances of a reduction in the quality of development between the grant of planning permission and delivery on the ground, such that the final built scheme can appear quite different to that illustrated within the original permission. The four authorities wanted to understand more about why this was happening, and importantly, how they could strengthen their own services in order to better support development quality post-consent.

With financial support from the Local Government Association's Housing Advisors Programme, the West of England Combined Authority, in collaboration with the four Unitary Authorities of Bristol, Bath and North East Somerset, South Gloucestershire and North Somerset commissioned UWE to:

1. undertake a **systematic review to understand patterns or processes** which lead to a decline in quality post-consent;
2. provide an **evidence base from which to strengthen the role of the Unitary Authorities** in ensuring quality development; and
3. **draft a route-map for the West of England UAs to make improvements** to the post-decision process and post-occupancy monitoring.

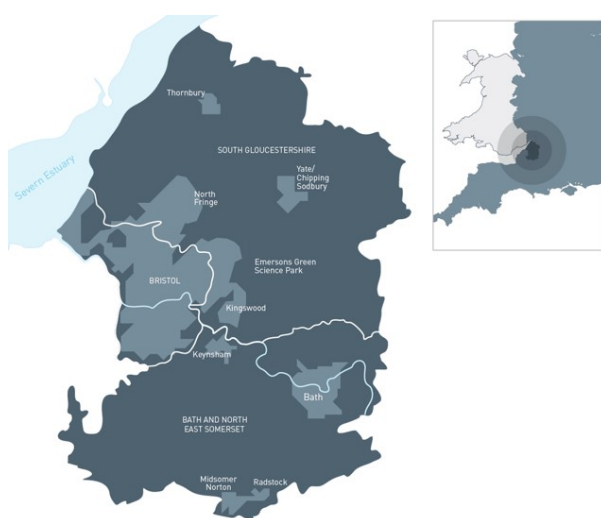


Figure 1: West of England Combined Authority Area



Figure 2: The Four West of England Authorities

1.2 Audience for this report

The findings and recommendations in this report are for and have drawn on the collective experiences of the four West of England Authorities. The recommendations are inter-disciplinary, relevant not only to a planning policy and development management audience, but to a corporate audience, elected members and to officers spanning a range of disciplines from urban design, ecology, and conservation to highways, refuse collection and landscaping.

The West of England local authorities are not, however, the only intended audience for this work. There is much in the content of this report that will be of interest to, and resonate with, other local authorities particularly, although not exclusively, in England operating under the same planning system. Moreover, this report is intended to engage a wider audience, an audience that includes but is not limited to the development industry more broadly: architects, urban designers, developers and other subject specialists that are intricately engaged with the journey of a development from conception to on-site delivery.

1.3 The research team

This research was carried out by the Centre for Sustainable Planning and Environments at the University of the West of England, Bristol. The team comprised: Hannah Hickman, Katie McClymont, Hooman Foroughmand-Araabi, Nick Croft and Adam Sheppard.

The team is grateful for the advice and enthusiasm of the steering group that comprised: Celia Davis (WECA), Stephen George and Nicola Little (BANES), Suzanne D'Arcy (South Gloucestershire), Jon Severs (Bristol) and Peter Fletcher (North Somerset).

1.4 Research method and report structure

This research combined a mixed-methods approach and was structured into a number of phases summarised in the diagram overleaf. The methods were specifically designed to ensure that the team drew on a range of data sources in order to triangulate the findings.



Stage 1 was a review of literature relevant to post-consent to contextualise the study. This review encompassed both academic material, reports, policy papers, and press material relevant to design quality and post-consent, as well as national and local policy documentation.

Stage 1 content is covered in chapters 2 and 3.

Stage 2 comprised over 25 in-depth interviews with local authority officers across each of the four WofE UAs spanning a range of disciplines, including planning policy, development management, urban design, enforcement, landscape and conservation, and transport. The purpose of these interviews was to understand officer's views on post-consent, both in general, and in terms of their specific areas of expertise. A common topic-guide was used across the four WofE UAs, to allow comparison of experiences with each interview recorded and systematically analysed using NVIVO qualitative data software.

Stage 2 content is covered in chapter 4.

Stage 3 included the carrying out of four case studies from a longlist of potential schemes nominated by the WofE UAs, chosen to select a range of scheme types in terms of scale, location, development history, and nature of application. Each case study comprised documentary review, site visits, and in-depth interviews with developers, local residents / community groups and local authority case officers.

This content is covered in chapter 5.

Stages 4 and 5 involved the analysis of material from stages 1-3 and discussion of emerging recommendations with all those interviewed in stage 2, and some additional senior officers.

The report's recommendations are covered in chapter 6.

2. Research background - an on-going search for high design quality



A rich body of research - more than 13,700 studies - concludes that having high-quality environments brings social, environmental economic and health values. Despite the benefits of delivering high-quality environments being known to us, the planning system in England has not always managed to secure high quality outcomes in new developments (Place Alliance 2020). It is clear that achieving high-quality environments requires success at various stages; from a clear vision and concept through to construction details and care in maintenance and management. One missing element can undermine the overall outcome.

Despite some academic studies acknowledging the complexity of design quality (Ewing and Clemente 2013), and concluding that quality cannot be reduced to one set of physical features only (Dovey 2010), the urban design literature highlights some consistent elements of good design including; image, context, identity, human scale, access/movement, coherence, diversity, and nature. Despite differing perceptions, attempts to achieve quality in practice remain high on the planning agenda in planning.

2.1 What outcomes are being achieved and for whom?

A recent report on housing design quality (Place Alliance 2020) based on an audit of 142 large-scale housing-led development projects across England concluded that whilst some limited progress has been made in some regions, overwhelmingly the design of new housing environments in England are ‘mediocre’ or ‘poor’. Striking is the report’s assertion that affluent places, London in particular, are managing to achieve higher quality housing. Of the seventeen factors against which developments were evaluated, the research found that certain elements of design were being more successfully delivered than others: designing for safety and security and the provision of a variety of housing types were two positives, whereas highways infrastructure and the integration of storage, bins and car parking, architectural response to context, the design of streets, and car dependency, were more problematic in low scoring schemes.

DOCUMENTARY AND POLICY REVIEW

Key recommendations arising from this report included: setting very clear aspirations for sites (in advance); using design review for all major housing schemes; dealing with any disconnect between highways and planning; and refusing sub-standard schemes on design grounds. It should be noted that Place Alliance report did not pay particular attention to the post-consent stage and its role in delivery quality design, but of relevance here is the finding that schemes that have design codes or have used design review panels achieved higher scores in evaluation.

The current planning system recognises and states the importance of design quality and requires local authorities to seek quality:

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)”
NPPF paragraph 130).

Here it remains unclear what is meant by design quality and how the planning system ensures that developments achieve this. The National Design Guide was published to clarify elements of quality and to illustrate “how well-designed places that are beautiful, enduring and successful can be achieved in practice” (2019, 2). Good design is set out in the National Design Guide under the following 10 characteristics (Figure 3):



Figure 3: The ten characteristics of well-designed places (Ministry of Housing, Communities and Local Government 2019, 8).

DOCUMENTARY AND POLICY REVIEW

The UK government also appointed the Building Better, Building Beautiful Commission which published its final report 'Living with Beauty' in 2020. This report aims to “promote and increase the use of high-quality design for new build homes and neighbourhoods”. 'Living with Beauty' and the Planning White Paper both encourage the use of design codes reflecting the perceived success of design codes in the country.

Whilst design quality appears to be increasingly central to government's national planning guidance, design governance remains difficult. The planning system and planning officers have to create a balance between delivering much needed housing and achieving high design quality. The tension between NPPF paragraph 131 “In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings” and paragraphs 130 “*where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development*” echoes this.

2.2 What do we mean by post-consent?

Planning consent means the grant of planning permission. This may be via by a local authority, national or Local Development Order, by the Secretary of State following call-in, or by an Inspector acting on behalf of the Secretary of State following an appeal, for a proposed development. For the purposes of this study, we have looked at two types of consent: *outline planning permission and full planning permission*. Outline planning permission represents the formal granting of planning permission but with a focus upon establishing the principle of development on a site together with some detailed matters as deemed necessary to enable an informed decision to be taken. Remaining details are 'reserved' for a later 'Application for Approval of Reserved Matters'. Full planning permission is secured via an application which includes all the relevant details of a proposed scheme up front. With both full-permission, and outline permission, there are a number of important steps that occur between granting permission and delivery that can impact the nature of the final scheme on delivery. These are detailed in the diagram overleaf. The key difference between full planning permission and outline permission is the requirement on the developer having secured an outline permission to seek approval of those matters reserved. The key steps post-consent steps (as illustrated on figure 4 overleaf) are:

- The approval of reserved matters (in the case of outline applications), often relating to key design matters such as appearance, landscaping, layout and scale;
- The discharge of conditions potentially covering a range of things, from approval of materials, to the preparation of design codes, or the submission of a landscaping scheme;
- Non-material amendments to an existing consent which remains subject to the original conditions and time limits;
- Minor-material amendments allowing for changes that are not materially different to the original application normally made by altering a condition attached to the original planning permission;
- Monitoring and compliance of on-site delivery including oversight of the delivery and post-completion management of development sites to ensure conformity with permissions;
- Enforcement investigation and action in response to possible breaches of planning control; and
- Community Infrastructure Levy (CIL)/ Planning Obligations providing funding to support the delivery of infrastructure, facilities and services within the local authority area (in the case of CIL) or to support the infrastructure needs arising out of the impacts of a particular development (in the case of Planning Obligations).

DOCUMENTARY AND POLICY REVIEW

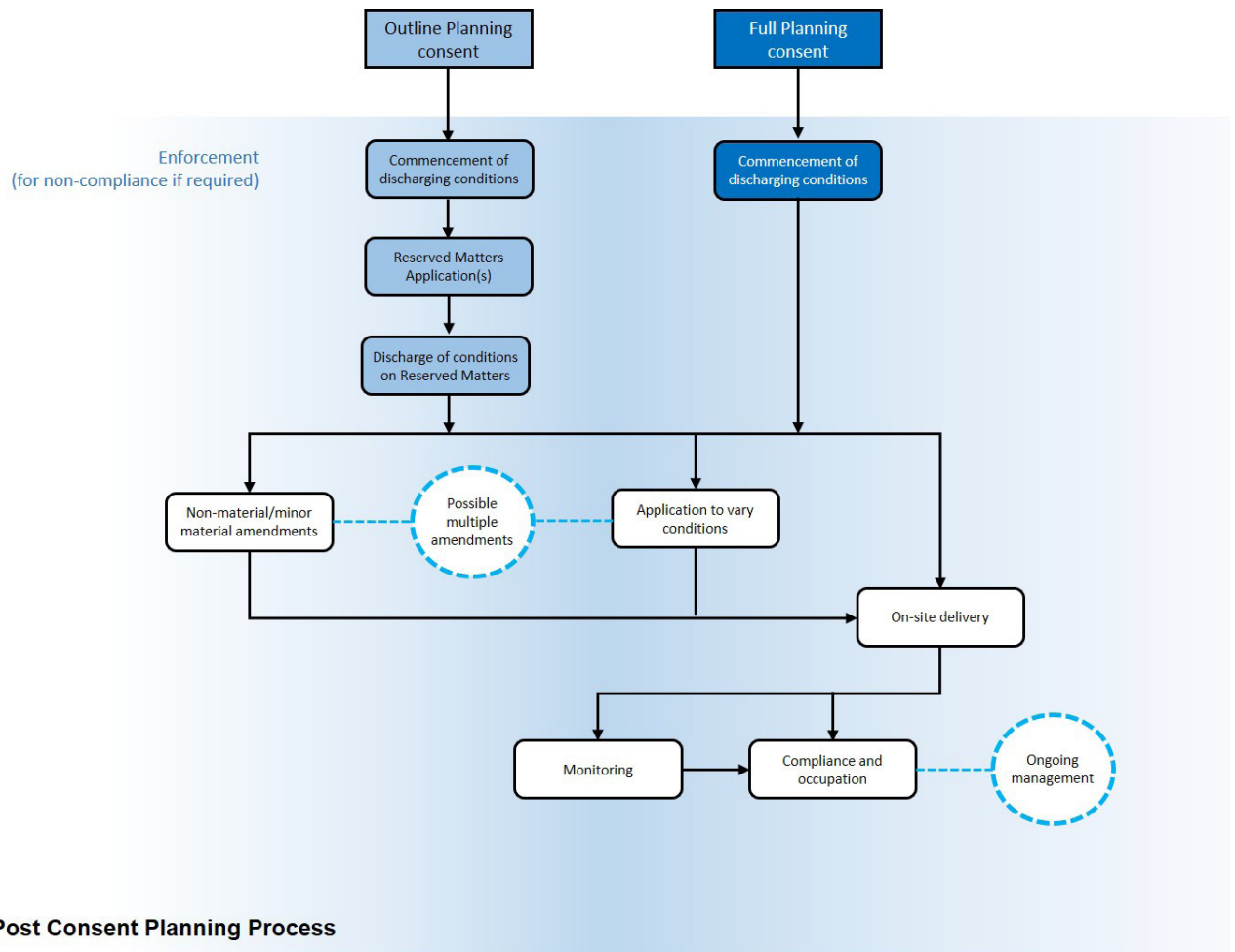


Figure 4: The post-consent planning process

DOCUMENTARY AND POLICY REVIEW

Despite its important role in the development process, the world of post-consent is relatively under-researched. This is reflective of the relative paucity of work on development management generally despite being described by the Audit Commission in 1992 as giving “effect to the planning objectives of the development plan” and critically important for “the quality of the outcome” (quoted in Clifford 2018). Clifford describes literature on Development Control and Development Management to be:

“surprisingly sparse ... this is not to say there is not a wealth of valuable scholarship on particularly relevant topics ... considering this as a system in general is not as voluminous as might be expected given the real world impacts on our environment. Perhaps this is linked to an enduring idea that DM somehow has a lesser status than policy ... This is compounded by the fact few planners write about their experience in practice” (ibid).

In seeking to address this lack of experiential narrative, Clifford undertook several interviews with DM officers and highlighted the most commonly cited concern from officers to be reduced scope to negotiate improvements to a scheme as a result of a focus on efficiency rather than quality. These comments, were, however framed around original application determination not post-consent.

In terms of the little existing academic literature that is relevant to post-consent, this seems to relate almost exclusively to:

- planning obligations (a significant percentage of this focusses on affordable housing, see for example Crook et al 2015, Henneberry et al 2016, Lord et al 2020);
- planning enforcement (see Harris, 2010, 2011, 2015, 2017 Prior, 2000); and
- planning conditions (see Lai et al 2007).

In terms of policy literature there are a limited number of reports focussed on improved practice in the areas of monitoring (see for example Planning Advisory Service, 2011), and enforcement (see Planning Advisory Service 2008). The only published work that looks at post-consent in its entirety, rather than individual composite elements, is the report by Public Practice ‘Consent to Completion: How can local authorities structure a post permission service?’ (2019) based on research conducted with the London Boroughs.

2.3 What do we know about design quality and post-consent?

It is well-documented that achieving high quality design outcomes requires design to be considered from project inception (Punter 2011). It is, however, also clear that post-consent can be a crucially important stage in the development process, because it is often at this stage when important matters of design detail are either agreed (in the case of conditions or reserved matters), amended (in the case of non-material and minor-material amendments), funded or mitigated (in the face of CIL and planning obligations) or enforced (in the case of non-compliance).

Carmona states emphatically that, “design policies in development plans” need to be “backed up by intelligent Development Management to help deliver high quality places” (Carmona 2018). Given that post-consent is part of development management, it is perhaps surprising that there is such little research on post-consent processes and their role in ensuring design quality (with the exception of research on the role and use of design codes, for example Carmona 2016, Carmona 2018).

Perhaps this is even more surprising when set against commentary about the decline in quality of a scheme between consent and delivery (see for example Hawkins 2016, New London Architecture 2015) and an increasing number of practice examples. Two relatively recent examples covered by the architectural press (detailed in boxes 1 and 2 overleaf), are illustrative of this decline.

DOCUMENTARY AND POLICY REVIEW

The Marque, Cambridge

‘The Marque’ a building on a prominent site in Cambridge, was subject to 57 changes from consent to completion over a six-year period, such that it was described by a local authority councillor as having started as “a marvellous scheme ... and the dream got lost” (quoted in BBC 2015). The extent of post-consent change on this scheme, and the level of complaint, resulted in Cambridge City Council commissioning an independent review of the council’s own handling of the scheme, in which it was reported that the finished design did not “live up to expectations”, with cheapened materials and changes in colour (Barry Shaw Associates, 2015).



Source: <https://www.primelocation.com/for-sale/details/55311538>

Gatefold Building, Hillingdon

The Gatefold, a residential scheme in Hillingdon, was described as having been “value-engineered to within an inch of its life” post-consent (Wait & Marrs 2016), such that the original architect wanted “nothing to do with it” (ibid). This was attributed to the pitfalls of Design and Build procurement whereby one architect is involved in the original permission, with the detailed design contracted either to another architect, or carried out in house: “in the process the original design has been horribly dumbed down. Flourishes like lightweight steel and bamboo walkways have become heavier and joyless. The white split-faced concrete cladding has been replaced by a cheaper, yellower finish and details such as the texture on the façade and the rebated statement signage have gone” (ibid) .



Source: <https://www.architectsjournal.co.uk/news/db-debacle-when-clients-say-no-to-novation>

¹ It is worth noting, that in the same news article reporting the Hillingdon scheme, a straw poll of architects is referred to revealing that in the education, commercial, transport and civic and cultural sectors, 90% of architects will take a project through from permission to detailed design and delivery, as compared to 30-40% for residential consents.

DOCUMENTARY AND POLICY REVIEW

“Public need confidence that developers will keep their commitments ... We have encountered much evidence that planning consent, once granted, is then simplified or weakened by subsequent purchasers of the land or the builders, once the job is obtained” (2020, 82).

Prior to the reporting of the Commission, national Government had itself already begun to acknowledge some of these issues. The NPPF states that:

“Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). (Paragraph 13).

This was seen by the RIBA as a response to the aforementioned problem in the Hillingdon scheme of construction output being delivered by design and build where *“no-one is liable for ensuring the quality of what gets built”*, and hailed as having the potential to *“to produce tangible results”* (RIBA, 2018). The revised NPPF was followed by amendments to the National Practice Guidance on Design, published in October 2019, which posed the question:

“How can local planning authorities ensure the quality of approved development is not materially diminished between permission and completion?” (Paragraph reference 26-015-20191001)

This was in acknowledgement that, the design process *“continues after the granting of permission”* (ibid). Amendments to the guidance went on to say:

“In some cases, local planning authorities may wish to encourage design details to be agreed as part of the initial permission, so that important elements are not deferred for later consideration. It can also be important to ensure that applications to discharge conditions or amend approved schemes do not undermine development quality”.

“Local planning authorities can consider a strategy to maintain the original design intent and quality of significant schemes, such as by encouraging the retention of key design consultants from the planning application team and using design review at appropriate intervals. Site inspections to verify compliance with approved plans and conditions are important” (ibid).

At time of writing the question of architect retention was live, as seen in debates over the emerging London Plan (see Mayor of London 2020 and Hopkirk 2020). Beyond that, there has been neither supporting research to explore the experiences of local authorities in handling design change post-consent, nor additional guidance or commentary as to how local authorities should respond to last year’s guidance in practice.

The research set out in the following chapters is intended to start to fill this gap and is focused on the post-consent experiences of the four local authorities in the West of England.

3. Design quality and the West of England - background and policy



3.1 Housing need

All four West of England Authorities face high housing demand. Across the sub-region, average house prices are more than 9.3 times the average income in England, and in Bath more than ten times the average income (WECA, 2019a). Described by Central Government as an area with “ambitious proposals for housing growth” (MHCLG, 2018), the area covered by the three authorities of Bath & North East Somerset, Bristol and South Gloucestershire Councils alone, is estimated to need between 88,500 and 125,000 homes over the next 20 years depending on the government’s approach to calculating housing need (WECA, 2020).

The West of England Combined Authority is developing a Spatial Development Strategy (SDS) for the area covered by Bath & North East Somerset, Bristol and South Gloucestershire, in partnership with the three councils. This will be a strategic plan for the area with each council continuing to develop their own Local Plans, to be consistent with the broader overarching framework of the SDS.

The current housing plans for each individual authority are, however, set out in their respective adopted local plans, and all four authorities have plan reviews underway.

It should be noted that at various times, the lack of a 5-year housing land supply has proved a challenge for the authorities and increased their vulnerability to ‘planning by appeal’.

3.2 Placemaking and design quality

*“While we have a challenge to deliver new homes, transport and infrastructure at scale and pace, we need to ensure that **we remain ambitious about the quality of homes** and create connected communities”* (Tim Bowles, Mayor, West of England Combined Authority, WECA 2019b)

Alongside the need to provide substantially more homes across the West of England is a narrative focussed on ensuring that homes are conceived, planned, designed and built in a way that contributes to successful placemaking. WECA and the four WofE UAs have been working with regional partners including the Architecture Centre and Creating Excellence to establish a design review service in each of the four UAs under the shared banner “Design West” (<https://www.designreviewwest.org/>) and the development of a Placemaking charter for the region, an “aspirational statement of intent, designed to inspire buy-in from across the built environment sector and local communities to the regional priorities for inclusive and sustainable growth” (West of England Joint Committee 2019).

The Mayor’s statement about the quality of homes mirrors the policy ambition in all four local plans for new homes to be of the highest quality design. Whether within the strategic policies of the core strategy or in the more detailed policies for development management and decision making, the expectation that developers should bring forward development which delivers high quality design outcomes, is undisputable. The word ‘quality’ appears over 500 times across the four core strategies.

In all areas, it is vital that any development is of a high standard of design that enhances the characteristics that make BANES such a distinctive District and protects the existing natural and built environment that supports the quality of life enjoyed by its community
(BANES Core Strategy, page 11).

Development will only be permitted with the highest possible design standards
(South Gloucestershire Core Strategy, Policy CS1)

High quality architecture and urban design will be sought from development demonstrating a robust design process
(North Somerset Core Strategy, Policy CS12)

“New development in Bristol should deliver high quality urban design”
(Bristol Core Strategy, Policy BCS21)

It is also clear that whilst design can be perceived as relating to the visual appearance – or the aesthetic - of development, each of the authorities’ principles of high quality design are consistent in encompassing a range of factors that contribute to successful placemaking. To that end, landscaping and trees, connectivity, streetscape, amenity space, wildlife habitats, lighting, materials, and the mix of uses, are all aspects that are considered relevant to the achieving a high quality design outcome.

DOCUMENTARY AND POLICY REVIEW

The level of detail expressed in the core strategy documents themselves varies. All four authorities have supplementary plan documents with a design focus (either published or underway) including Bristol's Urban Living SPD (2018), North Somerset's, Residential Design Guide (2013) and South Gloucestershire's Landscape Character Assessment SPD (2014). B&NES' 'placemaking plan policies' express the most detail, including design policies for individual areas and principles for key sites, and a number of supplementary documents such as the Pattern Book for the Public Realm.

In seeking to achieve high quality design through the planning process, a broad range of tools are identified by each of the authorities as assisting in achieving good outcomes including, amongst others:

- Area Design Frameworks
- Concept Statements
- Masterplans
- Design review
- Design and Access Statements
- Landscape and Visual Impact Assessments
- Site specific briefs
- Design codes
- Management and ownership plans.

Each authority is clear that the choice of design tools, and the information required from applications *'should be proportionate to the scale, significance and impact of a proposal'* (South Gloucestershire, Core Strategy 5.5). Consequently, early engagement and collaboration between developers and the authorities - to discuss design concepts and agree the appropriate choice of design tools - is encouraged: *The Council will also work with stakeholders as appropriate in the preparation of area design frameworks, masterplans, design codes, site specific briefs and design guidance* (ibid, 5.15).

3.3 Post-consent and design quality in the West of England's plans

The delivery of the design expectations set out in all four plans is consistently described as being achieved through development management. However, there is scant documentation highlighting that development management is a process that continues post-permission and that important design processes might endure post-consent. It is also interesting to note that the planning process is often visually depicted as finishing at the point of permission, rather than continuing post-consent, which – at least to some degree – illustrates a natural drop off in attention.

Nevertheless, some of the design tools listed in section 3.2 (above) are used post-consent (particularly design codes) and some have the potential to be used post-consent (such as design review), but there is little detail contained within all authorities in the WofE as to the importance of this stage or how it will be managed. The exception to this is Bristol's core strategy which – at a strategic level – does refer to the development process in its entirety:

Quality development should be achieved through a robust and collaborative design process from inception to completion on the ground
(Bristol Core Strategy, 4.21.24).

The design process should go beyond the development construction phase and should also ensure that suitable management arrangements and maintenance regimes are put in place
(Bristol Core Strategy, 4.21.24).

This is not to say, however, that no relevant references are made to elements that happen post-consent across the plans of the authorities as set out in the box overleaf.

Post-consent references in plans

- South Gloucestershire's Policies Sites and Places Plan makes some (limited) mention of matters that will be **reserved for consideration post outline consent**;
- **Planning conditions** are referred to variously across the planning documents of the authorities, but with little consistency and there are relatively few references to conditions on design matters, with the exception of:
 - o North Somerset's Sites and Policies Plan which refers to the delivery of its design policies as "*on a case by case basis through discharge of conditions*";
 - o South Gloucestershire's Policies Sites and Places Plan which refers to the use of planning conditions in relation to the protection of trees, the long-term management of habits, and the submission of design codes under conditions;
 - o North Somerset's mention of the use of conditions in its Development Management Policies in relation to archaeology, and the management of nature conservation; and
 - o Bristol's more extensive Conditions & Reasons & Advices Document which covers various design related conditions including submission of samples and external details;
- There is often **inter-changeable reference in plans to the use of planning conditions and planning obligations** with repeated use of the phrase, 'either by conditions or through planning obligations', indicative of flexibility in the best approach to securing some elements;
- All four authorities have **Supplementary Planning Documents on planning obligations**, with the B&NES SPD (as amended in 2019), re-iterating the NPPF statement "*that planning obligations should only be used where it is not possible to address unacceptable impacts of development proposals through a planning condition*" (Para 2.4.1). These documents vary in their description of planning obligations relevant to design quality with trees and the ongoing management and maintenance of public open spaces and landscaping schemes being two areas consistently mentioned;
- There is little documentary evidence of **systematic evaluation or data gathering** related to design quality outcomes, with very few specific indicators relevant to the monitoring of design policy implementation, apart from reference by all four authorities to Building for Life 12 – the government-endorsed industry standard for well-designed homes and neighbourhoods, which allows schemes to be assessed according to a traffic-light system. There is no publicly written commitment to post occupancy monitoring / evaluation on a scheme by scheme basis by any of the four authorities; and,
- All four authorities have **local enforcement plans**, charters, or policy documents, which out the aims of the enforcement service, how each authority will investigate alleged cases of a planning breach, which place particularly emphasis on the importance of the 'expediency test' to determine courses of action.

DOCUMENTARY AND POLICY REVIEW

This relative lack of reference to post-consent processes in policies, plans and documentation in the West of England is consistent with many planning authorities in England. Indeed, it could be argued that the handling of post-consent is not of matter of policy but of effective process and as such post-consent matters would not be expected to be covered extensively in policy documentation. On the other hand, given the range of post-consent tools that do receive a mention (albeit briefly), there may be merit in considering how developer and public facing documentation and communication could better aid the post-consent stage and we return to this later in chapter 6.

Crucially, however, is the importance of acknowledging that it **does not necessarily follow that a lack of published material on post-consent and design quality means a lack of attention to, or regard for, the role of these stages in supporting high quality outcomes in practice.**

This then is the backdrop to exploring the post-consent experiences of officers across each of the four authorities set out in the next chapter.

4. Design quality and the West of England - local authority practitioner' views on post-consent



A total of 25 officers, from across a range of disciplines including planning policy, development management (both senior managers and case officers), planning enforcement, transport planning, urban design, conservation, and ecology, were interviewed for their views on and experiences of post-consent.

The content of these discussions was both wide-ranging and detailed. What was particularly striking, was the commonality of experience across the four authorities. In this chapter, we present the overarching narrative across the four authorities, whilst also highlighting points of difference where they emerged. The text makes extensive use of officer quotes, but these are not attributed to any individual or authority in order to protect anonymity. The chapter is divided into two: the first half (section 4.1) presents contextual observations and perspectives on planning for design which whilst not the pre-eminent focus of this study, are important for situating our understanding of post-consent; the second half (section 4.2.) presents more detailed content on each post-consent stage.

4.1 Over-arching issues

In order to situate our understanding of post-consent and design quality we wanted to understand officers' views on:

- The extent to which they perceived policy on design quality to be clear;
- What level of priority they saw design quality having in planning decision making;
- The level of design quality being achieved in development; and
- The extent to which they considered post-consent processes to be a problem for design quality? These views were expressed in general terms and reflecting on their own authority. Each of these is considered in turn in the following sections.

4.1.1 Clarity of policy on design quality

Key Finding

The policy bar on design quality is considered high, both nationally and locally. Recent Planning Practice Guidance on Design and the report from the ‘Building Better, Building Beautiful’ Commission have both helped to elevate aspiration.

Interviewees were unanimously of the view that the policy expectations around the quality of design, both nationally and locally, are high. At the national level, it was observed that the most recent NPPF and subsequent additions to the National Practice Guidance on design had brought increasing attention to the role of good design in placemaking. As interviewees observed:

“Design quality is increasingly on the government’s agenda”.

“People can see the safeguards within it [policy] for ensuring that high design development is of high quality”.

“The national design guide has just come out – and generally that’s good in terms of setting that standard and raising awareness”.

At the same time, however, two significant points about policy were consistently observed. The first was a perceived tension at the national level between the emphasis on reducing red tape and aspirations for design quality. Officers felt that negotiation on design quality required time and effort, whereas the NPPF had created a culture whereby officers felt less able to negotiate or ‘ask’ developers for certain elements:

“The emphasis in the NPPF on reducing red tape is a good thing and trust should be involved, but I think it has created a bit of ‘is it reasonable to do this?’, ‘should we really be asking for this?’, and I think the answer is, yes we should be”.

“The NPPF has created an atmosphere whereby you feel like you can’t ask developers to do things. I think there has been a mentality that we should be customer oriented, about making them happy, but sometimes I think you have to ask them for things”.

The second – and related point – was about culture and practice. One officer observed:

“If the policy is strong enough, and sets out the requirements, then that’s what development will be delivered”.

However, most officers were significantly more circumspect, suggesting that “there is nothing wrong with planning policy context – it’s a good framework. It’s culture and practice that’s the issue”, as we will see overleaf.

4.1.2 Design and decision making

Key Finding

The policy bar on design quality is not always easy to achieve in decision making. A scheme's design might be perceived 'good enough' or even just 'not harmful' when balanced against other potential benefits of a development, particularly its contribution to housing supply and employment.

Achieving consistently high-quality design outcomes in decision making was often perceived to be challenging in practice. Three particular inter-related issues were evident. The first, quite simply, was about the volume of work:

“As I look at the NPPF and planning practice guidance there is plenty in there to suggest that development needs to be of appropriate high quality. The tools are there but maybe in practice with the scale and volume of development coming across people's desk it may be that not doing harm may way more heavily than getting better quality”.

It was frequently observed that with insufficient resource, the focus of development management officers can be on speed rather than achieving the best possible outcomes, as one officer observed:

“Good design happens when the clock's not ticking”.

The second, was about political priority. It was evident from officers across all authorities that whilst achieving high quality design outcomes is a corporate priority – at least rhetorically - this was frequently “trumped” by the pressure to “consent and deliver units”. This was an issue across the West of England, but it was described as having been particularly acute when an authority has faced the lack of a 5 year housing land supply;

“Sometimes we know a scheme is detrimental to liveability, but because of the pressure for housing we know it's going to go through at committee and we are somewhat powerless at that point”.

“This council has not had a 5 year land supply for a number of years so therefore there has been this pressure to consent and start delivering and I think there is tension about design quality - how much can we push on design when we actually need to get on with delivering ...”.

“Now there is much more pressure to deliver homes, we need homes so we need to get on and approve things. We therefore have to answer the question “is the design good enough?”.

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

The third, was about the place/status of design in the context of what was frequently referred to as the 'planning balance'. Development management officers expressed the importance of considering all aspects of a scheme, including design quality, but suggested that some aspects were considered as having more weight in decision making, particularly against the backdrop of elements of design quality being perceived as subjective:

“Planning balance is always there. Is that a refusable scheme? At what point is it too much? At what point do you say no?”

“On big schemes it's more difficult dealing with the planning balance. If we get 500 homes, jobs and a school – real public benefits – would you push on design? The planning balance is more heavily weighted towards jobs, facilities and infrastructure”

“It's about balance. There are some significant benefits, especially through planning gain. Is the living environment OK? Is the design not that bad?”

One officer also observed that development management was now “loaded with so many things”, that the amount of time an individual case officer could devote to design consideration was increasingly dwindling.

4.1.3 What level of design quality is being achieved?

Key Finding

Despite some perceived improvements in the design quality of more recent schemes, the overall narrative was of a 'mixed picture' with several 'disappointing' outcomes.

No officer was unilaterally positive about the quality of development recently achieved in the WoE, although one observed some "*more recent improvements*".

Whilst one officer suggested that "*on some schemes you can push hard on quality and be really successful*", most were more downbeat, suggesting that development quality was: "*a somewhat mixed picture ... some good schemes, some disappointment*", "*the overall quality could be better*", and "*if I were revisiting some schemes I'd like to have seen a better outcome. There's always compromise*". Some officers, most notably those with specialist roles in urban design or ecology, were more damning suggesting that "*the planning system allows mediocre*", and "*I find many recent places hateful*", perhaps reflective of their role in achieving particular outcomes, rather than balancing sometimes competing interests.

There were four consistent points of detail to supplement the overall narrative of 'disappointment'.

- **Firstly, design outcomes are highly context and developer specific.** Officers in B&NES felt that in some parts of their authority, achieving good design outcomes was easier than elsewhere. Conservation Areas, for example, were perceived as offering officers more control on design quality than elsewhere. Working with developers that were 'legacy minded' was also frequently cited as resulting in higher quality design outcomes, alongside original landowners maintaining an interest in their site either as the master developer or through an arrangement with the delivery team. A one officer observed:
"Our motivation is to create a great city – that's where we are coming from. Some developers want the same thing. Some are rascals".
- **Secondly, there was a perception that higher design outcomes follow the market** and were considered as "more achievable" in parts of Bristol and B&NES than elsewhere in the WoE. Officers in these two authorities appeared to express greater, although not absolute, confidence in negotiating with developers on design when faced with requests for change on the viability grounds.

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

- **Thirdly, the insufficiency of specialist resource to support design quality across the four authorities, and the uneven distribution of that resource across the West of England, was perceived as fundamentally impacting officer confidence to negotiate on design.** There was a strong sense across all authorities of “doing our best within the resources we have available”, but that better outcomes could be achieved with increased resources in both development management generally and in specialist expertise. All specialists reported being very stretched, and some DM officers reported a lack of confidence to negotiate on design in the absence of specialist advice:

“I think the problem in planning in general and specific to here is that we don’t have enough specialist resource”.

“Most planners are starting to say, well I’m not the specialist on that I just collect specialist’s advice and the specialists are saying, I’m too busy to help you with that ... support from specialists is becoming more limited. There’s a confidence point”.

“I can’t do 80% of what I’m asked to do. There’s a lot going on and there’s not enough resource to do it ... it’s a real struggle, time and effort and requires specialist knowledge to actually provide a convincing determined argument, so that time issue is a really big factor”.

- **Finally**, and more positively, development management officers in particular proffered the need to reflect upon what outcomes might have been without planning interventions / development management. They suggested that whilst the quality is not as high as the policy aspiration, without planning *“think how shocking it might be”*.

4.1.4 To what extent is post-consent considered important for design quality?

Key Finding

Although not a fundamental determinant of overall design outcomes, the way in which post-consent planning processes unfold can allow for a significant decline in the overall quality of the delivered scheme.

Officers were unanimously agreed that securing high quality design outcomes begins at the start of the development process: at project inception, at pre-application discussion, at design review and in other steps used prior to the grant of planning permission. Consequently, all were of the opinion that poorly designed schemes with planning permission are rarely improved post-consent: *“if you haven’t resolved the fundamentals through planning ... you can’t do it post-consent”*.

In contrast, there was strong consensus that high quality schemes can often diminish in quality post-consent. The world of post-consent was seen by many officers as *“really difficult”*. It was described as the *“value engineering”* stage in the planning process when developers seek to *“alter schemes”* and *“backtrack”* when *“schemes unravel and the quality goes down”* and *“the original design concept can suddenly slip away and be different at the end”*. It was observed that this is happening across all four authorities *“routinely”*, *“frequently”* and on *“numerous schemes”*. Two officers observed:

“It’s a really important issue ... This is something we see the whole time. It’s consistently across the board. You get through the value engineering phase, where they actually come to the awkward phase of actually trying to build something and they realise they could save some money in lots of different areas. So they get the permission, the outline generally and that’s what they use to sell the scheme to members, designers, the public, and following that it’s a case of we’ve got half way through the door and now we are going to start chipping away at the quality and sometimes in quite fundamental ways”.

“There are always tweaks from what’s been approved. There’s always a notch of reduction in quality by the time it gets developed.”

Consequently, whilst post-consent was not viewed by officers as a fundamental driver of design quality, it was undoubtedly viewed as a stage in the development process where the overall quality of a scheme can diminish and on occasions to a considerable degree.

Officers identified many examples of elements that get altered post-consent ranging from bricks and stone (frequent mention), materials (often boundary fences), window detailing, landscape detailing, delivery and planting, parking, bin storage, and layouts. As one officer observed:

“Sometimes it feels like everything is up for grabs post-consent ... all these sorts of things just undermine the eventual quality”

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

And another that:

“The main issue is that we are dealing with numerous small details, but the whole thing is made up of small details, so essentially if it’s made up 50 small elements, they [developers] are going to be targeting a good number of those elements so the overall quality will suffer because of that, but individually maybe not such a big issue”.

Officers - although by no means all officers –suggested that some change is inevitable:

“Ultimately what is built out is different from that talked about initially. I get it. I’m not blaming the developers. There are multiple reasons. Sites are complex. I’m not attacking them, but I’m interested in ways of limiting that so that we get quality.”

When asked to describe the main justification given (if any) by developers for seeking post-consent changes two principle justifications were identified. Firstly, developers seek change on the grounds of development viability either because of constraints that are identified once a development reaches on-site delivery, and / or because the developer team responsible for taking a scheme from consent to delivery (often a different team from that securing permission) will then seek to negotiate on cost:

“There is always a process of attrition, it’s about getting a return on their investments. It’s not their job to be philanthropists”.

“Cost and construction reasons can be genuine, but graded erosion is always a big problem”

“They have so many considerations on them. A really good strong architectural concept can unravel with all the constraints that then get piled on it, so even if you have a really strong scheme it can unravel to a degree”

Secondly, developers seek changes as a result of “selling it on”. Officers gave several examples of planning permission (particularly, although not exclusively, outline consent) being secured by a landowner or master developer, who then sells on a site with the principle of development secured. This was seen as being particularly problematic by officers who felt that: developers “*always go for the maximum number of units as high and as dense as possible*”, have very different ideas about the way in which they want to build out a site (with layout being perceived a notable issue), and often – in the case of the major housebuilders – have the intention of using their own standard house types that might differ from the design intent of an original application:

“you can agree a consent with a landowner or a consultancy practice that is a classic situation because everybody working together great and everybody agrees on a good quality what they think is quality and then it’s sold to developers and they come in and seek to impose their product on the scheme.”

4.2 Individual post-consent stages

In order to support the generalised observations about the challenges of post-consent expressed in section 4.1.4, officers were asked to share their views on and experiences of each post-consent element in order to explore the challenges of each, and how and why a stage might result in a diminution of design quality. They are considered in turn in the following order:

- Outline permission, followed by reserved matters;
- Discharge of planning conditions;
- Non-material and minor-material amendments;
- Monitoring;
- Enforcement; and
- Planning obligations and CIL.

4.2.1 Outline permission followed by reserved matters

Key Finding

Securing planning permission through an outline planning application with reserved matters is considered particularly problematic for ensuring design quality. The majority of interviewees perceived full applications to afford much greater control over design quality, and would – ideally - abolish, or reframe the approach to, outline applications.

Outline planning permission, with key elements related to design quality ‘reserved’ for further consideration post-consent was considered by many officers as one of the greatest risks to achieving high quality design outcomes, particularly (although not exclusively) because officers associated outline consent with the problem of ‘selling on’ (as identified above):

“It’s frustrating especially if you have spent years of time dealing with an outline and that site might be sold to whoever, and then it’s kind of like starting again ... We can’t insist on a certain developer buying the land, it doesn’t work like that”.

“The initial application was by X – good agents, nice masterplan, nice codes. Y [a different agent to X] took it on to reserved matters ... the urban designer and I tried to get them to make some changes ... we had to be practical, if it’s good enough in its own right, even if it’s not quite as good as outline, there would have been no grounds to be dismissed at appeal”.

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

Outline applications were repeatedly referred to as the stage at which “*we are sold a dream*”. In fact, that phrase, or similar, was mentioned by over half of interviewees:

“I sometimes wish outlines didn’t exist. They are not helpful. They are helpful for landowners, but from an officer’s point of view it’s really difficult – we are sold a dream that actually is a dream”.

Officers described being presented at outline stage with fantastic visuals of how a scheme might look, with the full knowledge – of all involved – that an outline consent rarely secures that initial design intent:

“They basically have planning permission for access and up to a certain number of units. That’s the bottom line. So they can provide lots of great visuals and supporting information in a design statement with plans and elevations, but really that isn’t what they’ve got planning permission for”.

The challenge officers described was one of a perceived loss of power once outline consent has been granted. Whilst this was not universally felt, with one officer asserting emphatically that, they “*would refuse reserved matters if not up to scratch*”, others observed:

“That’s where the problems start because the details can be different from the details submitted in the outline application and in 70% of cases they are. There’s a lot of leeway to make significant changes. I think that’s what people don’t understand – the power that applicant has to do that. You’ve basically lost a lot of control at that point because everyone has agreed the principle of development. At that point you’ve already convinced designers, planners, members of the public that this is acceptable but there is a massive amount of work to be done”.

This loss of power was described as a consequence of both a lack of resource for, and corporate level interest in, the reserved matters stage, resulting in insufficient time and attention to the consideration of reserved matters despite the best endeavours by officers. Reflective of this, one officer observed “*there is a sigh of relief when an application is dealt with, when it comes back it doesn’t have the same attention*”, and another that there is the need for “*a more pragmatic view at reserved matters stage... inevitable issues will arise, it comes back to five-year land supply and speed issues. What does it matter if that house at the end of the road doesn’t fit the design code?*”

Perhaps in response to the potential outcomes of a more ‘pragmatic view’, another officer proffered that some elements routinely ‘reserved’ are too fundamental to the development as a whole:

“Should they [developers] be allowed to reserve all these things at that point? Aren’t these too fundamental to be saved for later? Reserving really causes us a lot of issues. Access – ok great – that’s fine, but that’s a tiny part of the development ... in terms of homes – that’s actually a very minor element in a lot of ways”.

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

All officers described project examples where they considered reserved matters applications to present something very different to the initial design intent presented at outline stage:

“It tends to be most schemes. It sounds a bit negative. But honestly it often feels like ‘this wasn’t what we agreed guys’ ... we agreed to that very nice aspirational design statement, but it can be a sum of the parts issue. ... numerous minor details which on their own are minor but this is where the problem starts because you can’t refuse it based on a minor change because it’s not reasonable. You can’t throw out the whole thing because they’ve changed the landscaping a bit. When you add it all together it can start to make a big difference cumulatively”.

“At reserved matters the principle has been established. If physically there is not enough space to mitigate for landscape, there is not enough you can do about it. At outline you have already accepted the harm”.

Several officers were particularly critical of outline permission granting ‘up to a certain number of units’ observing that developers rarely seek anything less than the highest figure, even if more detailed work on layout suggests that the maximum figure cannot be reasonably accommodated. As one officer observed:

“you are just approving a red line around a site, you don’t know whether the site can actually accommodate that number of dwellings in an acceptable form, an acceptable design form.”

Another officer highlighted the problem of ‘indicative plans’:

“outlines are very problematic – the requirements for supplementary information. They [the developer] know it’s (a scheme) going to change – the agents know it. Parameters are set, e.g. on height, but the majority of the time, reserved matters look very different to the indicative plans”.

There was general agreement that handling reserved matters involving multiple phases was particularly challenging because of a potential lack of continuity between teams (both developer and local authority), timing, and the involvement of multiple developers:

“Outline applications create a minefield with phasing. Outline applications on huge sites get carved up at a later date and we get different developers ... there is a lot of pressure to get things right on phase one because if you don’t ...”.

“We have to be realistic. There is an issue that if you get an outline and then you get RM that might come in some months later and that’s possible been preceded by design codes, there is an issue over continuity. I’ve generally worked on the basis that I’ve tried to keep the same officer dealing with reserved matters and involved in the codes, but it’s not always possible to achieve that as you don’t always know when work is coming in, and you can’t keep people free because you think something is coming in next week...”

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

The requirement for design codes, either prior or as part of the reserved matters stage, “*where well executed and with good creative intent*” were perceived by the majority of officers to help elevate design aspiration, and create design continuity across larger sites. Some officers agreed that judicious use of design codes *should* be a way of securing initial design intent, particularly if a condition on the outline consent required submission of design codes linked to the original Design and Access statement prior to reserved matters, with reserved matters applications requiring a statement of compliance with the design code. Not all officers were, however, in agreement about the use of codes, and of course developers can apply for alterations to codes:

“they are the most helpful and also the most challenging to get agreement on ... we had a good deal of difficulty with design codes, and holding the developer to what we felt was the initial quality of the scheme, when you are dealing with phased development for 1500, that might be the first phase and you have to bear in mind that at some point you need to ensure the co-ordination and integration with that other 1500, we struggled to get decent codes on the second phase, the developer wanted a much higher density”.

Perhaps unsurprisingly, several officers observed, “you have much more control over design quality with a full application. It’s a much better way of getting good quality design” with more than one officer proffering emphatically that they would “get rid of outline applications”. Nevertheless, there was also parallel acknowledgement that this was not likely to happen and that attention should therefore be devoted to how to make the journey from outline through to reserved matters work better in operational terms, with particular attention focussed on furthering understanding for all players of the purpose of illustrative material and how best to secure the initial design intent through the reserved matters process.

4.2.2 Planning conditions

Key Finding

Discharge of conditions can be very time consuming. If conditions are not properly worded, and if authorities are not resourcing the discharge of conditions appropriately, or handling inter-related conditions concurrently, then they do not provide the quality safeguard that is intended by their use.

Planning conditions were seen by many officers as of pre-eminent importance in managing the post-consent process effectively and an important safeguard of development quality. One officer stated emphatically, *“the post-consent world is really difficult. The only tool you’ve got is conditions”* and another that, *“conditions are most used for adding quality”*.

There was a strong sense, that despite the more recent emphasis in national guidance on reducing the number of conditions placed on permissions, conditions were still being widely used because developers were perceived as being prepared to accept them in return for securing a permission, and local authorities attach them to provide a quality safeguard, whilst at the same time ensuring their targets for application determination are met. As one officer observed:

“We are trying to use fewer conditions with but with the 8 week process, nonetheless its easier sometimes to just stick on a condition, because we’ve not asked for that information in advance, there’s a chance the developer hasn’t thought about it in advance”.

It should be noted, however, that some specialist officers in ecology, urban design and landscape did observe: *“pressure to reduce the number of conditions ... resulting in important ones being taken out”*. For these specialists, there was concern that they would have not have the post-consent tools needed to safeguard key elements of quality.

Planning conditions were not, however, viewed as an unproblematic safeguard. Three predominant issues emerged. The first problem described by all authorities was insufficient resource to deal with the determination of conditions. Many officers described planning conditions in various ways as being at the bottom of the priority list. So, whilst it was observed that *“a huge amount of work has shifted to conditions”*, there was clear sense that the resource to service that work was not there. The resulting effect – particularly given the threat of deemed discharge of consent if timescales for determination are not met – is that insufficient scrutiny may be applied to important matters of quality:

“Once you have approved a scheme, the political impetus for quality has gone. Signing-off of conditions requires an enormous resource”.

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

One officer observed, “*we do a great job managing planning applications, but conditions get dealt with by someone else*”. Consequently, the value of continuity in the handling of applications was raised by a number of officers, with many authorities acknowledging that conditions are not always handled by the original case officer and important knowledge of a scheme relevant to the discharge of a condition may not always be passed on. Some urban design officers observed that they are not always consulted on the discharge of conditions, despite their input at this stage being potentially valuable: “*conditions are just so important and its always done right at the end, after our sphere of influence has been passed.*”

The second problem related to the wording of conditions themselves. Many points of detail were raised here, but can be summarised by the comment “*properly worded conditions are really crucial*” with any “*loose wording*”, allowing for diminished quality. For example, one officer bemoaned the wording, “*not-materially different than*” in relation to materials, suggesting that this allowed for a level of subjectivity that could result in lower quality materials. Similarly, another suggested, “*we should encourage detail, not just material’s samples, say what finish we actually want. They can always apply to vary a condition, but let’s build in the problem for them not us.*” One officer referred to the challenge of discharging landscape conditions that include both an implementation and on-going management element. And another, that “*far greater thought needs to be given to how conditions are applied and how they are dealt with in practice*”, if a condition states “*must comply with the plan, but there’s no timescale, can I enforce that in the terms of the condition?*”

The third principle problem derives from the quote above about how conditions are dealt with in practice. Many conditions require follow up. But it was repeatedly observed that without effective monitoring the desired effect of attaching a condition will not be achieved. This is covered in more detail in section 4.2.5 below, but this quote, is illustrative of the specific problem around conditions:

“On one site there was a requirement to have an ecologist on site for the duration – they [the developer] didn’t and they went ahead and demolished, whatever species living there will have been destroyed or made homeless. But no one will ever know because the condition wasn’t followed. It wasn’t followed because there was no trigger. What was the point in putting the condition on in the first place because it had no consequence?”

4.2.3 Non-material and minor material amendments

Key Findings

Non-material and minor-material amendments are being increasingly used by developers to ‘chip’ away at the original design intent of schemes. Managing the cumulative impact of multiple NMAs can be challenging.

Non-material and minor-material amendments were seen by many officers as a significant route for developers to seek to alter schemes post-consent. Whilst noting their role in allowing for small scale change in a proportionate manner, officers described non-material and minor-material amendments as “*the new game*”, “*a basis for undermining schemes*”, and “*developers have latched on to them*”. Officers sensed that for major housebuilders, both Non-Material and Minor-Material Amendments were seen as “*cheap for them to do*” (£264 being a substantially lower figure than for new or reserved matters applications), but could result in outcomes with significant build cost savings.

Amendments were seen as presenting three particular challenges:

The first relates to interpretation. National guidance states that, “there is no statutory definition of ‘non-material’. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another”. Local authorities also “have discretion in whether and how they choose to inform other interested parties or seek their views” (ibid). Several officers described this part of the post-consent process to be a “*very grey area*”, with each application reviewed on its merit. It was suggested that developers “play” authorities in the West of England “off one another”, seeking to assert that what had been treated as ‘material’ in one authority, had been considered elsewhere as ‘minor’. Consistent guidance across the West of England as to what would be considered a material, minor-material, and non-material change was thought to be potentially extremely beneficial.

Second, is the cumulative impact of successive amendments. An individual element might not be considered as detrimental to quality, and therefore acceptable, but there is no mechanism to allow for the cumulative impact of multiple amendments to be considered and previously approved amendments cannot be retrospectively refused in light of further subsequent amendments. One officer commented,

“if they are not causing harm, then generally I let NMAs go through. If it has to go through as a material amendment, then you have to look at the s106 again and this just slows everything own”.

Another observed:

“We get one, then another, then another, then another. It’s difficult to keep track of where you are with a scheme, and they are very difficult to refuse. Through that process they may have changed the entire design ethos”.

² <https://www.gov.uk/guidance/flexible-options-for-planning-permissions>

³ It should, however, be noted that the 2019 court of appeal decision clarifying that amendments that would result in a change to the description of the development should not be made through a s73 application, was seen as a “helpful step”.

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

Finally, several officers – particularly enforcement officers - described the challenge of understanding what a developer has actually been given consent for - “*the final consent*” - following a process of repeated amendments. Carrying out any compliance activity (or determining the need for any enforcement action) can be severely impacted by this and a lack of transparency also hinders comprehension of a scheme by communities and members. It was acknowledged that this was largely a matter of “*better housekeeping*”, on the part of both the local authority and the developer. Again, enforcement officers observed that site managers often do not have the final consented plans and will “*often build from building regs plans anyway ... you start digging and you’ll find out that are they are operating from an old set of plans*”.

4.2.4 Monitoring and compliance

Key Findings

Local authorities have scant resource to monitor individual consents, despite the strong appetite and perceived utility of doing so as a way of ensuring quality at delivery.

There is a lack of control / over-sight on what happens on major sites, “*to help keep the developer honest*”.

Three themes emerged from discussions with officers on the subject of monitoring. The first was a lack of monitoring of individual developments on any routine basis, but a strong desire to increase monitoring activity. The second was the issues that arise as a result of the lack of monitoring of large sites in particular. The third was the desire for indicators that allow quality to be assessed.

Officers reported that:

“*We don’t now evaluate and monitor individual schemes. We struggle to do the AMR on an annual basis, without having to do that level of monitoring on a site level*”.

“*We monitor based on resource rather than the principle*”.

“*It’s quite rare for us to check. There is very little monitoring and compliance. We are not looking*”.

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

It was clear across all four authorities that austerity had directly impacted that amount of monitoring activity that was taking place: *“There’s not enough resource. We used to have compliance officers (x 2, 4/5 years ago), who did random sampling of schemes ... They would go out and look once building regs notifications came through, they would look at, is it in accordance with plans, land scaping, design, tree protection etc.”* The result was a strong sense that the lack of checking or compliance was leading to developers assuming that *“they can get away with things”*. Officers referred to effort spent on securing elements of quality at the planning application stage being rendered *“pointless”* because developers know that nobody will go out and look. One example was given of a scheme being discovered through the AMR monitoring process not to have complied with a conditioned requirement for a contamination assessment: *“no one chased on the original pre-con, what do we do then – take all the houses down, now they are all occupied? This was followed by the observation, “that example is one of many – it’s often to do with tiles, render, materials, landscape ... officers spend a lot of time on securing them, but if you don’t monitor ...”*

The lack of proactive monitoring was considered to be particularly significant on large sites. Two officers said, *“we don’t have compliance officers, we have active residents”*, *“we are relying on people to say to us this isn’t right”*, and acknowledged that on large sites the lack of *“eyes and ears”* provided by an existing residents / neighbouring community can result in things going unnoticed: *“I think they [the developer] know that perfectly well, there probably are some things they will take a flier on”*. Enforcement officers across all four authorities described schemes being built out according to approved plans on the visible periphery, but with elements of quality being *“routinely”* omitted away towards the more central areas: *“With the larger sites, we wouldn’t become aware of things unless someone within the department went on site and noticed”*.

Perhaps unsurprisingly therefore, there was a strong appetite for more monitoring and compliance activity to *“make it clear that you are watching them”*, to *“keep the developers honest on site”*:

“I think we should be doing it [monitoring] regardless of where the finance comes from”.

“If we don’t employ enough officers we will just never check on the build quality of these things or we might do once they’ve actually built the thing but it’s then far too late – well actually you haven’t built this right or the details – that’s gone essentially”.

Officers across all four authorities were aware of the recruit of a compliance officer in South Gloucestershire, whose role in acting as a liaison between the local authority and the developer at Charlton Hayes. This was seen as extremely constructively (see section 5.2), although there was concern from more than one officer that the results of more monitoring and compliance activity would *“generate more work that we couldn’t service”*.

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

Officers also referred to a lack of performance indicators to allow for the effective monitoring of development quality – either at a site or plan wide level. Planning performance was repeatedly described as being measured on the speed of applications determined, and numbers of units delivered, not the effect of intervention to secure development quality:

“We particularly focus on how many homes have been built, and that’s where we will be sanctioned if things are going wrong. We used to look at schemes more – it wasn’t formal but people were going to look at housing developments, which was quite a useful thing, it was an opportunity to look at quality and appearance, in an informal way”.

Whilst some considered the monitoring of design and quality to be difficult *“what are the correct indicators to use to measure that?”* others were more emphatic that there are quality indicators that should be routinely measured (quality of bricks, open space, play space, landscaping quality, shading etc.), and that a commitment to measuring key elements of quality would provide greater corporate justification for the time given to securing them – both pre and post-consent:

“We have PIs but my recollection is that these are quantitative things like % determination. I would like a new PI for my service for design quality, even if it was just an internal thing. It would give the message from a high level to motivate officers to see elements of quality through”.

Officers had mixed opinions about national tools for evaluating design standards, such as Building for Life, raising concerns about authorship (the vested interest of housebuilders) and a lack of aspiration overall. Nevertheless, Building for Life was viewed, on balance, as *“better than nothing”* in helping to drive standards when resources are constrained.

4.2.5 Enforcement

Key Findings

Enforcement action is reactive and exclusively complaint driven. With few on-site neighbours, local authorities receive few complaints about major housing developments. This is perceived as ‘allowing’ some major housebuilders to ‘routinely’ leave out key elements in anticipation that these will go un-noticed.

Expediency of enforcement action is perceived to be judged by ‘harm’. This is different to the language of aspiration and enhancement inherent in design policy.

The previously-rehearsed line that planning enforcement is seen as the ‘Cinderella service’ (Sheppard, 2014) rather than an essential and necessary part of the development management process was repeated here in this study. This was despite the fact several examples were given of efforts within the authorities to address this perception, such as team restructuring to bring planning enforcement teams closer to development management, re-grading of enforcement roles to ensure comparability with other planning officers, and requirements for planning officers to have planning qualifications and training.

More specifically, however, three particular observations are relevant to the role of enforcement in supporting design quality, all of which should be set within the context of the widely proffered view that more resource for effective and proactive monitoring and compliance should reduce the need for enforcement action.

Firstly, enforcement officers described their service as being largely reactive - dealing with investigation in response to complaint: complainants tend to be in the more affluent wards, and are often more focussed on smaller-scale planning breaches, rather than the build out of major sites, where neighbours are not yet in-situ:

“He who shouts the loudest gets investigated. It’s not proportionate. Enforcements is really skewed towards affluent wards, very skewed”.

“I have ridiculous conversations with people about a plan that says three silver birches and they’ve planted a holly. Our resources get sucked into trivial things”.

“If something is hidden from public view we are unlikely to get complaints”.

The result of which was less attention from enforcement action towards the major housebuilders, or the larger scale developments, with one officer observing, *“we never look at them”*.

The absence of complaint (coupled with the lack of monitoring) is not the same as the absence of a planning breach, and there was the suggestion – as outlined in the previous section – that some developers were aware that they could get away with things knowing they would go unnoticed.

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

Second, there was a strong sense that where things are discovered on major housing sites, any resultant penalties are insufficient to engender behavioural change:

“We are essentially bluffing, as the tools aren’t big enough. We need to raise the fines, other fines are unlimited, or else developers just see the fine as rent whilst they fail to address a problem”.

Third, and perhaps most appositely, was the narrative about how the expediency of enforcement action is judged. It was repeatedly observed that enforcement action is judged by harm, which appears in stark contrast to the policy aspiration to create exceptional and distinctive places:

“Enforcement is justified against “harm”. This is a grey area. Planning permission is about enhancement, but enforcement action is taken on the basis of harm. Finding the line is a difficult thing which can only really be resolved by appeal. There are different bars”.

“For me, I don’t see how you can make the argument to enforce against the skin of the building. It’s just a visual thing, it’s not going to do any harm. A lot counts but it’s not going to harm anybody or affect their health or well-being so it’s pretty much a non-starter”.

It should be acknowledged whilst all enforcement officers could cite examples of where enforcement action – whether formal notices or more informal negotiation – had been used in relation to design quality (especially where elements of the design were considered “to go to the heart of the development”), the fourth point was about having sufficient confidence to take action on design elements:

“Often it comes down to what are you really going to do? Are you really going to ask them to change the tiles? Is that expedient?”

“Can my officers -using the design guidance –say that’s better, equally as good, or that’s worth taking action because its harmful. You have to give someone confidence with that decision”.

“I looked at a scheme yesterday that was allowed at appeal. It was a new house, to be built in natural stone to match existing terraces. The applicant asked us to vary the condition – but we refused a change to allow render. The applicant has done it in reconstituted stone and its now completed and occupied. So what do you do? It looks awful, but it’s not expedient to take enforcement action.”

Finally, the issue of performance indicators was also raised by enforcement officers. It was repeatedly observed that targets for enforcement activity are almost exclusively focussed on formal action taken. This means that substantial effort reported by enforcement officers to avoid formal action in preference for negotiation, is not acknowledged in any formal performance reporting:

“There are no targets on enforcement, and if there are no targets, the management won’t focus on it. Our targets are ‘what action have you taken?’ You aren’t counting all the negotiation you have done you are only counting action”.

4.2.6 The role of Planning Obligations and the Community Infrastructure Levy (CIL)

Key Findings

Neither CIL nor planning obligations were seen as significant mechanisms for ensuring high quality design post-consent. However, the new CIL requirement on commencement notification, was thought to provide a potential opportunity and resource for more effective monitoring. Recognition that planning obligations might present some opportunities that have been explored elsewhere, particularly in relation to design certifier / retention of architect clauses.

Officers saw neither planning obligations nor CIL as having significant roles in ensuring design quality, with few examples highlighted where either of these mechanisms had been used to secure elements of quality, with the exception of legal agreements to secure money for off-site habitat management.

Nevertheless, four potential opportunities were identified:

The first, was the potential for CIL charging schedules to include a contribution for monitoring.

The second was use of the CIL requirement to notify local authorities of the commencement of development. Several enforcement officers suggested that – were the resources available – CIL notification could provide a mechanism for starting more formalised compliance checking. This was presented as part of a narrative about the importance of joining up services:

“Notification of CIL should trigger us to notify the officer that development has commenced on that site and that would trigger us to be able to monitor for follow up reports that should have been required as part of that permission. That’s a really simple process”.

Developers are switching on to the fact we will do spot checks on CIL and actually if you have a CIL officer coming out actually ‘oh dear’ there is an enforcement officer, and a planning officer too, and things start unravelling”.

LOCAL AUTHORITY REVIEW OF PRACTICE - INTERVIEW ANALYSIS

The third, was a clear appetite to think “more creatively” about how planning obligations in particular could be used to secure elements of design quality. For example, the legal footing provided by a planning obligation was seen as potentially more advantageous as compared to a planning condition, which was perceived as presenting easier opportunities for amendment and/or removal by developers.

The fourth, was a more specific desire to learn from experience elsewhere in the use of both design certifier and retention of architect clauses in planning obligations (see for example, Hopkirk, 2020, and Mayor of London 2020). Whilst generally aware of advice in the latest national planning practice guidance to encourage the retention of key design consultants, officers had no experience of the use of such legal clauses in practice. There was evident interest but also some skepticism:

“I’ve never required the retention of a practice. Never felt that was a legitimate thing to do and would be able to do that”.

“I like the idea of a retention of architect clause – overall much less change would be likely. But the continuity of design personnel would be difficult to ensure, you might start with the trophy architect, but the outcome really depends on the client”.

“Not sure how you enforce aspects of design practice guidance – how do you enforce the retention of key design consultants? Nice, but I’m not sure how you do it. I hadn’t picked up on that”.

CASE STUDIES

5. Case Studies



5.1 Introduction

In order to understand the experiences and views of officers expressed in more generalised terms in chapter 4, four case study developments (one in each authority) were selected to review how these post-consent processes have unfolded in practice.

The case studies were selected from a long list of schemes nominated by each of the four authorities. The schemes were selected to ensure that a range of schemes in terms of scale, location, development history, and nature of application, were chosen. They were specifically chosen, therefore, to be different from one another, rather than comparable.

There was a consistent approach to carrying out the case studies, which involved:

- A detailed review of planning history and documentation, including identification of any post-consent changes;
- Two site visits: an initial visit to gain site familiarisation and understanding of context; and a second site to assess key design elements using a common template and to focus on specific post-consent changes and their impacts; and
- In-depth interviews with developers and / or their agents, architects and urban designers, local residents and local authority case officers, again carried out to a common topic guide across the case studies). Across the case studies twenty interviews were carried out.

CASE STUDIES

The purpose of the case studies was not to shine the spotlight on any one scheme or player but instead to gain depth of understanding via project specific experience. This final project report does not present the findings of the individual case studies. Instead, we provide a broader commentary drawn from the analysis of the case studies under a number of headline findings, that bring out the issues that are generally applicable. Detailed reports of each of the individual case studies are available to download from the University of West of England's research repository (<https://uwe-repository.worktribe.com/>).

The four case studies selected were:

Local Authority	Case Study	Scheme Type	Brief Description
South Gloucestershire	Charlton Hayes	Large scale housing scheme – multi-developer	Outline planning permission granted in 2008 for 2,200 new dwellings, 66,000sq m employment floorspace and 1,500 sqm retail floorspace. delivered in four phases.
Bristol	Former Cheltenham Road Library	Small scale city centre redevelopment scheme – single developer	Full permission granted in in 2008 for 36 flats. Site implementation did not take place until 2017.
North Somerset	Haywood Village	Large scale housing scheme – single developer	Outline planning permission granted in 2010 for phase one for 900 dwellings, and in 2018 for phase two for 1,650 new dwellings.
Bath & North East Somerset	Maynard Terrace	Small scale edge of village housing site – single developer (combined housing association and housebuilder)	Outline planning permission granted at appeal for 36 homes.

CASE STUDIES

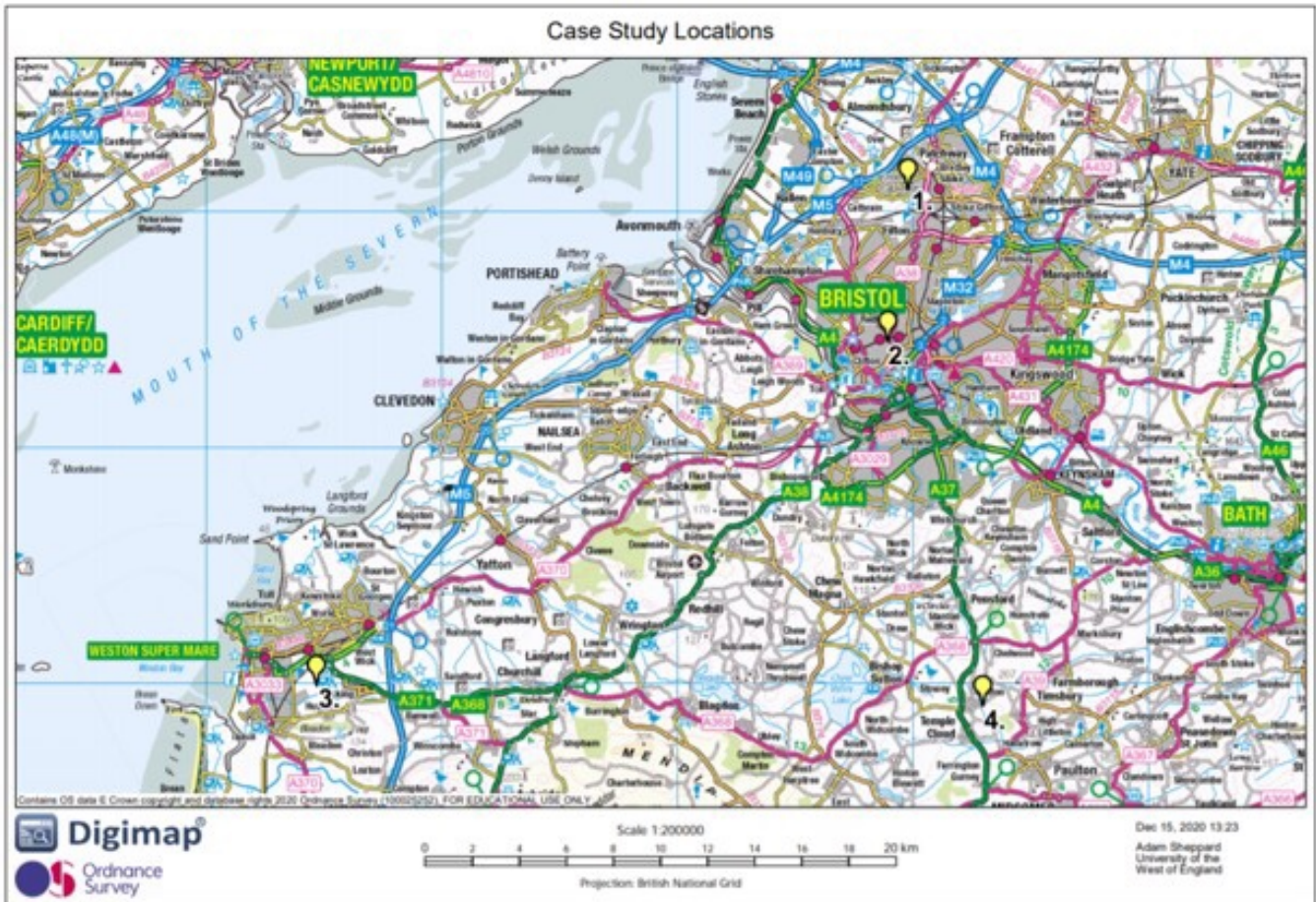


Figure 5: Case study locations in their wider sub-regional context

CASE STUDIES

Built out scheme

Charlton Hayes

Image Source: UWE



Former Cheltenham Road Library

Image Source: UWE



Haywood Village

Image Source: UWE



Maynard Terrace

Image Source:
<https://www.curo-group.co.uk/house-building/schemes/highbury-fields-clutton/>



5. Case study headline findings

5.2.1 To a greater or lesser degree, all four case studies have seen post-consent design changes, resulting in visible differences between the scheme as originally presented and the final built-out development.

None of the case studies were built out entirely in accordance with the original planning permission, whether this original permission was a full planning permission or outline permission. In the context of outline permission, there was necessarily a broader interpretation of what 'original' constituted, but covered variations to parameters agreed at outline as well as subsequent variations to reserved matters approval.

The types of change sought across the case studies included:

- reduced amounts of affordable housing and a scaling back of on-site infrastructure;
- relocation of affordable housing plots;
- reduced amounts of employment and retail use to increase housing numbers;
- changes to plot layout and increases in housing density;
- changes to building height and detailed design;
- changes in windows (both removal of and detailing);
- changes to materials (a whole range across the case studies including to cladding, render, and brick); and
- changes to the extent and nature of landscaping scheme.

One of the case studies sought a reserved matters application for 'revision of details of layout, materials, scale, street scene and landscape', demonstrating the scope of scale of change possible post consent in any one given permission.

Changes were largely sought through discharge of and variations to conditions and non-material and minor-material amendments. But not all changes across the case studies were pre-planned, with some occurring as a result of site management and construction error. In one study, a retrospective application was required to 'revise street scene and elevation plans to reflect as built chimneys'. In another, retrospective planning permission was needed for changes including for incorrect plans having been used in construction. Enforcement action was required on one of the schemes for the removal of trees (brought about by contractor error) and contrary to a planning condition.

CASE STUDIES

5.2.2 Developers saw the need for change post-consent as an inevitable part of the development process suggesting that refinement of design would always occur in the transition towards construction. This was true for all scales of development.

Developers' were unanimously of the view that change would – in almost all circumstances – be needed post-consent. Two principle reasons were given, the first of which was development viability. In all of the case studies the elapsed time between the original permission and on-site delivery was significant, and in two of the cases this spanned the 2007-9 recession and resultant changes in the economic circumstances of key players. In one scheme, this prompted the sale of some plots to other developers, who undertook their own negotiations with the local authority on design details, effecting the coherence of the overall design. In another case, the original applicant went into administration, resulting in an entirely different developer responsible for build out keen to amend the original design. In one scheme, a large SUDs pond depicted at outline, was omitted at the reserved matters stage on development viability grounds. Some design features presented at outline – such as coloured render – were argued subsequently to be costly to maintain, and a change to brick was sought to reduce ongoing management costs.

Second, developers described the need for changes resulting from greater accrued knowledge about a site either gained during the detailed design stage post-outline, or during construction. In one scheme, the sloping nature of the site, rendered the design presented at outline un-deliverable. In this case, the developer themselves acknowledged the need for greater 'due diligence' in the process to ensure that schemes as granted are implementable. In such cases, it is not necessarily that the subsequent design becomes unacceptable, but that such changes can be disappointing, especially for communities who have been led to expect something quite different.

It is also important to acknowledge that there was a strong sense from the developer community that the planning process allows for change: and it was therefore entirely reasonable to seek amendments that were justifiable. Similarly, some case study developers saw post-consent changes as genuinely positive, resulting in design enhancements not denigration.

5.2.3 The lack of a *five-year housing land supply* was perceived as rendering the local authorities less able to negotiate on important aspects of design.

In three of the four case studies, a lack of a five-year housing land supply was cited by local authority participants to have 'weakened their hand' and 'given them less leverage' during design-related negotiations both pre and post-consent. It was argued that in order to focus on speeding up delivery there was less time and propensity for negotiation on design grounds with an erosion of design quality simply accepted as a consequence. On one scheme, it was observed that increasing housing supply would 'always' hold greater weight at appeal than the quality of a scheme as depicted at outline.

Questioned how a lack of a five your housing land supply would impact post-consent particularly, local authority participants simply observed that the lack of supply impacted the whole culture of the consenting process, acceding more power to developers and changing the nature of relationships between stakeholders.

CASE STUDIES

5.2.4 The preparedness of the local authorities to accept or reject change varied across the case studies, with some design changes accepted as relatively inconsequential even where they resulted in a significant departure from the original design intent. In part, this reflected the challenge of governing good design, where some design elements are perceived as subjective.

As detailed in section 5.2.1. all the case studies saw post-consent changes. Across the case studies, the balance seemed in favour of accepting rather than rejecting change, despite considerable variation in the extent to which officers had sought *'to continue to negotiate'*.

In one of the case studies, the design at outline depicted the façade of one of the terraces with individual homes in different coloured render (chosen to reflect the local neighbourhood vernacular). Post-consent changes to allow the terrace to be built in brick (argued by the developer as required on the grounds of reduced future maintenance costs) was not discussed as being significant. Again on the grounds of reduced future maintenance costs, another case study saw a significant simplification of a landscaping scheme, which again, was not considered consequential. In the two largest schemes, where numerous amendments were accepted, officers articulated the challenge of maintaining oversight of overall design coherence in the context of the handling of numerous applications when rarely are these submitted simultaneously.

Importantly, however, not all applications for amendments, across the case studies were approved. For example, a reserved matters application to amend house types and increase numbers in one plot was refused, on the grounds that the proposed amendments conflicted with the design principles incorporated in both the Design and Access Statement and subsequently approved Design Codes. In particular, the amendments were seen as contrary to the strong sense of place created in an earlier phase of the development. In another case study, enforcement action was required following two planning breaches: one requiring a retrospective application, and another in response to the removal of trees resulting from contractor error.

It also should be noted, that across the case studies it was reported that confidence was an issue for planning officers in terms of their preparedness to refuse developer amendments: more senior officers were cited as more likely to *'withstand'* the pressures from more senior levels *'not to hold back delivery'*. The issue of officer confidence was also closely related to the issue of subjectivity: for some officers' resisting change was described as difficult because they could not *'prove definitely'* that changes were detrimental to quality, and therefore changes were accepted as *'relatively'* inconsequential. Others, described greater preparedness to *'push back'* against design changes. Reflective of this narrative, is the variation in views of stakeholders across the case studies about the impact of post-consent changes. On the whole, stakeholders, particularly those involved earlier on in the design process, tended to view changes more negatively, lamenting shifts from the original design intent. In one case study, an interviewee described post change changes as having *'diluted [the original design intent] to an unacceptable degree'*, whereas another described the same built-out scheme as fitting in *'really well ... it looks good'*.

CASE STUDIES

5.2.5 All case officers reported a lack of local authority resource for the effective management of change post-consent, the outcome of which was – in some cases – perceived as a more pragmatic rather than optimal approach to handling design amendments.

All case study officers highlighted an insufficiency of staff resource to handle the post-consent change process effectively, suggesting that political and corporate attention was focussed on the pre-application and application process, with less over-sight or priority given to post-consent. One case study officer described post-consent as the *'bread and butter donkey work, it's not considered the important stage'*. Some officers suggested that lack of resource necessarily led to a greater propensity towards accepting change, rather than time spent on negotiating different outcomes.

Critically, a perceived lack of local authority resource for handling post-consent change within local authorities was also observed by some developers in our case studies. One felt strongly, that delivery of their scheme had been significantly delayed by time taken to determine minor-amendment applications.

5.2.6. The use of design codes can assist in the effective management of design post-consent, but their results are highly context dependent. In one case, flexible design codes allowed learning from one phase to enable design improvements in another, whereas in another, design quality was not seen as high in the second phase, despite the use of codes.

Whilst not a detailed focus of the case study research, the use and effectiveness of design codes was a core part of the narrative in the larger two of the four case studies. In the two cases in question, design codes had been employed to help support design quality across different phases most likely delivered over a number of years. Whilst not conclusively positive in either case, the use of design codes had provided an important mechanism for supporting quality.

In one of the case studies, the developers saw codes as having been *'very useful documents'* in enabling, at least to some degree, design coherence across a large area and in supporting a *'smoother'* reserved matters process. However, a described *'inherent flexibility'* within the code was seen both positively and negatively by some research participants. Positively, flexibility was seen as allowing for learning on what had worked well and less well in earlier phases to be applied to subsequent iterations of the code across later phases. It was observed, for example, that a greater level of detail in the code in later phases had supported improved build quality in terms of materials and finishing. Some developers also felt that a detailed code allowed them to more accurately cost out a scheme. Negatively, some participants felt that flexibility – or failure to apply codes more consistently - had allowed some distinct changes in style on later phases involving different developer teams that challenged the overall degree of coherence of the scheme as a whole. Local authority participants themselves, acknowledged that too much flexibility in the use of codes had the potential to allow for the erosion of design intent and preferred to see *'precise codes'*, reducing scope for ongoing discussion and negotiation.

CASE STUDIES

In the other case study, whilst design codes were acknowledged as having been important in providing the basis for a refusal of some proposed amendments (see above), in contrast to the previous example, there was a perceived drop in quality between the code for the first and second phases. Local authority participants attributed this to a change in personnel, with the phase one code having been prepared by external consultants and the second phase code having been carried out by the developer in house resulting in less diversity of house types, less defined urban form, and lower density. The developer in this case reported some frustration in being required to produce and agree design codes for each sub-area.

Across the two cases, there was much consistency between the design codes and the built-out form (although not across all phases). Participants had contrasting views on whether this reflected positively on the use of codes. For some, that the built form closely resembles the detail of the code suggests the code has been important in maintaining the quality. Others, however, in finding some design elements across the schemes disappointing, suggested that the original codes themselves were not sufficiently imaginative, limiting what might have been achieved. This reflects wider literature on the use of design codes (referred to in chapter 2) suggesting that their effectiveness in managing design is highly context specific: rarely does a built-out scheme improve on its code, and a code must be seen as a creative process in the first place in order to deliver a high-quality outcome.

CASE STUDIES

5.2.7 There was a consistent view across the case studies that *continuity – both from the local authority and developer teams pre and post-consent* – supported the effective handling of post-consent change. However, whilst continuity of personnel was seen as ideal, other ways of supporting continuity from documentation management to senior oversight were highlighted.

Across all four case studies, changes in key personnel took place in both the developer and local authority teams between consent and delivery. In one case study, a local authority design officer influential in steering the design of an early phase, was no longer employed by the authority in later phases. In another, the original case officer was not engaged to deal with design amendments, and in another, conditions were routinely discharged by a planning assistant, rather than the original case officer. The likelihood of changes in personnel are also increased by the time taken by a scheme going through appeal. It was commonplace across the case studies for developer teams to employ external design expertise pre-consent but to either manage post-consent design changes internally, or engage different design expertise post-consent. Similarly, the in-house developer team responsible for post-consent and delivery was often different to the team involved in the pre-application and application process.

In one of the case studies, an entirely different developer took on delivery following site sale, and in another, parcelling up of the site resulted in phases being delivered by different developer teams.

The consequences of the '*handing on*' of schemes in both local authorities and developers was considered problematic, resulting in not only a loss of knowledge (and therefore effort required to gain knowledge) but also subtle shifts in project goals (see finding 5.2.9 below). Some developers acknowledged that their delivery teams would be looking to save on construction costs: a different goal to securing (an original) planning permission. Local authorities accepted that trying to manage the already difficult job of cumulative change was made very difficult by changes of personnel.

Whilst staff turnover was acknowledged to be a natural part of individual employment progression and change, about which there could be little influence, all research participants saw validity in an improved project management approach that would enable - wherever possible – the endurance of key contacts (both within the local authority and in the developer team) pre and post consent. Pragmatically, there was also discussion about practical ways of maintaining continuity, including improved documentation management and recording of change, as well as consideration of the potential future use of 3D visualisation software to help assess the impact of proposed changes. On major sites, there was some reflection about the merits of on-going senior level engagement from both the local authority and the developer side. It was striking that across the four case studies, no developer sought to continue to engage external design consultants involved in the 'original' application through to post-consent delivery. Developers were circumspect about the costs that this would entail.

In two of the case studies, substantial road layout and design amendments had been required at reserved matters stage as a result of intervention by local authority highways colleagues. Earlier engagement of highways advice would have avoided such changes.

CASE STUDIES

5.2.8 Residents are the ‘eyes and ears’, and processes to enable their effective engagement post-consent – particular for schemes involving multiple phases – can support project implementation.

In the two larger case studies, engagement of residents appeared to be influential in reporting delivery issues and in engendering action from the developer.

In one of the two cases, a residents’ group was established by residents themselves in response to complaints and concerns about site safety. An early activity of the group was to carry out a consultation exercise with new residents. This revealed a number of post-consent design issues relating to open space and landscaping, road design, and waste storage and disposal, thereby demonstrating that important design issues can still remain unresolved and require attention at the very latest stages of delivery, and in this case study nearly a decade after the first outline consent was granted. In another, residents also came voluntary together to form a group to engage with the developer on site, but this time primarily focussed on build defects. Interestingly, a resident of this group reported a mismatch between the first image of the development presented at sale and the actual experience of the environment - *“The first impression was a dream sold to us”* - suggesting that a more realistic presentation of the scheme might have helped managed resident expectations.

It is notable that both of these groups were formed in response to challenges, rather than as a result of a more proactive process to engage residents immediately once on site. Local authorities were generally in favour of s106 being used to require the developer to create and attend a stakeholder group. In the former, the attendance of elected councillors and the lead developer at the meetings of this residents’ group meetings had helped foster improved relationships on site.

Experience across all of the case studies highlighted the subjectivity of some key design elements. Residents were less concerned about some of the aesthetic changes highlighted as negative by professionals (such as changes to materials or building height) focussing more on elements related to the practical experience of day to day living such as bin storage, road safety and lighting. That said, a common resident complaint related to landscaping: the lack of variety, the lateness of delivery and poor attention to maintenance.

In two of the four schemes, residents raised significant concerns about construction standards and quality. Though not planning matters, they are pertinent because they raise wider issues about the relationship between different regulatory regimes and the practical realities of successful project implementation.

CASE STUDIES

5.2.9 The importance of trust – and the need for improved trust between key players to support developments through post-consent - was common to all the case studies, but no easy answers were given as to the best way of engendering greater trust.

A significant narrative across all four case studies was about trust. This was not characterised simply as local authorities not trusting developers to *'deliver what they had been given permission for'* (although this narrative was present across the case studies and epitomised in the repeated use of phrases such as *'we know the developer will seek to value engineer costly aspects out of their design'*). Nor was it in turn, that the developers did not trust local authorities to deal with post-consent matters in a timely and efficient manner (although again this narrative was present particularly in the context of a perceived lack of resource for handling post-consent). Instead, it was a much subtler exposition a core part of which was a sense that local authorities and developers did not share the same ultimate aspirations or goals for the final finished form of the four case studies. Although all parties may have been intent on delivering housing, the rationale for housing delivery was different: shareholder returns/financial viability for developers, and an essential need for communities for local authorities.

In one of the case studies, specific actions were taken to improve trust: most notably the appointment by the local authority of a compliance officer to act as liaison between the developer and the local authority (from the second phase onwards), and the appointment by the developer of an external liaison consultant to manage on-site infrastructure provision. Both appointments were seen as having been critical in improving trust between all players.

CONCLUSIONS AND RECOMMENDATIONS

6. Conclusions and recommendations for improved practice

Chapters 4-5 evidenced the challenges faced by the four WofE UAs in managing design quality post-consent. This chapter sets out a series of recommendations and their rationale – a route map for supporting design quality post-consent - intended to support the local authorities in considering how to improve post-consent practice. They are the culmination of stages 4 and 5 of this research.



The recommendations are grouped into five areas for action as illustrated in figure 6.

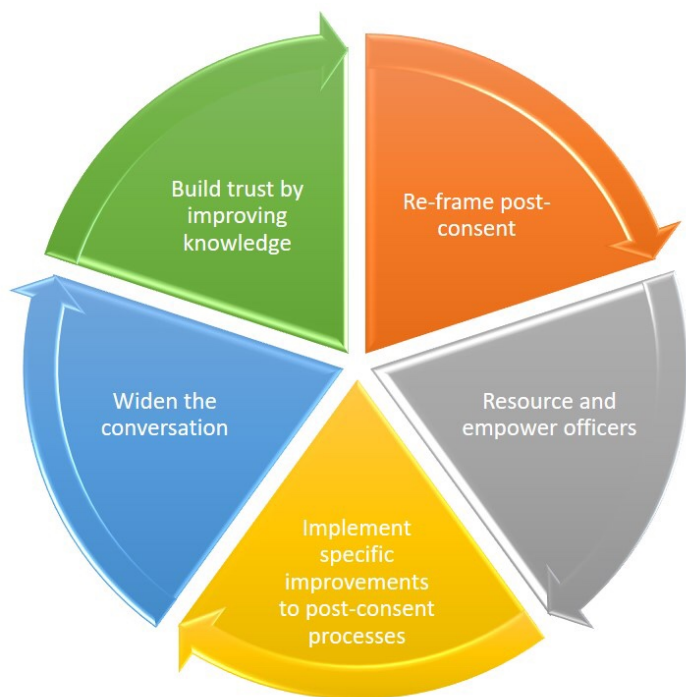


Figure 6: Five inter-connected areas for action.

CONCLUSIONS AND RECOMMENDATIONS

The recommendations under each of these themes are inter-related, rather than sequential. Accordingly, whilst the recommendations are intended to be mutually reinforcing, taking action in one area is not dependent on another. This is intended to enable each local authority to prioritise their response to the recommendations according to their own objectives and resources. As indicated in the recommendations themselves, some recommendations would benefit from collective action across the West of England.

In the following pages, we set out the conclusions and recommendations under each of the five areas for action.

Each recommendation is set out as follows:

Recommendation	Rationale	Ease and Impact	White Paper Implications
Details of the intended area for action.	Justification for the recommendation and links to key research findings.	Some recommendations will be easier to implement than others, and some will have a higher impact than others. This column is intentionally left blank and exists as a prompt to the local authorities to help prioritise their response to the recommendations.	Consideration of the relevance of the recommendation in the context of the proposed reforms in the Planning White Paper.

CONCLUSIONS AND RECOMMENDATIONS

Area for action 1 - re-frame post-consent

A key conclusion from this research is that maintaining design quality post-consent can be challenging. The journey from discharge of conditions, reserved matters, and non-material and minor-material amendments through to monitoring, compliance and enforcement, is complex and subject to change, even for small schemes. Post-consent is **not always viewed as an integral part of the development process** from project inception to on-site delivery, occupation and ongoing management, yet post-consent is a crucial stage at which key details are agreed and change can occur (some inevitable and necessary, some less so). There can be a drop in interest and focus once permission has been granted (whether in outline or full) but there is a need for far greater over-sight, interest and management of post-consent processes at a strategic level to reduce the potential for erosion of quality at this stage.

RECOMMENDATION	RATIONALE	EASE & IMPACT	WHITE PAPER IMPLICATIONS
1A The need for change to occur post-consent – particularly on larger sites – is inevitable. The focus should be on how to manage that change process better to ensure no denigration in quality rather than objecting to the principle of change.	Greater understanding is needed of the inevitability of change post-consent, particular for larger sites with build out times of several years. Acceptance of this could help build trust and ensure that appropriate contingency / tolerance is built in, not just by developers, but by local authorities. However, what change is deemed appropriate and justifiable will correspond to both scale and context.		Relevant whatever the outcome of the PWP.
1B Post-consent needs to be better understood as an important part in the journey of a development from conception to delivery.	Post-consent processes are not always considered as an integral part of the whole journey of a development, from conception, pre-application, application, post-permission to the management of a development in perpetuity. (Local authority) planning activity is often structured and resourced around contained moments, with priority given to the initial application stage and pre-application discussions where undertaken. Better understanding of the lifecycle of a development site/ area is needed, including acceptance of post-consent processes as an important – and interlinked - part in that development journey.		Relevant whatever the outcome of the PWP.
1C Senior, and corporate level, leadership is required to support the delivery of high-quality places.	The narrative around the importance of delivering high quality development is not always accompanied by an understanding of what is needed to support delivery on the ground. A corporate level focus on granting permissions can result in less enduring interest in the details of delivery, including design post-consent. Messaging on deliverability and quality needs to be as high as the messaging on units.		Note that the White Paper recommends a chief officer for design and place making in each authority.
1D Public facing information around post-consent – the key stages and their importance - is needed to remind stakeholders and officers that the high policy bar on quality remains throughout the development process.	There is very little public-facing information on post-consent: the key stages, their intended role, and how they will be managed as part of development management approach which focuses on the full life-cycle of a development from inception through to completion and ongoing management.		The content of any public-facing information on post-consent would need to be framed in the context of the agreed planning reforms.

CONCLUSIONS AND RECOMMENDATIONS

Area for action 2 – resource and empower officers

A key conclusion from this research is that officers do not always feel that they have the resource, confidence and knowledge (or access to knowledge) to best support a development’s journey at post-consent. This is fundamentally impacted by the way departments and disciplines are structured and the way in which outcomes are measured.

RECOMMENDATION	RATIONALE	EASE & IMPACT	WHITE PAPER IMPLICATIONS
<p>2A</p> <p>Ensure that skills/competencies are sufficient and that officers have confidence to use them.</p>	<p>Development Management officers don’t always have the confidence to assert principles of good design essential for quality, the capacity to negotiate on these, or the corporate level support for persisting / pursuing them. Without this confidence, some design issues necessary for quality got over-looked. Part of this is about having access to specialist design expertise – which is stretched across all four of the West of England authorities.</p> <p>Ongoing training and Continuing Professional Development has an important role here.</p>		<p>Relevant whatever the outcome of the White Paper.</p> <p>To note, however that the Paper places strong emphasis on ‘beauty’. Officers will need more not less confidence in their role as planners in seeking to secure beauty under the proposals.</p>
<p>2B</p> <p>Greater attention to and understanding of the real resource requirements of supporting post-consent processes properly is needed.</p> <p>Realistic options for increasing resources need to be scoped, including consideration of the role of Planning Performance Agreements, which have hitherto not been widely used to support planning’s role in the development process through to delivery.</p>	<p>The need for greater local authority resource in planning services is not a new plea. However, the lack of resource applied to post-consent processes can allow for some changes to occur without sufficient oversight, consideration or negotiation. Project delay can also occur as a result of the lack of local authority resource at this point.</p>		<p>Relevant whatever the outcome, but the resource requirement will depend on how the system is re-configured.</p> <p>To note: the Planning White Paper proposes “a comprehensive resources and skills strategy for the sector”.</p>

CONCLUSIONS AND RECOMMENDATIONS

2C

Local planning performance indicators linked to broader objectives, such as climate change, biodiversity and health, that allow for an assessment of planning's role in ensuring place quality, not just application processing speed, would provide an important justification for consideration of how planning services are resourced to support the development journey in its entirety.

A review of local planning performance indicators to allow greater measurement of planning's role in ensuring place quality, would provide further justification for any resultant increase or re-distribution of resource. They would also support officers in having the desire and energy to keep pursuing quality at post-consent.

Current performance Indicators tend to focus on speed, percentage of applications determined, appeals, and numbers of units delivered. Incentives – such as the New Homes Bonus – focus on units delivered and Performance Indicators are largely a quantitative, rather than qualitative exercise.

Nevertheless, there are quality indicators that can be quantified and measured (quality of bricks, open space, play space, landscaping quality, shading etc.). The added value of the effort that goes towards achieving these outcomes needs acknowledging.

The Planning White Paper suggests that planning authorities should be subject to a new performance framework which ensures continuous improvement across all planning functions – there is opportunity here to think **more** creatively about indicators and post-consent.

2D

Strive for continuity and / or ensure the right structures and information are in place to enable effective knowledge transfer through the development process

Continuity is an issue for all parties involved in development. Local Authorities officers often change post-consent (or have moved on), and discharge of conditions may not be dealt with by the original case officer. For developers, different teams deal with the delivery phases that encompass post-consent, and original architects and design teams may not be involved.

Achieving continuity and oversight can happen in different ways, dependent on scale and context, but may include statements of common ground, an improved project management approach, on-line portals for sharing information, requirements for the on-going engagement of architects etc. The human side is also important here, however, and continuity of personnel (where possible) can help build trust and ameliorate friction.

Continuity of personnel is not, however, always possible, and regard needs to be given to structures that allow / enable people to step in effectively with sufficient access to the institutional knowledge of a scheme, its journey, and the core design intentions.

Relevant whatever the outcome of the White Paper

2E

An inter-disciplinary approach is needed from project conception to project delivery.

Involvement of the right expertise within a local authority from project conception can support an easier journey for a development at the post-consent stage and avoid the need for un-necessary change.

The impact of standards and codes (that are not discretionary) - such as highways and building regulations - would benefit from earlier consideration. There is evidence that developers exploit “*cracks between different disciplines*”.

Working well as a team – across-disciplines –also gives development management officer confidence when negotiating more subjective design aspects with developers.

CONCLUSIONS AND RECOMMENDATIONS

Area for action 3 – implement specific improvements to post-consent processes

A key conclusion from this research is that officers do not always feel that they have the resource, confidence and knowledge (or access to knowledge) to best support a development’s journey at post-consent. This is fundamentally impacted by the way departments and disciplines are structured and the way in which outcomes are measured.

RECOMMENDATION	CONCLUSION	EASE & IMPACT	WHITE PAPER IMPLICATIONS
<p>3A Strong design policies support the actions and decisions at development management, including post-consent. Policy needs to be assessed with post-consent in mind to ensure the right balance between flexibility and certainty.</p>	<p>Policy is the most important backstop on quality, otherwise “you are arguing over nothing”. Where policy is strong and clear about the quality of development expected – including site specific guidance – development management officers, including those involved at post-consent, have the tools to support their case.</p> <p>However, there is some evidence to suggest that policy “drops off the radar post-permission” and that key stakeholders forget that the same quality considerations that apply to the determination of the original consent should ensure throughout the post-consent process.</p>		<p>The White Paper proposes the national specification of some development management policies. The local impact of these will need to be very carefully considered if this element of the reforms is implemented.</p>
<p>3B The role of outline planning applications needs careful consideration to ensure a focus on the principle of development only, but with increased attention as to the best approach to securing the initial design intent if and where appropriate.</p>	<p>Outline permission remains a necessary part of the planning system but has become over-loaded. Too much detail is being required at outline planning application stage. This sets an expectation – and sells a dream - that an outline permission does not in itself secure. A better balance needs to be struck between the level of certainty that a local authority needs to be able to support the principle of the development, and the flexibility that the developers require to allow for acceptable change and the provision of additional scheme details further down the line.</p> <p>A re-purposing of the outline permission to focus on establishing the principle of the development, could / should free up resource to allow local authorities to provide proper attention to reserved matters and ensure the quality expectations at this stage are reinforced. Nevertheless, further cross-authority discussion is needed about the best way of securing design intent early enough in the process where appropriate, e.g. the Design and Access Statements becoming an approved document with the parameter plans or conditions requiring submission of design codes before submission of reserved matters, with reserved matters providing statements of compliance.</p>		<p>The White Paper proposes automatic grant of outline planning permission in growth areas and statutory presumption in favour of development being granted in renewal areas. Under both proposals, it is anticipated that important design details of development would be negotiated and managed post-consent (particularly if developers seek alterations).</p>

CONCLUSIONS AND RECOMMENDATIONS

3C

The resourcing and handling of reserved matters approval needs wholesale review to ensure that reserved matters provide the appropriate space for detailed matters to be considered and determined properly

Further work is needed to better understand the reserved matters approval process, as experience appears variable across the four authorities. For example, when are reserved matters applications being refused and on what grounds? What gives officers the confidence to refused reserved matters? How do such refusals stand up at appeal?

This is particularly relevant under proposals in the Planning White Paper where approval of reserved matters – or equivalent – would be an important follow on to automatic grant of outline planning permission in growth areas and statutory presumption in favour of development being granted in renewal areas.

3D

Planning conditions need to be tight, well-worded, and enforceable, to ensure that they do not inadvertently allow for any drop in quality.

Internal engagement on the formulation/agreement of conditions is part of an effective inter-disciplinary approach to ensuring design quality (including an online live conditions tracker approach)

Preparation of a standard set of design conditions across the West of England would support consistency and be an important step towards shared practice.

Well worded and enforceable planning conditions are an important safeguard of development quality, but further attention needs to be given to the wording of conditions to ensure that they do not have any unintended negative consequences. Local Authorities might consider:

- removal of uncertainty such as ‘not materially different than’;
- consulting with experts on condition wording (when not just planning) to see if they think it is sound;
- sharing of best practice across Local Authorities and beyond;
- giving specific timescales for monitoring at key points;
- annotation of elements necessary for quality on approved plans, and conditioning them;
- splitting implementation and maintenance aspects into separate conditions because conditions requiring maintenance and implementation can’t be discharged; and
- requiring the grouped discharge of conditions where these are particularly linked or related to one another.

There also needs to be clear justification for conditions and they should not compensate for omissions of detail in original applications.

Relevant whatever the outcome of the Planning White Paper – which mentions the need for clearer and more consistent planning conditions.

CONCLUSIONS AND RECOMMENDATIONS

3E

Greater oversight is needed of the cumulative impact of Non-Material and Minor-Material Amendments as part of an improved project management approach.

Explore options for a public facing document across the four West of England authorities that is clear about what is and is not considered a NMA or MMA would allow greater consistency in the sub-region.

There needs to be a review of the fee structure for NMAs and MMAs which would dis-incentivize developers to put in repeated applications and provide additional fee derived income to support resourcing of the process.

As part of this oversight, applicants should be required to identify how an amendment is departing from the original design intent and results in no reduction in the overall quality. In addition, developers should be required to indicate how any further amendments related to previously agreed amendments to support the assessment of cumulative impact.

A public facing document across the four West of England authorities that is clear about what is and is not considered a NMA or MMA would allow greater consistency in the sub-region and avoid criticism by developers of differential treatment. In addition, a consistent approach to asking developers to report on cumulative impact and design intent would give the requirement more traction.

Relevant whatever the outcome of the Planning White Paper.

3F

There is a need for a step change in the monitoring and compliance of development on commencement. However, further work is needed as to what should be monitored, why, what the trigger for monitoring should be, and what scale monitoring effort should be best applied.

There is little systematic – or proactive attention – being given to the monitoring of development once a scheme is on site. There is a real gap in attention between approval and enforcement. Resourcing appears to be a key factor impacted upon this.

There is widespread agreement that more liaison between local authorities and developers once development commences is beneficial, allowing issues to be flagged and resolved early, and removing the need for any later enforcement action (or prompting enforcement action because of increased over-sight – see below).

The use of proactive ‘soft enforcement’ through a compliance officer is seen as ideal in providing *“a bridge between the developer and the authority, making sure things happen properly, including members of the public”*.

Relevant whatever the White Paper Outcome.

To note: the Planning White Paper does refer to proposals for a new expert body one function of which would be to perform a monitoring role in relation to place quality.

CONCLUSIONS AND RECOMMENDATIONS

3G

The role of enforcement in ensuring high quality design outcomes needs further re-appraisal, in the context of a system of more pro-active monitoring and compliance function by local authorities.

Re-appraisal is needed because:

A) there is a need for assurance that expediency is judged against the same policy framework as the original Development Management decision (i.e. the language of positive change and creating exceptional places (quality enhancement) not the prevention of harm). The tools / approach / judgement need to match the aspirational language of policy; and
B) issues on large sites have the potential to be over-looked because of lack of notification (greater pro-active monitoring would help address this).

The Planning White Paper proposes a stronger role for enforcement. It is clear that whilst planning enforcement can have an important role to play in ensuring quality, a preferential route is for greater emphasis by local authorities on pro-active monitoring and compliance (the latter in collaboration with developers), which would negate the need for greater enforcement activity.

3H

Explore further the role of planning obligations in supporting design quality

There is little evidence (or experience of) planning obligations / s106 being used by the West of England Authorities to support design quality. There are various ways that planning obligations have been used elsewhere in relation to design quality that are intended to enable the design intent to be kept going, including: funding of design monitoring role through delivery phase; retention of architect clause / design certifier clauses; triggers for compliance checking; and requirements for self-reporting on project completion.

The Planning White Paper raises several important issues about planning obligations (including a proposed new infrastructure levy) that are beyond the scope of this report but will need fuller consideration depending on the outcome.

3I

Attention is needed as to how application material is collated, managed and updated to provide clarity on the evolution of a scheme for all parties.

A live application tracker indicating which elements have been determined, conditions discharged etc. and which remain live could help.

Best practice from elsewhere would be of benefit here, including on information management systems, and use of 3D modelling tools.

Better housekeeping / administration of applications is needed. With multiple revisions it is often impossible to know what the final scheme is which makes both monitoring and enforcement challenging.

A clear and simple summary of a final (or currently 'live') approved scheme would be of benefit.

Relevant whatever the outcome of the Planning White Paper. To note: proposals in the White Paper for greater use of technology and digitization offer opportunities here.

CONCLUSIONS AND RECOMMENDATIONS

Area for action 4 - widen the conversation

Whilst this report has focused predominantly on local authority practice, bringing forward successful – high quality – development is enhanced by successful collaboration between local authorities, communities and developers. This fourth set of recommendations is in recognition of the need for more understanding of the post-consent journey from the perspective of all players. A start was made with the case studies in chapter 5, but more is needed.

RECOMMENDATION	RATIONALE	EASE & IMPACT	WHITE PAPER IMPLICATIONS
4A Further conversations are needed with the developer community to help improve post-consent processes and increase trust.	<p>As part of an improved development life-cycle approach, greater understanding is needed by local authorities and their members as to why change is needed to assist in brokering trust between players that change sought is logical, justifiable and necessary and not simply an exercise in cost-cutting, and that the local authority response is more than just process.</p> <p>This project has had some – <i>relatively limited</i> - developer engagement but more is needed.</p>		This will be more not less important under proposed reforms in order to support implementation.
4B Work across sectors to showcase what can be achieved, and collate good practice examples as precedents.	<p>There is an urgent need to illustrate and evidence what is possible, to support local authority confidence in the conversation on design quality with developers. Local Authorities need to be able to articulate and show “<i>why bricks make a difference</i>”, making best use of technology that is available.</p>		Relevant whatever the White Paper outcomes.
4C In connection with the West of England Placemaking Charter consider establishing a design quality kitemark to be certified and awarded on site completion.	<p>Awards and accreditation for good practice through Building for a Healthy Life or Living with Nature can encourage good practice, as well as design competitions to garner high quality submissions. There may be merit in exploring a specific design quality certification, together with the RIBA and other more local partners, that is less about the winning of the awards (exemplary design), but a certification of meeting a certain expectation of quality that is awarded on completion.</p>		The new Expert Body on design proposed by the White Paper might have a role here.

CONCLUSIONS AND RECOMMENDATIONS

Area for action 5 – build trust by improving knowledge

The final conclusion from this research is about the role of trust in the development process. It is clear that not all local authority players trust that developers' justifications for post-consent design changes are for legitimate reasons. In turn, not all developers perceive local authorities to provide the most effective and efficient service at post-consent (although more understanding of developers' perspective is needed as indicated above). Clearly views are more nuanced and less polarised than described, and project-based experience varies hugely as the case studies have demonstrated. However, continuing to improve knowledge of post-consent experiences is one critical foundation of building trust and understanding.

RECOMMENDATION	RATIONALE	EASE & IMPACT	WHITE PAPER IMPLICATIONS
5A Undertake further research on 'know your site'.	Local Authorities can criticise developers for seeking change post-consent justified by developers because of further accumulated knowledge about a site following consent or on start of construction. Further understanding is needed about what it is reasonable to expect a developer to know about a site and at what stage.		Relevant whatever the White Paper outcome.
5B Undertake further research on development viability and design quality.	Developers often seek changes at the post-consent stage on financial viability grounds. Further understanding is needed of the relationships between critical elements of design quality and cost: are argued for savings needed real and justifiable?		To note: the White Paper makes a number of comments on viability assessments.
5C Undertake further research on design quality outcomes in different markets and contexts.	Further understanding and more case studies are needed about design quality outcomes in different localities and markets: what is driving quality and why? What role do different builders / players make? Are 'better' outcomes achieved in more dynamic markets? Do some social housing developers achieve higher quality than some of the major national players? Do players more closely anchored to a local context achieve better design outcomes, e.g. linked to a perceived local vernacular?		Relevant whatever the White Paper outcome.
5D Undertake further research on the treatment and handling of reserved matters.	See recommendation 3C above.		

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