

Report to: Strategic Planning Committee



Date of Meeting 30th March 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

National Planning Policy Framework and National Model Design Code Consultation

Report summary:

The report provides details of a current government consultation on changes to the National Planning Policy Framework and a new National Model Design Code which provides a framework for the production of design codes. The report includes draft responses to the various consultation questions and seeks Members views on the draft responses.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. That Members consider the proposed changes to the National Planning Policy Framework and the proposed National Model Design Code and agree the proposed responses to the consultation for submission on behalf of the Council.

Reason for recommendation:

To ensure that Members are aware of proposed changes to government policy and guidance on planning matters and that an appropriate response to the consultation is submitted by the Council.

Officer: Ed Freeman – Service Lead – Planning Strategy and Development Management

Portfolio(s) (check which apply):

- Climate Action and Emergencies
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Culture, Tourism, Leisure and Sport
- Democracy and Transparency
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

There are no direct financial implication from the recommendations of this report.

Legal implications:

It is within the remit of the Committee to agree responses to Government consultations on planning related matters on behalf of the Council. Otherwise the report does not raise any other legal implications which require comment.

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information Link to consultation: [National Planning Policy Framework and National Model Design Code: consultation proposals - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/national-planning-policy-framework-and-national-model-design-code-consultation-proposals)

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
 - Outstanding Homes and Communities
 - Outstanding Economic Growth, Productivity, and Prosperity
 - Outstanding Council and Council Services
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Introduction

The government is proposing to make a number of changes to the National Planning Policy Framework and would like to hear views on the amendments set out in this consultation. Most of the changes relate to policy on the quality of design of new development, and which respond to the recommendations of the Building Better, Building Beautiful Commission.

They have also taken this opportunity to make a number of environment-related changes, including amendments on flood risk and climate change. The amendments also include a small number of very minor changes arising from legal cases, primarily to clarify the policy. A few minor factual changes have also been made to remove out-of-date text (for example, the early thresholds for the Housing Delivery Test), to reflect a recent change made by Written Ministerial Statement about retaining and explaining statues, and an update on the use of Article 4 directions.

This is not a wholesale revision of the National Planning Policy Framework, nor does it reflect proposals for wider planning reform set out in the Planning for the Future consultation document. A fuller review of the Framework is likely to be required in due course to reflect those wider reforms, subject to decisions on how they are to be taken forward.

Building Better Building Beautiful Commission

The government convened the Building Better, Building Beautiful Commission with the aim of championing beauty in the built environment, as an integral part of the drive to build the homes that our communities need.

The government asked the Commission to develop a range of practical measures that will help ensure new housing developments meet the needs and expectations of communities, making them more likely to be welcomed, rather than resisted. The Commission had three primary aims:

- to promote better design and style of homes, villages, towns and high streets, to reflect what communities want, building on the knowledge and tradition of what they know works for their area

- to explore how new settlements can be developed with greater community consent
- to make the planning system work in support of better design and style, not against it

The Commission's report proposed three overall aims. These were: ask for beauty, refuse ugliness and promote stewardship, and made 45 detailed policy propositions. In response to the Commission, the government have accepted their recommendation for a stronger focus on beauty in national planning policy, to ensure the system helps to foster more attractive buildings and places, while also helping to prevent ugliness.

This consultation takes forward the commitment to making beauty and place making a strategic theme in the National Planning Policy Framework. The government state clearly that poor quality schemes should be refused and, where appropriate, they have replaced references to 'good design' with 'good design and beautiful places'. Several other aspects of the Framework have been updated to reflect the Commission's recommendations.

National Model Design Code

The purpose of the National Model Design Code is to provide detailed guidance on the production of design codes, guides and policies to promote successful design. It expands on the ten characteristics of good design set out in the National Design Guide, which reflects the government's priorities and provides a common overarching framework for design. The National Model Design Code is intended to form part of the government's planning practice guidance. It is not a statement of national policy. However, once finalised, the government recommends that the advice on how to prepare design codes and guides is followed.

A design code is a set of illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area. The draft National Model Design Code is intended to be used as a toolkit to guide local planning authorities on the design parameters and issues that need to be considered and tailored to their own context when producing design codes and guides, as well as methods to capture and reflect the views of the local community from the outset, and at each stage in the process.

The government believes that design codes are important because they provide a framework for creating healthy, environmentally responsive, sustainable and distinctive places, with a consistent and high-quality standard of design. This can provide greater certainty for communities about the design of development and bring conversations about design to the start of the planning process, rather than the end.

The government is seeking views on the application of the draft National Model Design Code in practice and the model processes it sets out. Views are specifically sought in terms of:

- a) the content of the guidance
- b) the application and use of the guidance
- c) the approach to community engagement

Summary of proposed amendments to the National Planning Policy Framework

This revised Framework:

- Implements policy changes in response to the Building Better Building Beautiful Commission recommendations

- Makes a number of changes to strengthen environmental policies – including those arising from our review of flood risk with Defra
- Includes minor changes to clarify policy in order to address legal issues
- Includes changes to remove or amend out of date material
- Includes an update to reflect a recent change made in a Written Ministerial Statement about retaining and explaining statues.
- Clarification on the use of Article 4 directions

The sections below outline the main changes proposed to the Framework. A number of chapters remain unaltered, other than consequential changes to page, paragraph and footnote numbers (these are 1, 6, 7 and 10). In the shaded boxes are the consultation questions with a proposed draft response on behalf of the Council in italics.

Chapter 2: Achieving sustainable development

The revised text reflects the government’s response to the Building Better Building Beautiful Commission, and makes a small number of other minor changes:

The wording in paragraph 7 has been amended to incorporate the 17 Global Goals for Sustainable Development which are a widely-recognised statement of sustainable development objectives, to which the UK has subscribed.

Paragraph 8(b) has been amended in response to the Building Better Building Beautiful Commission recommendations to emphasise the importance of well-designed, beautiful and safe places in achieving social objectives of sustainable development.

The wording in paragraph 8(c) has been strengthened to emphasise the role of planning in protecting and enhancing our natural, built and historic environment.

The wording of the presumption in favour of sustainable development (paragraph 11(a)) has been amended to broaden the high-level objective for plans to make express reference to the importance of both infrastructure and climate change.

The final sentence in footnote 8 (referred to in paragraph 11(d)) has been removed as the transitional arrangements for the Housing Delivery Test no longer apply.

Q1. Do you agree with the changes proposed in Chapter 2?

The changes help to emphasise the importance of good design and this is welcomed. The changes to paragraph 11 and the need for plan-making to improve the environment and mitigate climate change is also particularly welcomed.

Chapter 3: Plan-making

The revised text reflects the government’s response to the Building Better Building Beautiful Commission, and recent legal cases:

In response to the Building Better Building Beautiful Commission recommendations, paragraph 20 has been amended to require strategic policies to set out an overall strategy for the pattern, scale and design quality of places.

Paragraph 22 has also been amended in response to the Building Better Building Beautiful Commission recommendations to clarify that councils who wish to plan for new settlements and major urban extensions will need to look over a longer time frame, of at least 30 years, to take into account the likely timescale for delivery.

Paragraph 35(d) has been amended to highlight that local plans and spatial development strategies are 'sound' if they are consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the Framework, and other statements of national planning policy where relevant. This ensures that the most up to date national policies (for example, Written Ministerial Statements) can be taken into account.

Q2. Do you agree with the changes proposed in Chapter 3?

Agree with the proposed changes for the most part. The change to paragraph 22 to reflect the need to look further ahead in the case of larger scale developments such as new settlements is reflective of our experience with Cranbrook new town, however it is not clear what powers LPA's have to require developers to look that far ahead. In any event the proposed wording is not entirely clear where it states "...policies should be set within a vision that looks further ahead...". Policies and visions are usually different with policies being the means to achieve an overarching vision and would not be detailed within a vision statement. It is suggested that for clarity the wording should read ".....policies should reflect a vision that looks further ahead....".

Chapter 4: Decision making

The revised text aims to clarify the policy intention for Article 4 directions:

In order to ensure Article 4 directions can only be used to remove national permitted development rights allowing changes of use to residential where they are targeted and fully justified, we propose amending Paragraph 53, and ask for views on two different options.

We also propose clarifying our policy that Article 4 directions should be restricted to the smallest geographical area possible. Together these amendments would encourage the appropriate and proportionate use of Article 4 directions.

Q3. Do you agree with the changes proposed in Chapter 4? Which option relating to change of use to residential do you prefer and why?

Of the two options it is the first that is considered to be most acceptable since it seems highly unlikely that a local article 4 direction to remove permitted development rights for the change of use to residential would be "...necessary in order to protect an interest of national significance". The first option of simply requiring it to be "...essential to avoid wholly unacceptable adverse impacts" sets a high bar but still would enable local authorities to impose such restrictions where local circumstances require it.

Chapter 5: Delivering a wide choice of high quality homes

The revised text aims to clarify the existing policy and reflects the government's response to the Building Better Building Beautiful Commission and recent legal cases:

Paragraph 65 has been amended to clarify that, where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership. This is to address confusion as to whether the 10% requirement applies to all units or the affordable housing contribution.

Paragraph 70 has been amended to remove any suggestion that neighbourhood plans can only allocate small or medium sites. This was not the policy intention, so the wording has therefore been amended to clarify that neighbourhood planning groups should also give particular consideration to the opportunities for allocating small and medium-sized sites (of a size consistent with new paragraph 69a) suitable for housing in their area.

Paragraph 73 has been amended to reflect Chapter 9: "Promoting sustainable transport" in ensuring that larger scale developments are supported by the necessary infrastructure and facilities including a genuine choice of transport modes. Paragraph 73(c) has also been amended in response to the Building Better Building Beautiful Commission's recommendations to clarify that when planning for larger scale development, strategic policy making authorities should set clear expectations for the quality of the places to be created and how this can be maintained (such as by following Garden City principles) and ensure that masterplans and codes are used to secure a variety of well-designed and beautiful homes to meet the needs of different groups in the community.

Footnote 40 (referred to in new paragraph 74(c)) has been updated to reflect that the Housing Delivery Test has now come into effect.

New paragraph 80 (d) has been amended in response to legal cases in order to clarify that the curtilage does not fall within the scope of this policy.

New paragraph 80 (e) has been amended in response to the Building Better, Building Beautiful Commission's policy proposition 1 e) that it opens a loophole for designs that are not outstanding, but that are in some way innovative, and that the words 'or innovative' should be removed. This change is not proposed to rule out innovative homes, rather that it will ensure that outstanding quality can always be demanded, even if an innovative approach is taken.

Q4. Do you agree with the changes proposed in Chapter 5?

It is not clear from para 73 how local authorities are going to require garden city principles when these include and rely upon principles of land value capture, community ownership and long term stewardship of assets and these are not within an LPA's gift unless the LPA is the land owner or can establish a development corporation. Achieving the other principles of garden cities without these other principles being in place is very difficult.

With regard to para 80 (e) stronger wording is needed to establish what is "outstanding" in terms of these one-off homes. Being innovative is surely a part of that. More clarity is needed on this issue and the proposed revision does not achieve this.

Chapter 8: Promoting healthy and safe communities

The revised text seeks to clarify existing policy:

New paragraph 92 (b) includes minor changes to help to clarify Government's expectations for attractive pedestrian and cycle routes. This supports the Building Better Building Beautiful Commission's recommendations on supporting walkable neighbourhoods.

New paragraph 97 has been amended to emphasise that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and efforts to address climate change.

Q5. Do you agree with the changes proposed in Chapter 8?

The proposed amendments and clarifications are helpful.

Chapter 9: Promoting sustainable transport

The revised text reflects the government's response to the Building Better Building Beautiful Commission:

New paragraph 105 (d) has been amended to support the Building Better, Building Beautiful Commission's recommendations on encouraging walking and cycling.

New paragraph 109 (c) and supporting footnote 45 has been amended to prevent continuing reliance by some authorities on outdated highways guidance. The amended wording states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that the design of schemes and standards applied reflects current national guidance, including the National Design Guide and National Model Design Code.

Q6. Do you agree with the changes proposed in Chapter 9?

The proposed amendments and clarifications are helpful.

Chapter 11: Making effective use of land

The revised text reflects the government's response to the Building Better Building Beautiful Commission:

New paragraph 124 has been amended to include an emphasis on the role that area-based character assessments, codes and masterplans can play in helping to ensure that land is used efficiently while also creating beautiful and sustainable places.

Q7. Do you agree with the changes proposed in Chapter 11?

Although the amendments are helpful it is considered that the most efficient use of land and the most beautiful and sustainable places can be achieved through a more holistic approach to master planning the whole place and using this process to identify where best to accommodate growth and development and link into infrastructure, services and facilities rather than a process that is led by what land is put forward by developers and land owners for development. However without

greater powers to bring forward land that has not been put forward by developers and land owners then this approach would not succeed either.

Chapter 12: Achieving well-designed places

The revised text reflects the government's response to the Building Better Building Beautiful Commission:

New paragraphs 125 and 127 have been amended to include the term “beautiful” in response to the Building Better Building Beautiful Commission’s findings. This supports the Building Better Building Beautiful Commission’s recommendation for an overt focus on beauty in planning policy to ensure the planning system can both encourage beautiful buildings and places and help to prevent ugliness when preparing local plans and taking decisions on planning applications

Paragraph 126 has been amended to clarify the role that neighbourhood planning groups can have in relation to design policies.

Paragraph 127 has been amended to emphasise that all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code and which reflect local character and design preferences.

A new paragraph 128 has been added in response to the Building Better Building Beautiful Commission’s recommendations and the governments manifesto commitment to give communities greater say in the design standards set for their area. This reflects the Government’s proposals for a National Model Design Code, which will include a model community engagement process, and will create a framework for local authorities and communities to develop a more consistent approach which reflects the character of each place and local design preferences. It also clarifies that the National Design Guide and the National Model Design Code should also be used to guide decisions on planning applications in the absence of locally produced guides or codes.

A new paragraph 130 has been added to reflect the findings of the Building Better Building Beautiful Commission and the Government’s ambition to ensure that all new streets are tree-lined, and that existing trees are retained wherever possible.

New paragraph 132 and footnote 50 have been updated to refer to Building for a Healthy Life.

New paragraph 133 responds to the Building Better Building Beautiful Commission’s recommendations to make clear that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. In addition, it clarifies that significant weight should be given to development which reflects local design policies and government guidance on design.

Q8. Do you agree with the changes proposed in Chapter 12?

The strengthening of government policy on design issues and the promotion of good design is very much welcomed.

Para 125 needs to reflect the fact developments should not only be beautiful but also “well-designed” to ensure that they are not just visually attractive but also functional places and buildings that work in terms of the spaces, solar orientation, circulation etc.

Although we are supportive of design coding but there is a danger if done through the plan making process that this work and the resulting plan becomes highly complex and time consuming as well as resource intensive.

The increased emphasis on the role of trees within streets is also a welcome addition noting their importance in design terms, to people's health and wellbeing and also to addressing climate change issues.

The importance of public engagement in the preparation of design codes and masterplans is acknowledged, however this is likely to be highly resource intensive work that will place additional workload pressures on planning departments that are already overstretched. The government need to take action to better support the funding of local planning authorities if we are to be expected to undertake design coding and master planning as detailed in the guidance and to fully engage with our communities in doing this work. Without addressing issues of resourcing and a programme to deliver the additional skills needed to successfully undertake this important work then it will not be a success.

Chapter 13: Protecting the Green Belts

The revised text seeks to clarify existing policy:

New paragraph 149(f) has been amended slightly to set out that development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order, is not inappropriate in the Green Belt provided it preserves its openness and does not conflict with the purposes of including land within it.

Q9. Do you agree with the changes proposed in Chapter 13?

The proposed amendments and clarifications are helpful.

Chapter 14: Meeting the challenge of climate change, flooding and coastal change

The revised text seeks to strengthen environmental policies, including clarifying some aspects of policy concerning planning and flood risk:

The changes proposed are in part, an initial response to the emergent findings of the government's joint review with the Department for Environment, Food and Rural Affairs (Defra) of planning policy for flood risk. The government's [Policy Statement on flood and coastal erosion risk management](#) sets out a number of actions to maintain and enhance the existing safeguards concerning flood risk in the planning system. Informed by this, they will consider what further measures may be required in the longer term to strengthen planning policy and guidance for proposed development in areas at risk of flooding from all sources when the review concludes.

On planning and flood risk, new paragraphs 160 and 161 have been amended to clarify that the policy applies to all sources of flood risk.

New paragraph 160(c) has been amended to clarify that plans should manage any residual flood risk by using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management).

The Flood Risk Vulnerability Classification has been moved from planning guidance into national planning policy (set out in Annex 3 and referred to in paragraph 162). It is considered that this classification is a key tool and should be contained in national policy.

New paragraph 163 has been amended to clarify the criteria that need to be demonstrated to pass the exception test.

New paragraph 166(b) has been expanded to define what is meant by “resilient”.

Q10. Do you agree with the changes proposed in Chapter 14?

The proposed changes to para 160 require some clarification to ensure that where it refers to “all sources of flood risk” these are sources recognised by the lead flood authority rather than localised flooding issues that may have arisen due to a blocked drain or poorly maintained culvert. Clearly such issues need to be addressed but they should not influence the location of development. The current wording could lead to unrealistic expectations that developments can be resisted because of such issues when they do not present a long term flood risk.

Chapter 15: Conserving and enhancing the natural environment

The revised text seeks to clarify existing policy and reflects the government’s response to the Building Better Building Beautiful Commission:

New paragraph 175 has been amended in response to the [Glover Review of protected landscapes](#), to clarify that the scale and extent of development within the settings of National Parks and Areas of Outstanding Natural Beauty should be sensitively located and designed so as to avoid adverse impacts on the designated landscapes.

New paragraph 176 has been separated from the preceding paragraph to clarify that this policy applies at the development management stage only.

New paragraph 179(d) has been amended to clarify that development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around other developments should be pursued as an integral part of their design, especially where this can secure measurable net gains for biodiversity and enhance public access to nature.

Q11. Do you agree with the changes proposed in Chapter 15?

The proposed amendments and clarifications are helpful.

Chapter 16: Conserving and enhancing the historic environment

The revised text seeks to reflect a change made to national planning policy by a Written Ministerial Statement on protecting our nation’s heritage dated 18 January 2021:

New paragraph 197 has been added to clarify that authorities should have regard to the need to retain historic statues, plaques or memorials, with a focus on explaining their historic and social context rather than removal, where appropriate.

Q12. Do you agree with the changes proposed in Chapter 16?

The purpose of this change is understood. However where a statue, plaque or memorial is proposed to be removed because there is concern about whether it is socially acceptable to recognise the person or place in the way that the heritage asset currently does without further explanation of the historic and social context it is not clear what should happen. The revised wording states that regard should be had to “...explaining their historic and social context rather than removal”. Where such explanation is favoured over removal it is not clear how this is to be funded and delivered.

Chapter 17: Facilitating the sustainable use of minerals **Minor changes have been made to clarify existing policy:**

New paragraph 209(c) has been amended to refer to Mineral Consultation Areas in order to clarify that this is an important mechanism to safeguard minerals particularly in two tier areas, and to reflect better in policy what is already defined in Planning Practice Guidance.

New paragraph 210(f) has been amended to reflect that some stone extraction sites will be large and serve distant markets.

Q13. Do you agree with the changes proposed in Chapter 17?

The proposed amendments and clarifications are helpful.

Annex 1: Implementation

Minor changes have been made to update the position on transitional arrangements, and on the Housing Delivery Test.

Annex 2: Glossary

The definition of “green infrastructure” has been updated to better reflect practice, as already set out in Planning Practice Guidance, published evidence reviews and the new national framework of green infrastructure standards.

The definition of the “Housing Delivery Test” has been amended to reflect the rulebook. This clarifies that the test measures homes delivered in a local authority area against the homes required, using national statistics and local authority data.

The definition of “minerals resources of local and national importance” has been amended to include coal derived fly ash in single use deposits.

Definitions of “mineral consultation area”, “recycled aggregates” and “secondary aggregates” have been added to reflect the changes in chapter 17.

Q14. Do you have any comments on the changes to the glossary?

The proposed amendments and clarifications are helpful.

National Model Design Code

Q15. We would be grateful for your views on the National Model Design Code, in terms of

- a) the content of the guidance**
- b) the application and use of the guidance**
- c) the approach to community engagement**

- It is difficult to see why the NMDC and the Guidance Document are separate. It would be far more helpful, and far less confusing, to have a single document as these two documents are meant to be read as one anyway.
- The document needs a fair amount of interpretation to be accessible to lay-people and this accessibility could be improved on through more care in the language and terminology used and also the way things are arranged and explained. If we are genuinely to engage communities through this work then it is important that they understand it.
- There is nothing in the document about value and cost. It is inconceivable that the imposition of codes does not affect the costs of development. LPAs are well used to viability being used to reduce or remove requirements in planning so why Design Codes should be treated differently is totally unexplained. In leaving out mention of values and costs there either needs to be structural change to the way in which the development industry and land market operates, or, there needs to be recognition that Design Codes are very likely to be subject to viability arguments and watered down to the point where they become meaningless and development reverts to type.
- Climate Change is barely mentioned in either document. This is significant omission at a time when concern is only increasing and the built environment is recognised as being one of the main sources of emissions in the UK.
- Nor is there meaningful mention that the form, and most importantly, location of development has a huge impact on the ability of people to lead sustainable lives with greater ease than unsustainable alternatives.

Public Sector Equality Duty

Q16. We would be grateful for your comments on any potential impacts under the Public Sector Equality Duty.

No comment