

East Herts Council Non-Key Decision Report

Date: 26th February 2021

Report by: Councillor Jan Goodeve – Executive Member for Planning and Growth

Report title: East Herts Council’s response to the NPPF and National Model Design Code consultation

Ward(s) affected: All

Summary

The Government (the Ministry of Housing, Communities and Local Government) is consulting on draft revisions to the National Planning Policy Framework (NPPF) and a new draft National Model Design Code (NMDC) with supporting Guidance Notes. The consultation runs from the 30th January and closes on Saturday 27th March 2021. This report sets out a proposed East Herts Council response to the consultation.

RECOMMENDATIONS FOR DECISION:

That the Government be informed that East Herts Council (the Council):

- a) Welcomes the publication of the draft National Model Design Code;**
- b) Generally supports the content of the draft National Model Design Code and associated Guidance Notes;**
- c) Submits the representations within Appendix A to this report as its response to key issues raised in the NPPF and draft National Model Design Code 2021 consultation.**

1.0 Proposal(s)

- 1.1 The purpose of the report is to advise Members of the implications of the revisions to the NPPF and the proposed National Model Design Code for East Herts and to agree this Council's response to the consultation.

2.0 Background

- 2.1 On 30th January 2021 the Government (the Ministry of Housing, Communities and Local Government) published a consultation on draft revisions to the National Planning Policy Framework (NPPF) and a new draft National Model Design Code.
- 2.2 Members should note that the purpose of the consultation is set out on the Government's website as follows:

"This consultation seeks views on draft revisions to the National Planning Policy Framework. The text has been revised to implement policy changes in response to the Building Better Building Beautiful Commission "Living with Beauty" report.

A number of other changes to the text of the Framework are also set out and explained in this consultation document, but we are not proposing a review of the National Planning Policy Framework in its entirety at this stage. A fuller review of the Framework is likely to be required in due course, depending on the implementation of the government's proposals for wider reform of the planning system.

This consultation is also seeking views on the draft National Model Design Code, which provides detailed guidance on the production of design codes, guides and policies to promote successful design. We made a commitment to seek views on the National Model Design Code as we expect it to be used to inform the production of local design guides, codes and policies and want to ensure it is as effective as possible."

- 2.3 The consultation runs for eight weeks from the 30th January – 27th March 2021 and invites responses to a series of questions posed online. This Council's response to the relevant questions is set out in **Appendix A** to this report.
- 2.4 Members should note that a more significant reform to national policy is likely to happen in the near future. It should also be noted that the new National Model Design Code forms part of a first step towards the wider planning reforms suggested by the Planning for the Future White Paper, which was subject to consultation in 2020. The potential implications outlined in the document are therefore based on the officers' interpretation of the information provided.

3.0 Reason(s)

- 3.1 The representations set out in **Appendix A** seek to ensure that East Herts Council makes a meaningful response to the consultation. The proposed changes to the NPPF are highlighted below and some comments are proposed in relation to Permitted Development Rights. However, the main focus of the consultation response is on the National Model Design Code and its associated Guidance Notes. The response provides support for design coding where appropriate and recommends additional information and guidance where felt necessary.

National Planning Policy Framework

- 3.2 As set out on the Government website, the 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;”*

3.3 The new focus on design quality and placemaking, in accordance with the findings of the Building Better Building Beautiful Commission’s report, as well as the strengthening of environmental policies is welcomed.

3.4 It is considered that the proposed changes to Chapter 4 in relation to limiting Article 4 directions and the separate expansion of permitted development (PD) rights must be considered holistically with the introduction of the National Model Design Code. **Appendix A** recommends that the NPPF should be clear on the role of design coding and the relationship with permitted development rights, particularly where this involves new construction.

3.5 Some of the other proposed changes to the NPPF to be aware of are listed below. These are not commented on within **Appendix A**.

- Changes to Paragraph 8 and the stated social objective of the planning system from requiring *“a well-designed and safe built environment”* to creating *“well-designed, beautiful and safe places”*.
- Amendments to paragraph 11’s presumption in favour of sustainable development to require planners to *“align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects”*.
- Paragraph 20 requires Local authority strategic plans for place-making to include *“an overall strategy”* for the *“design quality of places”*.
- Paragraph 22 increases the length of time strategic

- policies need to look ahead from 15 to 30 years.
- Paragraph 65 is amended to state that *“where major development involving the provision of housing is proposed, planning policies and decisions should expect at least ten per cent of the “total number” of homes to be available for affordable home ownership”*. This change is proposed to *“address confusion as to whether the ten per cent requirement applies to all units or the affordable housing contribution”*.
 - Amendments to paragraph 69 to *“remove any suggestion that neighbourhood plans can only allocate small or medium-sized sites”*.
 - New settlements and urban extensions are required to include *“a genuine choice of transport modes”* in order to promote sustainable transport (paragraph 72)
 - Paragraph 130 requires that new streets are tree-lined, and that opportunities are taken to incorporate trees elsewhere in developments.
 - A new paragraph 132, stating that *“development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance.”*
 - Paragraph 159 requires plans to use *“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”*.
 - Addition of a new paragraph 196 relating to the retention of historic statues.

National Model Design Code and Guidance Notes

- 3.6 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.

- 3.7 The definition of a design code and purpose of the NMDC is set out within the consultation text as follows:

“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.”

- 3.8 The publication of the draft National Model Design Code and associated Guidance Notes are supported. It should be noted that the documents are intended to act as a “process map” rather than a design code in itself. They are to act as a source book of good urban design principles to inform coding, and must be applied flexibly and adapted to local circumstances. The comments in **Appendix A** are made on that basis.
- 3.9 It should be noted that in the absence of local design codes and guidance, Local authorities are expected to defer to the National Design Guide, NMDC and Manual for Streets as Material Considerations in the determination of planning applications.
- 3.10 The following text provides an executive summary of the proposed detailed consultation response to the NMDC as set out in **Appendix A**.

The content of the guidance

- 3.11 The content of the guidance is well thought through and well presented. The alignment with the ten characteristics of well-designed places as set out in the National Design Guide and the broad coding process is clearly presented and supported

in principle.

- 3.12 Local design codes need to be properly tested by local authorities and/or an independent body with sufficient expertise and more guidance would be welcomed here. Flexibility, unforeseen circumstances, new technology and opportunities are also identified as important considerations for the NMDC and Guidance Notes to cover.
- 3.13 Inclusivity is a key cross-cutting design theme that is of relevance to all aspects of the NMDC and it is recommended this is given further consideration throughout.
- 3.14 It is considered that the NMDC should address the appropriateness of “breaking” a design code and the limited circumstances where this could be considered acceptable.

The application and use of the guidance

- 3.15 Paragraph 19 of the NMDC states *“the National Planning Policy Framework is clear that design policies should be developed with local communities, so they reflect local aspirations. Local authorities may collaborate with developers and landowners on design codes, particularly in relation to specific sites. Developers may also choose to prepare their own design code as part of a planning application.”*
- 3.16 Paragraph 20 of the NMDC states that *“Through preparing local plans and supporting supplementary planning guidance, local planning authorities should develop an overarching design vision and objectives that can inform design codes, guides and other tools that inform the design of the built and natural environment in their area, whether prepared by them or other parties.”* The NMDC also states that Neighbourhood Planning groups may choose to produce their own as well.
- 3.17 Section 1.A identifies that Design Codes could be produced at

a range of different scales, from a whole local authority area to selected parts of settlements or just a development site. We question if the NMDC does enough to distinguish between the pros and cons of a design code at each of these scales and the necessary difference in approach, aside from content, to help local authorities decide which approach is best.

Resourcing

- 3.18 The NMDC is a first step towards future wider planning reform. The practicalities of implementing the recommendations of the NMDC and the wide-ranging, multi-faceted community engagement and consultation proposals all have significant resourcing implications for local authorities.
- 3.19 It is important that suitable skillsets, including urban design, landscape, ecology, heritage and community engagement are embedded within LPAs, and organogram structures should reflect the need for various disciplines to work together to achieve the best possible outcomes and public benefits. Support and advice from the Government in relation to resourcing requirements is requested.

The approach to community engagement

- 3.20 Paragraph 14 of the NMDC identifies the need for communities to be involved at each stage of the process. This aims to address the aspiration to bring democracy forward in line with the ambition of the wider planning reforms suggested by the Planning for the Future White Paper.
- 3.21 Consultation is proposed throughout the NMDC at the beginning of each of the three stages of producing a design code. This is identified alongside consultation on masterplans and would happen close to, or concurrently with, Local Plan engagement and potential developer-led consultation too. It is felt that specific national guidance on community engagement

and consultation processes would be of benefit to local authorities that goes above and beyond that within the NMDC.

3.22 This level and frequency of engagement is a significant undertaking to get right. The aspiration is supported but appropriate skills and resources in engagement must be embedded in policy teams to work closely with planning and design officers to make sure this is effective. It is recommended the Government gives full consideration to this.

3.23 MHCLG is due to set up a central "Office for Place" to help communities develop design codes. It is recommended that community engagement and consultation specialists are also embedded within the proposed Office for Place to develop guidance holistically across the local plan process. This should include masterplanning and design coding steps to support local authorities in planning effective targeted engagement at each stage that is clear and easy to understand for the public.

4.0 Options

4.1 The Council could choose not to respond to the consultation.

5.0 Risks

5.1 Not responding to the consultation would mean that the Council would miss the opportunity to provide comments on the NPPF and draft National Model Design Code.

6.0 Implications/Consultations

6.1 This report and **Appendix A** are a response to the Government's NPPF and draft National Model Design Code consultation.

Community Safety

No.

Data Protection

No.

Equalities

No.

Environmental Sustainability

No.

Financial

No.

Health and Safety

No.

Human Resources

It will be important to continue to ensure that the Council has a wide range of skills set within the Planning Service including urban design, landscape, heritage and community engagement. An operational restructure is currently underway but there will be a need to keep resources under review given emerging changes to the Planning System over the next 2 – 3 years.

Human Rights

No.

Legal

No.

Specific Wards

All Wards.

7.0 Background papers, appendices and other relevant material

7.1 The Government's consultation web page and the draft NPPF

and National Model Design Code documents are available to view here:

<https://www.gov.uk/government/consultations/national-planning-policy-framework-and-national-model-design-code-consultation-proposals>

7.2 The National Design Guide, which the draft National Model Design Code relates to, is available to view here:

<https://www.gov.uk/government/publications/national-design-guide>

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