

## **Appendix A: National Planning Policy Framework and National Model Design Code consultation questions and suggested response**

### **National Planning Policy Framework**

This consultation response notes that the NPPF text has been revised to implement policy changes in response to the Building Better Building Beautiful Commission (BBBBC) "Living with Beauty" report. A number of other changes to the text of the Framework are also proposed. 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- Includes changes to remove or amend out of date material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

### **East Herts Council's response**

We welcome the new focus on design quality and placemaking, in accordance with the findings of the BBBBC report, as well as the strengthening of environmental policies. We are encouraged to see how far these are proposed to be embedded within the NPPF and the wider planning reforms moving forwards.

As such, the main focus of East Herts Council's response to this consultation is focused on the draft National Model Design Guide with the exception of the following comments on the revised NPPF, which have potential implications for the Design Code.

## 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.”*

### **Image 1: Proposed changes to Chapter 53 of the NPPF**

53. The use of Article 4 directions to remove national permitted development rights should

- where they relate to change of use to residential, be limited to situations where this is essential to avoid wholly unacceptable adverse impacts
- for as an alternative to the above – where they relate to change of use to residential, be limited to situations where this is necessary in order to protect an interest of national significance]
- where they do not relate to change of use to residential, be limited to situations where this is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities)
- in all cases apply to the smallest geographical area possible.

53-54. Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

***Consultation Question 3: Do you agree with the changes proposed in Chapter 4? Which option relating to change of use to residential do you prefer and why?***

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. The NPPF should be clear on the role of design coding and the relationship with permitted development rights, particularly where this involves new construction.

Currently it is considered that there is a fundamental disconnect between the aspirations of the National Model Design Code and the widespread expansion of PD rights, and the proposed changes to the use of Article 4 Directions to control these rights. We have concerns with these new PD rights in that they:

- do not take into account local needs and local services,
- can potentially deliver poor quality housing that will have long-term impacts on local health and wellbeing,
- can deliver poor quality placemaking, and
- can make existing places worse.

The loss of town centre facilities through PD conversions will undermine the vitality of high street shopping. There are no requirements for urban design assessment of PD conversions, but often these conversions can have dire impacts on their surroundings and the quality of life of their residents. A planned approach will nearly always achieve far better outcomes. We are concerned that with public engagement in design codes, there will be an understandable expectation that these codes will be strictly followed, but the codes have no control over PD rights, leading to public discontent and future disengagement with the planning process.

### **National Model Design Code**

The scope of the National Model Design Code consultation is set out as follows:

*“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.*

*We would welcome views on the application of the draft National Model Design Code in practice and the model processes it sets out. We would be pleased to hear from local planning authorities, neighbourhood planning groups, developers, members of the public and anyone with an interest in the design of new development.*

*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"*

## **East Herts Council's response**

East Herts Council welcome and support the publication of the draft National Model Design Code and associated Guidance Notes. It is 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 this response are made on that basis.

### ***A: the content of the guidance***

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 set out clearly and supported in principle.

Local design codes need to be properly tested by local authorities and/or an independent body with sufficient expertise to test the code. This testing process must include the use of professionals experienced in architecture, urban design, landscape architecture, ecology, heritage, planning, quantity surveyors and Development Management officers. A charrette should be held to test a code, and ensure that it is sound, achieves the aspirations of the LPA and the community, and would not unduly impact on the viability of development.

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. Flexibility, unforeseen circumstances, new technology and opportunities are also identified as important considerations that the NMDC and Guidance Notes could advise on where relevant.

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, much in the mould of a NPPF Paragraph 79 house. There is a danger that exemplary

developments, which achieve the ideals of beauty aspired to by the BBBBC, fall foul of the particular requirements of a local design code. To be able to 'break the code', a development should be supported by the LPA in all other respects, should be subject to successful community consultation, and should be supported by an independent design review panel. Such developments should be truly outstanding, both in terms of architecture and sustainability, and should enhance their surroundings.

Paragraph 11 lists an expected set of considerations for design codes. Whilst Landscaping encourages the planting of trees, which is supported, it is considered that the reference to the protection and enhancement of existing landscape features and open spaces, and their influence on the layout of new development is as important in achieving the environmental objectives of the NPPF and could be reflected in the NMDC.

### Scoping

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 deliver an effective code. It is hoped that the testing process currently underway will shed some light on this and provide more advice for local authorities in selecting the best approach. The minimum expectations for design codes set out in this section and Figure 2 are supported.

Section 1.B identifies baseline considerations. It is recommended that Landscape and Visual Appraisals are included in the list of suggested analysis in paragraph 30. The early consideration of landscape and visual issues can add value to the creation of masterplans and design codes to ensure development is appropriate to its setting and well integrated with its surroundings. This should be considered here.

Design Codes at local levels should be developed with a thorough strategic understanding of the opportunities, considerations, and constraints. The historic built environment and local heritage must be understood as part of the key evidence base by which design codes emerge, and this should include non-designated heritage assets, which should be assessed and recorded through the production of local lists. There is a danger that without the production of local lists, design codes could suggest solutions that cannot be realised once the significance of an area is more thoroughly understood, or which inadvertently result in the loss of significance by the loss of historic features or buildings.

### Vision

The content of this section is supported and the example work sheets are helpful visual tools. Section 2.C identifies the need for masterplans alongside design codes and we support the consideration of these elements holistically. Effective and clear consultation and engagement is vital and this needs appropriate consideration above and beyond what is presented in the NMDC.

### Code

The approach to coding is supported in general. It is considered that the Nature section could place more emphasis on the protection and enhancement of existing landscape features and open spaces and their incorporation into proposed green infrastructure networks where possible. Community consultation to understand local value of existing landscape and open space is also considered important to promote.

### Glossary and references

It is noted that the Department for Transport's "Gear Change: A bold vision for walking and cycling" document is not included in the references for Movement. This is particularly important in design for a post-COVID recovery and the NMDC should be leading with active

and sustainable modes of travel when discussing movement as a result.

More design guidance and best practice references for inclusive design would be welcomed. This theme is of relevance to all aspects of the NMDC and the document presents a great opportunity to embed this thinking throughout that shouldn't be missed. This should include guidance for people of all abilities, address equality, and include children too.

It is recommended that landscape and townscape character assessment guidance is included under the context section to promote the early consideration of landscape, townscape and visual issues alongside the historic environment.

Stewardship, consultation and engagement are not defined within the glossary and it is considered that there would be benefit to creating clear definitions for these terms to avoid ambiguity in the interpretation of the guidance.

### ***B: the application and use of the guidance***

It needs to be ensured that everyone involved in the planning process understands the permanency of the built environment the planning system is creating. A bad building can be demolished and redeveloped in time, but fundamentally bad layouts are often effectively impossible to correct. The application and use of design coding and the guidance set out is considered helpful in this regard.

The importance of testing as part of the coding process is highlighted as a key consideration and it is recommended that this subject is addressed by the NMDC with good practice processes and examples identified where possible.

### ***Resourcing***

Developers value a predictable and consistent approach when dealing with urban design advice, and there is great potential in



codes to achieve this by removing many aspects of uncertainty. But suitable in-house skills and capacity within LPAs to deliver on the aspirations of the codes are needed to ensure that the public benefits promised are realised, and the developers have the best “customer experience”. When it comes to larger proposals, experience shows that good design is produced by open and intelligent dialogue and negotiation between the developers and skilled professionals in the LPA, in conjunction with thorough and meaningful community engagement and robust independent design review. As such, 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.

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. The national aspiration of the NMDC is supported at a local level, but in order for local authorities to deliver on these aspirations the Government should ensure that LPAs are sufficiently resourced with suitable skillsets and political backing in order to meet the expectations being set out for them.

### ***C: the approach to community engagement***

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.

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. This should cover engagement and consultation holistically across the Local Plan, Masterplanning, Design Coding and planning process. Diversity and inclusion must be a fundamental aspect of the community engagement and consultation guidance. This should also include the earliest steps of establishing networks of community groups and individuals throughout a local authority area. Highlighting best practice techniques, processes and tools is considered important to ensure local authorities can implement appropriate, clearly planned consultation that the public understand and feel invested in. This 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 that community engagement and consultation specialists are embedded within the proposed Office for Place to develop guidance holistically across the local plan process, including intended 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. This is particularly important as the NMDC identifies that community engagement and endorsement is necessary for a design code to be legitimised in planning terms and adopted.

Consultation and engagement – references to best practice should be provided and terms should be defined clearly within the glossary.

Stewardship – should not just focus on management of assets and space, also should cover stewardship of social and ecological elements, as well as curation of new community where possible.