

Public Document Pack

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A meeting of **Planning Committee** will be held Virtually on **Wednesday 3 March 2021** at **9.30 am**

MEMBERS: Mrs C Purnell (Chairman), Rev J H Bowden (Vice-Chairman), Mr G Barrett, Mr R Briscoe, Mrs J Fowler, Mrs D Johnson, Mr G McAra, Mr S Oakley, Mr R Plowman, Mr H Potter, Mr D Rodgers, Mrs S Sharp and Mr P Wilding

SUPPLEMENT TO AGENDA

- 10 **Ministry of Housing, Communities and Local Government consultation on National Planning Policy Framework and National Model Design Code (12.35 approximate start time)** (Pages 1 - 14)
To note the contents of the consultation, provide comments and endorse the proposed response (Report to follow).

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Chichester District Council

Planning Committee

Wednesday 3 March 2021

MHCLG Consultation on National Planning Policy Framework and National Model Design Code: consultation proposals

1. Contact

Fjola Stevens, Development Manager (Applications)
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2. Recommendation

- 2.1. The Planning Committee is asked to note the contents of the MHCLG consultation on changes to the National Planning Policy Framework (NPPF) and the proposed National Model Design Code, and to comment on and endorse the proposed response to the consultation.**

3. Background

- 3.1 The Ministry for Housing, Communities and Local Government (MHCLG) has published a consultation document titled 'National Planning Policy Framework and National Model Design Code: consultation proposals'. MHCLG are seeking views on revisions to the NPPF which have been made to implement policy changes in response to the "Living with Beauty" report published in January 2020 by the independent body 'Building Better Building Beautiful Commission'. Views are also sought on the draft National Model Design Code, which provides detailed guidance on the production of design codes, guides and policies to promote successful design.
- 3.2 The consultation period runs from 22 January 2020 until 28 March 2021. A copy of the MHCLG consultation document can be viewed online (see weblink below under 'Background Documents').

4. Consultation question responses

- 4.1 The consultation document asks questions about;
- i. The proposed changes to NPPF chapters 2, 3, 4, 5, 8, 9, 11, 12, 13, 14, 15 and 16, and
 - ii. The content, application and use, and the proposed approach to community engagement contained within the National Model Design Code.

i) Changes to the NPPF

4.2 The proposed changes to the NPPF are summarised below by chapter.

Chapter 2: Achieving sustainable development

4.3 The amendments seek to incorporate greater emphasis upon sustainability and the importance of well-designed beautiful and safe places. Amendments have also been made to emphasise the role of planning in protecting the natural, built and historic environment. These are considered to be positive amendments.

Chapter 3: Plan-making

4.3 In respect of plan making, the amendments require strategic policies to set out an overall strategy for the pattern, scale and design of quality places, for plans for new settlements and major urban extensions to look over a time period of at least 30 years, and for the most up to date national policies (including Written Ministerial Statements) to be taken into account when testing the soundness of local plans and spatial development strategies. There are concerns about the proposed changes.

4.4 The proposed insertion of “design” into paragraph 20 would appear to give an undue prominence of design issue over other important consideration such as the natural environment. Instead, it is considered better to include an explicit reference to design in criterion 4 of this paragraph as follows – d) the design, conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.

4.5 In respect of the amendments to paragraph 22. The proposed change is as follows (shown underlined) – Strategic policies should look ahead over a minimum 15 year period from adoption¹⁵, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure. Where larger scale development such as new settlements form part of the strategy for the area, policies should be set within a vision that looks further ahead (at least 30 years), to take into account the likely timescale for delivery. The sentiment is supported but the proposed additional sentence is unnecessarily prescriptive. Specifying a minimum 30 year vision may not be appropriate. It should be for the circumstances of each proposal to determine the longer vision – therefore the words *at least 30 years* should be deleted, or at least replaced with *likely to be at least 30 years*.

- 4.6 The proposed change to paragraph 35d is as follows (shown underlined) – d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant. Other statements of national planning policy are already taken into account in the production of Local Plans and are a relevant consideration in their Examination. Changes to the NPPF are subject to consultation which enable all parties the opportunity to take proposed changes into account. Ministerial Statements, by contrast are issued at any time, often without warning. The proposed wording would place the onus on Examining Inspectors to place considerable weight on Ministerial statements as a matter of course when considering soundness, *at any stage in the Plan Examination*. This has the potential for Plans to be subject to new soundness issues throughout the Examination which may inadvertently delay the conclusion of Local Plan Examinations. Examining Inspectors already have discretion to determine the relevance and issues of soundness raised by Ministerial Statements made during the Examination process, and judge the position accordingly, without the expectation in the NPPF that *all* inconsistencies with Ministerial Statements are a soundness issue. This is considered appropriate and therefore the proposed change should not be included.

Chapter 4: Decision making

- 4.7 The amendments seek to restrict the use of Article 4 directions, particularly where they would relate to changes of use to residential. Comments are sought on whether Article 4 directions for changes of use to residential should only be used where it is 'essential to avoid wholly unacceptable adverse impacts' or where it is 'necessary in order to protect an interest of national significance'. For Article 4 directions related to all other development there is no proposed change, and therefore it would remain that they would be justified where it is 'necessary to protect local amenity or the well-being of an area'. It is considered important that local planning authorities have the ability to manage changes at the local level in order to respond to the needs of local communities in the interests of amenity. Article 4 directions are used sparingly where absolutely necessary and there is an approval process in place so local planning authorities do not have absolute power to impose direction wherever they may choose. It is therefore considered that the proposed additions are not necessary; however the first option would be most reasonable. For any type of Article 4 direction amendments are proposed to ensure that it would apply to the smallest geographical area possible. This is not considered to be problematic, as this would usually be the case when drawing up an Article 4 direction.

Chapter 5: Delivering a wide choice of high quality homes

- 4.8 Amendments have been proposed to rectify errors in the previous wording of the section and to provide clarity, and in planning for larger scale developments such as new settlements or significant extensions clear expectations for the quality of design should be set via the use of appropriate tools such as masterplans and design codes. An amendment is also proposed to the exception which allows the development of isolated homes in the countryside, with the requirement to be innovative removed. The proposed changes to require the use of master plans and design codes to drive up the quality of new developments is welcomed, whilst the removal of the 'innovative' test for isolated dwellings is not considered problematic.

Chapter 8: Promoting healthy and safe communities

- 4.9 The proposed amendments introduce a requirement to ensure new developments provide attractive, clear and legible cycle routes as well as pedestrian routes. In addition the amendments recognise the wider benefits of open spaces for nature and efforts to address climate change. These are considered to be positive amendments.

Chapter 9: Promoting sustainable transport

- 4.10 The proposed amendments follow chapter 8, adding a requirement for walking and cycling networks to be well-designed and for cycle storage to be secure. The proposed changes also introduce a requirement for the design of streets, parking areas and other transport elements to reflect national guidance, including the National Design Guide. These proposed changes are minor and not problematic.

Chapter 11: Making effective use of land

- 4.11 This section has been amended to reinforce the importance of area-based character assessments, codes and masterplans as helpful tools to ensure land is used efficiently whilst creating beautiful and sustainable places. This is considered important, given that local character and distinctiveness should be a driver for securing well-designed developments whilst recognising the need to deliver new housing efficiently.

Chapter 12: Achieving well-designed places

- 4.12 This part of the NPPF is subject to the most significant proposed changes. Where previously the NPPF recognised that Supplementary Planning Documents (SPD's) should use design guides and codes, as proposed, all local planning authorities should prepare design guides which, whilst being consistent with the National Design Guide and the National Model Design Code, should reflect local character and design preferences. They will need to form part of a plan for a SPD to carry weight, and they should follow effective community engagement. Where locally produced guides or codes are not available the national documents should be used to determine applications.
- 4.13 A further significant amendment to this chapter is a new recognition given to the importance of trees in terms of their contribution to the character and quality of urban environments as well as their ability to help mitigate and adapt to climate change. The amendments seek to ensure that new streets are tree-lined and that trees are also placed elsewhere (such as community orchards).
- 4.14 The final amendment proposed to this section allows local planning authorities to refuse schemes of poor quality design, especially where they do not reflect local or national guidance on design.

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

- 4.15 The proposed changes to this part of the NPPF are designed to strengthen environmental policies within the framework, making it clear that all sources of flood risk must be taken into account. In addition, improvements to green infrastructure are encouraged to reduce the causes and impacts of flooding as part of an integrated approach to flood risk management, and it is proposed that the Flood Risk Vulnerability Classification be appended to the NPPF itself rather than the National Planning Practice Guidance (NPPG) due to its importance. The proposed amendments are considered to be positive.

Chapter 15: Conserving and enhancing the natural environment

- 4.16 In response to the Glover Review the proposed amendments make it clear that within Areas of Outstanding Natural Beauty (AONB's), as well as National Parks, permission for major development should be refused other than in exceptional circumstances. In addition greater emphasis is placed on improving biodiversity as an integral part of the design of new developments, and enhancing public access to nature is supported. It is considered that these amendments are positive.

Chapter 16: Conserving and enhancing the historic environment

4.17 The proposed changes introduce a requirement for local planning authorities to have regard to the importance of retaining historic statues, plaques or memorials whether they be listed or not. This requirement is problematic because if such an item is not listed then its removal would not necessarily require any form of permission or consent as may ordinarily be granted by the local planning authority. For those statues, plaques or memorials that are listed or otherwise clearly constitute non designated heritage assets the NPPF provides ample existing guidance for consideration in regards to their removal or alteration. It is considered that the proposed amendment to this chapter of the NPPF is overly repetitive of existing provision within the NPPF and is therefore unnecessary.

Conclusion

4.18 The proposed amendments to the NPPF clarify previous uncertainties, seek to improve the design and quality of new developments with a greater reliance on design guides and codes, enhance and better integrate facilities that would encourage the use of sustainable modes of transport within new developments, protect and enhance valued landscapes and improve biodiversity. These are all considered to be positive amendments to the NPPF. However, the proposed change to chapter 16 is not considered necessary. The proposed responses set out in Appendix A reflect these findings.

ii) Model Design Code

The content of the guidance

4.19 The stated aim of the guidance is to provide a framework for local authorities to develop their own local design guides for housing developments of all sizes. The guidance is very broad in scope and deals with issues such as;

- Detailed master planning
- Area character assessments
- Street layout / design
- Garden plots, greenery
- Individual housing design
- Building heights

- 4.20 The guidance is clear that not all the elements referred to need to be given equal emphasis in locally produced guidance and not all may be relevant. There is significant scope for picking and choosing the most appropriate elements of the guidance in producing a document that more closely reflects local priorities.
- 4.21 The emphasis is placed on coherent, illustrated and concise examples rather than exhaustive policy wording. This approach will be useful in direct contact with developers and their architects, as it will provide an easily understood and illustrated baseline to work from rather than trying to negotiate differing interpretations of policy wording. A debate around layout and building heights for example would be resolved more efficiently if there are explicit, adopted guidelines (with illustrated examples) than if officers have to interrogate policy, case law and precedent for the same outcome.
- 4.22 In terms of the scope and level of detail the proposed document produces a baseline of factors for consideration, rather than a list of what must be included. In this respect, the guidance is useful and would serve as an excellent blueprint for the development of local design guidance for Chichester District Council.
- 4.23 The overall quality of the guidance is clear and is in accordance with accepted standards of urban design emphasised in the very highly regarded *Manual for Streets, Department for Transport (2007 and 2010)*, *Understanding Place, Historic Area Assessments, Historic England, 2017* and *Increasing Residential Density in Historic Environments, Historic England, 2018*.

The application and use of the guidance

- 4.24 The guidance serves as a highly detailed but not overly prescriptive blueprint on the development of local design guidance. Due to this being a central government produced guide any local guidance produced in accordance with this guide would have to be accorded significant weight in planning applications and would serve as an incredibly useful tool in pre-application, outline and master planning decision making. Developers would need to be familiar with the national level of guidance and this should establish a baseline of expectation in design quality that could reduce adversarial negotiation within large applications.
- 4.25 As such, the guidance has the potential to be instrumental in securing a high level of design quality, particularly at the level of major house building.

The approach to community engagement

- 4.26 The document is clear that active community engagement should take place when a Council is developing a local design guide or code.
- 4.27 Officer responses to the consultation questions are set out in Appendix 1.

5.0 Proposed Council response

- 5.1 Members are asked to;
- i. note the contents of the consultation proposals, and
 - ii. comment on and endorse the proposed Council response set out in Appendix 1. Any further comments will be incorporated prior to the response being forwarded to MHCLG.

6.0 Background documents

- 6.1 MHCLG National Planning Policy Framework and National Model Design Code: consultation proposals

[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)

Appendix 1: Consultations responses to questions

i. Changes to the NPPF

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

Yes, it is considered that the proposed amendments are positive.

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

No. Taking each proposed amendment in turn, the following concerns are raised –

Paragraph 20: The proposed change is as follows - Strategic policies should set out an overall strategy for the pattern, scale and design quality of places development, and make sufficient provision for:...

The proposed insertion of “design” into this paragraph would appear to give an undue prominence of design issue over other important consideration such as the natural environment. Instead, it is considered better to include an explicit reference to design in criterion 4 of this paragraph as follows – d) the design, conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.

Paragraph 22: The proposed change is as follows – Strategic policies should look ahead over a minimum 15 year period from adoption¹⁵, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure.

Where larger scale development such as new settlements form part of the strategy for the area, policies should be set within a vision that looks further ahead (at least 30 years), to take into account the likely timescale for delivery.

The sentiment is supported but the proposed additional sentence is unnecessarily prescriptive. Specifying a minimum 30 year vision may not be appropriate. It should be for the circumstances of each proposal to determine the longer vision – therefore the words *at least 30 years* should be deleted, or at least replaced with *likely to be at least 30 years*.

Paragraph 35d: The proposed change is as follows – d) Consistent with national policy – enabling the delivery of sustainable development

in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

Other statements of national planning policy are already taken into account in the production of Local Plans and are a relevant consideration in their Examination. Changes to the NPPF are subject to consultation which enable all parties the opportunity to take proposed changes into account. Ministerial Statements, by contrast are issued at any time, often without warning. The proposed wording would place the onus on Examining Inspectors to place considerable weight on Ministerial statements as a matter of course when considering soundness, *at any stage in the Plan Examination*. This has the potential for Plans to be subject to new soundness issues throughout the Examination which may inadvertently delay the conclusion of Local Plan Examinations. Examining Inspectors already have discretion to determine the relevance and issues of soundness raised by Ministerial Statements made during the Examination process, and judge the position accordingly, without the expectation in the NPPF that *all* inconsistencies with Ministerial Statements are a soundness issue. This is considered appropriate and therefore the proposed change should not be included.

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?

No, it is considered important that local planning authorities have the ability to manage changes at the local level in order to respond to specific local issues and the needs of local communities in the interests of amenity. Article 4 directions are used sparingly where absolutely necessary and there is an approval process in place so local planning authorities do not have absolute power to impose direction wherever they may choose. It is therefore considered that the proposed additions are not necessary; however the first option would be most reasonable.

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

Yes, the proposed changes to require the use of master plans and design codes to drive up the quality of new developments is welcomed, whilst the removal of the 'innovative' test for isolated dwellings is not considered problematic.

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

Yes, improving legibility through developments with the inclusion of attractive cycle routes and the integration of open spaces within

developments to serve not only as recreation space, but also as spaces for nature in the interests of well-being and managing climate change is welcomed.

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

Yes, strengthening the importance of providing inclusive designs that incorporate well-designed routes of pedestrians and cyclists is considered very important.

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

Yes, it is considered essential that the importance of local distinctiveness is not lost. Design guides and codes that are developed locally based on area-based character assessments are considered fundamental to creating high quality developments and extensions to settlements.

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

Yes, it is considered that overall the proposed amendments will help to improve the quality of new developments, ensuring that they respond well to their context and with a likely increased level of tree planting across developments which would bring a wide range of benefits.

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

No comment to make.

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

Yes, it is considered that the proposed amendments are positive.

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

Yes, it is considered that the proposed amendments are positive.

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

No, there are several problems with this new piece of guidance. Namely; listed statues / memorials or those within a Conservation Area are already subject to all of the considerations mentioned here. Where they are not listed and not in a Conservation Area or subject to another type of control it is not clear that alteration or removal could fall within the planning process and would therefore sit outside of the remit of this guidance. Additionally there is an assumption within the text that historic statues, plaques or memorials all constitute heritage assets. This is certainly not the case presently, and guidance regarding heritage assets has recently become much more selective. It is unclear whether all such statues etc. would in fact constitute non designated

heritage assets in accordance with national guidance contained within the relevant (and recently updated PPG) <https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment#non-designated>

For those statues / memorials that are listed or otherwise clearly constitute non designated heritage assets the NPPF provides ample existing guidance for consideration in regards to their removal or alteration. This new guidance is overly repetitive of existing provision within the NPPF and is therefore unnecessary. Furthermore, it may be unenforceable due to some memorials falling outside of the planning process by virtue of not meeting the criteria to be recognised as a non designated heritage asset or subject to other planning controls.

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

No comments to make in respect of the proposed changes.

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

The proposed changes to the definition of green infrastructure are welcomed.

ii. 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

The stated aim of the guidance is to provide a framework for local authorities to develop their own local design guides for housing developments of all sizes. The guidance is very broad in scope and deals with issues such as;

- Detailed master planning
- Area character assessments
- Street layout / design
- Garden plots, greenery
- Individual housing design
- Building heights

Crucially however, the guidance is clear that not all the elements referred to need to be given equal emphasis in locally produced guidance and may not all be relevant. There is significant scope for

picking and choosing the most appropriate elements of the guidance in producing a document that more closely reflects local priorities.

The emphasis is placed on coherent, illustrated and concise examples rather than exhaustive policy wording. This approach will be useful in direct contact with developers and their architects, as it will provide an easily understood and illustrated baseline to work from rather than trying to negotiate differing interpretations of policy wording. A debate around layout and building heights for example is far more easily settled if there are explicit, adopted guidelines (with illustrated examples) than if we have to interrogate policy, case law and precedent for the same outcome.

In terms of the scope and level of detail the document produces a baseline of factors for consideration, rather than a list of what must be included. In this respect, the guidance is useful and would serve as an excellent blueprint for the development of local design guidance.

The overall quality of the guidance is clear and is in accordance with accepted standards of urban design emphasised in the very highly regarded *Manual for Streets, Department for Transport (2007 and 2010)*, *Understanding Place, Historic Area Assessments, Historic England, 2017* and *Increasing Residential Density in Historic Environments, Historic England, 2018*.

b) the application and use of the guidance

The guidance serves as a highly detailed but not overly prescriptive blueprint on the development of local design guidance. Due to this being a central government produced guide any local guidance produced in accordance with this guide would have to be accorded significant weight in planning applications and would serve as an incredibly useful tool in pre application, outline and master planning decision making. Developers would need to be familiar with the national level of guidance and this should establish a baseline of expectation in design quality that could reduce adversarial negotiation within large applications.

As such, the guidance has the potential to be instrumental in securing a high level of design quality, particularly at the level of major house building.

c) the approach to community engagement

It is considered that this is clear within the document, and meaningful engagement with the local community is considered to be important.

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

No comments to make.