

## National Planning Policy Framework and National Model Design Code

### **Horsham District Council Response 26 March 2021**

1. Thank you for the opportunity to comment on the proposed changes to the National Planning Policy Framework (NPPF) and National Model Design Code. Horsham District Council agrees that quality of design is an important element of good development which results in successful places that communities can be proud of. We feel that this goes beyond the concept of beauty, and is influenced by design elements beyond aesthetics.
2. Horsham District Council understands, following the publication of the Chief Planner's Newsletter (No.1 of 21) in February, that all local authorities will be expected to have design codes in place within three years. What is clear from the volume and complexity of the documents made available as part of this consultation is that correct and adequate support, resourcing and funding must be made available to local authorities to enable design codes to function in the way communities intend them to, and that proper consideration can be given to all characteristics and outcomes. This is particularly true while local authorities continue to deal with the existing planning system, and without full understanding of how it is intended design codes will operate once the proposed changes to the planning system set out in the recent White Paper, become operational
3. The remainder of this document sets out the detailed technical response to the questions set out as part of the consultation.

## Changes to the National Planning Policy Framework

### ***Question 1 – Do you agree with the changes proposed in Chapter 2?***

4. Horsham District Council supports the strengthening of the link between the UN Global Goals for Sustainable Development and local and national planning for sustainable development. A step such as this, which makes the specific definitions of sustainable development clearer is supported. We feel this association could be enhanced by outlining how plan-making and decisions are expected to help meet these goals.
5. The clarity provided by the change to paragraph 8(b), which makes clear that open space, as well as the built environment, should be well-designed, beautiful and space is welcomed.
6. The change to paragraph 8(c), where the emphasis on the level of contribution the planning system must make on wider environmental protections and enhancements is supported.
7. Paragraph 11(a), which now requires plans to promote sustainable development, with consideration given to climate change and environment, and no longer requires them to meet development needs flexibly, allows authorities to give greater consideration to sustainability. It does, however, have the potential to increase the number of local authorities with an unmet

housing need thereby increasing development pressures on neighbouring authorities with fewer constraints, with a reduction in environmental and social quality in those areas.

***Question 2 - Do you agree with the changes proposed in Chapter 3?***

8. The changes proposed in this chapter are generally welcomed. The need for councils including new settlements or major urban extensions in their site allocations to incorporate a 30 year plan is welcomed in principle, but raises some questions over how this is expected to be delivered in practice. Whilst it is useful to set this context, the NPPF does not make any other changes to the level of evidence base that is required to demonstrate the delivery of sites. There is the potential therefore, for this wording to be more limited in its effectiveness than intended.
9. Clarification is needed to explain how Local Plans should demonstrate a 30 year vision – for example are there any thresholds which may apply? There also needs to be clarity over what evidence will be required to support a long term vision and still demonstrate that a Local Plan is sound. Any requirement for evidence needs to be proportionate and take into account that long-term evidence (i.e. over a 30 year period) is very difficult to produce with any level of accuracy.
10. We welcome the proposed amendment to paragraph 35(d) which clarifies that the most up to date guidance should be taken into account in plan making. We feel that it may be beneficial to have transitional arrangements acknowledged, given the regularity that new or updated guidance is provided. Without this, it may actively stall the preparation of plans if new evidence has to be commissioned or updated as plans approach the later stages of preparation, submission and their examination.

***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?***

11. Horsham District Council has significant concerns over the moves to limit the ability to manage changes of use to residential with the additional restrictions on Article 4 and does not support these proposed changes. The increase in permitted development limits our ability to determine how important community facilities, employment space and retail and other high street uses are provided. These community facilities provide vital anchors to community life, and directly contribute to the sustainability of an area. Such a change directly conflicts with many of the aspirations set out in the NPPF including the emphasis on the UN Sustainable Development Goals, particularly Goal 8: Decent Work and Economic Growth and Goal 11: Sustainable Cities and Communities). In addition, the increased use of PD and limiting Article 4s conflicts with the ability of communities to put their visions into practice through codes, as set out in the National Model Design Code consultation.
12. The existing requirements for serving an Article 4 direction are already limited, and rarely used. There is already a 12 month ‘grace period’ before an Article 4 can be applied and Councils can be at risk from compensation payments. Therefore the benefit of implementing these proposals is questioned, with further restrictions limiting the ability of Councils to place-shape.

13. Notwithstanding our overall objection to the proposed changes; of the two options proposed in Paragraph 53, Option 1 is preferred because limiting the designation to nationally significant impacts only as set out in Option 2, could still lead to very significant impacts on the character or appearance of an area. If Option 1 is pursued, clarity is needed on how the “wholly unacceptable adverse impacts” would be measured or defined.

**Question 4 - Do you agree with the changes proposed in Chapter 5?**

14. We welcome the change proposed to Paragraph 72, which would require proposals to offer a genuine choice of transport modes. We hope this will encourage the early consideration of the role of public and active transport as part of a scheme. In practice, delivery is challenging in a rural district like Horsham where public transport is relatively limited in both frequency and available routes. Transport infrastructure such as bus services are often reliant on private, commercial organisations choosing to serve an area and there can be no long term guarantees that services available at the time of planning large scale development will be sustained for its lifetime unless long term public investment is provided. The assessment of whether the need to offer a genuine choice has been met should be proportionate to how relatively rural or urban an area is, with meaningful engagement with transport infrastructure providers and stakeholders demonstrating why the level proposed is the best possible outcome achievable in that location.
15. We are broadly supportive of the change to Paragraph 79 which removes *innovative* design as sole justification for an isolated rural dwelling, and the recognition that while this does not mean innovation will *not* be supported, a proposal must always offer outstanding design. While any design proposals coming forward are assessed on their own merits, we hope this does not result in the loss of *any* innovation in these sorts of proposals. We suggest it may be more effective to retain the word “innovative” but be properly defined in the context; for example setting out whether there should be a focus on new technologies and construction techniques, materials and architectural design, sustainability or just design which might innovate and influence the wider built environment in the future. This change could close the loophole just as effectively without threatening innovation. We would point out that the “outstanding or innovative” threshold is included further on in new paragraph 133(b) and we suggest that the potential for a similar loophole to arise is acknowledged and addressed.
16. We support the other amendments proposed to this chapter.

**Question 5 - Do you agree with the changes proposed in Chapter 8?**

17. We support the acknowledgment of the co-benefits of high-quality open spaces and increased physical activity for health, climate change mitigation and adaptation and the environment more generally. This is an effective way of encouraging their early integration in the design and layout of new schemes. We therefore welcome the changes proposed in this chapter.

**Question 6 - Do you agree with the changes proposed in Chapter 9?**

18. We support the changes proposed to improve the quality of new walking and cycling infrastructure. Amendments to paragraph 108, which encourage the use of the most up to date guidance and best practice documentation are also welcomed however, they should also make reference to locally set standards where these exist to make clear that national guidance is one element to be considered.

***Question 7 - Do you agree with the changes proposed in Chapter 11?***

19. The support in national policy for the use of area-based tools and assessments to ensure schemes make the most efficient and sustainable use of land is welcomed.

***Question 8 - Do you agree with the changes proposed in Chapter 12?***

20. In general, the amendments to this chapter, which support and clarify the role of design in planning, and the use of Design Codes, is welcomed. We do have some specific concerns relating to how the amendments will work in practice.
21. We consider the focus on beauty in planning policy (paragraph 124) to be problematic, particularly because it is left undefined, unspecific and open to interpretation. We suggest that the NPPF must clarify what it considers “beautiful” to mean in terms of planning and development and that addressing this will help avoid further loopholes which will then require closing through later amendments to national policy. Does beauty refer to individual buildings and facades, etc and/or a broader sense of beauty i.e. across a wider space, a place people want to spend time and that creates a sense of wellbeing?
22. Alternatively, the NPPF should make it clear that it is up to local authorities to decide what “beauty” means in terms of planning in their own (locally distinctive) areas, and how this should translate into quantitative, objectively assessed outcomes. There is a risk that, without beauty being defined early on, it will be a requirement which is considered too complex to contend and will be largely overlooked in favour of more measurable outcomes.
23. We are also concerned that current and future extensions in permitted development rights will directly contradict any reasonable interpretation of beauty, with prior approvals restricted to limiting harm in design and aesthetic terms, rather than promoting any wider sense of beauty.
24. We support the amendment which encourages neighbourhood planning groups to be involved in setting design guidance (new paragraph 126) and see this as a potentially effective way of involving communities in these decisions. It should however be recognised that local communities will themselves require training and resources to help deliver the production of design guidance in their plans. In terms of engaging in the production of LPA design codes, it is considered that whilst Neighbourhood Planning groups have a role to play this may also be delivered through Parish Councils, Town Councils or similar and who have a wider remit.
25. The amendment to new paragraph 127 is a logical addition which clarifies the need for all local authorities to prepare Codes, their expected scope and the accepted limitations of these documents being dependant on local circumstances. The following new paragraph (128), which makes clear the role of community engagement is supported by Horsham District Council. We

agree that where local guidance doesn't exist the national guidance should be used. It would be useful to clarify the level of weight which can be applied to local guides that are well progressed. It would be disingenuous if well progressed guidance which is not yet fully adopted, but has been through extensive public consultation, is disregarded and instead national guidance considered by decision-makers.

26. We support the inclusion of both the retention of existing trees and the planting of new trees. Policy and guidance around this must consider how trees should be maintained and protected in future, and how highways concerns and other "justifiable and compelling reasons" not to include trees can be addressed to ensure this does not result in a low number of trees in schemes being delivered.
27. We welcome the move to give significant weight to proposals which accord with any local design standards and, conversely, the ability to refuse those which we do not consider to be well designed. To ensure high quality development, Design Codes will not be simple tick-box exercises. We also feel the policy could go further and fully reflect the Building Better, Building Beautiful Commission's recommendation that development should deliver net gain and not simply cause no net harm (Policy Proposition 2). We are concerned that unless properly managed, there is a risk that meeting Design Code standards may be used to offset poor elements of a scheme, for example failing to deliver a fully policy compliant level of affordable housing.

***Question 9 - Do you agree with the changes proposed in Chapter 13?***

28. We have no comments to make on this chapter.

***Question 10 - Do you agree with the changes proposed in Chapter 14?***

29. We support the amendments proposed in this chapter, particularly the focus on integration of flood risk management measures with green infrastructure. Flood risk measures such as SuDs should also be incorporated into biodiversity net gain metrics that are being developed.

***Question 11 - Do you agree with the changes proposed in Chapter 15?***

30. We support the changes proposed to this chapter.
31. We consider it important that the NPPF acknowledges that local authorities must take account of wider standards and requirements beyond national, or their own local, policy. For example, the NPPF or supporting PPG should acknowledge how applications for development close to National Parks may be treated, or how biodiversity may be assessed.

***Question 12 - Do you agree with the changes proposed in Chapter 16?***

32. We broadly support the proposed changes. However we believe clarification as to what constitutes a "historic statue, plaque or memorial" is necessary in the context of paragraph 196. We would expect that any assets would already be listed (either locally or through Historic England). What are the circumstances where a local authority would be expected to protect an

asset not already designated? Further information is required on the precise responsibility of local authorities under this paragraph.

33. If the intention is that local authorities should consider locally listing more assets, then this should be made clear.

***Question 13 - Do you agree with the changes proposed in Chapter 17?***

34. We have no comments to make regarding the changes proposed to this chapter.

***Question 14 - Do you have any comments on the changes to the glossary?***

35. We support the changes proposed to the glossary.

## **National Model Design Code**

***Question 15 - We would be grateful for your views on the National Model Design Code, in terms of:***

***a) the content of the guidance***

36. Horsham District Council (HDC) has carefully reviewed the content of the draft National Model Design Code and associated guidance, and commend the time and effort spent by Government to give Design Codes a more explicit place within the planning system, as a device separate to, and more powerful than, ordinary supplementary planning guidance. The ambitions are laudable; to secure higher, more sustainable, design quality; to deliver more consistent outcomes across the multiple development phases of long-term projects; and to provide a more effective planning process by offering greater certainty for applicants and for communities.
37. Design Codes are not new and HDC views the National Model Design Code as a useful consolidated manual of existing good practice, focused on urban design principles, to deliver better quality places. Its content flows logically in well-articulated chapters covering the practical application of the principles of By Design (OPDM/CABE, 2000) in creating places. The content can be interpreted for a given location, and the local interpretation then captured in written and plan form.
38. The Code and Guidance are well illustrated and focus on a set of principles to ensure the fundamentals of good design are addressed but are not overly prescriptive, providing enough flexibility for distinctive, locally responsive design. We feel the focus on principles helps ensure a mix of consistency and differentiation in the delivery of key site-wide design principles between development phases. This is welcomed as an alternative to time spent devising pattern books, which can hinder the speed and efficiency at which development is delivered.
39. In this sense, the draft Code and Guidance documents goes some way to achieving Proposal 11 of the Planning for the Future White Paper, to make design expectations more “visual and predictable”. They also take forward key policy propositions of the Building Better, Building Beautiful Commission’s report – ‘Living with Beauty’.
40. The guidance itself is very detailed and deals with a number of complex urban design elements. This provides a good indication of the potential scope of local Design Codes, however the role of the Office for Place in terms of local authority support is key in ensuring the guidance translates into Codes as it is intended, and that community visions are translated in Codes and Guidelines successfully. We look forward to receiving more information about the precise role of this new Office.
41. HDC considers that whilst the content of the draft Code and associated Guidance is well-considered, several key elements are missing, or require further emphasis or clarification, particular in order to fully reflect the key policy propositions of the Living with Beauty report. These are explained below.

42. We feel that a greater emphasis should be placed on the recognition and application of the area context within each element of the Model Design Code. In Figure 2 (pg. 7) of the draft Code, context is included early on but is limited to a broad analysis of the site context and impact on heritage. Context analysis should run as a 'golden thread' through each section of the Code in order to ensure that the ultimate design relates strongly to the individual character of an area. In order to address the homogeneity of recent housing development, the Code needs to place more significance on how the positive features of a place and its people contribute to its special character and sense of identity. This is particularly important when "knitting in" new development to existing urban fabric while considering the wider rural context.
43. HDC feels strongly that 'beauty' is difficult to interpret, and needs to be explained further, perhaps within the Guidance. The Code appears to create the principles and framework needed to achieve 'beauty', but it is unclear whether the Code is seeking to find beauty in isolation (i.e. in individual buildings and facades) or to achieve a broader sense of beauty (i.e. across a wider space, a place people want to spend time and that creates a sense of wellbeing). HDC question how the draft Code and Guidance has sought to create a 'step change' on how a beautiful place can be created; how does the application of the Code build upon, or go beyond, existing guidance and good practice in the development of beauty?
44. We have some concerns that the draft Code does not provide local authorities with enough power to prevent volume house builders from using standard 'house types' and designs/layouts that are seen replicated up and down the country. HDC suggests that, as well as endorsing the positive, the Code should include pictographic examples of what to avoid (akin to the 'Building a Healthy Life' document by Homes England). This will help local authorities to push back on volume products which do not represent the individual context or character of a place.
45. HDC is a largely rural authority, and the draft Code has an urban-centric feel. This makes its application and relevance to rural areas more limited, and we are concerned this could water down its influence. There must be a better balance within the National Code and Local Code guidance on how to understand and capture rural context, incorporate this into baseline assessment (for instance, landscape, topography, wider rural setting) and then translate visions into the best possible design outcomes for these unique areas.
46. With the Government's strategy of Net Zero Carbon by 2050, HDC feels there is too little focus within the draft Code and Guidance on creating energy efficient buildings, both in terms of construction and operation.
47. There is a major conflict between some of the content of the codes and what planning is able to control or deliver. Section P.1.ii discusses the roles of secondary streets and their ability to accommodate retail space and shops and U.3.ii suggests how community facilities can be incorporated into codes. However, this does not take account of new Use Class E and the proposed extension of permitted development rights recently consulted on to allow Class E to Class C3 conversion without planning permission. Clarification is required on how Use Class and Permitted Development mechanisms should be considered when setting uses and street types, for example. The NPPF changes proposed as part of this consultation which would restrict the use of Article 4 directions would further reduce the ability of communities to put their visions into practice through codes.



48. Similarly, section U.3.ii specifically mentions medical facilities being required in “all areas” and while this does acknowledge “that only the largest schemes will be required to include them” we feel this implies more influence over the provision of health and medical facilities than the planning system has in practice. The provision of healthcare in reality appears to be far more complex than just larger schemes delivering medical facilities, with CCGs preferring some smaller schemes to include provision within a community building or local pharmacy, with some larger schemes likely to rely on existing healthcare provision elsewhere. The complexity of this provision is not reflected in the document as it stands and should be reviewed. This is particularly important to ensure that community expectations of what development can deliver in terms of infrastructure and community facilities does not raise unrealistic expectations.
49. There is a focus throughout the guidance on local character and context, with community vision shaping the design of new development, however there is a risk that the wider focus on *beauty* might result in derivative design and not on the “new layer” to an area’s history the guidance aims for.

***b) the application and use of the guidance***

50. Ultimately, the power of the Code will be dependent on the system of implementation and the levels of monitoring and enforcement.
51. The National Model Design Code offers a set of principles to aid local planning authorities in decision making and to offer certainty to stakeholders around requirement and outcomes of development. We welcome the use of the National Code as a material consideration, and the expectation for local authorities to develop their own Codes to suit local needs and environments, bringing stakeholders together early on in the process.
52. By its nature, however, the National Code will introduce an increased level of design control in order to provide certainty. Ensuring proposals are compliant will be a resource intensive exercise and may hinder the speed and efficiency of development.
53. There is also a risk that the market will fail to respond adequately and consistently to the Government’s desire to create a high-quality development which considers urban design and environmental standards. It is important that this is addressed as the reluctance of some communities to welcome development in their local area flows, in part, from the understandable fear that new neighbouring development will detract from the quality of the local environment, as well as eroding the sense of community identity.
54. Whilst the breadth of the guidance and topic areas within its scope is welcome, some elements of the code have the potential to duplicate or possibly even conflict with other local policies including those in statutory Local Development Plans. Policies on energy efficiency standards, environmental standards and so on which may already be included in Local Plans could also form part of a design code and it is unclear whether one might supersede the other. Guidance on this would be welcome.

55. The creation and implementation of Local Design Codes raises concerns over whether local authorities have the resources, expertise and skills in house to adequately reflect a vision for an area within a Design Code. The creation of the Codes is also likely to be extremely resource intensive, with detailed character assessments, community engagement or the assessment of submitted schemes against design codes. The consultation documentation makes no reference to this potential skills gap or additional resource required nor a how local authorities should address this be that through funding for training and resources or a review of planning fees.
56. The National Model Design Code makes provision for local authorities to collaborate with developers and landowners on Codes, and states that developers and landowners may prepare their own Design Code as part of a planning application. This would be an acceptable approach providing that there is provision for local planning authorities to seek amendments to Codes produced by individual developers or landowners, or to refuse to adopt them if they do not meet an expected standard for the area.
57. Any Code will need in built flexibility in both its content and application. We suggest a mechanism allowing any Code to be varied if relevant parties agree (in the same way legal contracts can be varied by mutual agreement). This will be particularly important for longer development programmes where a rigid Code could impede the detailed design of subsequent phases, prevent learning from experience or reaction to changing economic and social conditions. Flexibility is also important to stimulate excellence and innovation, particularly where schemes might exceed minimum standards embedded within a Code.
58. The NPPF (paragraph 130) states that *“permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”*. HDC would like to see Design and Access Statements written to directly respond to the Design Code requirements, whether this is a Local (or site specific) Design Code, or deferral to the National Model Design Code.
59. HDC questions whether any vision laid out in codes will be consistently understood by developers and housebuilders. Housebuilders may make their own interpretation of the outcomes set out in codes and put forward their own designs which communities do not feel accord with their original vision. This potential for conflict is not acknowledged in the consultation documentation and we would welcome further guidance on how this can be addressed. Similarly, the discussions arising as a result of interpretation of design codes are likely to result in decisions taking longer than expected; the expectation for fast decisions should be managed.
60. Finally, there are a number of questions around the viability of local codes. There is no indication as to whether local authorities would be expected to viability test codes in the same way Local Plan policy requirements are tested to ensure policy compliant schemes are deliverable. This raises questions around what is and is not reasonable in respect of requirements (materials, infrastructure and other elements with costs implications), the extent to which communities will be expected to consider viability when setting out their own visions for an area.

**c) the approach to community engagement**

61. There is significant public distrust in the ability and willingness of developers to consistently produce distinctive local designs that reflect the local context. It is noted that the draft Code and associated Guidance strongly encourages significant community input in the development of Design Codes. HDC welcomes this emphasis and support the involvement of the community in decisions about how development should look and functions and believe this has the potential to build trust in the ability of the planning system to deliver good development outcomes.
62. We note that community engagement is not a requirement when developing a Design Code (it is only encouraged) and, as such, it would be open to a developer to progress a Design Code for a site with little or no engagement with a community of the local planning authority. HDC is of the view, therefore, that some element of community engagement should be made mandatory, and that a schedule of engagement throughout the process should be established with the Guidance.
63. The nature of the design codes and their content mean that highly technical and detailed discussions will be required. The guidance suggests the use of independent facilitators to support design focused community engagement, however HDC feel more guidance and detailed information on tools and techniques is required to ensure local authorities fully understand the range of approaches, benefits and methods to ensure the most meaningful and effective engagement possible takes place at each stage.
64. Whilst meaningful engagement with the local community in the development of local Design Codes is strongly supported, HDC acknowledges that what constitutes *good design* or *beauty* in a particular area can be interpreted very differently by different individuals or groups. As such, developing a local Design Code that is specific to an area or site will be challenging and, in reality, is unlikely to gain the full support of all involved.
65. The proposed shift from the NPPF focus on *good design* to *beauty* also marks a shift from objective to subjective standards for new architecture and places. In the absence of clear guidance there is undoubtedly a risk that “beauty” could be interpreted by some local authorities and communities to mean traditional, conservative or even pastiche. Securing planning permission for contemporary, innovative or progressive designs may be more difficult as a result, and HDC have some concerns about this. The Guidance could include support for bold design and innovation where appropriate.
66. The guidance discusses the use of management plans in securing the long-term preservation of the quality and condition secured when a development is first delivered. The suggested mechanisms include informal community groups, Community Land Trusts or management companies. There needs to be further guidance on how these can be used to ensure consistent outcomes in the quality of development in the long term.
67. Some characteristics in the design codes include elements not necessarily within the control of planning (such as healthcare provision or changes of use within a Use Class) and as previously outlined, we are concerned about the risk of raising expectations around community priorities which are not deliverable, or do not align with other organisations strategies and procedures in practice. The benefit of meaningful community engagement in producing Codes is the potential for improved trust and increased involvement with the planning system more generally but it is vital that the limitations of design codes are clear and transparent if trust is to be maintained.

***Question 16. We would be grateful for your comments on any potential impacts under the Public Sector Equality Duty.***

68. The value of community engagement, and using a range of methods and processes, is covered in the guidance document and the impact on PSED is likely to be positive. We feel there should be more emphasis on encouraging individuals who may not typically engage with the planning system to becoming involved in setting out visions for an area, and that plans for training and resourcing should reflect this. Successful engagement will involve a consensus being reached on vision-setting, however it is inevitable that conflicting requirements from different groups and individuals will arise and the guidance could better address how these should be addressed while ensuring PSED is met.