

Response ID ANON-2CN7-MFP9-P

Submitted to **National Planning Policy Framework and National Model Design Code: Consultation proposals**

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Introduction

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Please tick to confirm:

Yes

A bit about you

What is your name?

Name:

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What is your organisation?

Organisation:

London Forum of Amenity and Civic Societies

What type of organisation are you representing?

Interest group or voluntary organisation

If you answered "other" please provide further details:

Summary of proposed amendments to the National Planning Policy Framework

Proposed changes to Chapter 2: Achieving sustainable development

1 Do you agree with the changes proposed in Chapter 2?

Yes

Please provide comments:

However, the changes are not sufficient.

We support strongly the reference in paragraph 11(a) to promoting "a sustainable pattern of development". This is the first time this term has been used as previous versions of the NPPF have singularly failed to provide a spatial dimension in a document which sets policy for spatial planning. The "criteria" below this statement, however, still fails to provide any policy guidance on what a sustainable pattern of development means or looks like.

The opportunity should be taken to set this out somewhere in the revised NPPF, indicating that location of new development should contribute to making a more sustainable pattern of development, elaborating in other sections the purpose of planning positively for this, in terms of the following:

- the location of new housing developments (Chapter 5);
- strengthening town centres (Chapter 7);
- supporting local community (Chapter 8);
- reducing the need to travel, especially by car (Chapter 9); and
- achieving well designed places (Chapter 12)

The delivery of more sustainable patterns of development should be a running theme through the document if we are to shape the pattern of development. Each section is currently expressed as a silo. The often-used phrase of ensuring "the right development in the right place" needs to be articulated in spatial terms, integrated into the purpose of planning as a cross-cutting, underpinning theme. Paragraph 20 attempted this, but the proposed changes (see below under Question 2) now remove that link.

Paragraph 22, which deals with the long-term strategy, should specifically refer to "more sustainable patterns of development"

Proposed changes to Chapter 3: Plan-making

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

No

Please provide comments:

Paragraph 20 currently refers to strategic policies “setting out an overall strategy for the pattern ... of development”. The rewrite effectively decouples the strategy from the “pattern of development” by replacing “development” with “places”. This needs rewriting to recapture the issue of both the pattern and the location of development.

The amendment to paragraph 20 should have the words ‘and buildings’ after ‘places’.

Paragraph 22, which deals with the long-term strategy, should specifically refer to “more sustainable patterns of development”

Paragraph 35(d) should also refer to more sustainable patterns of development.

The Building Better Building Beautiful Commission was clear in their section ‘Refuse Ugliness’ that they were referring to individual buildings. Also, they wrote that “It is widely believed that we are building the wrong things, in the wrong places, and in defiance of what people want.” The Commission recommended that “We should be advancing the cause of beauty on three scales, promoting beautiful buildings in beautiful places, where they are also beautifully placed.”

They explained “What people want is buildings that reflect the history, character and identity of their community and that belong in their surroundings: somewhere, not anywhere.” They amplify that on pages 35 and 36 of their report and on page 38 to the use of design codes for modular building. A more complete response to the Commission’s proposals would improve the NPPF.

MHCLG has not responded to the BBBB Commission’s recommendation that “Government should align VAT on housing renovation and repair with new build, in order to stop disincentivising the re-use of existing buildings.”

Proposed changes to Chapter 4: Decision making

3 Do you agree with the changes proposed in Chapter 4?

No

Which option relating to change of use to residential do you prefer and why?:

Neither option is acceptable and not in accord with other NPPF policies.

This amendment would prevent local authorities controlling nationally-imposed PDRs to the extent that is required locally. The first bullet point is too restrictive in its words “wholly unacceptable adverse impacts” for limiting the use of Article 4 Directions. The second bullet point is far too prescriptive and contrary to policies for sustainable development as adopted from the United Nations proposals in this NPPF and to other policies in it.

For example, “Wholly unacceptable adverse impacts” are those which PDR for conversion of any Use Class E property to residential would cause and which would prevent the application of NPPF Chapter 7 below for town centres and policy 8 b) for meeting social objectives in the provision of the required infrastructure, facilities and services. Also, be contrary to NPPF policy 15 for addressing social priorities and paragraph 20 for ensuring provision for employment, retail, leisure and other commercial development and for community facilities such as health, education and cultural infrastructure.

Article 4 Directions are one of the necessary “mitigation measures” proposed in NPPF paragraph 32. No pre-application negotiating as recommended in NPPF paragraphs 39 to 42 would be possible with PDR changes. That would make communities think that the planning system fails them and it would reduce, not increase, their participation. There should be relevant prior approval criteria for all ‘permitted development’.

Constraining Article 4 Directions in all cases to the “smallest geographical area possible” is too restrictive and unrealistic. It could result in a local authority having to devise dozens of Article 4 Directions on buildings or places that are all part of one high street or district centre.

Local authorities must be left to plan positively for the vitality of their town and local centres and to decide where permitted development would cause harm and that is why the Government allowed exceptions to the PDR for conversion of office blocks to residential. However, where such restrictions were not applied, MHCLG has reported on the adverse living conditions of residents in many converted office blocks which local authorities could have prevented, if allowed.

Proposed changes to NPPF paragraph 53 should NOT be implemented.

Proposed changes to Chapter 5: Delivering a wide choice of high quality homes

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

No

Please provide comments:

Paragraph 64 is unacceptable as national policy because affordable housing can be sought for residential developments in high value areas that are not major developments without harming the viability of schemes.

The policy fails to differentiate between the inclusion of some affordable housing within new developments and the contribution a developer could make for building affordable housing elsewhere.

The original paragraph 65 covered a different aspect of affordable housing delivery and should not be merged with paragraph 64.

The proposed alteration to that paragraph for 10% of homes to be for affordable home ownership needs more clarification on how it relates to the Government’s proposals for ‘First Homes’ because the GLA indicated in response to the ‘First Homes’ consultation that such kind of “affordable home ownership” is above the financial means of the majority of Londoners and, in its mandated provision, it adversely affects the delivery of genuinely affordable low cost rent homes.

There are no questions on NPPF Chapter 7 but London Forum supports its wording and objectives for town centre vitality and viability. Also, for local authorities to “make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre.”

However, this chapter needs a much clearer rationale in its wording for the “town centre first” policy as being integral to delivering a much more sustainable

pattern of development as well as strengthening the vitality and viability of town centres as drivers of the local economy.

Also, at the neighbourhood level to strengthen local centres as the hub of the local community in Chapter 8.

Both chapters 7 and 8, should be seen as supporting the policy in paragraph 11(d), whilst PDRs are likely to undermine these key policies.

The Government's proposals consulted upon for permitted development of most Use Class E properties to residential C3 would be completely contrary to the well-established and proven policies in the original NPPF paragraph 85 for town centres and would cause considerable harm to the provision of local infrastructure and services which would prevent the achievement of NPPF policies in Chapters 2, 8 and 12.

Also, MHCLG agreed to the introduction on 2nd March 2021 of the replacement version of the London Plan and within it Policy SD6 was based on the NPPF Chapter 7 set of policies. That new London Plan policy places requirements on boroughs as follows that would be prevented by the introduction of permitted development of Class E to residential:-

- Boroughs and others should ensure their strategies, policies and decisions encourage a broad mix of uses while protecting core retail uses to meet demand,
- The provision of social infrastructure should be enhanced . . . and facilities should be located in places that maximise footfall to surrounding town centre uses,
- Boroughs and others should ensure their strategies, policies and decisions encourage a broad mix of uses while protecting core retail uses to meet demand,
- Boroughs and other stakeholders will need to proactively manage their town centres to take account of these trends [which are] adapting to new innovative forms of retailing, accommodating new space where there is identified demand, and managing the transition of surplus retail floorspace to other uses, such as leisure, business, and more intensive forms of mixed-use development.

Local authorities must be left in control of town centres in the recovery from the pandemic and not prevented from planning for their future by Government imposed planning rules.

How does MHCLG propose that this conflict between their permitted development rules and the London Plan policies that the Secretary of State has approved will be resolved.

Proposed changes to Chapter 8: Promoting healthy and safe communities

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

Yes

Please provide comments:

London Forum concludes from the wording of paragraphs 97 to 102 that Metropolitan Open Land (MOL) has the same protection as Green Belt.

However, the Chapter needs a paragraph which explains how this focuses development in the right places and contributes to a more sustainable pattern of development, stronger communities and walkable neighbourhoods.

Proposed changes to Chapter 9: Promoting sustainable transport

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

Yes

Please provide comments:

However, this is a key chapter for emphasising that ensuring the "right development in right place" will secure more sustainable patterns of development, and that choosing the right locations with good access to public transport and which enable the use of active modes are the key means of delivery.

It is important that public transport capacity (as well as local infrastructure and services) are not overloaded by new developments, thus making them unsustainable.

Tall buildings in the wrong places could cause such problems and the Secretary of State's written policy on tall buildings to the GLA Mayor in December 2020 is welcomed and should be included in the NPPF as national policy. The Minister stated that tall buildings should be placed only where a local authority considers them to be suitable. London Forum suggests that inclusion of a policy in response to Q7.

Proposed changes to Chapter 11: Making effective use of land

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

Yes

Please provide comments:

London Forum supports the proposed change for local authorities to have context and character assessments of their locations and to use design codes and masterplans to direct the right development to the right places for the required purposes.

However, on December 10th 2020, Rt Hon Robert Jenrick wrote to Sadiq Khan, Mayor of London, with a new policy for tall buildings which the Mayor was directed to include in the replacement London Plan which was published on 2nd March 2021 after the direction was accepted and incorporated.

The Secretary of State's words were:-

"There is clearly a place for tall buildings in London, especially where there are existing clusters. However, there are some areas where tall buildings don't reflect the local character. I believe boroughs should be empowered to choose where tall buildings are built within their communities.

Your draft policy goes some way to dealing with this concern. In my view we should go further and I am issuing a further Direction to strengthen the policy to ensure such developments are only brought forward in appropriate and clearly defined areas, as determined by the boroughs whilst still enabling gentle density across London.

I am sure that you share my concern about such proposals and will make the required change which will ensure tall buildings do not come forward in

inappropriate areas of the capital.”

London Forum considers that direction was a statement of Government policy and should be included in the revisions of the NPPF. London Forum understands the consultation documents on the NPPF changes were made before the SoS issued his direction. The need to avoid tall buildings in locations that “don’t reflect local character” and to ensure they are not in “inappropriate areas” should apply everywhere in England, not just in London.

In following the requirements of NPPF Chapter 3 for plan-making, the new NPPF policy 124 and the proposals in the NMDC for design codes, local authorities will identify where tall buildings should not be located, in order to meet the SoS’s objectives for them. Refusals of applications for tall buildings on the Minister’s criteria should be supported by a paragraph in NPPF Chapter 11 to explain that local authorities will be “empowered to choose where tall buildings are built within their communities.”

Otherwise, decisions could be made that may result in development that is not sustainable when considered against the NPPF policies in Chapters 2, 9 and 12. That means local authorities would be supported by application of NPPF paragraph 217 for decision making until they have done the work on character analysis and creating design codes.

Proposed changes to Chapter 12: Achieving well-designed places

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

Yes

Please provide comments:

However, propose some suggested amendments, as follows.

In paragraph 126, the words ‘Civic, community and’ should be inserted before ‘Neighbourhood Planning groups can play an important role.’ The Government is encouraging participation of all communities in local plan making, not only those who have formed a Neighbourhood Forum.

When considered against the land area of London, there are very few Neighbourhood Plans in the Capital and that is partly due to the established civic society movement assisting Councils in plan making.

In paragraph 133 section b), the words ‘outstanding’ and ‘innovative’ are subjective and it is not clear how a local authority, an elected Mayor or a Planning Inspector would be able interpret them for a development proposal. Clarification is required.

See also, London Forum’s response to Q2 about other recommendations of the Building Better Building Beautiful Commission that have not been fully implemented.

Proposed changes to Chapter 13: Protecting the Green Belt

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

No

Please provide comments:

Section f) of paragraph 149 would allow new buildings anywhere in areas of Green Belt and that is unacceptable and is contrary to the five purposes of Green Belt in NPPF paragraph 137.

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

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

Yes

Please provide comments:

Proposed changes to Chapter 15: Conserving and enhancing the natural environment

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

Yes

Please provide comments:

Proposed changes to Chapter 16: Conserving and enhancing the historic environment

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

Yes

Please provide comments:

Proposed changes to Chapter 17: Facilitating the sustainable use of minerals

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

Yes

Please provide comments:

Proposed changes to Annex 1: Implementation

Proposed changes to Annex 2: Glossary

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

Yes

Please provide comments:

The proposed changes to 'Green infrastructure' are welcomed, as they support the protection that should be given to Metropolitan Open Land (MOL). They provide also support for local authorities to consider the definition of "blue" space in their own policies for the use, development and protection of waterways, canals and rivers.

London Forum suggests adding the words "including the use of waterways for transfer of goods and materials."

National Model Design Code

15 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

Please provide comments:

London Forum is critical of the presentation of this design coding consultation. The National Design Guide was launched on 1st October 2019. When the National Design Code was updated in 2020 it should have had the Model Design Code built into it, to provide proper guidance for its implementation and to avoid repetitions within each document and between them and to correct the inconsistencies that are apparent. That would have made this consultation launched in January 2021 easier to comment upon.

It is hoped the Government will provide a more integrated and easier to use single version of these publications after this consultation. The GLA may issue guidance to local authorities on how design codes should be implemented in London, as they are required by the replacement London Plan.

The first half of the NMDC document is a guide to process. One could argue with some of the categorisation of the process (and there is duplication here too); but the three core stages of scoping and analysis, preparing the vision, and then developing the actual codes are basically satisfactory.

However, London Forum has some problems with the guidance on what goes into each stage: the distinction between what goes into masterplans and into the actual codes is very unclear, for example. And it's puzzling and confusing that the list of the eight minimum contents of a design code shown on page 6 bears no relationship at all to the ten issues presented later in the document (and which form the basic structure of the Guidance) as forming the basic structure of any code.

On a more positive note, the emphasis on consultation and community engagement at each stage in the process is surely welcome.

The second half of the document is based around what should form the contents of actual codes. It would be helpful if that were to be signalled in the document. And it's done in two parts: first 'guidance for area types' (ie, the contents of the code for specific areas within the broader area covered by the code); and second, 'code wide guidance' (where 'code-wide' should surely be hyphenated, or preferably replaced by 'area-wide').

There's huge duplication here, though it's not clear why the area-type guidance should cover only eight of the ten issues covered in area-wide guidance (Resources and Lifespan are missing, for no apparent reason). It would surely be better to combine the two sections into one.

At a more detailed level, the 'Homes and Buildings' category - which appears in both sections - is also very odd. Many of the issues relating to homes and buildings are covered in other sections such as 'Built Form' and 'Use', while Homes and Buildings covers only 'lighting, aspect and privacy' and 'gardens and balconies'. The full Guidance Notes cover a wider range of issues including housing quality and health and well-being.

Nevertheless, those three sections - built form, use and homes and buildings - need to be looked at again, to make a more coherent basis for preparing the codes. And the issue of the number of houses and other building types, mentioned in the minimum list on page 6, but nowhere else, should surely be included.

The Guidance Notes are much more clearly structured and easy to follow than the Model Code, since they simply follow the ten key issues to be covered in design codes; context, movement, nature, built form, identity, public space, use, homes and buildings, resources, and lifespan. It would make much more sense if the process section of the Model Code were to be added to it to make a single document.

London Forum held a webinar for its members on the introduction of design codes with Andy von Bradsky, an urban design expert from the GLA, two directors of planning in London local authorities and a lead planner on character and context analysis.

The conclusions were that design coding will take a long time and some local authorities do not have the resources to commence the work in the short term and many lack the skills that will be required. The Government's proposals for pilots and training of planners will be essential.

In the process of those trials, the way in which local authorities should engage with local people and civic societies in plan making should be explored and

proposals made for community guidance and training.

It is essential that the Government supports 'Statements of Community Involvement' as a necessary process in all local authorities.

Some areas have considerable social deprivation and transient communities and it is not clear how well planning with design coding can engage such residents effectively and produce the best outcomes for them. The use of design coding must not worsen inequalities.

London Forum does not understand how design codes could be applied to town centres, as MHCLG suggests, because of the proposals to allow permitted development of almost any premises to housing (Class E to C3 usage).

As the National Model Design Code is to provide the basis for assessing planning applications where there are no local design codes, there will need to be guidance for local authorities on how it should be applied in those circumstances.

That could include guidance on the use of criteria for prior approval applications.

That should cover also how slight differences between a design code and an application scheme should be approached as London Forum's civic and community group members are concerned that too much flexibility could be applied in the negotiations between an applicant and a case officer. They would be very concerned if developments they had helped to plan were not the ones delivered.

Intended delegated decisions in a local authority should be published, as in London boroughs now, with provision for call-in to a full Council planning committee initiated by communities through their Councillors.

There will be difficulties in achieving consensus on the future of an area and in deciding where to start with design codes when a London local authority can have up to a hundred Site Allocations and several large development areas. It is hoped that those will be explored with a typical London borough during the trials to consider the use of "community panels or forums" (NPPG 022).

London Forum has concerns about the excessive time spent developing and implementing a new Local Plan, with long periods spent in the examination phase.

Design codes may have to be revised when the next Planning Act is passed and the work will be going on for years and should be funded by Government.

London Forum supports the comments made by Civic Voice to MHCLG on the NDG, NMDC and associated guidance. They have held events to discuss the implications of design coding and London Forum members have participated in those and in Civic Voice surveys.

Public Sector Equality Duty

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

Please provide comments:

No comment