

Consultation on draft revisions to the National Planning Policy Framework and draft National Model Design Code

POS response to current consultation

1. Planning Officers Society

1.1 POS is the single credible voice for public sector planners, pursuing good quality and effective planning practice. The Society's aim is to ensure that planning makes a major contribution to achieving sustainable development in ways that are fair and equitable and achieve the social, economic and environmental aspirations of the community.

1.2 We operate in three main ways:

- As a support network for planners in the public sector
- As promoters of best practise in planning
- As a think tank and lobbying organisation for excellence in planning practice

1.3 Where we can, we will work across the sector to craft proposals that have widespread support from the people who operate the planning system at the coalface: landowners, developers, agents, legal, local authorities and politicians. We will be both radical and practical as we look for solutions to tangible problems that will make a real difference to crucial areas. Our objective is to improve the planning system to enable it to deliver its key aim of sustainable development. It is within this context that we have set out this advice to Government so we can plan together for a better future.

2. Amendments to National Policy Planning Framework

Chapter 2: Achieving sustainable development

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

POS welcomes the approach to link strategic planning to the 17 Global Goals for Sustainable Development.

However the presumption in favour of sustainable development with reference to infrastructure will be undermined if the Government implements proposed changes to permitted development rights enabling a range of uses to be converted to housing without the requirement to provide a contribution to existing and future infrastructure needs.

POS suggests the NPPF should include a definition of 'beautiful' in the Glossary. This would provide more clarity in terms of paragraph 8 (b) of the amended National Planning Policy Framework.

Chapter 3: Plan-making

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

The amendments proposed to the policy wording in Chapter 3 are welcomed.

It would be useful to have a definition included in the Glossary of the term 'larger scale developments'.

Chapter 4: Decision making

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?

POS objects strongly to this proposal. The government is committed to a locally plan-led system to deliver homes and jobs in the most sustainable way. Local Authorities should be able to decide what need there is for an article 4 direction, depending on their local context. This relates to Houses in Multiple Occupation, agricultural building restrictions as well as PD changes to residential

The ability to change a range of uses in town centres, high streets, local rural areas and commercial locations to housing without planning consent will have a significant impact on local communities, the economy and infrastructure provision. Setting the bar for justifying this particular type of Article 4 Direction to only apply if it is in the national interest or to avoid wholly unacceptable adverse impacts fails to recognise the serious economic and social implications of this proposal.

In terms of the proposed new para 53 wording, POS suggests that it should be amended to read:

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 necessary** to avoid **wholly** unacceptable adverse impacts

...

in all cases apply to the smallest geographical area **possible necessary to deal with the issues that justify the making of a Direction.**

The reasons for the changes are:

- “Essential” is far too high a bar. Even the test for a CPO is that it has to be necessary, not essential.
- Something is either acceptable or unacceptable. POS is not sure what wholly unacceptable means precisely, this likely to result in legal disputes (JRs).
- The smallest area possible is an imprecise term that is likely to cause legal problems with interpretation. POS would suggest it would be better to give a reason for the size choice made.

Chapter 5: Delivering a wide choice of high quality homes

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

The amendments proposed to the policy wording in Chapter 5 are generally welcomed.

Chapter 8: Promoting healthy and safe communities

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

The amendments proposed to the policy wording in Chapter 8 are welcomed.

Chapter 9: Promoting sustainable transport

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

The amendments proposed to the policy wording in Chapter 9 are welcomed. POS notes that the Manual for Streets guide, is currently being updated and will support this further.

Chapter 11: Making effective use of land

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

POS welcomes reference to area based character assessments, codes and masterplans being used to ensure land is used effectively to create beautiful places for the future. This can only be applied through the planning application process rather than prior approvals. If amendments are made to permitted development rights factors such as design and local character must be considered.

Chapter 12: Achieving well-designed places

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

The amendments are welcomed. However, like any good public service, the planning system requires resources and capacity to deliver outcomes efficiently, effectively, and equitably. However, the planning system can only continue to deliver value and promote the Government's more ambitious development objectives if it is properly resourced.

POS supports the RTPI response to the Comprehensive Spending Review (September 2020) which sets out that around £500 million is needed over four years, which works out to £125 million per year, or an average of £370,000 per authority per year.

The new system is different and would require additional skill sets in LPAs. POS is not sure that government fully appreciates this. Urban design skills are far from well provided in local authorities. The best outcomes occur when a local authority has sufficient resources available (including Design Review Panels). The new system is set to put more onus on local authorities taking the lead on design quality, and so they need to have the resources in place to deliver it.

Another area of resources and a very specialist area is engagement. Engaging people is currently challenging, and there are not always the resources for doing it properly. This is intricately connected with urban design and will require a specialist set of skills to engage people in code making. At the moment most engagement takes place with communities when the development is relatively close and relatively imminent. There may be a reluctance to engage in the code-making process at the plan-making stage. A key

challenge of the new system will be how to engage communities with development that is further down the line. Moving away from engagement – or being seen to do so - will be unpopular with communities and councillors.

There is the risk that changes to permitted development rights which enables development to occur without planning permission or engagement with local communities through the local democratic process could significantly undermine the Government's objective to deliver high quality design. Delivering the best quality new development in the future is crucial to ensure that local communities are served effectively and housing delivery provides environmentally sustainable and functional living space.

Paragraph 130 makes reference to new streets being tree-lined and opportunities to include trees into other developments in the context of footnote 49. However there is no clarification about what defines a 'street' and the footnote appears to provide additional evidence to be provided by planning applicants to justify avoiding tree planting. There is no mention about other important street features such as hedgerows. POS is aware that highway authorities only allow certain types of street trees, this may result in bland areas with all new streets appearing as avenues and similar tree species. More diversity should be allowed and encouraged.

It is important to recognise stewardship and maintenance issues associated with this proposal, leading to increased costs for local residents through maintenance agreements and Council dealing with future concerns.

Chapter 13: Protecting the Green Belt

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

Yes

Reference to 'buildings' for clarification is noted in paragraph 143, criterion f.

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

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

Yes

However POS would urge clarification in the wording (para 153 b) to be sure it does not prevent innovative ideas coming forward.

Currently there is no reference concerning waste and the need to promote a circular economy within the development industry, in particular how this can be used in terms of low/zero carbon energy sources. Furthermore there is no mention of planning for future technologies and changes in energy sources e.g. hydrogen which is being encouraged through other sections of central government).

Chapter 15: Conserving and enhancing the natural environment

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

Yes

Chapter 16: Conserving and enhancing the historic environment

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

Yes

Chapter 17: Facilitating the sustainable use of minerals

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

Yes

Annex 1 to 3 including Glossary

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

A timetable should be published on the future publication of National Planning Policy Framework changes as well as the overall approach to progressing with the Planning for the Future White Paper in order that local planning authorities can progress with plan-making robustly and have confidence that scarce resources are not being wasted.

Changes to the definition of achieving the Housing Delivery Test (HDT) are noted, however POS still has strong objections to the HDT. It must be remembered and understood that Local Planning Authorities do not build homes, it is not the fault of the planning system for the lower than desired delivery of homes.

There is a helpful briefing paper published by the House of Commons in March 2020 which considers key trends in housing supply in the UK and goes on to focus on some of the key barriers and potential solutions to increasing supply in England. (<https://commonslibrary.parliament.uk/research-briefings/cbp-7671/>) In particular page 19 shows a graph which highlights the decline of local authority housebuilding and how this has impacted on housing supply (table included as Appendix 1). POS would argue that government needs to make housebuilding attractive to local authorities and this should be considered as part of the anticipated Devolution White Paper anticipated in Autumn 2020.

POS challenges the 300,000 annual housing target. There is no clear empirical evidence base for this. If there was it would be easier for local communities, members and LPAs to buy in to.

POS urges for 'beauty' and 'larger scale developments' to be included in the Glossary.

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 contents of the draft National Model Design Code are welcomed, however the scale of resources required to deliver local design codes and guides within local authorities is significant and must be supported by additional finance from central Government through New Burdens Funding.

As mentioned above POS is very supportive of the drafted NMDC, we do have a few minor comments, which we hope is helpful feedback;

- POS suggests adding sustainability/tackling climate change to the list of what all design codes should include as a minimum (paragraph 27)
- POS urges the government to go further on facilitating the use of modern methods of construction. The reference in paragraph 13 is welcomed, however, the housebuilding industry will need support to take this forward.
- POS suggests that any County wide policies (or others) are included in the developing of design codes or guides. Some of our members have raised concerns about these not being mentioned, especially on items such as movement.
- We suggest reference is made to allotments and community growing projects where it discusses nature (page 30). These have become more important to communities since the pandemic.
- Page 19 discusses gaps between buildings as part of the built form. POS would urge that the wording 'party wall conditions' is changed to 'gaps between buildings'. Discussing party wall matters is a term often used when referring to The Party Wall act and may lead to confusion on the impact a design code or guide could have on The Party Wall Act, a separate piece of legislation. A change in the wording may prevent any unintended consequences.
- Page 30 encourages street trees, which POS supports. However, we would urge for other important biodiversity habitat to be included as well, e.g. hedgerows. It will be important for county councils to support a variety of species for street trees to allow for diversity and variety across development. It is presumed this would be secured as part of a S106 contribution, and would need to include maintenance. We are concerned that in areas where viability is marginal, matters such as street trees may get knocked out of negotiations. A separate funding stream may be helpful to support the encouragement of street trees?
- The concept of separate cycle lanes is welcomed, however the reality of trying to retrofit older urban areas can make this impossible. There is a risk that if cycling is only in segregated lanes there may be much less cycling infrastructure. POS would suggest there is an element of realism as to what improvement may be practically possible in our older urban areas that are helpful but may be less than perfect.

b) the application and use of the guidance

POS would urge the government to be very clear on the difference between a design code and a design guide. The Croydon Suburban Design Guide has been referred to as an example as to what a design code could do, however this is actually a design guide. POS considers design codes are more focused on an area or site where something is about to happen, rather than general good guidance for wider use. Clarity in the definition will remove confusion and help Local Authorities plan for and resource this work appropriately.

It can not be that all areas are required or expected to have a design code. This would be unrealistic as LPAs do not have sufficient resources. There are some sites where the landowner or developer is not yet known, if the developer is not on board a design code drafted solely by the LPA could lead to abortive work. It could also lead to a design code which later stifles architectural innovation and ambition. It should not be that a site or area is at a disadvantage if it does not have one. The Planning system can and does deal with things that are not planned and can respond effectively to this.

It is not clear whether design codes will be a statutory document or not. It is clear that they will have statutory weight if prepared on a site about to be allocated and as part of a new Local Plan. However there will be some prepared for areas not currently allocated (e.g. town centre areas) and drafted outside of a Local Plan process. The LPA would carry out engagement with the community and could take the document through their committee process for adoption. However, there may be some that choose not to formally adopt these documents. Paragraph 7 of the NMDC sets out that LPAs should develop design codes of guides. However, paragraph 19 sets out that developers and land owners may also choose to prepare their own design code as part of a planning application. If approved as part of a planning application then these would also hold weight. POS would suggest these matters are clarified in the guidance.

With the explicit links to the Local Plan process, policies and allocations which Councils will be examined upon it will be necessary for the Government to re-consider the current target of Local Plan's being updated by December 2023, and re-visit the penalties for local planning authorities through the New Homes Bonus funding initiative as there is a direct impact on resources and delivery. The current approach is neither realistic nor achievable.

It is important for LPAs to feel supported in seeking good design. POS considers the NMDC, refreshed Manual for Streets, Changes to the NPPF and the National Design Guide are all very supportive. There is the risk that changes to permitted development rights which enables development to occur without planning permission or engagement with local communities through the local democratic process could significantly undermine the Government's objective to deliver high quality design.

c) the approach to community engagement

Page 7 sets out that the engagement process should consider the geographical context and part of the process should be to consult with groups about whether they wish their area to be included within a code. POS would urge that the wording is changed here to manage the communities expectation. In some instances LPAs and developers may work together on a design code even though some in the community are not supportive. It is important to be honest and manage expectations of the community, the process aims to make the case for additional development of good design and quality not to stop them being built.

Page 10 sets out the vision for a design code needs to be developed with the local community. POS certainly supports this. However, we would urge government to put in place support for ward members, parish and town councils and communities to enable them to understand the purpose and benefits of a design code as well as how to support the development of one. There should be a national roll out of support to bring communities on this journey. The resources of LPAs will not be able to do this justice and these conversations are more likely to be on a site basis which may be controversial.

Delivering the content, application and use of the guidance through the community engagement approach proposed will be extremely resource intensive for LPAs and therefore there is real concern about how this will be achieved. Production of local design codes will require a major upskilling of existing and new staff resources within LPAs across a range of matters including effective community and digital engagement, use of Arc GIS / CAD programmes and architectural knowledge. This needs to be resourced and funded by the Government.