

Report of Chief Planning Officer

Report to Development Plan Panel

Date: 2nd March 2021

Subject: Government Consultation on Changes to the National Planning Policy Framework (NPPF) and National Model Design Code (NMDC).

Are specific electoral wards affected? If yes, name(s) of ward(s): ALL	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. This technical consultation seeks views on draft revisions to the National Planning Policy Framework (NPPF) which opened on 30th January 2021 with the closing deadline of 27th March 2021 ([consultation](#)). The NPPF text has been revised in response to the Building Better Building Beautiful Commission (BBBBC) '*Living with Beauty*' report with additional changes to the text of the NPPF following on from the Government's White Paper '*Planning for the Future*' consultation 2020. It is important to note that the Government is not proposing a review of the NPPF in its entirety at this stage. This report sets out an initial draft response to the changes proposed.
2. The consultation entitled '*National Planning Policy Framework and National Model Design Code: consultation proposals*' seeks views on the National Model Design Code (NMDC), which provides detailed guidance on the production of design codes, guides and policies to promote successful design. The NMDC is expected to be used to inform local design guides, codes and policies to ensure their effectiveness. Initial details on design codes and guidance formed part of

the Government's White Paper '*Planning for the Future*' consultation on changes to the Planning system last August. As reported to Development Plans Panel on the 13th October, the Council's response to that consultation was submitted in October 2020.

3. The current NPPF consultation proposes to:
 - Implement policy changes in response to the BBBBC recommendations, which were to ask for more beauty, refuse ugliness, and propose stewardship and 45 detailed policy propositions;
 - Revise environmental policies – including those arising from the review of flood risk with the Department for Environment, Food and Rural Affairs (Defra);
 - Clarify policy in order to address legal issues;
 - Remove or amend out of date material;
 - Recent change made in a Written Ministerial Statement about retaining and explaining statues;
 - Provide clarification on the use of Article 4 directions.

The above proposals are covered in chapters, 2, 3, 4, 5, 8, 9, 11, 12, 13 14 and 15 of the NPPF.

4. The NMDC consultation:
 - Seeks views on the draft NMDC document itself which includes purpose, objectives, application, coding process and supporting document 'Guidance notes for Design Codes' which includes much more detail.
 - This consultation also invites Local Authorities to bid to be pilot areas for the use of design codes. Leeds is currently preparing material for a bid to this process.
5. The initial response to the consultation is generally welcoming of the proposals as they address many of the concerns raised in the Council's response to the Planning White Paper.

Recommendation

6. Development Plan Panel are requested to:
 - (i) note the contents of the report, and;
 - (ii) provide views on the initial thoughts set out within, which will form the Council's response to the consultation.

Purpose of this report

- 1.1 The purpose of this report is to inform Members of Development Plans Panel of the Government's consultation on changes to the National Planning Policy Framework.

2. Background information

- 2.1 This consultation follows on from previous Government consultations, including the Building Better Building Beautiful Commission (BBBBC) '*Living with Beauty*' report and the '*Planning for the Future*' White Paper.
- 2.2 Of particular relevance to the current consultation, the '*Living with Beauty*' report introduced the Government's intentions to embed the concept of 'beauty' into the planning system. This was expanded on within the '*Planning for the Future*' White Paper, particularly through its proposals for design coding, aligned with a new zoning system for demarcating development land.

3. Main Issues

- 3.1 The consultation covers two areas, firstly it seeks views on whether the proposed amendments to the NPPF are supported, and secondly it asks for views on a draft National Model design code. These elements of the consultation are dealt with in turn below.

Changes to the National Planning Policy Framework

- 3.2 Most of the changes proposed to the NPPF respond to the recommendations of the BBBBC relating to policy on the quality of design of new development. Changes are also proposed to strengthen environmental policies (including those on flood risk and climate change), clarify policy in response to legal case law and make minor factual changes to remove out of date text. It also updates the guidance on the use of Article 4 directions.
- 3.3 The consultation advises that it is not a wholesale revision of the NPPF, nor does it reflect the proposals for wider planning reform set out in the '*Planning for the Future*' White Paper consultation. A fuller review of the NPPF is likely to take place in due course to reflect those wider reform proposals.
- 3.4 Following initial review of the proposed changes, it is considered that there are 5 key areas that the Leeds City Council response to the consultation should focus on. These relate to 1) achieving well designed places, 2) the presumption in favour of sustainable development, 3) climate change, 4) flood risk, and 5) the use of Article 4 directions.

Achieving well designed places

- 3.5 The proposed amendments place an increased emphasis on good design and the quality of places created, noting that the creation of high quality 'beautiful and sustainable' buildings and places is fundamental to what the planning and development process should achieve. A requirement for local planning

authorities to prepare design guides or codes consistent with the National Design Guidance and National Model Design Code, and which reflect local character and design preferences, is introduced. It notes that, to carry weight in decision making, these design guides and codes should be produced either as part of a Local Plan or as Supplementary Planning Documents (SPDs), and that they should be based on effective community engagement. Revisions are also made to further clarify that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

- 3.6 In addition, minor changes have been made to reference the role of neighbourhood planning groups (as distinct from only considering neighbourhood plans (NPs)) in developing design guidance, which is welcomed. References are also added to the important contribution of trees, and the ambition that all new streets are tree-lined and existing trees are retained where possible.
- 3.7 Overall, the changes made to boost the emphasis on the importance of good design are welcomed. As noted in response to the White Paper, the introduction of the words 'beauty/beautiful' in the NPPF text does raise a concerns with regard to the objective definition of such terms to use in decision making. It is also considered that place-making is central to achieving well-designed places, and that greater recognition of this (as well as the design of individual buildings or developments) should be made in the NPPF. In addition, it is noted that other parts of the NPPF – such as policy on car parking – is not proposed to be amended, and there is a need to consider whether this remains consistent, or if different parts of the NPPF may be contradictory when making decisions.

Achieving sustainable development

- 3.8 The wording of the presumption in favour of sustainable development has been amended to make express reference to the importance of both infrastructure and climate change. It now includes a requirement that *'all plans should promote a sustainable pattern of development that seeks to; meet the development needs of their area, align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects'*.
- 3.9 These changes are welcomed, and will help to ensure that more significant weight is given to sustainability and climate change considerations through the development plan process and dilute the danger that a lack of a 5 year supply will lead to poor quality development. However, it is considered that it should be made stronger still through the use of clearer wording. For example, replacing the word 'promote' and instead requiring that plans 'deliver' or 'ensure' sustainable development. It is also considered that this should recognise that it is not just the 'pattern' of development that is important, but also the form of the development. Similarly, rather than 'seeking' to mitigate climate changes, plans should aim to 'maximise the contribution to addressing climate change' or similar.

Climate Change

- 3.10 The revised text has incorporated the 17 Global Goals for Sustainable Development to which the UK has subscribed, which was a key point raised in the Council's Planning White paper response. This is welcomed. However, it is considered that the proposals have missed a significant opportunity in not updating the climate change section of the NPPF, for example in relation to zero carbon homes.

Flood Risk Management

- 3.11 Revisions have been made to the text to clarify some aspects of policy concerning planning and flood risk. This now requires that the sequential test takes account of 'all sources' of flood risk, that LPAs apply natural flood management techniques to reduce causes and impacts of flooding through an integrated approach to flood risk, and clarifies that determining whether a development is appropriately flood resistant and resilient means that, in the event of a flood, it could be quickly brought back into use without significant refurbishment. The flood risk vulnerability classification (which was previously contained within guidance) has also been added as an annexe to the NPPF to give it more weight.
- 3.12 In general, we would support the intention to increase weight associated with flood risk considerations. However, it is considered that the revisions create some practical difficulties and more guidance is required. For example, it is not clear on the relative preference that should be given to sites with surface water flooding versus sites with ground water flooding issues. Similarly, whilst we currently are required to reduce the causes and impacts of flooding through development, the revisions require the use of natural flood management techniques as part of an integrated approach to flood risk management and there is little guidance about how this would be implemented, working alongside other agencies. In addition, the ability for buildings to be brought back into use quickly after flooding may depend on the quality of materials used (for example, water resilient paint etc.) which may be out of the scope of planning decisions.

Article 4 Directions

- 3.13 Significant additional text is proposed to curb the use of article 4 directions. Two options are presented which would restrict such directions for changes of use to residential to situations where this is 'essential to avoid wholly unacceptable adverse impacts' or 'be limited to situations where this is necessary in order to protect an interest of national significance'. In all cases, additional text is also proposed that would limit article 4 directions to 'the smallest geographical area possible'.
- 3.14 Significant concerns are raised about these changes. Article 4 directions are successfully being used in Leeds to tackle issues relating to the change of use of dwellings to Houses in Multiple Occupation. We also have concerns about the potential implications for our town and local centres if we have no ability to manage conversions to residential use now allowed under permitted development rights. It is considered vital that local authorities have the ability to respond to locally significant issues using the appropriate planning tools,

including though limiting the nationally set permitted development rights where necessary through the use of Article 4 directions.

Other changes

- 3.15 A range of other, more minor, changes are also proposed to the NPPF. This includes strengthening of requirements in relation to improving biodiversity, clarifying that new settlements and major urban extensions will need to look over at least a 30 year time frame, enhancing references to the importance of supporting larger scale developments with the necessary infrastructure and facilities, clarifying expectations for attractive pedestrian and cycle routes, clarifying minerals policy and updating the definition of 'green infrastructure' in the glossary. Overall these changes are supported and are not likely to give rise to any significant issues in Leeds.

Draft National Model Design Code

- 3.16 To support the aspiration to promote high standards of design, the Government has also developed a draft 'National Model Design Code' (NMDC) ([consultation](#)) along with guidance notes for design codes. References to this have been added throughout the NPPF. These documents provide detailed guidance on the production of design codes, guides and policies to promote successful design. It sets out the design parameters and issues that should be considered when producing design codes and guides, as well as suggested methods to capture and reflect the views of the local community from the outset and at each stage in the process. It recognises that quality design does not look the same across different parts of the country, and so guidance needs to be produced locally responding to the local context.
- 3.17 The draft NMDC and the associated guidance note also forms part of this consultation. Views are sought on the content of the guidance, the application and use of the guidance and the approach to community engagement
- 3.18 Overall, the initial view of officers is that the NMDC is considered to a positive document, and will help support Leeds in seeking to achieve good design across all developments in the City. It is a wide ranging and broadly generic design document, reflecting its status as national guidance to be applied across a national context.
- 3.19 For Leeds, the content of the NMDC is familiar territory as much of what it proposes is similar to what we already have in the 'Neighbourhood for Living' SPD, which provides comprehensive design guidance for residential developments across Leeds. We also have topic based guidance in place, addressing issues such as tall buildings, sustainable design and construction, the provision of green space as part of development, and sustainable urban drainage. This is complemented by area specific planning guidance for places which are to a particular focus for development and/or change, such as the East of Otley, Kirkstall Road, Leeds South Bank, Lower Kirkgate, Mabgate, Sovereign Street and the Eastgate Quarter.

- 3.20 The NMDC proposes that area-wide design guidance would be supplemented by more locally specific guidance based on 'area types'. The typologies suggested include 'urban neighbourhoods', 'inner suburbs', 'outer suburb', 'villages' etc. It is noted that in a diverse urban authority such as Leeds, rather than being homogenous groupings, these 'area types' would include a wide variety of neighbourhoods that each have their own characters not only in terms of design and the built form, but also in terms of the make-up of their communities. They each have different strengths and challenges, and present different opportunities for new development and require different design responses. These aspects of a diverse city are not necessarily adequately captured through the draft NMDC at present.
- 3.21 It is considered that a key challenge in implementing the area type based approach to design guidance, particularly for a large urban authority such as Leeds, will be determining how discrete can or should the area types defined be, and how many different typologies should be identified. This is likely to need to take into account both the diverse nature of the City, the priority associated with high quality design and the need for robust NMDC compliant guidance, as well as workload pressures and resourcing requirements. It is also recognised that good design guidance is important, but it cannot alone solve all the challenges related to actually achieving good design, and that there needs to be a 'whole-place' approach to planning, design, funding and delivery.
- 3.22 There are some instances where the examples shown in the document (for example integral garages in tall houses) would not be considered as being appropriate in the Leeds context. As we have policies in place which address this, and as the NMDC emphasises the need for design codes and guidance to reflect local circumstances, this is not considered to be overly concerning.
- 3.23 The NMDC does not include a section that directly addresses climate change, though it does make reference to methods that will assist in ensuring that development contributes towards the climate change emergency, such as sustainable construction and energy use. It is suggested that, given the significance of the climate change emergency, this should be given a greater emphasis.
- 3.24 In addition, there are some issues that we consider central to the design agenda that the NMDC does not identify as being essential requirements to address through design codes / guidance, such as space standards, accessibility, light aspect & privacy, security, gardens & balconies and energy efficiency. Whilst it is suggested that these 'may' be covered elsewhere, it is considered that these factors should be factored in at an early design stage and addressed through codes / guidance.
- 3.25 The Government has invited expressions of interest from local planning authorities to take part in the testing of the NMDC. Funding is available in order to help local planning authorities test aspects of the process and context of the NMDC to inform its further development, how it might be applied to different contexts, and the use of the design codes in the planning system more generally. Leeds is currently preparing material for a bid to this process, which

proposes to test the area-type based approach and/or the role of community engagement in the process (building on our existing links with neighbourhood planning groups). It is intended that successful authorities will be notified on 1st March, and so we should be able to provide a verbal update on this at the DPP meeting.

Next Steps

- 3.26 Following DPP a detailed response will be prepared to both aspects of the consultation, making use of comments provided by Members. This detailed response will be drafted in consultation with the Executive Member for ClimateChange, Transport and Sustainable Development before final comments are submitted for the 27th March 2021.

Corporate Considerations

4. Consultation and engagement

- 4.1 The consultation on the Government's proposed changes to the NPPF runs until 27th March 2021 and at the time of writing this report, discussions were continuing across Council services. Verbal updates will be provided at DPP if applicable.

5. Equality and diversity / cohesion and integration

- 5.1 An EDCl is not required for this report as no Council policy change is proposed. However, the consultation includes a question about impacts on people with protected characteristics as defined in section 149 of the Equality Act 2010.

6. Council policies and the Best Council Plan

- 6.1 There is a clear role for planning in delivering against all of the Council's priorities as established through the Best Council Plan, particularly the Council's key strategies, as follows:

Health and Well-being Strategy – through policies including the design of places, quality of housing, affordability of housing and accessibility and the integration of public health infrastructure

Climate Emergency –managing the transition to zero carbon via policies including: the design of places, the location of development, accessibility to public transport, use of brownfield land, energy, supply, generation and the efficiency of buildings

Inclusive Growth Strategy – through policies including the links between homes and jobs, planning for the land use and infrastructure needs of key economic sectors, the location of development, green infrastructure and connectivity

- 6.2 The Council considered carefully how proposals in the consultation paper impacted on the ability to plan Leeds to meet Best Council priorities, especially in relation to meeting housing needs, inclusive growth and affordable housing.

7. Resources, procurement and value for money

7.1 There are no specific implications to this report.

8. Legal implications, access to information, and call-in

8.1 There are no legal implications arising from the recommendations in this report.

9. Risk management

9.1 No issues of risk are identified with responding to the NPPF and NMDC consultations.

10. Conclusions

10.1 There is general support for elements of the changes proposed to the NPPF, which address some of the comments made by the Council in their formal response to the Planning White Paper. However, concerns are raised with some aspects of the proposals, with the Council's response seeking strengthening, further clarity and information with regard to sustainable development, well-designed places, flood risk management and Article 4 directions.

10.2 In addition, it is considered that the limited and partial nature of the amendments to the NPPF represents a missed opportunity to address interlinked issues, particularly with regard to climate change.

11. Recommendation

11.1 Development Plan Panel are requested to:

- i. note the contents of the report, and;
- ii. provide views on the initial thoughts set out within, which will form the Council's response to the consultation.