

Appendix 1 – Draft Response to MHCLG Consultation: ‘National Planning Policy Framework and National Model Design Code: consultation proposals’

Proposed changes to Chapter 2: Achieving sustainable development

The revised text reflects the Government’s response to the Building Better Building Beautiful Commission, and makes a small number of other minor changes:

The wording in paragraph 7 has been amended to incorporate the 17 Global Goals for Sustainable Development which are a widely-recognised statement of sustainable development objectives, to which the UK has subscribed.

Paragraph 8(b) has been amended in response to the Building Better Building Beautiful Commission recommendations to emphasise the importance of well-designed, beautiful and safe places in achieving social objectives of sustainable development.

The wording in paragraph 8(c) has been strengthened to emphasise the role of planning in protecting and enhancing our natural, built and historic environment.

The wording of the presumption in favour of sustainable development (paragraph 11(a)) has been amended to broaden the high-level objective for plans to make express reference to the importance of both infrastructure and climate change.

The final sentence in footnote 8 (referred to in paragraph 11(d)) has been removed as the transitional arrangements for the Housing Delivery Test no longer apply.

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

Yes No

Please provide comments:

The Council supports the changes proposed as it clarifies the position of sustainable development in plan making especially. In principle the Council supports the alignment of infrastructure and growth, however it should be noted that the Local Planning authority is not an infrastructure provider and so these organisations need to be better held to account for delivery of schemes identified through the Local Plan making process in a timely manner and engagement the development of Local Plans.

Proposed changes to Chapter 3: Plan-making

The revised text reflects the Government’s response to the Building Better Building Beautiful Commission, and recent legal cases:

In response to the Building Better Building Beautiful Commission recommendations, paragraph 20 has been amended to require strategic policies to set out an overall strategy for the pattern, scale and design quality of places.

Paragraph 22 has also been amended in response to the Building Better Building Beautiful Commission recommendations to clarify that councils who wish to plan for new settlements and

major urban extensions will need to look over a longer time frame, of at least 30 years, to take into account the likely timescale for delivery.

Paragraph 35(d) has been amended to highlight that local plans and spatial development strategies are 'sound' if they are consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the Framework, and other statements of national planning policy where relevant. This ensures that the most up to date national policies (for example, Written Ministerial Statements) can be taken into account.

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

Yes No

Please provide comments

The spirit of the changes proposed are supported by Maidstone Borough Council.. In relation to paragraph 20 the inclusion of the word design is supported..

The aspiration of paragraph 22 to create certainty in the outcomes of major developments is supported. However, such schemes also need to be deliverable and to prove this to be the case at any examination stage, this will be difficult to do for a 30-year period. Therefore, the criteria for deliverability needs to be amended to reflect this.

The reflection of national policy statements is in principle supported. However, further guidance is needed to define where they will be relevant.

Proposed changes to Chapter 4: Decision making

The revised text aims to clarify the policy intention for Article 4 directions:

In order to ensure Article 4 directions can only be used to remove national permitted development rights allowing changes of use to residential where they are targeted and fully justified, we propose amending Paragraph 53, and ask for views on two different options.

We also propose clarifying our policy that Article 4 directions should be restricted to the smallest geographical area possible. Together these amendments would encourage the appropriate and proportionate use of Article 4 directions.

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

Yes No

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

The Council disagrees with the approach set out as it will remove local flexibility to deal with issues of importance at a local level and reduces the control that Local Planning Authorities must have to regulate development in their areas.

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

The revised text aims to clarify the existing policy and reflects the Government's response to the Building Better Building Beautiful Commission and recent legal cases:

New paragraph 65 has been amended to clarify that, where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership. This is to address confusion as to whether the 10% requirement applies to all units or the affordable housing contribution.

New paragraph 70 has been amended to remove any suggestion that neighbourhood plans can only allocate small or medium sites. This was not the policy intention, so the wording has therefore been amended to clarify that neighbourhood planning groups should also give particular consideration to the opportunities for allocating small and medium-sized sites (of a size consistent with new paragraph 69a) suitable for housing in their area.

New paragraph 73 has been amended to reflect Chapter 9: “Promoting sustainable transport” in ensuring that larger scale developments are supported by the necessary infrastructure and facilities including a genuine choice of transport modes. New paragraph 73(c) has also been amended in response to the Building Better Building Beautiful Commission’s recommendations to clarify that when planning for larger scale development, strategic policy making authorities should set clear expectations for the quality of the places to be created and how this can be maintained (such as by following Garden City principles) and ensure that masterplans and codes are used to secure a variety of well-designed and beautiful homes to meet the needs of different groups in the community.

Footnote 40 (referred to in new paragraph 74(c)) has been updated to reflect that the Housing Delivery Test has now come into effect.

New paragraph 80(d) has been amended in response to legal cases in order to clarify that the curtilage does not fall within the scope of this policy.

New paragraph 80 (e) has been amended in response to the Building Better, Building Beautiful Commission’s policy proposition 1 e) that it opens a loophole for designs that are not outstanding, but that are in some way innovative, and that the words ‘or innovative’ should be removed. This change is not proposed to rule out innovative homes, rather that it will ensure that outstanding quality can always be demanded, even if an innovative approach is taken.

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

Yes No

Please provide comments

The Council welcomes the clarity brought by the proposed changes. However, there are still concerns as to the to the implications of the paragraph 65 on Maidstone Borough. The latest Strategic Housing Market Assessment undertaken by the Borough indicates that the affordable housing need is mainly for rental products (89% of the total) and so a requirement of 10% of total housing on major developments may mean that the Council loses out on needed rental stock to meet local demand.

Proposed changes to Chapter 8: Promoting healthy and safe communities

The revised text seeks to clarify existing policy:

New paragraph 92(b) includes minor changes to help to clarify Government’s expectations for attractive pedestrian and cycle routes. This supports the Building Better Building Beautiful Commission’s recommendations on supporting walkable neighbourhoods.

New paragraph 97 has been amended to emphasise that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and efforts to address climate change.

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

Yes No

Please provide comments

The Council supports the ambition of the NPPF to improve the health and wellbeing of communities having embedded a commitment to reduce health inequalities within its own corporate plan (The Maidstone Strategic Plan 2019-45). However, it is unsure what the expectation is to be in regard to 'attractive' pedestrian and cycle routes. It feels that this within supporting guidance is too subjective and should be deleted. However, there is support for the inclusion of cycling infrastructure.

The Council is also supportive of amendments to paragraph 97 for the inclusion of climate change. It has been working to address this issue through the Local Plan Review and also the development and publication of a Biodiversity and Climate Change Strategy and Action Plan in 2020.

Proposed changes to Chapter 9: Promoting sustainable transport

The revised text reflects the Government's response to the Building Better Building Beautiful Commission:

New paragraph 105(d) has been amended to support the Building Better, Building Beautiful Commission's recommendations on encouraging walking and cycling.

New paragraph 109(c) and supporting footnote 45 has been amended to prevent continuing reliance by some authorities on outdated highways guidance. Our amended wording states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that the design of schemes and standards applied reflects current national guidance, including the National Design Guide and National Model Design Code.

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

Yes No

Please provide comments

The Council supports the amendments proposed.

Proposed changes to Chapter 11: Making effective use of land

The revised text reflects the Government's response to the Building Better Building Beautiful Commission:

New paragraph 124 has been amended to include an emphasis on the role that area-based character assessments, codes and masterplans can play in helping to ensure that land is used efficiently while also creating beautiful and sustainable places.

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

Yes No

Please provide comments

In principle the Council supports the proposals to use the additional tools listed to help it achieve appropriate densities. However, it needs to be noted that this will add to the plan making and development management burden as extra evidence base documents will need to be created and then interpreted in decision making. This will need extra resourcing for Local Planning Authorities to provide the expertise to undertake such work.

Proposed changes to Chapter 12: Achieving well-designed places

The revised text reflects the Government's response to the Building Better Building Beautiful Commission:

New paragraphs 125 and 127 have been amended to include the term "beautiful" in response to the Building Better Building Beautiful Commission's findings. This supports the Building Better Building Beautiful Commission's recommendation for an overt focus on beauty in planning policy to ensure the planning system can both encourage beautiful buildings and places and help to prevent ugliness when preparing local plans and taking decisions on planning applications

New paragraph 126 has been amended to clarify the role that neighbourhood planning groups can have in relation to design policies.

New paragraph 127 has been amended to emphasise that all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code and which reflect local character and design preferences.

A new paragraph 128 has been added in response to the Building Better Building Beautiful Commission's recommendations and our manifesto commitment to give communities greater say in the design standards set for their area. This reflects the Government's proposals for a National Model Design Code, which will include a model community engagement process, and will create a framework for local authorities and communities to develop a more consistent approach which reflects the character of each place and local design preferences. It also clarifies that the National Design Guide and the National Model Design Code should also be used to guide decisions on planning applications in the absence of locally produced guides or codes.

A new paragraph 130 has been added to reflect the findings of the Building Better Building Beautiful Commission and the Government's ambition to ensure that all new streets are tree-lined, and that existing trees are retained wherever possible.

New paragraph 132 and footnote 50 have been updated to refer to Building for a Healthy Life.

New paragraph 133 responds to the Building Better Building Beautiful Commission's recommendations to make clear that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. In addition, it clarifies that significant weight should be given to development which reflects local design policies and government guidance on design.

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

Yes No

Please provide comments

The Council does have concerns with the amendments to this chapter. The introduction of the word beautiful is felt to be too subjective and needs definition in paragraph 125. The amendment of paragraph 126 from Neighbourhood Plans to Neighbourhood Planning Groups is felt to be inappropriate as there is no guidance as to what weight these groups have in the decision-making process and how this should be exercised?

The Council is however supportive of the move towards more tree lined streets. This will be a positive environmental step.

The Council supports the prominence of design brought about by amended paragraphs 127, 128 and 133. It does question what the weight of design will be when compared to the need for housing as per paragraph 11 of the NPPF.

Proposed changes to Chapter 13: Protecting the Green Belt

The revised text seeks to clarify existing policy:

New paragraph 149(f) has been amended slightly to set out that development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order, is not inappropriate in the Green Belt provided it preserves its openness and does not conflict with the purposes of including land within it.

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

Yes No

Please provide comments

No comment

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

The revised text seeks to strengthen environmental policies, including clarifying some aspects of policy concerning planning and flood risk.

The changes proposed are in part, an initial response to the emergent findings of our joint review with the Department for Environment, Food and Rural Affairs (Defra) of planning policy for flood risk. The government's [Policy Statement on flood and coastal erosion risk management](#) sets out a number of actions to maintain and enhance the existing safeguards concerning flood risk in the planning system. Informed by this, we will consider what further measures may be required in the longer term to strengthen planning policy and guidance for proposed development in areas at risk of flooding from all sources when our review concludes.

On planning and flood risk, new paragraphs 160 and 161 have been amended to clarify that the policy applies to all sources of flood risk.

New paragraph 160(c) has been amended to clarify that plans should manage any residual flood risk by using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management).

The Flood Risk Vulnerability Classification has been moved from planning guidance into national planning policy (set out in Annex 3 and referred to in paragraph 162). It is considered that this classification is a key tool and should be contained in national policy.

New paragraph 163 has been amended to clarify the criteria that need to be demonstrated to pass the exception test.

New paragraph 166(b) has been expanded to define what is meant by “resilient”.

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

Yes No

Please provide comments

No comment

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

The revised text seeks to clarify existing policy and reflects the Government’s response to the Building Better Building Beautiful Commission:

New paragraph 175 has been amended in response to the [Glover Review of protected landscapes](#), to clarify that the scale and extent of development within the settings of National Parks and Areas of Outstanding Natural Beauty should be sensitively located and designed so as to avoid adverse impacts on the designated landscapes.

New paragraph 176 has been separated from the preceding paragraph to clarify that this policy applies at the development management stage only.

New paragraph 179(d) has been amended to clarify that development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around other developments should be pursued as an integral part of their design, especially where this can secure measurable net gains for biodiversity and enhance public access to nature.

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

Yes No

Please provide comments

The Council supports amendments to paragraphs 176 and 179(d). However, we are concerned as to the impact amendments to paragraph 175 as there is no clear definition of ‘setting’. The concern is that this could cause unnecessary sterilization of land against development.

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

The revised text seeks to reflect a change made to national planning policy by a Written Ministerial Statement on protecting our nation’s heritage dated 18 January 2021.

New paragraph 197 has been added to clarify that authorities should have regard to the need to retain historic statues, plaques or memorials, with a focus on explaining their historic and social context rather than removal, where appropriate.

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

Yes No

Please provide comments

The Council supports the retention of those statues, plaques or memorials that have heritage value and thus this has been reflected in a heritage designation status or within a heritage designation.

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

Minor changes have been made to clarify existing policy.

New paragraph 209(c) has been amended to refer to Mineral Consultation Areas in order to clarify that this is an important mechanism to safeguard minerals particularly in two tier areas, and to reflect better in policy what is already defined in Planning Practice Guidance.

New paragraph 210(f) has been amended to reflect that some stone extraction sites will be large and serve distant markets.

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

Yes No

Please provide comments

Maidstone Borough Council supports the clarity and the proposed intention of creating quicker decision making that these proposals would bring about.

Proposed changes to Annex 2: Glossary

The definition of “green infrastructure” has been updated to better reflect practice, as already set out in Planning Practice Guidance, published evidence reviews and the new national framework of green infrastructure standards.

The definition of the “Housing Delivery Test” has been amended to reflect the rulebook. This clarifies that the test measures homes delivered in a local authority area against the homes required, using national statistics and local authority data.

The definition of “minerals resources of local and national importance” has been amended to include coal derived fly ash in single use deposits.

Definitions of “mineral consultation area”, “recycled aggregates” and “secondary aggregates” have been added to reflect the changes in chapter 17.

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

Yes No

Please provide comments

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

The Council's comments are designed to seek practical clarification of the following:

- **How will design codes be assessed?**
- **Do they need to be tested for their impact on viability?**
- **Will consultation need to be held by the Council or will this be done by the coding body?**

It is also concerning that there is a lack of any reference to health and the influence that good design can have on improving health and well-being.

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

Please provide comments

No comment