

Epsom Civic Society

formerly Epsom Protection Society

shaping the future, safeguarding the past

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NPPF and NMDC Consultation
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To Whom It May Concern

Government Consultation: Changes to NPPF and National Model Design Code Consultation – Responses from Epsom Civic Society

About Epsom Civic Society

Epsom Civic Society was founded in 1959 as Epsom Protection Society, at a time when many historic and architecturally valuable buildings and houses in Epsom and Ewell were being threatened by developers. Then, our primary role was to halt the destruction of Epsom's heritage and to ensure that new development was compatible with the traditional character of the town. In 2011, our name was changed to Epsom Civic Society. Our purpose continues to be to protect the heritage of Epsom and to encourage high standards of new planning and building; but the change of name reflects the wider concerns of the Society to promote civic pride and to inspire progressive improvement in the quality of local life for everyone. The Society is an **unincorporated association** with an executive committee and a constitution that requires us to prepare accounts and hold an annual general meeting. We have almost 1800 members. The Society is a founder member of Civic Voice, the national charity for the civic movement in England, and shares common aims with other civic societies.

Responses are submitted on the Society's behalf by our Chair, Margaret Hollins, following consultation with and input from the Society's planning sub-committee members.



Preliminary observations on this consultation

A wholesale review of the NPPF is needed given the climate emergency, biodiversity loss and the need to build a zero-carbon future. In these respects, the proposals in this consultation do not go nearly far enough. We support the recommendation from the Town and Country Planning Association:

“The proposed changes in [section 2] need to go further if the Government is to make sure the planning system delivers on the objectives of the 2008 Climate Act. The NPPF must ensure that all decisions deliver on the 2050 net zero target providing a clear direction of travel that will drive the transformation in the design, location and energy systems of all new development and the regeneration of existing places.”

Nonetheless the environment-related amendments currently proposed are welcome, as are the policy changes in response to the BBBBC’s ‘Living with Beauty’ report.

The proposals here cannot be viewed in isolation from the Government’s three previous consultations on Planning reform. The answers given and concerns expressed by Epsom Civic Society and many others in responses to the **Planning for the Future** consultation document and the **Public Service Infrastructure and Permitted Development Rights** consultation provide the backdrop and help to inform our responses to this fourth consultation.

We support proposals that:

- promote clarity and consistency of the planning framework
- deliver climate resilient and sustainable places and green spaces, enhancing community wellbeing and cohesion
- enable practical and effective involvement of local residents in the planning process
- value local knowledge and heritage
- produce workable, affordable, and relevant planning processes and developments that address needs determined at a local level
- ensure accountability of any overarching regulatory framework for the design codes
- ensure representation of residents as key stakeholders on regulatory bodies, in this case for design codes at both national and local level.

With these criteria in mind, we welcome the proposals, identify our reservations and make recommendations where we think there is scope to do better.

The Society’s responses to specific questions start on the next page.

Chapter 2: Achieving sustainable development

Q1. Do you agree with the changes proposed in Chapter 2? (pp5-7)

Response: Yes. We welcome inclusion of the reference to the UN’s Sustainable Development Goals (**para 7**) which we consider should be **top priority** in addressing climate change and moving towards a zero-carbon future. **NPPF changes need to go further in addressing challenges we face in relation to climate change.**

As the TCPA notes and recommends for insertion into Chapter 2 (after the current paragraph 8):
“Climate change is the greatest long-term challenge facing the world today. Addressing climate change is therefore the Government’s principal concern for sustainable development. For the avoidance of doubt, achieving sustainable development includes securing the mitigation of, and adaptation to, climate change. All planning strategies, and the decisions taken in support of them, must reflect the Government’s ambition to help business and communities build a zero-carbon future and prepare for the impacts of climate change. Accordingly, planning policies and all planning decisions must be in line with the objectives and provisions of Climate Change Act 2008 including the 2050 net zero carbon target.”

We agree with the TCPA that the NPPF must make plain that all policies, plans and decisions must deliver on the objectives of the Climate Change Act 2008.

The amended wording in **para 8b) and c)** makes the objectives more explicit, and more clearly linked to delivery of well-planned places to support sustainable communities. We query the utility of ‘beautiful’ without further reference to the BBBBC Report, ‘Living with Beauty’ (2020).

Para 11a) includes a welcome acknowledgment that growth must be commensurate with adequate infrastructure provision and that plans should promote sustainable patterns of development. **If the supporting infrastructure capacity is not there, then this is a valid reason to resist substantial growth.** Locally there are very real concerns about drainage and water capacity in particular. Local authorities with extensive physical land constraints, without a five-year housing land supply (and /or an up-to-date Local Plan) face housing numbers (targets) that are impossible to achieve. **Para 11a) therefore calls into question the rationale for retaining para 11d)** which prioritises ((footnotes notwithstanding) ‘build, build, build’ - incompatible with sustainable development.

Chapter 3: Plan-making

Q2. Do you agree with the changes proposed in Chapter 3? (pp8-12)

Response: Yes. We welcome the changes to **para 20** which is now more specific with inclusion of ‘design quality of places’ and indicative of more holistic thinking, ie looking beyond the specific development to the wider context of place-making. The addition to **para 22** re large-scale development acknowledges risk of time-lags / delay and encourages longer term strategic integration.

For clarification **we suggest specifying that the reference to a 30-year vision is subject to ongoing review in the context of established local plan processes.**

We suggest that “other statements of national planning policy” (**para 35d**) are explicitly incorporated by reference to the NPPF for the avoidance of doubt.

Chapter 4: Decision making

Q3. Do you agree with the changes proposed in Chapter 4? (pp13-16)

Response: No. We do not agree with the proposed changes. The proposed changes to **para 53** (Article 4 Directions) **limit the discretion of local planning authorities to pro-actively manage their cities, towns and villages and risk running counter to other policies**, for example as regards delivering on design quality, well-planned places and ‘best in class’ community engagement. More specifically, **the proposed changes risk undermining:** a) high street and town centre revival b) local involvement and community voices in planning processes and outcomes c) the integrity of Conservation Areas. We expressed these same concerns in our response (January 2021) to the Government’s consultation on extending permitted development rights (PDRs). **The changes proposed now to limit the scope for Article 4 Directions to control these rights serve to reinforce our concerns about the fundamental disconnect between the aspirations of the National Model Design Code and the expansion of permitted development rights, risking in turn poor quality outcomes for placemaking, housing that will have adverse impacts on health and wellbeing, and the loss of local character and distinctiveness.**

Chapter 5: Delivering a wide choice of high quality homes

Q4. Do you agree with the changes proposed in Chapter 5? (pp17-22)

Response: a qualified ‘yes’. This minimum requirement of 10% of the ‘total number’ of homes to be available for affordable home ownership from a major development site (**para 65**) is **totally inadequate** in places like Epsom where OAN comes largely from incomers seeking lower price or better quality of life than in city centres. 10% social housing plus 30% affordable is needed.

We welcome the addition in **para 73** of “including a genuine choice of transport modes” re new settlements / significant extensions to villages. **We recommend the addition of ‘sustainable’ so that it reads, “including a genuine choice of sustainable transport modes”.** This would be consistent with Chapter 9 (Promoting Sustainable Transport).

We support the changes to **para 73c)** which are consistent with the ‘beauty and place’ strategic theme.

We query the rationale for the removal of ‘innovative’ from **para 80e)** insofar as that might exclude from consideration the use of innovative materials and techniques to address climate change impacts and the transition to net zero homes. Contrast **para 133b)** which includes ‘innovative’. For consistency we suggest the restoration of ‘innovative’ in para 80e).

Continued.....



Chapter 8: Promoting healthy and safe communities

Q5. Do you agree with the changes proposed in Chapter 8? (pp27-29)

Response: Yes. We support the addition of cycle routes in **para 92b**. **We recommend the inclusion of ‘well-designed’ alongside ‘attractive, clear and legible’** to promote consistency with its inclusion in **para 105d** in Chapter 9 (walking and cycling networks).

We welcome the inclusion of “wider benefits for nature and reference to efforts to address climate change” in **para 97**.

Chapter 9: Promoting sustainable transport

Q6. Do you agree with the changes proposed in Chapter 9? (pp30-32)

Response: Yes. We recommend **cross-referencing** with Chapter 5 **para 73** and Chapter 8 **para 92b** in the interests of consistency, as per our recommendations for those respective Chapters. We welcome the addition of **para 109c**).

Chapter 11: Making effective use of land

Q7. Do you agree with the changes proposed in Chapter 11? (pp35-37)

Response: Yes. The amendments for **para 124** are consistent with strategic theme of ‘beauty and place’ but **we query the feasibility of the deployment of such tools** in the absence of a clear commitment from central government for **appropriate resourcing** for their delivery. Our response to Q8 also refers.

Chapter 12: Achieving well-designed places

Q8. Do you agree with the changes proposed in Chapter 12? (pp38-40)

Response: Yes. The proposed inclusions in **paras 127 and 128** are helpful. That all guides and codes “should be based on effective community engagement and reflect local aspirations” is particularly welcome. The requirement for local planning authorities to prepare design guides and codes nonetheless has **huge resource implications** in terms of time, expertise and costs and will require a clear commitment from central government to **provide appropriate funding** to turn high level aspiration to effective deployment, as stated also in our response to Q7.

If, as stated in bracketed text in **para 128**, developers can elect to prepare codes for sites they wish to develop, where does this leave the efforts of the local authority and community to develop design codes? Can the developer just ignore the local design code and impose one of their own? Doesn't this undermine the whole policy of locally determined design/beauty standards? These issues require clarification, especially with reference to the status and weight of developers' design codes and the process by which they are brought into being, including the procedure for community engagement. Our view is that the process must be controlled by the local authority.

We recommend that this section (with appropriate cross-referencing to Chapter 16) **includes explicit reference to Conservation Areas**, each of which could have its own guide and code.

We welcome the inclusion of a new **para 130** on trees. We **recommend deletion** of “and solutions are found that are compatible with highways standards and the needs of different users” together with the **deletion of footnote 49**. Para 130 needs to include **specific responsibility for highways authorities to conform to LPA codes & policies** to minimise as far as possible a ‘stalemate’ situation over tree planting and replacement in 2-tier authorities. We would like clarification on where the funding for tree management and maintenance is coming from.

We support reference to refusing schemes that do not reflect the National Design Guide and National Model Design Code in **para 133**, consistent with the ‘beauty and place’ strategic theme. This provides **clear justification to resist schemes that are of excessive height, density etc and which do not take account of local character**. Clarification is nonetheless required regarding alignment with central government pressure on local authorities to meet housing need requirements where a developer’s proposal does not meet local design code and is therefore rejected.

We strongly support the inclusion of **Para 133b)** which provides an opportunity to set minimum standards of “climate change” mitigation as part of design specifications. In contrast to **para 80e)** ‘innovative’ is included with ‘outstanding’ to support the deployment of innovative materials and techniques to address climate change impacts and the transition to net zero homes. For consistency we suggest the restoration of ‘innovative’ in para 80e).

Chapter 13: Protecting the Green Belt

Q9. Do you agree with the changes proposed in Chapter 13? (pp41-44)

Response: Yes.

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

Q10. Do you agree with the changes proposed in Chapter 14? (pp44-49)

Response: Yes. There are some sensible amendments on natural flood management and integrated approaches, steering development away from flooding, and clarification on building resilience.

Chapter 15: Conserving and enhancing the natural environment

Q11. Do you agree with the changes proposed in Chapter 15? (pp50-54)

Response: Yes. We would nonetheless like to see a **full review of the operation of biodiversity net gain policies and their effectiveness in the planning system.**

Chapter 16: Conserving and enhancing the historic environment

Q12. Do you agree with the changes proposed in Chapter 16? (pp55-58)

Response: Yes, with qualifications. While we are aware of the context for including para 197, we query the need for its inclusion, in view of existing protections and controls available in the planning

system, together with the protection afforded by criminal damage legislation. For the avoidance of doubt, **we recommend making it clear that para 197 applies to all statues** and suggest *either* the removal of 'historic' *or* an explanation that this paragraph applies to old **and new** statues of historic figures.

We recommend cross-referencing this section with Chapter 12, paras 127/128 and our recommendation that **Conservation Areas** could have their own design guide and code.

Chapter 17: Facilitating the sustainable use of minerals

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

No comment.

Annex 2: Glossary

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

Response: Yes. We welcome the updated amendment to 'Green Infrastructure', and the clearer explanation of Housing Delivery Test (linking also to Annex 1 para 220). **We recommend including 'Neighbourhood Planning Group' in the Glossary** to explain that this is not a generic reference but refers specifically to Neighbourhood Planning as per the Localism Act 2011.

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
- b) the application and use of the guidance
- c) the approach to community engagement.

Preliminary Comments

We welcome the introduction of the NMDC and the renewed prioritisation of and support for design quality and well-planned places that respect and enhance local character and distinctiveness and support sustainable communities. We have some preliminary observations and queries about the coding process and the general utility of the document and accompanying Guidance Notes before addressing the detail and raising specific questions.

We wonder what if any of the work in Stages 1 and 2 of the coding process would not already have been done in preparing an updated Local Plan. No LPA will have done it in precisely the manner prescribed, nor consulted on each item separately, let alone for each category of area for which a design code is proposed. Locally we might have codes for each of urban high density; urban lower density; adjacent to Green Belt; Green Belt; Conservation Area; adjacent to Conservation Area or Heritage Asset) or we might also choose to have codes for estate areas.

A crucial element of the whole proposal is the impossibly long time required (probably exceeding 10 years) with an otherwise totally stable planning system to establish whether or not it is working for



local planning authorities and producing the required result in terms of place development, housing built, climate change and BBBB design and place improvements. Given that the planning system is subject to constant legislative and policy changes (and consequently 'unstable' in this respect), there is a danger of subordinating the NMDC to control of process ('box-ticking') rather than championing quality of outcomes.

It could be argued that all the potential value of this document has already been achieved, that it is a useful checklist of ideas, things to address in some form at some time, but adds nothing more to the achievement of deliverable and desirable Local Plans. A linked argument is that the whole document appears to be over-prescriptive on the 'how' things should be done but should rather be used as just a list of the things that (a) should be and (b) might reasonably be covered in the local design code as part of a Local Plan.

Generally, in terms of **content**, there are some useful ideas on how to display code information in 'infographic' form. The best of these will be picked up by individual Planners and used, the over-complicated bits most likely ignored unless following of the prescription is mandated.

In terms of **application**, the document should be added to the available reading material for planning professionals and left for them to use or not as they see fit. A supplement including worked examples from LPAs who have completed their approved Local Plans using some or all of the methods might be useful in due course, and the Planning Inspectorate should monitor and report quantitatively and qualitatively on the frequency and effectiveness of use in practice in submitted Local Plans.

Regarding the approach to **community engagement**, Place Planning & Development is, in the main, a technical activity for which professional training and practical experience is essential. This makes it hard for the general public to engage with - except when planners or others come up with proposals that obviously and materially adversely affect the status quo and threaten a worse quality of life for local residents.

But in all communities where a Civic Society, Residents Association or equivalent group exists to hold the LPA to account over both individual planning applications and Local Plan preparation, there is a resource which is potentially a link between the LPA and the wider population and which should be nurtured.

Where none exists, perhaps LPAs should be encouraged to ask for one to be created specifically to help in the preparation of the Local Plan, using council members to ask for volunteers. This approach may be more fruitful than multiple formal "consultations", since in Epsom the last three local consultations have produced no answers acceptable to MHLGC's unachievable housing targets and have resulted in much apathy towards future consultations. We would have had a deliverable Local Plan proposal by now had it not been for the imposition of impossible targets and constant changes in Permitted Developments, NPPF, guidelines etc in the last decade.

The Society's experience over the last few years is that frequently **discussions with developers** on development proposals is a farce, in that they consult with us/community and then do what they want, ignoring most comments but being able to state that they have nonetheless consulted us. We



suggest that this aspect of the community engagement process needs to be more clearly defined and rigorously implemented at the pre-app stage to avoid a tokenistic 'tick in the box' exercise and ensure that local community issues can be addressed meaningfully. We express here our fervent wish that well-resourced and effective deployment of local design codes and guides will make a significant contribution to more meaningful developer engagement.

Our detailed questions and comments are in the following table.

Source	Response: questions and comments
National model design code: Coding process: section 1B, section 2C	<ul style="list-style-type: none"> • How do the national model area analysis plan categories (section 1B) and coding plan categories (section 2B) align with the three area types (of growth, renewal and protect) set out in August 2020 Planning for the Future consultation document? • How will residents be expected to make sense of these multiple overlapping layers of description, analysis and planning rules operation?
National model design code and Standard method for assessing housing need.	<ul style="list-style-type: none"> • What happens if adherence to local code rules (developed with input from local residents and having reference to the national model design code) means that, in a specific local authority, the numbers of dwellings resulting from use of the standard method for housing numbers in strategic plans are not met (as proposed schemes that do not meet local code rules are rejected)? • For central government or the Office for Place to override the local code rules would mean that the code is ineffective and local people's wishes are ignored.
Office for Place	<ul style="list-style-type: none"> • By what means is the Office for Place to be accountable to the public at a local level?
Office for Place	<ul style="list-style-type: none"> • What are the means to ensure the Office for Place does not become a buffer protecting the Secretary of State from responsibility for unpopular decisions?
Office for Place	<ul style="list-style-type: none"> • By what means are local authorities, local communities and civic societies to be represented in the Office for Place? • Where are the detailed proposals about how the Office for Place will act with transparency and be resident-focused in its operation?
National model design code: Coding process – 1A to 2C	<ul style="list-style-type: none"> • The process envisaged for developing local codes and local plans looks too time consuming for the great majority of local people to be involved. The proposals set out seem to require three sets of consultations on proposals that do not relate to specific applications and are at a strategic or abstract level: pre coding, coding and local plan. • Local people can and do currently comment on planning applications, but are much less likely to comment on rules about theoretical future planning applications. Local people will then be rightly concerned that if they are subsequently excluded from inputting to local planning decisions (as envisaged by Planning for the Future in relation to both 'growth' and 'renewal' areas). • Has any work been undertaken to consider the practicality of the proposals being put forward? Can this be published so consultees can comment on the adequacy of such work?.
Section 1A. para 26 and Figure 2 items H.1i to H.2iii	<ul style="list-style-type: none"> • Why are housing space standards, accessibility, light, privacy, security, gardens and balconies seen as discretionary items in design codes? Saying that they 'may be dealt with elsewhere in local plans' seems to indicate they 'may' be overlooked which would seriously undermine any notion that 'beauty' has any worthwhile meaning in the approach the government is proposing.

Source	Response: questions and comments
Section 1B Baseline	<ul style="list-style-type: none"> • Who is funding this proposed analysis by local planning authorities of areas to be covered by local codes? • Over what time period is the analysis to be carried out? • How often is the analysis to be reviewed and updated? • How are updates to be funded? • Is there a danger of investing substantial resources on a never-ending task that does not produce a result of commensurate value? (as used to be called the ‘boiling the ocean’ problem?)
Section 2B Coding plan	<ul style="list-style-type: none"> • Para 40 says ‘a limited number of area types should be identified to avoid the design code becoming too complex’. The para refers to ten types of area (shown in Fig 10) and Figure 9 shows 13 area types. • Is it useful to expect all authorities to use these standard coding classifications? • Where are the codings for parks and larger green areas, greenbelt, urban farms and rural farms, MOD areas, National Trust land etc? • How often should codings be reviewed and amended? • Aren’t land uses in practice more granular than the coding categories imply? • How useful is a ‘town centre’ designation if such areas become randomly residential at street level through use of the government’s proposed expansion of permitted development rights?
Section 2B Coding plan Figure 10	<ul style="list-style-type: none"> • Why is the national code proposing no or limited restrictions on building height in cities? • Are there no lessons from Grenfell (fires in tall buildings) and from the pandemic (need for ready access to green spaces for residents mental and physical health) to be learnt?
Section 2 C master planning	<ul style="list-style-type: none"> • Para 44 says coding framework for development sites can be produced by the landowner/developer on their own – how can it be ensured that this not a way for developers to effectively amend or circumvent aspects of the local design code produced by the local authority through consultation with residents? • Figure 11 – why is there no reference to sustainability in the illustration of a development site masterplan? • The list includes ‘the position of the local centre if relevant’ – presumably all new developments should be subject to a 10 minute rule for residents to be able to walk to shops or services in order to reduce the need for car journeys. Why is this rule not prominently embedded in the national model code?
Section 3A and 3B	<ul style="list-style-type: none"> • The NMDC reveals a bias towards perpetuating the downsides of urban dwellings – eg proposing greater dwelling density and taller buildings heights than suburban areas – meaning that the greater air pollution and spread of respiratory diseases, lack of space for exercise and walking are, in effect, being embedded by the design code - so they are repeated and intensified over time. • Ideally, shouldn't the aim be to reduce density in urban areas rather than to maintain or increase it?
Section 3A Figure 21 Heights and tall buildings	<ul style="list-style-type: none"> • Para 52 vii and 52 viii and figure 21. The national code text for building heights and tall buildings seek to increase the ‘norm’ for these elements of built form by giving examples of 6 storeys (including ground floor) for town centres and 4 storeys for urban neighbourhoods and no limits for some city areas. How is this consistent with encouraging sustainable, human-scale built environments?

Source	Response: questions and comments
Section 3A Identity	<ul style="list-style-type: none"> • Para 53 Tall building design principles – ‘tall buildings may be permitted in certain area types’ – what are the criteria to allow tall buildings ? Current experience is that developers will attempt to get planning permission for buildings heights that are completely out of scale with existing adjacent buildings. • Will a local code that has been overly influenced by developers be any defence against this happening in future?
Section 3A Public space	<ul style="list-style-type: none"> • Why is there reference to walking and cycling only in ‘local streets’ and not in primary, high and secondary streets? Active travel is relevant to all four types of streets.
Section 3 A Use	<ul style="list-style-type: none"> • Para 55 i, intensification – is development of ‘airspace’ an indirect (and less honest way) of saying tower blocks? • Para 55 v Schools – why should urban area school children have to experience more dense solutions (ie cramped conditions) when the pandemic has shown that these are more conducive to virus transmission ?
Section 3B Use	<ul style="list-style-type: none"> • Para 64 Housing mix – why not specifically mention social housing as this is the housing tenure type in shortest supply relative to demand
Section 3B Lifespan	<ul style="list-style-type: none"> • Para 67 ii Community participation –this states that codes may require that consultation take place on all schemes prior to the submission of a planning application. • If the government’s model code is now allowing residents to voice their views on planning proposals pre application, why not allow residents to object or support actual planning applications as they can currently do?
Government publishes new model design code to ‘bring back beauty’ News Building Design (bdonline.co.uk)	<ul style="list-style-type: none"> • Why is it proposed that most of the local design code rules will not apply to developments carried out under permitted development rights eg changing retail properties to residential use?

Public Sector Equality Duty

Q16. We would be grateful for your comments on any potential impacts under the Public Sector Equality Duty.

Response: The NPPF changes are relatively minor, hence unlikely to have significant consequences save for what is proposed in para 53 re Article 4 Directions. On other aspects of this consultation, we would welcome a steer from the Government.

This concludes the responses from Epsom Civic Society to this consultation.

Yours faithfully,
Margaret Hollins
Chair, Epsom Civic Society

