

# Planning Committee

26 March 2021

Agenda item number 10

## NPPF consultation response

Report by Planning Policy Officer

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### Summary

The report presents the proposed changes to the NPPF, with a short commentary on how they could be relevant to the Broads Authority and the Broads. The report is for information only.

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# 1. Introduction

- 1.1. The Government are proposing changes to the National Planning Policy Framework. The consultation documents and details can be found here: [National Planning Policy Framework and National Model Design Code: consultation proposals - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/national-planning-policy-framework-and-national-model-design-code-consultation-proposals)
- 1.2. The consultation seeks views on draft revisions to the National Planning Policy Framework. Revised wording is proposed. Some text changes are in response to the [Building Better Building Beautiful Commission “Living with Beauty” report](#).
- 1.3. There are also other changes to the NPPF. There are a number of environment-related changes, including amendments on flood risk and climate change. The amendments also include a small number of very minor changes arising from legal cases, primarily to clarify the policy. A few minor factual changes have also been made to remove out-of-date text (for example, the early thresholds for the Housing Delivery Test), to reflect a recent change made by Written Ministerial Statement about retaining and explaining statues, and an update on the use of Article 4 directions.
- 1.4. This is not a full review of the NPPF and the consultation wording implies there could be a review in due course depending on the implementation of the government’s proposals for wider reform of the planning system.
- 1.5. This paper highlights the changes and provides some commentary on the proposed changes. Commentary is shown as italics.
- 1.6. In terms of responding to the consultation, National Parks England have produced a response that represents all of the National Parks and the Broads.

# 2. Proposed changes to the NPPF and commentary

## 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:**

- 2.1. 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.
- 2.2. 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.
- 2.3. 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.

- 2.4. 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.
- 2.5. 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.
- 2.6. *As we start to review the Local Plan, the UN Sustainable Development Goals were intended to be a key aspect of that review. Design is an important aspect of development in protected landscapes such as the Broads and so, generally, the increased emphasis on the importance of design is welcomed. So too is the increased emphasis on climate change. The Housing Delivery Test does not apply to the Broads Authority.*

### Chapter 3: Plan-making

#### **The revised text reflects the government's response to the Building Better Building Beautiful Commission, and recent legal cases:**

- 2.7. 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.
- 2.8. 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.
- 2.9. 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.
- 2.10. *The increase in the importance of design is welcomed. The Broads Authority is unlikely to plan a new settlement, but we are aware that this could be something our districts may investigate over the coming years. Indeed, Greater Norwich Local Plan refers to the potential for a new settlement and that work could start to look into that over the coming years. If relevant to the Authority, we would work with the districts on such schemes. As for the soundness related changes, as we review the Local Plan, we will ensure the Local Plan is well prepared so the tests of soundness can be passed an examination.*

### Chapter 4: Decision making

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

- 2.11. An Article 4 Direction is where a Local Planning Authority removed national permitted development rights. 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, the Government proposes amending Paragraph 53, and asks for views on two different options.
- 2.12. It also propose clarification of the 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.
- 2.13. *At present, local authorities can apply directions under article 4 of the General Permitted Development Order 2015 to restrict the use of PD rights in specific local areas, although the NPPF currently restricts the use of such directions to “where this is necessary to protect local amenity or the well-being of the area”. But the proposed amendments would further limit such directions to situations to “where this is essential to avoid wholly unacceptable adverse impacts” (or, alternatively “where this is necessary in order to protect an interest of national significance”), while ensuring that they are “in all cases” applied “to the smallest geographical area possible”.*
- 2.14. *The Authority does have some Article 4 directions and may consider more in the future. But where these have been set, they tend to be targeted and we ensure they are fully justified. Commentators on the proposed changes state that this will result in a very high bar to pass in order to set Article 4 directions.*
- 2.15. *The National Parks England response to the consultation objected to these changes to reflect the ever-expanding Permitted Development Rights as well as some of the proposed terminology not being clear with what it intended and potential conflict with primary legislation.*

## 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:**

- 2.16. 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.
- 2.17. 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.

- 2.18. 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. 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.
- 2.19. Footnote 40 (referred to in new paragraph 74(c)) has been updated to reflect that the Housing Delivery Test has now come into effect.
- 2.20. 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.
- 2.21. 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.
- 2.22. *Clarification on policy requirements is always useful, so the clarification relating to 10% is welcomed and will be reflected in the Local Plan. The clarification relating to Neighbourhood Plans is noted, although not many Neighbourhood Plans that cover the Broads, in our experience, allocated land. The Broads does not tend to have ‘large-scale’ development so this change to the NPPF would rarely be of relevance, but is noted. The housing delivery test does not apply to the Broads. Regarding the removal of the words ‘or innovative’, it is not clear what impact this will have. We have had some developments quoting the innovative criteria of the NPPF.*

## **Chapter 8: Promoting healthy and safe communities**

### **The revised text seeks to clarify existing policy:**

- 2.23. 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.
- 2.24. 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.

- 2.25. *The emphasis on well-designed and high-quality walking and cycling routes, open spaces and sport opportunities is supported. The benefits to health and wellbeing and biodiversity are important. These changes relate well to the aims and benefits of protected landscapes.*

## **Chapter 9: Promoting sustainable transport**

### **The revised text reflects the government's response to the Building Better Building Beautiful Commission:**

- 2.26. New paragraph 105 (d) has been amended to support the Building Better, Building Beautiful Commission's recommendations on encouraging walking and cycling.
- 2.27. 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.
- 2.28. *Encouraging walking and cycling is supported and reflects some of the ways to enjoy the Broads. We work well with our Highways Authorities and reflect the advice and guidance in the local plan and discussions with applicants. As required, we will ensure we consider other relevant guidance that is in place.*

## **Chapter 11: Making effective use of land**

### **The revised text reflects the government's response to the Building Better Building Beautiful Commission:**

- 2.29. 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.
- 2.30. *Design is an important aspect of development in the Broads, and national policy emphasising the importance of design is welcomed. The use of such approaches is noted and we will consider how these can be used when we produce the Local Plan. There is also the potential that design codes might be a requirement set on Local Planning Authorities. The accompanying paper on the consultation on design code documents may be of relevance and interest. In terms of using land efficiently, again, this is something that we seek through the Local Plan, especially regarding development on areas of peat, where our policy approach is to reduce the amount of peat excavated.*

## **Chapter 12: Achieving well-designed places**

### **The revised text reflects the government's response to the Building Better Building Beautiful Commission:**

- 2.31. 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

- 2.32. Paragraph 126 has been amended to clarify the role that neighbourhood planning groups can have in relation to design policies.
- 2.33. 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.
- 2.34. A new paragraph 128 has been added in response to the Building Better Building Beautiful Commission's recommendations and the Government's 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.
- 2.35. 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.
- 2.36. New paragraph 132 and footnote 50 have been updated to refer to Building for a Healthy Life.
- 2.37. 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.
- 2.38. *Generally, emphasising the importance of design is welcomed and is something we consider when determining applications already. The accompanying paper on the consultation on design code documents may be of relevance and interest. Neighbourhood Plans are tending to include policies relating to design and tend to assess the character of the area. Regarding the tree-lined streets potential requirement is noted, but it is not common that new streets are created in the Broads, as we tend to have development on a smaller scale. We are aware of the Building for a Healthy Life criteria and will ensure that is included in the Local Plan.*

## **Chapter 13: Protecting the Green Belt**

**The revised text seeks to clarify existing policy:**

- 2.39. 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.
- 2.40. *Whilst the Broads does not have areas of green belt, the NPPF says that policies for managing development within a Local Green Space should be consistent with those for Green Belts. The Local Plan and adopted and emerging neighbourhood plans allocate local green spaces and so the change is somewhat relevant. That being said, the change seeks to clarify the policy stance and does not seem to really affect the allocations.*

## 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:**

- 2.41. The changes proposed are in part an initial response to the emergent findings of the 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, the Government 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.
- 2.42. 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.
- 2.43. 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).
- 2.44. 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.
- 2.45. New paragraph 163 has been amended to clarify the criteria that need to be demonstrated to pass the exception test.
- 2.46. New paragraph 166(b) has been expanded to define what is meant by "resilient".



- 2.47. *Generally, the proposed changes are supported as flood risk can have great impacts and the risk will get worse with climate change. If these changes are adopted, the Local Plan will reflect the NPPF as appropriate and the Flood Risk SPD will be updated as required.*

## **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:**

- 2.48. 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.
- 2.49. New paragraph 176 has been separated from the preceding paragraph to clarify that this policy applies at the development management stage only.
- 2.50. 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.
- 2.51. *The clarification relating to setting of protected landscapes is welcomed. The changes to para 176 led to much debate with fellow Protected Landscape planning policy officers. For clarity, this relates to major development in terms of protected landscapes, rather than the numerical definition in the NPPF. Generally, the group consider that either the current wording is adequate or there could be reference to relevance of the major development text at all stages of development, including plan making. And this formed the response produced by National Parks England. Wording that increases the importance of the impact of benefits that development can have on biodiversity is welcomed.*

## **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:**

- 2.52. 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.
- 2.53. *We are not aware of any such statues, memorials or plaques in the Broads that are public.*

## **Chapter 17: Facilitating the sustainable use of minerals**

**Minor changes have been made to clarify existing policy:**

- 2.54. 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.
- 2.55. New paragraph 210(f) has been amended to reflect that some stone extraction sites will be large and serve distant markets.
- 2.56. *The Broads is not a minerals and waste authority, but the Norfolk and Suffolk County Council Minerals and Waste Local Plans are of course relevant to the Broads*

### **Annex 1: Implementation**

- 2.57. Minor changes have been made to update the position on transitional arrangements, and on the Housing Delivery Test.
- 2.58. *The Housing Delivery does not apply to the Broads.*

### **Annex 2: Glossary**

- 2.59. 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.
- 2.60. 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.
- 2.61. The definition of “minerals resources of local and national importance” has been amended to include coal derived fly ash in single use deposits.
- 2.62. Definitions of “mineral consultation area”, “recycled aggregates” and “secondary aggregates” have been added to reflect the changes in chapter 17.
- 2.63. *The change to the definition of Green Infrastructure is noted. The Housing Delivery Test does not apply to the Broad. The Broads is not a minerals and waste authority, but the Norfolk and Suffolk County Council Minerals and Waste Local Plans are of course relevant to the Broads.*

## **3. Conclusion**

- 3.1. Most of the proposed changes, in general, seem positive. There is some concern however about the proposed changes to when to apply the major development test as well as the wording related to Article 4 directions. We will keep Members informed of the progress on this consultation and any changes adopted by the Government.

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