
British Property Federation

1. The British Property Federation (BPF) represents the real estate sector – an industry which contributed more than £116bn to the economy in 2020 and supported more than 2.4 million jobs. We promote the interests of those with a stake in the UK built environment, and our membership comprises a broad range of owners, managers and developers of real estate as well as those who support them. Their investments help drive the UK's economic success; provide essential infrastructure and create great places where people can live, work and relax.
2. The BPF can see some of the benefits of a National Model Design Code (NMDC) and welcomes the government's aspiration to ensure that good quality design lies at the heart of the English Planning system. This is an aspiration also shared by us and our members. Well designed and high-quality places informed by meaningful engagement with the local community leads to the best outcomes and as such these principles should be central to development activity. We have a number of comments regarding the publication of the NMDC in terms of its draft content and how the process of local coding might work in practice. We also set out our comments in relation to the associated 'beauty' changes to the NPPF and the proposed amendment which will limit local authorities' abilities to use Article 4 Directions to block certain permitted development rights locally.

National Model Design Code

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

General comments

3. As referenced above, the BPF welcomes the publication of the NMDC and looks forward to observing how this process unfolds in the pilots later this year. We note that the proposals state that the production of a local code can be initiated by either the local authority or the developer. The route for developers bringing forward design codes is supported by our members and there are many examples of such codes being implemented successfully to date with extensive prior engagement with local stakeholders. Such a process allows for a balance between what is possible and viable on a given development site according to building uses and density requirements and what is required to uphold quality and conformity with local character. We would observe that a process that relies too heavily on local community involvement could prove a difficult task, particularly for commercial development where typically there is not a local population to

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consult. We look forward to seeing how this particular challenge plays out in the pilots and more broadly how a successful relationship between the developer, local authority and local community all working together to produce a local code can be fostered.

4. In many cases, because of current local authority resourcing and a lack of design skills, it will be the developer in the short to medium term who will be leading on the process in terms of the production of a local code. It should be noted that, in effect, the proposals in the NMDC mean that the local design code will be produced at allocation stage rather than at outline permission stage which is the case for design coding at present. This is significant cost for the developer earlier on in the development process at a time when income associated with a scheme is not close to being generated. There is of course a benefit to design coding earlier in the process in that it provides greater clarity and transparency to the local community in terms of what is being delivered but only if the design code itself is fit for purpose and deliverable. It will be interesting to observe how greater transparency / clarity in terms of design coding earlier in the process is balanced against allowing a developer enough reasonable flexibility to amend a scheme overtime. Our members' experience with masterplanning/ design coding is that conditions change and as such this process needs to be flexible enough to allow developers to respond to changing environments and changing needs.
5. Further, there is a consensus within our membership that design should not be overly prescriptive but rather a process undertaken by qualified and experienced professionals (from both the private and public sector) with support from key local stakeholders. An unintended consequence of any process that sets design criteria that is too rigid could be to stifle creativity and innovation. Further, if local authority planning departments are not provided with the requisite design skills to play their full part in the production of local codes, decisions could increasingly be made on a rigid basis with strict adherence to a code or policies that ultimately diminish the involvement of design experts. As noted above, some flexibility will be needed to amend (where reasonable) design elements of a development for practical reasons to ensure viable build out. We note the newly established Office for Place has been tasked with improving design capability within a local authority context so we look forward observing how greater capability can be fostered, both in the pilots and over the longer term.

Design Coding and Industrial Premises

6. As inferred above, it will be imperative that the NMDC and the associated process of producing local codes allows for flexibility and enables a diverse range of industrial buildings to be delivered in a wider range of appropriate planning contexts.
7. A further important point is that functional buildings (i.e., industrial premises) need to be predicated on an understanding of the market. It is not clear at this stage whether local authorities and communities would have the requisite knowledge in this sphere. One option (perhaps incorporated into the Office for Place) would be to create a centralised National Industrial Design Service with the purpose of supporting local authorities and communities in delivering local codes for industrial which are realistic and deliverable.

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The National Model Design Code and its tensions with the proposed Commercial-to- Residential Permitted Development Right

8. Finally, we would observe that whilst the government's emphasis and commitment to good design is evident through the publication of the new NMDC, there are clear tensions between this proposed government reform and other reforms to the planning system. The BPF made representations to government earlier this year on the new proposed commercial-to-residential permitted development right (PDR) on the grounds that for our town centres, particularly those in fragmented ownership, this reform could lead to incoherent and poorly planned / designed places.
9. The contrast therefore is that government by following its current path creates a two-tiered system whereby developments that follow the traditional planning route face (rightly) enhanced design requirements, but other development brought forward through the new proposed PDR route are not subjected to the same standards. Indeed, for irresponsible developers the fact that applicants through the traditional planning route will, going forward, face enhanced design requirements may perversely incentive applicants to pursue a quick return through the PDR route to avoid these standards. This would further erode activity in our town centres, particularly those in fragmented ownership, which need more positive planning rather than further deregulation to raise the standing of their town centres.

Q3. Do you agree with the changes proposed in Chapter 4? Which option relating to change of use to residential do you prefer and why?

10. We note the policy effect of the proposed amendments in Chapter 4 is to further curtail and restrict local authorities' abilities to take a view on whether a certain PDR is appropriate locally. The BPF did not support the further extension of PDR when government consulted earlier this year on the new commercial-to-residential PDR.
11. We are therefore equally unsupportive of any change to national policy which will further erode local authorities' abilities to determine whether a certain PDR is acceptable at a local level. Local authorities are best placed to plan effectively in their area and as such government should focus on enabling more positive planning rather than pursuing amendments to national policy that take more decision-making powers out of their hands.

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

12. We note that across various aspects of the revised framework that proposed amendments promote a stronger focus on beauty in response to the Building Better, Building Beautiful Commission's final report. In broad terms, we would warn against moving towards a planning system whereby phrases such as 'beauty' become wide ranging and acceptable planning terms. 'Beauty is in the eye of the beholder' and as such there is a danger that such terms could do damage in terms of making our planning system subjective and thus potentially more inefficient.
13. We also note that Chapter 12 contains proposed amendments stating developments that are not well designed should be refused. As noted in our comments on the NMDC above, the BPF view is that establishing what constitutes good design should be a process undertaken by experts from both the public

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and private sector in consultation with the local community rather than simply a statement within national policy. The reference in the revised NPPF in terms of significant weight given to applications that follow the new proposed local coding process is therefore a welcome caveat. However, consequently, the extent to which good design can be achieved in this way is highly dependent on the effectiveness and integrity of the new local coding process.

For further information please contact:

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