

This Report will be made public on 10 October 2023

Report Number **C/23/42**

**To:** Cabinet  
**Date:** 18<sup>th</sup> October 2023  
**Status:** Non key  
**Responsible Officer:** Rebecca Chittock, Planning Policy Specialist  
**Cabinet Member:** Cllr Jim Martin, Leader of the Council and Cabinet Member for Otterpool Park and Planning Policy

**SUBJECT:** Authority-wide Design Code – Preliminary Steps

**SUMMARY:** When the Levelling-up and Regeneration Bill becomes law within the next few weeks, it will be a legal requirement for local planning authorities to produce a design code covering their entire area. The Secretary of State will have powers to intervene where local authorities are not making progress. Local authorities will need to prepare and adopt design codes as part of their local plan or as a supplementary plan, giving the design requirements set within them the weight of the development plan in decision-making. Design codes are part of wider government reforms, which will be the most far-reaching changes to the local planning system for twenty years.

This report sets out what design codes are and the government's requirement for local planning authorities to have a district-wide code. Producing a design code will require significant time and resources, and this report sets out proposals for the first stages of this process.

**REASONS FOR RECOMMENDATIONS:**

To allow preliminary steps to be taken to prepare for the statutory requirement to produce a district-wide design code that will be brought into force when the Levelling-up and Regeneration Bill receives Royal Assent.

**RECOMMENDATIONS:**

1. To receive and note report C/23/42.
2. To agree that officers commence with the three preliminary steps set out in paragraph 4.4.
3. To note that subsequent reports on design code work will return to members for information and approval.

## **1. BACKGROUND - WHAT DESIGN CODES ARE AND THEIR RELATIONSHIP WITH THE LOCAL PLAN**

### **1.1 The National Design Guide (2021) defines a design code as:**

‘A set of illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area. The graphic and written components of the code should build upon a design vision, such as a masterplan or other design and development framework for a site or area.’

### **1.2 Design codes have been used successfully for many years; although, they were previously typically thought of as site-specific and prepared by developers/landowners. However, they began to emerge as a central pillar of place-making after the government’s ‘Building Better, Building Beautiful’ Commission proposed the widespread use of design codes in its final report in January 2020. The case and ambition for design codes is outlined in ‘Planning for the Future’, the August 2020 white paper by the Ministry of Housing, Communities & Local Government (MHCLG), which proposed to prioritise design quality by setting clear and predictable design standards for codes.**

### **1.3 Subsequently the National Planning Policy Framework (NPPF) was updated in July 2021 to strengthen the emphasis on beauty, place-making and good design, requiring local authorities to produce design codes and guidance as part of their local plans, making it clear that design policies should be developed with local communities, so they reflect local aspirations.**

### **1.4 The Levelling Up White Paper published in February 2022, emphasised the importance of pride of place, aiming for local communities to be empowered in achieving this by working together with councils to create new local design codes.**

### **1.5 Most recently the Levelling-up and Regeneration Bill (as amended, September 2023) provides a framework for how design codes will be implemented in the reformed planning system. (Wider reforms to the planning system are outlined in a separate report to Cabinet.) Importantly, it includes a requirement on all local planning authorities to have a design code in place covering their entire area. The bill has specific measures relating to design codes that:**

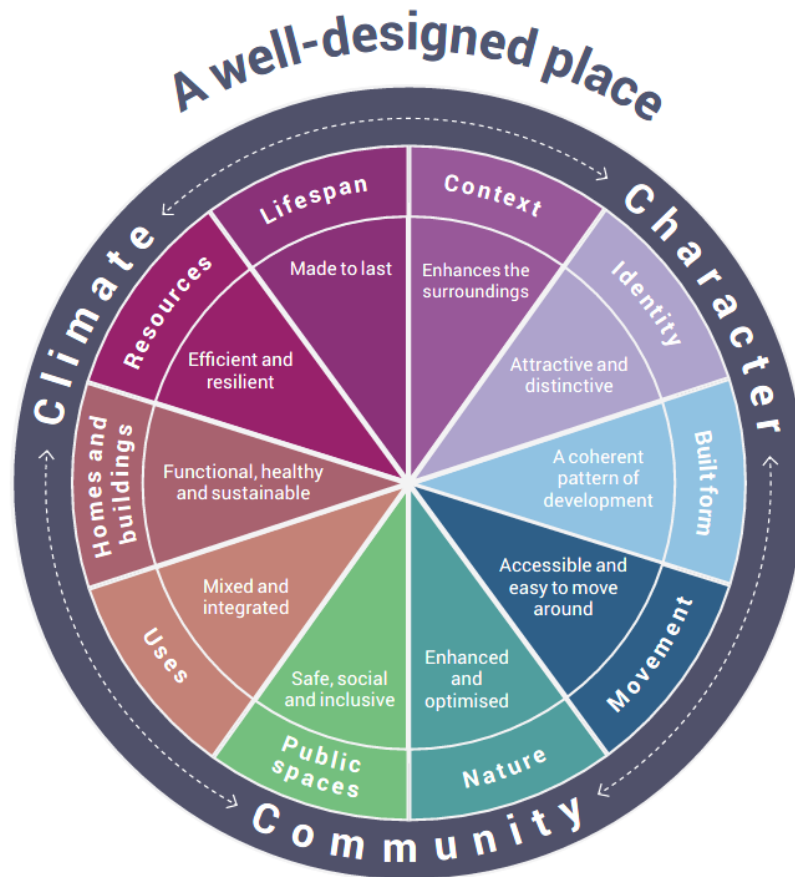
- Require every local planning authority to produce a design code as part of their development plan. These codes will have full weight in making decisions on development, either through forming part of local plans or being prepared as a supplementary plan (15F in schedule 8). Given this weight, design codes will be subject to at least one round of consultation and an independent examination.
- Allow local planning authorities to set design requirements at other spatial scales either as part of their local plan, supplementary plan (15C and 15CC in schedule 8), or as a neighbourhood plan.

- Include a requirement for local planning authorities to prepare a local plan timetable (15B in schedule 8), which includes how the authority proposes to comply with the requirement for authority-wide codes.
- 1.6 If a local planning authority is unlikely to comply, or has not complied, with the requirement to produce a design code for its area, the bill gives new powers for the secretary of state to intervene and give direction (15HB).
  - 1.7 The explanatory note for the bill states that: “The area-wide codes will act as a framework, for which subsequent detailed design codes can come forward, prepared for specific areas or sites and will be led either by the local planning authority, by neighbourhood planning groups or by developers as part of planning applications. This will help ensure good design is considered at all spatial scales, down to development sites and individual plots” (Para. 51).
  - 1.8 Amendments from the House of Lords are currently being considered and the bill is likely to achieve Royal Assent before the King’s Speech on 7<sup>th</sup> November 2023. Once the bill has received Royal Assent, the government will publish revisions to the NPPF. Beyond the bill, the government is continuing to establish the Office for Place which is proposed to support local planning authorities and communities with design codes.

## **2. GOVERNMENT REQUIREMENTS**

- 2.1 The NPPF makes clear that local planning authorities should ensure that visual tools such as design codes and guides are used to inform development proposals to provide maximum clarity about design expectations at an early stage and reflect local character and preferences. The NPPF expects local planning authorities to develop these visual tools, taking account of the National Design Guide and the National Model Design Code, which form part of the government’s planning practice guidance suite.
- 2.2 The creation of design codes provides a valuable opportunity to create high quality, well-designed places that can help tackle climate change, and further the council’s journey towards net zero, as well as supporting improved health and well-being of our community. However, it remains to be seen how building standards and national development management policies will address this.
- 2.3 The National Design Guide, published in 2019, addresses the question of how we recognise well-designed places by outlining and illustrating the government’s priorities in the form of ten key characteristics (see Figure 1). The government is encouraging the use of these ten key characteristics in the creation of design codes across the UK to raise design standards.

Figure 1 – The ten characteristics of well-designed places



- 2.4 The National Model Design Code (NMDC), published in 2021, expands on the ten characteristics and provides a common framework for design. It is a toolkit to guide local planning authorities on the design parameters and issues that need to be covered when producing design codes, as well as methods to capture and reflect the views of the local community. The NMDC also gives clarity to developers about what they will be expected to deliver.
- 2.5 The NMDC says that “Design codes are important because they provide a framework for creating healthy, greener, environmentally responsive, sustainable and distinctive places, with a consistent and high-quality standard of design. This can provide greater certainty for communities about the design of development and bring conversations about design to the start of the planning process, rather than the end. Creating more beautiful places requires a greener approach, with more energy efficient buildings, integrating with the natural environment and contributing positively to the net zero carbon target by 2050.”
- 2.6 The NMDC sets out a process for preparing a local design code which has three main stages, broken down into seven sub-stages (shown in Figure 2). First there is the analysis stage, this involves scoping what the code area is, policy issues it needs to address and the baseline analysis that is needed. Second is the visioning stage which sets the overall vision for the code and looks to identify area types. Third is the coding plan, that determines the area and area types which the codes will apply to. These can range from town

centres, to suburbs, down to rural areas and villages. Consultation with communities at all stages is vital to ensuring the design aspirations of local people are taken into account when preparing codes.

Figure 2 – National Model Design Code – coding process

### 1. Analysis

**1A - Scoping:** Agreeing on the geographical area to be covered by the code and the policy areas that it will address.

**1B – Baseline:** Bringing together the analysis that will underpin the code and inform its contents.

### 2. Vision

**2A – Design Vision:** Dividing the area covered by the code into a set of typical ‘area types’ and deciding on a vision for each of these area types.

**2B – Coding Plan:** Preparing a plan that maps out each of the area types and also identifies large development sites from allocations in the local plan.

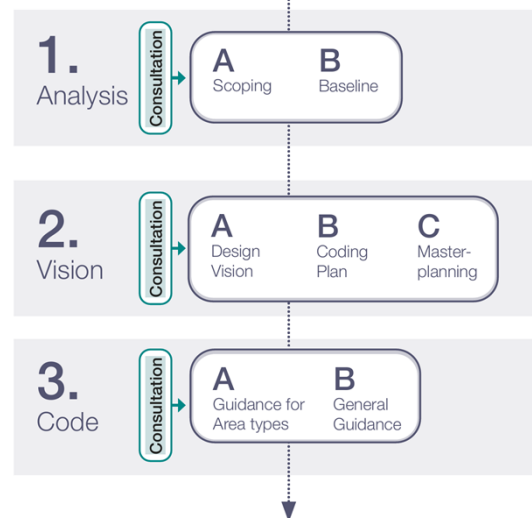
**2C – Masterplanning:** On larger sites working with land owners and developers to agree a masterplan for each of the development sites establishing the key parameters and area types.

### 3. Code

**3A – Area Type Guidance:** Developing guidance for each area type by adjusting a set of design parameters.

**3B – Design Code Wide Guidance:** Agree on a set of policies that will apply equally across all area types.

Figure 1. Design Code Process



2.7 In February 2023 the government published guidance on ‘10 criteria for effective design coding’ which was developed by members of the advisory board for the Office for Place and is designed as a helpful tool for local authorities. The 10 criteria are set out here and seem very helpful and concise:

1. Set a clear vision - A clear and concise vision, setting out ambitions for the area, must be prepared at the start of the design coding process. This will act as a guide, be relevant to the area and record straightforward aspirations so that future action can be evaluated.
2. Align with policies and be evidence based - Codes will take into account national and local planning policies and have a basis in evidence of the types of places that support well-being and deliver healthy and sustainable outcomes for communities, and places that are safe and inclusive.
3. Find out what people really like - The codes must be based on robust evidence that has been obtained on what is popular about the design and character of the existing area, and the potential future for the area, and this must be apparent in the way the codes are worded and illustrated.
4. Keep them short, visual and numerical wherever possible - The codes must be clear and brief, concentrate on essential points, should be illustrated with analytical diagrams, such as sections, not just ‘reference images’, and must be written and presented in a way that can be understood by both professionals and non-professionals.

5. Keep them practical - The codes must apply to practical choices that are achievable in the design and construction of new places, streets and buildings without unduly restricting creativity.
6. Set definitive requirements through the use of language - Codes must set requirements to which a design can unambiguously conform or not conform (this will be based on words like, 'must', 'will' and 'required'). Guidance can also be usefully included but this must be made clearly distinct from the codes (guidance will use words like, 'should', 'could', 'would', 'generally' etc.)
7. Keep them real - Codes must provide sufficient information to direct design to what is demonstrably popular (see 3, above) in such a way that the results will be recognised by the local community, while allowing opportunities for creative input.
8. Keep them relevant - What is coded must be relevant to the area that is being coded, taking into account the context and scale of development. For example, it might be appropriate to code for: the density required, the context of new development, relationship to what is existing, what must be conserved; the urban, suburban, rural or new character of the area covered.
9. Make sure they are enforced - Local authorities must use or establish a process for the approval of codes prepared by others and all codes must be enforced at appropriate points in the process.
10. Allow them to change over time - Design codes should reflect changes in social, technical and environmental circumstances and so should be reviewed from time to time, taking into account feedback from the outcomes of the code.

### **3. WHAT THE EXPERIENCE OF OTHER COUNCILS HAS BEEN - TESTING THE GUIDANCE AND LESSONS LEARNT**

#### **First pathfinder programme**

- 3.1 Following the publication of the National Model Design Code (NMDC), the government's Office for Place launched a six-month pathfinder programme to test the preparation of design codes by local authority-led teams across England. In April 2021, 14 local authorities were selected to be part of the 6-month programme.
- 3.2 The programme was independently monitored and evaluated, with a series of case studies produced to highlight the authorities' work and lessons to help other authorities in using the NMDC and helping to set standards in good design. The codes that were produced were less detailed and more strategic than site-specific codes, focused more on design parameters for urban form, mix, density, greenness and connection, than architectural or public realm aspirations. Some of the key findings were:
  - Resources and skills - Sorting out the resources, skills, capacity, and organisational barriers to preparing design codes is critical. A steep learning curve was required to produce design codes and to use the new methodology in the NMDC, and with a few exceptions authorities were

not set up to deliver design coding in-house. Key skills gaps exist around urban design, graphic communication, viability assessment and digital engagement. However, for those authorities that successfully carried out the work in-house, the importance of having representatives from planning policy, development management and highways on working groups was stressed.

- Leadership – Authorities which had high-level internal support in the development of the code (directors, chief executive and leader) found they progressed more smoothly and quickly through the process.
- Engagement - The pathfinder pilots showed the value of early engagement with communities, but also that this is a time-consuming process during which trust is gradually built with communities that may have been opposed to development. Combining traditional and technological means of engagement around issues of genuine public interest tended to facilitate wider and more inclusive community engagement.

3.3 More general findings were that those pathfinders which progressed most rapidly and smoothly through the programme had a clear vision and objective for their code. Policy hooks that would make the code stronger or more effective and apply when making decisions helped officers to focus on objectives and content. However, the programme concluded that there is still lots to learn, especially around district-wide codes.

### **Second pathfinder programme**

3.4 A second pathfinder programme was announced by the Office for Place in March 2022, with a longer testing time, ending in May 2023. This time 25 organisations (20 local planning authorities, four neighbourhood planning groups and a development corporation), have received a share of £3 million to produce local design codes which can serve as best practice. The pathfinders have been preparing design codes using the processes set out in the NMDC, and at different scales, including site-specific codes, authority-wide codes, and codes for new garden villages. 8 of the pathfinders focused on authority-wide design codes. One Kent authority, Medway Council was awarded funding from the pathfinder programme. Medway Council is producing a design code for the regeneration of Chatham city centre, with new development to reflect local character while protecting the natural environment (<https://www.medway.gov.uk/chathamdesigncode>).

3.5 Pathfinders submitted their draft codes at the end of May, all following the guidance set out in the NMDC, to ensure there is emphasis on making codes visual and that they give clarity and certainty on what will or will not be permitted in the decision-making process. The findings of the programme are being disseminated from September 2023 to December 2023.

3.6 Learning from the programme so far indicates that authority wide design codes can help reinforce a local authority's overarching design vision. They can act as a framework for clarifying design expectations at different scales, identifying through a coding plan the area types for design coding, or focus on particular design priorities such as streets and public spaces, or prioritise

particular types of development. Authority wide codes can include some design guidance alongside clear requirements and highlight areas for which detailed design codes can come forward in future.

- 3.7 Practical feedback coming from the programme has been that a lot of the pathfinders set up working groups with a range of skill sets (policy, development management and highways being firmly embedded) to lead the project, as well as working in partnership with consultants, brought in to support them with additional resources and skills. It is particularly important to set out what the scope is with authority-wide design codes, but that this can take some time. Looking at area typing, a simpler approach with fewer sub-categories has been a lot more effective. For example, identifying where there will be change or growth and where sites have been allocated or might be in the future, then thinking about how the code will help influence better place-making and design in these locations.
- 3.8 The pathfinders have found that, as set out in the NMDC, engagement needs to start right at the outset and be part of the code's development throughout. Pathfinders have taken different approaches to engagement, but it is seen as important to go wide and deep at the beginning, with digital technology often used as a tool to widen engagement. This has been carried out through surveys, often very simple, with a map based (GIS) element and questions such as 'What do you like?' 'What don't you like?' 'Send us pictures or highlight on a map'. A number of pathfinders formed groups such as community panels or similar, for early discussions and visioning and to have consistent discussions continuing throughout the process.
- 3.9 The first local authority on the pathfinder programme to adopt a design code as a supplementary planning document is the Lake District National Park Authority ([https://www.lakedistrict.gov.uk/planning/planningpolicies/design-code?mc\\_cid=64e541f0c0&mc\\_eid=7533b3ca92](https://www.lakedistrict.gov.uk/planning/planningpolicies/design-code?mc_cid=64e541f0c0&mc_eid=7533b3ca92)) who adopted their code on 20th September 2023.

#### **4. NEXT STEPS**

- 4.1. The government is looking to deliver new skills training for planners through the Planning Skills Delivery Fund (PSDF). Officers from Folkestone & Hythe District Council have worked jointly with other East Kent authorities to bid for the funding for specialist and expert resource for implementing design codes. At the time of writing this report, there has been no announcement about the funding, but the government states that it anticipates notifying successful local authorities in October 2023. There is a tight timetable to deliver results for year 1 of the PSDF (by March 2024) so the bid is framed around the preparatory stages of design coding work, while expressing the interest to continue joint working into the following year.
- 4.2. Potentially there will be scope to apply for further funding through year 2 of the PSDF and the opportunity to bid is expected to open in early 2024. If successful in year 2, it would give the authorities additional resources, as well as shared officer skills from across the five East Kent authorities, and this could help take us into the next stages of the coding process. Given this,



some stages could be accelerated and supported through PSDF funding with consultancy resources.

- 4.3. If unsuccessful in the bid for year 1 and/or year 2 of PSDF funding, the district council would need to progress these stages as far as possible from existing staff resources. It would still make sense to lay as much of the foundations for design codes as possible over the next 12 months, before the Levelling-up and Regeneration Bill and local plan regulations come into force, and the focus moves to drafting the new local plan (see separate Cabinet report).
- 4.4. In the interim it is proposed that officers start work on three preparatory actions before beginning the design coding process:
  - i. Look at internal resources, skill sets and capacity, to establish an officer working group. This should include colleagues from planning policy, development management and those with highways, urban design, GIS and communications skills, amongst others.
  - ii. Arrange for area-specific training workshops for council officers and members. (Workshops could be run by external specialists, depending on the results of the PSDF bid. If unsuccessful in the bid, the council would have to facilitate workshops through existing staff resources.) This would bring people together from across the council to enable collaboration of the development of a design code strategy and plan. We would look to develop a shared road map for the council, by the end of which we will have a clear, actionable plan, that has cross-council ownership.
  - iii. Review existing design guidance used by the council, for example the Otterpool Park Design codes, Sandgate Village Design Statement, conservation area appraisals, the Kent Downs AONB Landscape Design Handbook and Kent Design Guide. It is recommended to start from what we already have in place and build from there.
- 4.5. When the three preparatory actions outlined above have been completed, the work can move to the analysis stage of the coding process (Figure 2, above). The timings of the next stages will be dependent on the results of the PSDF bid, but a more detailed project plan and timetable can be brought to members after the government has announced which bids have been successful.

## 5. RISK MANAGEMENT ISSUES

- 5.1 A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
That the council cannot meet the requirements introduced by the Levelling-up and Regeneration Bill when it	High	Medium	That the council works on its own and collectively with the other East Kent authorities to try to secure additional resources through government funding

becomes law relating to Design Codes.			streams, such as the PSDF.
That the Design Codes do not reflect the views of local communities and the local character of Folkestone & Hythe's distinctive towns, villages and rural areas.	Medium	Medium	That time is spent on community engagement throughout the process to ensure the Design Codes reflect local views and local character.
That the Design Codes are impractical and fail to secure high quality developments.	Medium	Medium	That the Design Codes are drafted by a multi-disciplinary team of planning policy, development management, highways, environmental health and other officers. That the emerging Design Codes are tested with representatives from the development sector to ensure standards are practical and viable to implement.

## 6. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

### 6.1 Legal Officer's Comments (NM)

There are no legal implications arising directly from this report. However, the Council will need to comply with the Levelling Up and Regeneration Bill once this becomes law. As set out in the report this requires every local planning authority to produce a design code for its area as part of their development plan. The implications for non-compliance are set out in the report

### 6.2 Finance Officer's Comments (LN)

There will certainly be some costs involved in implementing this new statutory requirement. It is unknown at this stage whether the council will be successful in their application to receive a £50,000 grant as part of the Planning Skills Delivery Fund for year 1, therefore this could potentially be a cost pressure for 2023/24 & 2024/25.

### **6.3 Diversities and Equalities Implications (GE)**

There are no equality and diversity implications directly arising from this report.

### **6.4 Climate Change Implications (AT)**

The National Model Design Code (Part 2 Guidance Notes) states that energy resources may be dealt with through design codes, alongside flood risk, biodiversity and other matters. Design codes provide an opportunity for the council to set innovative standards in these areas, building on existing evidence such as the Net Zero Toolkit, subject to the level of flexibility allowed by National Development Management Policies.

## **7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS**

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

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