

DARTMOOR NATIONAL PARK AUTHORITY

Friday 11 November 2022

Present: A Cooper, P Harper, G Hill, J McInnes, S Morgan,
D Moyse, M Renders, L Samuel, P Sanders,
P Smerdon, D Thomas, P Woods (Chair)

Officers: K Bishop, Chief Executive (National Park Officer)
R Drysdale, Director of Conservation & Communities
H Union, Solicitor (acting on behalf of Devon County Council,
via Microsoft Teams)

Apologies: W Dracup, R Glanville, G Gribble, J Nutley,
N Oakley, C Pannell, P Vogel

The Chair welcomed Mrs Shewan, Independent Person and the two registered speakers Mr Howell and Mr Goodings. She also advised that a two-minute silence at 11.00am would be observed for Armistice Day.

3453 Declarations of Interest

There were no declarations of interest.

3454 Minutes of the Annual Authority meeting and Authority meeting held on Friday 2 September 2022

The Minutes of the Authority meetings, held on Friday 02 September 2022 were agreed as a correct record.

3455 Chair's Report

The Chair reported the following:

- There has been media coverage of the financial difficulties faced by the Authority and Exmoor National Park Authority. The publicity ensures that the widest and largest number of people are informed, not by rumour, but by fact about what the situation is.
- Attended two National Parks England meetings, one of which was an informal meeting between Authority Chairs and the other was a formal board meeting, at which it was agreed by all Chairs, that they would support ensuring the financial pressures facing all National Parks in England are made public.
- Attended a very useful conference at Exmoor; it was good to exchange information and ideas with colleagues from the other National Parks.
- Regularly attends Team Devon, which consists of the Chief Executives and Leaders of Devon Local Authorities, Districts and County. The constant theme of these meetings is the crisis in housing provision in Devon. Work is being carried out, fronted by South Hams District Council, but as this is a very serious issue, all Authorities are involved.

3456 Items requiring urgent attention

None.

3457 Public Participation

The Chair reported that there were two registered speakers, Mr John Howell and Mr Viv Goodings. She also advised that normally each speaker would have three minutes to address Members; at the Chair's discretion this can be increased to five minutes for each speaker. On this occasion, due to the number of issues to be raised, both speakers would be allowed five minutes each. Members would be able to ask questions, but there would be no debate on the issues raised. Each speaker's comments would of course be noted.

The Chair welcomed Mr Howell and invited him to make his statement to Members. Mr Howell made his statement as follows:

'My name is John Howell, I was born at Poundsgate in Widecombe in the 1960s, though I have mostly been based in Harford, where my family has owned land for over 90 years. I am currently the Chair of the Dartmoor Commons Owners Association. It is certainly high time that the Byelaws were updated, and we've been involved in discussions on this matter for two years now, as we have raised this at a number of Association meetings, I can speak for the majority of our active Members. The Byelaws have three main functions, the first is to safeguard the interests of the people affected by the granting of access rights on their land, the second is to cover the interests of recreational users of the Moor, so that they can exercise those rights. The third is to enable the Authority to manage that recreational use, to control adverse impacts.

There is a fundamental flaw in the 1985 Act, in that rights are given for recreational activities, with few responsibilities attached. Restoration of damage caused by recreation is the responsibility of the Authority. There will always be a conflict between the Authority, moorland residents and recreational users, as long as that divorce of responsibilities from rights remain a legal fact. So, I would urge you to consider the need for amendments to the primary Legislation and not just the Byelaws, you're adding to your burden by encompassing access land under the CROW Act in the Byelaws, not just that of the Dartmoor Commons Act. On specific clauses I'll give more detailed comments to the Director, Richard. Many Byelaws are improved and made more robust, thank you for that. The clarification of Clause 2, on the extent of cover is welcomed, as is the strengthening of Clause 9, on fires. The expansion of cycling has become a greater concern in the last decade, this matter is dealt with obliquely in Clause 4, but there needs to be more clarity that bicycles are only permitted on public roads and designated bridleways.

Dog behavior has long been a serious problem to all owners and commoners and is getting worse. We ask that the phrase 'on short leads' be retained in alignment with the CROW Act. The phrase that allows no more than six dogs per person needs to be re-thought.

On large group recreational activities, most owners felt that the previously proposed Clause 18 was well justified and would assist Authority staff to continue influencing the timing and management of large events, we would like to see it kept please.

Many landowners are supportive of genuine remote backpack camping, as we made clear in a position statement published in July. The current Byelaw is clearly not fit for purpose, or you would not have needed Court Orders, Marshalls, Special Constables

or be facing a legal challenge. Whatever verdict the High Court issues, the Byelaw needs to be altered. The changes we agreed with the previous Director have been put into abeyance. The camping map must be managed by a wider group, some of my association Members asked why you, the Authority use your regulatory position to exclude camping on all of your 1200 acres of common land, but you argue that it must be allowed on land owned by others, that's unfair and indefensible. Whatever the High Court verdict I ask that we engage a dialogue between the Authority, the owners and users like the British Mountaineering Council, to negotiate a new way forward that can be covered by appropriate wording in these Byelaws before they are enacted.

Finally I'd make two points, one that we owners cannot continue indefinitely using our own time and money to help the Authority keep Dartmoor in the state we all want, despite abuse by a large minority of visitors, but we do recognise that you are facing a funding crisis and we'll do what we can to support and lobby for the resources that we all need to safeguard this landscape, we are in this together. Secondly there is no point in having Byelaws if you do not enforce them, so please can you follow up on some of the many infringements that occur so frequently. Thank you for letting me speak and for listening.'

The Chair thanked Mr Howell for speaking and invited Members to ask any questions. There were no questions from Members. The Chair thanked Mr Howell for his statement.

The Chair welcomed Mr Goodings and invited him to make his statement to Members. Mr Goodings made his statement as follows:

'Thank you very much for having me, I'm not as well prepared as the first speaker, I only found out about this at short notice, so forgive me if I ramble. I am really moved by the fact that it's Armistice Day today, because I've come to talk to you today about public access and I think we should remember that the National Parks have their roots in people who went out onto the land after the war, having suffered the horrors of two World Wars, you can recognise that a connection to this country is why their colleagues and their friends fought and died and why they came back and the connection to this land is exactly why those people came back and access to the land is a base minimum when you ask people to give their lives.

My own history here is that I came down to look after the National Trust's woodlands, I was their warden for Holne and Henbury, I worked on the Parke Estate here, a job that I was only able to do, I had a young family at the time and the National Trust wages were not great, because we lived in an old bus, which we were able to park on a farm, there was no affordable housing in the area.

The thing I came to talk about is people who park overnight on the Moor, I am one of those people. I live in a truck now and I question this link between anti-social behaviour and people who stay in vehicles. I see no evidence for this, perhaps there is a tiny minority, but far and away the main number of people who stay in that way, are people who are passionate about this place. They are people who will step outside and pick up litter and put this in the bins, they will have a quiet word with someone about lighting a barbeque, tell people not to ride their bikes or not doing handbrake turns in the car parks. They are your allies, they are eyes and ears on the ground, who at the first wisp of smoke, are the people who can phone the fire brigade and do have the skills to give them the grid reference to get to people.

If you seek to stop people parking, you will alienate people who are potentially allies, and at a time when your funding is being cut, I think you need people who are out there, who care about this place, every bit as much as you do. I think prohibiting access is like, the analogy I would use is like an insecticide, if you have aphids and you put on an insecticide, you will kill the aphids, but you will also kill the ladybirds, the aphids will come back quicker and the ladybirds will not return, so you will get an ongoing problem. If you use draconian measures, what you will do is you will exclude the nice people and the people who are used to flouting the laws will continue to use the space with absolute disregard and the people who have commercial interests in illegal activity; for them the law is just an item on their balance sheet. I urge you to keep access for people who will also help look after this space.

I think what I noticed was that the numbers increased hugely over lockdown, in the covid period. For example, our local city, Plymouth, is seeking to become a trauma-informed city and we noticed there are a lot of people coming from the city to access the countryside and whilst on the one hand, as a user of Dartmoor I found it hard with so many people, but I am also glad, because there is an epidemic of poor mental health and access to nature is a natural medication for them. People need to be able to come to these places, for their own mental wellbeing. Many of the people who live in vans are victims of a housing crisis, there are a huge range from retirees to young people starting off in their life and most of them are deeply caring of the landscape. I suppose I would contrast as well the care that many van dwellers show to the land with the acts of damage I have seen to ancient monuments and trees ring barbed and damaged by overgrazing. I think we have to contrast the care for this place from members of the public with the exploitation by some of the farming community and a balance needs to be reached.

I suppose my last point would be on dogs, I am not a great lover of dogs, and I don't like to be accosted by dogs or the way that they disturb nesting birds, but I think if you are considering a ban on large numbers, I would question if that also applies to the hunting hounds. Thank you.

The Chair thanked Mr Goodings for speaking and invited Members to ask any questions. There were no questions from Members. The Chair thanked Mr Goodings for his statement.

3458 Dartmoor Commons Act – ‘Minded-to-Make’ Amendments to Byelaws following Consultation in 2021

Members received the report of the Director of Conservation and Communities.

He advised Members that he would be reminding them why the review of the Byelaws was taking place and critically taking Members through the ‘Minded to Make amendments to the Byelaws,’ so that Members may review and make comment. He advised that these comments, alongside those received in consultation with the statutory consultees, between now and the New Year, would inform the final set of Byelaws that he would endeavor to bring to the Authority in early 2023. He also reminded Members of the process: when the final draft set of Byelaws is brought to Members for approval, if Members then approve the Byelaws, these will then be sealed and, under guidance from Defra, these revised Byelaws then have to be published locally for a period of six weeks. After that six week notice period the sealed Byelaws, and any representations, are sent to Defra for confirmation and approval by

the Secretary of State. He explained that whilst there is no specific timeline for this element of the process, Defra officials have advised that this could take between three to six months.

The Director of Conservation and Communities explained that the Dartmoor Commons Act of 1985 created a right for the public to access 35,310 hectares of common land on Dartmoor (just over one third of the total area of Dartmoor) on foot or by horseback for the purpose of open-air recreation. The Act allowed for the making of Byelaws to regulate access to the commons. The first set of Byelaws were made in 1989 and have not been reviewed since they were formally approved. He went on to say that the purpose of this review was to ensure that we have a set of Byelaws that provide an up-to-date framework to manage 'Access Land' and the public's enjoyment of it.

He explained that this framework will help protect the special qualities and fabric of the National Park, its nature, beauty, and archaeology. It recognises the importance of the Access Land for grazing and the legitimate interests of landowners. It also ensures enjoyment by the public today, does not damage the ability of future generations to enjoy the National Park. It provides a consistency of approach across the various categories of land, to which the public have a statutory right of access, under the Dartmoor Commons Act 1985 and the Countryside and Rights of Way (CROW) Act 2000 – 'Access Land'.

The Director of Conservation and Communities reminded Members that this review of the Byelaws was not a knee-jerk reaction to Covid, this is something that has been discussed over a significant period of time and a proposed revised set of Byelaws were presented to Members on 03 September 2021. At that meeting Members approved the revised Byelaws for the purpose of the public consultation. The Public Consultation ran for six weeks until November 2021; the Authority received nearly 4,000 consultations via the online survey, email, and hard copy. He expressed his thanks to all staff who were involved in the process. They have completed a thorough analysis of all the responses, and it was evident from this that many people did not appreciate that Byelaws existed already and that these were amendments. There was also a misunderstanding of the scope and reach of the Byelaws. He advised that based on this analysis a series of 'Minded-to Make' amendments were drafted which he presented to Members as follows:

- Interpretation - The changes to the text are intended to clarify the definition of access land as well as provide clarity on the area that is covered by the Byelaws.
- Extent - The wording has been clarified to ensure that owners' rights are not constrained by the extension to the area in which these Byelaws cover.
- Revocation – The wording has changed due to a legal challenge that has been brought against Dartmoor National Park Authority regarding the practice of wild camping. That claim is due to be considered by the High Court in December 2022. The Authority will not look to make any amendment to the current Camping Byelaw until the current Court action is concluded and the outcome considered. Therefore, this Byelaw remains unaltered.
- Vehicles - There is no intention to ban cycling (where it is legal) but to continue working with all recreational groups to ensure enjoyment today and for future generations. The phrase 'reasonable' is used and whilst "Reasonable" can have different meanings in different legal contexts, we are satisfied that in the context of

a nuisance interfering with enjoyment of land, it is a balanced view in terms of whether something is malicious. This is therefore unchanged.

- Parking (i) – The definition has been made clearer with regard to parking on verges.
- Parking (iii) – The Byelaw has been updated to address concerns about timing and the language used; we have checked that sleeping is the correct term to use. There is no intention to stop someone who is parked enjoying the night sky. The purpose of this Byelaw is to prevent people sleeping in vehicles overnight. The Byelaw is also updated to recognise that provision might be made in the future for self-contained motorhomes.
- Parking (iv) - Largely unchanged but clarity of language to show that this is related to Access Land and not the highway.
- Repairs of Vehicles - No amendment
- Camping - As mentioned in revocation (above), no change due to the current legal challenge.
- Water – No amendment
- Fires (i) - The language has been clarified after the comments received and to reiterate that there is no place for open fires on Access land.
- Fires (ii) – Updated to offer clarity on type and use of stoves, particularly due to concerns expressed by Ten Tors and Duke of Edinburgh groups that they would not be able to have cooking equipment. This is not the case, but the careful use of such equipment is reiterated.
- Fires (iii) – there was significant support for banning BBQs and the temporary ban in summer 2022 was well supported. This allows for clarity of message and to ensure that BBQs are not used, discarded or their coals scattered after use.
- Fires (iv) – An update on the language used. This Byelaw also highlights the need for education and why fuel should not be taken from the moor – green wood, peat etc.
- Fires (v) – There was support for the Byelaw to be amended to ban Chinese Lanterns. Concern over flares and when they are used in emergencies or by the military. This is an example of proportionality and whilst not explicitly outlined it is recognised that flares might be used in an emergency or by the military.
- Dogs (i) - In consultation with a number of consultees, including the Kennel Club, the word 'disturb' was replaced by 'attack'.
- Dogs (ii) – Whilst this amendment received the most comments, the views were very binary in terms of it either being overly restrictive and disproportionate or those who felt that it should go further and be all year round or a total dog ban. There was also a misunderstanding over the length of time (many thought it was year-round) and location (many thought all of Dartmoor, rather than just the Access Land). The 2m restriction already applies on CROW land; however, after consultation and much discussion it was agreed that effective control with a lead (of no determined length) will enable clear messaging and effective protection for the fabric of Dartmoor during this critical period of the year.
- Dogs (iv) - Overriding support for this Byelaw with the main concern being that six was too high and should be lower. Amendment unchanged as it ensures consistency with local Public Space Protection Orders.

- Feeding of Animals – Whilst the wording is unchanged it has been noted that there needs to be appropriate communication to ensure that everyone is informed of the harm that additional feeding can cause grazing animals.
- Racehorses - Clarity given on the role of the Authority.
- Protection of Wildlife (i) - Strong support for this Byelaw although there was debate on whether further protection was required for flora and fauna. On review, and in consultation with other agencies, the language of the Byelaw has remained unchanged.
- Protection of Wildlife (ii) - Significant support but language updated to use 'engage in'. This avoids any doubt that if you are driving across Dartmoor with a fishing rod, for example, that you would not be breaking the Byelaw.
- Firearms and Projectiles (iii) - Clarity on playing golf but an example of where the 'extent' of the Byelaws is key as this Byelaw would not include existing and established golf courses on Access Land.
- Damage to land (i) - Overwhelming support for this Byelaw and as previously mentioned, clarity on using 'reasonable'. This offers a balanced view in terms of whether or not something is malicious.
- Damage to land (iii) - As above in terms of overwhelming support for this Byelaw. However, this highlights the issue of education/signposting and why removing moss or lichens is not allowed. Proportionality will also be key whereby if a single flower is removed you might have a discussion with a ranger, but removal of significant amount of a habitat could potentially mean using the Byelaw to enforce.
- Metal Detectors – Updated to require Authority permission due to the archaeological wealth on Dartmoor.
- Commercial Activities – the majority of consultation responses agreed with the aim of avoiding commercialisation of Dartmoor whilst enabling recreational groups and educational activities to remain. The wording has reverted to the existing Byelaw.
- Recreational Activities - This was a proposed new Byelaw which would formalise the existing recreational events policy adopted by Members in 2018. The comments and legal advice were that this would be overly restrictive, be an unnecessary burden to landowners, event organisers and the Authority as well as unintentionally inhibit rights to roam.
- Aircraft - The wording has been clarified to remove the Authority's role in seeking permission.
- Kites, model aircraft and drones – The language has been clarified to determine powered model aircraft and removal of the Authority's role in seeking permission. The updated Byelaw also takes into account the use of drones. Many people are unaware that the Authority and/or landowners currently give permission for filming with drones. The language has been simplified to bring (ii) and (iii) together.
- Entertainments – There was support for this Byelaw but the wording has been changed so that 'rave' is in line with Police terminology and now states 'unlicensed music event'.
- Music and Radios – The language has been changed to future proof the Byelaw and there is a change of title, 'Music and Audio devices'. There was significant support for this Byelaw to ensure continued quiet enjoyment.
- Rangers - Rangers carry a warrant card and now have body worn cameras, as well as the ability to take evidence for community protection notices. DNPA also has an enforcement policy, approved in June 2022, but it was noted that Rangers are not

the Police but work closely with them. Rangers will always look to engage, educate and then as a last resort, enforce. This enforcement must always be evidence based and be in the public interest.

- Penalty – To reiterate that this is not a money-making exercise and to remind people that whilst the commission (infringement) of a Byelaw is a serious offence and a criminal matter, it is not a recordable offence and does not therefore result in a criminal record. Language change to remove the daily increase.

The Director of Conservation and Communities thanked Members for listening and reminded them that the Byelaws had been in place for over 30 years and required updating and modernising to reflect societal and technological changes and to ensure that they are relevant, easy to understand and communicate.

The Chair thanked the Director of Conservation and Communities for his presentation and commented that the pie charts within the presentation were very useful.

In Response to Members' comments and questions the Director of Conservation and Communities and the Chief Executive (National Park Officer) responded as follows:

- Self-contained Motorhomes - the Director of Conservation and Communities advised Members that this is something the Authority has been considering and was keen to work with landowners to see if appropriate sites could be found for overnight stays.
- Two Metre Dog Leads - the Director of Conservation and Communities advised Members that this had generated significant debate with strong views from all perspectives. The proposed amendment reflects the views and experience of the Authority's Ranger Team – they feel that they would be better able to enforce 'under effective control' than a specific stipulation of two metres.
- Reasonable Damage to Land - the Director of Conservation and Communities advised Members that the Authority has had issues with this and is working closely with groups such as Duke of Edinburgh and Ten Tors to ensure they have the tools to understand the Byelaws and that damage is not caused. It is for the landowners to report any damage and if this can be pinpointed to a particular group, then the Authority will work closely with that group
- Driving more than 15 metres off road - The Director of Conservation and Communities advised Members that the Road Traffic Act deals with the prohibition of vehicles driving off the highway and prohibition of parking on verges. The Authority will use signs where appropriate but also banking or bouldering where there has been a particular issue.
- Fishing - The Director of Conservation and Communities advised Members, if a licence is issued by the Duchy of Cornwall or other relevant owner then fishing would be allowed under the regulation stipulated within that licence.
- Cycle Access - the Director of Conservation and Communities clarified that access by cycle is limited to relevant public rights of way (e.g., bridleways), agreed permissive routes and that there is no right to ride a bicycle on common land.
- Enforcement Policy - the Director of Conservation and Communities advised there is an enforcement policy now, which he could go through with Members; however, the Authority will always look to educate, engage, and then enforce. He went on to say that the Authority would need significant evidence to be able to enforce.

However, thanks to Members' support the Authority now has the tools to enforce for these offences.

- Barbecues – the Director of Conservation and Communities advised that the proposed ban has been fully considered. Whilst recognising that this will impact on responsible persons there is an increasing risk of wildfires and the ban is a reasonable requirement to mitigate this risk. The ban does not stop people having picnics; the intention is not to stop people visiting but to ensure they are responsible in their actions.
- Motorhomes / Housing Crisis - the Director of Conservation and Communities advised this is a wider issue around affordable housing, which is not for the Byelaws to address, but he advised that the comments from the registered speaker would be fully considered.
- Wild Camping - the Chief Executive (National Park Officer) advised that any amendments to this Byelaw had been paused whilst we await the outcome of the High Court challenge. The Authority will consider the judgement and any appeal before determining what further action to take regarding this Byelaw.

Members asked for their comments to be noted, as to how clear, helpful, and useful the papers and presentation have been. They were pleased to note the consultation and engagement process and the involvement of a wide range of stakeholders and partner organisations including Devon and Cornwall Police. Members also requested that their thanks to staff, legal advisers and all who have engaged in this review are recorded.

Mr Sanders proposed to approve the recommendations which was seconded by Mr Cooper.

RESOLVED: Members:

- (i) Reviewed and noted the 'minded-to-make' amendments as set out in Appendix 3.
- (ii) Noted the requirement of Section 11 of the Dartmoor Commons Act 1985 to allow owners the requisite time to be heard in respect to the proposed Byelaws. Other interested parties may also express their views via email to Byelaws@dartmoor.gov.uk;
- (iii) Noted that the intention is to present a final set of proposed Byelaws to the Authority, for their approval, early in 2023.
- (iv) Authorised the Chief Executive (National Park Officer), in consultation with the Chair and Deputy Chair of the Authority, to make any further amendments to the revised Byelaws that may result from discussion and actions arising from the Authority meeting on 11 November 2022.