

**Protocol for Joint Working on Neighbourhood Planning
between the Dartmoor National Park Authority
And
West Devon Borough, Teignbridge, Mid Devon and South Hams District
Councils**

Background

Neighbourhood planning enables communities to shape development in their areas through the production of Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders.

Neighbourhood Development Plans become part of the Local Plan and the policies contained within them are then used in the determination of planning applications. Neighbourhood Development Orders and Community Right to Build Orders allow communities to grant planning permission either in full or in outline for the types of development they want to see in their areas.

The Localism Act 2011 provides the legislative background for Neighbourhood Planning. The Neighbourhood Planning (General) Regulations 2012 (as amended) sets out the legislative framework for making Neighbourhood Development Plans (NDPs), Neighbourhood Development Orders (NDOs) and enacting the Community Right to Build (CRB).

Before NDPs can come into force they must follow a statutorily prescribed process including meeting the basic conditions, full consultation, independent examination and achieving majority support when presented to the community at referendum.

The final stage is for the NDP to be 'made' by the Local Planning Authority (LPA) from when it becomes part of the LPA's local plan.

Joint Working and Duty to support

LPAs have a statutory "Duty to Support" local communities wishing to undertake NDPs and are required undertake a number of prescribed tasks at certain stages during the development of a NDP. In addition, Election Authorities (EAs) are required to undertake the referendum for each NDP.

This protocol sets out how the Dartmoor National Park Authority (DNPA) and the district/borough councils of West Devon (WDBC), Teignbridge (TDC), South Hams (SHDC) and Mid Devon (MDDC) will work together to support neighbourhood planning on Dartmoor. Dartmoor is a parished area and as such most NDPs will be brought forward by Town or Parish Councils acting as Qualifying Bodies (QBs) for the purposes of Neighbourhood Planning. For any parish that does not have a recognised parish council a forum would need to be formed to take on the role of QB.

Whilst this protocol is focussed on preparation of NDPs, in the absence of any other specific agreement, the principles set out here will also guide working arrangements for the consideration of any Neighbourhood Development Orders and Community Right to Build.

Core Principles

This protocol is intended to provide certainty to the LPA's and to the communities they serve by identifying a clear process and responsibility for supporting neighbourhood planning on Dartmoor.

It is agreed that:

- The DNPA will be the LPA for neighbourhood planning in parishes wholly inside the Dartmoor National Park.
- For those parishes straddling the DNP boundary, the LPA with the main centre or majority of population within its boundary will act as lead LPA.
- Where Parishes “cluster” to produce joint NDPs, the LPA with the larger proportion of the population in the combined area will assume the role of lead.

It will be for the lead LPA for each NDP to undertake the statutory requirements (with the exception of the referendum which will be undertaken by the relevant EA) as set out in this protocol.

Funding

The Department of Communities and Local Government (DCLG) offers financial support to LPAs in recognition of the additional burden arising from neighbourhood planning. For the financial year 2017/18 LPAs may claim £5,000 on designation of NDP area (up to maximum of 5) and £20,000 for each NDP once a date for referendum has been set. Additional sums are available for designating a forum (£5k for first 5), progressing a business area NDP to referendum (£10k) and progressing a NDO or CRTB to referendum (£20k).

On the behalf of all the joint LPA's, the lead LPA will be responsible for drawing down funding from DCLG at the appropriate time and to use it in accordance with the LPA duties and functions indicated above.

The LPAs agree to review funding and cost apportionment in the light of any significant changes to DCLG support and to work together to seek opportunities to find additional funding streams where the opportunities arise.

Pre-designation discussions

Where early discussions and meetings take place with QBs for parishes that straddle the DNP boundary, the LPA will inform the relevant adjoining LPA as to the outcome of the discussions and a lead LPA confirmed with the QBs.

Application for designation as a neighbourhood area

Proposals for NDP areas that sit wholly within the remit of one LPA will be subject to the normal third party consultation.

Where a proposed NDP area straddles the DNP boundary, copies of the application documents will be sent by the lead LPA to the adjoining LPA with a website link to enable the NDP area designation application to be viewed via a link from the adjoining LPA's website.

The draft designation map shall clearly identify the area of the parish that lies within DNP.

Area applications

The lead LPA will publish the application for NDP area designation on its website. It will notify stakeholders including the adjoining LPA and advertise receipt of the application as it considers appropriate.

Where an application is received by a Parish or Town Council (PC/TC) for the designation of a whole parish as a Neighbourhood plan area and no part of the area is included in any other area designation which extends beyond the parish boundary, the lead LPA will determine whether the application complies with statutory requirements and that the area indicated replicates the parish boundary. The lead LPA will advise the QB and the adjoining LPA that the application is valid and complete and that the neighbourhood area is so designated.

In all other cases, the lead LPA will notify the adjoining LPA and allow 15 working days for any comments. It will display all of the relevant application documents on its website, publicise appropriately and provide website link to the adjoining LPA to enable the NDP area application to be viewed via a link from its website. It will invite comments on the application for the prescribed minimum period (6 weeks) as soon as possible after receiving the necessary documentation (Part 2 (6) Neighbourhood Planning Regulations (NPR) 2012).

Where Cross boundary applications must be determined within the 20 week limit established by Regulation 6a and LPAS agree to work collaboratively to ensure this deadline is met.

Publicising designation of an area application

The lead LPA will display all of the relevant designation documents on its website and take such steps to publicise as it considers appropriate including the provision of a website link to the adjoining LPA to enable the designation of a NDP area to be viewed via a link from its website (Part 2 (7) NPR 2012).

Pre-submission consultation and publicity

The LPAs will encourage the QB to work proactively with the lead LPA and to foster an open and collaborative approach to the development of the NDP. QB's will be encouraged to develop a clear project plan/programme, to provide regular progress updates indicating expected key dates and to share an early draft of policies with the lead LPA.

The lead LPA will offer support and advice to the QB as it considers appropriate. This may include offering advice on meeting basic conditions, consideration of need for environmental assessments, suitability of supporting evidence and consultation statement and compatibility with national planning guidance and its own strategic policies.

The lead LPA will inform the adjoining LPA of emerging neighbourhood planning proposals and will supply a copy of the pre-submission draft to the adjoining LPA when it is received from the QB. The adjoining LPA will provide comment on the pre-submission draft and specifically on compatibility with its own strategic policies within 21 days of receiving notification from the lead LPA. (Part 5 (14) NPR 2012)

The lead LPA may consider in consultation with the QB if an independent assessment or health check of a draft NDP would be beneficial. Appointment of a health check assessor will be the responsibility of the lead LPA in consultation with the QB. The adjoining LPA will be notified of the intention to appoint an assessor and provided with a copy of the resulting report.

Submission of Plan Proposals

When a NDP proposal is received, the lead LPA, in consultation with the adjoining LPA, will work with the QB to ensure that all the prescribed documentation has been submitted and it meets the statutory requirements to allow it to proceed to publication.

Publicising a plan proposal

When the submission meets statutory requirements, the lead LPA will publicise details of the NDP submission in accordance with the regulations. As a minimum the lead LPA will publish the documents on its website and invite comments from those who have previously indicated an interest and from the prescribed statutory bodies. (Part 5 (16) NPR 2012). The adjoining LPA will publish notice of the submission of the NDP using a link provided by the lead LPA to its own website.

Submission of plan proposal to examination

The lead LPA will in agreement with the QB and adjoining LPA undertake the arrangements to appoint the examiner and will provide all the requisite documents to the appointed examiner as defined under the regulations Part 5 (17).

The lead LPA will make any arrangements for any hearing, publicity, notification and making documents available on their website if this is directed by the examiner, ensuring that the adjoining LPA is notified and appropriate web links supplied.

Consideration by LPA of recommendations made by examiner

The Examiner's report will be issued to both the QB and the lead LPA, who will notify and forward to the adjoining LPA on receipt. Where modifications are recommended by the examiner, the lead LPA will consider and may undertake modifications to the NDP as it considers appropriate, and where appropriate in consultation with the adjoining LPA and/or QB.

The lead LPA will notify the adjoining LPA of its intention to refuse, accept or request modifications to the NDP including the extent of the referendum area no less than 21 days before the lead LPA publishes its decision statement.

Unless otherwise requested by the adjoining LPA, the lead LPA will publish a decision statement on its website and advise the adjoining LPA accordingly, making appropriate web links available.

In the event that agreement cannot be reached between all parties (lead LPA, adjoining LPA and QB) on the final NDP to go forward to referendum, sufficient time will be given to enable all parties to reach consensus or to report to respective Authority for final determination in accordance with the regulations. Part 5 (18 & 19) NPR 2012

Referendum

The lead LPA will inform the electoral authority (EA) as soon as practicably possible of the likely timescale for referendum. The EA has full responsibility for undertaking a NDP referendum and the district/borough electoral services will work with the LPAs to ensure that the timings and resourcing of each NDP referendum are reasonable, clearly understood and agreed in advance. The lead LPA will meet the reasonable costs (estimated at £1.50 per elector) of the referendum.

Decision on a plan proposal

Following outcome of referendum the lead LPA will notify the adjoining LPA of its draft decision statement and the intended date for NDP to be 'made' if applicable. The adjoining LPA will confirm its agreement with the decision statement and intention to 'make' NDP.

Publicising a neighbourhood development plan

Both the lead LPA and adjoining LPA will publish the decision statement on their websites, advising that the document is now 'made' and forms part of the local plan.

The lead LPA will send a copy of the decision statement to the QB and advise any person or body who asked to be notified, that the NDP has been made.

Sustainability Appraisal (SA)/Strategic Environmental Assessment (SEA)/Habitats Risk Assessment (HRA)

The lead LPA will work with the QB to ensure that the SA/SEA/HRA is recognised as part of the neighbourhood planning process and encourage the QB to meet its obligations. The lead LPA will offer to provide a screening opinion on the need for any further assessment and will liaise with the adjoining LPA who will provide any assistance requested to assist in the preparation of the screening opinion.

For the avoidance of doubt, should the LPA screening indicate that scoping or full assessment is required, the responsibility for meeting this requirement will fall to the relevant QB as the NDP preparing authority. If an NDP that might have significant effects is 'made' a post adoption statement will need to be completed.

Other

Should any action or decision taken by the respective Authorities be the subject of legal challenge through judicial review by another (third) party there will be timely discussion with the intention to reach agreement over the sharing of the costs involved in defending against the action to reflect the respective responsibilities and the position taken by each of the Authorities. However each Authority will be responsible for obtaining and funding their own costs in obtaining expert legal opinion unless it has been previously and expressly agreed otherwise for these costs to be shared.

Under the Duty to Support Neighbourhood Planning there is no specific requirement to financially support Parishes performing their Neighbourhood Planning functions. The allocation of discretionary resources or support, including giving grants, will therefore be a matter for the respective LPA and subject to review. Each LPA will keep the other LPA informed and will endeavour to offer consistency to parishes and avoid duplication of public grants for the same task or activity.

Where DNPA need to approach the adjoining District/Borough Councils in connection with other functions that the Council provides such as: housing and electoral services, the adjoining LPA planning policy team will facilitate this approach to ensure that a consistent approach to neighbourhood development planning is delivered.

Conclusion and review

The purpose of this protocol is to provide an efficient, transparent and, as far as practicable, a seamless planning service under the general Duty to Support Neighbourhood Planning as required by the Localism Act 2011. It will therefore be appropriate to monitor the operation of this protocol and jointly propose any

modifications and or additions that may be deemed appropriate in the light of experience including emerging case law and change in government funding.