

Dartmoor Local Plan 2018-2036 (the Local Plan/the Plan) Examination

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IHBC**

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Inspector Note 1

Inspector's initial questions

I have now made progress with my initial preparatory work. I set out below a number of procedural matters and initial questions for the Dartmoor National Park Authority (DNPA/ the Authority).

Hearing sessions

Firstly, I consider it likely that the majority of the hearing sessions can be conducted over a period of two weeks. I would, however, programme additional reserve days to allow for any over run. In terms of timing, I intend to publish the Matters, Issues and Questions (MIQs) early January with the deadline for responses in early February. Taking account of the February mid-term break, the hearing sessions would be scheduled for the weeks commencing 2 March 2021 onwards for two weeks, with an additional week in reserve. The Examination will be entirely virtual. Please note that the DNPA should ensure that the start date for the hearing sessions is notified at least 6 weeks in advance of the sessions commencing.

Q1. I would be pleased to receive the Authority's response to these proposed arrangements.

I will be circulating a Matters, Issues and Questions paper, a draft hearings programme and Guidance Note towards the end of December/early January. The Examination is based on the Matters and Issues and not driven by the representations. The Guidance Note will outline the nature of the hearing sessions. Those who have sought modifications to the Local Plan (LP) and signalled a wish to be heard will be invited to the relevant hearing session(s). There is no formal presentation of evidence or cross-examination; the procedure is an inquisitorial process, with the Inspector asking questions based on the Matters and Issues identified for Examination. The DNPA and relevant representors will have the opportunity to provide responses to the identified Matters and Issues, to be submitted approximately 3-4 weeks before the hearings commence. There is no need for any legal representation, but lawyers are welcome as a member of a team.

Procedural Matters

The basis of the Examination

The submitted plan is the Dartmoor Local Plan 2018-2036 Final Draft (Regulation 19 Consultation) September 2019. That forms the basis of the Examination.

I note that it is accompanied by a Running List of Suggested Minor Modifications (SD241).

Q2. It appears to me that the Running List of Suggested Minor Modifications has not been subject to Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) or public consultation. Please can the DNPA confirm the situation?

Whilst some of the suggested changes are minor (termed 'additional' in the legislation), some are more significant. Some include changed policy wording or include changes that would affect interpretation of policy. Such changes would be termed 'main modifications'.

Q3. Please would the DNPA review the Running List of Suggested Minor Modifications and, in light of the above observations, separate suggested additional modifications (typographical errors, factual errors etc) from any other modifications, which are most likely to fall within the definition of main modifications?

The DNPA should hold the two running lists. Any suggested main modifications would need to be considered as to whether they are necessary to make the Local Plan legally compliant and sound. Such modifications would be made by the Inspector in light of those tests. Minor changes do not go to the question of soundness or legal compliance and would be made solely by the DNPA on adoption and not by the Inspector.

The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, some main modifications may require corresponding changes to be made to the policies map.

Q4. Please would the DNPA maintain a separate running list of any suggested modifications to the policies map?

I will discuss the modifications as set out in SD241 (including any debate as to whether they are main or additional, if necessary) at the hearing sessions, together with any other main modifications that I consider necessary to address soundness or legal compliance issues as the hearings progress.

Dealing with Changes to the Local Plan

If I were to find any deficiencies in the soundness or legal compliance of the Local Plan, I would need to take a view as to whether they could be overcome through a main modification. As you will be aware, in order for me to make such 'main modifications', you would need to formally notify me as to whether you wish to request modifications under section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended). In the absence of a request under section 20(7C), my report would be confined to identifying any soundness or legal compliance failures in the Plan and, if there are such failures, recommending non-adoption of the Plan.

Q5. Please give an indication of the Authority's position on main modifications?

This would be advantageous to the efficiency of the Examination process and the expectation of participants. Deferring a decision to request modifications until a late stage of the Examination may risk both time delay and incur additional Examination costs.

HRA

I note the HRA Screening and Appropriate Assessment Addendum (SD77). It deals with the significant adverse in-combination impacts arising from recreational disturbance on the Special Areas of Conservation (SACs) within the National Park. It outlines additional measures, some of which are recorded in the Running List of Suggested Minor Modifications (SD241).

Q6. It appears that the HRA Addendum has not been subject to public consultation or SA. Please can the DNPA confirm the position?

Representations

Copies of the representations are displayed on the Examination website and summarised in documents SD16, SD17 and SD18. Full copies of representations are included as SD19. It is for the DNPA to decide whether the representations are duly made, and also to decide whether to accept late representations. Late representations which are not formally accepted by the DNPA are not forwarded to the Secretary of State and the Inspector does not consider them. I have been provided with details of representors who have already requested a wish to participate at the hearings. There will be a further opportunity for representors seeking a change to the Local Plan to indicate a wish to participate after I issue my MIQs.

Core evidence base

I have received the submission documents and evidence-based documents (and note that these have been provided on the Examination website).

Neighbourhood Plans

Q7. Are there any Neighbourhood Plans in preparation within the National Park? If so what stage have they reached?

Vision and spatial strategy

Q8. In light of para 11c and d of the National Planning Policy Framework (the Framework), is Strategic Policy 1.3(2) necessary, in that it repeats Government policy?

Housing and spatial strategy

I note that the Local Plan includes an indicative housing delivery figure rather than a requirement. Also, whilst included within the Housing Topic Paper, a housing trajectory and monitoring arrangements setting out consequences of any unmet local affordable need or contribution to the two HMAs are not included in the Plan. I will be raising these matters in my MIQs and hearing sessions.

Design

Strategic Policy 1.6(2) refers to the Dartmoor National Park Design Guide. The supporting text, at para 1.6.5, sets out design expectations, some of which amount to policy. (E.g. refuse planning permission for poor design, ensure ease of access, ensure land is used efficiently and effectively).

Q9. Notwithstanding the reference to that list in SP1.6(2)2, please can you review this and consider whether such expectations should be included within policy?

Conservation Areas

Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 sets out that, in the exercise, with respect to any buildings or other land in a conservation area, of any functions under the planning Acts special regard shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Q10. Should the title of Strategic Policy 2.6(2) and text at para 2.6.10 reflect that statutory duty?

Q11. Does para 2.6.17 reflect the heritage balance in relation to designated heritage assets set out in paras 195-196 of the National Planning Policy Framework (the Framework)?

Strategic Policy 2.7(2) 5 refers to removing permitted development (PD) rights. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national PD rights, unless there is clear justification to do so. The Planning Practice Guidance (PPG) also advises that conditions restricting the future exercise of PD rights and conditions restricting future changes of use may not pass the test of reasonableness or necessity¹.

Q12. In light of this can the DNPA consider whether this accords with national policy?

Other housing matters

Q13. The provisions in para 3.8.9 amount to policy. Please consider whether they should be included within policy 3.7(2).

Q14. Policy 3.7(2)3 and Policy 3.8(2)4 refer to removing permitted development rights in respect of extensions. With reference to my comments on SP2.7(2), in this regard, please can you justify the approach taken?

Gypsy and Traveller provision

The Gypsy and Traveller Accommodation Assessment 2015 identifies a need for gypsy and traveller accommodation in the National Park, albeit very small (0.2 pitches a year).

Q15. Has the methodology of the Gypsy and Traveller Accommodation Assessment been tested at any other Examinations to date?

Retail

Q16. Does the Authority consider that recent changes to the Use Classes Order enacted 1 September 2020 will have any implications for Strategic Policy 5.3(2)?

Q17. Paras 5.5.5 and 5.7.2 appear to include policy. Please consider whether this should be included within the relevant policies 5.7(2) and 5.9(2)?

¹ 1 PPG ID 21a-017-20190723

Towns, Villages and Development Sites

The Local Plan includes a number of site allocations. Most set out an indicative amount of development and affordable housing/ custom build housing. Some don't.

Q18. Where they do not please provide a justification for this? (e.g. Proposal 7.4(2) land at Chuley Road, Ashburton; 7.13(2) land at Dartmoor Prison, Princetown; 7.21(2) Land at Axminster Carpets, Buckfast.

A response to these questions by no later than midday on Wednesday 16 December 2020 would be appreciated. If this is not possible, could the DNPA please indicate when I can expect a response?

These are my preliminary questions. Others will follow as my preparations continue.

R Barrett

Inspector appointed to examine the Dartmoor Local Plan 2018-2036

11 December 2020