

DARTMOOR NATIONAL PARK AUTHORITY

10 January 2020

**PLYMOUTH AND SOUTH WEST DEVON JOINT LOCAL PLAN (JLP) –
SUPPLEMENTARY PLANNING DOCUMENT (SPD) CONSULTATION**Report of the Head of Forward Planning and Economy

Recommendation: That Members endorse the response, submitted 6 January 2020, to the Plymouth And South West Devon Joint Local Plan (JLP) – Supplementary Planning Document (SPD) Consultation, attached at Appendix 1.

1 Introduction

- 1.1 Plymouth City Council, South Hams District and West Devon Borough Councils have published a Supplementary Planning Document (SPD). The purpose of the SPD is to inform and support the implementation of the Joint Local Plan (JLP) for the area, adopted in 2019.
- 1.2 This report describes concerns DNPA officers have regarding a particular part of the SPD, and seeks Members' endorsement of the response (at Appendix 1) submitted 6 January 2020 in order to meet the consultation time period.

2 Habitats Regulations Assessment (HRA)

- 2.1 HRA is a process required of plans, projects or programmes which may impact upon the integrity of European Sites (including Special Areas of Conservation [SACs] and Special Protection Areas [SPAs]).
- 2.2 'Competent Authorities' (effectively, those public bodies responsible for making the decision) are required by law to carry out a screening, scoping and assessment process as may be appropriate. This process must ensure that a proposal will not impact upon the integrity of the site, or if it does, that there is an overriding public interest in development going ahead despite a potential impact.
- 2.3 The potential impact upon European sites can arise from development taking place some distance from a site, and must also take into account 'cumulative' and 'in-combination' effects with other development. Competent Authorities will undertake survey and assessment which identifies impacts, and informs mitigations strategies.

3 Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA

- 3.1 The JLP sets out a policy which seeks to ensure that development occurring within the plan area will not impact upon the integrity of the Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA (The SAC/SPA).
- 3.2 The JLP Councils have sought to assess potential impact further and develop a mitigation strategy, with the SPD providing a vehicle for guidance and proposed mitigation requirements. This has been informed by a Report undertaken by

consultants, which sought to identify the activities which may impact upon the features of the SAC/SPA, and where those carrying out those activity come from. This Report identifies a Zone of Influence which represents the area where people travel from to visit the SAC/SPA, and proposes that development within this area should make a financial contribution for each new house built, towards a mitigation strategy in order to ensure it does not impact the SAC/SPA.

4 DNPA Response to the Consultation

4.1 A response to the consultation is set out at Appendix 1; Members are asked to endorse this response.

4.2 The response highlights a number of concerns officers have around the SPD, and the consequences it may have for development within the National Park and the planning decisions the Authority may take. In particular it raises concerns around the methodology for identifying the Zone of Influence. The consequence of the proposed Zone of Influence is that it would seek to draw development contributions from all development within that Zone where it overlaps the National Park. This approach comes about with little engagement and involvement of DNPA officers, places a financial burden upon development which may impact upon the delivery of other priorities in the emerging Dartmoor Local Plan (i.e. the delivery of affordable housing, climate change mitigation or biodiversity net gain), and does so via a methodology which officers find questionable.

4.3 Officers have submitted the response at Appendix 1 following discussions with the Strategic Planning Manager (Joint Local Plan) for the JLP Councils, and whilst it raises clear concerns around the content of the SPD in relation to the SAC/SPA, it is done so on the basis of wishing to engage positively and constructively to find a way forward. Officers are keen to meet soon with officers of the JLP and Natural England, sustaining our positive working relationship and identifying potential amendments to the SPD which can meet the requirements of the Habitats Regulations in an informed and collaborative way.

DAN JANOTA

Attachment: Appendix 1 - Response Letter

20200110 DJ Plymouth & SW Devon JLP – SPD Consultation



Dartmoor National Park Authority, Parke, Bovey Tracey, Newton Abbot, Devon TQ13 9JQ. T: 01626 832093 E: hq@dartmoor.gov.uk

Appendix 1 to Report No. NPA/20/003

Richard Grant
By email: plymouthplan@plymouth.gov.uk

Your ref:
Please Quote:
Direct Line:

6 January 2020

Dear Richard

Plymouth and South West Devon Joint Local Plan (JLP) – Supplementary Planning Document (SPD) Consultation

Thank you for the opportunity to comment on the above document. It's clearly an extensive SPD and we commend and welcome the additional guidance it brings to the application of the policies in the JLP.

Our comments in respect of the consultation focus upon one area, that of DEV26 and the Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex SPA. This response is submitted by officers and subject to endorsement by Authority Members at their Meeting on Friday 10 January 2020.

1) Consultation/Engagement

The work towards understanding better the recreational impact on the SAC/SPA has evidently been underway for some time. The Tamar Estuaries Consultative Forum (TECF) has clearly played a key role in this, and states it is "a partnership of organisations and local authorities with statutory responsibility towards the management of the Plymouth Sound & Tamar Estuaries Marine Protected Area (MPA)".

We have all seen that, rightly, the quality of evidence and understanding relating to the protection of European Sites has improved significantly in recent years, including that of broader in-combination and cumulative effects as seen through recent case law. What is perhaps therefore evident is that as the EMS Recreation Study was undertaken (in March 2017) the TECF should have considered whether it included all relevant parties. Unfortunately it has not included Dartmoor National Park Authority, as a Competent Authority potentially within the scope of the study.


It is concerning that SPD places great weight on the EMS Report, which, states "the purpose of the work is to inform the Habitats Regulations Assessment of the local plans for


Pamela Woods Chair **Kevin Bishop PhD** Chief Executive (National Park Officer)

The purposes of the Dartmoor National Park Authority are to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park and to promote opportunities for the understanding and enjoyment of the area's special qualities.

In pursuing these purposes the Authority has a duty to seek to foster the economic and social well-being of the local community.

www.dartmoor.gov.uk

 @dartmoornpa

 enjoy dartmoor

all four local planning authorities in relation to potential impacts on the Plymouth Sound and Tamar Estuaries European Marine Site” (my emphasis). The JLP Authorities, and

Natural England have clearly been aware for several years that the scope of the study was broadening, but unfortunately Natural England only drew DNPA’s attention to this earlier in 2019.

Whilst DNPA has a clear role as a Competent Authority under the Habitats Regulations, the JLP Authorities, Natural England, and most of the other members of the TECF, would also have a Duty under Section 62 of the Environment Act 1995 which states *“in exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to [National Park] purposes”*.

We would of course wish to work positively and co-operatively with you, to ensure that the Authorities are able to demonstrate compliance with this duty through National Park Management Plan and Local Plan, which provide the strategic framework for the pursuit of National Park purposes.

2) The Zone of Influence (ZOI)

A particular concern DNPA has is with respect to the identification of the ZOI. It is not clear from the evidence that has been provided firstly, who has determined the proposed ZOI, and secondly, why that option has been chosen over others.

A significant amount of weight is placed upon the EMS report, and not unreasonably as this appears to be a sound and robust approach to understand in more detail the issues, scope and geography around recreational impacts for the SAC/SPA. However the EMS report read in conjunction with the SPD and mitigation strategy, does raise a number of questions. It is not clear, for example, why the proposed ZOI:

- does not take into account visitors travelling to the site by means other than car or motorcycle
- is unweighted by visitor frequency
- uses a straight line buffer, not the convex hull approach which the EMS Report states “is a better representation of the core visitor group, as it is based on where visitors live and can be seen to be biased towards larger roads and population centres which influence visitor numbers”.
- Appears to be drawn based upon evidence from the on-site surveys, and not taking into account the online surveys

Our concern is that the above points are either unclear in the EMS report, or go against the advice of the EMS report without any evidenced reasoning behind this. You will understand that the outcome of the EMS Report, and the principles established in the SPD propose a ZOI which, in conjunction with the proposed mitigation strategy, has a not insignificant impact upon development within the western side of Dartmoor National Park.

We would welcome further discussion with your team before the SPD progresses towards adoption in order to collectively and positively explore the potential procedural and evidential weaknesses described above and identify a way forward which meets the requirements of the Habitats Regulations in an informed and collaborative way.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dan Janota', with a stylized, cursive script.

Dan Janota
Head of Forward Planning and Economy

CC Corine Dyke, Lead Advisor – Planning Policy, Natural England