



Dartmoor Local Plan (2018 - 2036) Examination

ED15 DNPA Hearing Statement 1 – Procedural/legal requirements

Whether the Authority has complied with the relevant procedural and legal requirements.

Issue 1 Duty to Cooperate

- Q1. What strategic, cross-boundary matters have arisen through the preparation of the Local Plan and what cooperation took place to resolve them? (defined as matters having a significant effect on at least two planning areas)¹
- 1.1 DNPA has been engaged since 2014 with the formal Devon wide Duty to Co-operate protocol [SD97]. It formed a firm basis for discussing and understanding strategic issues, evaluating options to address such issues and agreeing shared outcomes and conclusions wherever possible. This in turn supported DNPA's Duty to Co-operate (DtC) Scoping Report in 2017 [SD95]. Undertaken prior to the requirement for Statement of Common Ground, this document set out a review of the strategic matters for co-operation under the Duty to Co-operate for the Local Plan. It identified who we expect to engage with throughout the development of the Plan, on what matters and how and when we expected to do this.
 - 1.2 This was superseded by the DtC Statement of Common Ground [SD93]. Sections 4 and 5 of the document set out the signatories, and the partners and additional signatories. Section 7 of the document sets out the strategic priorities for the Plan, with a discussion around each, including where relevant, the outcome of discussions with partners, and any actions arising. Appendix 1 to [SD93] provides a tabular overview of the strategic matter for co-operation, the partners engaged in respect of that matter, and an assessment of co-operation.

¹ S33A(4) Planning & Compulsory Purchase Act 2004

Q2. Has the Authority maximised the effectiveness of the Plan by engaging constructively, actively and on an ongoing basis with prescribed bodies on the relevant strategic matters and what form has it taken?

2.1 A National Park Authority's unique role as a special purpose authority means it has strong roots in collaborations, co-operation and cross-boundary working. There are a broad range of partnerships and governance arrangements through which co-operation on strategic matters can and has taken place. Section 9 of the DtC Statement of Common Ground [SD93] sets out clearly the strong partnership working arrangements on strategic matters. Partnerships include, for example:

- The Joint Advisory Committee on Local Needs Housing in Dartmoor National Park (the 'JAC'); a partnership of DNPA, the Housing Authorities, Homes England, and other parties in a joint officer/Members group
- National Park Management Plan – Delivery Board and Steering Group – which creates a platform for engagement on issues around National Park purposes in particular, and is a broad multi-agency group
- Joint evidence preparation with Devon County Council and minerals and waste authority partners, ensuring a consistent understanding of issues and evidence to inform policy making
- Consistent and ongoing engagement with Plymouth, South Hams and West Devon Councils through the preparation of their Joint Local Plan

2.2 A Duty to Co-operate Log [SD96] was kept and has been published, and, though by no means an exhaustive list of all engagement, evidences the broad range of ongoing co-operation on strategic matters.

Q3. In overall terms, has the Duty to Cooperate under sections 22(5)(c) and 33A of the Planning and Compulsory Purchase Act 2004 (2004 Act) and Regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations (2012) (2012 Regulations) been complied with, having regard to advice contained in the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (the PPG)?

3.1 The above legislative requirement and regulations have been complied with, as described in the Duty to Co-operate Statement of Common Ground [SD93], supported by the Duty to Co-operate (DtC) Scoping Report in 2017 [SD95] with further evidence in the Duty to Co-operate Log [SD96] and clear engagement with prescribed bodies as also described in the Regulation 22 Statement of Consultation [SD15]

Issue 2 Plan preparation and public consultation

- Q1. Has the Local Plan been prepared in accordance with the published Local Development Scheme (2018)² in terms of its form, scope and timing?
- 1.1 The Local Plan has been prepared in accordance with the Local Development Scheme (LDS) [SD45]. The LDS has been kept up to date through the preparation of the Plan, having been through several iterations [SD46/47/48/49] with the most up to date information always available on the Authority's web site. In respect of form and scope, the LDS states that the Local Plan review will lead to a consolidated single 'local plan' for the National Park. This document will cover the whole of Dartmoor National Park.
- 1.2 The Local Plan was submitted later in 2020 than originally anticipated as a result of resource issues relating to the Covid19 pandemic impacting our ability to complete the final submission documents. The Local Plan (page 9) clearly indicated that submission was anticipated in 2020. The public was kept informed via our website, in accordance with the 2014 Act (Section15(9a)(c)) which states the local planning authority must make the following available to the public "...up-to-date information showing the state of the authority's compliance (or non-compliance) with the timetable mentioned in subsection (2)(f)". DNPA Members were updated and informed prior to submission through informal video briefings. The current LDS indicates the Plan is expected to be adopted in 2020/21. DNPA officers intend to revise the LDS shortly, to ensure it is up to date should the adoption take place beyond this.
- Q2. Has public consultation been carried out in accordance with the Authority's Statement of Community Involvement (2018)³, and the requirements of the 2004 Act and 2012 Regulations?
- 2.2 The Regulation 22 Statement of Consultation [SD15] describes in detail the consultation process that has been carried out for the preparation of the Local Plan. This included:
- Early engagement with partners and communities, which went beyond the requirements of the Regulations and sought to positively engage the broader community at the outset
 - A strong emphasis on clarity and openness in engagement, publishing 'quick guides' to improve understanding, inviting comments on evidence as it was published, and preparing a plan which is significantly shorter, with helpful graphical overviews

² SD45

³ SD14

- Different opportunities for engagement, with newsletters and social media, outreach events, online surveys and clear availability for emails and letters, and direct engagement with parish/town councils
- Meeting the formal requirements for consultation with all appropriate parties at Regulation 18 and Regulation 19 stages in accordance with the Statement of Community Involvement [SD14]

Issue 3 Sustainability Appraisal (SA)⁴

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- Q1. Have the likely environmental, social and economic effects of the Plan been adequately assessed in the SA?
- 1.1 The Authority appointed independent SA, SEA & HRA specialists in 2017 – Enfusion. The SA has been undertaken in accordance with the NPPF (para 32, 2019) and UK Government planning guidance⁶ including integrating the requirements for Strategic Environmental Assessment (SEA). The HRA was undertaken in parallel with the SA, reported separately [SD77-SD82], and the summary HRA findings also incorporated into the SA Report [CD04-SD13].
 - 1.2 The SA has been undertaken in an iterative and ongoing way with plan-making stages and consultations since the plan Issues Consultation Paper in 2016 and initial SA scoping by the DNPA in 2017. SA Reports have accompanied each draft of the DNPLP for public consultation as shown in Table 1.1 of the submitted SA Report [CD05].
 - 1.3 The Final SA Scoping Report that is provided as Appendix II [SD07] of the submitted SA Report describes the development and use of a Framework of SA objectives and decision-aiding questions that form the basis for assessing the emerging elements of the plan, and the identification of a baseline, and review of relevant plans and programmes, to help identify the issues, problems, and opportunities for the Dartmoor National Park area. It was subject to formal consultation with the statutory environmental consultees.
 - 1.4 The SA methods are described in Section 2 of the submitted SA Report [SD05]. The Strategic SA Framework was used to test strategic options emerging from plan-making, such as the options for the Spatial Strategy, and the draft Policies.
 - 1.5 For the Sites SA Framework, Enfusion worked closely with DNPA Officers to develop standards and thresholds to determine the nature and significance of effects against SA Objectives – and to be relevant taking into account the special role and duties of the National Park. This helps to ensure that a consistent and comparative appraisal of reasonable site options is carried out. Any assumptions and uncertainties are noted along with a clear indication of the standards and thresholds that were used to determine the nature and significance of the effects for site allocation options. It may be noted that the Sites SA Framework was developed

⁴ SD04-13

alongside the DNPA's site assessment process to ensure that they are consistent and correlate with each other.

- 1.6 The SA Frameworks (Tables 2.2 & 2.3, SD05) comprise 15 SA objectives that cover the environmental, social, and economic factors relevant to the DNPLP. A range of identified qualitative and quantitative standards or thresholds for the decision-aiding questions were used. This took into account significance criteria (Table 2.1, SD05), the nature of the likely sustainability effects, timescales, secondary, cumulative, and synergistic, where possible, and effects were thus described and as in accordance with Schedule 2 of the SEA Regulations.
- 1.7 The SA Frameworks formed the basis against which each element of the emerging DNPLP was assessed and thus, the SA has adequately considered environmental, social, and economic effects of the plan throughout.
- Q2. Does the SA test the Plan against reasonable alternatives where these exist, such as different options for housing, employment and minerals and waste (in respect of policies and proposals in the Plan)?
- 2.1 Section 4 of the SA Report [SD05] explains the requirements for and the approach taken to options assessment in plan-making and reasonable alternatives in SA/SEA. The plan-making options identified and tested through SA are as follows:
- 2.2 Spatial Strategy Options (December 2017): These were tested through the SA process and the findings were presented in the Initial SA Report (2017) and the submitted SA Report (Appendix IV and discussed in paragraphs 5.5 – 5.17 with summary findings in Table 5.1 of SD05).
- 2.3 The SA Report [SD05] explains the Preferred Spatial Strategy in paragraphs 5.18-5.19 and Table 5.2 outlines the reasons for selection or rejection of the strategic options – and in accordance with the requirements of the SEA Regulations.
- 2.4 Housing Figures Scenarios: Plan-making investigated and consulted on 3 growth scenarios at the Regulation 18 stage. It was considered that the Lower Growth and the Higher Growth scenarios were not reasonable alternatives and therefore, there was no requirement to test them through the SA process. The indicative housing figure was developed from the preferred approach of 50 dph to 65 dwellings per annum and this was presented in the emerging spatial strategy in the Regulation 18 Draft Plan and accompanying SA Report. No representations on this matter were received during the Regulation 18 consultation.
- 2.5 One representation to the Regulation 19 SA Report [SD05] was concerned that the SA had not undertaken a comparative SA of the 3 growth

scenarios. It is accepted that the SA Report should have explained explicitly that these were not considered to be reasonable alternatives.

- 2.6 Therefore, an SA Addendum to the submitted SA Report - SA Note on Reasonable Alternatives & Growth Scenarios was prepared and published in August 2020 [SD13] to provide further clarification regarding the consideration of reasonable alternatives during the SA of the emerging new DNPLP. It explains the reasoning for plan-making and SA at each stage of the processes. It may be noted that case law⁷ in the UK has established that the plan-making authority is the primary decision-maker in relation to identifying what is to be regarded as a reasonable alternative.
- 2.7 The SA Note presents a table that outlines the reasoning for selection or rejection of the 3 scenarios with outline explanations as to why 2 scenarios were not considered to be reasonable. The reasoning for selection of the preferred option was that it is deliverable and provides a reasonable balance between conservation objectives and affordable housing needs. The other growth scenarios were not considered to be reasonable due to depopulation (lower growth) and negative effects on the sensitive landscape of the National Park (higher growth). The Note confirms that the preferred option is considered to be the only reasonable alternative that could be progressed by the emerging draft plan - and thus requiring testing through SA.
- 2.8 Policies (2018 & 2019): The DNPA is somewhat limited with regard to options for plan policies since it must prepare the LP having regard to the two statutory purposes of the National Park and the duty of the DNPA in pursuing NP purposes. The SA findings for Strategic Policies are presented in paragraphs 5.-5.1. The overall appraisal of DLP Policies is discussed and presented in the submitted SA Report [paragraphs 6.40-6.110, SD05].
- 2.9 Site Options for Housing, Employment, Minerals & Waste Proposals (2018 & 2019): Potential site options identified through the Land Availability Assessment studies (LAA, 2017) were subject to the Sites Assessment Method and as described in the Housing Topic Paper [SD106]. All site options that were found to be reasonable (available, suitable and achievable) were subject to SA individually using the full Sites SA Framework and with details provided in Appendix V of the SA Report [SD05]. The summary findings of the SA of the site options are presented in Table 6.1 and discussed according to sustainability themes in paragraphs 6.18 – 6.37. The reasons for selection and rejection of site options are outlined in Table 6.2 and in accordance with the requirements of the SEA Regulations.

⁷ Ashdown Forest Economic Development LLP v SCLG, Wealden District Council and South Downs National Park Authority [2014] EWHC 406 (Admin)

Thus, the SA tested any reasonable alternatives that were identified at each stage of plan-making – in the same way and to the same level of detail using the same SA Frameworks of objectives and decision-aiding questions covering the relevant environmental, social, and economic factors.

Q3. How has the SA informed the development of the Plan, including the choice of indicative housing delivery figure and any mitigation measures?

3.1 The SA compatibility analysis of the draft Plan Vision and the comparative SA (Appendix IV SD05) in 2017 of the 4 options for the spatial strategy informed the development of the overall preferred spatial strategy for the Plan.

3.2 Detailed SAs of each potential site option are presented in Appendix V of SD05. The commentary to the assessment includes discussion of likely positive effects and potential negative effects, together with possibilities for mitigation or enhancement measures. Site options were considered grouped within settlements, thus providing a comparative and cumulative assessment to inform plan-making.

3.3 The SA found that careful selection of Site Proposals through a Spatial Strategy that aims to allocate new development proportionately to where it is needed and mostly within the existing built environment, together with strong Policies to protect and enhance the Special Qualities of the National Park, provides embedded mitigation measures to minimise potential negative effects. Thus, the SA made limited suggestions for further mitigating negative effects – for example, including a requirement to investigate opportunities for enhancing links to the wider sustainable transport network, and including explicit reference to avoiding or minimising pollution to soils, water, or air.

3.4 As explained above in SA2, only one housing delivery figure was identified to be a reasonable option to develop in the draft plan and therefore, the SA did not specifically test any other housing figures.

Q4. In overall terms does the Plan meet the legal requirements of Section 19(5) of the 2004 Act and accord with NPPF paragraph 32 and the PPG in this regard?

4.1 The Authority appointed independent SA, SEA & HRA specialists in 2017 – Enfusion. The Plan and its Spatial Strategy have been informed in an iterative and ongoing way by a Sustainability Appraisal throughout their preparation. The SA incorporated the requirements of the SEA Regulations. The SA Frameworks that provided the basis for assessment

of the emerging draft Plan signpost the SA objectives to the relevant NPPF paragraphs and the topics in the SEA Regulations. The SA objectives comprise those environmental, social, and environmental objectives that are relevant to the DNPLP at this time. The SA was carried out in a staged approach and in accordance with UK Government planning practice guidance on SEA and SA8. The SA took into account the findings of the HRA that was undertaken of the draft DNPLP and as required by PPG⁹.

⁸ <https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>

⁹ PPG para 011

Issue 4 Habitats Regulations

The Authority has submitted an HRA Screening and Appropriate Assessment Addendum (SD77). That deals with the significant adverse in-combination impacts arising from recreational disturbance on the Special Areas of Conservation (SACs) within the National Park. It responds to Natural England's comments on the HRA Screening and Appropriate Assessment Report (2019) (SD78).

Q1. In respect of the South Dartmoor Woods and Dartmoor SACs, are there effective measures in place to investigate and evaluate concerns about the future cumulative recreational impacts arising from new development outside the National Park boundary?

1.1 The HRA Addendum [SD77] concluded that there are no Likely Significant Effects in respect of cumulative impacts arising from the extensive new development proposed around the National Park boundary, but the DNPA supports a broader study to understand impacts on other designated and non-designated habitat. The HRA considered that strategic mitigation measures remain in place through the ongoing discussions between the DNPA, NE and the relevant neighbouring LPAs, and preparation of Statements of Common Ground.

Q2. Would ongoing work in respect of recreational impacts on designated and non-designated habitats within the National Park be reflected in the Plan?

2.1 Topic Paper 1 (Natural Environment [SD101] sets out at section 3.11 an overview of DNPA's consideration of recreational impacts on designated and non-designated habitats within the National Park. This most up to date consideration of this in respect of engagement with Natural England is then described in the HRA Addendum [SD77].

2.2 DNPA considers that the focus on this matter relates to impacts arising from outside the National Park. In essence there is the need to consider in more detail how DNPA may work with partners, including neighbouring Local Planning Authorities, to understand the issue in more detail. However as the source of potential impacts is currently identified as lying in growth outside the National Park this is not likely to be reflected in this plan. If further evidence identifies a clear impact and correlation, and a need for mitigation, this would most likely be reflected in further joint working, through the National Park Management and/or future Local Plan review.

- Q3. What is the current mitigation in extant plans to protect the integrity of European Sites within the National Park and on the basis of the current evidence of potential impacts would it be effective?
- 3.1 DMD14 in the Development Management and Delivery DPD (2013) is the extant biodiversity policy in effect within the National Park. This has proven effective in protecting sites, alongside specific requirements in allocations for evidence to support HRA. The effectiveness of this policy has been considered on an ongoing basis through the Annual Monitoring Report [SD235] (section 3.3) and the State of the Park Report (2017).
- 3.2 Local Plan paragraph 2.3.6 sets out the potential direct and indirect impacts upon National Park's designated sites and habitats. DNPA believes that further evidence should be gathered in respect of the potential future recreational impacts arising from an increasing population around the National Park fringes, as described above, but notes Natural England does not currently consider there is evidence of an impact upon European Sites on Dartmoor.
- 3.3 DNPA has engaged co-operatively and on an ongoing basis with adjoining Local Plan Authorities to ensure that the Special Qualities of the National Park are protected, by having regard to National Park purposes as required under the Environment Act (S62). In particular, DNPA has negotiated the provision of appropriate policies in the local plans of adjoining LPAs, namely:
- Teignbridge LP (policies EN2a and EN10)
 - Plymouth SWD JLP (policies SPT14, DEV25, DEV26)
- Q4. Would site specific policies requiring an Appropriate Assessment (AA) for the proposed allocations at Ashburton, Buckfastleigh and South Brent be sufficient to ensure no adverse impacts on the South Hams SAC?
- 4.1 The precise site-specific requirements in these 3 settlements for "evidence to inform an appropriate assessment (Habitat Regulations) in order to establish that development of this site will have no adverse impact on the South Hams Special Area of Conservation" is taken from the extant local plan proposals. This was agreed at the time with NE and has proven effective in delivering appropriate evidence to inform decision making. Furthermore, the South Hams SAC Joint Planning Guidance¹⁰ has been adopted, which adds further information for applicants, agents, and decision makers. It is considered that these policy site specific requirements are appropriate mitigation measures to ensure that developments will not have any adverse impact on the integrity of the South Hams SAC.

¹⁰ https://www.dartmoor.gov.uk/__data/assets/pdf_file/0024/338073/South-Hams-Special-Area-of-Conservation-SAC-Greater-Horsehoe-Bats.pdf

Q5. Would the approach to development within the National Park that would fall within the Plymouth Sound and Estuaries SAC/Tamar Complex Special Protection Area (SPA) Zone of Influence be justified in not requiring contributions towards the strategic Mitigation Strategy (2019)?

- 5.1 The HRA Addendum [SD77] asserted that the Mitigation Strategy proposed must be proportionate to the level of development coming forward within the ZoI. It is important to note that the level of development anticipated in the ZoI that is not located in Dartmoor National Park is sufficient to deliver the Mitigation Strategy – without additional contributions from the National Park. Thus, this has already recognised the very small level of development occurring within the National Park - and supports the strategic priorities of the Dartmoor Local Plan, in particular the provision of affordable housing to meet local needs.
- 5.2 This has been agreed with all the relevant parties as a suitable approach, justified on balance with strategic priorities, and providing for appropriate mitigation, monitoring and safeguards, as described in the HRA Addendum [SD77], Duty to Co-operate Statement of Common Ground (7.6.10-7.6.13) [SD93] and Monitoring and Governance Topic Paper (section 2.6) [SD110].

Q6. In summary, have the requirements of the Habitats and Species Regulations 2010 been complied with, having regard to relevant national policy and guidance?

- 6.1 The Authority appointed independent SA, SEA & HRA specialists in 2017 – Enfusion to undertake the assessments. The HRA/AA was undertaken in accordance with the HRA Regulations, UK planning policy guidance¹¹, and good practice/other relevant practice guidance.

¹¹ <https://www.gov.uk/guidance/appropriate-assessment>

Issue 5 Other Matters

- Q1. Does the Plan include policies in relation to climate change so as to meet the requirements of Section 19(1), (1A) & (3) of the 2004 Act?
- 1.1 The Planning and Compulsory Purchase Act 2004 states that "Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change".
- 1.2 The mitigation of and adaptation to climate change has been addressed throughout the Local Plan in a strategic manner which is consistent with national policy. The issue has principally been addressed through the following policies:
- Strategic Policy 1.2 (2) - sets out what is considered sustainable development and how this should be pursued
 - Strategic Policy 1.3 (2) - sets out a presumption in favour of sustainable development
 - Strategic Policy 1.4 (2) - sets out a spatial strategy which seeks to reduce the need to travel and ensure development comes forward in sustainable locations
 - Strategic Policy 1.7 (2) - seeks to improve the energy efficiency of new development
 - Policy 2.2 and 2.3 (2) - seek to conserve and enhance biodiversity allowing it to adapt and recover from climate change impacts.
 - Policy 2.9 (2) - ensures due regard is paid to flood risk, including risks exacerbated by climate change
 - Policy 3.12 (2) - enables very low impact development to come forward in appropriate locations.
 - Policy 4.3 (2) - encourages provision of sustainable transport connections, thereby reducing our reliance on private transport
 - Policy 4.5 (2) - sets standards for electric vehicle charging points to ensure new development support low emissivity transport
 - Policy 6.6 (2) - supports renewable energy development to help reduce emissions associated with energy use
- 1.3 The Regulation 19 consultation attracted significant comment on matters related climate change and DNPA has worked flexibly to ensure that concerns regarding the Plan's effectiveness are carefully considered and modifications proposed where this can be improved (e.g. MM23 and MM24).

Q2. How have issues of equality been addressed in the Plan?

- 2.1 The emerging elements of the DLP were subject to an Equality Impact Assessment (EqIA) that is reported in Appendix VI [SD11] of the submitted SA Report [SD05] and summarised at paragraphs 6.118 and 7.31. The screening assessment found that the DLP is unlikely to have negative effects on protected characteristics or persons identified under the Equality Act 2010 and as a result a full EqIA will not be required.
- 2.2 The SA Framework included an SA objective to improve the health and wellbeing of communities and reduce inequalities, and with a decision-aiding question to promote access & use of the National Park for different ethnic groups (recognising racial differences in cultural factors & an issue identified for NPs). Thus, issues of equality have been investigated throughout the preparation of the DLP through the SA testing.