

Dear Forward Planning

Please find attached representations we would like to make regarding the Regulation 19 consultation on the Dartmoor Local Plan Review. These representations represent the views of Plymouth City Council, South Hams District Council and West Devon Borough Council (the 'JLP Councils') and have been collated by the Joint Local Plan Team on behalf of these Councils.

I can confirm that you should use me as the main contact in relation to these representations, and I can also confirm that we would wish to attend any Examination hearings.

Also attached are some additional informal comments on the Local Plan. The JLP Councils do not consider that these comments raise matters of soundness and as such are being sent to DNPA as potential 'minor modifications' to the Local Plan that are intended to clarify and improve aspects of the plan. We are happy to discuss these comments and to assist in any way we can.

I would be grateful if you could acknowledge receipt of these comments, and please contact me to discuss these matters.

Thank you for the opportunity to comment.

Regards

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For Plymouth City Council, West Devon Borough Council and South Hams District Council



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The following comments by the Joint Local Plan Councils are for clarification (such as the difference between compensation and mitigation) and improvement of policy and reasoned justification, not changes to make the plan sound.

BIODIVERSITY

#2.3.18 Where development is acceptable and some harm to biodiversity is unavoidable, mitigation measures will be necessary to ~~offset~~ **reduce** any harm. The following approaches will be taken in preferential order:

Reason for comment: Offsetting relates to compensation, not to mitigation. Rather, mitigation 'reduces' harm.

Change sought : change RJ -delete 'offset', replace with 'reduce' (as per strikeout and red text inserts above)

#2.3.18.1 Avoid any adverse impacts altogether by locating harmful development away from sensitive areas

Reason for comment This section (2.3.18) is titled 'Mitigation'. Mindful of the JLP Councils comment on the introductory line of text in 2.3.18, therefore mention of avoidance of impacts in

2.3.18.1 is not consistent with this section - i.e. avoidance comes before mitigation is even considered.

Change sought: suggest RJ paragraph 2.3.18 needs a rethink to better reflect the mitigation hierarchy (perhaps title could include the word 'hierarchy') - ie avoidance at the top, then mitigation, then compensation - it is currently confused

#2.3.18.2 **Mitigate** adverse impacts by ~~providing on-site enhancements, such as habitat areas or biodiversity features, or by~~ changing work practices and timings to ensure no adverse impact on biodiversity.

Reason for comment : 'Enhancements' should not be mentioned in this sentence - it is confusing. Enhancements are not mitigation.

Change sought : change RJ - Delete 'providing on-site enhancements, such as habitat areas or biodiversity features, or by' (as per strikeout above)

#2.3.18.3. Where on-site biodiversity losses cannot be avoided or mitigated and it is a last resort, **compensate** for losses by providing **on or off-site measures to ensure not net loss of biodiversity**. ~~enhancements which represent a net gain over the existing.~~

Reason for comment : Compensation can be onsite as well as offsite. And enhancements should not be mentioned in this policy (that is what SP2.3 is all about)

Change sought: change RJ as per strikeout and red text inserts above

#2.3.19 Mitigation or compensation measures for ~~protected habitats and species~~ will be secured for the duration of impacts by planning condition and/or section 106 legal agreement. Off-site compensation ~~(or offsetting)~~ should happen near the development site and ~~result in a net gain over the existing~~. Off-site **compensation** ~~setting~~ should also result in minimal temporary loss of ecology between damage occurring and new habitats becoming fully functional and/or species becoming established.

Reason for comment : not just protected habitat and species that require mitigation/ compensation. Suggest avoid the use of 'offsetting', 'offsite compensation' is sufficient. Leave net-gain out of the text preceding SP2.2 as it is instead the territory of SP2.3 - why confuse it.

Change sought: change RJ as per strikeout and red text inserts above

#2.3.20 Designated wildlife sites and many of the priority habitats listed in Table 2.1 will not be suitable for off-site compensation because of their irreplaceable nature. Where initial off-site compensation measures have fully or partly failed, further measures will be necessary.

Reason for comment : Isn't this what the Defra metric 2.0 does with its 'risk' factors in terms of failure - i.e. requires more habitat where there is more risk of failure and accounts for it in the calculator? How will this be tested, monitored, etc – could be talking years in the future. And presumably the developer may not be providing themselves, what if they've just provided £s?

Change sought: consider removal of the reference to full/part failure?

#SP2.2 (2) 1. Development must conserve and/or enhance Dartmoor's biodiversity and geodiversity, ~~and result in no net loss.~~

Reason for comment : Conserve and enhance, we want both. No need to refer to 'no net loss' - this is what SP2.3 covers in terms of 'net gain'

Change sought: Amend Policy as per strikeout above

#SP2.2 (2) 2. Development proposals, either alone or in combination with other development, having adverse impacts on b) Dartmoor's priority habitats and species identified in Table 2.1 will only be permitted in exceptional circumstances.

Reason for comment : Priority habitat would include hedgerows - is this 'exceptional circumstance' reference what is intended in the case of hedgerows? What does adverse impact mean?

Change sought: amend Reasoned Justification to clarify circumstances for application of policy

#SP2.2 (2) 3 iii) where adequate on-site mitigation measures are not possible, provide off-site compensatory measures ~~which represent a net gain over the existing; and~~

Reason for comment May not be appropriate for EU sites – compensation is a real last resort, and subject to the tests mentioned later in the policy - should be kept separate not confused between the levels of designated sites. Net gain is mentioned in the policy SP2.3

Change sought : Change policy as per strikeout (& see also separate comment on this policy relating to test of soundness)

#2.3.24 Strategic Policy 2.3 ensures that ~~development with the potential to impact on habitats and biodiversity~~ **all development** makes a proportionate contribution to biodiversity enhancement. This policy must be applied after the strategic biodiversity policy (Strategic Policy 2.2), which protects designated sites and priority habitats from harmful development. This policy then ensures that loss of unprotected habitat (e.g. scrub, improved grassland, arable fields etc.) is appropriately compensated for.

Reason for comment : should be 'all development' not just that impacting on habitats and biodiversity that should deliver net gain. the last sentence appears confused – SP2.3 isn't about compensation, this policy is about net gain. Shouldn't policy SP2.2 be tweaked to ensure it covers compensation of 'unprotected habitat' – this effectively being what the metric does?

Change sought: Change policy as per strikeout and red text inserts above

#2.3.25 Development involving 2 homes, 100m² of non-residential floorspace, or a site area of 0.2 hectares, or more, will be required to compensate for any habitat losses and

deliver 10% biodiversity net gain. Development not involving any loss of habitat will not be required to deliver net gain, e.g. changes of use. The value of existing habitats and the compensation required will be calculated in accordance with Natural England's biodiversity metric.

Reason for comment : This reference is about compensation - would it be better located under the SP2.2 Reasoned Justification? Use of the metric for 2 home development seems excessive and might end up being inconsistent with Defra approach -- Natural England seem to be talking about BREAMM/metric light approach -- could this result in lots more ecology surveys for no other reason than populating the metric?

Change sought: Change RJ as set out above in reason for comment

#2.3.26 Net gain should be secured and maintained for as long as the development exists. Maintenance payments for off-site biodiversity gains should cover a minimum of 30 years, with a clear commitment for longer. Further details on net gain and how it will be delivered will be available in supplementary planning guidance.

Reason for comment : Unclear what this means. 30 years is what Defra are very likely to seek/mandate in terms of length of maintenance of offsite Biodiversity net gain.

Change sought: Clarify the RJ.

Will the details be set out in a Supplementary Planning Document (SPD)?

#2.3.30 Financial contributions in-lieu will also be considered acceptable where on or off-site provision is proven not possible or undesirable the Authority is satisfied it will enable greater environmental benefit, including through pooling multiple contributions.

Reason for comment : Assume this applies to compensation as well as net gain – worth being explicit to avoid uncertainty.

Change sought: - Clarify the RJ.

#2.3.31 Where there is evidence of deliberate neglect or damage to existing biodiversity its deteriorated state will be disregarded in decision making. Where proposals require removal of unprotected biodiversity features, this must be ~~mitigated~~ **compensated** for in addition to the requirements in Table 2.2 and 2.3.

Reason for comment Should this 2nd sentence be incorporate into RJ for SP2.2 not SP2.3? – again it is compensation not enhancement.

Change sought: consider Change to RH as per strikeout and red text inserts and relocating the 2nd sentence into RJ for into SP2.2 not SP2.3

SP2.3 (2) 3. Development falling below the threshold in part 2 will be required to make a proportionate on-site contribution to wildlife enhancement in accordance with the thresholds in Table 2.2.

Reason for comment : but what about compensation? – see comment on #2.3.24 – how will 'unprotected habitat' be compensated for? – this needs to happen first then enhancement? The approach doesn't take account of what is there presently

Change sought: consider change to RJ to emphasise compensation first, then enhancement

SP2.3 (2) 4. Off-site enhancement will only be acceptable where on-site provision is not possible, or it would make a better contribution to improving biodiversity than wholly on-site provision. Financial contributions in lieu will be accepted where it is demonstrated on-

or off-site provision is not possible or the Authority is satisfied it will enable greater environmental benefit.

Reason for comment How does the LPA or applicant demonstrate off-site provision is not possible, isn't it more about who delivers/scale? If not possible then why take financial contributions(i.e. by taking financial contributions you are acknowledging that offsite provision is possible)

Change sought: clarify intent and implementation of policy regarding offsite contributions

HOUSING

1. CALCULATION OF AFFORDABLE HOUSING NEED

There is an inconsistency in the evidence in Topic Paper 6 about the calculation of Affordable housing need. This requires clarification.

Appendix 1 – Affordable Housing Need Estimations In Topic paper 6 Housing (September 2019)

Table C on Newly Emerging Need in Appendix 1 (Page 96) includes Row C4 Double Counting Allowance. This allowance removes the overlap of the number of Existing households falling into need (C3) that are already counted in the proportion of C1 newly forming households per year who are unable to rent).

The figures in the totals row at the end of Table C on Newly Emerging Need in Appendix 1 (Page 96) have added in row C4 (the double counting allowance).

However, the GESP methodology (which Appendix 1 is based on) subtracts the allowance for double counting (subtraction is what I'd expect to happen in order to remove an element of double counting). On Page 13 of the methodology:

The formula is given in para 3.9 - where the sum is $(C1 \times C2) + C3 - C4$ ie the calculation uses Minus C4 (ie not plus C3 TO C4)

Para 3.10 gives the result of the calculation using the figures in Table 6 in the GESP document – see the table in the extract attached. (NB GESP Para 3.10 erroneously refers to Table 8- it should have said Table 6).

Appendix 1 states that “These tables have been prepared by Three Dragons and cross refer to the affordable housing calculations in Section 4.”

In the footnote it states that “This model is based on the one developed for the GESP”

The formula set out at cell B33 is $C = C1 \times C2 + C3 - C4$. This is the GESP methodology.

However, the results in cell B33 do not match that formula. Instead they match the following formula $C = C1 \times C2 + C3 + C4$.

Furthermore, the results from the GESP methodology would differ considerably from the results of the methodology which led to the results reported in Cell B33.

The JLP Councils therefore sought clarification from the DNPA about this inconsistency. The information received indicates that

- a) The GESP modelling (in the formula $C = C1 \times C2 + C3 - C4$) , removes a group of households from their housing register data (those in bands A-D who are single and aged 25). The rationale put forward is that it is assumed that this is double counting of some of potential newly arising households
- b) However, the consultants for results and analysis in Topic Paper 6 Appendix 1 have not applied this double counting. As set out in the notes below the model (line 54 note regarding line 32) this is not something which is typically seen in affordable housing need models or in the ones completed for DNPA previously) . There has been debate in the past about the inconsistencies between methodologies for calculating housing need for plan making purposes and affordable housing need which are never quite resolved, even though the most recent amendments to guidance.

So the correct notation in that cell should be $C=C1*C2+C3+C4$ as the households removed from the homechoice register as being single and under 25 are put back into the equation

The DNPA have informed the JLP Councils that it is the view of the consultants that :
There is no certainty – or– evidence that these two groups (*ie those in bands A-D who are single and aged 25; and potential newly arising households*) measured in different ways represent double counting. For example, there may be many reasons why single people under 25 on the register are not potentially newly forming households and may never be. Even if a proportion of them were double counted, the consultants are of the view that they have made strict policy assumptions on the other side of the housing need equation which would more than offset this. For example, they have excluded any household in housing need who has been living in the park for less than 3 years and they exclude any household on the register who is working but not living there.
For this reason, the model the consultants submitted to DNPA advocates that DNPA do not remove this group of single people from housing register data as a double counting. The error in the table (Table C in Appendix 1 of Topic Paper 6) is one of notation rather than calculation. The consultants confirmed that they have not applied this double counting. So the correct notation in Appendix 1 Table C last row should be $C=C1*C2+C3+C4$ (*ie so that the households removed from the homechoice register as being single and under 25 are put back into the equation*)

The JLP Councils consider that it would be prudent for the DNPA to complete the following actions before the Dartmoor Local Plan is submitted for examination:

- Topic Paper 6 - Housing is amended to include the above explanation
- The formula in Appendix 1 Table C last row is corrected **ie Delete** $C=C1*C2+C3-C4$ **and Replace** with $C=C1*C2+C3+C4$
- The footnote to Appendix 1 (which states that the model is based on the GESP methodology) is amended to state that the model used is based on the GESP model but that in Part C *those people in bands A-D who are single and aged 25* from housing register data have not been removed from the calculation of affordable housing need for the reasons given in that explanation (the explanation could be in a paragraph in the text or a footnote in the table).
- Topic Paper 6 – Housing needs to make clear what is the analysis, assumptions and methodology used by the consultants, and their recommendations, and separately state whether the DNPA as the Local Planning Authority has accepted the analysis, assumptions and methodology used by the consultants, and their recommendations
- To make the explanation clear, the row numbers referred to in the above explanation are inserted into the Table in Appendix 1 (the source of the row number references has not been put in the public domain, but presumably come from spreadsheet).
- Topic Paper 6 explains scenario NPA CLG2 to which Appendix 1. The JLP Councils understand that this scenario is part of a suite of alternative model scenarios.

SITE ALLOCATIONS

It would be helpful if the site allocations are clearly identified as Policy – and the title makes clear whether the allocation is a Strategic Policy or Policy.

Joint Local Plan Council Responses on the Dartmoor Local Plan (Regulation 19)

Plymouth City Council, South Hams District Council and West Devon Borough Council collaborated on the production of the Plymouth and South West Devon Joint Local Plan (JLP) which was adopted in March 2019. The JLP was also prepared with support, both formal through the Duty to Cooperate (DtC) requirements, and through informal input, of the Dartmoor National Park Authority.

The comments below are provided as a formal representation to the Regulation 19 consultation on the Dartmoor Local Plan 2018-2036. In general the JLP Councils support the approach being taken by DNPA through the emerging Local Plan, and would request that the JLP Councils continue to be involved as the plan progresses towards Submission to the Secretary of State to be considered for Examination. The JLP Councils look forward to further meetings with the DNPA as part of the continuing Duty to Cooperate process.

The JLP Councils' comments are as follows:

1. BIODIVERSITY

STRATEGIC POLICY 4.9 (2) The Access Network

Mitigating the impact of recreational pressures arising from development within the Plymouth Sound and Estuaries European Marine Site (EMS) Zone of Influence.

Strategic Policy 4.9 (2)/potential policy omission

Not sound

Tests of Soundness:

- Not consistent with national policy (specifically NPPF Paragraph 16d) ie...Plans should... contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals)
- Not justified

The JLP Councils have concerns about the draft Dartmoor Local Plan because it is silent on the mechanism(s) to be used to mitigate the impact of recreational pressures arising from development in that part of Dartmoor which lies within the Plymouth Sound and Estuaries European Marine Site (EMS) Zone of Influence.

Extent of Zone of Influence

The EMS comprises the Plymouth Sound and Estuaries Special Area of Conservation (SAC) and the Tamar Estuaries Complex Special Protection Area (SPA). The EMS Zone of Influence (Zoi) includes a buffer zone for both the SPA and the SAC, a buffer of 12.3km from the boundaries of the two European sites. Natural England agreed the extent of the Zoi in May 2018. The extent of the Zone of Influence was informed by the evidence in the *EMS Recreation Study Document 04. Survey of recreational use within the Plymouth Sound and Estuaries European Marine Site: Scoping report and survey results* (March 2017);

The JLP HRA S12.7 makes clear that : “The study confirmed that all the activities which had been identified as having the potential to have a likely significant effect on the features were taking place throughout the SAC and the SPA. It also found that people had a very strong attachment to the coast and were prepared to travel a significant distance to the site”.

The Zol covers all of Plymouth City, parts of the South Hams and West Devon and parts of Cornwall. Over 16,000 new homes are planned in around Plymouth Sound and Estuaries up to 2034, not including the National Park. Parts of the Dartmoor National Park are also in the Zol, albeit development in Dartmoor will be a small part of the overall development within the Zol. Development in that National Park area would add to growth overall.

Habitat Regulations

The Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), requires mitigation for any impact which a proposed development, in combination with other plans or project, is likely to have on a European site. It requires local planning authorities to ensure that the necessary mitigation will be provided before planning permission is granted.

The Habitat Regulations Assessments of both the Plymouth and South West Devon Joint Local Plan and the Cornwall Local Plan both identified that the development of the new houses in both areas would lead to increased levels of recreational activity which would be likely to have a significant effect on the designated features of both the Plymouth Sound and Estuaries SAC and the Tamar Estuaries Complex SPA. Both documents therefore stipulated that recreational management would be required in order to ensure that there are no likely significant effects on the European sites.

The Dartmoor Local Plan Regulation 19 consultation is accompanied by the Habitats Regulations Assessment (June 2019) relating to the draft Plan. The Dartmoor HRA has considered the impacts of these 2 European Sites. However, the JLP Councils consider that the Dartmoor HRA conclusions need clarification (including the assessment in Appendix IV, eg on pages 11 and 14). This is because it is not yet clear that the Dartmoor HRA has been informed by or taken account of relevant evidence available in the JLP evidence base notably

- the *EMS Recreation Study Document 04. Survey of recreational use within the Plymouth Sound and Estuaries European Marine Site: Scoping report and survey results* (March 2017); and
- the JLP Habitats Regulations Assessment (2017 and updated 2018).

The JLP Councils are mindful that if the study and JLP HRA are not informing the draft Dartmoor Plan, then alternative, detailed evidence specific to the Dartmoor part of the Zol may be needed to demonstrate that recreational pressures on the 2 European sites will not arise.

The development plan

Policies in the development plan are one means to guide development management decisions within the Zol. So Policy SPT14 in the adopted Plymouth and South West Devon Joint Local Plan “*requires the mitigation of recreation impacts on European Sites where development is proposed within the identified zones of influence around those European Sites that are vulnerable to adverse recreational impacts. Residential development, student and tourist accommodation within these zones of influence will be required to provide for appropriate management, mitigation and monitoring on site, and/or financial contributions towards off site mitigation and management. This will need to be agreed and secured prior to approval of the development....*”

Draft Plan paragraph 2.3.15 on recreational pressures refers to Strategic Policy 4.9. The third part in **Strategic Policy 4.9 (2) The Access Network** in the draft Dartmoor Local Plan states the “The Authority will seek to ensure development within or outside the National Park which is likely to increase harmful recreational pressure on Dartmoor’s Special Qualities, particularly biodiversity, cultural heritage and the access network, is appropriately mitigated.” However the draft plan, including Strategic Policy 4.9 (2) and its reasoned justification, is silent on the approach the DNPA will take regarding mitigation of recreation impacts on European sites outside Dartmoor.

Strategic Solution

The emerging Plymouth Sound and Estuaries EMS Recreation Mitigation and Management Scheme is setting out the required strategic approach to the provision of mitigation for increased recreational impacts on the Plymouth Sound and Tamar Estuaries EMS arising from new housing and tourism growth up to 2034. It does not address the impact of existing activities, which is the role of the separate Tamar Estuaries Management Plan and the ‘European Marine Site Managing Recreational Impacts Programme Phase 1’ project.

This strategic solution relies on the Zone of Influence because evidence shows that mitigation should be required from all dwellings built within 12.3km of the boundaries of the EMS. This is a precautionary approach. The strategic solution includes the Strategic Access Management and Monitoring Strategy (SAMMS) list of measures. This package of appropriate mitigation measures is being drawn up in consultation with Natural England and partner LPAs. The package of measures will form the basis of the level of contributions sought from development.

Implementation of the Strategic Solution

Implementation of the SAMMS measures will require resources. The resource costs will need to be funded from developer contributions. Currently, the 4 LPAs (Plymouth, South Hams, West Devon and Cornwall) party to the strategic solution will pool the developer contributions received and implement the mitigation measures through the delivery of the Plymouth Sound and Estuaries EMS Recreation Mitigation Partnership (EMSRMP). The Tamar Estuaries Consultative Forum (TECF) will provide the overseeing management of implementation

Dartmoor National Park Authority is not in the partnership. Nevertheless Dartmoor lies partly within this EMS Zone of Influence. When planning applications are determined the DNPA will still need to consider the likely significant effect from development in the Zone of Influence, when taken in combination with other plans and projects, upon these European designated sites. Development in Dartmoor in the Zone of Influence cannot ignore ‘in combination’ effects on the EMS.

Resolving the JLP Councils’ concerns

The JLP Councils are mindful that JLP HRA Appendix 1 provides the Review of other plans. This included the “Dartmoor Local plan -1st Local Plan Review (consultation closes Jan 2017)” where the conclusion about the **Likely Significant Effects (LSE) In combination on European site** was “ Potential LSE Small areas of New Development Could contribute to recreational pressure on the Plymouth Sounds and Estuaries SAC and Tamar Estuaries Complex SPA (will depend on outcomes of ZOI)”. This was included in the in combination assessment made in the JLP HRA. So, at this time, the JLP Councils consider that Likely

Significant Effects associated with in-combination, recreational impacts from new residents within the ZOI in Dartmoor should be screened in the Dartmoor HRA, and at Dartmoor HRA paragraph 3.44 proceed to Appropriate Assessment.

A way forward that would resolve the JLP Councils' concerns is for:

- the Dartmoor HRA explicitly to consider the available evidence including the Recreation impact study and the JLP HRA , and then reassess whether Table 3.6 and paragraphs 3.23 and 3.25, and 3.44 of the June 2019 Dartmoor HRA have reached the correct conclusion with respect the Plymouth SAC and Tamar SPA, prior to submission of the Dartmoor Local Plan.
- then the DNPA to reconsider the evidence in the Dartmoor HRA; and
- then, informed by advice from Natural England, the DNPA to update the Natural Environment Topic Paper to articulate the DNPA's reconsideration of the implications of the evidence in terms of:
 - a) whether a strategic policy should be included in the Dartmoor Local Plan on the mitigation of impacts on European sites outside the National Park (which would have the benefit of being tested at Examination and having been assessed for example by the Sustainability Appraisal/SEA and informed by the Plan's HRA); and
 - b) if a policy is not included in the Local Plan, identify what alternative mechanisms would be available to provide appropriate mitigation. For example, without a policy, then individual HRAs of each development would be necessary. If screening in the HRA identifies Likely Significant Effects then it would proceed to the Appropriate Assessment stage which triggers consultation with Natural England. One easily available means to mitigate the impact is for each relevant development within Dartmoor to make a financial per dwelling contribution towards the 'strategic solution' mitigation identified on the SAMMS list for the EMS.
 - c) If new Local Plan policy is appropriate, the DNPA should consider the means to introduce new policy, including any further updates to the evidence in the Sustainability Appraisal/SEA and the Viability Assessment of the overall plan.

REASONED JUSTIFICATION PARAGRAPH 2.3.15

Section 2.3.15 states that mitigation is required for recreational impacts . This is based on the SWEEP report which did not carry out any interviews and used instead data derived from a national dataset.

The HRA for the Plymouth and South West Devon Joint Local Plan - see web link <https://www.plymouth.gov.uk/sites/default/files/UpdatedHabitatRegulationsAssessmentChangesAgreedStatementOfCommonGroundWithNaturalEnglandChanges.pdf>

included a more comprehensive assessment of the potential for recreational impacts on both the Dartmoor SAC and the South Dartmoor Woods SAC (see section 12.3.7 to 12.3.9) and concluded in section 12.3.10 that:

"These two SACs are considered together because they are adjacent and there is some overlap with their designated habitats.

The strategic approach to greenspace provision in the Joint Plan area, combined with the choice of other sites available and the active management of Dartmoor National Park will avoid any impacts on the Dartmoor SAC or the Dartmoor Woods SAC.

There are also in-combination effects which need to be considered as Teignbridge Local Plan was also not able to rule out adverse effects arising from recreational disturbance. The avoidance measure it identified was also to work with Dartmoor National Park Authority to ensure that there is adequate monitoring in place. Therefore by working with Teignbridge and through the measures explained above, measures can be introduced through the existing management structures should monitoring identify that an issue needs to be addressed, namely through the Duty to Cooperate and considering options for managing and financing residual cumulative recreational impacts if the Visitor Survey data and analysis indicate it is necessary

It is therefore concluded that there will be no adverse impact, either alone or in-combination with other plans or projects, on the integrity of either the Dartmoor SAC or the South Dartmoor Woods SAC, either alone or in combination, arising from increased recreational pressures. "

The JLP Councils conclude that consequently, further evidence including site surveys is required before any recreational mitigation plan can be developed as they must be evidence based. The JLP Councils welcome the opportunity to work with Dartmoor NPA through the Duty to Cooperate.

STRATEGIC POLICY 2.2 (2) Conserving and enhancing Dartmoor's biodiversity and geodiversity : part 3a)iii)

Not sound

Test of Soundness:

Not consistent with national policy (specifically NPPF Paragraph 16d) ie...Plans should... contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals)

Reason: The policy states that 'Where adequate on-site mitigation measures are not possible, provide off-site compensatory measures'. Whilst this sentence might be appropriate for some conservation designations, the JLP Councils consider that it is not appropriate for European designated sites. The correct tests for European sites are detailed in part 3b of this policy. However, the way the policy is written it looks like 3a applies equally to European sites which is incorrect. The application of compensation for European sites only coming after IROPI test as per 3b.

CHANGE TO POLICY

Need to establish the clear hierarchy of sites, protection and tests afforded to them and separate out the levels in the hierarchy as the tests aren't the same for each level of the hierarchy.

Strategic Policy 2.3 (2) Biodiversity Net Gain

Not sound

Test of Soundness:

Not consistent with national policy - Specifically:

- NPPF paragraph 170 d) – planning policies should contribute to and enhance the natural and local environment by...
d) ‘Minimising impacts on and providing net gains for biodiversity....’
- NPPF Paragraph 16d) ie...Plans should... ‘contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals’

Reason : Part 1 of Policy 2.3 (2) in Regulation 19 draft Plan, as written would mean that policy 2.3 (2) applies only where there is potential loss of unprotected habitat. This is also indicated in Reasoned Justification paragraph 2.3.24. The JLP Councils’ concern is that this policy intention is not consistent with national policy - notably NPPF paragraph 170 d). It’s not just development that impacts biodiversity which will be required to contribute towards biodiversity enhancement. All development (regardless of impact) should contribute towards biodiversity enhancement. Clause 1 as written is also potentially inconsistent with parts 2 and 3 which, as written, are not limited to development with the potential to impact on biodiversity.

CHANGE TO POLICY At the start of part 1 in Strategic Policy 2.3 (2) **Delete** ‘Development with the potential to impact on biodiversity will be required to contribute towards biodiversity enhancement’ and **Replace** with ‘New development will be required to contribute towards biodiversity enhancement’. The amended part 1 would then be read together with and be consistent with parts 2, 3 and 4 of this policy.

2. NOISE and AMENITY

POLICY 1.8(2) Protecting Local Amenity in Dartmoor National Park

Not Sound

Not consistent with national policy

Note: this comment focuses on noise in relation to amenity (there are separate comments on the Strategic Policy 2.5(2) protecting tranquillity and dark night skies)

Reason : Policy **1.8 (2)** is ambiguous for two reasons, and therefore unclear how the decision maker should respond (ie contrary to Paragraph 16 d) of NPPF which says that plans should contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals).

- First, the wording of policy 1.8(2) clauses are inconsistent with the wording of the Reasoned Justification relating to this policy. RJ paragraph 1.7.2 correctly refers to impacts that include human health and quality of life. But Policy 1.8(2) focuses on health and is silent on “quality of life” aspects. Consequently the policy is also inconsistent with the relevant March 2010 Noise Policy Statement for England – Explanatory Notes in Paragraphs 2.12 – 2.15 and the aims set out in paragraphs 2.22-2.25 which include quality of life. That policy statement is referenced in the latest NPPF (version published in June 2019) where Footnote 60 refers to the Explanatory note to this Policy Statement).
- Second, the draft policy states “ c) introduce levels of noise, vibration, lighting, odours, fumes or dust that would adversely affect human health; or d) have an adverse effect on highway safety.” The addition of the word “or” at the end of the sentence in clause c could be read to imply that there is a choice between 1.8(2) c or 1.8(2) d. This is incorrect, making the policy inconsistent with NPPF policy 180. At the moment the way this policy is worded, only adverse effects on human health are considered. This is not as wide ranging as NPPF paragraph 180.

NPPF paragraph 180. “Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life⁶⁰; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.’

CHANGE TO POLICY : Amend Policy 1.8 c) and d) so that the policy intent is fully and clearly set out in the policy, consistent with NPPF. One approach could be to reflect the wording in JLP Policy DEV2.

"Development proposals which will cause unacceptable on- or off-site risk or harm to human health, the natural environment or living conditions, either individually or cumulatively, will not be permitted. Development should:

1. Avoid harmful environmental impacts and health risks for both new and existing development arising from soil, air, water, land, or noise pollution or land instability.
2. Where located in or impacting on an Air Quality Management Area, avoid or mitigate its impact through positively contributing towards the implementation of measures contained within air quality action plans and transport programmes, and through green infrastructure provision and enhancements, building design and layout which helps minimise air quality impacts.
3. Prevent deterioration of and where appropriate protect, enhance and restore water quality.
4. Limit the impact of light pollution on local amenity, intrinsically dark landscapes and nature conservation.
5. Where appropriate, remediate and mitigate despoiled, degraded, derelict, contaminated and unstable land.
6. Protect soils, safeguarding the long term potential of best and most versatile agricultural land and conserving soil resources.
7. Maintain and where appropriate improve the noise environment in accordance with the Noise Policy Statement for England (including any subsequent updates).
8. Not cause an adverse effect on the integrity of a European Site

3. TRANQUILITY AND DARK NIGHT SKIES

STRATEGIC POLICY 2.5 (2) Protecting tranquillity and dark night skies

Dark night skies are included in the Dartmoor National Park's Special Qualities identified in the Dartmoor National Park Management Plan and repeated in the draft Local Plan.

The JLP Councils previously expressed concern at the Regulation 18 stage that the application of a Dark Skies and Tranquillity policy on developments outside the DNPA boundary could jeopardise delivery of sites allocated in the Plymouth and South West Devon Joint Local Plan. The Councils requested that DNPA clarify their current dark-sky status.

The draft plan (Regulation 19) is silent on the DNPA's aims for achieving dark sky status during the plan period. The evidence in the first sentence of paragraph 6.2.7 in the Natural Environment Topic Paper implies that Dartmoor is not designated as a Dark Sky Reserve as at September 2019. However the JLP Councils note that the one of the recommendations in the Topic Paper (P6 and paragraph 6.2.8) is that "...future planning policy should not prevent dark-sky status being achieved". Topic Paper Paragraph 6.2.3 makes clear that there is a possibility of the National Park achieving dark-sky status during the course of the next plan period but this is subject to resources and is currently being explored". Dark sky status is awarded by the International Dark-Sky Association.

The JLP Councils welcome the changes made by the DNPA to the Environment Topic Paper in response to the Councils' concerns expressed at the Regulation 18 stage. The September 2019 version of the Topic Paper acknowledges that "were the whole National Park designated as a Dark Sky Reserve then this could impact on development proposals in adjacent areas which would see the recommended lighting standard increase from Zone E2 to E1. Such a change could have impact on allocated sites and would need to be a matter addressed through the National Park Authority's Duty to Cooperate." The JLP Councils note the conclusion in the evidence in paragraph 6.2.7 which states that "However in the case of Dartmoor, the presence of significant settlements on the National Park's boundary mean it is not anticipated these areas would be eligible for dark sky status. As such, the risk is considered minimal".

The JLP Councils are mindful that there is a 'necklace' of settlements just within and just outwith the National Park boundary. These already impact on dark night skies. Furthermore, there is complementary evidence that experiential qualities vary across the National Park. This is evidence in Natural England (2014) '*National Character Area Profile: 150 Dartmoor*' (see footnote 43 in the Natural Environment Topic Paper). That is the source evidence regarding the Dartmoor National Park's Special Qualities identified in the Dartmoor National Park Management Plan. Those qualities are repeated in the draft Local Plan. NCA profile 150 Paragraph 11.1 for example indicates that

- based on CPRE's mapping of dark night skies, more than 50 per cent of Dartmoor in 2000 enjoyed dark night skies unaffected by light pollution; and
- Dartmoor is made more fragile by being bounded on all sides by major trunk roads.

The alignment of the trunk roads and the necklace of settlements can be seen on the CPRE map of tranquillity (to which paragraph 11.1 refers) as can the urban area of Plymouth, coinciding with the notation indicating those areas are not the most tranquil.

The JLP Councils acknowledge that the decision making process on 'dark sky status' is outside the plan-making process for Development Plan Documents, but future designation could still impact on the implementation of the development plan. Being outside the DPD/SPD/

development management process, the designation process it is not covered by the Statement of Community Involvement.

The JLP Councils therefore welcome the expression of intent in Topic Paper paragraph 6.2.9 that “Neighbouring local planning authorities potentially affected by any changes to the National Park’s dark sky status should also be given sufficient notice and given opportunities to comment on proposals”. That intent should also apply to Neighbourhood Plan Groups as Neighbourhood Plans when made are part of the development plan.

Nevertheless, that intention is not being signalled in the Reasoned Justification to Strategic Policy 2.5(2). Dark sky status is an issue which has been raised in the evidence. The draft local plan’s silence however means there is insufficient clarity within the plan at this time to give neighbouring local planning authorities sufficient certainty about the mechanisms for how a plan making response to future designation might occur. To overcome this concern, details regarding the approach to future consultation on this matter, and the circumstances for triggering a plan review need to be considered. It could be part of a Governance Topic Paper and would then be part of the process supporting the delivery of the JLP and the Dartmoor Local Plan. The JLP Councils look forward to continuing engagement with the DNPA on this matter.

The ongoing work to review the Dartmoor National Park Management Plan would be an opportunity to understand whether the DNPA and partners intend to pursue dark sky status. The DNPA website provides information about the Management Plan Review. This indicates that a draft Management Plan will be prepared in the autumn (2019), with the intention of consulting on this towards the end of 2019/early 2020. The aim is to have the final Plan ready by April 2020. When available, this could inform the Local Plan examination.

https://www.dartmoor.gov.uk/data/assets/pdf_file/0004/1556896/Man-Plan-Update-Apr19_final.pdf

4. SPATIAL STRATEGY

STRATEGIC POLICY 1.4(2) Spatial Strategy

The JLP Councils support the identification of a settlement hierarchy and the use of different policy approaches appropriate to the hierarchy in order to ensure homes are built in the most sustainable locations.

The Housing Strategy Summary Diagram is an effective method of visualising the strategy, although some settlements have settlement boundaries that run along the DNP boundary, meaning that exception sites adjoining the settlement boundary would not necessarily be subject to DNPA planning policy as the proposal site would be outside the DNPA.

5. HOUSING

STRATEGIC POLICY 3.1(2) Meeting Housing Need in Dartmoor National Park

At the previous Regulation 18 stage, the JLP Councils considered that Policies 3.1(1) and 1.4(1) needed to be strengthened. Policy 3.1 (1) stated that “This Local Plan will seek to meet an indicative housing delivery figure of 65 homes each year across the National Park”. That statement was welcomed as it clearly set out that the draft Local Plan will be able to provide a level of housing equal to the ‘Dartmoor Allowance’ set out in the Plymouth and South West Devon Joint Local Plan. Nevertheless, the JLP Councils stated that they would prefer to see the policy commit to providing this figure, rather than expressing it as an ‘indicative housing delivery figure’.

The JLP Councils note the change made in Policy 3.1(2) in the Regulation 19 draft Dartmoor Local Plan. Policy 3.1(2) now states that “*This Local Plan will seek to meet an indicative housing delivery figure of 1,125 homes (65 homes each year after adoption) across the National Park over the period of this Plan*”. However, the JLP Councils are concerned that the policy continues to express “an indicative housing delivery figure”. This concern takes into account the updated evidence in the Dartmoor Topic Paper 6 – Housing (September 2019), and in particular Paragraphs 4.1.7 and 4.2.7.

CHANGE TO POLICY : The JLP Councils consider that Policy 3.1(2) should identify a net housing requirement figure for the plan period.

However, if this change cannot be made, the JLP Councils would be satisfied if a robust mechanism could be agreed with DNPA, to provide the JLP Councils with confidence that housing will be delivered in the DNPA area as set out in the Dartmoor Local Plan. The JLP Councils are exploring appropriate mechanisms with the Dartmoor National Park Authority, to be set out in a Governance Topic Paper on this matter.

In addition, the plan would be clearer if the plan period is clearly stated in the Reasoned Justification, This should clarify the extent of the time period (assumed to be 18 years) and the start and end of the period (assumed to be 1 April 2018 to 31 March 2036) so that monitoring of the correct period can be undertaken.

STRATEGIC POLICY 1.4(2) SPATIAL STRATEGY

The JLP Councils note that Policy 1.4(2) part 1a). continues to include an indicative delivery figure of 65 dwellings per year This avoids duplication of policy. The JLP concerns about Strategic Policy 3.1(2) also apply to Policy 1.4(2) part 1a.

6. SITE ALLOCATIONS

The JLP Councils support that the draft Local Plan includes a set of site allocations to meet needs and that the site allocation policies have been strengthened by adding an indication of site capacities in terms of numbers of dwellings where residential development is included.

7. NEIGHBOURHOOD PLANS

At the previous Regulation 18 stage, the JLP Councils stated that they believed it would be helpful if the draft Local Plan could clarify the relationship between the draft Local Plan and Neighbourhood Plans regarding the role of the DNPA, and also the roles of adjoining LPAs. This includes those circumstances where a Neighbourhood Plan lies potentially within 2 or more Local Planning Authority Areas.

The Regulation 19 draft Plan would benefit from clarification on this matter.