

DARTMOOR LOCAL PLAN 2018 – 2036

HEARING STATEMENT

MATTER 4: ISSUE 5

POLICY 3.6(2) CUSTOM AND SELF-BUILD HOUSING

FEBRUARY 2021

REPRESENTATIONS ON BEHALF OF:

HON. ANDREW LOPES

(REPRESENTOR ID 0055)

CONTENTS:

	Page No:
1. INTRODUCTION	1
2. CUSTOM AND SELF-BUILD HOUSING - POLICY CONTEXT	3
2. MATTER 4: ISSUE 5 Q1	6
3. MATTER 4: ISSUE 5 Q2	7
4. CHANGES SOUGHT	11

1. INTRODUCTION

1.1 EJFP Planning Limited are instructed by the Hon. Andrew Lopes (“the **Client**”) (Representor ID 0055) to attend and present evidence to the Dartmoor Local Plan 2018 – 2036 Hearings, in respect of his land interests within the Plan Area.

1.2 Our Client has made representations at Regulation 19 stage of the Local Plan process in respect of his wide-ranging land interests within the area. This Hearing Statement builds upon the representations made at Proposed Submission stage and should be read in conjunction with them. It addresses those concerns raised by the wording of Policy 3.6(2). The representation (recorded at SD16 page 244 of 576) identified that the Policy was not considered 'sound' because;

'The policy as written is too restrictive and should have greater flexibility. The main concern comes with criteria 2(a) and 2(b).'

1.3 On behalf of our client, it was suggested that to be found sound, the policy should be amended in the following manner;

'The policy should be amended in relation to criterion 2(a) to reflect the guidance set out in the nationally described space standards. This would give greater clarity and flexibility to the provision of affordable housing; this flexibility will ensure that the identified need for settlements can be met and not shoehorned into the current inflexible approach currently proposed.

In terms of criterion 2(b) it is not clear why the 93m2 is required or justified in relation to selfbuild or custom build local person housing. To qualify for local person occupation there is no requirement to be in housing need, in addition the pre-amble to the policy states at paragraph 3.7.2 that Homes are tailored to the needs of the occupant, meaning also they are more likely to stay in the home and the community for longer. The policy does not reflect the guidance and unduly restricts without justification the size of these dwellings. It is therefore considered that the restrictions set out in criterion 2(b) should be removed. If it considered that there is a need for restrictions, then these should be more reflective of open market standards.'

- 1.4 The LPA responded to the representations by proposing no change to the Plan, their reason for not making any change was;

'The size restriction is necessary to avoid a workaround to the National Park's affordable housing policies. Local needs self and custom build is allowed in some circumstances without the need to provide affordable housing. This is to acknowledge that this housing type can meet a need within the National Park. However, this approach can also undermine affordable housing delivery. Restricting size ensures that the housing coming forward is most likely to meet the needs of Dartmoor's population which faces significant affordability issues evidenced in the Housing Topic Paper.'

- 1.5 This Hearing Statement provides further supporting argument for why the Council's approach is unsound, and why as drafted it will fail to deliver on the Government's stated intent of encouraging custom and self-build homes, which is recognised as an important plank of the Government's policy of delivering 300,000 homes a year.

2. CUSTON AND SELF-BUILD HOUSING – POLICY CONTEXT

- 2.1 It is important to understand the policy background to the use of custom and self-build housing as an element of government intent to drive this sector forward as an integral part of the overall housing delivery and mix at a national level.
- 2.2 Whilst treated the same in terms of policy, it is helpful to understand the difference between Custom and Self-build typologies. **Custom Housing** is where an individual works with a builder, specialist developer or 'enabler' to deliver a home, whereas **self-build** is where an individual directly organises the design and construction of their homes themselves, very few self-builds are actually physically built by the individual owners.

National Planning Policy Framework 2019

- 2.3 The NPPF has since 2012 encouraged authorities to ensure an appropriate mix of housing to meet the needs of different groups within their communities. The 2012 NPPF required LPAs to plan for those '*wishing to build their own homes*' (NPPF 2012, para 50), and this was further enhanced, and strengthened to reflect not just those building, but also those commissioning work, in the current 2019 NPPF. This now requires planning authorities to assess and reflect in policy the needs of different groups in the community including '*people wishing to commission and build their own homes.*' (NPPF para 61)

2.4 **Planning Practice Guidance**

- 2.5 Planning Practice Guidance provides useful supporting information on Custom and Self-build Housing noting;

What is self-build and custom housebuilding?

*The Self-build and Custom Housebuilding Act 2015 (the **2015 Act**) (as amended by the Housing and Planning Act 2016 (the **2016 Act**)) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.*

In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout...

Paragraph: 016 Reference ID: 57-016-2017072

- 2.6 The Acts also establish that Custom and Self-build Housing can be both *market* or *affordable* housing. Councils are encouraged to promote Custom and Self-build Housing (Ref ID: 57-022-20170728) and are also invited to hold two parts to their register, a Part 1 reflecting need from those able to demonstrate a local connection (subject to a locally defined eligibility test), and Part 2 to reflect any wider need. Local Plans are only required to make plan provision for Part 1 need (Paragraph: 017 Reference ID: 57-017-20170728). The PPG further sets out specific ways in which authorities may support this sector and meet their obligations under the 2015 Act (as amended).

How can relevant authorities increase the number of planning permissions which are suitable for self-build and custom housebuilding?

Relevant authorities should consider how they can best support self-build and custom housebuilding in their area. This could include:

- developing policies in their Local Plan for self-build and custom housebuilding;*
- using their own land if available and suitable for self-build and custom housebuilding and marketing it to those on the register;*
- engaging with landowners who own sites that are suitable for housing and encouraging them to consider self-build and custom housebuilding and facilitating access to those on the register where the landowner is interested; and*
- working with custom build developers to maximise opportunities for self-build and custom housebuilding.*

Paragraph: 025 Reference ID: 57-025-201760728

Ministerial Statement 30/10/20

- 2.7 On 30th October last year, the Government announced a review (www.gov.uk/government/news/boost-for-families-wishing-to-build-their-own-home) of how current legislation support those who wish to commission or build their own homes, in launching the review, Housing Minister Robert Jenrick MP stated;

'We are backing people who want to design and build their own home and today I have launched a review to ensure councils provide enough land and take proper consideration for these homes when making planning decisions in their area.'

Local Plan Evidence Base

2.8 The DNPA has set out its position on Custom and Self-build at section 6.10 of the background Housing Topic Paper (CD: SD106). Key paragraphs therein state;

'6.10.6 Clearly the biggest obstacle to self-build housing coming forward at the moment is the eligibility criteria, many more people would be eligible and able to self or custom build if they did not have to be in affordable housing need. The level of need within communities suggests that a relaxation of the affordable requirement in favour of a model which was only restricted to occupation by local people would allow significant flexibility and better ensure the need is met, and site opportunities increase through better viability. Provision of affordable housing is however a key priority of the local plan and any relaxation of this requirement would need to be very careful that it did not create a loophole whereby the usual affordable housing requirements could be bypassed.

6.10.7 Custom and self-build comes with its own benefits which also need to be considered, however many of these cannot be ensured:

- *They can support local trades people*
- *Homes are tailored to the needs of the occupant, meaning also they are more likely to stay in the home and the community for longer*
- *There is scope for a greater variety of design and a greater opportunity for higher quality innovative and sustainable design*
- *It can make efficient use of land by using small or underused plots, and with a lower impact than larger scale development' (our emphasis)*

3. MATTER 4: Issue 5 Q1

Q1. Would this policy provide the necessary flexibility to ensure that demand for self and custom build housing in the area is met in accordance with the provisions of the Housing and Planning Act 2016?

- 3.1 My client is generally supportive of the positive approach that the Council have adopted to both the importance of Custom and Self-build Housing, and to the policy approach to spatial distribution. In particular, the recognition that some development of Custom and Self-build of no more than 3 dwellings within the Villages and Hamlets would be appropriate, where there is a demonstrable local connection, and locational criteria are met.
- 3.2 This strategy approach is also to be read with the supporting policy for Villages and Hamlets, which establishes that settlement boundaries will not be identified through the plan for Villages and Hamlets, but rather the locational suitability of sites that come forward in these settlements will be determined through the exercise of *'professional judgement'* (SD01 page 75).
- 3.3 However, for reasons established within the response to the Inspector's second question (set out below), as drafted with the size limitation imposed on Custom and Self-build Housing, it is not considered that the policy does contain the necessary flexibility to address demand. Limiting a house size to that identified in the Nationally Described Space Standards as a bare minimum for an average 3 bed house, would provide a significant disincentive for those looking to invest in their long-term future within a community through the commitment of building their own home.

4. MATTER 4: Issue 5 Q2

Q2. Is the size restriction set out in 3.6(2)2a justified by the evidence? Would it be unduly restrictive in light of the need for an occupant to actively determine design?

- 4.1 Very simply, the answers to the Inspector's questions are 'No', the restriction is not justified and 'Yes', the policy is unduly restrictive'. The reasons for these conclusions are expanded further below.

Size Matters

- 4.2 Size matters to a self-builder. The freedom to design your own dwelling, bespoke to your own or your family's needs may well be the driving force and consideration of such a major financial investment and risk. By way of example, the Home Building and Renovating web site demonstrates what draws people into self-build;

'A self-build home is the perfect way to create a one-off house, tailored to your specific lifestyle and requirements – and there is more than one self-build option out there.

But the benefits of self-build don't end there. Self-building provides the opportunity to create a low-maintenance home designed to change with you as your needs change. It can also give you scope to design in energy efficient, money saving features from the outset.' (<https://www.homebuilding.co.uk/advice/self-build#:~:text=Self%20building%20provides%20the%20opportunity,saving%20features%20from%20the%20outset.>)

- 4.3 It is of significance that there is nothing within any of the legislative or policy background presented at Section 2 above, that provides the DNPA with support for the imposition of size limits on self-build, in order to control affordable housing provision, or indeed for any other reason.
- 4.4 That is, there is nothing within the Self-Build and Custom Housebuilding Act 2015, The Housing and Planning Act 2016 ('the **Acts**'), the NPPF, the PPG, the Planning White Paper, the Ministerial Statement on sector review, neither even anything within the Council's own Topic Paper (SD106) on the issue, nor the Sustainability Appraisal of the Local Plan, which provides any policy or evidential support for use of a floorspace restriction upon the size of self-build housing.
- 4.5 The Acts provide a legislative obligation on local authorities to meet the needs of those on Part 1 of the self-build register. Those needs are not defined by arbitrary upper size limits to dwellings. There is no limitation inherent within the legislative requirement to support an upper limit.

Custom and Self-build, and Affordable Housing

- 4.6 There appears to be some confusion within the Council's response to our Client's duly made representation about the role of Custom and Self-build Housing, and that of Affordable Housing provision. The two are not interchangeable. Not all Custom and Self-build will be affordable, nor is it required to be either nationally through legislation and guidance (NPPF para 61, Footnote 26), or even through the Council's emerging policy.
- 4.7 The Council's response (para 1.4 above) to our client's representations seeking the removal of the 93 sqm limit, refers to requiring the upper limit to be in place in order to ' *avoid a workaround to the National Park's affordable housing policies*'. This, however, is to conflate the issue of Affordable delivery, with that of Custom/Self-build. They are two wholly separate entities, and the legislative requirement on the Council through the Acts is to meet the Register Part 1 need, irrespective of tenure.
- 4.8 Indeed, the Housing Topic Paper (SD106, section 6.10) specifically identifies that the Authority's previous limitations on Custom/Self-build that they provide 50% Affordable Housing, have acted as a major disincentive to delivery of this housing typology, resulting in a low take up. SD106 confirms that '*As a result (of the 50% AH provision requirement) the National Park have seen few self-build projects come forward over the last plan period,...*'
- 4.9 Moreover, the proposed Local Plan Policy 3.6(2) is explicit that custom and self-build housing may be delivered as affordable housing, as local needs, or as market housing. There is no indication through the intent of policy, that this would or could lead to a '*workaround*' of affordable housing policies generally. The policy is clear that all three delivery mechanisms are legitimate in their own right. The Hamlets and Villages Policy 3.5(2) provides for the circumstances when custom and self-build might be approved in these locations, and in all cases, this allows for market or affordable provision. The concern expressed in response to our client's objection to the 93sqm limit, that it is necessary to avoid an affordable housing *workaround*, is neither understood, nor justified in this context.

Why 93 sqm?

- 4.10 Local Plan para 3.4.8 sets out the genesis of the 93sqm figure. It is derived from the Nationally Described Space Standards as the minimum gross area for a 3 bed

5 person dwelling. The Local Plan turns this minimum requirement and uses it for a purpose clearly not envisaged in the described standards, as a maximum floorspace limit.

- 4.11 There is no evidential basis why this figure is used. Why not the 39sqm of a one bed dwelling, or the 138sqm of a 6-bed dwelling? There is no explanation to be found in the Plan, nor the Topic Paper to explain the figure chosen.
- 4.12 In practical terms this represents the absolute minimum floorspace deemed necessary by Government for a 3-bed unit. If a registered self-builder's need is for a 4, 5 or 6 bed unit, or a 3 bed unit beyond the bare minimum, then this Plan can not meet that need (arguably in breach of the Acts' provisions). Moreover, even if the need were for a 3-bed unit, then this Plan will only encourage self-builders who wish to take on the financial risk, emotional and maybe physical challenge of self-build, if they are satisfied with the barest minimum space prescribed as necessary by Government.
- 4.13 The 93sm floorspace restriction, will do nothing to provide the step change in Custom and Self-build delivery that the Housing Topic Paper notes is required to meet that Acts' obligations. SD106 6.10.5 notes the Council's position, *'In view of there being demand for self-build properties among the National Park's communities and the Authority's duty to allow scope for this need to be met there must be a shift in policy to allow more opportunity'*. The unanswered question of the Plan therefore, is how imposing a 93sqm limitation on the aspirations of individual home builders, looking at long term investment within their own communities, is going to achieve that *'shift in policy'*.
- 4.14 Paragraph 2.8 above, sets out the recognised benefits that accrue from the Custom and Self-build sector. They identify that tailor made homes, are likely to lead to homeowners remaining in their bespoke property for longer, and that there is scope for a greater variety of design and a greater opportunity for higher quality innovative and sustainable design. If these are the recognised benefits and goals of policy, then the imposition of a 93sqm limitation on delivering innovative, high quality and sustainable design, does little to encourage such outcomes when the additional build rate cost of exemplar design is to be absorbed by such a limited size of development.

- 4.15 That is not to say that exemplar design can not be achieved in 93sqm, simply that the flexibility and innovation sought is likely to be discouraged by the rigid adherence to such a small size limit. There are plenty of other design-based policies in the Plan capable of controlling both desirable and appropriate design outcomes.

5. POLICY 3.6(2) – CHANGES SOUGHT

- 5.1 As drafted Policy 3.6(2) is not sound, as it is neither **effective**, nor **consistent with national policy**.
- 5.2 The Council recognise there is a need for step change in their policy to meet their statutory obligations under the Self-Build and Custom Housebuilding Act 2015 (as amended). The proposed restriction on floorspace of self-build properties to 93sqm, is both illogical, and without evidential or policy support. It will act to prevent the step change acknowledged as being required, and therefore fail to deliver the Plan's objectives, it will also fail to meet the requirements for Custom and Self-build housing established in the NPPF.
- 5.3 The removal of the 93sqm requirement from Policy 3.6 (2) a and b, would meet our client's objections, and make the policy sound in this regard.