

Forward Planning,
Dartmoor National Park Authority,
Parke,
Bovey Tracey,
Newton Abbot,
Devon, TQ13 9JQ

Date: 31/10/2019

Letter ref: CP/00233

Dear Sir/Madam

Dartmoor Local Plan 2018-2036 Final Draft (Regulation 19 consultation)

These representations are submitted on behalf of Baker Estates Ltd. Baker Estates welcomes the opportunity to comment upon this Regulation 19 consultation on the draft Local Plan and has commented at previous consultation stages of the plan making process. A copy of those previous representations is attached for ease of reference.

At this stage in the plan-making process, it is particularly important for any representations to be framed around the requirements of national policy. The National Planning Policy Framework's (NPPF) requires that local planning authorities should submit a plan for examination which is considered to be "sound" – namely that it is positively prepared, justified, effective and consistent with national policy. It is with these requirements in mind that these representations have been prepared.

Baker Estates has a land interest at Thompson Yard, Moretonhampstead, which is allocated for development within the current Development Management and Delivery Plan (adopted July 2013) under Policy MTN2. The site is the subject of a current planning application proposing the redevelopment of the site for housing, which was submitted by Baker Estates in March 2019,

following pre-application consultation with DNPA and the local community. The site proposed to be allocated within the draft Local Plan under Proposal 7.12 (2).

Strategic Policies 3.1, 3.2 and 3.3

Paragraph 3.1.13 of the draft Plan acknowledges that Vacant Buildings Credit (VBC) has been introduced by the Government in order to promote the use of previously developed land but we are disappointed that the comments (attached) made in Baker Estates' previous representations have not been properly taken into account.

Furthermore, no reference to the potential application of VBC is made within relevant draft policies. To provide clarity on what should be expected on sites for which VBC is applicable, the potential application of VBC should be reflected in draft Strategic Policies 3.1, 3.2 and 3.3.

Draft Strategic Policy 3.1 states that allocated sites should only come forward when they are needed. Draft paragraph 7.1.9 explains that this would mean that if there is not a current identified need for affordable housing, development should not come forward. Again, this does not allow for the potential application of VBC on allocated sites which might significantly reduce the amount of affordable housing required and which instead can provide an appropriate mix of market housing to meet the needs of the Park's communities.

Draft paragraph 3.2.2 makes it clear that having a mix of available housing is vital to ensuring Dartmoor's communities are inclusive and sustainable. It states,

"This means ensuring that there is a mix of housing to meet the needs of first time buyers, elderly downsizers, the disabled as well those unable to afford open market prices. To support the housing and economic strategies, any new open market housing should therefore be of a mix of house types and sizes which enable and encourage younger families to live and work within Dartmoor's communities".

Strategic Policies 3.1, 3.2 and 3.3 should therefore make it very clear that where VBC is applicable and reduces the amount of affordable housing that is required, in accordance with national policy to promote the use of previously developed sites, proposals can still come forward in a manner that responds to the market housing needs identified in draft paragraph 3.3.2. Otherwise, as these policies currently read, no development would be able to come forward on sites where VBC is applicable, which would run entirely contrary to national policy. A consistent message

throughout the NPPF is for brownfield land to be prioritised for development and paragraph 118 states that “*substantial weight*” should be given to the value of using suitable brownfield land within settlements for homes. Development for new homes on suitable brownfield land, particularly within the main settlements, would conserve and enhance the natural beauty of the Park by reducing the need to build on greenfield land. Even where the application of VBC on such sites would reduce the amount of affordable housing required, proposals for market housing of an appropriate mix to meet local needs will foster the economic and social well-being of the local community by improving the quality of the local housing stock, creating employment through the construction, increasing economic activity and providing a mix and range of housing of which there is a shortage within the Park.

Proposal 7.12 (2)

Proposal 7.12 (2) proposes to carry forward the allocation of land at Thompson’s Haulage Depot, Moretonhampstead, which is already allocated under Policy MTN2 of the adopted Development Management and Delivery Plan.

However, the proposed draft allocation differs from Policy MTN2 in the following ways:

- it refers to “*around 26 homes*” but no justification for this number is provided. The inclusion of this arbitrary figure makes the policy unnecessarily prescriptive and we recommend that this is removed from the draft text. The existing wording which states that development be of an appropriate density is sufficient.
- it states that not less than 45% must be affordable housing to meet identified local needs. This completely ignores the potential application of VBC on the site which has been discussed with officers during the consideration of the current planning application. This is not consistent with national policy and we recommend that the text is amended to allow for this requirement to be reduced if justified by the application of VBC.
- it states that development should “*provide a link to the Wray Valley Trail*” rather than “*allow for the provision*” of such a link. The change in the wording is not justified because compliance with it would require land outside of the allocation boundary and in separate ownership.

The draft policy proposes to retain the requirement to *“conserve and enhance the site’s railway heritage, sensitively incorporating the goods shed and platform”*. This relates to undesignated heritage assets, the retention of which significantly compromises the ability to achieve a high-quality design and layout of housing on the site. NPPF paragraph 124 states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve, good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 states that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. We recommend that more flexibility is introduced to the policy, which could still require the site’s railway heritage to be reflected in development proposals, without requiring the goods shed and platform to be retained if it could be demonstrated that doing so would result in an inferior design and layout. Such a change would be consistent with the NPPF reference identified above.

Draft local plan paragraph 7.1.10 states that

“allocations may include specific requirements, such as a level of affordable housing, or infrastructure, which should be provided as part of development on the site. These are summarised in the Site Briefs published alongside this Plan. These should be read alongside the relevant policies within this Local Plan”

We note that a Site Brief is described as a planning advice note which accompanies the Local Plan and does not set new or additional requirements for the site. It is described as *“a summary of key considerations for the site drawn from existing sources and should be read alongside the Local Plan”*. Nevertheless, the comments set out in these representations are also relevant to the Site Brief for Thompsons Yard.

We trust these representations will be given careful consideration and, in any case, will accompany the submission of the draft Plan for examination.

Yours faithfully

SIMON COLLIER

Director

Copy of representations submitted on behalf of Baker Estates at previous consultation stage in the plan making process:

Introduction

We are instructed by Baker Estates Ltd.

The representation concerns the following paragraphs of the Local Plan:

- 1 Affordable Housing – Paragraph 3.1.10
- 2 Vacant Building Credit - Paragraph 3.1.11
- 3 Strategic Policy 3.2 (1) Size and accessibility of new housing
- 4 Strategic Policy 3.3 (1) Housing in Local Centres
- 5 Paragraph 3.4 Definition of Affordable Housing
- 6 Policy 4.4(1) Electric Vehicle Charging Points (EVCPs)
- 7 Proposal 7.12 (1) Land at Thompson's, Moretonhampstead

Our representations are set out in full below.

8 Affordable Housing – Paragraph 3.1.10

- 8.1 Paragraph 3.1.10 relates to the use of s.106 Agreements to secure the delivery of affordable housing.
- 8.2 The final sentence of the paragraph (which relates to staircasing) states that, in the event that a tenant of a shared ownership dwelling staircases to 100% and the Housing Association does not acquire the dwelling pursuant to its right of pre-emption, that dwelling will nonetheless remain subject to “a local occupancy restriction ... on the property in perpetuity.”
- 8.3 This requirement should be deleted for a number of reasons. Shared ownership housing is intended to provide an intermediate step between social housing and private home ownership. It is intended to provide a first step on the housing land for people who would otherwise be unable to afford to buy a home on the open market. This is why staircasing is allowed – in order to enable the tenant to move on to the private housing market in due course should they be able to do so.
- 8.4 There is no reason why people who have worked hard to purchase 100% of the equity in a Shared Ownership property should be put at a disadvantage when seeking to move on from the property through the imposition of an “in perpetuity” local occupancy condition.
- 8.5 A local occupancy restriction would depress the market value of the property. This will make it difficult (if not impossible) for a tenant to obtain mortgage finance to purchase a share in the property in the first place.

8.6 Therefore, any such restriction is unfair and is likely to undermine the purpose and delivery of shared ownership housing. It would also have a severe negative impact on the viability and, therefore, achievability of the policies relation to affordable housing,

9 Vacant Building Credit - Paragraph 3.1.11

9.1 In order to be found “sound” the policies of the Local Plan must pass a number of tests. Test (d) of paragraph 35 of the NPPF is “consistency with national policy”. Therefore, where policies are inconsistent with national policy, they should not be considered to be sound.

9.2 Paragraph 3.1.11 contains DNPA’s suggested policy on Vacant Building Credit (“VBC”). As will be readily appreciated, paragraph 63 of the National Planning Policy Framework states “*where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount*” equivalent to the existing gross floorspace of the existing buildings. The detail of the national policy on VBC is set out in the National Planning Practice Guidance.

9.3 The VBC policy contained in the draft Local Plan is inconsistent with the VBC policy as articulated at a national level. For example, the following elements of the draft Local Plan policy are inconsistent with national policy:

- (a) *“The whole building needs to be vacant, not just a single planning unit or part of the building”*

This is unnecessary gloss which complicates the policy. The NPPG is clear that the policy relates to “vacant buildings” being brought back into any lawful use, or demolished to be replaced by a new building. The reference to “single planning units” rather than “buildings” is likely to create confusion.

It is unclear what DNPA intends to achieve by adding the above wording.

There is already a wealth of case law regarding the definition of the term “building” in a planning context. Therefore, it is not necessary to seek to prescribe further requirements in this respect.

- (b) *“The applicant must demonstrate that the building has been vacant for a continuous period of 3 years preceding the day the planning application is valid”*

This requirement runs contrary to the express wording and intention of the national level VBC policy.

The NPPG is clear that vacant building credit applies where the building has not been abandoned. However, there is no requirement that the building must have been vacant for any period of time.

Further, the NPPG states that the VBC policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. The intention is not to incentivise leaving buildings empty and unused for more than 3 years.

If a building is vacant and redundant, it would be counter productive to encourage the sterilisation of the site for more than 3 years in order to benefit from VBC. VBC should be used to encourage the rapid redevelopment of vacant and redundant buildings.

Therefore, this criterion should be removed.

- (c) *“Where vacant building credit is applied, the full affordable housing obligations will be sought as a percentage of the remaining floor space viability”*

This criterion of the policy does not make sense. It is unclear what the Council is seeking to achieve. It appears that the final word “viability” may be a typo.

The national policy on VBC is clear regarding the way in which the credit should be applied. Practical examples are given by way of illustration: *“For example, where a building with a gross floorspace of 8,000 square metre building is demolished as part of a proposed development with a gross floorspace of 10,000 square metres, any affordable housing contribution should be a fifth of what would normally be sought.”*

If the Local Plan policy is intended to be consistent with the NPPG, this criterion should be deleted as it is unnecessary. If the intention is to introduce an approach that is inconsistent with the national policy approach to the application of VBC, the sentence should also be deleted as it would not be sound.

- (d) *“Credit will not be applied to building(s) which have been made vacant for the purpose of redevelopment”*

This criterion differs from the NPPG. Whilst the difference in wording may appear to be relatively minor, the practical effect could be significant.

The NPPG states that “it may be appropriate for authorities to consider: Whether the building has been made vacant **for the sole purposes** of re-development”. The words shown in bold have been omitted in the VBC policy contained in the draft Local Plan.

It is foreseeable that a building may have become vacant for a number of reasons. As time goes on, the redevelopment of the site may become one of those reasons (this would, for example, be the case if a temporary interim use was found for the building pending its redevelopment). However, this should not prevent the application of VBC.

Therefore, it is important that the word “solely” is inserted into the above criteria (i.e. “made vacant solely for the purpose of redevelopment”).

- (e) *“Where a vacant building credit calculation results in a part dwelling requirement this will be rounded up to the next whole affordable dwelling”*

There is no justification for requiring the Affordable Housing provision to be rounded up to the next whole dwelling.

Elsewhere in the Local Plan (see for example paragraph 3.4.6), the text states that Affordable Housing requirements will be “rounded up to the nearest single property, or may provide a contribution in lieu for any part of a unit required through policy.” There is no justification to depart from this approach in respect of VBC.

The VBC policy as articulated at a national level expressly relates to the calculation of Affordable Housing contributions in terms of on-site delivery of affordable dwellings

and “where an equivalent financial contribution is being provided” (Paragraph: 022 Reference ID: 23b-022-20160519 NPPG).

Therefore, where VBC results in a part dwelling requirement, as per paragraph 3.4.6 of the draft Local Plan, Affordable Housing requirements should be “rounded up to the nearest single property, or may provide a contribution in lieu for any part of a unit required through policy.”

10 Strategic Policy 3.2 (1) Size and accessibility of new housing

- 10.1 Policy 3.2(1)2 states that “All new housing should meet and not materially exceed nationally described technical housing standards”. Departures from the policy will only be permitted where “evidence of local households’ and communities’ needs demonstrates alternative accommodation is necessary.”
- 10.2 Whilst we can understand the Authority’s desire to control the size of new dwellings, the proposed policy is unduly restrictive. There will be many sites where different size dwellings may be appropriate. Further, dwelling sizes may be dictated by the specific nature and circumstances of the site (and the character of the surrounding area) rather than local housing needs.
- 10.3 Therefore, we would suggest that the policy is amended to permit departures from the policy if justified by the specific nature and character of the site or the character of the surrounding area.
- 10.4 Policy 3.2(1) requires all new build dwellings should be constructed in accordance with Building Regulations Requirement M4(2) unless evidence demonstrates that it is not desirable or possible for planning or environmental reasons or it is not viable.
- 10.5 This policy is unduly prescriptive. There may be a wide range of reasons why it would not be possible or practical to build all dwellings at the M4(2) requirement. For example, when building apartments, M4(2) can be challenging to achieve or the topography or other factors relating to specific sites can make the achievement of M4(2) virtually impossible to achieve. This is particularly the case for previously developed sites.
- 10.6 The policy should include greater flexibility to allow a departure from policy without having to go through a formal viability appraisal process. Otherwise, an unduly restrictive policy is likely to have an adverse impact on the overall viability and deliverability of the strategic policies of the plan.
- 10.7 Therefore, we would suggest that the policy should be amended to allow greater flexibility. For example by the addition of the word practical “unless evidence demonstrates that it is not desirable or possible for practical, planning or environmental reasons”

11 Strategic Policy 3.3 (1) Housing in Local Centres

- 11.1 Draft policy 3.3(1)3 relates to the delivery of more than 6 dwellings in a Local Centre. The policy provides for 45% on site Affordable Housing unless the development includes a proportion of local needs custom and self-build housing or “b) a higher proportion of open market housing is proven essential for the viability of the development; **and** c) the development is still making a significant contribution towards the provision of affordable housing, community infrastructure, or environmental betterment within the wider settlement.”
- 11.2 We accept that where the target cannot be met, it is normal procedure to justify a departure from policy on viability grounds. However, the draft policy includes a further cumulative requirement to demonstrate that the development is “still making a significant contribution towards the provision of

affordable housing, community infrastructure, or environmental betterment within the wider settlement”.

- 11.3 This additional test adds a level of uncertainty and subjectivity to the viability process. For example, it is unclear whether the term “community infrastructure” is intended to include the provision of housing to meet the needs of the community. Similarly, the scope of “environmental betterment” is unclear. Presumably, this term is intended to be construed widely so as to include an improvement in the immediate setting of the site, any improvements in terms of the landscape or visual impact of the site and any improvements in terms of traffic generation or management? Further, it is unclear whether a site would be considered to meet this test (in terms of making a significant contribution towards the provision of affordable housing) in the event that other policies of the plan (such as paragraph 3.1.11 (Vacant Building Credit)) or national policy resulted in a reduced affordable requirement from the site.
- 11.4 It is essential that this policy is clarified to explain the scope of terms such as “community infrastructure” and “environmental betterment”. Otherwise, the lack of clarity would undermine the effectiveness of the policy.
- 11.5 Therefore, we would suggest the following wording for criteria 3.3(1)3(c):
- “c) the development makes a significant contribution towards the provision of affordable housing (having regard to any other policies of this plan and national planning policy), community infrastructure (including the provision of housing for which there is a local need), or environmental betterment within the wider settlement (including improvement in the immediate setting of the site, improvements in terms of the landscape or visual impact of the site and any improvements in terms of traffic generation or management such as the reduction of HGV movements).”

12 3.4 Definition of Affordable Housing

Discount market housing

- 12.1 Paragraph 3.4.4 relates to the delivery of affordable housing without a registered provider. The paragraph essentially describes discount open market housing. However, there are a few anomalies in the draft wording that are likely to cause confusion or problems in due course, thus undermining the effectiveness of the policy.
- 12.2 The paragraph states that the discount must be “not less than 25% from its market value, and having already taken into account the local occupancy restriction, in perpetuity”. This could potentially introduce some circularity into the approach of calculating market value. We would suggest that any reference to market value should adopt the RICS definition (as used in Red Book valuations). It is unhelpful to seek to add additional gloss to the well established definition.
- 12.3 Paragraph 3.4.4 also states that the “discounted sale value of the property should not be more than 3.5 times the median local household income” and notes that a greater level of discount may be required in order to ensure the property is genuinely affordable.
- 12.4 The requirement to deliver the dwellings at a significant discount may be unrealistic. If the value generated by affordable housing is too low, fewer affordable dwellings will be delivered overall. Therefore, in order to ensure that the aims of the Local Plan can be achieved, this policy should avoid unrealistically high discounts to open market value.
- 12.5 It is also important to recognise the fact that discount market housing is a product intended for those whose earnings are above the level where only rented products would be affordable but below the

levels required to buy on the open market. Therefore, requiring the units to be sold at a discount to market value (without a restriction linked to median household income) should be sufficient to cater for this need.

- 12.6 In the definition of Affordable Housing which follows paragraph 3.4.6, discounted market sales housing is defined as being “sold at a discount of at least 20% below local market value”. There is no reference to “median local household income”. Therefore, the draft local plan is internally inconsistent.
- 12.7 To ensure that the policies of the plan are achievable, we would suggest that the wording contained in the definition of Affordable Housing which follows paragraph 3.4.6 should be preferred due to its consistency with national planning policy.

Affordable Rent

- 12.8 The definition of Affordable Housing which follows paragraph 3.4.6 of the draft Local Plan requires “Affordable Rent” housing to be let at a minimum 25% discount from prevailing market rent. This is inconsistent with the NPPF which refers to a rent of “at least 20% below local market rents (including service charges where applicable)”. Given that the discount is linked to local market rents, there is no reason to depart from national policy in this respect.
- 12.9 An increase in the minimum discount to be applied to market rents would have an adverse impact on economic viability and could, therefore, make the plan undeliverable.
- 12.10 As explained in the NPPG, policies “setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure)... should not undermine the deliverability of the plan.”

13 Policy 4.4(1) Electric Vehicle Charging Points (EVCPs)

- 13.1 Policy 4.4(1) requires all development involving off-street car parking provision to provide electric vehicle charging points (EVCPs). The policy is mandatory for every developer except Parish Councils, registered charitable organisations and not for profit organisations. Those bodies and organisations will be encouraged but not required to meet the standards set out in the policy.
- 13.2 If policy 4.4(1) is justified for the majority of developers, it should apply equally to all bodies and organisations. The planning system is concerned with land use and not the identity of the developer. The fact that a developer may, for example, be a Parish Council does not change the planning merits or otherwise of requiring EVCPs. There is no reason why certain bodies should be automatically treated differently in this respect.
- 13.3 Further, policy 4.4(1) is overly restrictive. The delivery of EVCPs is not necessarily achievable on all sites. Deliverability will depend on the type of dwellings being provided and the nature of the site. In some instances, compliance with policy 4.4(1) will threaten viability particularly (as will often be the case) if the requirement for EVCPs triggers a need for a new electric sub station. As stated in the NPPG, it is essential that “policies are realistic and the total cost of all relevant policies is not of a scale that will make the plan undeliverable”. This policy is unrealistic and adds to the cumulative burden to be borne by developments. Therefore, whilst it may appear to be relatively insignificant, it would contribute towards the plan being undeliverable and, therefore, unsound.
- 13.4 As an alternative (and if viability is threatened) a reduced amp facility might be appropriate to provide opportunities to charge electric vehicles but without threatening delivery. However if this requirement

still does prove to be onerous and demonstrated to be so especially when weighed against other local plan and other requirements, there needs to be the ability to reduce this policy requirement.

- 13.5 At the very least policy 4.4(1) should be amended to introduce flexibility to justify non-compliance on feasibility or viability grounds.

14 Proposal 7.12 (1) Land at Thompson's, Moretonhampstead

14.1 We support the allocation of land at Thompson's, Moretonhampstead.

14.2 Baker Estates has an interest in the site. Pre-submission work is at an advanced stage and a planning application will be submitted in the near future.

14.3 The allocation represents a sustainable location for development and the application will result in a high quality scheme. It is anticipated that the first housing completions will be achieved on the site in the early part of the first 5 years of the plan.

14.4 However, we have concerns regarding criteria (b) and the retention of the goods shed and platform. Therefore, we object to this element of the policy.

14.5 The retention of the shed and platform would unduly constrain the redevelopment of this site. It would reduce the number of dwellings that can be delivered on the site and, therefore, reduce the efficiency of land use. The retention of the shed would cause problems regarding surface water management and flood alleviation. It would also create problems regarding site levels (thus further reducing the ability to use the land to its maximum potential).

14.6 There is a national policy imperative to increase the delivery of housing and to ensure the most efficient and effective use of land whilst ensuring development is of a high quality. These national policy imperatives can be best achieved by allowing flexibility in respect of the goods shed and platform.

14.7 In order to ensure that the Plan will achieve its aims, it is important to ensure that allocated sites will be developed in an efficient manner. Otherwise, in order to meet the housing needs of the Park, development may need to be accommodated on more sensitive unallocated sites in an un-planned fashion.

14.8 Therefore, we would suggest that criterion b) is amended to read as follows:

b) conserve the site's railway heritage, giving due consideration to the retention of the goods shed and platform. If the goods shed is to be removed, where possible the materials should be re-used and the redevelopment should seek to incorporate design features to reflect the railway heritage of the site.