

9. APPROVAL OF MODIFICATIONS TO THE DEVELOPMENT MANAGEMENT POLICIES DOCUMENT (DPD)/ BJT

Purpose of the report

1. To recommend the approval of the Statement of Representations (Appendix 1) and the Schedule of Modifications (Appendix 2) to the Development Management Policies DPD and Policies Map as the second part of the Local Development Plan for the National Park. To gain delegated authority for the final sign off of these documents for submission to the Secretary of State.

Key issues

2.
 - Achieving the correct application of National Park purposes through planning policies;
 - Taking a positive approach to foster the social and economic well-being of local communities and businesses in pursuing National Park purposes;
 - Seeking consistency with the adopted Core Strategy;
 - Seeking consistency with the National Planning Policy Framework as far as possible within this context;
 - Resolving the issue of major development in the National Park
 - To ensure ongoing dialogue with communities and partners up to and through the submission and examination stages;
 - To consider the weight to be attached to the document at this stage

Recommendations

3.
 1. **That members agree the Statement of Representations as laid out at Appendix 1;**
 2. **That members agree the Schedule of Modifications at Appendix 2;**
 3. **That members agree the additional text at para 32 re major development and that this be added to Appendix 1 and 2 in response to representations and more recent evidence.**
 4. **That delegated authority is granted to the Director of Conservation and Planning in consultation with the Chair and Vice Chair of Planning Committee to agree any further modifications and finalise the documents at Appendix 1 and 2 and other documents necessary for the submission stage; and**
 5. **That officers produce a further work to establish the weight of emerging policies at this stage and that this is brought back for approval by the Authority.**

How does this contribute to our policies and legal obligations?

4. Development Plan policies form a crucial part in delivering National Park purposes as they form the starting point for all planning decisions. The Development Management Policies Development Plan Document (DPD) will form part 2 of the Local Development Plan, alongside the Core Strategy adopted in 2011.

5. Ultimately, the adoption of Development Management Policies will enable legal the replacement of the existing Local Plan adopted in 2001. The only exception to this will be in respect of policies for Bakewell which will continue to need saving as (apart from a shared position of the new Bakewell Development Boundary) the Development Management Document does not provide detailed policy coverage for Bakewell owing to the emergence of the Bakewell Neighbourhood Plan. As such (other than policy and map coverage of the boundary) policies for Bakewell will be saved until such time as they are replaced by the emerging Neighbourhood Plan.
6. The commitment to produce the Development Management Policies (DMP) is set in Corporate Objectives as it provides a key mechanism for supporting the Authority's legal purposes and duty. In the same way the DMP supports many headline objectives and actions in the National Park Management Plan.

Background

7. The work on the DMP began immediately after the adoption of the Core Strategy at the end of 2011, and the first round of public consultation, which took place in 2012, used the existing Local Plan as the basis of the consultation document. In addition, the Authority considered and agreed the consistency of Local Plan policies with the Core Strategy, and the National Planning Policy Framework (NPPF) as well as a range of issues emerging from Annual Monitoring Reports up to that point.
8. Following this stage progress on the DMP slowed down owing to the need to respond to major government consultations on permitted development rights and other changes to the planning system. In addition the Policy Planning Team brought forward much needed guidance on climate change, sustainable buildings and renewable energy.
9. Nevertheless successive Parish Council Days and other parish liaison events, as well as Land Management Forums and contact with social housing bodies, have ensured that key debates relating to housing delivery, farming and business interests have been maintained.
10. Furthermore a series of member workshops during 2013 and 2014 gave a valuable steer on the preferred direction of travel across all areas of policy. From this members identified a subset of issues which had proved to be the most contentious and which required deeper debate. This led to a chaired session on the following topics:
 - Housing need and eligibility
 - Replacement dwellings
 - Barn conversions
 - Safeguarding employment sites
11.
 - Redevelopment of brownfield sites and economic viability

On the back of this work officers brought forward a first full compendium of policies to the Authority meeting in March 2015. Members resolved to note these policies as a basis for detailed testing meetings with an agreed member steering group which comprised:

- Chair and Vice Chair of Planning Committee;
- Chair of the Authority; and
- Member representatives for:
 - Cultural Heritage
 - People and Communities
 - Biodiversity

12. ○ Economy

The group met four times over the summer months of 2016. This allowed several hours of detailed discussion and testing to be undertaken which proved invaluable for officers. A detailed record of issues was taken and officers used this to reconsider policy in order to address specific issues. It has also enabled officers to identify issues which officers concluded could not be dealt with at this stage without significantly undermining the adopted Core Strategy. As such, some matters were recommended to be recorded and brought back for consideration during the more substantive review of strategic policy. This will commence on completion of the DMP work.

13.

This work allowed the production of a full draft consultation document (known as the Publication Version).

14.

Consultation on the Publication version of the Plan

Public consultation took place between Friday 18 November 2016 and Friday 27 January 2017, leading to over 900 separate points emerging from representations. Officers collated these points and presented the early findings at two further meetings of the member steering group during February and March 2017. These meetings provided a useful steer to officers to prepare a comprehensive set of modifications in response to the representations.

15.

A further two meetings were then held during September 2017 to work through the detailed comments and proposed modifications. The outcome of these discussions is now included as Appendix 1 and 2.

16.

Issues Arising from the Representations

A key aspect of the work by officers has been to make judgements on the significance of the representations made, with reference to the soundness tests for plan making. In the majority of cases officers have deemed that points raised, whilst helpful in identifying grammatical and presentational issues or by seeking greater clarity or emphasis, did not raise significant soundness issues for the plan. The Document at Appendix 1 is called the Statement of Representations. This summarises the main issues arising from representations and is organised in order of each chapter and policy of the plan. This approach also provides the opportunity to state who commented on each policy. Officers have then cross referenced from each representation where this has produced a modification to the plan.

17.

Modifications

The submission and examination stages in plan making give scope to make changes (**modifications**). These are produced in response to the representations and fall into two categories: **minor** and **main**.

18.

Minor modifications

These allow changes which provide clarity and emphasis, or which simply correct grammar and presentation.

19.

Main modifications

These provide an opportunity to respond to objections and representations which present more significant concerns over the soundness of the plan. Soundness tests are the principles by which an inspector will use to examine the plan and include:

- Effectiveness (related to the delivery of the plan)
 - Justification (the reasoned justification and evidence for the policy)
 - Positively prepared (with the aim of achieving sustainable development); and
20. • Consistent with national policy (consistency with the National Planning Policy Framework)

21. Appendix 2 to this report sets out the suggested changes arising from the representations and as discussed with the Member steering group.

The Member Steering Group

The steering group has met at key stages of the production of the Publication version and in considering the representations and giving a steer on the modifications. The work set out at Appendix 2 highlights that overall there are relatively few main issues of soundness impacting on the DMP. Judgements on representations follow these categories:

- Agree with representation based on soundness leading to main modification;
 - Agree with representation on minor point leading to minor modification;
 - Disagree with representation on point of principle or evidence and maintain Publication plan in existing form;
 - Disagree with representation owing to it moving beyond scope of Core Strategy. Maintain Publication plan in existing form
- 22.

Completing the work for Submission

23. While the key issues have been adequately addressed and recorded in the appended documents, there remain a number of small grammatical and presentational changes checks to be made, to ensure completeness and coherence between the documents. Moreover a small number of technical changes remain to be made to the Policies Map in respect of Minerals Safeguarding. As such it is proposed that delegated authority be granted to the Director of Conservation and Planning in consultation with the Chair and Vice Chair of Planning Committee to oversee the final sign-off of all relevant documents in readiness for submission to the secretary of state. This is planned for late November (subject to agreement with the Planning Inspectorate).

Need for approval of an outstanding matter re Major Development

24. Since the member meetings at the beginning of September the National Parks Heads of Planning have discussed recent evidence by the Council for National Parks (CNP) regarding major development policy tests for National Parks. Adopted Core Strategy policy GSP1 relates the consideration of major development back to the tests in national policy. Whilst produced in the context of former Planning Policy Statement 1 (prior to the NPPF), the same tests appear in paragraph 116 of the framework and as such the tests are as follows:

“Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- i. the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- ii. the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and

25. iii. any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated."
The national policy position is reinforced in Defra's 'English National Parks and the Broads: UK Government Vision and Circular' (2010) which is specifically referred to in the NPPF (footnote 25).

Nevertheless the only statutory definition of major development in both the English and Welsh planning systems is through the Town and Country Planning (Development Management Procedure) Orders. These set out specific types and scales of development such as:

- the winning and working of minerals or the use of land for mineral-working deposits;
- waste development;
- 26. • the provision of dwelling houses where the number provided is 10 or more or where development is carried out on a site having an area of 0.5 ha or more;
- the provision of a building where the floor space is 1000 sq m or more; or
- 27. • development on a site having an area of 1 ha or more

This is significantly different from major development in the context of national parks (NPPF para 116 above) and the so-called major development test(MDT), which has effectively been in place since the National Parks and Access to the Countryside Act 1949

28. In assessing this disparity the South Downs National Park undertook Counsel opinion in which James Maurici QC concluded that determination is a "matter of planning judgment to be decided by the decision maker", taking into account whether "the development has the potential to have a serious adverse impact on the natural beauty and recreational opportunities provided by a national park...by reason of its scale, character or nature". He concluded that it would be wrong in law to "apply the definition of major development contained in the 2010 Order to
29. paragraph 116 of the NPPF".

30. Planning Practice Guidance now states "Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context".

31. In addition the study recently completed by the CNP advocates a consistent approach across the National Parks that reflects this approach but also embeds consideration of a Park's special qualities.

32. As such the Heads of Planning group, informed by the Policy Planning officers from across the National Parks have agreed that National Park Local Plans should include a policy or text to reflect this up to date advice.

It is therefore proposed that the Chapter 1 introduction of the Development Management Policies document should add text after paragraph 1.23 and **policy DM1 The Presumption of Sustainable Development in the Context of National Park Purposes** to state:

“Approach to Major Development

*Long standing national policy objectives and guidance in the National Parks' Vision and Circular (2010) are reflected in **Core Strategy policy GSP1** which sets out the principle that major development should not take place within the Peak District*

33. *National Park other than in exceptional circumstances. Major development will only be permitted following rigorous consideration of the criteria in national policy. Since adoption of the Core Strategy national policy tests have been reaffirmed in paragraph 116 of the NPPF. Moreover National Planning Practice Guidance now states, “Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context.” In making this assessment close regard should therefore be had to the impact of a scheme on the special qualities of the National Park utilising the Landscape Strategy and other tools advocated by this document. The Authority will consider whether a development has the potential to have a serious adverse impact on the natural beauty and recreational opportunities provided by the national park, by reason of its scale, character or nature.”*

Outstanding Strategic Issues

34. The principles set out in para 21 above have also set the parameters used in the member steering group. Officers acknowledge that there are further outstanding issues which may not be covered or adequately dealt with for some stakeholders and members. The recommendation from officers is that the DM DPD must stay within the remit of the Core Strategy, in order to achieve coherence overall. Only a subsequent review of the Core Strategy will allow a full investigation into wider strategic matters.

Attaching weight to the DPD

35. Officers consider that owing to the low overall numbers of objections made on substantive points, that it is possible to ascribe weight to the emerging DPD as a material consideration, in accordance with the provisions in paragraph 216 of the NPPF. Areas where the weight may be more limited are those where outstanding objections to the plan remain and where the policies move away from policies in the Framework.

Communicating the outcome of our work

36. Where individuals or organisations have made representations on the plan it is the intention of officers to now write out and explain what will now be happening with each representation, i.e. to either explain the modifications being taken forward to examination, or to explain why no change has been suggested. It is also proposed to use existing forums such as the annual Parishes Day to communicate to stakeholders the progress made and stages going forward.

Proposal

In summary it is therefore proposed to agree Appendix 1 and 2 and provide delegated authority for any final minor changes to be made to enable these documents to be submitted to the Planning Inspectorate alongside the Publication Version of the Development Management Policies. In addition it is proposed that the additional text set out at paragraph 32 be dealt with and added to these tables. Finally it is also proposed that for clarity a table of emerging development management policies be brought back to Authority in order to determine the weight the may be applied prior to their full adoption by the National Park Authority in due course.

Are there any corporate implications members should be concerned about?

37. **Financial:** If members support the recommendation to progress to submission and

examination stages a request will be required to the Head of Finance to draw down specific reserves in slippage to finance the Inspector costs. It is estimated a sum of £50,000 will be required for this purpose.

38. **Risk Management:** Officers consider that the recommendation to progress the DMP document is the best means of managing risk to adopted policies. It offers the quickest route to producing an up to date Local Plan for the National Park.
39. **Sustainability:** None, the adoption of new policies assists the overall sustainability of the area through the function of the planning system.
40. **Background papers** (not previously published) – None
41. **Appendices:** -
1. Statement of Representations
2. Schedule of Modifications

Report Author, Job Title and Publication Date

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