

9. ADOPTING THE DEVELOPMENT MANAGEMENT POLICIES DPD/BJT

1. Purpose of the report

To report on the findings of the independent Inspector presiding over the soundness of the Development Management Policies Development Plan Document (DMDPD) and to propose that the document and associated Policies Map may now be adopted by the National Park Authority.

In support of the DMDPD the report also describes the status of existing Supplementary Planning Documents (SPD) and proposes a programme of new SPD.

Finally, the report raises a technical issue in respect of the Authority's standard Section 106 agreement providing in perpetuity controls in the delivery of locally needed affordable housing. The s106 is a key delivery tool in achieving the aims of adopted policies.

Key Issues

- The DMDPD was submitted for examination along with the modifications in February 2018. A series of public hearings were held in May 2018 and as a result the Authority has sought to address remaining areas of soundness as guided by the Inspector by producing a final, overall schedule of modifications
- On the 24th April 2019, the Authority received a final report from the Inspector into the soundness of the plan who concluded that the Development Management Policies in Part 2 of the Local Plan for the Peak District National Park provided an appropriate basis for the planning of the National Park subject to a number of modifications.
- This reports asks the Authority to adopt the modified plan and policies map, note the status of existing Supplementary Planning Documents (SPD) and agree the programme for developing further SPD.
- Since the adoption of affordable housing policies in the 2001 Local Plan the Authority has applied a standard s106 agreement alongside its Supplementary Planning Document, This report proposes that the standard agreement be amended to take into account feedback by adding a "Mortgagee in Possession" clause.

2. Recommendations

- 1. To adopt the Development Management Policies (DMDPD) and Policies Map to become part 2 of the adopted Local Plan for the National Park;**
- 2. To confirm that by adopting the DMDPD the 2001 saved Local Plan policies are replaced in their entirety;**
- 3. To note the current status of Supplementary Planning Documents (SPD) as set out in paragraph 15 and confirm that the 2003 Affordable Housing SPD will be replaced by the DM Policies DPD**
- 4. To confirm the revised programme for delivery of new Supplementary Planning Documents as set out in paragraph 17; and**

5. To amend the standard S106 agreement for locally needed affordable homes may to allow for the insertion of a “Mortgagee in Possession” clause, on terms to be agreed by the Head of Law in consultation with the Director of Conservation and Planning.

How does this contribute to our policies and legal obligations?

3. The Development Management Policies DPD will become part 2 of the adopted Local Plan for the National Park and (alongside the Core Strategy) will form the starting point for all planning decisions.
4. Moreover, the programme of SPD's, along with the revised S106 agreement will also form key tools in guiding and controlling the delivery of development in accordance with stated objectives of the plan.
5. Planning policies form a key mechanism for the Authority in pursuing National Park purposes and many of the stated areas of impact in the revised National Park Management Plan, such as:
 - Area of Impact 2:
Ensuring a future for farming and land management
 - Area of Impact 3:
Managing landscape conservation on a big scale
 - Area of Impact 6:
Supporting thriving and sustainable communities and economy

Background Information

Producing the Development Management Policies

6. The Authority has been committed to producing Development Management Policies since the adoption of the Core Strategy in October 2011. Significant delays have impacted on progress since that time resulting from:
 - The loss of staff resources (2015);
 - Changing Authority priorities (switching resources to production of a Climate Change SPD 2012-2013);
 - Responding to government consultations (the NPPF and revisions to the GPDO 2011 – to present);
7. Despite these pressures, officers have remained committed to competing this project which was an opportunity to respond to key policy concerns of members. From the outset a set of headline policy areas have been central to the review. These include:
 - Replacement dwellings;
 - Affordable housing;
 - Barn conversions and development involving heritage;
 - Farming succession;
 - Employment land; and

- Brownfield land.
8. The DM policies also provide opportunities to bring greater consistency with national policy, and to improve coherence with and delivery of the Core Strategy.
 9. A member steering group has greatly assisted the production of the plan, providing scrutiny, challenge and improved ownership of the plan by the members. This allowed for an advanced version of the plan to be agreed by the Authority in October 2016, which was subsequently taken externally for public consultation.
 10. Representations to the plan highlighted several areas for further review in order to address potential soundness issues. As such a schedule of modifications was drawn up and given further time for consultation prior to submission.
 11. The plan was finally submitted for examination along with the modifications in February 2018. On this basis a series of public hearings were held in May 2018 and since that time the Authority has sought to address remaining areas of soundness as guided by the Inspector by producing a final, overall schedule of modifications.
 12. Modifications are produced as 2 schedules. The first schedule deals with **Main Modifications**. These address soundness issues and are the main concern of the Inspector. The second are minor points called **Additional Modifications**, and principally seek to improve grammar and presentation.
 13. On the 24th April 2019, the Authority received a final report from the Inspector into the soundness of the plan. His main conclusion was that the Development Management Policies – Part 2 of the Local Plan for the Peak District National Park provides an appropriate basis for the planning of the National Park, provided that a number of main modifications (MMs) are made to it.
 14. The Inspector summarised that main modifications as:
 - Ensuring the policies are consistent with national policy regarding major development in National Parks.
 - In dealing with proposals affecting designated heritage assets, including listed buildings and conservation areas the policies should allow for balancing public benefit against harm, for consistency with national policy.
 - Changes to the biodiversity policies to ensure they are consistent with national policy, including development affecting nationally-designated sites and enhancement to biodiversity.
 - Amendments to the housing policies and supporting text to adequately explain and justify the policies, to ensure their requirements are clear and to ensure consistency with national policy.
 - A range of other modifications to ensure the use of planning conditions and obligations comply with national policy, that opportunities for sustainable transport are realised and to ensure policies are justified, clear and effective.

Status of Supplementary Planning Documents

15. Since the production of the last Local Plan in 2001 the Authority has produced a series of Supplementary Planning Documents (SPD's) to provide further guidance and detail in understanding the intent of policy and to assist their delivery. The current list of adopted SPD's is as follows:
 - Addressing The Local Need for Affordable housing (2003);

- Agricultural Developments (2003);
 - Design Guide (2007);
 - Climate Change and Sustainable Building (2013);
 - Alterations and Extensions (2014);
 - Shopfronts (2014)
16. With the production of the DM Policies DPD, the opportunity has been taken to bring substantive areas of guidance for affordable housing policy into the DPD itself. As such it is now proposed to formally state that the 2003 Affordable Housing SPD will be replaced by the DM Policies DPD.

A Programme of New Supplementary Planning Documents

17. In support of the new DPD, it is proposed to now bring forward a series of SPD's to illustrate and provide further guidance beyond that which would be generally be appropriate in the DPD (with the exception of affordable housing). The proposed list is as follows:
- Transport Design Guide (due for adoption June 2019)
 - The Conversion of Heritage Assets, including guidance on determining non-designated heritage assets (aim for adoption Autumn 2019)
 - Ancillary Development (including guidance on when to apply s106 agreements) (aim for adoption autumn/winter 2019/20)
 - Farmsteads (incorporating historic farmsteads guidance and updating 2003 guidance on modern agricultural buildings) (aim for adoption summer 2020)
 - Recreation Hubs (as interim guidance leading to inclusion in the new Local Plan) (aim for adoption summer 2020)

Assessing the need to amend the Standard S106 agreement for locally needed affordable housing

18. Since the adoption of affordable housing policies in the 2001 Local Plan the Authority has applied a standard s106 agreement alongside its Supplementary Planning Document. The main aim of the s106 is to help achieve policy objectives such as to ensure occupation is limited to those in housing need, and who are “**local**” by virtue of meeting the criteria set down in policy. Vitally, in terms of the pursuit of National Park purposes the s106 is the key tool in ensuring properties achieve their aim “**in perpetuity**”. The continued use of such a legal agreement for this purpose has been considered a sound part of the new Development Management Plan. (Paragraphs 6.126 – 6.128 and policy DMH11 Section 106 Agreements Part A (i) Affordable Housing, in support of policy DMH2: First occupation of new affordable housing; and DMH3: Second and subsequent occupation of affordable housing (the occupancy cascade) Since 2001 officers have both monitored the delivery of housing policies and taken a proactive approach to delivery by working closely with District Housing teams and Registered Social Landlords (RSL's). Over time, various amendments have been made to the s106 and work is currently on-going by the Authority's legal team to produce a “clean” and up to date version which provides clarity to all decision makers and applicants.

19. However, in recent times one particular unresolved problem has become more acute. The problem is the difficulty of eligible local people getting mortgages for properties that have restricted occupancy. Lenders have consistently sought to ease this problem by requesting a clause in the S106 called a “Mortgagee in Possession” clause. In essence this means that, in the event of a borrower defaulting on a mortgage, a lender can take back possession of the property in order to sell (and reclaim funds) on the open market. Such a clause has consistently been viewed as a threat to the policy aim of retaining properties “in perpetuity”.
20. In order to assess the potential risk of such a clause leading to a loss of property, Policy officers have researched the approach taken in other National Parks. On this basis, officers now consider that the inclusion of such a clause is extremely unlikely to lead to loss of property for local people, particularly for properties in the RSL sector. The inclusion of such a clause also makes it easier for RSLs to source funding to build properties. This is important in times of reduced overall grant availability to the social housing sector.
21. As such officers consider that a Mortgagee in Possession clause (the precise terms of which are to be agreed by the Head of Law in consultation with the Director of Conservation and Planning) should become part of the standard s106, in order to increase the scope for applicants to secure mortgages, and so ultimately the policies work to their full potential. The Authority will continue to work with housing providers to ensure the system operates as smoothly as possible for all concerned.

Proposals

Adopting the Development Management Policies

22. It is proposed that the Authority now adopts the Development Management Policies and associated Policies Map. Consequently, the saved Local Plan from 2001 will be replaced in full.
23. Should the Authority adopt the plan, an adoption notice must be published. The DPD must be placed on deposit for a period of 6 weeks from the date of adoption to allow a final opportunity for any person to make a legal challenge to the document on procedural grounds.

Agreeing the Status and Programme for Renewing Supplementary Planning Documents

24. It is proposed that the Authority agrees the current status of Supplementary Planning Documents (SPD's) as set out at paragraph 15 and the programme for bringing forward a new set of SPD's as set out at paragraph 17.

Amending the Section 106 Agreement for Locally Needed Affordable Housing

25. It is proposed that the Authority agrees a substantive change to the standard s106 agreement to incorporate a “Mortgagee in Possession” clause, on terms to be agreed by the Head of Law in consultation with the Director of Conservation and Planning.

Are there any corporate implications members should be concerned about?

Financial:

26. None

Risk Management:

27. There is a low risk of legal challenge by virtue of the pursuance of regulatory stages, and by receipt of the positive report from the Planning Inspectorate. Moreover the adoption of the policies represents a partial review of the Local Plan for the National Park and as such ensures that local policies remain consistent with national policy.

Sustainability:

28. Adopting a set of revised policies ensures that planning decisions continue to move towards a more sustainable future for the National Park. Moreover the plan itself is assessed for sustainability using an agreed methodology which was also considered by the Inspector in his deliberations on the soundness of the DPD

Equality:

29. Equality issues have been taken into consideration during the production of the DPD. An Equalities Impact Assessment was undertaken and forms part of the evidence base for the plan.

30. **Background papers (not previously published)**

All relevant background papers including the Examination library, Inspector's report and modification schedules may be found on the National Park Authority website under the Development Management Policies examination pages.

<https://www.peakdistrict.gov.uk/planning/how-we-work/policies-and-guides/development-management-policies/>

31. **Appendices**

None, however the final version of the Development Management Policies DPD incorporating all modifications may be viewed at <https://bit.ly/2VfJ2hz> and an interactive version of the Policies Map incorporating all modifications may be viewed at:

[https://maps.peakdistrict.gov.uk/mapPDNPA/Aurora.svc/run?script=\Aurora\Scripts\LDF_2018.AuroraScript\\$](https://maps.peakdistrict.gov.uk/mapPDNPA/Aurora.svc/run?script=\Aurora\Scripts\LDF_2018.AuroraScript$)

Report Author, Job Title and Publication Date

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