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# Independent Examination of Peak District National Park Development Management Policies

## Draft Matters and Issues

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**An Inspector appointed by the Secretary of State**

**Date: 22 March 2018**

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### Introduction

Following my initial examination of the Development Management Policies - Part 2 of the Local Plan for the Peak District National Park (publication version October 2016) (DMP) and the supporting material I set out below the Matters (topics) and Issues (points for consideration) that will form the basis for discussions during the Hearing sessions. Matters and Issues may change as the examination progresses, although participants will be given an opportunity to comment on any new issues that arise.

In this note I shall pose questions of the Authority that potentially go to matters of soundness or which concern representations made. In framing them I have had regard not only to the definition of soundness at paragraph 182 of the National Planning Policy Framework (the Framework) but also the principles for Local Plans set out in paragraph 157. The Framework also establishes that only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan. The DMP should therefore set out clear policies on what will or will not be permitted.

I set out below my general and detailed comments and questions which should be addressed in hearing statements. Answers should be supported by reasons and section(s) of the supporting documents and evidence base should be referred to as appropriate. A separate document should be submitted in response to each Matter. The Authority should submit hearing statements to the Programme Officer by **27 April 2018**.

## **Matter 1 – Duty to Co-operate**

**Issue:** Have the requirements of Section 33A of the Planning and Compulsory Purchase Act 2004 and the Local Planning Regulations 2012 (as amended) been met?

- 1 Overall, has the duty to co-operate been fulfilled? Give a brief overview about how this requirement has been met.
- 2 How has the duty to co-operate been met with regard to minerals and waste development?
- 3 How has the duty to co-operate been met with regard to transport infrastructure?
- 4 How has the duty to co-operate been met with regard to housing provision and contributions to constituent authorities' housing need?

## **Matter 2 – Other legal requirements**

**Issue:** Does the Plan meet the relevant legislative requirements?

### **Planning and Compulsory Purchase Act 2004, Section 19 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)**

- 1 Does the DMP (or the Plan as a whole) include policies designed to secure that the development and use of land contribute to the mitigation of, and adaptation to, climate change?
- 2 Is the DMP prepared in accordance with the Local Development Scheme?
- 3 How has the preparation of the DMP complied with the Statement of Community Involvement, specifically in terms of those consulted and the methods used for consultation?

### **Conservation of Habitats and Species Regulations 2017 Part 6**

- 4 The amended policies in the Modification Addendum have been subject to consultation. Do the amendments raise any issue that would require further assessment under the Conservation of Habitats and Species Regulations?

### **National Parks and Countryside Act 1949**

- 5 How does the Plan promote the requirements of the Act with specific regard to seeking to foster the economic and social well-being of local communities (Section 11A)?

### **Matter 3 – Overview of Soundness**

**Issue 1:** Are the policies consistent with, and do they positively promote, the spatial policies contained in the Core Strategy?

**Issue 2:** Are the individual policies clear, justified and consistent with national policy and will they be effective?

#### ***General comments and questions:***

- 1 How does the DMP relate to made neighbourhood plans and any that have been subject to a referendum? Does the DMP propose any policy that would supersede a policy in a made neighbourhood plan?
- 2 Paragraph 116 of the Framework resists major developments in National Parks except in exceptional circumstances and where it can be demonstrated they are in the public interest. Would policies DMC1 and DMMW1 be consistent with the Framework and the Core Strategy policies GSP1 and DS1 in as far they would restrict major development? Should any modifications to those policies be considered?
- 3 Would the policies concerning designated heritage assets (policies DMC5 to DMC10) be consistent with the Framework in terms of balancing less than substantial harm against public benefits and should modifications be considered?
- 4 How would the DMP policies on the economy requiring restrictions on further changes of use, removal of permitted development rights, time limited permissions and personal permissions be justified? Would those policies be consistent with national policy in the Planning Practice Guidance?
- 5 Would such restrictions be consistent with the need to support economic growth in rural areas (paragraph 28 of the Framework)? Would requirements such as demonstrating need for a business be consistent with the Framework? Are the employment policies sufficiently supportive of economic growth?
- 6 The housing policies necessarily take a restrictive approach having regard to National Park objectives and policies for housing provision are set out in the Core Strategy. Is it necessary to explain in the background text of the DMP how housing is to be delivered in order to provide clarity?
- 7 Affordable housing is required for people who live locally but other than this there is no explanation as to how the needs of different groups in the community such as older people would be accommodated. How would affordable housing meet the needs of all groups in the community? Should there be a criteria-based policy for other types of housing? Should

the background text explain what the expected proportion of affordable housing units in any scheme should be?

#### **Matter 4 – Landscape, Biodiversity and the Environment**

**Issue 1:** Do the policies adequately reconcile the need to foster social and economic well-being of communities and to promote opportunities for understanding and enjoyment of the valued characteristics with the need to conserve and enhance those characteristics?

**Issue 2:** Do the policies adequately allow for major development to be approved in exceptional circumstances as provided for in the Framework?

**Issue 3:** Are the requirements in relation to development proposals clear?

#### **Policy DMC1: Conservation and enhancement of nationally significant landscapes**

- 1 Part B of the policy contains a different test from that in paragraph 116 of the Framework. Should it be made clear that this applies to proposals that are not considered to be 'major developments' in the context of paragraph 116? Alternatively if the policy is to apply to all proposals should it state that it is subject to the national policy requirements including whether or not there are exceptional circumstances and whether or not the development would be in the public interest?
- 2 Should part C of the policy add that removal of existing buildings or structures will be required through conditions or obligations imposed on any subsequent permission granted?

#### **Policy DMC2: Protecting and managing the Natural Zone**

- 3 Should the policy start by stating the restrictive effect of the policy before going on to say what the exceptional circumstances are?
- 4 Paragraphs (ii), (iii) and (iv) of part C of the policy provide for permitted development rights to be excluded, temporary permissions and personal permissions. What is the justification for these requirements and are they consistent with the Planning Practice Guidance<sup>1</sup> given that applications are considered on their individual merits?

#### **Policy DMC4: Settlement limits**

- 5 Is the policy heading appropriate given that it would apply to settlements without defined limits?
- 6 Should the requirements of part A be clearer? Would this part require a Landscape and Visual Impact Assessment and/or a Heritage Statement?

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<sup>1</sup> ID: 21a-014-20140306, 21a-015-20150306 and 21a-017-20140306

### **Policy DMC11: Safeguarding, recording and enhancing nature conservation interests**

- 7 Overall would the clarity of the policy benefit by shortening and being more concise? The requirements of part F go with those of part A and part G expands on part B. Should part A be expressed as an order of priority to make clear that enhancement is the first priority and loss is last? If so, should (ii) come after (iii)?
- 8 Part D goes further than part A by resisting development where there would be any harm to biodiversity whereas part A allows for compensatory and mitigation measures. Are these requirements sufficiently clear?
- 9 In part E (ii) how would an assessment of nature conservation interests take into account historical, cultural and landscape matters?

### **Policy DMC12: Sites, features or species of wildlife, geological or geomorphological importance**

- 10 In B (i) should the term 'management' be described more fully?

### **Policy DMC15: Contaminated and unstable land**

- 11 What is the relevance of nature conservation or cultural heritage value to development on contaminated land (paragraph (iii)? Would there potentially be circumstances where remediation would benefit nature conservation or heritage?
- 12 As part B deals with amenity and public risk from notifiable installations should the heading of the policy be amended?
- 13 Is part B sufficiently clear as to the requirements? Would this benefit from further explanation in the supporting text?
- 14 Does part D of the policy duplicate the requirements of parts A and C?
- 15 Should part C say 'suspected as being potentially unstable' or similar?

### **Matter 5 – Historic Environment**

**Issue 1:** Are the policies consistent with the Framework?

**Issue 2:** Are the policies consistent with the Core Strategy?

**Issue 3:** Are the policies fully justified?

**Issue 4:** Are the requirements in relation to development proposals clear?

### **Policy DMC5: Assessing the impact of development on heritage assets and their settings**

- 1 Should the policy make clear that it applies to designated and non-designated heritage assets?

- 2 Should part C of the policy make clear that this part applies only to assets with archaeological interest or potential for such interest?
- 3 Does part F only apply to designated heritage assets? If this part applies to all heritage assets should it distinguish the requirements for those that are designated and those that are non-designated?
- 4 Should the background text explain how non-designated heritage assets are or will be identified?

### **Policy DMC6: Scheduled Monuments**

- 5 As the Framework states that substantial harm to or loss of designated heritage assets of the highest significance, including scheduled monuments, should be wholly exceptional, what is the purpose of policy DMC6?

### **Policy DMC8: Conservation Areas**

- 6 The Policies Map identifies open spaces in Conservation Areas but the policy does not refer to these. What is their significance for policy?
- 7 Part D concerns the demolition of buildings in Conservation Areas. The first sentence of that part refers to buildings that make a positive contribution to the character, appearance or historic interest of the Conservation Area but paragraph (iii) concerns unsightly or otherwise inappropriate additions. Should the latter be in a separate paragraph?
- 8 Paragraph D (ii) refers to putting the building on the market and seeking advice? Would these requirements be effective? If not what would be the requirement for marketing?
- 9 Should part F be more precisely worded to ensure that there is a contract for redevelopment before consent is granted for demolition?
- 10 As felling, topping and lopping of trees in Conservation Areas is subject to legislative control does this part need to include the first sentence? Should the second sentence be expanded to make clear that replacement may not always be practicable?

### **Policy DMC10: Conversion of heritage assets**

- 11 Part C of the policy allows for conversion of heritage assets to dwellings. Part A contains a number of detailed requirements which include consideration of the location of the building. As worded the overall effect of the policy would be to restrict conversion of heritage assets in locations outside settlements, farmsteads and groups. Would this locational restriction be consistent with paragraph 55 of the Framework? Would it be consistent with policy DMH6 which would allow redevelopment of previously-developed land in any location?
- 12 Should part A apply to all conversions and changes of use to more intensive uses? Would the requirement of the policy regarding conversion from the use for which the asset was designed be precise enough?

- 13 Is the restriction on 'higher intensity' uses in A (iii) sufficiently precise? Is this paragraph consistent with paragraph 28 of the Framework?
- 14 Could paragraph A(iv) be more concisely and effectively worded?
- 15 What is the justification for part B? Is that part consistent with the Framework? Is it consistent with policy DMH6?
- 16 The policy is more restrictive than policy HC1 of the Core Strategy in terms of not allowing conversion of buildings that are not heritage assets and in restricting the locations of conversions. Is the policy consistent with the Core Strategy in these respects?

## **Matter 6 – Farming and Economy**

**Issue 1:** Are the policies consistent with the Framework?

**Issue 2:** Are the policies clear and effective?

### **Policy DME1: Agricultural or forestry operational development**

- 1 Should the criteria in part A be applied according to the type of agricultural or forestry operation?
- 2 Would the requirement of part A to satisfy all 10 criteria be justified in all cases? Would this part be more effective if the requirement to show functional need is assessed on a case by case benefit having regard to the factors listed?
- 3 Would the requirement to demonstrate contribution to NPA objectives be more effectively achieved if the objectives were set out in the background text?
- 4 Is it necessary for the policy to set out requirements to provide information on location, appearance, dimensions and layout (A (iv) and (viii)) given that this information would normally be expected to be submitted with a planning application?

### **Policy DME2: Farm diversification**

- 5 Please would the Authority explain how Policy DME2 accords with paragraph 28 of the Framework. In particular what is the justification for restricting further changes of use in part A? Would this accord with the advice in the Planning Practice Guidance on use of conditions?
- 6 What is the justification for requiring farm diversification businesses to remain ancillary to the farming operation and how would this be monitored?

### **Policy DME3: Safeguarding employment sites**

- 7 Should the policy say that the sites are identified on the Policies Map?

#### **Policy DME4: Change of use of non-safeguarded, unoccupied or under-occupied employment sites in DS1 settlements**

- 8 Policy DMH6 would provide for redevelopment of previously-developed land for housing without a requirement to market the site. Are the requirements of the two policies consistent?
- 9 The numbering of the paragraphs could be clearer. What is the justification for the information requirements of the two paragraphs following part A as they go further than the requirements for safeguarded sites?

#### **Policy DME5: Class B1 employment uses in the countryside outside DS1 settlements**

- 10 As 'adverse effect' in part A could cover a wide range of potential effects would it be preferable to allow application of appropriate mitigation measures rather than the closed list set out in paragraphs (i) to (iii)?
- 11 Would paragraphs B (i) and (iii) be consistent with the Planning Practice Guidance?

#### **Policy DME6: Home working**

- 12 Should part A refer to policies DMH7 and DMH8?

#### **Policy DME7: Expansion of existing industrial and business development where it is not ancillary to agricultural business**

- 13 Could paragraphs E and H be combined as their requirements are similar?

#### **Matter 7 – Recreation and Tourism**

**Issue:** Are the policies clear and effective?

#### **Policy DMR1: Touring camping and caravan sites**

- 1 Part B allows for shopping, catering or sport and leisure facilities at camping and caravan sites. Should this require the scale of the development to be appropriate to the site as required by Core Strategy RT3?
- 2 Is the reference in part C to a single shepherd's hut unnecessarily detailed and restrictive? Would the policy be more justified and effective if a generic description were to be used?

#### **Policy DMR2: Holiday occupancy of camping and caravan sites**

- 3 Is the rationale for parts A and B of the policy fully explained? In part A touring camping or caravan sites by their nature would provide pitches for temporary stays. If the use were restricted to that applied for what is the justification for requiring that they be occupied only as holiday accommodation?



- 4 As part A would allow year-round occupation of new sites, what is the reason for the restriction in part B? That part does not distinguish between touring caravans and static caravans. In the case of the latter are these normally expected to be removed from sites during the winter months?

### **Policy DMR3: Holiday occupancy of self-catering accommodation**

- 5 Should part B of the policy state at the outset that removal of holiday occupancy conditions in order to provide affordable housing units would be acceptable subject to the required criteria? Should it refer specifically to the requirements in the affordable housing policies DMH1 and DMH2?
- 6 Is the size restriction in B (iii) unduly restrictive given that existing buildings may not be constructed to the size standards but may nonetheless still be suitable for affordable housing?

### **Matter 8 – Housing**

**Issue 1:** Do the policies provide appropriate opportunities for affordable housing development?

**Issue 2:** Do the policies provide appropriate opportunities for market housing, including starter homes and self-build/custom housing?

**Issue 3:** Are the policies clear?

**Issue 4:** Are the policies justified?

### **Policy DMH1 New affordable housing**

- 1 Would the applicant have to demonstrate need for affordable housing (part A) and what information would be required? Is this requirement justified? Should the policy refer to the definition of affordable housing in the Framework?
- 2 What is the justification for the maximum floor areas? Should the policy allow scope for discretion given that conversions of existing buildings may not readily fit within these limitations?
- 3 Do the references to 'exception sites' in parts B and C require definition? Should starter homes and self-build and custom build plots be allowed on previously undeveloped land in settlements?

### **Policies DMH2 and DMH3: First occupation of new affordable housing, second and subsequent occupation of affordable housing (the occupancy cascade)**

- 4 Would the restrictions in DMH3 regarding where a parish is split by the National Park boundary also apply to DMH2?
- 5 What evidence justifies the specific occupancy restrictions used in the policies?

- 6 Should the first sentence of part B (i) refer to policy DMH2?
- 7 Should the text in DMH2 specifically refer to 'affordable housing' and the text in DMH3A state 'previously occupied affordable home'?
- 8 Should the requirements in the last sentence of DMH3 B (i) in terms of marketing and notification requirements be stated at the outset of the paragraph to make these requirements clearer and should the first sentence concerning split parishes be put at the end of that paragraph?

**Policy DMH4: Essential worker dwellings**

- 9 Is part F necessary given that design is covered by policy DMC3?
- 10 Policy HC2 of the Core Strategy requires functional and financial tests but policy DMH4 only requires a functional test. Should part G of the policy require submission of financial information?

**Policy DMH6: Re-development of previously developed land to dwelling use**

- 11 Should part A of the policy make it clear that it refers to both market and affordable housing? Should the third bullet of part A be more specific in terms of the proportion of affordable housing required or alternatively state that the proportion will be negotiated?
- 12 Should the policy state that financial contributions towards affordable housing need elsewhere in the National Park will be sought where there is no need in the parish, as provided for by Core Strategy policy HC1C (iv)?
- 13 Is the requirement of the fourth bullet of part A sufficiently clear? What size of site would this apply to and what would be the requirements of any condition or legal agreement?
- 14 Policy DME4 requires marketing for 12 months in the case of change of use of unused employment sites. Would DMH6 be consistent with that policy?

**Policy DMH8: New outbuildings for domestic garaging and storage use in the curtilage of dwelling houses**

- 15 Criterion B (iii) in the Modification Addendum restricts alterations to garages specifically. What is the justification for such restriction?

**Policy DMH9: Replacement dwellings**

- 16 Would the requirement for replacement dwellings to be of better design and materials than the dwelling to be replaced be sufficiently clear? Would this be more effective if it were to require a positive contribution to the valued landscape character or built environment, or conservation and enhancement?

### **Policy DMH10: Sub-division of dwellings to create multiple dwelling units**

- 17 If the use of the dwelling is subject to a legal agreement as envisaged in part C would this this part of the policy be necessary? Would it suffice for this part to say 'the use of the original dwelling where this is subject to a condition or legal agreement restricting its use?'

### **Policy DMH11: Section 106 agreements**

- 18 Would part B be consistent with parts C and D as the former does not require that a dwelling is tied to the business? How would the requirements of parts C and D affect any existing section 106 agreement? Do those parts refer to changes to planning conditions?
- 19 What is the justification for allowing affordable housing as a temporary alternative to essential worker housing? What would be the period of occupation?
- 20 What is the justification for allowing housing to remain tied to the business as an alternative to affordable housing or holiday accommodation?
- 21 Would the use of the word 'revert' in parts C and D be appropriate given that the dwelling could have previously been used differently?

### **Matter 9 – Shops, Services and Community Facilities**

**Issue 1:** Are the policies consistent with the Framework?

**Issue 2:** Are the policies consistent with the Core Strategy?

**Issue 3:** Are the policies clear and effective?

### **Policy DMS1: Shops, professional services and related activities in Core Strategy named settlements**

- 1 Should the policy state the types of development to which it would apply? Is it consistent with Core Strategy policy HC5?
- 2 Is part A consistent with the Framework in terms of promoting competition in town centres? Should a modification to this policy be considered?
- 3 Part C concerns newly built shops and conversions and requires separate access to upper floors. Should this say 'where there is upper floor accommodation' or similar?
- 4 Would part D of the policy be necessary given the controls under Building Regulations?

### **Policy DMS2: Change of use of shops, community services and facilities**

- 5 Should the policy provide more detail as to what is meant by 'shops, community services and facilities'?

- 6 Should the policy state that change of use to affordable housing would be acceptable if this is the case?
- 7 Would other evidence such as evidence of operational need for health facilities be appropriate as an alternative to marketing?
- 8 Is the policy consistent with Core Strategy policy HC4C?

**Policy DMS3: Retail development outside Core Strategy named settlements**

- 9 How would retail activity at petrol stations be limited or controlled?

**Policy DMS5: Outdoor advertising**

- 10 Part D restricts remote advertisements but part A (i) implies that these would be acceptable provided they are as near to the business as possible. Is there a tension between these two parts?

**Policy DMS7: Retention of community recreation sites or sports facilities**

- 11 Should the policy refer to the safeguarded sites shown on the Policies Map?
- 12 Should there be 'or' between parts C and D?

**Matter 10 – Bakewell**

**Issue:** Is the policy positively prepared with respect to development that would be permitted within the settlement boundary?

**Policy DMB1: Bakewell's settlement boundary**

- 1 Should the policy be expanded to set out specific requirements for housing, business, tourism, shopping and community facilities in Bakewell?
- 2 Should the policy set out any specific requirements for a new hotel in Bakewell as provided for by Core Strategy policy DS1F?

**Matter 11 – Travel and Transport**

**Issue:** Are the policies clear and effective?

**Policy DMT1: Cross-park infrastructure**

- 1 Should the policy distinguish major road schemes from local road schemes serving new developments as provided for by Core Strategy policy T2?

**Policy DMT3: Railway construction**

- 2 Are the criteria under part E (particularly (ii) and (iii)) sufficiently clear? Would a new station as part of a visitor management project be tantamount to a tourist or heritage attraction? How would a new station be a temporary part of a phased construction programme?

## **Policy DMT5: Business parking**

- 3 Is the policy sufficiently detailed or specific? Should the policy state that it applies to operational and non-operational parking?

## **Matter 12 – Utilities**

**Issue:** Is the policy clear and effective?

## **Policy DMU1: Development that requires new or upgraded service infrastructure**

- 1 If the requisite infrastructure cannot be provided until after the development is occupied or used does this not go to the heart of whether the development as a whole should be allowed? Should the relevant policies for development elsewhere in the DMP e.g for housing, recreation/tourism and farming/employment development include this requirement?

## **Matter 13 – Minerals and Waste**

**Issue 1:** Are the policies consistent with the Framework?

**Issue 2:** Are the policies consistent with the Core Strategy?

**Issue 3:** Are the policy requirements sufficiently clear?

**Issue 4:** Would the policy requirements be effective?

## **Policy DMMW1: The justification for mineral and waste development**

- 1 Policy MIN1 of the Core Strategy restricts new mineral extraction other than in exceptional circumstances as provided for by national policy. Policy DMMW1 does not include such a requirement but requires evidence of need for, and viability of the development. This partly reflects the criteria in paragraph 116 of the Framework. Should the policy state the requirement that major development will be refused except in exceptional circumstances? Should there be a definition either in the policy or the supporting text as to what is meant by 'major development'?
- 2 Should the policy include requirements for restricting production of aggregates, limestone and shale for cement manufacture, limestone for industrial and chemical products and large scale building and roofing stone as provided for in the Core Strategy?
- 3 Should the requirement of Core Strategy policy GSP1 that there would be significant net benefit to the National Park be made clear and should this be elaborated upon?
- 4 The policy applies to all minerals development including fluorspar and local building stone and its detailed requirements do not distinguish

between the different types of mineral. Should the detailed policy requirements for each mineral differ?

- 5 Criterion (ii) is similar to (i). Could these be combined?
- 6 What is the justification for (iii) in terms of proximity of the mineral to the end user market?
- 7 Criterion (iv) requires that high quality materials are retained. Should this be more specific in stating how and where the materials would be retained and for what specific use?
- 8 What evidence would be required to demonstrate viability?
- 9 The policy applies to both minerals and waste sites. As the only waste facilities allowed by policy CC3 of the Core Strategy are small-scale local facilities what is the justification for criterion (iii) 'proximity of the waste operation to the supply-chain'? Should this be explained further?

#### **Policy DMMW4: Waste management facilities**

- 10 Should part A of the policy make clear that it does not apply to on-farm anaerobic digestion as provided for by Core Strategy policy CC4?

#### **Policy DMMW7: Safeguarding local building and roofing stone resources and safeguarding existing permitted minerals operations from non-mineral development**

- 11 As the policy only requires safeguarding within the Mineral Safeguarding Areas what is the policy requirement of the DMP for the Building Stone and Roofing Stone Safeguarding Areas shown on the Policies Map?
- 12 Does the absence of a policy for safeguarding building and roofing stone conflict with policy MIN4 of the Core Strategy?
- 13 Should the policy refer to the Framework requirement (paragraph 143) to encourage prior extraction of minerals where practicable?