

Independent Examination of Peak District National Park Development Management Policies

Peak District National Park Authority Responses to Matters and Issues

NB, existing modifications are highlighted in red with suggested new changes shown with strikethrough and underline.

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?

The policies supplement the Core Strategy policies which are considered to be compliant with the NPPF. The Environment Act 1995 (CD12) confirmed the relationship of the purposes and duty.

Issue 2:

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

The policies do not prevent major development and, pending the revised NPPF, the Authority may retain or lose control over what this means in practice. The Authority considers that national parks are not areas where development should generally be encouraged however, in this context, major development can be permitted in exceptional circumstances.

Issue 3:

Are the requirements in relation to development proposals clear?

In terms of fostering the social and economic well-being of communities the Authority considers that it's Core Strategy and development management policies strike the right balance with respect to landscape and biodiversity. The Authority approves over 90% of planning applications, the vast majority of which are householder applications. Policies protect employment space at a strategic level and at a more community level, and enable businesses to establish and grow, provided they do not harm valued landscape and biodiversity. Because most domestic and business development is centred on established settlements the Authority is able to foster social and economic well-being and conserve landscape

and biodiversity. The Alterations and Extension SPD (CD35) and other guidance such as the Protected Species and Development in the Peak District National Park (CD23) alongside documents such as the Landscape Strategy (CD25) enable the Authority to balance the wishes of residents and businesses with the need to conserve and enhance landscape and biodiversity. The Historic farmsteads work (EB8) gives the Authority an extra level of detail from which to make the best choices for the landscape and heritage assets where domestic or business development is proposed. This will assume more prominence throughout the plan period, ensuring the rich cultural heritage is conserved and enhanced.

With regard to recreational activity, the Core Strategy was written to recognise the English National Parks and the Broads Vision and Circular advice. The advice is that National Park Authorities realise the positive contribution that sustainable tourism can make to the environment and the wellbeing of local communities. The Authority points out that the Circular also asks that the tourist industry to recognise its responsibilities in respect of conservation and enhancement of special qualities, and work with the Authority to deliver sustainable tourism objectives. The Circular recognises that recreational activities which would have an adverse impact on a national park's special qualities and on other people's enjoyment of them may need to be excluded, but recommends that conflicts between recreation and conservation are resolved by cooperation, careful planning and positive management strategies and that where there is irreconcilable conflict, the recreation purpose is secondary to that of conservation and enhancement ('the Sandford principle'). The Authority policies and practice follows this advice.

At a development management level the Authority previously used Recreation Zones to direct different scales of development to different sites. This was based on an assessment of capacity of sites within a landscape to accommodate the development and the pressure from associated visitor activity. Since the Landscape Strategy was adopted in 2009, the Authority has determined applications for such development according to the Landscape Strategy, which includes priorities for management of each Landscape Character type. This approach considers the ability of a landscape to accommodate recreational development but enables flexibility that did not exist with the Recreation Zone policy. The Authority is undertaking a piece of work on recreation hubs to recognise that certain identified areas are more suitable as recreation hubs than others. This is explained by proposed modifications M5.3, and M5.4. However, outside of these sites the Authority would still take a landscape first approach. Within the general term of landscape, the Authority would conserve biodiversity as necessary commensurate with its importance to the landscape but also respecting its rarity or abundance in the wider national context. The policies and modifications such as modification M5.9 also demonstrate that the Authority is trying to find ways, within the context of wider landscape protection and farm diversification, to accommodate the different forms of visitor accommodation such as Yurts, camping pods, and more recently Shepherd's huts that emerge over plan

periods. This is a careful approach that fosters social and economic well-being but with justified parameters.

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?

The Authority agrees that the policy would be clearer if it clarified the intention to apply to all proposals and therefore subject to national policy requirements. Modification M1.4 (shown under policy DMC1 below) clarifies the approach to assessing major development in National Parks. It is considered that the criteria in part B of the policy will help to make the determination about the kinds of development that constitute major development and in applying the national policy tests.

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?

Paragraph 3.15 explains the intention to apply planning conditions where necessary so it would be appropriate to clarify this in policy by stating "by use of planning condition or obligation". Suggest addition of the words underlined.

3.15 Development that can no longer serve an essential purpose e.g. in supporting sustainable farming, and which does not conserve and enhance, should be removed. Conditions or obligations may be applied to require removal where alternative uses enabled in principle by this plan would be un-suitable.

DMC1: Conservation and enhancement of nationally significant landscapes

A. In countryside beyond the edge of settlements listed in policy DS1 of the Core Strategy, any development with a wide scale landscape impact must provide a landscape assessment with reference to the Landscape Strategy and Action Plan. The assessment must be proportionate to the proposed development and clearly demonstrate how valued landscape character, including natural beauty, biodiversity, cultural heritage features and other valued characteristics will be conserved and, where possible, enhanced taking into account:

i) the respective overall strategy for the following Landscape Strategy and Action Plan character areas:

- White Peak;
- Dark Peak;
- Dark Peak Western Fringe;
- Dark Peak Yorkshire Fringe;
- Derbyshire Peak Fringe;
- Derwent Valley;
- Eastern Moors;
- South West Peak; and

(ii) any cumulative impact of existing or proposed development including outside the National Park boundary.

B. Development which would not respect, would adversely affect, or would lead to undesirable changes in landscape character or any other valued characteristics of the site and the area will not be permitted;

C. Where a building or structure is no longer needed or being used for the purposes for which it was approved and its continued presence or use is considered by the Authority, on the evidence available to it, to be harmful to the valued character of the landscape, its removal will be required by use of planning condition or obligation.

Modification M1.4 - 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 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.

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?

Policy DMC2 picks up directly from policy L1 of the Core Strategy in which the restrictive effect of the Natural Zone is made clear. These policy need to be read together and supporting text provides sufficient context.

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 Guidance¹ given that applications are considered on their individual merits?

The measures set out for Natural Zone policy go further than normal practice. While application are considered on their own merits the objectives of the Natural Zone represent the pinnacle of landscape protection in England.

The Natural Zone is underpinned by area most important to conserve with reference to section 3 of the Wildlife and Countryside Act (CD09). As such they represent some of the most sensitive and internationally significant landscapes. While there are circumstances in which development is necessary in order to manage such areas the degree and level of control must be of the highest order in order to realise the statutory basis of both National Parks and the legal underpinning of these sites which in themselves fall within Natura 2000 designations (Special Protection Areas and Special Areas of Conservation) and other land which the National Park Authority has determined achieves the level of quality required by section 3 of the Wildlife and Countryside Act.

Policy DMC4: Settlement limits

5 Is the policy heading appropriate given that it would apply to settlements without defined limits?

The aim of this policy is to guide decision takers and communities in preparing neighbourhood plans to understand the special qualities making up the form of each settlement and using this to assess the capacity or limits to growth in landscape terms. The criteria based approach allows flexibility for case by case assessment without need for traditional boundaries or envelopes which arise as a tool for managing growth. Here the key is not growth in the conventional sense of the Framework but of sensitively managed changes which use the special qualities of the area as the core information to make an assessment.

The "limits" to growth as therefore achieved and understood over time through cumulative decisions (e.g. by reference to a river or tree line or historic back lane). Such decisions may be captured more formally through a neighbourhood plan or indeed by the Authority through future SPD.

In this context it is considered that the heading remains appropriate.

6 Should the requirements of part A be clearer? Would this part require a Landscape and Visual Impact Assessment and/or a Heritage Statement?

The Authority agrees that depending on the scale and nature of the application a landscape and visual impact assessment and/or Heritage Statement may be required. The Authority suggests the additional underlined text to paragraph 3.38.

3.38. In applying DMC4 A, Particular particular regard should also be paid to

- Historic settlement pattern including street layout
- Existing mass, scale, height, design, materials and the eaves and ridge heights of surrounding buildings
- Conservation Area Appraisals
- The Landscape Strategy and Action Plan.

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)?

The Authority would not wish to lose important policy aims and controls for biodiversity however there is agreement that some re-ordering would be beneficial. This is shown in the policy below where in this case underlining represents new text only in A and A(i) and a shift of text from F to below A, and a shift of G to go with B.

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?

The Authority agrees that part D as written could be seen to prevent cases where mitigation measures could be accepted, however the Authority is also keen that mitigation measures are not seen as justification to override the need to ensure development that conserves and enhances nature conservation interests and avoids harm. The Authority therefore suggests that final sentence of part D is expanded so that it is clear that mitigation measures do not override the fundamental requirements of development proposals. The suggested additional words are underlined.

9 In part E (ii) how would an assessment of nature conservation interests take into account historical, cultural and landscape matters?

The Authority points out that the national park purpose to conserve and enhance biodiversity, cultural heritage and natural beauty, places no order of priority on these characteristics. The Authority has areas which are important both for their biodiversity and cultural heritage e.g. lead rakes, and the field systems around historic mines (such as Magpie Mine and Ecton Copper mine) where there is an inextricable link between the biodiversity as a direct consequence of the mining heritage. Similarly, in a moorland context, these important landscapes exhibit characteristics that are shaped by human activity over millennia. At a simpler scale the role of traditional barns and stone walls are increasingly recognised as part of the natural and cultural capital of a landscape, becoming a habitat for a range of species. There are many challenges to land management practices depending on whether there are wildlife and habitats to be protected, or wider land management challenges such as reducing peat erosion and improving water capture. Where development is required to meet these challenges the Authority would not consider it acceptable to sacrifice valued cultural heritage or landscape in the name of nature conservation, but would equally not consider it acceptable to sacrifice nature conservation interests in the interests of cultural heritage. The Authority would therefore prefer to leave part E (ii) alone.

DMC11 Safeguarding, recording and enhancing nature conservation interests

A. Proposals should aim to achieve ~~no net loss of~~ **net gains to** [M3.68] biodiversity or geodiversity as a result of development. In considering whether a proposal conserves and enhances sites, features or species of wildlife, geological or geomorphological importance all reasonable measures must be taken to avoid net loss by demonstrating that in the following order of priority the following matters have been taken into consideration:

(i) enhancement proportionate to the development; meaning that ~~Development~~ development proposals will be expected to incorporate features to encourage biodiversity and retain and where possible enhance, existing features of biodiversity and geodiversity within the site. Existing ecological networks should be identified and maintained to avoid habitat fragmentation, and ecological corridors should be considered in association with new development to ensure habitat connectivity.

~~(ii) no alternative sites exist that cause less harm;~~

~~(iii)~~-(ii) adverse effects have been avoided;

(iii) no alternative sites exist that cause less harm;

(iv) appropriate mitigation; and

(v) in rare cases, as a last resort, compensation measures to offset loss

B. Details of appropriate safeguards and enhancement measures for a site, feature or species of nature conservation importance which could be affected by the development must be provided, in line with the Biodiversity Action Plan and any action plan for geodiversity sites, including provision for the beneficial future management of the interests. Development will not be permitted if applicants fail to provide adequate or accurate detailed information to show the impact of a development proposal on a site, feature or species including:

(i) an assessment of the nature conservation importance of the site; and

(ii) adequate information about the special interests of the site; and (iii) an assessment of the direct and indirect effects of the development; and

(iii) an assessment of the direct and indirect effects of the development; and

(iv) details of any mitigating and/or compensatory measures and details setting out the degree to which net gain in biodiversity has been sought; and

(v) details of alternatives considered including the 'do nothing scenario' and justification for the choice of the preferred option and for discounting other options; and

(vi) details of provisions made for the beneficial future management of the nature conservation interests of the site. Where the likely success of these measures is uncertain, development will not be permitted

C. Measures should ensure conservation of the features of importance in their original location.

D. Where the likely success of the measures detailed in B) or C) is uncertain, mitigation measures would not override the requirements of B and C and development will not be permitted.

E. For all sites, features and species development proposals must also consider:

(i) cumulative impacts of other developments or proposals;

(ii) the setting of the development in relation to other features of importance, taking into account historical, cultural and landscape context;

(iii) the impact on protected or notable species, adjacent habitats and ecological networks, including water resources, wildlife corridors and wildlife stepping stones.

~~F. Development proposals will be expected to incorporate features to encourage biodiversity and retain and where possible enhance, existing features of biodiversity and geodiversity within the site. Existing ecological networks should be identified and maintained to avoid habitat fragmentation, and ecological corridors should be considered in association with new development to ensure habitat connectivity.~~

~~G. Development will not be permitted if applicants fail to provide adequate or accurate detailed information to show the impact of a development proposal on a site, feature or species including:~~

~~(i) an assessment of the nature conservation importance of the site; and~~

~~(ii) adequate information about the special interests of the site; and (iii) an assessment of the direct and indirect effects of the development; and~~

~~(iii) an assessment of the direct and indirect effects of the development; and~~

~~(iv) details of any mitigating and/or compensatory measures and details setting out the degree to which net gain in biodiversity has been sought; and~~

~~(v) details of alternatives considered including the 'do nothing scenario' and justification for the choice of the preferred option and for discounting other options; and~~

~~(vi) details of provisions made for the beneficial future management of the nature conservation interests of the site. Where the likely success of these measures is uncertain, development will not be permitted~~

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

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

The Authority considers that supporting text to Core Strategy policy L3 along with the supporting text to DMC12 and DMC12 B in its entirety are sufficient to make it clear that it is development for the purposes of management of those sites, species, or features as opposed to management for any other reasons e.g. introduction of business uses, new access to property in or around the site etc. which have no justification in the context of the conservation priorities afforded to those sites by European, or national designation or the wider national park designation. Practical examples include gully blocking, access tracks, ponds and scrapes to support habitat creation e.g. for ground nesting birds. Some of these measures may be de minimis but the availability of policy and local advice can help steer negotiations with land managers.

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?

The Authority agrees. However the reference to impacts on valued characteristics provides a suitable link to other policies in the plan which can address any wider conservation or cultural heritage interests. The Authority suggests therefore that the substantive part of A(iii) is moved to part (ii) which would enable works that could benefit nature conservation or cultural heritage interests but would also make clear that remedial measures should not harm those or other valued characteristics.

12 As part B deals with amenity and public risk from notifiable installations should the heading of the policy be amended?

This is a presentational error and repeats the wording in policy DMU3. Therefore part B may be deleted.

13 Is part B sufficiently clear as to the requirements? Would this benefit from further explanation in the supporting text?

See response above. This matter is dealt with by Policy DMU3 and its supporting text.

14 Does part D of the policy duplicate the requirements of parts A and C?

Part D duplicates part A other than in the sense that part D covers the likelihood of fresh contamination rather than existing or suspected contamination. The Authority does not want to lose this part of the policy but suggests additional words to part A to achieve this whilst agreeing to the deletion of the rest of part D

15 Should part C say 'suspected as being potentially unstable' or similar?

The Authority agrees that in order to be consistent with part A, the part C should be modified to say "believed to be unstable, or suspected as being potentially unstable."

DMC 15 Contaminated and unstable land

A. Development on land that is known or suspected to be contaminated, or land that is liable to be contaminated as a result of development will be permitted provided that an accredited assessment shows that:

(i) there is no risk to public health arising from any existing contamination; and

(ii) remedial measures (in situ or by safe disposal of site) can remove any public health risk and make the site fit for its intended use without harm to the valued characteristics of the area including any nature conservation or cultural heritage value; and

~~(iii) the land is not of high nature conservation or cultural heritage value.~~⁸

~~B. Development will not be permitted in the vicinity of sewage treatment works, high pressure or gas pipelines, or other notifiable installations, where they would present an unacceptable loss of amenity or risk to those using the development.~~

~~C.B.~~ Development on land believed to be unstable, or suspected as being potentially unstable, or likely to become unstable as a result of development

will only be permitted where an accredited stability assessment shows that the land:

- (i) is stable and will remain so; or
- (ii) can be made permanently stable by remedial measures undertaken as part of the development process without harm to the valued characteristics of the area; and
- (iii) that development will not affect the stability or safety of neighbouring areas.

~~D. Where contamination or instability is known or suspected to exist, or suspected to arise as a result of development, an accredited assessment will be required before a planning decision is made.~~

E.C. Necessary remedial measures must be agreed before development commences.