



DERBYSHIRE DALES DISTRICT COUNCIL

RESPONSE TO

**INSPECTOR'S PRELIMINARY QUESTIONS,
CLARIFICATION AND COMMENTS RELATING TO
SOUNDNESS (Protecting Derbyshire Dales Character –
Chapter 5)**

DERBYSHIRE DALES LOCAL PLAN EXAMINATION

INSPECTOR'S PRELIMINARY QUESTIONS, CLARIFICATION AND COMMENTS RELATING TO SOUNDNESS (Protecting Derbyshire Dales Character – Chapter 5)

Introduction

1. The purpose of this note is to seek clarification from the Council on a number of matters relating to Chapter 5 of the Local Plan. These matters have emerged from my preparation so far, including assessing representations. I will have further questions during the preparation period.

Policy PD1

2. There is a degree of overlap between the 3rd and 4th bullet points so they could potentially be merged. Design and Access Statements are only required for certain forms of development as defined by Section 9 of the Town and Country Planning (Development Management Procedure) Order 2015.

District Council Response

The District Council agrees with the Inspector and will prepare a modification to Policy PD1, to address this point.

3. The 5th bullet point seeks 'high quality design' for development on the edge of settlements whereas one of the core planning principles of the National Planning Policy Framework (the Framework) is to 'always seek to secure high quality design'. It would seem more appropriate to refer to 'high quality design' at the start of the policy or within the 1st bullet point rather than in a bullet point referring to development in a particular location.

District Council Response

The District Council agrees with the Inspector and will prepare a modification to Policy PD1 to include reference to 'high quality design' at the start of the policy such that the aspiration is for this to be achieved throughout the whole of the plan area.

Policy PD2

4. Paragraph 5.15 appears to be setting out policy tests but is contained within the justification to the policy. This paragraph and elements of the policy itself seem to be repeating national policy as contained within the Framework, albeit in places there are inconsistencies in wording which could lead to difficulties for applicants and decision makers. I would recommend stripping out those elements of Policy PD2 which repeat what is said in Chapter 12 of the Framework, albeit that the policy and/or explanation would need to make reference to national policy. There is also repetition in relation to heritage assets and conservation areas. Such changes would help to simplify what is a long and convoluted policy.

District Council Response

The District Council received representations from the National Trust in respect of Paragraph 5.15 (Rep No. 2736/268) suggesting that it should be embodied within policy rather than sit outside policy. The Officers response to this representation as presented to the Council meeting held on 8th December was as follows:

"Paragraph 5.15 sets out the District Council's expectations in relation to development that may have an impact upon a heritage asset. Policy PD2 sets out the criteria by which the District Council will consider development proposals that have an impact upon heritage assets. Whilst Paragraph 5.15 sets out a strong statement of intent Policy PD2 is much more balanced in its approach and seeks to reflect the guidance in the NPPF - to include the expectations as set out in Paragraph 5.15 in a policy would result in a policy that would exceed the balanced requirements of the NPPF"

However taking account of the Inspectors comments, the District Council will prepare modifications that address any inconsistencies between Paragraph 5.15 and Policy PD2, and which seeks to avoid duplication with the requirements of the NPPF.

5. Paragraph 126 of the Framework makes reference to LPAs setting out a 'positive strategy.....including heritage assets most at risk through neglect, decay and other threats'. Policy PD2, although referring to 'encouraging the repair and reuse of heritage assets at risk', is not very proactively worded in this respect.

District Council Response

The Inspectors comments are noted. Prior to the commencement of the hearing sessions, the District Council will prepare a modification to address this point.

6. The 10th and 11th bullet points appear overly restrictive. For example in respect of the 10th the interiors of buildings in conservation areas are not protected and in most cases would not have any particular value. Moreover the fabric of many buildings may be able to sustain change and indeed might be improved by such change. In respect of the 11th do design proposals need to make a significant contribution? A modest householder development in a conservation area could preserve the heritage asset but would not make a 'significant contribution'.

District Council Response

The Derbyshire Dales plan area contains over 1300 listed buildings and 33 conservation areas with a number of Ancient Monuments, Listed Parks and Gardens. As such they play an important role in defining the character and identity of the area, which needs to be carefully managed through the planning process.

Although Policy PD2 has the support of Historic England, the District Council through Modifications M19 to M22 (SD03) has sought to bring forward revisions to the Policy which seek to ensure that it better aligns with the requirements of Paragraph 126 to Paragraph 141 of the NPPF, and address representations

received from the National Trust, Derbyshire County Council and Gladman Developments.

In regard to the 10th bullet point, the District Council acknowledges that the interiors of unlisted buildings in Conservation Areas are not protected, however this aspect of the policy would only apply to a listed building where the interior is protected by virtue of its' listing. In regard to the Inspectors comments about the change to the fabric of a building, the District Council is in agreement. However the policy does not restrict change, rather it provides guidance on when change would be considered acceptable.

The 10th bullet point of Policy PD2 as currently drafted replicates a policy which was originally formulated during the joint working arrangements with High Peak Borough Council. High Peak Borough Council have since adopted this policy criterion in exactly the same form (Adopted High Peak Local Plan 2016 - Policy EQ7 – bullet point 5). However, the District Council is agreeable to further modification should the Inspector consider it necessary.

In regard to the 11th bullet point the Inspectors comments are noted. Prior to the commencement of the hearing sessions, the District Council will prepare a modification to address this point.

Policy PD3

7. The bullet point that relates to Sites of Special Scientific Interest (SSSIs) does not include the word 'normally' whereas paragraph 118 of the Framework states that development which has an adverse effect on a SSSI 'should not normally be permitted'. The 3rd bullet point should be split so that 'conserving and enhancing regionally and locally designated sites' is separate from the remainder of the bullet which covers a separate test.

District Council Response

The Inspectors comments are noted. Prior to the commencement of the hearing sessions, the District Council will prepare a modification to address these points.

8. Figure 8 does not show Special Protection Areas (SPA) and Special Areas of Conservation (SAC) albeit that they are shown as SSSIs. Should SPA and SAC be shown?

District Council Response

Figure 8 shows the ecological network of the Derbyshire Dales. Although the Policies Maps in the adopted Derbyshire Dales Local Plan already include the extent of the SPA and SAC's the District Council will prepare a modification to Figure 8 to indicate their location.

Policy PD5

9. The policy requires that development 'protect or enhance the landscape character of the Plan area' which is more far reaching than the Framework which seeks protection of valued and designated landscapes (paragraphs 109 and 115). The policy should acknowledge that some landscapes can accommodate change to a greater degree than others and in this respect would not be 'protected'.

District Council Response

The purpose of Derbyshire Dales District Council Landscape Sensitivity Study (CD49) was to assess the sensitivity of the landscape surrounding settlements to accommodate new housing development. It identified areas of high, medium and low sensitivity to accommodate development, which in turn informed the assessment of sites through the SHELAA process. The District Council therefore agrees with the Inspector that there are some areas of the plan area that are more able to accommodate change than others.

The first part of Policy PD5 as currently drafted replicates a policy which was originally formulated during the joint working arrangements with High Peak Borough Council. High Peak Borough Council have since adopted this policy in almost exactly the same terms to those expressed (Adopted High Peak Local Plan 2016 - Policy EQ2) with the exception that development proposals are required to 'protect and/or enhance' landscape character, appearance and local distinctiveness.

However, the District Council is agreeable to further modification should the Inspector consider it necessary.

Policy PD6

10. There appears to be inconsistency between the tests relating to the loss of ancient woodland and veteran trees compared to those applied to protected and other trees, hedgerows and woodland in that for the former the benefits of the development are to be weighed against the loss (reflecting paragraph 118 of the Framework) whereas with the latter 'the unacceptable loss....will not be permitted'. The test relating to protected and other trees should be modified so that it sets a lower bar compared to ancient woodland and veteran trees.

District Council Response

The Inspectors comments are noted. Prior to the commencement of the hearing sessions, the District Council will prepare a modification to address these points.

Policy PD7

11. There is inconsistency between paragraph 5.52 which refers to 'very good or above assessment using the BREEAM standards' and the policy itself which refers to a 'good standard'.

District Council Response

The intention of the policy is to ensure that new developments achieve the highest BREEAM standards possible. As such the District Council acknowledge this inconsistency and will prepare modifications to Policy PD7 to ensure that it makes appropriate reference to 'very good or above' BREEAM standards..

12. The 3rd bullet point, in requiring that renewable energy installations do not have an adverse impact on the landscape, is setting a high bar and goes beyond paragraph 97 of the Framework and indeed advice within the Planning Practice Guidance (PPG).

District Council Response

Paragraph 97 in the NPPF indicates that policies should be designed to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts.

The Planning Practice Guidance states the need for positive criteria and clarity. It recommends that the need for renewable or low carbon energy should not override the need for environmental protection. The guidance also states that development in National Parks and areas close to them will need careful consideration. The 3rd bullet point in Policy PD7 is intended to allow development of renewable energy installations where they do not have an adverse impact on the landscape and landscape setting of the National Park.

The District Council consider that the purpose of the 3rd bullet point is to ensure that appropriate consideration is given to the impact that renewable energy installations have on the landscape character of the plan area. It does not place a moratorium on renewable energy development; rather it is part of the balanced judgment that the District Council will need to take in determining planning applications for renewable energy developments.

If the Inspector, having reviewed this point, considers that it is necessary to modify this bullet point then the District Council will prepare an appropriate modification.

13. Is the 4th bullet point (flood risk) necessary having regard to the content of Policy PD8?

District Council Response

The District Council acknowledges that there is potential for duplication between the 4th bullet point of Policy PD7 and the requirements of Policy PD8. Prior to the commencement of the hearing sessions, the District Council will prepare a modification to address this point.

Policy PD8

14. The policy is long, overly prescriptive and repeats national policy. National policy can be cross-referenced but does not need to be repeated.

District Council Response

The District Council acknowledge the Inspectors comments.

The content of this policy was informed by representations from the Environment Agency to the Derbyshire Dales Local Plan Draft Plan (CD08). The Environment Agency has not raised any representations in respect of this policy as set out in the Derbyshire Dales Local Plan Pre Submission Draft (SD01).

Whilst the District Council acknowledges that Policy PD8 is long, given the extent of potential areas at risk from flooding as identified in the Derbyshire Dales Strategic Flood Risk Assessment (CD39), it is considered necessary to have a comprehensive policy to ensure that development fully takes account of flood risk issues in the plan area. Whilst Policy PD8 does duplicate parts of national policy, it nonetheless provides a comprehensive policy basis for the consideration of development proposals.

However, if having reviewed the points above the Inspector considers that it is necessary to modify this policy further, the District Council will prepare an appropriate modification.

15. Some of the criteria within the section that starts with 'where development accords with the principles listed above, it will only be permitted if' are desirable but are unlikely to be essential e.g. grey water recycling. What is intended by the term 'ecological flood storage value'?

District Council Response

The intention of this section of Policy PD8 is to seek to ensure that new development contributes as much as practically possible to minimising the risk of flooding. The District Council acknowledges that some of the elements included in this section of Policy PD8 may not be achievable all the time. In such instances this will form part of the balanced judgment that the District Council will need to take in determining planning applications where flood risk is a consideration.

The Flood and Water Management Act (2010) and Environment Agency Catchment Flood Management Plans promote working with natural processes wherever possible. The '*ecological flood storage value of the water environment*' is part of the process of natural flood risk management (NFM), whereby the reductions to flood peaks and timings and the restoration, enhancement and alteration of natural features are used without using traditional flood defence hard engineering that can disrupt these natural processes. The Environment Agency advise that environmental, social and other benefits (such as reduced soil erosion) can be provided simultaneously with reducing flood risk. Along with making existing flood defences more resilient to climate change, NFM also helps

in achieving Water Framework Directive, Floods Directive and biodiversity goals. NFM measures typically cost less to implement and maintain than traditional 'hard' engineered defences.

Policy PD10

16. The reference to 'Proposals Map' should be changed to 'Policies Map'. Policy PD10 and representations made will be discussed at the hearings.

District Council Response

The District Council will prepare modifications to the Policy PD10 to ensure that it refers to the Policies Map and not Proposals Map prior to the hearing sessions of the EIP.

Response

17. It would be helpful to have a response from the Council on matters raised above by 24 February if possible. If the Council consider that any of the above comments and questions need to be addressed by Main Modifications (MMs) then please let me know. This would also apply to the previous set of preliminary questions and any others that arise during the examination. In this respect as advised in the Initial Questions a Schedule of MMs should be produced at an appropriate stage.
18. I am not inviting comments from other parties at this stage. I want to clarify the Council's position first. This will help me set out pre-hearing questions in due course on which all parties with relevant representations will have the opportunity to respond.

Thank you.

Mark Dakeyne

INSPECTOR

13 February 2017