

# North York Moors Local Plan

## North York Moors National Park Authority's Response to Inspector's Matters, Issues and Questions.

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### MATTER 4 – ENVIRONMENT - STRATEGIC POLICIES E-H AND POLICIES ENV1-8 (REF. EXMIQ/004)

#### *Strategic Policy E*

- 4.1 **Is it clear what this policy is seeking to achieve and how it will achieve it, particularly given the use of “should” (rather than e.g. “will be expected to”) before the list of criteria?**
- 4.1.1 We agree this would benefit from this change. Main modification suggested to the third sentence:
- 4.1.2 All development ~~should~~ will be expected to:
- 4.2 **Is the policy justified in not permitting development that has “potential adverse impacts on the natural environment...”, given that most, if not all, greenfield development has such “potential”?**
- 4.2.1 We agree this could be better phrased and suggest a main modification to the second line (similar mods are suggested to Policies BL6, CO20, Strategic Policy G and Strategic Policy L):
- 4.2.2 **Development which has an unacceptable ~~potential adverse~~ impact on the natural environment, the wildlife it supports and the environmental benefits it provides will not be permitted.**
- 4.3 **Is it clear which natural resources are meant by criterion 1, and where they are assumed to be located? Can such a criterion be assessed effectively?**
- 4.3.1 We agree that the wording could be better phrased so that the terminology is more consistent within the policy and expresses more precisely what is meant. We suggest that the phrase ‘natural capital’ is used throughout the policy to be consistent with paragraph 4.2, Strategic Policy A (c) and because this makes clear that the policy applies to the environmental assets measured by natural capital accounting mechanisms.
- 4.3.2 The draft Environment Bill also proposes a new statutory requirement for Local Nature Recovery Strategies. This will require evidence, probably in the form of natural capital accounting so a mechanism will likely exist so that the success of the policy can be monitored.
- 4.3.3 The phrase ‘efficient and sustainable ways’ is meant to refer to the concept of increasing the flow of ecosystem services as explained at paragraph 4.3.
- 4.3.4 Main modification suggested to criteria 1 and 2:
- 4.3.5 **1. Ensure that natural capital is ~~resources are~~ used in efficient and sustainable ways;  
2. Demonstrate, where appropriate, how ~~they~~ it ~~make~~ s a positive contribution to ~~the~~**

natural **capital environment** and its ability to provide ecosystem services.

**4.4 Is it clear who decides when it is “appropriate” for development to demonstrate a “positive contribution”?**

4.4.1 This will depend on the location and proposal. The intention is that proposals will be expected to demonstrate a ‘net gain’ to the natural environment where possible. NPPG (paragraph 20) defines net gain as an umbrella term for both biodiversity net gain and wider environmental net gain. In the case of biodiversity this will be through the new [national mandatory net gain system](#) to be introduced through the Environment Bill, so ‘appropriate’ will mean development subject to this regime. This is also a ‘scene setting’ strategic policy and aims to encourage net gain across the entire natural environment (for example as part of Nature Recovery Networks).

**4.5 Is this policy justified given the requirements of Strategic Policy H?**

4.5.1 The policy is meant as a ‘scene setting’ policy and also provides a policy ‘hook’ to help deliver policies and objectives set out in the Authority’s Management Plan. It is likely that the next version of the Management Plan (which is due for review in the next two years) will be more specific in terms of action, delivery and monitoring on two areas in particular – nature recovery and climate change. We therefore feel that the first line in particular is important as a policy statement, particularly given to move towards tackling nature recovery, natural capital and an ecosystem services approach.

4.5.2 Policy SPH includes more detailed policy and is confined to habitats, wildlife, biodiversity and geodiversity whereas Strategic Policy C covers the full range of natural capital and ecosystem services which would cover elements such as water supply and quality, food etc.

*Strategic Policy F*

**4.6 Is the policy effective in only “supporting” development? Would it be more effective if it required compliance with the criteria?**

4.6.1 In our view it is not possible to make compliance a requirement. For example not all development will be able to use renewable energy over the life of the Plan, or sequester or store carbon in woodland and uplands. The wording is therefore pragmatic.

**4.7 Does the list of criteria need an “and” or “or” after criterion 6 to be effective?**

4.7.1 We do not think this is essential since para 1.18 says that throughout the Plan, unless stated otherwise, where policies contain separate criteria all criteria are intended to apply. It could be interpreted that adding “and” implies that it is only the last two criteria that must apply together.

**4.8 What is “sustainable design and construction” and how is it to be “incorporated”?**

4.8.1 This ‘scene setting’ policy aims to ensure that new development is designed with climate change in mind. The opening sentence requires all developments to be designed to reduce both the extent and impacts of climate change. This statement is intended to signal the Authority’s aspiration to realise greater carbon savings from new development and work towards the delivery of zero carbon development – hence the use of the word ‘supported’ rather than putting sustainable design and construction as a requirement.

4.8.2 In practice it is difficult to include a precise definition of ‘sustainable design and construction’ within the Plan. If the Inspector considers that this criterion is superfluous or imprecise it could be deleted. Alternatively, we would suggest including a definition in the glossary. The following is taken from BREEAM good practice guidance on sustainable design and construction:

4.8.3 *“Sustainable design and construction is concerned with implementing sustainable development at the scale of individual sites and buildings. It takes account of the resources used in*

*construction, and of the environmental, social and economic impacts of the construction process itself and of how buildings are designed and used. Thus, while consideration of energy and carbon impacts is an important element, sustainable design and construction goes wider than this. In summary, it seeks to: minimise the use of resources (including energy and water); ensure that the built environment mitigates and is resilient to the impact of climate change; protect and enhance biodiversity and green infrastructure; provide buildings and spaces that are pleasant and healthy for occupiers and users; ensure the sustainable sourcing of materials; and minimise waste”.*

**4.9 To be effective, would the plan benefit from the inclusion of criteria a) and b) of policy ENV8 (and their excision from ENV8) in this policy?**

4.9.1 We consider that these requirements could go in either policy, however we think they are better suited in a development management policy rather than a ‘scene setting’ strategic policy.

*Strategic Policy G*

**4.10 Is this policy justified, given that it essentially repeats criterion a) of Strategic Policy A and could be reinforced by an additional criterion in Strategic Policy C (As necessary)?**

4.10.1 It was felt that this needed to be a separate policy for a number of reasons. Firstly, conservation and enhancement of landscape is part of the statutory first purpose and one of the main reasons why National Park status was granted in 1952. It therefore needs to be clearly stated in the Plan.

4.10.2 It also cross refers to Landscape Assessment and includes policy relating to ‘Section 3’ land ([see the Plan glossary](#) [LP001]) and the setting of the Howardian Hills AONB.

4.10.3 For the sake of consistency (for example with policy BL6, subject to a [proposed main modification](#) (MM35) [LP003] made at submission stage and suggested modifications to Strategic Policy L and Policy CO20) we would suggest the following main modification to the final paragraph:

**4.10.4 Development that would have an unacceptable ~~adverse~~ impact on the natural beauty, character and special qualities of the areas of moorland, woodland, coast and foreshore as defined by the Section 3 Conservation Map or on the setting of the Howardian Hills AONB or local seascape will not be permitted.**

**4.11 If it is felt to be justified, are paragraphs three and four necessary for the policy to be effective?**

4.11.1 Yes. It includes policy relating to ‘Section 3’ land ([see the Plan glossary](#) [LP001]) and the setting of the Howardian Hills AONB).

4.11.2 It is accepted however that the third paragraph describes a process and is not needed. A main modification is therefore suggested:

**~~All relevant proposals will be assessed in terms of their impact on landscape character and sensitivity as described in the North York Moors Landscape Assessment.~~**

*Strategic Policy H*

**4.12 Is the policy effective in only seeking that developments and activities “should” rather than, for example, “will be expected to”?**

4.12.1 We agree this would benefit from this change. Major modification suggested to beginning of criterion (2):

4.12.2 All development ~~should~~ will be expected to:

4.13 Does the policy need an “and” or “or” after criteria 2b) and 3c) to be effective?

4.13.1 We do not think this is essential since para 1.18 says that throughout the Plan, unless stated otherwise, where policies contain separate criteria all criteria are intended to apply. It could be interpreted that adding “and” implies that it is only the last two criteria that must apply together.

4.14 Is it clear how a “net gain in biodiversity” is to be agreed?

4.14.1 The Government [announced in July 2019](#) that it was committed to introducing a mandatory system of biodiversity net gain through its forthcoming Environment Bill. This was confirmed in the 14 October Queen’s speech. The intention will likely be to use the national system, once established, including the standardised proposed [biodiversity metric](#) to measure the minimum of 10% biodiversity gain proposed. As we are now in a transition period until we know the full details of eventual legislation, how it is to be implemented, and whether the Authority will introduce its own bespoke approach. A new Management Plan is due to start production next year and will have to consider how the Nature Recovery Networks proposed in the Environment Bill will be delivered. For these reasons it is not possible to fully answer this question. However as the transition period has been set as two years from the Environment Bill receiving royal assent a system of net gain from new development will be in place within the lifetime of this Plan. It was therefore felt important to include it within this policy as a ‘hook’ and also set out a clear expectation that biodiversity net gain will be expected.

4.15 Is the policy justified in seeking to protect “proposed” sites? If so, how is a “proposed” site defined?

4.15.1 The intention was to provide policy that ensured protection of national and local sites that have value but have yet to be formally designated, in the same way that ‘candidate’ European SAC & SPAs (referred to as European sites) are. Paragraph 1.7 of the [Habitats Regulation Assessment](#) [SD002] states: “European sites also include the relevant ‘proposed’ or ‘potential’ sites which have not yet been formally designated. Each is ‘classified’ or ‘designated’ for a range of habitats and species which are referred to as ‘qualifying features.’ This is reflected in the Policy text in the section (recommended by the HRA consultations) relating to international sites and protected species.

4.15.2 In the case that for wildlife sites such as SSSIs which are notified but not yet confirmed legal protection is in place (through the Wildlife and Countryside (Amendment) Act 1985), hence in this case the use of the word ‘proposed’ is redundant in this particular case. The policy lists then numerous types of sites with varying protection status and means of designation, and National Park core purposes should allow us to robustly defend scarce or nationally/regionally important biodiversity appropriately. It is therefore proposed that the phrase ‘existing or proposed’ is removed. We would also suggest that the word ‘notified’ as this is a specific term relating to the SSSI designation only.

4.15.3 National Sites and Protected Species:

**Proposals that would adversely affect the notified special interest features of an ~~existing or proposed~~ Site of Special Scientific Interest or National Nature Reserve...**

**Regional and Local Sites and other valuable habitats and species:**

**Proposals that would adversely affect any ~~existing or proposed~~ locally designated site such as...**

4.16 Is it clear how a “significant number” of additional visitors to an area is defined?

4.16.1 Criterion 4 of this policy was originally suggested by consultants working on the Habitats

Regulation Assessment; however the phrase 'a significant number' was added to ensure that the policy would not apply to all proposals involving a new tourism or recreational use. The use of the word 'significant' was therefore meant to imply that not all proposals would require this demonstration of impact.

- 4.16.2 Significance would also depend on the scale and nature of the development and sensitivity of the site of the site assessed as part of the application so we do not think it is possible to precisely define this. However it was meant in the dictionary definition sense i.e. sufficiently great or important to be worthy of attention.

#### *Policy ENV1*

#### **4.17 Is it clear how the specified features will be deemed to be “of value”?**

- 4.17.1 The use of the phrase 'of value' is meant to infer a degree of flexibility and accept that whilst there is a presumption in favour of retention within the policy there may conceivably be cases where the loss would be justified.
- 4.17.2 In practice the establishment of value would be a judgement made on a case by case basis, in consultation with the Authority's woodland officer. Value is assessed through various methods including the tree categorisation method detailed in British Standard BS5837:2012 Tree evaluation systems such as Capital Asset Value for Amenity Trees (CAVAT), Council of Tree and Landscape Appraisers (CTLA) methods. The Authority's own [Supplementary Planning Document Design Guide Part 3: Trees and Landscape](#) [CP016c], and would also factor in the results of any public consultation
- 4.17.3 The concept of value is also explained at paragraph 4.30 as being of ecological, visual, amenity and landscape value.

#### *Policy ENV2*

#### **4.18 Is the policy justified in permitting development proposals only where they “conserve and/or enhance tranquillity”, given that most, if not all development is likely to impact upon tranquillity?**

- 4.18.1 We acknowledge that this is a valid point. One of the modifications proposed at submission was that the wording of the second sentence of Policy ENV 2 should be modified as follows: **Development proposals will only be permitted where there is no unacceptable impact on the tranquillity of the surrounding area they conserve and/or enhance tranquillity.**

#### **4.19 Is it clear how criteria 1, 4 and 5 are of relevance to tranquillity?**

- 4.19.1 The supporting text at 4.34 gives background information about what tranquillity is, how people experience it and why it is an important special quality of the North York Moors National Park. Tranquillity is not just about an absence of intrusive noise, traffic and activity levels (covered by criteria 2 and 3) although these are the features that come to mind first when thinking about the impact that development can have. Tranquillity is also influenced by other factors, including what can be seen (criterion 1) and the presence or otherwise of natural elements such as trees, grass or water (criterion 4). Paragraph 4.34 includes examples to illustrate how these are considered relevant to tranquillity. Criterion 5 is explained in the final sentences of the paragraph which comment that historic sites that are part of the fabric of the National Park are often tranquil places which foster a sense of being connected to history and nature.
- 4.21.1 The presence of other factors was also acknowledged in the evidence base that underpinned the CPRE Tranquillity maps (the area covering the North York Moors is shown on page 5 of the [Tranquillity, A Sense of Remoteness and Dark Night Skies Topic Paper \(TP003\)](#)). This used results of consultation to weight 44 criteria 'option choices' (set out on [page 44 of the accompanying methodology report](#)) split into 'seeing' and 'hearing, with 'seeing a natural

landscape' emerging as the element of tranquillity that people most valued (page 49).

4.21.2 [The 25 Year Environment Plan](#) [NPG005] also explicitly understands and wishes to promote the relationship between mental health and the enjoyment of green spaces, and we would contend that tranquillity (in all its senses) is a valuable resource in exploiting this link.

4.21.3 Finally we would quote the Planning Inspector who dealt with (and dismissed) an appeal for an air strip at South Moor Farm, Langdale End who said (paragraph 26 of [APP/W9500/W/17/3178824](#)) *"Tranquillity is not just confined to noise. Though there is no common definition in use it must surely include other senses. Dictionary definitions includes the words 'serene', 'stillness' and 'undisturbed'"*.

#### 4.20 **Is the policy effective in setting out how the stated criteria will be taken into account?**

4.20.1 We think this is a matter for the supporting text rather than the policy wording. It is paragraphs 4.37 and 4.38 that explain how the criteria will be taken into account and paragraph 4.38 in particular was expanded following consultation responses which requested further detail on the fourth and fifth criteria. Tranquillity is a subjective quality which does not lend itself to a 'tick box' approach and assessing the impact of a development on tranquility is necessarily a matter of professional judgement depending on the specific circumstances of the site and the proposal.

#### *Policy ENV3*

#### 4.21 **Is this policy justified given that the matters it covers are addressed by other policies, in relation to e.g. tranquillity and development in open countryside?**

4.21.4 We think the policy is both justified and important and is not fully addressed by other policies in the Plan. 'Remoteness' (a dictionary definition is *'the state of being located far away from everyone or everything else'*) is rare, under increasing pressure and therefore an important feature of this particular National Park. The North York Moors has the lowest population density of any local planning authority area except Exmoor, Northumberland and the Yorkshire Dales National Parks.

4.21.5 It is also one of the Authority's 'Special Qualities' and was recognised in the Hobhouse Report which said in recommending the establishment of the National Park *"Indeed there are few places elsewhere in Britain which can offer such extensive and remote tracts of wild and unspoilt scenery within such easy reach of populated areas."*

4.21.6 Discussions about the proposed tranquility policy had concluded that the best way forward would be to have a criteria-based policy that would apply across the whole of the National Park. This approach recognises that the whole of the National Park is relatively tranquil and ensures that an assessment of a development proposal's impact on tranquility is made as a routine part of the development management process.

4.21.7 It was subsequently decided that a particular element that contributes to tranquillity – remoteness – should be defined, mapped as a spatial characteristic, and that a specific policy should be applied aimed at protecting this special quality to protect the extensive undeveloped areas of open moorland and woodland that lie at the core of the National Park. Including Policy ENV3 as a separate policy from ENV2 enables us to introduce the spatial dimension that is needed by defining Remote Areas where development would be permitted only in very limited circumstances. Examples of how policy would differ for certain types of development within and outside the remote areas is provided at the table at paragraph 5.7 of the [Tranquillity. A Sense of Remoteness and Dark Night Skies Topic Paper \[TP003\]](#).

4.21.8 ENV3 therefore embodies a more restrictive approach than the tranquility or open countryside policies in only allowing development that is essential for conservation, agricultural or forestry management purposes and requiring applicants to show that no alternative locations outside

Remote Areas are suitable. By defining the Remote Areas, it is clear to potential applicants which areas are subject to this additional level of protection.

**4.22 If the policy's subject matter is felt to be justified, would the plan be more focused and effective if "remoteness" was encapsulated by another policy?**

4.22.1 The plan is considered to be focused and effective since the supporting text to ENV3 sets the context for consideration of remoteness in the North York Moors National Park and explains how Remote Areas have been defined. The policy wording is also clear about the type of development that would be permitted in Remote Areas. Placing the policy wording within another policy (for example ENV2) would complicate policy and would mean that one policy would cover two special qualities. Policy on tranquillity uses a criteria-based approach whereas policy on remote areas uses a spatial approach

4.22.2 For the reasons set out in the answer above we consider tranquillity and remoteness as distinct concepts and therefore warranting separate policies.

**4.23 If the policy is considered to be justified, does it require an "and" after criterion 2 to be effective?**

4.23.1 We do not think this is essential since para 1.18 says that throughout the Plan, unless stated otherwise, where policies contain separate criteria all criteria are intended to apply. It could be interpreted that adding "and" implies that it is only the last two criteria that must apply together.

*Policy ENV4*

**4.24 Should the focus of the policy be on preventing light pollution from the ground, rather than in maintaining "the darkness ... above the National Park"?**

4.24.1 We think it is important for the wording of ENV4 to state that it is the Authority's policy to conserve and enhance dark skies at night. Dark skies are a particular feature of the North York Moors (see figure 5 of the [Tranquillity, A Sense of Remoteness and Dark Night Skies Topic Paper \[TP003\].](#)) because of the large areas of open countryside with little or very sparse settlement and low levels of air pollution and dark skies at night are one of the National Park special qualities. The wording flows directly from the National Park's first purpose and it sets the context for the second sentence (which covers the prevention of light pollution from the ground) and the remainder of the policy.

**4.25 Is criterion 4 effective in seeking only to encourage?**

4.25.1 It would not be possible to require external lighting to be upgraded across the whole of an existing property/curtilage if the proposed works affect only part of the property. It could be argued that requiring all external lighting to be upgraded would not fulfill the planning condition tests of being 'relevant to the development to be permitted' and 'reasonable in all other respects'. We think that encouraging upgrading to be carried out will be effective as we are anticipating being able to make some grant funding available in support of the Authority's Dark Skies work. Applicants will be advised accordingly during the applications process.

*Policy ENV5*

**4.26 Does the list of criteria require an "and" after criterion 2 to be effective?**

4.26.1 We do not think this is essential since para 1.18 says that throughout the Plan, unless stated otherwise, where policies contain separate criteria all criteria are intended to apply. It could be interpreted that adding "and" implies that it is only the last two criteria that must apply together.

**4.27 Would the policy be more effective if it was clear to what "a certain scale" referred?**

- 4.27.1 'Certain scale' is defined at paragraph 4.44 as ten or more dwellings or equivalent non-residential or mixed development as defined in section 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 i.e. 'major development' according to that Order. This is the suggested scale in national policy guidance (NPG [Paragraph: 079 Reference ID: 7-079-20150415](#))

*Policy ENV6*

**4.28 Does the list of criteria require an “and” after criterion 3 to be effective?**

- 4.32.1 We do not think this is essential since para 1.18 says that throughout the Plan, unless stated otherwise, where policies contain separate criteria all criteria are intended to apply. It could be interpreted that adding “and” implies that it is only the last two criteria that must apply together.

**4.29 Is it clear what is meant in criterion 1 by “permanent use” and why this is requirement justified?**

- 4.29.1 The phrase was meant to imply that the building or structure has a degree of 'permanence'. We are aware of comments from the Mulgrave Estate that a house in seasonal or holiday use should be included. As an existing holiday use would likely fall under the definition of 'existing dwelling' this policy would apply to holiday homes. We accept this could be clearer and that the phrase 'permanent use' does not make this clear. We therefore suggest a main modification:

**4.29.2 1) There is a clear and demonstrable short term threat of coastal erosion leading to the loss of a permanent building or structure ~~in permanent use~~;**

**4.30 Is the policy justified in requiring an alternative location to make a “positive contribution” to the character and form of a settlement, having particular regard to the requirements of other character policies in the plan?**

- 4.30.1 A comment requesting that the phrase should be replaced with '*should not detract from,*' was received as part of consultation, however our view is that 'positive contribution' is consistent with the first National Park statutory purpose of conservation and enhancement. The policy is in effect an 'exception to other policies' policy which would allow a new building on the edge of a settlement where the original building is under threat of loss from coastal erosion. The phrase 'positive contribution' is meant to ensure that the new location has a close relation with the form and character of the settlement (as explained at paragraph 4.49). If the Inspector considers that there is inconsistency with Strategic Policy D we would suggest that the wording is changed to that of Strategic Policy C i.e. "*complement the existing buildings and form of the settlement.*"

*Policy ENV7*

**4.31 Is it clear what criterion 4 means by “significant areas”?**

- 4.31.1 The word 'significant' is used at [footnote 53 of the NPPF](#) [NPG001] which states that where significant areas of agricultural land are to be developed, areas of poorer quality land should be preferred, and the wording was taken from this. The use of the word significant is meant to state that it is possible that some loss may be acceptable (so we would not wish to see the word deleted); however at some point the loss would have a significance in terms of loss of local productive farmland. The matter of significance would be assessment as part of the decision making process.

- 4.31.2 In practice the National Park contains very little identified best and most versatile farmland (although there are pockets around Whitby and the western and southern fringes) and any development would likely not be over a 'significant area.'



4.32 **Does the list of criteria require an “and” after criterion 6 to be effective?**

4.32.1 We do not think this is essential since para 1.18 says that throughout the Plan, unless stated otherwise, where policies contain separate criteria all criteria are intended to apply. It could be interpreted that adding “and” implies that it is only the last two criteria that must apply together.

4.33 **Does the policy need to “require” remediation, where necessary, in order to be effective?**

4.29.3 Yes. This is intended to put the requirements of [NPPF 178](#) [NPG001] into policy. NPPG [Paragraph: 006 Reference ID: 33-006-20190722](#) is clear that it is the role of plans to be clear on the role of developers and *requirements* for information and assessments. Paragraph 4.55 makes clear that an assessment should be made by a suitably qualified person. We suggest a main modification:

4.29.4 **Where necessary, remediation work must ~~should~~ be undertaken to remove any contamination and pollutants to ensure safe development.**

*Policy ENV8*

4.34 **Is the policy clear what it means by “where appropriate”?**

4.34.1 The criteria in the policy set out what is meant by “where appropriate” so its use in the first sentence is superfluous. Minor modification to first sentence of Policy ENV8 suggested: **~~Where appropriate, d~~Development proposals for small scale schemes for the generation of renewable energy will be permitted where:**

4.35 **Is the plan effective enough in defining what is meant by “small scale” schemes?**

4.35.1 The supporting text explains the background to the Renewable Energy policy and refers applicants to the Renewable Energy Supplementary Planning Document which provides many examples of small scale renewable energy installations that would be considered appropriate. The guiding principle is that the scale of the installation should not cause unacceptable harm to the National Park landscape or special qualities. This is stated at paragraph 4.57 which also comments that the installation should contribute to meeting domestic, community or business energy needs *within* the National Park. The intention is to support installations which contribute to meeting local needs rather than generating energy to be used elsewhere.

4.35.2 [The DEFRA English National Parks Circular](#) [NPG003] is also clear at paragraph 47 that wind power installations should be appropriate to the national value of the landscape.