

North York Moors National Park Local Plan

HEARING STATEMENT

Matter 4 The Environment - Strategic Approach – Strategic Policies E to H / Policies ENV1 - ENV 8

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The Mulgrave Estate

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1 Introduction

- 1.1 This hearing Statement has been prepared by John Long Planning Ltd, on behalf of the Mulgrave Estate. It relates to representations submitted on behalf of the Estate to the NYMNP Local Plan (pre-submission version). The Statement provides information and responses to the Inspector's Matters, Issues and Questions For examination published in September 2019. The Mulgrave Estate is a major landowner and employer in the National Park, and has a large portfolio of over 200 properties and other commercial and farming interests in the Park and employs around 40 people.
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2 Response to Inspector's Issues

Strategic Policy E

Matter 4, Issue 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?

- 2.1 This is another example of a Plan policy that could be used to stop almost any development in the Park. It does not take into account the ability for proposals to demonstrate that impacts may be mitigated or offset by other measures.

Matter 4, Issue 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”?

- 2.2 See above.

Matter 4, Issue 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?

- 2.3 No comment.

Matter 4, Issue 4.4 Is it clear who decides when it is “appropriate” for development to demonstrate a “positive contribution”?

- 2.4 Applications for planning permission should only be required to demonstrate the impacts a proposal could have on the natural environment/ecosystem services and identify the measures that can be put in place to address/mitigate/offset those impacts. It is not appropriate for the Policy to require development proposals to seek to address existing deficiencies in ecosystem services..

Matter 4, Issue 4.5 Is this policy justified given the requirements of Strategic Policy H?

- 2.5 The Plan has other policies that provide the protection sought by this policy. There is no evidence presented which would suggest this policy is necessary.

Strategic Policy F

Matter 4, Issue 4.6 Is the policy effective in only “supporting” development? Would it be more effective if it required compliance with the criteria?

- 2.6 The Plan has other policies, including for sustainable design, renewable energy etc., that development proposals will need to comply with and these requirements do not need to be repeated in this policy.

Matter 4, Issue 4.7 Does the list of criteria need an “and” or “or” after criterion 6 to be effective?

- 2.7 No comment.
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Matter 4, Issue 4.8 **What is “sustainable design and construction” and how is it to be “incorporated”?**

- 2.8 The Plan would benefit from an explanation of the expected requirements; including how they relate (and don't repeat) provisions in Building Regulations.

Matter 4, Issue 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?**

- 2.9 No comment.

Strategic Policy G

Matter 4, Issue 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)?**

- 2.10 The Policy could be removed and with some modification to Strategic Policy C, its removal would not be detrimental to the Plan's aims.

Matter 4, Issue 4.11 **If it is felt to be justified, are paragraphs three and four necessary for the policy to be effective?**

- 2.11 Paragraphs 2 and 3 of the Policy make reference to the North York Moors Landscape Assessment. Supporting paragraph 4.10 suggests that the Assessment was updated in 2019 with a footnote to say that the document is 'forthcoming'. It is not clear whether this update has been published. The Examination Library contains the 2003 Assessment only. Also, Paragraph 4 of the Policy makes reference to the Section 3 Conservation Map. The Map does not appear to be defined or shown anywhere within the Plan. The Plan should include details of what this Map is and where it can be obtained.

Strategic Policy H

Matter 4, Issue 4.12 **Is the policy effective in only seeking that developments and activities “should” rather than, for example, “will be expected to”?**

- 2.12 The Policy's requirement for all development to maintain/enhance features of ecological value and geodiversity assets is onerous. Not all development will have impacts on such features and assets.

Matter 4, Issue 4.13 **Does the policy need an “and” or “or” after criteria 2b) and 3c) to be effective?**

- 2.13 No comment.

Matter 4, Issue 4.14 **Is it clear how a “net gain in biodiversity” is to be agreed?**

- 2.14 Applications for planning permission should only be required to demonstrate the impacts a proposal could have on biodiversity and identify the measures that could be put in place to address/mitigate/offset those impacts if appropriate. It is not appropriate for the policy to address existing deficiencies in biodiversity. The Policy would benefit from an explanation of how a net gain in biodiversity can be achieved.
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Matter 4, Issue 4.15 Is the policy justified in seeking to protect “proposed” sites? If so, how is a “proposed” site defined?

2.15 It is assumed that a ‘proposed SSSI’, is one that has been formally registered for consideration/appraisal/designation, rather than a feature that in the Authority’s opinion may ‘fit the bill’.

Matter 4, Issue 4.16 Is it clear how a “significant number” of additional visitors to an area is defined?

2.16 No comment.

Policy ENV1

Matter 4, Issue 4.17 Is it clear how the specified features will be deemed to be “of value”?

2.17 The Policy’s wording could imply that all trees, woodlands, and orchards are to be retained (as well as hedgerows of value). The Policy should be worded more clearly. If the Policy seeks to protect trees of value; woodlands of value and orchards of value, then it should be clearly expressed.

Policy ENV2

Matter 4, Issue 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?

2.18 It is not clear how development proposals will be assessed against the Policy’s requirements. Paragraph 4.37 suggests that it will apply to most development proposals. The concern is that as judgement of tranquillity is subjective it could lead to confusion and uncertainty and the Policy is used to further stifle what would otherwise be acceptable development

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

2.19 The Policy states that development proposals will be “considered in relation to” the various criteria; however it is unclear how an application will be assessed against those criteria, given that the criteria are also covered by other policies later in the plan (ENV7, 9, 11 and CO2). This policy does not add any additional guidance to those other policies it generally repeats them and is superfluous.. This policy fails to serve a clear purpose and is a duplication of other policies. It should be deleted

Matter 4, Issue 4.20 Is the policy effective in setting out how the stated criteria will be taken into account?

2.20 See above.

Policy ENV3

Matter 4, Issue 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?

- 2.21 The Policy has three criteria – one refers to tranquillity; which is already covered by the preceding policy and therefore does not need to be repeated in this this policy. The remaining criteria are simply repeating existing policies that restrict development in open countryside or outside of villages in Remote Areas (which are not very clear on the map) unless it can be demonstrated it is essential for identified purposes.
- 2.22 The policy does not add anything new in terms of criteria against which a Case Officer would assess a development proposal and is therefore not needed. This policy fails to serve a clear purpose and is a duplication of other policies. It should be deleted.

Matter 4, Issue 4.22 If the policy’s subject matter is felt to be justified, would the plan be more focussed and effective if “remoteness” was encapsulated by another policy?

- 2.23 See above.

Matter 4, Issue 4.23 If the policy is considered to be justified, does it require an “and” after criterion 2 to be effective?

- 2.24 No comment.

Policy ENV4

Matter 4, Issue 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”?

- 2.25 It is unreasonable to seek to exclude most external lighting in settlements, other than lighting that meets a restrictive set of criteria, particularly as some types of lighting can be installed under permitted development rights. It is not clear if the Authority will seek to remove such rights in the future. The Policy should take a more positive approach and acknowledge that whilst lighting in settlements should be kept to a minimum, good design including down lighting/low level lighting/time and motion control lighting etc. and other lighting methods are preferred, which still recognises that there may be a need for a suitable level of lighting. Furthermore, it is not clear what ‘community reasons’ may be in criterion 3.

Matter 4, Issue 4.25 Is criterion 4 effective in seeking only to encourage?

- 2.26 The requirement in the Policy’s final paragraph to bring all existing lighting up to a certain standard is considered unreasonable. Development proposals should not be expected to remedy any existing deficiencies, as development proposals should only mitigate their own impacts and not make up for existing deficiencies. The requirements should only apply if development proposals include new lighting; and only be applied to new lighting.
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Policy ENV5

Matter 4, Issue 4.26 Does the list of criteria require an “and” after criterion 2 to be effective?

2.27 No comment.

Matter 4, Issue 4.27 Would the policy be more effective if it was clear to what “a certain scale” referred?

2.28 The Policy’s supporting text (paragraph 4.4) includes guidance of the scale of development where SUDs will be necessary. This trigger could be included in the policy for certainty.

Policy ENV6

Matter 4, Issue 4.28 Does the list of criteria require an “and” after criterion 3 to be effective?

2.29 No comment.

Matter 4, Issue 4.29 Is it clear what is meant in criterion 1 by “permanent use” and why this is requirement justified?

2.30 Whilst the Policy takes a relatively pragmatic approach to the relocation of buildings at risk from coastal erosion, it should recognise that there may be buildings that are in seasonal use or holiday use that could fall under this policy and that they should also be suitably relocated. The criterion referring to permanent use is too restrictive and the word “permanent” should be removed or clarified to catch buildings which are permanent in the sense of being of a substantial construction but used on a seasonal or other fluctuating basis.

Matter 4, Issue 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?

2.31 The requirement for relocated buildings to make a “positive contribution to the character and form of the settlement” is too high a bar to set and therefore unreasonable. Instead the words “should not detract from the ...” should be used in replacement for “positive contribution”.

Policy ENV7

Matter 4, Issue Issue 4.31 Is it clear what criterion 4 means by “significant areas”?

2.32 The Policy would benefit from greater clarity on what a ‘significant area’ is.

Matter 4, Issue 4.32 Does the list of criteria require an “and” after criterion 6 to be effective?

2.33 Criterion 3 is overly restrictive, most, if not all development will have an impact on the quality of the soil a proposal is located upon (i.e. compaction/removal/capping). Further clarity of the criterion’s application is needed.

Matter 4, Issue 4.33 Does the policy need to “require” remediation, where necessary, in order to be effective?

2.34 This modification would reflect accepted practice.

Policy ENV8

Matter 4, Issue 4.34 Is the policy clear what it means by “where appropriate”?

2.35 The wording ‘where appropriate’ could be removed from the Policy. There are other policies that can control the location of suitable proposals.

Matter 4, Issue 4.35 Is the plan effective enough in defining what is meant by “small scale” schemes?

2.36 To make the Policy effective, its supporting text should provide guidance on the issue of community backing and provide advice on how it will be considered and determined. Obtaining community backing for a renewable energy proposal can be difficult to quantify and qualify, it often changes during the preparation and consideration of proposals. As written criterion 7 could mean that a proposal could satisfy all relevant planning matters/considerations but is still objected to a large portion of a community purely on non-planning matters/considerations such as impact on house prices and other emotive issues and could therefore lead to a refusal on this criterion alone.

3 Conclusions

3.1 The Plan’s Environmental approach needs further work and clarification on the application of the various policies. Certain policies need more flexibility and a more supportive approach to development. The Plan needs to be careful that it doesn’t become used as a compendium of planning reasons for refusal.
