



North York Moors National Park Local Plan

HEARING STATEMENT

Matter 5 The Historic Environment – Strategic Policy I /policies ENV9-ENV15

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The Mulgrave Estate

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Table of Contents

- 1 INTRODUCTION.....1
- 2 RESPONSE TO INSPECTOR’S ISSUES.....2
 - Strategic Policy I.....2
 - Policy ENV92
 - Policy ENV113
 - Policy ENV123
 - Policy ENV133
 - Policy ENV144
 - Policy ENV154
- 3 CONCLUSIONS.....5

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.

2 Response to Inspector's Issues

Strategic Policy I

Matter 5, Issue 5.1 Is the policy consistent with national planning policy and guidance in relation to heritage assets?

To be consistent with National Planning Policy, the Policy needs to acknowledge that harm to heritage assets can be permitted where: a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use.

Policy ENV9

Matter 5, Issue 5.2 Is the policy effective in merely seeking to preserve features in situ?

- 2.1 The application of the Policy's final paragraph related to preserving features in situ is unclear. It appears to be applicable to all types of development proposals affecting all types historic landscape assets, which could require the preservation of all features in situ and could stifle otherwise appropriate development.
- 2.2 There is no explanation of the level of harm that may be permissible and the significance of the contribution a feature may have on the historic landscape for it to be considered suitable for recording rather than preserving in situ. The Policy/supporting text should explain the circumstances where in situ preservation may not be justified.

2.3 Policy ENV10

Matter 5, Issue 5.3 Is the policy consistent with national planning policy and guidance in relation to heritage assets?

- 2.4 The Policy does not properly reflect the NPPF particularly paragraph 195, which allows LPAs to approve development that would result in 'less than substantial' harm; and 'substantial harm' (or total loss of significance) of designated heritage assets if it can be demonstrated that the harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss; or where all of the following apply: a) the nature of the heritage asset prevents all reasonable uses of the site; and b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and d) the harm or loss is outweighed by the benefit of bringing the site back into use.
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- 2.5 The Policy's reference to the Authority's preference for 'in situ' preservation should be moved to the Policy's supporting text. Also, the supporting text should explain how the Authority's preference will be applied in practice. For instance, the level of impact/harm that may be permissible and how the significance of an asset will be considered and judged. The Policy's supporting text should explain the circumstances where in situ preservation may not be justified.

Policy ENV11

Matter 5, Issue 5.4 Is it clear what the policy will achieve in promoting high standards of design? Is this wording effective?

- 2.6 The Policy as currently written does not differentiate sufficiently between designated and non-designated heritage assets and specifically the sliding scale in weight given to the various categories of asset in terms of their conservation. The Policy as written, places all assets in the same category where no doubt the greater weight to conserve will be sought. The Policy should be modified to reflect para 197 of the NPPF and the fact that in weighing applications that directly or indirectly affect non-designated heritage assets, that a balanced judgement is required.
- 2.7 The Policy should also acknowledge that planning permission may be granted when less than substantial and substantial harm is caused to designated heritage assets where it can be demonstrated that it is outweighed by public benefit. The requirement in criteria 2 should be changed from 'Preserve' to 'Conserve' to be consistent with the rest of the policy and the NPPF. The Policy's reference to the Authority's preference for in situ preservation should also be moved to the Policy's written justification.

Matter 5, Issue 5.5 Is criterion 2 sufficiently clear in what it requires, and are criteria 2 and 3 effective in repeating general design requirements that are set out elsewhere including, in essence, the policy's first paragraph?

- 2.8 The Plan includes other policies that seek to achieve the same result as this policy, and repeats Policy requirements elsewhere.

Policy ENV12

Matter 5, Issue 5.6 Is the policy consistent with national planning policy and guidance in relation to heritage assets?

- 2.9 The 'enabling development' approach should apply to all kinds of designated heritage assets not just those on the local or national At Risk Register.

Policy ENV13

Matter 5, Issue 5.7 Does the list of criteria require an "and" after criterion 1 to be effective?

- 2.10 No Comment
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Policy ENV14

Matter 5, Issue 5.8 Can this policy be effective if “undeveloped spaces” are not identified anywhere?

- 2.11 The Policy’s application is likely to be problematic, particularly given its potential impact on proposals for windfall/infill development/rural exception sites, which the Plan currently heavily relies upon to meet its housing needs. The Policy could stifle windfall/infill/rural exception development opportunities and it could be applied to almost every windfall/infill/rural exception opportunity and used as a reason to refuse development, as the spaces are not identified. For instance, if a development proposal resulted in an impact on the visual value of a space it could be refused. However, arguably, all development will have a visual impact on an undeveloped space. Turning a space from undeveloped to developed inevitably has a visual impact, it cannot be avoided in most instances. The Policy does not explain why a space may be considered to have visual value, or how it will be judged. The fact that a space is undeveloped does not necessarily mean it has visual value and the Plan should explain this.
- 2.12 If the Authority wants to protect undeveloped spaces from development, it needs to do it in a more selective manner that accords with the Policy in the NPPF (paragraphs 99-101) and identify specific spaces based on the NPPF’s criteria for Local Green Space i.e. a) is in reasonably close proximity to the community it serves; b) is demonstrably special holds a particular local significance; and c) is local in character and is not an extensive tract of land. Not, as the Plan’s current approach would do and include a policy that could be used to protect almost every undeveloped space within or adjacent to a village from development. The Policy adds uncertainty and undermines the Plan’s current housing strategy by potentially restricting windfall/infill/rural exception development opportunities, which is a substantial part of the Plan’s current strategy for meeting housing needs. The majority of the considerations are covered by other policies in the Plan or National Planning Policy in any case. The Policy should be deleted.

Matter 5, Issue 5.9 Is this policy justified given that its criteria are addressed by other policies?

- 2.13 See above.

Matter 5, Issue 5.10 If the policy is justified, does it require an “and” after the fourth bullet point to be effective?

- 2.14 No comment.

Policy ENV15

Matter 5, Issue 5.11 Is it sufficiently clear from the policy whether planning briefs have a) been agreed or b) need to be agreed?

- 2.15 No comment.
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Matter 5, Issue 5.12

If a), is it clear what status the planning briefs have? Is the need for the

policy justified?

2.16 No comment.

Matter 5, Issue 5.13

If b), is the policy effective in setting out what is expected of any planning brief and with whom it should be agreed?

2.17 No comment.

3 Conclusions

3.1 The Plan's Historic Environment 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.
