

# ITEM 9

## EXMOOR NATIONAL PARK AUTHORITY

4 July 2017

### EXMOOR NATIONAL PARK LOCAL PLAN 2011-2031 Adoption of Local Plan

#### Report of the Head of Planning and Sustainable Development

Purpose of the report: To present to Members the Inspectors Report on the Examination of the Exmoor National Park Local Plan 2011-2031, and to propose adoption of the Publication draft of the Local Plan (as submitted) with the recommended main modifications set out in the Appendix of the Inspector's report.<sup>1</sup>

RECOMMENDATIONS: The Authority is recommended to:

- (1) NOTE the Inspector's Report at Appendix 1;
- (2) APPROVE the Publication draft of the Local Plan (as submitted) with the recommended main modifications set out in the Appendix of the Inspector's report (attached) for Adoption and [Additional Modifications \(without maps\) at Appendix 2 \(available on the website\)](#); [Additional Modifications Schedule 5 Maps](#); and
- (3) DELEGATE to the Chief Executive / Head of Planning and Sustainable Development authority to:
  - (a) Make available an Adoption Statement;
  - (b) make available a final [post adoption] Sustainability Appraisal Report; and
  - (c) Make any factual or typographical corrections to the Adopted Plan (Additional Modifications).

**Authority Priority:** *Achieve* by providing core services; getting best value from our resources, and improving our performance.

The Local Plan shares the vision and objectives of the Exmoor National Park Partnership Plan and will assist with the delivery of many Partnership Plan targets.

**Legal and Equality Implications:** The National Park Authority has a statutory duty, as Planning Authority, to produce a Local Plan for the planning authority area. The Local Plan and any neighbourhood plans form the development plan for the area of Exmoor National Park. The development plan guides and is the first consideration in determining planning applications for land use and development. Legally, planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

Section 19 of the Planning and Compulsory Purchase Act 2004 (as amended) (PCPA) requires that local plans must have regard to national policy. To be found sound, the main modifications set out in the Appendix of the Inspector's Report (Appendix 1 of this report), must be incorporated into the Local Plan.

With the recommended Main Modifications, the Exmoor National Park Local Plan 2011-2031 satisfies the requirements of Section 20 (5) of the PCPA. Local Plans must also be in accordance with the Town and Country Planning Regulations 2012.

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<sup>1</sup> Together with the additional modifications

**The equality impact of the recommendation(s) of this report has been assessed as follows:** The Local Plan has been subject to an equalities impact assessment as part of the sustainability appraisal. There are no equality impact considerations.

**Consideration has been given to the provisions of the Human Rights Act 1998 and an assessment of the implications of the recommendation(s) of this report is as follows:** Planning policies can have a considerable impact on an individual's ability to use their land and property. In particular, in relation to Article 1 (Protection of Property) of Part II of the First Protocol, the policies of the Local Plan are considered to be proportionate and control the use of land and property in accordance with the general public interest. In terms of the Local Plan housing policies, the Inspector considers that the degree of interference is proportionate and justified in the public interest and in order to protect the rights and freedoms of others. Consequently, he has found that adoption of the Plan as modified would not lead to a breach of any Convention right.

**Financial and Risk Implications:** The financial and risk implications of the recommendation(s) of this report have been assessed as follows: The production of the Local Plan through to adoption has been a considerable project with related expenditure. Care has been taken to ensure that all procedures have been followed. The Inspector has found the plan (with recommended Main Modifications) to be sound and legally compliant.

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## **1. INTRODUCTION**

- 1.1. Exmoor National Park Authority, as the Planning Authority for the area, has a statutory duty to prepare, monitor and review a Local Plan for Exmoor National Park. The Local Plan will, with Neighbourhood Plans, form the statutory development plan for Exmoor National Park 2011-2031. It contains both strategic planning policies and development management policies including for minerals and waste, and takes forward the long term vision and objectives set out in the Exmoor National Park Partnership Plan (the Management Plan). Members have been closely involved in the preparation of the Plan, giving detailed consideration to the Plan from the earliest stage, and making recommendations to the Authority.
- 1.2. The Plan policies are intended to ensure that Exmoor has a sustainable future- socially, economically and environmentally. Exmoor is a National Park and conserving and enhancing the high quality environment is an overriding statutory purpose. The Plan has been developed on the basis of extensive consultation and a detailed evidence base, and has been subject to examination by an independent Inspector.
- 1.3. Examination hearings were held in the summer of 2016. The Authority then met in January 2017 and approved the Schedules of Main Modifications and the Proposed Changes to Section 6 of the Publication Draft Local Plan for consultation. These were considered necessary to make the Plan sound and legally compliant and were the subject of a six week consultation from 13th January to 24th February.
- 1.4. Comments from the consultation were collated and sent to the Inspector for consideration. The final Inspector's report was received from the Planning Inspectorate on 15<sup>th</sup> June and is appended to this report for Members'

information. The Inspector's Report provides an assessment, of whether, firstly, the Plan's preparation has complied with the duty to co-operate and secondly, whether the Plan is sound and compliant with legal requirements.<sup>2</sup> At paragraph 182, the National Planning Policy Framework (NPPF) makes it clear that in order to be sound a Local Plan should be positively prepared, justified and consistent with national policy.

- 1.5. Adoption of the Local Plan with the main modifications recommended by the Inspector is now sought.<sup>3</sup> Adoption is the final stage of Local Plan preparation. Legally, this requires confirmation by a full meeting of the local planning authority.<sup>4</sup>
- 1.6. Once adopted, the Plan will supersede the Exmoor National Park Local Plan 2001-2011 adopted in 2005, and be the Development Plan for decision-making purposes.

## **2. INSPECTOR'S REPORT**

- 2.1. The report contains the Inspector's assessment of the Exmoor National Park Local Plan 2011-2031.<sup>5</sup> It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and compliant with the legal requirements.
- 2.2. Legally, the Inspector must consider whether the Authority complied with any duty to co-operate<sup>6</sup> in respect of the Plan's preparation.<sup>7</sup> The Inspector states in paragraph 8 of his report that *'the Authority's Duty to Co-operate Statement provides a comprehensive account of the steps the Authority have taken to comply with the duty. It shows that the Authority have worked closely with neighbouring authorities, prescribed bodies and other organisations on a wide range of cross boundary and strategic issues'*. Paragraph 9 continues *'there is evidence of substantial and meaningful discussions that have produced tangible outcomes...'* The Inspector concludes in paragraph 10 of his report, that overall he is *'satisfied that where necessary the Authority engaged constructively, actively and on an on-going basis in the preparation of the Plan and therefore the duty to co-operate has been met'*.
- 2.3. The Authority requested that the Inspector recommend any main modifications necessary to make the submitted Plan sound and legally compliant.<sup>8</sup> Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, the Inspector identified eight main issues upon which the soundness of the Plan depends. These are set out as headings in the Inspector's report under which are noted the matters of soundness and main modifications necessary to make the Plan sound and legally compliant.
- 2.4. The issues are set out in Table 1 below together with the conclusion on each issue. Overall the Inspector has confirmed the Plan strategy, notably in relation to the overarching legal requirement to meet National Park statutory purposes (to conserve and enhance the landscape, wildlife and cultural heritage and for the understanding and enjoyment of Exmoor), the spatial strategy, employment

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<sup>2</sup> Section 20 (5) Planning and Compulsory Purchase Act 2004 (as amended).

<sup>3</sup> Regulations 17 and 26 Town and Country Planning (Local Planning) (England) Regulations 2012

<sup>4</sup> Regulation 4 (1) and (3) Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

<sup>5</sup> Section 20 (5) Planning and Compulsory Purchase Act 2004 (as amended)

<sup>6</sup> Section 33A Planning and Compulsory Purchase Act 2004 (as amended).

<sup>7</sup> Section 20 (5) (c) Planning and Compulsory Purchase Act 2004

<sup>8</sup> Section 20(7C) 2004 Planning and Compulsory Purchase Act,

and housing. The flexible approach to employment - focusing most development in settlements and the use of criteria based policies without allocations for employment land is supported. For housing in Exmoor National Park a rural exceptions approach will be used (without a housing target or allocations) to address housing needed by the local community, the priority being local need affordable housing. He has also agreed the approach to Principal Residence housing.

<b>Table 1 Inspector's Report Issues and Conclusions</b>	
<b>Issue</b>	<b>Inspector's Conclusion</b>
<b>Issue 1 – Is the overall approach of the Plan, as set out in its Vision, Objectives, Strategic Priorities and General Policies, appropriate to the specific circumstances of the Exmoor National Park?</b>	Subject to the recommended modifications, the overall approach of the Plan, as set out in its Vision, Objectives, Strategic Priorities and General Policies, is appropriate to the specific circumstances of the Exmoor National Park, and the General Policies are sound.
<b>Issue 2 – Will the Local Plan support appropriate economic growth in the National Park?</b>	With the recommended modifications to ensure that its relevant policies are sound, the Plan will support appropriate economic growth in the National Park.
<b>Issue 3 – Will the Plan meet the full range of housing needs in the National Park?</b>	Subject to the various modifications identified as necessary, the Plan will meet the full range of housing needs in the National Park.
<b>Issue 4 – Are the Plan's policies to conserve and enhance the National Park, to respond to climate change and to manage resources justified, effective and consistent with national policy?</b>	Subject to the recommended modifications, the Plan's policies to conserve and enhance the National Park, to respond to climate change and to manage resources are justified, effective and consistent with national policy.
<b>Issue 5 – Does the Plan set out sound policies on achieving enjoyment for all?</b>	Subject to the necessary modifications identified, the Plan sets out sound policies on achieving enjoyment for all.
<b>Issue 6 – Does the Plan set out sound policies on achieving access for all?</b>	Subject to the modifications, the Plan sets out sound policies on achieving access for all.
<b>Issue 7 – Does policy ES-S2 set out a sound approach to the relationship between the Plan and the Lynton and Lynmouth Neighbourhood Plan?</b>	The policy conflicts with the fundamental legal principle that a policy in a development plan cannot disapply a statutory provision. Nor can it prescribe the circumstances in which a decision-maker must give greater weight to one given set of development plan policies than to another. Policy ES-S2 is therefore unsound and must be removed from the Local Plan.
<b>Issue 8 – Does the Plan make appropriate and effective provision for implementing and monitoring its policies and proposals?</b>	Taking into account the requirements of a modification to include a new policy together with the comprehensive monitoring framework set out in Chapter 11 of the Plan, the Plan will make appropriate and effective provision for implementing and monitoring its policies and proposals.

- 2.5. Paragraph 4 of the Report explains that careful account has been taken of the responses received on the consultation to the main modifications schedule and the proposed changes to section 6. Consequently, a number of amendments have been made to the detailed wording of some main modifications along with the addition of closely related main modifications where necessary, to deal with

soundness points raised by respondents. The modifications are set out in Appendix 1 of this report.

- 2.6** The Inspector concludes by stating that with the recommended main modifications set out in the Appendix of the Inspector's report (see Appendix 1 of this report) that the Exmoor National Park Local Plan 2011-2031 satisfies the necessary legal requirements<sup>9</sup> and meets the criteria for soundness in the NPPF.

### **3. PROCEDURES FOLLOWING ADOPTION**

- 3.1** As soon as reasonably practicable after the plan is adopted, the Authority must produce an Adoption Statement.<sup>10</sup> It should set out the date on which the Plan was adopted; any modifications to the plan; and the procedures for any person who may be aggrieved by the Local Plan to make an application to the High Court and the grounds on which and the period within which an application may be made.<sup>11</sup> Any such application must be made no later than six weeks after adoption. The adoption of a Local Plan can only be overturned by a successful challenge in the High Court on a point of law.
- 3.2** A final post adoption Sustainability Appraisal (SA) Report must also be produced<sup>12</sup> to explain how each of the SEA requirements have been met during the integrated SA/SEA process for the Local Plan<sup>13</sup> and to be made available with the Adoption Statement.

### **4 CONCLUSION**

- 4.1** The Local Plan has now reached the final stage of adoption. Members are recommended to note the Inspector's report (Appendix 1 of this report) and agree for adoption the Publication draft Local Plan (as submitted) amended by the recommended main modifications in the Appendix of the Inspector's report and Additional Modifications.

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**June 2017**

### **Appendices**

**Appendix 1:** The Planning Inspectorate: Report to Exmoor National Park Authority, Report on the Examination of the Exmoor National Park Local Plan 2011-2031 and Appendix of Main Modifications June 2017 (attached)

**Appendix 2:** [Additional Modifications \(without maps\) \(available on the website\)](#)

[Schedule of Additional Modifications Schedule 5 Maps](#)

**Background papers on which this report, or an important part of it are based, constitute the list of background papers required by Section 100 D (1) of the Local Government Act 1972 to be open to members of the public comprise:**

Exmoor National Park Local Plan 2011-31 Publication Draft for Submission

[http://www.exmoor-nationalpark.gov.uk/\\_data/assets/pdf\\_file/0003/578136/1.-Exmoor-National-Park-Local-Plan-Publication-Draft-small.pdf](http://www.exmoor-nationalpark.gov.uk/_data/assets/pdf_file/0003/578136/1.-Exmoor-National-Park-Local-Plan-Publication-Draft-small.pdf)

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<sup>9</sup> Section 20 (5) 2004 Planning and Compulsory Purchase Act

<sup>10</sup>Regulation 26 Town and Country Planning Regulations 2012,

<sup>11</sup> Regulation 17 Town and Country Planning Regulations 2012

<sup>12</sup> Regulations 16 (3) and (4) Environmental Assessment of Plans and Programmes Regulations 2004

<sup>13</sup> SEA Regulation 16(4)(a)-(f)

