

South Hams District Council

South Hams
Local Development Framework

Papers for the Public Examination into
the South Hams Development
Policies Development Plan Document
(DPD)

(12 February 2010)

Introduction

This document is provided for the hearing stage of the Independent Examination of the South Hams Development Policies Development Plan Document (DPD).

It addresses matters raised for the Inspector by the Council in its Regulation 28 Statement (Section 1) and matters that the Inspector has indicated that he will be raising at the Hearing (Section 2). The various papers contained in this document explain the Council's position in response to these questions. The Proposed Schedule of Changes (v3) identify all of the Proposed Changes to policies or the supporting text arising from these questions and from other stakeholder representations, together with a few further minor changes made for clarification or correction.

Section 1

The main Issues identified by the Council in its Regulation 28 statement are:

- Paper 1 - How consistent is the Development Policy DPD with other DPD's (including the emerging RSS) and SPD, and are the linkages and cross-references clear?
- Paper 2 - Is there enough evidence on the local context to justify the policy provisions-employment protection, parking, housing mix, high quality design, sustainable construction, open space, landscape character etc?
- Paper 3 - How reasonable are the S106 provisions?
- Paper 4 - How reasonable is the amount of evidence required to support an application

Paper 1

How consistent is the Development Policy DPD with other DPD's (including the emerging RSS) and SPD, and are the linkages and cross-references clear?

- 1.1 The DPD is consistent with the emerging South West Regional Spatial Strategy and other Development Plan Documents and Supplementary Planning Documents.
- 1.2 Section 2 of the DPD provides the context for the Development Policies DPD outlining the links with the Core Strategy and national, regional and local policies. The relationship with regional policy has been further clarified by the proposed change 13.
- 1.3 Within the supporting text for each individual policy, the DPD provides clear linkages and cross-referencing to other relevant policies. The supporting text provides a list of 'related planning policies'.

Paper 2

Is there enough evidence on the local context to justify the policy provisions-employment protection, parking, housing mix, high quality design, sustainable construction, open space, landscape character etc?

- 2.1 Policies DP1 High Quality Design and DP2 Landscape Character are justified due to the special rural character of the South Hams. There is a wealth of local evidence including the South Hams Landscape Character Assessment and Guidelines, AONB management plans, Landscape Features and Key Characteristics, Parish Plans, Village Design Statements, Conservation Area Appraisals and consultation responses, as outlined in the supporting text for both policies.
- 2.2 The DPD outlines where local evidence is not available, and where the Council seeks to produce local evidence in the future. In these circumstances policies rely on regional and/or national policy standards. For example, there is lack of local evidence relating to parking standards and sustainable construction, and therefore the policies do not include detailed local provisions. Parking issues, in policy DP7, refers to national standards until local standards have been developed. Policy DP4 Sustainable Construction provides general development principles, rather than local standards which would require local evidence. Policy DP4 did have local standards within the policy criteria. However, due to representations claiming that there is no South Hams evidence to support these local standards, the policy clauses 6, 7 and 8 were deleted from the policy (Proposed changes 62).
- 2.3 Other policies, such as Policy DP11 Housing Mix and Tenure and Policy DP8 Public Open Space, Sport and Recreation, do have local evidence on the local context to justify the policy provisions. This is outlined in the supporting text for each policy.
- 2.4 Policy DP11 Housing Mix and Tenure has been directly informed by the Housing Market Needs Assessment (2006), sub regional update 2008, consultation responses and detailed monitoring of house types, as clearly outlined in the supporting text.
- 2.5 The evidence for Policy DP8 Public Open Space, Sport and Recreation is dealt with in Paper 7 in response to a specific query raised by the Inspector.
- 2.6 Policy DP14 Protection of Employment Land has been carefully drafted and is not a conventional policy to protect all employment land. It is a policy to manage employment land to ensure that the right type and quantity of employment is directed to the right location. This policy complements the Core Strategy policy CS3 Employment Land Provision, which provides for 62 ha of new employment development across the district up to 2016. Local and regional employment strategies to the South Hams include the Employment Land Review (2006), the Rural Devon Employment Land Review (2006) and regional work undertaken by the Regional Development Agency, as outlined in the supporting text.

Paper 3

How reasonable are the S106 provisions?

- 3.1 There is no policy in the DPD relating to S106 provisions. Core Strategy policy CS8 Infrastructure Provision supporting text (para 6.18) lists the type of infrastructure that may be required from development.
- 3.2 The only policy that provides for S106 matters in the Development Policies DPD is DP8 Public Open Space, Sport and Recreation, which includes requirements for a financial contribution. The requirements are set out in Section 7 of the Open Space, Sport and Recreation SPD, adopted in June 2006. This is supported by, and consistent with, policy CS8 Infrastructure Provision in the adopted Core Strategy.

Paper 4

How reasonable is the amount of evidence required to support an application.

- 4.1 It is important that evidence is provided to support planning applications and these requirements are largely set out in national validation checklists.
- 4.2 The DPD assists applicants by identifying the types of evidence that may be required to support an application. This has been clarified by the proposed changes for every policy in the supporting text (for example, proposed change PC33).
- 4.3 Proposed change PC25 inserts additional text (para 3.8) into Section 3, to clarify the Council's position on the amount of evidence required from applicants. This text clarifies that 'the level of information that is required, within a Design and Access Statement or any other evidence required from the applicant, will be proportionate to the type of application and level of development within the proposal.'

Section 2

Other issues (not exhaustive) that the Inspector will raise

The matters identified by the Inspector as matters he will raise, and where they are dealt with in these papers, are as follows:

- Paper 5 - Policy DP2 - basis of the “Undeveloped Coast” notation-it runs deep inland (Appendix 10). Policy CO1 of RSS seeks distinction between developed and undeveloped coast
- Paper 6 - Policy DP6 - whether the Council proposes to produce a local list of buildings of architectural or historic interest that lie outside Conservation Areas that would be protected
- Paper 7 - Policy DP8- i) whether the policy applies only to Public Open Space-see heading to the policy; ii) whether private playing fields should be shown on the proposals map; iii) evidence of open space need on which open space policy is based (Open Space, Sport & Recreation DPD-Annex 3 and Section 3)
- Paper 8 - Policy DP13 - whether the protection of temporary touring sites should be included in the policy
- Paper 9 - Policy DP17 - whether the term “original dwelling” needs to be defined and whether the term “significant” needs definition
- Paper 10 - Appendix 7 - Monitoring Framework - whether “targets to be developed” have been progressed

The Inspector also suggests a need to look at the policies of the DPD against the new PPS4 Planning for Sustainable Economic Growth in its entirety, but in particular those sections dealing with Economic Development in Rural Areas and Tourism, namely: Policies EC6, EC7, EC10 and EC12. This is covered in Paper 11.

The Inspector has drawn the Council’s attention to the Marine and Coastal Access Act 2009 that has recently been passed and expects the Council to be considering the implications of the Act and, if changes are needed to the DPD. This is covered in Paper 12.

Paper 5

Policy DP2-basis of the “Undeveloped Coast” notation-it runs deep inland (Appendix 10). Policy CO1 of RSS seeks distinction between developed and undeveloped coast.

- 5.1 The ‘Undeveloped Coast’ boundary is based on the previous designation of Coastal Preservation Area. In the absence of updated local evidence the Coastal Preservation Area is considered to be a robust basis for the undeveloped coast given the level of similarity.
- 5.2 The Local Planning Authorities in Devon acknowledge the need for a cross border approach to landscape designation, landscape character and coastal policy designation. In order to address inter authority approaches the Devon Landscape Policy Group has been established under the auspices of Devon County Council and Natural England.
- 5.3 In relation to the boundary of the ‘Undeveloped Coast’ consideration was given to the criteria and commentary in the emerging RSS and it was considered by the Devon Landscape Policy Group that there was such similarity with the previous ‘Coastal Preservation Area’ that it was expedient and appropriate to default to this boundary. The LPAs did reflect that there did, however, appear to be some anomalies on boundary (including the extensive inland boundary on the Dart - and also similar anomalies on the Exe). It was agreed that the Devon Landscape Policy Group would look to introduce a Devon wide appraisal process for reviewing and considering subsequent amendments to the boundary. The precise mechanism and criteria are awaited but the Devon Landscape Policy Group Terms of Reference recognise the need for this work and are at <http://www.devon.gov.uk/devonlcaofficeradvisorygroup.pdf>
- 5.4 This includes the following statement:

3.2.3 The Devon Landscape Policy Group will act as a forum for progressing and validating future work relating to landscape character. In particular agreeing a consistent approach to sensitivity and capacity analysis for the county and guidance for an ‘Undeveloped Coastal Zone’.
- 5.5 Reference should also be made to the DCC LDF Briefing Paper on Coastal Zone Policy issued in October 2006 and available at the DCC website. This gives guidance on designation, or validation, of the boundary for the undeveloped coast and will be wrapped into the work of the Devon Landscape Policy Group.
- 5.6 The Council notes that the National Trust has e-mailed the Inspector on the subject of the ‘Undeveloped Coast’. This notes that the National Trust did not make a representation on this matter as it supports the identification of the ‘undeveloped coast’ in Appendix 10 of the DPD. The National Trust also notes that it seems reasonable to base the extent of the undeveloped coast on the current Coastal Preservation Areas (DPD para 3.33). Devon County Council guidance is that the coastal zone should extend inland to the visual watershed from the coast, which the Trust says that it supports.
- 5.7 DP2 Landscape Character currently does not provide policy wording and

supporting text relating to the developed coast. The developed coast is not subject to a unique policy, but is considered to be all settlements that sit within the 'Undeveloped Coast' boundary. Within these settlements the 'undeveloped coast policy would not be applied.

- 5.8 If the outcome of future work provides for additional policy to apply to the developed coast, this will need to be included within a review of the DPD.

Paper 6

Policy DP6-whether the Council proposes to produce a local list of buildings of architectural or historic interest that lie outside Conservation Areas that would be protected.

- 6.1 The Council does not propose to produce a local list of buildings of architectural or historic interest that lie outside Conservation Areas that would be protected.
- 6.2 Decisions made on planning applications will need to take into account the historic and architectural context of the building and this judgement will be made by the Council. It will require an element of 'common sense' as is required for design and landscape type policies. This is a proper issue for planning to take account of, but it is deemed unnecessary to have a local list. This type of decision can be made on a case by case basis.

Paper 7

Policy DP8- i) whether the policy applies only to Public Open Space-see heading to the policy; ii) whether private playing fields should be shown on the proposals map; iii) evidence of open space need on which open space policy is based (Open Space, Sport & Recreation DPD-Annex 3 and Section 3).

On question i

- 7.1 The Council intends that the loss of any type of open space should be avoided if at all possible and so this policy which is designed to assist in meeting this objective is intended to apply to all open space. The wording of Policy DP8 is therefore proposed to change and is outlined in the schedule of changes. This would be consistent with PPG 17.

On question ii

- 7.2 Areas of Open Space, Sport or Recreation are not shown on the Proposals Map. They are shown on the Public Space mapping that accompanies the Public Space Strategy and which forms part of the evidence base (see below). That public space map does show both public and private open space in accordance with PPG17 Companion Guide para 5.1.

On question iii

- 7.3 Policy DP8 Public Open Space, Sport and Recreation has been informed by 'Special Places and Active Spaces: South Hams Public Space Strategy 2008 – 2012'. See http://www.southhams.gov.uk/publicspacestrategy2008_2012.pdf. The Public Space Strategy went through full public consultation before being adopted. The accompanying mapping of Public Space is at <http://mapping.southhams.gov.uk/publicspacemaps/map.aspx>.
- 7.4 Open space needs and deficiencies were set out in the 2006 Open Space, Sport and Recreation DPD at Annex 3 and Section 3. The SPD was based on the evidence available to the Council at that time – including the existing Playing Pitch Strategy, Play Grounds Strategy and Leisure and Recreation Strategy. Nevertheless the SPD was future proofed to take account of local changes and at para 1.5 acknowledges that each and every development will need to be assessed on its own merits and the need for Open Space, Sport and Recreation generated by that specific development at the time at which it comes forward.
- 7.5 The 2008 Public Space Strategy updated the evidence base and standards.
- 7.6 The Public Space Strategy, although not formally adopted through the LDF process, has been drawn up in accordance with PPG17 guidance and draws on spatial assessment of Open Space Sport and Recreation Facilities in accordance with PPG17. The typology used follows PPG 17 guidance and the identification of Quantity, Quality and Accessibility criteria also accord with PPG17. The level of provision for the various typology was based on original research but informed by the 2003 Playing Pitch Strategy and the 2000 Playground Strategy.

- 7.7 The Playing Pitch assessment was updated through direct liaison with the clubs and users, and the play information through site assessment and quality review of the play areas. The Playing Pitch Strategy is currently being updated in the South Hams by Devon County Council in liaison with SHDC. The emerging DCC Playing Pitch Strategy for South Hams (due March 2010) will take the evidence forward again. Future refreshed versions of the Public Space Strategy and SPD on Open Space, Sport and Recreation will be informed by this work. The Strategy will also be informed by works that have taken place to Parks, Play Areas and Sports Facilities across the District through the Council's Capital Programme, s106 funding and other improvement projects. There is likely to be a need to review the Open Space SPD in due course to take account of updated evidence base on need and deficiencies, updated costs and the anticipated new PPS guidance, but no timetable for his possible work has been agreed by the Council.

Paper 8

Policy DP13-whether the protection of temporary touring sites should be included in the policy.

- 8.1 Policy DP13 Holiday Caravan, Camping and Chalet Sites applies to all sites, where they are subject to planning control. Temporary sites that do not need planning permission are not subject to this policy.

Paper 9

Policy DP17-whether the term “original dwelling” needs to be defined and whether the term “significant” needs definition.

- 9.1 Significant is a commonly used term in planning and is generally understood to be applied according to the context and circumstances. The Council does not wish to define ‘significant’ in the Policy as doing so quantitatively in terms of the proportionate increase to a building for instance would effectively preclude contextual considerations as well as being difficult to apply in practice.
- 9.2 The purpose of including the word ‘original’ in the policy is to provide the means to resist a situation where successive accretions to a building led to unacceptable consequences through their cumulative impact.
- 9.3 Guidelines relating to protection and development in the countryside are provided within Tradition Farm Buildings in South Hams SPG, Landscaping and Development SPG, AONB management plans and other guidance listed under various policies in the DPD, including under DP1, DP2, DP15 and DP17.
- 9.4 The policy would be implemented with other policies in the DPD on the basis of their impact in the countryside, along with policies DP1 High Quality Design and DP2 Landscape Character.

Paper 10

Appendix 7 - Monitoring Framework-whether “targets to be developed” have been progressed.

10.1 There were five indicators in the submitted DPD which did not have targets within the submitted Development Policies DPD. A target update is detailed in the table below.

Indicator	Target update
Number of replacement dwellings with an increased number of bedrooms or floorspace	There will be no specific target. However, information will be used for monitoring purposes
Loss of employment land based on the number planning applications and no. of jobs	0% loss of employment land and no loss of jobs
Loss of existing local services and facilities	No loss of existing local services and facilities
Applications submitting a Landscape Character Assessment	100% of planning applications that are required to submit a Landscape Character Assessment
Applications submitting a Flood Risk Assessment	100% of planning applications that are required to submit a Flood Risk Assessment

Paper 11

The Inspector suggests that you will need to look at the policies of the DPD against the new PPS in its entirety, but in particular those sections dealing with Economic Development in Rural Areas and Tourism, namely: Policies EC6, EC7, EC10 and EC12.

11.1 The DPD has been reviewed in the light of PPS4: Planning for Sustainable Economic Growth and supporting text changed where necessary to reflect the new statement of national policy. The changes are outlined in the revised schedule of changes and have been made to the DPD.

11.2 A particularly interesting consequence of the publication of PPS4 is the inclusion in Annex A: List of cancelled policy and guidance, at the last bullet point, the inclusion of:

‘Paragraphs 53, 54 and Annex D of Planning Policy Note 13:Transport (unless individual local planning authorities prepare local maximum parking standards in line with policy EC8 of this PPS).’

11.3 It is hard to know what this means, in that statements of national policy cannot vary in different areas according to what the local planning authority has done. For this DPD the Council has assumed that Annex D of PPG13 is indeed cancelled and this source of this material cannot therefore be cited, but that the standards set out in PPG13 can be applied by the Council by virtue of their inclusion as part of this DPD. This is the situation proposed therefore. This is explained in the text at para. 3.76 and in the schedule of Proposed Changes as PC204.

Paper 12

Marine & Coastal Access Act 2009

The Inspector has asked me to draw your attention to the above legislation that has recently been passed. It received Royal Assent on 12 November last and may or may not require changes/additions to the Council's Development Policies DPD. In view of its length and complexity, the Inspector would not expect the Council to be able to assess its implications quickly. If you do not feel confident that its ramifications can be taken on board before the start of the hearings, all the Inspector would expect of the council is an acknowledgement in the sections dealing with Nature Conservation and the Undeveloped Coast that you will be considering the implications of the Act and, if changes are needed, they will be dealt with by means of a review of the DPD in due course. Meanwhile, the Council will be aware that national legislation, whether passed recently or not, will supersede local policy unless the latter can be substantiated and justified in its local context. The Inspector would be grateful if you could advise me of your intentions at the earliest opportunity.

- 12.1 The Inspector has drawn the Council's attention to the above legislation that has recently been passed. It received Royal Assent on 12 November 2009 and may or may not require changes/additions to the Development Policies DPD.
- 12.2 In view of its length and complexity, the Inspector has not expected the Council to be able to assess its implications quickly.
- 12.3 Therefore the Council has acknowledged, in the relevant sections, dealing with undeveloped coast and nature conservation, that the Council will be considering the implications of the Act and, if changes are needed, they will be dealt with by means of a review of the DPD or Core Strategy.