Land Off Lake View Close, Plymouth

Matter 9: Environment Representation to Joint Local Plan Policies DEV26 and DEV29

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Questions

9.2 (i) Policy SPT11 sets out the strategic approach to the natural environment. Does it reflect the hierarchical approach and level of protection afforded to designations depending on their status?

9.2 vii - In relation to Policy DEV29:

a. Does the policy clearly define how development proposals will be assessed against its provisions? How will the impact of development on ‘function(s)’ or ‘characteristics’ of green spaces be determined? How does the policy relate to paragraph 74 of the Framework?

b. Are the allocations/designations based on robust evidence and are they justified and consistent with national policy?

c. In relation to Local Green Space, paragraph 77 of the Framework states that this form of designation will not be appropriate for most green areas or open space and should only be used in certain circumstances. Do the designations meet the circumstances set out in the Framework?

Appendices

Appendix EDP 1 Site Location and Policies Plan
(edp4141/09a 05 January 2018 RMC/BR)

Appendix EDP 2 Key Policies: National Planning Policy Framework

Appendix EDP 3 Key Policies: Emerging Joint Local Plan

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Matter 9: Environment
Representation to Joint Local Plan Policies DEV26 and DEV29

1.1 This document has been produced to inform the examination hearing of the emerging Plymouth and South West Devon Joint Local Plan (the “draft JLP”) prepared by Plymouth City Council (‘the LPA’).

1.2 EDP has been commissioned by Donna Forshaw (landowner) to review two emerging policies (DEV26 and DEV29) in the draft JLP with specific regard in the context of potential residential development on land off Lake View Close, Plymouth (west of Tamerton Foliot and north of Whitleigh). The location of the land off Lake View Close is illustrated at Appendix EDP 1.

1.3 EDP is an independent environmental planning practice specialising in pre-application promotion and inputs to strategic land interests on behalf of landowner clients nationwide. This paper was produced by Chartered Landscape Architects (CMLI) with extensive knowledge of the Plymouth area and land off Lake View Close.

1.4 This representation addresses a number of the Inspectors’ questions with regard to the evidence base, National Planning Policy Framework (NPPF) and site related observations and landscape studies.

9.2 (i) Policy SPT11 sets out the strategic approach to the natural environment. Does it reflect the hierarchical approach and level of protection afforded to designations depending on their status?

1.5 The following ‘local’ landscape designations are proposed to land off Lake View Close and are referred to in SPT11:

- DEV26, Strategic Landscape Areas (Plymouth Policy Area) provide “a strong landscape context for Plymouth”. These areas amount to local designations due to a perceived need to protect land which has “an increased sensitivity to development due to proximity to a protected landscape” (in this instance the Tamar Valley AONB); and

- DEV29, Local Green Spaces (Plymouth Policy Area) purport to “provide multiple benefits to communities and wildlife”. No specific justification is given other than these being areas “which have been identified by local communities and the City Council within the Plymouth Policy Area”.

1.6 Paragraph 113 of the NPPF states that LPAs should “set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of
international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.”

1.7 DEV29 is considered in the following section (9.2 vii), this section focussing on DEV26.

1.8 DEV26 accords with the NPPF as it is not, overall, a restrictive policy and sets criteria by which development could be judged to be allowed. However, some of the policy’s criteria are less reasonable. For example, greenfield development - by its very nature - will harm the open character of undeveloped land. Criterion 2, therefore, would seem to be overly restrictive. Similarly, any greenfield development is likely to be at the settlement edge and likely to intrude into open countryside and to be located within the existing setting of the settlement. Criterion 3, simply requires the LPA to find this intrusion “unacceptable” with no definition of what an acceptable level would be. The requirement in criterion 4 to require development to ‘retain’ the settlement’s setting seems potentially restrictive.

**Review of evidence base underpinning DEV26**

1.9 The Plymouth and Plymouth Urban Fringe Landscape and Seascape Assessment shows the land off Lake View Close to be located within Character Area (CA) 21: “Tamerton Lake and Wooded Fringes”. The wooded slopes and stream valleys feeding into Tamerton Lake are defined as Landscape Character Type (LCT) 3G: ‘River Valley Slopes and Combes’ and the site sits almost entirely within this LCT. The assessment summarises the “valued landscape attributes/sensitive features” as follows:

- “The valued semi-natural habitats, particularly the estuarine habitats which are internationally designated as SAC/SPA as well as locally designated oak woodland at Budshead Wood and Warleigh Point;
- The special qualities of the Tamar Valley AONB, including its value as a wildlife resource and as a landscape of high visual quality;
- The rural and tranquil setting the landscape offers to Tamerton Foliot (including its Conservation Area) and the River Tamar (CA 23) and River Tavy (CA 22);
- The visual prominence of the landscape from the surrounding settlements of Ernesettle and Whitleigh to the south, and from Cornwall across the River Tamar; and
- The strong sense of tranquillity and rurality associated with the dynamic landscape/seascape.”

1.10 The assessment is silent on the intervisibility of the CA with the AONB, and whether the CA offers important views of the AONB or, indeed, to what extent the CA can be experienced from the AONB.
1.11 There is nothing in the Local Plan evidence base that describes what a Strategic Landscape Area (SLA) is or should be. Therefore, we are left with inferring the qualities of an SLA from the wording of Policy DEV26 and from its supporting text.

1.12 This wording suggests that the sole criteria for designation of SLAs is the landscape’s proximity to a nationally designated landscape. There are no other criteria offered, such as landscape value, quality or condition. There is no criterion for scenic quality, for example, whether the SLA conserves or enhances views out from or into an AONB. As a result, the policy provides little if any guidance to the determination of development proposals in the context of the Framework.

1.13 As such, the draft JLP fails to justify the elevated ‘value’ attributed to landscapes adjoining the AONB. For these reasons, policy DEV26 does not accord with NPPF paragraph 113, because the protection afforded by the restrictive clauses is neither justified nor commensurate with a local designation.

**Should the land off Lake View Close be included in the SLA area?**

1.14 Notwithstanding the ‘in principle’ objections raised to DEV26 above, the land off Lake View Close has been considered in the context of evidence contained within the Plymouth and Plymouth Urban Fringe Landscape and Seascape Assessment.

1.15 Apart from its proximity to the AONB, the site does meet the following criteria of the CA 21:

- It does form part of the setting to Tamerton Foliot and the River Tamar; and
- There is some sense of tranquillity and rurality associated with the dynamic landscape/seascape.

1.16 However, the site is inconsistent with the character description in the following regards:

- It lies outside the boundaries of the SAC/SPA and the locally designated oak woodlands;
- It lies outside the Tamar Valley AONB;
- The rural and tranquillity of the site is reduced by its proximity to the urban fringe of the city including Tamerton Foliot and Whitleigh; and
- The site is not visually prominent from Whitleigh and cannot be seen from Ernesettle.

1.17 On balance, because the site fails to meet more criteria than it meets, one can justifiably question strongly if it should qualify for the SLA designation.
1.18 Further, the relevance of the word ‘setting’ in the context of development around settlement is a moot point: apart from the rare instance of an entirely new settlement being proposed, most new development must lie within the setting of an existing settlement. Therefore, whenever settlement ‘setting’ defines a landscape character area, one could draw the conclusion that development would be more appropriate here than in an area devoid of settlement. This argument has implications for the use of the word ‘tranquillity’, because land lying within a settlement setting must, almost by definition, be less tranquil than land further away from the settlement.

1.19 With regard to the site being in the ‘setting of the AONB, previous landscape and visual assessment work for land off Lake View Close (relating to planning application 16/02295/OUT) demonstrated that there is very limited intervisibility between the site and public vantage points within the AONB, and that this is restricted to very low lying ground close to the shoreline: the site is ‘glimpsed’ through lakeside vegetation from Station Road at the shoreside within the AONB; and the AONB is glimpsed through lakeside vegetation from the permissive route “Tamar Valley Discovery Trail” which also runs along the shoreside to the immediate north of land off Lake View Close.

1.20 In summary, as the site only meets two of the characteristics of the CA 21, is relatively close to existing development (and so less tranquil than other landscape areas) and has little intervisibility with the AONB, one must question vigorously whether the site should lie within the SLA subject to the wording of Policy DEV26.

9.2 vii - In relation to Policy DEV29:

a. Does the policy clearly define how development proposals will be assessed against its provisions? How will the impact of development on ‘function(s)’ or ‘characteristics’ of green spaces be determined? How does the policy relate to paragraph 74 of the Framework?

1.21 Policy DEV29 accords with the NPPF insofar as it is not a ‘restrictive’ policy and does set criteria by which development could be judged to be allowed. However, the policy wording includes terms such as “unacceptable” conflict and “impact” of development on the function(s) and characteristics of green space. These terms are not defined or quantified and as such there is a risk that they are used as a ‘moving goal post’ to tip the planning balance against sustainable development proposals contrary to the golden thread of the Framework.

1.22 Paragraph 74 of the NPPF states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless a set of conditions has been met. Whilst there is a permissive footpath (the Tamar Valley Discovery Trail) along its northern boundary, the land off Lake View Close does not provide (and does not need to provide) for these purposes. This footpath is not a Public Right of Way (PRoW).
1.23 A further question is whether the policy accords with paragraph 76 of the Framework - is it consistent with the local planning of sustainable development? A cursory study of the emerging Policies Map of the Plymouth Policy Area, shows that the vast majority of the open land at the urban edge is either coastline and/or locally designated as Strategic/Local Green Space and/or as a Strategic Landscape Area. The LPA has therefore provided very little flexibility in addressing its objectively assessed needs (OAN) in part by its own local designations, including Local Green Spaces, and would be dependent on the duty to cooperate of neighbouring authorities. In spatial planning terms, this seems counter-intuitive: Plymouth is the major urban area in the region whereas the neighbouring authorities generally possess a landscape of a more open and rural character, including nationally designated landscapes. A level of sustainable development would be better delivered at the margins of the existing major urban extent.

**b. Are the allocations/designations based on robust evidence and are they justified and consistent with national policy?**

*Plymouth Policy Area Open Space Assessment 2017*

1.24 The appendices to the Open Space Assessment identify the site lying within the Budshead Creek site (ID:25). It is identified as a “Natural and Semi-Natural Green Space”, which is significant in that the site is not classified as park, garden, amenity green space, allotment, outdoor sport nor as a provision for children and young people.

1.25 The land off Lake View Close is described as: “fragmented and leads from Truro Drive along Tamerton Lake all the way round to Riverside Walk in Tamerton Foliot. A [permissive] footpath allows access at sea level through the site whilst fields and woodlands rise steeply eastwards in places. The site consists of a mix of pasture land, mature hedgerows, deciduous woodland and open space. There are long, confined views of Tamerton Lake.”

1.26 The site is not scored as a “potential green space designation”. It scores zero for ‘community involvement’; there is no play or sports provision and there is no management plan for the green space. The site is assessed as being accessible, despite the fact that ‘access’ is restricted to the permissive route to the north only.

1.27 Although the site scores highly in the ‘character setting’ section, the inclusion of some of the questions would not stand up well to scrutiny. For example, “Is the green space in a Landscape Character Area?”: What green space is not?

1.28 The site’s highest scoring green space functions are as informal ‘recreation’ (via the permissive footpath), ‘biodiversity’ and ‘health and well-being’. Given the absence of access within the site and any attempt to justify the ecological value of the land, the scoring of this land is considered to be tenuous.

1.29 Although ‘cultural heritage’ scores highly, there is little evidence to support this. Heritage experts from EDP have visited the site and concluded that the area does not contribute to the heritage significance of the Tamerton Foliot Conservation Area.
1.30 Compared with the other sites assessed (in the evidence base) classified as “Natural and Semi-Natural Green Space”, Budshead Creek scored just above the ‘value threshold’ (46 against a threshold of 43), but below the quality threshold (39 against a threshold of 42).

1.31 DEV29 aims to protect and support a diverse and multi-functional network of green space. The evidence base demonstrates that the site is not a highly multi-functional green space, with informal ‘recreation’ provided by the permissive footpath being the highest scoring function and the only publicly accessible route adjacent to the site. The amenity of this route is primarily derived from views out northwards across Budshead Creek, and development of the site would not interfere with these views.

1.32 The evidence base suggests that the allocation passes some of the tests set in paragraph 77 of the Framework in that: it is “in reasonably close proximity to the community it serves” and is “local in character and is not an extensive tract of land.” What is less certain from the evidence base is whether - above the value of the footpath - it is “demonstrably special to a local community and holds a particular local significance”.

**c. In relation to Local Green Space, paragraph 77 of the Framework states that this form of designation will not be appropriate for most green areas or open space and should only be used in certain circumstances. Do the designations meet the circumstances set out in the Framework?**

1.33 For the reasons set out above, the land off Lake View Close is not considered to meet the requirements of Paragraph 77.
Appendix EDP 1
Site Location and Policies Plan
(edp4141/09a 05 January 2018 RMC/BR)
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A2.1 Paragraph 15 states that policies in Local Plans “should follow the approach of the presumption in favour of sustainable development so that it is clear that development which is sustainable can be approved without delay. All plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.” The inference here is that local policies should be worded in a positive – not restrictive - manner describing how sustainable development can be approved.

A2.2 Paragraph 109 states that the planning system should “contribute to and enhance the natural and local environment by: protecting and enhancing valued landscapes, geological conservation interests and soils” and by “minimising impacts on biodiversity and providing net gains in biodiversity where possible.”

A2.3 Paragraph 113 states that LPAs should “set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.”

A2.4 Paragraph 114 states that LPAs should be “planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.”.

A2.5 Paragraph 14 of the NPPF includes ‘Local Green Space’ (LGS) in footnote 9, implying that LPAs should avoid seeking development in and not grant permissions for development in such designated areas.

A2.6 Paragraph 74 states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless a set of conditions has been met. This paragraph does not apply to the site except that there is a permissive footpath (the Tamar Valley Discovery Trail) that runs along its northern edge at the shoreline. This footpath is not a PRoW.

A2.7 Paragraph 76 states that by designating land as LGS “local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable
development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period” (emphasis added). The inference here is that (further to the requirements of Paragraph 77, below) LGS should not be designated unless there is confidence that the objectively assessed need (OAN) for housing can be met within and beyond the plan period.

A2.8 Paragraph 77 states that the LGS designation “will not be appropriate for most green areas or open space. The designation should only be used:

• “Where the green space is in reasonably close proximity to the community it serves;

• Where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and

• Where the green area concerned is local in character and is not an extensive tract of land” (emphasis added).
Appendix EDP 3
Key Policies: Emerging Joint Local Plan

**Policy DEV26 - Strategic Landscape Areas (Plymouth Policy Area)**

A3.1 The wording of Policy DEV26, suggests that a Strategic Landscape Area is a locally valued landscape. Its application here - washing over the site - seems to imply that the site lies in the wider setting of the Tamar Valley AONB (a nationally protected landscape). The wording also includes Green Belt overtones in its aim to prevent unacceptable intrusion into open countryside and the coalescence of separate settlements.

**Policy DEV29 - Green and Play Spaces (Including Strategic Green Spaces, Local Green Spaces and Undesignated Green Spaces)**

A3.2 Policy DEV29 identifies the LPA’s intention to allow development that enhances the value of Local Green Spaces such as through sports, allotment and play provision, lighting, cafes, educational uses and sustainable transport routes. Development will be resisted if these functions are existing and would be lost and could not be mitigated.
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