

DARTMOOR PRESERVATION ASSOCIATION

RESPONSE TO THE CONSULTATION ON BYELAWS AT DARTMOOR NATIONAL PARK

General Comments

The Dartmoor Preservation Association was founded in 1883 to fight enclosure of common land. Since then, its members, trustees and staff have worked tirelessly to help protect Dartmoor from unsuitable development and inappropriate legislation. The Association contributed to national and local consultations on the creation of designated landscapes and played a significant role in the designation of Dartmoor as one of the first National Parks, seventy years ago this month.

Since March 2020, the world has been in the grip of the coronavirus pandemic. When the UK government first relaxed the rules governing travel and social interaction, the National Park experienced a large influx of visitors, a small minority of whom engaged in inconsiderate and anti-social behaviour, on a level which had not previously been seen in the National Park. It became clear that the NPA did not possess all of the powers or the resources (financial or human) to counter this behaviour effectively. The police provided little in the way of support. Although they possess the powers to regulate criminal behaviour, they did not appear to possess the will to use them, stating publicly that enforcement of the law was “a last resort”. Recently, this policy was reiterated by the National Park Authority itself. This is nothing new and the enforcement failure has been seen for a number of years.

This behaviour raised serious concerns, not just with regard to the short-term, covid-related problems, but also in relation to the anticipated increase in visitor numbers, which will result from the significant increase in housing development and population around the National Park.

The proposal to amend the byelaws is a result of these concerns. The DPA recognises that a prime purpose of the DNPA is to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Parks and that preventing bad behaviour is part of carrying out this purpose. However, the Authority is also tasked with promoting opportunities for the public understanding and enjoyment of the special qualities of the Parks and has a duty to seek to foster the social and economic wellbeing of the local communities.

In using byelaws to regulate behaviour, the DNPA needs to be constantly mindful of several factors:

- They should not be used as a short-term expedient, or as a reaction to a problem which might diminish in scale as we move away from covid travel restrictions.
- Whilst residents, visitors and those who work in the National Park might trust the DNPA to apply new byelaws fairly and even-handedly, times change and so do managers. In addition, there has been talk of local powers and responsibilities being consolidated under a centralised National Landscape Service. This could radically alter the way in which byelaws are administered or enforced in future.
- In view of the long-term failure to enforce existing byelaws and the powers which already exist under other legislation, the DNPA must consider whether there is any real point to some of the proposed changes. Unless there is a real will on the part of the Authority and the police to enforce any new rules, the changes will simply be a dead letter and the consultation exercise a waste of time and money. There will need to be a genuine determination to provide additional support to the hard-pressed Ranger team and a greater level of support from Devon and Cornwall police.

The DNPA has said that the purpose of the byelaw review is not to curb public access, but to protect the National Park by making the rules clearer, deal with long-running issues and help staff enforce them. The DPA believes that what appear to be hurriedly drafted proposals contain ambiguities which will create confusion rather than clarity and will not in themselves assist with enforcement. There is also a real danger that they are punishing the responsible and well-behaved, without providing any deterrent to the bad behaviour of the thoughtless and disorderly.

Our response to each of the DNPA's proposed changes is set out below. We have not commented on the areas shown on the DNPA's revised camping map. We feel that this would be pointless until we know whether the proposed byelaw changes will be amended, or withdrawn, as a result of the consultation. The cover letter from Ally Kohler, dated 22nd September 2021, states that "Responses...will be considered fully and will be taken into account when finalising the proposed amendments to the byelaws." We call upon the National Park Authority to present the final proposed amendments to a series of public meetings, before they are approved by members. The DPA also offers to work with the DNPA and other organisations and individuals to help agree the final proposed amendments. Finally, we believe that before removing permitted camping areas, each of them should be considered in detail, to address the specific issues relating to the locality. Again, the DPA would be very willing to participate in such an exercise.

Finally, using an automated online response system is lazy and trying to restrict comments to the changes proposed by the DNPA risks alienating some who might otherwise have supported the review.

1. Interpretation

We accept that byelaws should be applied consistently for the protection of CROW land that falls within the Authority's definition of "Access Land". However, doubts have been raised as to whether it will be legally possible to do so by amending byelaws, as this would probably run counter to primary legislation. It has also been pointed out that the CROW Act provides that a byelaw authority can apply byelaws to all the access land in their area, or to particular parts of it. This would allow those landowners who have requested the protection of byelaws to accept them, and allow other landowners who do not want them to opt out. The DNPA says it has opted for a blanket application for the sake of clarity and consistency but this proposal could cause confusion and unfairness.

2. Extent of Byelaws

Paragraph (i) continues to use the current wording and states that "nothing in this wording shall apply to any act done in the pursuance of the exercise of any right of common." Is this sufficient to give protection to the rights to swale, or to use quad bikes for farming purposes, which would otherwise contravene later byelaws? If nothing else, the proposed Byelaw 9 will play into the hands of the anti-swaling lobby.

Paragraph (ii) also maintains the current wording. We feel that this gives the Authority a great deal of discretion as to the application of byelaws and we would welcome a discussion on how this will be applied in a consistent fashion. If this provision does remain, should 7 (iii) and 23 also be included in the list of clauses?

3. Revocation

Agreed.

4. Vehicles

As mentioned at 2(i) above, will this include farmers' quad bikes?

Will the DNPA clarify what is meant by a space which has been set apart? Should this wording still apply?

5. Parking

This is one of the more difficult proposals. In principle, we support the ban on overnight stays in caravans and motorhomes; the enforcement of inappropriate parking on verges; and the prevention of the obstruction of gateways. However, this proposal contains ambiguous wording and it is difficult to see how parts of it could be enforced. We would oppose it as written. As a general point applicable to all of the proposals, the Authority should ensure that they are written in plain English and easy to comprehend by people who may not understand the nuances of different land designations, and the rules applicable to them.

The DPA recently brought to the DNPA's attention the situation where the closure of a car park has resulted in erosion and problems on surrounding roads. Their response was that the DNPA was aware of it, "but short of another landowner coming forward to offer some car parking spaces we don't have alternative solutions available at present." The Authority needs to ask itself whether the proposed change to the byelaw will go any way towards overcoming this sort of problem.

5(i) – does the DNPA really intend to erect signs on verges where parking off the highway is NOT allowed? This would surely result in a massive proliferation of unsightly signs. Apart from the expense involved in erecting them, there would also be regular maintenance work involved in repairing damage caused by animals and non-compliant vehicles. Excessive signage in the National Park is becoming an increasingly controversial issue and this proposal would exacerbate the problem still further.

5(iii) – the use of the word "occupy" is ambiguous and probably unenforceable in practice. It would presumably not include those sitting adjacent to, but outside, a vehicle, but would prevent people from sitting in a car to enjoy dark skies on the moorland. This needs to be more specific as to the problem it addresses and what it seeks to achieve.

6. Repairs of vehicles

It is difficult to envisage an "accident, breakdown or other emergency" that would require someone to paint their vehicle.

7. Camping

As a general comment, we feel that each of the areas subject to a proposed prohibition should be considered separately, with account being taken of its specific features and problems.

There is a danger with this proposal that responsible, legitimate campers will be punished by a byelaw aimed at preventing damage to the park by an inconsiderate and badly behaved minority. Further, insensitive and illegal camping was one of the most serious problems when travel restrictions were lifted last year, yet enforcement action was negligible.

7(i) The words "carried in a back pack" are unreasonable and inconsistent with the rest of this proposed amendment and should be removed.

7(iii) 3 – the Authority granting itself the powers to extend the areas where camping is prohibited, solely at the discretion of its members, is going too far and we oppose it. The proposed wording

refers to a “public meeting”. A public meeting is not a public consultation. Development Management matters in the National Park are also heard at a public meeting, but the decisions are made by DNPA members, with limited rights of audience or appeal by the public. This provision should be removed; it gives unacceptable power to the Authority and would effectively overturn the intentions of primary legislation.

7(iv) – although this amendment purports to include the same wording as the current byelaw, it actually removes the exclusion of “set apart” areas. Clarification as to the reason would be appreciated. Further, the current byelaw refers to a “site”, whereas the proposed change refers to a “location”. This seems much broader and again, clarification is needed.

8. Water

The word “knowingly” should be removed as this would effectively exclude damage caused by gross negligence. This amendment should also include the “pollution” of watercourses, thereby capturing behaviour such as the emptying of chemical toilets, flushing out petrol or oil tanks etc.

9. Fires

9(i) This would appear to prevent swaling. See comment against 2(i) above.

9(iii) – more signs, with the onerous and expensive distraction of erecting and removing them as weather conditions, fuel load etc change. In any case, is it reasonable to allow portable barbecues at all? Perhaps the DNPA should adopt the practice of National Parks elsewhere in the world and designate specific “picnic areas”, where portable barbecues would be allowed and ban them elsewhere. The way this proposal is qualified leaves a huge loophole for people to claim ignorance of the consequences. If they are allowed, we believe that this proposal would be unenforceable in practice.

9(iv) – given the proposed prohibition at 9(i) this would appear to be superfluous. However, there should be a general prohibition of this sort of behaviour. It is unfortunate that littering, is not addressed in this review. There should be a general prohibition, reinforced by sanctions, and a specific one in relation to portable barbecues, which are a significant source of litter.

9(v) Agree. However, should this not also include static fireworks and sparklers, in addition to launched pyrotechnics?

10. Dogs

This is another discriminatory proposal, which would unreasonably punish responsible dog owners. The new paragraph 10(iii) is unfair and unworkable. One of our members has pointed out the inconsistency in allowing a hunt to run a pack of 30 hounds while an individual with a single, highly-trained dog must keep it on a lead. Another member points out the potential danger of this provision. Each year a small number of people are killed by curious cattle. In fact, the DNPA’s own website provides the following advice: “*Keep away from all moorland livestock as they can be unpredictable in their behaviour. If you have a dog with you, keep it under close control and on a lead. If cattle approach you, **then let your dog go***”.

The use of the moor by new, inexperienced dog owners, who have acquired them for companionship during the covid restrictions, will diminish over time.

The requirement set out in 10(iii) is disproportionate. Rather than a blanket ban of this sort, which would undoubtedly be ignored by irresponsible dog owners, the DNPA should improve communications and put more effort into enforcement against those who ignore the rules.

The provision set out in 10 (iv) is presumably aimed at professional dog walkers. There will no doubt be argument as to how many dogs can be effectively controlled and cleared up after by one person. In any event, this could be controlled on an ad hoc basis under the provisions of byelaw 17.

11. Feeding of animals

A minor point, but what is the purpose of “lawfully”? It suggests that it is acceptable to feed one which is *unlawfully* grazing. Why, and how would one know?

12. Racehorses

No comment

13. Protection of wildlife

There appear to be a couple of inconsistencies.

Why is no protection afforded to invertebrates, such as pollinators, butterflies, dragonflies and their habitats?

How will this recommendation affect the owners of sporting or fishing rights?

“Lawful excuse or authority” seems archaic – will the general public understand it?

Our members have asked whether sanctuary areas could be designated for rare breeding birds, as is the case on some RSPB-owned land?

14. Firearms and projectiles

14(i) Why “crossbow” and not “longbow”? Why are slings and catapults not included?

15. Damage to land

This should be strengthened in respect of damage to archaeological features. Once again, there is a risk of uncertainty and ambiguity as to the meaning of “reasonable excuse or lawful authority”.

16. Metal detectors

No comment.

17. Commercial Activities

No comment.

18. Recreational activities

We recognise that the DNPA currently has no effective powers to control large recreational events, but this proposal is unworkable, unenforceable and wrong. If 100 people descend on the moor for a run, how would the prohibition be enforced and by whom? If there is no evident organiser, will a Ranger run alongside, demanding names and addresses? And 50 of the 100 would be acting legitimately - which ones? This is an important area as it needs to balance rights of access, quiet enjoyment, the increasing importance of outdoor recreation and the aspiration to attract more people to the National Parks. It probably merits a public consultation in its own right.

If the DNPA wishes to proceed with a byelaw of this sort, the wording should be reconsidered:

“...unless he is authorised to do so in pursuance of an agreement with...” is clumsy. Why not, “...unless given permission by...”

Finally, with the increasing importance being attached to pronouns and gender issues, it might also be better to replace “he” with “they”.

19. Aircraft

No comment

20. Kites, model aircraft and drones

In 20(ii) “given permission to” would be preferable to “authorised to do so”.

21. Entertainments

No comment.

22. Music and radios

No comment.

23. Rangers

Unworkable and impractical as written:

How would someone recognise an “other officer”? How would they know what powers the other officer or, indeed, a Ranger possessed? How would they know that the Ranger or other officer was acting in the proper execution of their duties, let alone whether a contractor was working properly in execution of a contract with the Authority? This may seem picky, but we live in litigious times.

24. **Penalty** - See comments on enforcement above.