

Appendix 17.3

Extract from the 1993 Report of the Public Inquiry into the Dartmoor National Park Designation (Variation) Order

NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT 1949

WILDLIFE AND COUNTRYSIDE ACT 1981

DARTMOOR NATIONAL PARK (DESIGNATION) VARIATION ORDER

1990

PUBLIC LOCAL INQUIRY

DOLPHIN HOTEL, BOVEY TRACEY

20th to 29th April 1993

Inspector

Edward A Simpson BA, MRTPI.

File No.

DRA1/1644/4

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Tollgate House
Houlton Street
Bristol
BS2 9DJ

1993.

To the Right Honourable John Gummer MP
Secretary of State for the Environment

Sir

1.1 I have the honour to report that on 20 April 1993, I opened an Inquiry at the Dolphin Hotel, Bovey Tracey, Devon into objections made to the draft Dartmoor National Park (Designation) Variation Order 1990. I held a pre-inquiry meeting at the Dolphin Hotel on 23 February 1993. Following the close of the inquiry I undertook an extensive series of accompanied and unaccompanied site inspections.

1.2 This report includes the gist of the representations made at the Inquiry, together with those made in writing, and my conclusions and recommendations. Lists of appearances and documents, and a schedule of sites visited, are attached. The report also contains a list of abbreviations used.

1.3 The format of the report is as follows. It commences with a general section, entitled Background, outlining the national policy background and the Countryside Commission's general approach to the variation of national park boundaries and the preparation of this particular Order. This section also deals with two general objections to the principle of deleting any land currently falling within the designated area of the Dartmoor National Park. The report then continues with a series of 15 individual sections relating to the various lengths of national park boundary that are proposed for variation by the Countryside Commission. In addition to reporting the cases for and against the proposals contained in the draft Order, these sections also report the cases presented as objections to the failure of the draft Order to propose further related variations, together with the associated response from the Countryside Commission and other interested parties. Each section also contains my conclusions and recommendations in relation to that section of the report, either grouped or singly, as appropriate.

1.4 Throughout the inquiry I was ably assisted by Mr Derek Worthington who acted as Programme Officer. I also wish to record the fact that all parties approached the inquiry in an efficient and cooperative manner. The smooth running of the inquiry was also greatly assisted by the format and scope of documentation prepared by the Countryside Commission.

I have the honour to be, Sir
Your obedient servant

Edward A Simpson
Inspector

Section 2. Background to the Order

Inspector's note

As part of their inquiry evidence the Countryside Commission submitted background material relating to the history of National Parks and National Park Policy, with details relating to the Commission's general approach to the preparation and consideration of requests for amendments to National Park Boundaries, together with more specific details relating to the preparation of the draft Variation Order the subject of this inquiry. This evidence was presented as 'Part One - General Matters', and was not the subject of objection. For the purposes of this report I have included a summary of those general arguments and background case.

The Countryside Commission's Case.

2.1 In April 1973 the Countryside Commission and the Government agreed priorities for the Commission's work. National Parks were a first priority; such areas having been defined, via section 5 of the 1949 Act, as extensive areas of national landscape importance suitable for open-air recreation.

2.2 In addition to National Parks, AsONB were also designated under the terms of the 1949 Act. Their statutory designation was more limited in that there was no requirement to have regard to open-air recreation.

2.3 The Dartmoor Park, located entirely within Devon, was administered by the DNPA, a sub-committee of the Devon County Council and an independent body receiving 75% of its income from central Government via the National Park Supplementary Grant. Two AsONB were located to the south of the Park; South Devon and Cornwall (Core Doc.26 Map A). South Devon AONB was not contiguous with the Park, and encompassed landscape of a different type and character. Proposals for a Tamar Valley AONB had recently been the subject of informal consultation (Core Doc.17). It was proposed that the boundaries of the Park and the Tamar Valley AONB should be coincident in the vicinity of Roborough Down (see Section 9).

2.4 At a local level, Devon County Council had designated AGLV in the Devon Landscape Areas Local Plan 1985. Sections of AGLV fringed the Park (Core Doc.26 Map A). The extent of AGLV within Devon was currently the subject of local review.

2.5 The Dower Report of 1945 (Core Doc.1) discussed the meaning and purpose of National Parks in the British context and selected general areas for consideration. Dartmoor was suggested as one of the first ten. The Hobhouse Report of 1947 (Core Doc.2) made more detailed recommendations. The boundary for Dartmoor as suggested in that report largely coincided with the then positions of the A30, the A38 and the river Teign, but diverged from the current boundary by including Crockernwell, the china clay area to the south-west, the east bank of the Tavy and the Lyd Valley to Loddaton.

2.6 The Park as designated in 1951 extended to some 954 sq km and was shown on a map at 1 inch to 1 mile scale (Core Doc.3) and accompanied by a written description (Core Doc.4). The boundary had been generally accepted and, although now requiring some review as a result of permitted developments and local authority boundary changes, had stood the test of time well.

2.7 The Sandford Committee, which reported in 1974, undertook a long term review of policies for National Parks (Core Doc.6). In considering boundary

changes it did not favour radical review. It also recommended joint reviews by Park Authorities and the Commission during preparation of Park Plans. Subsequent reviews were to be taken at regular but lengthy intervals. The committee also recommended legislative changes to allow the Commission, as well as the Secretary of State, to make variation orders. The Government's response to the report was contained in Circular 4/76 (Core Doc.7). The twin purposes of preserving and enhancing natural beauty and promoting their enjoyment by the public were appropriate. Promotion of social and economic well being was to be an object of policy but not a purpose. In relation to boundaries radical change was not favoured, and in the interests of stability comprehensive regular reviews were considered undesirable. Boundary adjustments should follow the preparation of National Park Plans.

2.8 The power of the Commission to prepare Orders, subject to confirmation by the Secretary of State, was contained in the 1981 Act (Core Doc.8). Following enactment the national park authorities sought advice on reviewing boundaries from the Commission. This advice, published in 1983, was followed by the DNPA who presented proposals which contributed to the Commission's formulation of a review programme. This programme, published in 1984, gave a high priority to reviews for Pembrokeshire, Dartmoor and Snowdonia.

2.9 A further review of national parks had recently been undertaken under the chairmanship of Professor Edwards. The report 'Fit for the Future' contained only limited further advice on boundaries, and this concerned the avoidance of splitting settlements (Core Doc.13). The Government response (Core Doc.14) made no reference to the boundary issue.

2.10 The statutory criteria for designation contained in section 5 of the 1949 Act were as follows:

5(1) The provisions of this Part of the Act shall have the effect for the purposes of preserving and enhancing the natural beauty of the areas specified in the next following subsection, and for the purposes of promoting their enjoyment by the public.

5(2) The said areas are those extensive tracts of country in England and Wales as to which it appears to the Commission that by reason of -

- a) their natural beauty, and
- b) the opportunities they afford for open-air recreation, having regard both to their character and to their position in relation to centres of population,

it is especially desirable that the necessary measures shall be taken for the purposes mentioned in the last foregoing subsection.

2.11 It was noted that these fundamental criteria had been set as the terms of reference for this inquiry by the Secretary of State for the Environment.

2.12 The Hobhouse Report criteria subsequently used by the National Parks Commission contained advice on boundary-making. The first criterion should be the inclusion of areas of high landscape quality. Where possible, easily distinguishable boundaries should be chosen for both administrative reasons and convenience of the visiting public. Although sometimes suitable, in the majority of cases County, District and Borough boundaries were unsuitable.

Towns or villages should not normally be cut in two; inclusion or exclusion being dependent on character and beauty and potential for visitor accommodation. Unsightly development on the edge of a park should generally be excluded. Quarrying and mining of important deposits which could not be strictly controlled should normally be excluded except where they were likely to be worked out within a reasonable time. Features of scientific, historic or architectural value situated on the margins should be included where practicable. As far as possible, boundaries should include features which are part of the rural economy and community life within the Park, and exclude areas where the needs of urban or industrial development conflict with, or outweigh, the essential values of the Park (Core Doc.2 para.43). These criteria were applied by the National Parks Commission when designating the national parks.

2.13 Following consultation and prior to agreeing their review programme the Countryside Commission, in a 1983 guidance note, set out advice on the review of boundaries (Core Doc.8). This indicated, inter alia, that firm reasons were required in support of any proposal to extend or reduce the area of a park, that the Commission would keep in mind its statutory duties under the 1949 Act, and reasons for seeking change could include planning and management problems, the need to secure unified planning management and the need to protect areas of landscape which would provide opportunities for recreation adjacent to national parks.

2.14 The primary criterion had to be whether the quality of the landscape was of national landscape importance. The Commission could not consider changes proposed solely on recreational grounds as landscape quality was a qualifying condition. This was dictated by the 1949 Act and endorsed by Sandford (Core Doc.6 para.22.2). It was noted that national park authorities had, in any event, powers to make provision for recreation and carry out associated management works on areas adjacent to national parks. The Commission's advice also reflected the Sandford Report, and Government policy as contained in Circular 4/76 and reaffirmed prior to this inquiry, that radical alterations to boundaries would not be favoured.

2.15 The Commission had indicated that it would consider proposals which excluded major development lying just inside or astride park boundaries. In particular, cognizance was taken of the view expressed in the Sandford Report that 'where, for example, extensive or incongruous development has taken place just inside the boundary of the designated area, it might be right to reduce the area to exclude that development' (Core Doc.6 para.22.2). Following consultation with the Department, the Commission had adopted criteria for considering changes flowing from development decisions. The criteria included scale - the development constituting a major alien feature; permanence - there should be no reasonable prospect of effective landscape restoration within a period of some 20 years and location - the development should be astride or just within the boundary.

2.16 The inclusion or exclusion of the entire built-up areas of settlements was favoured where division created problems. In resolving individual cases the architectural character in relation to the landscape character was an important consideration, together with the extent of conservation areas and the relative proportion of a settlement within the park. Wherever possible, boundaries should follow clearly identifiable physical features to avoid confusion and administrative difficulty. The Commission would not consider boundary changes that brought additional counties or districts into national parks unless there were overriding landscape and recreational reasons. Conversely a small part of the area of a district might be excluded where a

boundary was weakly defined or there were no overriding reasons for retention.

2.17 Although not part of the Commission's guidance statement, it was noted that a review only had to consider the current state of land. This approach was in accord with the restoration timescale criterion for the exclusion of major development. An area did not qualify for national park designation because it had potential; it had to be of the required standard at designation.

2.18 The preservation of natural beauty was construed in the 1949 Act as including references to characteristic natural features, flora and fauna (S.114(2)). Section 52(3) of the 1981 Act had modified this definition to include geological and physiographical features. It was clear that national parks had to comprise extensive tracts of land which were outstanding in terms of natural beauty, and that the legal definition of natural beauty was deeper in concept than solely landscape, although landscape was the major contributory factor. The 'extensive tract' of country comprised the park as originally designated or as varied by a confirmed Designation (Variation) Order.

2.19 The basic character of the landscape was determined by physical factors such as geology, geomorphology, climate, soil type and vegetation. The land had qualities of form and colour which produced visual effects, and could be analyzed in visual terms including length and breadth of views and proportion of land to sky, the amount of clutter and detail and the presence of features to focus the eye. The difficulties of objective assessment had been recognised at the North Pennines AONB inquiry. The Secretary of State had accepted that 'assessment of landscape quality necessarily involve(d) a subjective assessment and that within the consensus of informed opinion allied with the trained eye, and commonsense, the matter was one of aesthetic taste' (Core Doc.9).

2.20 The 1986 guidelines produced by the Commission for the preparation of Section 3 Conservation Maps under the terms of the Wildlife and Countryside (Amendment) Act 1985 were an explicit statement of factors considered valuable in terms of natural beauty (Core Doc.10). The Commission subsequently published their own landscape assessment manual (Core Doc.11). The Section 3 Map indicated areas whose natural beauty the national park considered particularly important to preserve, and applied to any area of mountain, moor, heath, woodland, down, cliff and foreshore. The Map for Dartmoor was contained in the NPP (Core Doc.15).

2.21 The Dartmoor landscape had been the subject of assessment by Hobhouse, by the National Parks Commission in 1975 (Core Doc.5) and by John Weir on behalf of the Countryside Commission in 1987 (Core Doc.12). The initial Dartmoor National Park Plan (1977) also contained landscape and recreational resource assessments, and these were carried forward into the 2nd review of the NPP (Core Doc.15). Other non-official studies included Crossing's 'Guide to Dartmoor' (1912); 'Dartmoor' New Naturalist Series (1953); Worth's 'Dartmoor' (1967); and 'Dartmoor: A New Study' (1970).

2.22 More recently the Countryside Commission had prepared a detailed landscape assessment to provide a clear definition of Dartmoor character and landscape quality (Core Doc.18). The following eight landscape sub-divisions had been recognised: Inner High Moor, Moor Fringe, Eastern Upland, Dartmoor Borders, Upland Rivers, Broad Valley, Dartmoor Woodland, and Towns and Settlements. The assessment demonstrated that all the sub-divisions had Dartmoor character and that, together, they made up an extensive area which

comprised the Park. The critical test for boundary making in this case was whether the landscape was both of Dartmoor character and national quality.

2.23 The areas of concern which had arisen since the original designation could be grouped into six types:

New development, such as road building and mineral operations, resulting in a decline in natural beauty or recreational opportunity;

Improvement, alteration or replacement of roads which formed the original boundary, where the new road formed a more obvious boundary and enabled the inclusion or exclusion of land in relation to its current quality;

Areas where administrative boundaries had changed, where the administrative boundary was formally used for convenience, or where the existing boundary resulted in considerable administrative inconvenience;

The opportunity to correct small errors on the original designation map;

The inclusion of land whose importance was not recognised in 1951, or where anticipated development had not taken place;

Where settlements had been divided by the original boundary.

2.24 In accordance with the advice contained in Circular 4/76, major extensions into different landscape types had not been considered. The problems which had been identified by the DNPA as being the priority for any review were to remove the anomalies resulting from the rerouting and upgrading of the A30 and A38(T) in the vicinity of the boundary of the Park; to take account of the impact of the china clay industry in the Lee Moor area; and to identify the most suitable boundary on the western edge of the Park where it would abut the proposed Tamer AONB.

2.25 The review process had commenced with Initial Consultation undertaken by DNPA between 1979 and 1986; forwarding comments to the Commission. The Countryside Commission considered the DNPA's proposals, and other suggestions, before preparing its own proposals which were published as the basis for Informal Public Consultation in 1989 (Core Doc.19). As a result of comments received the Commission's informal proposals were modified in the vicinity of Lee Moor, Whitchurch Down, Okehampton, South Tawton and Sticklepath.

2.26 The formal procedures required consultation with local authorities and this was undertaken in 1990. The proposals, save for an anomaly at Buckfastleigh, were acceptable to DNPA, and acceptable to the district councils save for a minor drafting error in the vicinity of Cheriton Bishop. There were only 3 cases of dissent from parish councils. Bickington Parish Council sustained its objection to the deletion of land between the old A38 and the new A38(T) dual-carriageway. Cornwood Parish Council asked for the inclusion of the whole of the parish. Cheriton Bishop Parish Council were unable to comment on proposals at Crockernwell until the Local Government Boundary Commission had reported (Core Doc.22).

2.27 Following consideration of the formal responses the Commission had made

the Variation Order in December 1990 and transmitted it to the Secretary of State for the Environment for confirmation (Core Doc.21).

General objections to the deletion of land from the Park

2.28 In representations received from Mr R D Smeed of Bovey Tracey, and on behalf of the Open Spaces Society, objection was raised to the principle of any designated land being removed from the Park. It was argued that the removal of any land from the designated area would constitute an unacceptable precedent for future change, and that this would be to the long-term detriment of the protection of national parks and other areas of national landscape quality.

Inspector's Conclusion

2.29 Through the provisions of the 1949 Act, as modified by the 1985 Act, Parliament has granted powers for the review and variation of the designated boundaries to national parks. Those powers do not expressly indicate any limitation to their application and, while the interpretation of statute is a matter for the courts, the common usage of the word 'variation' would permit the consideration of a change in the alignment of a boundary which resulted in either an increase or decrease in designated land. In the circumstances I conclude that both of these objections are objections to the terms of the statute, rather than the draft Variation Order itself, and as such are not a matter for consideration through this inquiry process.

2.30 I make no recommendation with respect to these objections.

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B. Proposed deletion of land south and east of Ashburton.

Countryside Commission Map 2 (Core Doc.26)

Case for the Countryside Commission.

3.22 The proposal would result in the removal of a substantial strip of land some 4.5 km. in length, extending to an area of some 3.39 sq. km., and varying in width from some 0.6 km. at its eastern end to about 1 km. at its western end. The land comprised mainly pasture land and scattered farm units.

3.23 The proposal would move the boundary of the Park to coincide with the

A38(T) dual-carriageway. The existing '1951 Designation' boundary had followed the former Ashburton Urban District boundary as this coincided with a prominent north-east/south-west ridge-line running parallel to the changes in landscape character and quality on the border of the Park, and where the landscape grades into the general countryside of South Devon (see para.3.3 above). The proposal took account of the generally poor landscape quality of the area of the deletion and the impact of the dual-carriageway on it.

3.24 The proposed deletion formed the north-west slopes of a long, broken ridge from Goodstone (west of Bickington) to Chuley Road bridge. Although facing towards the Park, the slopes were fairly nondescript in landscape character and did not exhibit the qualities necessary to retain national landscape designation. There was little cover, the slopes and ridge were very open, and the framework of Devon banks had few hedgerow trees and showed signs of a reduction in the number of field boundaries. The lack of cover revealed modern farm buildings. The land did not have the qualities of Dartmoor Borders and was more appropriately considered as a less visually interesting part of South Devon countryside.

3.25 To the north-west of the A38(T) the immediate fringe of land was not dissimilar to that to the south-east and contained the extensive limestone quarry of Linhay. However, the character and quality of Dartmoor Borders landscape was quickly established in the slopes around Brownswell and Alston. Had a suitable boundary been available, the boundary of the Park could, in parts, have been redefined slightly to the north of the A38 but no other acceptable boundary was available and no boundary was as clear as the A38(T). Ashburton Town had been retained within the Park because of its strong Dartmoor associations and its traditional town centre which was also designated an outstanding conservation area.

Case for the Supporters

3.26 Specific support for the Countryside Commission's proposal was received from DNPA, Teignbridge District Council and Ashburton Town Council. The DTP and RA had indicated general support for the principle of adopting the A38(T) (where appropriate) as the southern boundary of the Park.

Case for the Objectors

3.27 General objections to the principle of any deletions of land from the Park have been dealt with at para.2.28 above. There were no formal site-specific objections to this proposal outstanding at the time of the inquiry.

Inspector's Conclusions and Recommendation.

3.28 The Countryside Commission's case is, in my opinion, well founded. To the extent that the ridge-line boundary to the south-east of the proposal area was the best available at the time of the 1951 designation I am satisfied that it necessarily encompassed some fringe land whose natural beauty was not of national landscape quality and which would not have justified designation in its own right. The construction of the new A38(T) has subsequently imposed on this landscape a major and dominant linear feature which further detracts from the natural beauty of the area, especially when viewed from a southerly direction or when travelling in a south-westerly direction along the road. Set against the statutory 'natural beauty' test in the 1949 Act, the land to the south-east of this section of the A38(T) is no longer appropriately included in the Park.

3.29 The choice of the most appropriate line for the boundary is essentially dictated by a combination of visual and practical considerations. While I agree that some parts of the land immediately to the north-west of the A38(T), particularly that containing the Linhay limestone quarry, are also not of national landscape quality, the dual-carriageway is the one single feature within the landscape which provides a clear physical boundary. Moreover, when approached from the elevated Dartmoor Borders area, and viewed from around Higher Whiddon and Higher Brownswell, the transition from Dartmoor Borders landscape to landscape of a lesser quality close to the trunk road is insignificant when compared with the sharp physical edge created by that road.

3.30 I RECOMMEND that the draft Order be confirmed as proposed in so far as it relates to the deletion of land between the former A38 and the northerly edge of the new A38(T) between Chuley Road bridge, Ashburton and Bickington Parish boundary north-east of Goodstone.

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