



DARTMOOR-ACCESS-GROUP

From: Shamus McCaffery
Chair on behalf of
Dartmoor Access Group

**To: Dr Kevin Bishop
Dartmoor National Park Authority,
Parke,
Bovey Tracy
Newton Abbot
Devon**

TQ13 9JQ

24th October 2021

Re: DNPA Review of Dartmoor Commons Act Byelaws - Consultation

Dear Dr Bishop,

The Dartmoor Access Group is representative of thousands of people who use Dartmoor National Park for open air recreation across a multitude of disciplines. Our expertise is drawn from wide ranging experience and qualification that makes up our membership.

To be absolutely clear; abuse of Dartmoor's landscape is of great concern to us. In achieving our aims we will support the primary aims of the National Park:

(i) "of conserving and enhancing the natural beauty, wildlife and cultural heritage of the (Dartmoor National Park) area".

and

(ii) "of promoting opportunities for the understanding and enjoyment of the special qualities of the (Dartmoor National Park) area by the public".

However, we believe there must be a balance between these two aims to ensure that recreational freedom and access does not suffer any detriment or loss without justifiable and logical rationale.

Our aims are:

- a. To uphold, support and defend the rights and freedoms of recreational users of the Dartmoor National Park.
- b. To oppose any unnecessary authoritarian restrictions imposed on the rights and freedoms of open air recreation within the Dartmoor National Park.
- c. To hold the local authorities, and more specifically the Dartmoor National Park Authority, to account where countryside access is threatened.
- d. To campaign through various means to achieve these aims.

Rather than 'splitting hairs' over the DNPA's proposed byelaw revision I will highlight a number of issues which are representative of our objections.

1. Existing Legislation

Byelaws should undergo periodic review, however the DNPA review seems to have missed areas of regulation and legislation that render many of its existing byelaws unnecessary. When creating byelaws the Authority must consider their purpose and necessity in the view of all extant regulation and enactments.

The Secretary of State must consider that no other existing enactment, law or legislation already fulfils the purpose of, and need for, the proposed byelaw, and the proposed byelaw does not conflict with any existing enactments.

If the DNPA were to undertake a 'proper' review of the Dartmoor Commons Act Byelaws, it would actually present a reduction in the number of byelaws, not an increase. This would in turn reduce regulatory burden on the Authority, which is a primary consideration within the byelaw regulations.

It would appear that the DNPA have not paid due diligence to the above points which are fundamental in the creation / review of local authority byelaws.

2. Drivers For Change

The DNPA byelaw revision was proposed as a solution to the incapacity of Rangers and Officers of the Authority to deal with concerns over perceived behaviours of visitors to Dartmoor National Park; The catalyst being the summer of 2020.

The coronavirus pandemic has had a catastrophic impact on our planet, let alone nation, county, region or district. However, this was a time when families were fearful for their safety, livelihoods and lives, people were desperate to take exercise and reach out for open air recreation. This is something that must be welcomed by National Parks, it is an extraordinary opportunity for the DNPA to promote opportunities for the understanding and enjoyment of the special qualities of the Dartmoor National Park area by the public.

The premise of the DNPA revision of byelaws that it would support Rangers in an enforcement capacity simply isn't true. During the past two and half years the DNPA have recorded over 350 offences against just one identifiable byelaw (6). These were identified by the Authority through FOI as being breaches of the extant byelaw. However, the Authority has made no prosecutions, despite what one Authority member, Mr Sanders, has identified as 'quite common and significant threatening and abusive behaviour' - and yet not one single prosecution! Extending the range and scope of the byelaws will introduce more regulatory burden on the Authority which is spectacularly failing to uphold its current regulations.

3. Inaccurate Information

The proposed byelaw revisions were introduced to the Authority through a public meeting 3rd September, which we attended online. The introduction and presentation of the 'Ranger's Report' was by the DNPA Director of Conservation and Communities, who stated that the byelaws were "reasoned and evidence led", something that was repeated throughout the meeting. There was no available evidence or additional papers to support these proposals.

The Ranger's Report (7.2) states that "Due consideration has been given to all individuals when revising these byelaws and related Camping Map in accordance with public sector Equality Duty". And yet and FOI request revealed that NO equality impact assessment has been made to determine this, and will only be conducted "if required". This should have been undertaken before any proposal was presented to a public meeting.

Then DNPA website consultation page contains a map which claims to represent all land covered by the byelaws. It indicates land that isn't within the purview of DNPA to legislate and hasn't covered land which currently is. It is misleading the consultation.

Genuine requests for information from members of the public are being incorrectly answered by officers of the DNPA; this is misleading.

The Survey Monkey being used by the DNPA, for collation of public consultation opinions, falls short of actual consultation, it is a survey. It has been, and still is, open to corruption with multiple entries being made by the same individuals. This renders the survey void as it is open to abuse by members of the DNPA, landowners and members of the public.

4. The Byelaws

It's is the opinion of the Dartmoor Access Group that the byelaws are ambiguous, poorly worded and stand to criminalise many Dartmoor user groups who are currently supportive and sympathetic to the needs of the national park.

The exercising of powers to replicate dog legislation taken from CRoW 2000 upon all Dartmoor Access Land is considered to be an abuse of power. To represent this as 'bringing consistency' is simply misleading. Under CRoW there is no penalty unless damage is caused, this would be a civil matter anywhere else.

However the creation of this byelaw would mean Dartmoor is probably the only part of the United Kingdom where an owner walking a dog sensibly under close control (without stock present), is guilty of an offence - subject to a fine not exceeding £500.

There will be direct consequences for safety if this byelaw is accepted, with free roaming cattle, stepping stones, river crossings and rough terrain, dog walkers are at risk of attack and injury if legally bound to maintain a dog on a 2m lead.

By contrast the DNPA grants license to hunting hounds to run freely with various hunts on land which is owned by the Authority.

Similarly extending the Dartmoor Commons Act byelaws to all CRoW Act Land (without the permission of all landowners) runs roughshod over the primary legislation that permits access by foot on CRoW Access Land.

The revised camping map is without due consideration to equality, and doesn't support the byelaws that the authority are currently unable to enforce. The limitations set on size and number of tents / people are unworkable and

ill-defined. Permitted expedition groups are left with the burden of contacting multiple landowners for permission to overstep the limits. The DNPA has underestimated the numbers of people involved to whom this would apply, and has demonstrated an unsympathetic view toward groups who facilitate young people enjoying the countryside.

A similar burden is placed upon small businesses, guides and the like, who promote our wonderful national park and ensure that their clients adopt responsible attitudes to the countryside. Written permission from the DNPA and every landowner for a guide to take a family letterboxing is quite curmudgeonly and leaves them open to financial charges from landowners to secure permission. Is it the intent of the DNPA to support charging for use of the park in this way? Guides have been the lifeblood of Dartmoor and deliver education in a way that the DNPA cannot.

Prohibiting the 'occupying' of a vehicle between the hours of 9pm and 9am is considered to be an outrageous overreach of a Local Authority. How this reached public consultation beggars belief and is illustrative of much of the DNPA proposal.

The Authority granting their own ability to redefine and amend the permitted camping map is considered to be a deliberate abuse of the byelaws in a way that overcomes the legislation which grants them. It is stepping over public freedoms in a causal and questionable way.

Flying of kites and drones are popular pastimes, is there really a need to legislate against a child flying a kite? Your policy on drone use is flying in the face, no pun intended, of legislation which more correctly sits with the CAA; remote pilots of UAS are registered and follow regulation that is already designed to regulate the hobby.

DNPA proposed restrictions / limitations on gatherings is straying dangerously into Human Rights. It is considered an infringement of Article 11 of the Human Rights Act - Freedom of Assembly and Association.

Families and individuals are being needlessly criminalised because the proposed DNPA byelaw wording for cycling outlaws bicycles on the Princetown Railway, Okehampton ring road and Red Lake Tramway. These are popular routes that do not have a right of way for 'that class of vehicle' i.e they are not bridleways. The DNPA should to look into this urgently.

Penalties; these need to be appropriately scaled for the offence. The current maximum penalty for hunting and killing a wild animal is the same as flying a kite and causing nuisance.

These examples are not exhaustive, there are many more, but I would hope it illustrates the frustrations of our members who are quite rightly concerned.

5. Regulatory Considerations

DNPA are required to provide a local access forum (LAF). Its purpose is to advise decision making organisations (such as local authorities) about making improvements to public access for outdoor recreation and sustainable travel. According to the DNPA website the Dartmoor Access Forum hasn't met since 27th April 2021 and has produced no minutes or actions - all subsequent meeting dates were timetabled after the authority meeting of the 3rd Sept; although there is no evidence these took place. LAFs should meet quarterly, and yet there is no publicly available documented evidence to demonstrate any such activity with DNPA.

***The Dartmoor Access Group is representative of climbers, cyclists, wild campers, walkers, kayakers, dog walkers, swimmers, and UAS remote pilots within Dartmoor National Park Authority. We wish to be included in future meetings of the Dartmoor Access Forum to ensure that these groups may be properly represented by the Authority.**

Regulation is clear that in reviewing the outcome of a public consultation the Authority has three outcomes available:

- Make the byelaw.
- Make only minor modifications.
- Reject the byelaw.

Major modification of the byelaws is only achievable by returning to stage 1 of the byelaw process.

6. Dartmoor Access Group - Decision

When all the above is taken into consideration it is the unanimous view of the Dartmoor Access Group Committee that:

We oppose and reject then Dartmoor National Park Authority, Dartmoor Commons Act (1985) Revision of Byelaws in their entirety.

We are prepared to discuss the matter further with the Authority, however the latitude granted by regulation on the amount of modification, that is allowable, is limited and not within the scope of anything we are prepared to support.

If the DNPA retracts this current proposal we would be happy to discuss what is acceptable to our membership to support the Authority where necessary. However, we will not support the Authority to the detriment of legitimate Dartmoor users who have, to date, supported the aims of the National Park.

Shamus McCaffery (Chair)

On behalf of the Dartmoor Access Group Committee

Address and contact details supplied with covering email.