



Tavistock Town Council
Town Council Offices
Drake Road
Tavistock
Devon PL19 0AU
Tel: 01822 613529
Email: office@tavistock.gov.uk
Website: www.tavistock.gov.uk

Mr D Fairbairn
Head of Legal Services and Monitoring Officer
West Devon Borough Council
Kilworthy Park
TAVISTOCK
PL19 0BZ

30th January, 2026

Dear Mr Fairbairn

PLANNING POLICY: INTERPRETATION & LAWFULNESS

I have been asked to write to you, in your capacity as Head of Legal Services and Monitoring Officer, following the Meeting of this Council's Development Management & Licensing Committee on 27th January 2026. It is seeking clarification on a point of law in relation to the discharge, by West Devon Borough Council, of its obligations as the Local Planning Authority covering the Parish of Tavistock.

More specifically the Committee considers this an important factor both in the context of a current Planning Application (3771/25/OPA, Land at Callington Road), and also one that will be crucial in determining applications on the edge of all of the major towns and large villages in the TTV area of the JLP. As you know, there are already a number of large applications coming forward on sites surrounding Tavistock.

The point of law in question relates to paragraph 11.46 of the JLP Supplementary Planning Document which appears to rewrite Policies TTV26 and TTV27 of the JLP, something that the High Court has explicitly ruled against (see, for example William Davis Ltd & Ors v Charnwood Borough Council [2017] EWHC 3006 (Admin) (23 November 2017)).

The applicant for the Callington Road application argues that Policy TTV26 (and, therefore TTV27) does not apply to the proposal because paragraph 11.46 of the Supplementary Planning Document excludes such consideration:

"TTV26: Development in the Countryside

Policy TTV26 guides development in the Countryside, setting circumstances in which isolated development would be permitted. The land off Callington

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Road is not considered to be isolated development' and therefore Part 1 of Policy TTV26 does not apply to the proposed development.

Guidance is provided on how Policy TTV26 should be used through the Joint Local Plan Supplementary Planning Document, adopted in July 2020. Paragraph 11.46 states **"sites adjoining settlements in the top three tiers of the settlement hierarchy; the main towns; smaller towns and key villages; and sustainable villages; may not be considered against the requirements of TTV26 if the proposal accords with policies SPT1 and SPT2, benefits from good connectivity with local services and relates well to the existing built form of the settlement, including being at an appropriate scale."** (our highlight)

Tavistock is one of the Main Towns listed in the settlement hierarchy, and the proposals benefit from good connectivity with local services, as set out in the Transport Assessment. The proposed development is well related to the existing built form by its nature of being located directly adjacent to the existing settlement edge and is of an appropriate scale for the size of Tavistock.

With reference to Part 2 of Policy TTV26, the proposed development generally complies with the criteria although the development will result in the loss of some Best and Most Versatile Agricultural Land (albeit the lowest quality BMV) and result in some limited landscape harm. However, it is important that any conflict with this policy is seen in the context of additional greenfield land being needed to accommodate West Devon's Local Housing need.

Notwithstanding any limited conflict with Policy TTV26, the Joint Local Plan Supplementary Planning Document sets out that sites adjoining Main Towns may not be considered against the requirements of TTV26 if the proposals accord with policies SPT1 and SPT2."

The Development Management & Licensing Committee considers there is no doubt about what paragraph 11.46 says – i.e. the applicant is correct.

The question arising is therefore whether the Supplementary Planning Document is lawful in including a paragraph which, on the face of it, is a new Policy rather than an explanation of a Local Plan Policy. The reasoning is as follows:

- Paragraph 5.5 of the JLP is clear and unequivocal that **"development outside built-up areas will be considered in the context of Policy TTV26 (development in the countryside).**
- Policy TTV26 sets out a clear approach to such developments that is well tried and tested both by WDBC Committee and at appeal.
- Policy TTV27 sets out an 'exception policy' whereby **"Proposals for residential development on sites adjoining or very near to an existing settlement which would not otherwise be released for this purpose may be permitted"**

Nowhere in the JLP does it state, or even imply, that Policy TTV26 would not apply to sites adjoining sites in the top 3 tiers. Indeed, Policy TTV27 explicitly embraces such sites by referring to "an existing settlement", not "existing settlements excluding Tier 1, 2 and 3 settlements."

As an aside, whereas paragraph 11.46 of the Supplementary Planning Document excludes Tier 3 settlements from consideration under TTV26 and TTV27,

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cônfusingly, paragraph 11.47 appears to re-apply those Policies to Tier 3 settlements.

The Council appreciates that the Supplementary Planning Document was written in good faith and that paragraph 11.46 was written in order to “**enable a small amount of development to be directed towards more sustainable settlements**”. However, it is clearly being used by developers to justify large developments around Tavistock and other key settlements – the law of unintended consequences.

An informal view by a leading practitioner in this area is that the paragraph steps outside the lawful limits of a Supplementary Planning Document and should accordingly be disregarded.

Having regard to the increasing pressure for major developments, including the sensitivity of the range of landscape designations that apply to the town, please can you review the legal position and, on behalf of the Local Planning Authority, advise both on lawfulness and on the options for putting matters right should you conclude the Supplementary Planning Document does appear to be either unlawful, or susceptible to challenge.

The Development Management & Licensing Committee will be discussing any updates on the Callington Road application on February 17th 2026 and subsequently at the full Council Meeting on February 24th 2026. It would be helpful if your advice was available for those Meetings.

Thank you in anticipation of your assistance in this matter.

Yours sincerely

Carl Hearn
TOWN CLERK
Tavistock Town Council

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