

:

INDEPENDENT EXAMINER'S REPORT ON THE ST JUST-IN-PENWITH NEIGHBOURHOOD DEVELOPMENT PLAN

Deborah McCann

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SECTION 2

Summary

As the Independent Examiner appointed by Cornwall Council to examine the St Just-in-Penwith Neighbourhood Development Plan, I can summarise my findings as follows:

- 1. I find the St Just-in-Penwith Neighbourhood Development Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.*
- 2. I am satisfied that the Referendum Area should be the same as the Plan Area, should the St Just-in-Penwith Neighbourhood Development Plan go to Referendum.*
- 3. I have read the St Just-in-Penwith Consultation Statement and the representations made in connection with this subject I consider that the consultation process was robust and that the Neighbourhood Plan and its policies reflects the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.*
- 4. I find that the St Just-in-Penwith Neighbourhood Development Plan can, subject to the recommended modifications proceed to Referendum.*
- 5. At the time of my examination the adopted local plan was the Cornwall Local Plan 2016.*

SECTION 3

3.Introduction

3.1. Neighbourhood Plan Examination.

My name is Deborah McCann, and I am the Independent Examiner appointed to examine the St Just-in-Penwith Neighbourhood Development Plan.

I am independent of the qualifying body, I do not have any interest in the land in the plan area, and I have appropriate qualifications and experience, including experience in public, private and community sectors.

My role is to consider whether the submitted St Just-in-Penwith Neighbourhood Development Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the St Just-in-Penwith Neighbourhood Development Plan should proceed to Referendum. My role is as set out in more detail below under the section covering the Examiner's Role. My recommendation is given in summary in Section 2 and in full under Section 5 of this document.

The St Just-in-Penwith Neighbourhood Development Plan has to be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.

The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I did require clarification on a number of issues. These points were dealt with by written representations in a question and answer format. This additional information is publicly available on the Cornwall Council website and covered in my report within the relevant policy.

3.2. The Role of Examiner including the examination process and legislative background.

The examiner is required to check whether the neighbourhood plan:

- *Has been prepared and submitted for examination by a qualifying body*
- *Has been prepared for an area that has been properly designated for such plan preparation*
- *Meets the requirements to*
 - i) specify the period to which it has effect;*
 - ii) not include provision about excluded development; and*
 - iii) not relate to more than one neighbourhood area and that*
- *Its policies relate to the development and use of land for a designated neighbourhood area.*

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

As an independent Examiner, having examined the Plan, I am required to make one of the following recommendations:

1. The Plan can proceed to a Referendum
2. The Plan with recommended modifications can proceed to a Referendum

Where a policy does not meet the basic conditions or other legal requirement I may, on occasion, need to delete wording, including potentially an entire plan policy and/or section of text, although I will first consider modifying the policy rather than deleting it. Where a policy concerns a non-land use matter, advice in the Planning Practice Guidance states “Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.” As such, when considering the deletion of any non-land use matters from the plan, I will consider if I can make a modification to place the relevant proposed actions in a non-statutory annex to the plan, dealing with ‘Wider Community Aspirations’. I will not generally refer back to parties on these detailed revisions. I will make modification either in order to meet the Basic

Conditions, to correct errors or provide clarification. However, the focus of my examination, as set out in legislation is relatively narrow, I must focus on compliance with the Basic Conditions. The main purpose of a neighbourhood plan is to provide a framework for the determination of planning applications, policies in a plan which have elements which either seek to control things which fall outside the scope of the planning system or introduce requirements which are indiscriminate in terms of the size of development or overly onerous and would not meet the Basic Conditions. In these circumstances it will be necessary to make modifications to the plan. In making any modifications I have a duty to ensure that the Basic Conditions are met however I am also very careful to ensure, where possible that the intention and spirit of the plan is retained so that the plan, when modified still reflects the community's intent in producing their neighbourhood plan.

3. The Plan does not meet the legal requirements and cannot proceed to Referendum

I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the St Just-in-Penwith Neighbourhood Development Plan go to Referendum.

In examining the Plan, I am required to check, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004:

- The Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect - the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.

I am also required to determine whether the Plan complies with the Basic Conditions, which are that the proposed Neighbourhood Plan:

1. *Has regard to national policies and advice*

2. *Contributes to sustainable development*
3. *Is in general conformity with the strategic policies in the appropriate Development Plan*
4. *Is not in breach and is otherwise compatible with EU obligations and Human Rights requirements.*
5. *Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.*

The Plan must also not breach, and otherwise be compatible with EU obligations and Human Rights requirements.

Cornwall Council will consider my report and decide whether it is satisfied with my recommendations. The Council will publicise its decision on whether or not the plan will be submitted to a referendum, with or without modifications. If the Neighbourhood Plan is submitted to a referendum, then 28 working days' notice will be given of the referendum procedure and Neighbourhood Plan details. If the referendum results in more than half those voting (i.e. greater than 50%), voting in favour of the plan, then the Unitary Authority must "make" the Neighbourhood Plan a part of its Development Plan as soon as possible. If approved by a referendum and then "made" by the local planning authority, the Neighbourhood Plan then forms part of the Development Plan.

SECTION 4

4.The Report

4.1. Appointment of the Independent examiner

Cornwall Council appointed me as the Independent Examiner for the St Just-in-Penwith Neighbourhood Development Plan with the agreement of St Just-in-Penwith Town Council.

4.2. Qualifying body

I am satisfied that St Just-in-Penwith Town Council is the Qualifying Body.

4.3. Neighbourhood Plan Area

St Just-in-Penwith Town Council applied for designation as a Neighbourhood Plan Area on 23rd March 2017 and approved by Cornwall Council on 24th of March 2017.

The Basic Conditions Statement, page 3 states that the application for the Neighbourhood Plan Area was made on the 3rd of March 2017. I believe this is just an error and that the correct date is the 23rd of March.

The designated St Just-in-Penwith Neighbourhood Area covers the Parish of St Just-in-Penwith.

The Basic Conditions Statement submitted with the St Just-in-Penwith Neighbourhood Development Plan confirms there are no other Neighbourhood Plans covering the Area of the St Just-in-Penwith Neighbourhood Development Plan.

4.4. Plan Period

It is intended that the St Just-in-Penwith Neighbourhood Development Plan will cover the period 2021-2030, chosen to align with the Cornwall Local Plan.

4.5. Cornwall Council initial assessment of the Plan (Regulation 15).

St Just-in-Penwith Council submitted the draft St Just-in-Penwith Neighbourhood Plan to Cornwall Council for consideration under Regulation 15 of the

Neighbourhood Planning (General) Regulations 2012 on the 15th of January 2020. Cornwall Council made an initial assessment of the Neighbourhood Development Plan and the supporting documents and is satisfied that these comply with the specified criteria.

4.6 Site Visit

I carried out an unaccompanied site visit on the 18th of June 2021 to familiarise myself with the Neighbourhood Plan Area.

4.7. The Consultation Process

The St Just-in-Penwith Neighbourhood Development Plan has been submitted for examination with a Consultation Report which sets out the consultation process that has led to the production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.

The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):

- (a) It contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- (b) It explains how they were consulted; (c) It summarises the main issues and concerns raised by the persons consulted; and
- (d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed neighbourhood development plan.

Examination of the documents and representations submitted in connection with this matter have led me to conclude that the consultation process was thorough, well conducted and recorded.

A list of statutory bodies consulted is included in the Consultation Statement.

4.8. Regulation 16 consultation by Cornwall Council and record of responses.

The Cornwall Council placed the St Just-in-Penwith Neighbourhood Development Plan out for consultation under Regulation 16 for 10 weeks from Thursday 10th December 2020 to Thursday 18th February 2021. The normal statutory period for consultation is 6 weeks but due to the unprecedented situation caused by Covid-19, the consultation period was extended to 10 weeks in line with the guidance from The Ministry of Housing, Communities and Local Government.

A number of representations were received during the consultation period and these were made available by Cornwall Council as part of the supporting information supplied for the examination process. I considered the representations, have taken them into account in my examination of the plan and made reference to them where appropriate.

4.9. Compliance with the Basic Conditions

A Basic Conditions Statement was produced for the St Just-in-Penwith Neighbourhood Development Plan. The purpose of this statement is to set out in detail how the Neighbourhood Development Plan, as submitted meets the Basic Conditions. It is the Examiner's Role to take this document into consideration but also make take an independent view as to whether or not the assessment as submitted is correct.

I have to determine whether the St Just-in-Penwith Neighbourhood Development Plan:

6. *Has regard to national policies and advice*
7. *Contributes to sustainable development*
8. *Is in general conformity with the strategic policies in the appropriate Development Plan*
9. *Is not in breach and is otherwise compatible with EU obligations and Human Rights requirements.*
10. There is now an additional Basic Condition to be considered. Since the 28th of December 2018, the Neighbourhood Planning (General) Regulations 2012 Such 2 para 1 has stated:

"In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act—

The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017."

Documents brought to my attention by the Unitary Authority for my examination include:

(a) The St Just-in-Penwith Neighbourhood Development Plan:

This is the main document, which includes the policies developed by the community.

(b) The Consultation Statement:

This is a statement setting out how the community and other stakeholders have been involved in the preparation of the St Just-in-Penwith Neighbourhood Development Plan and is supported by an evidence base, which arose from the consultation.

(c) Basic Conditions Statement.

This is a statement setting out how St Just-in-Penwith Neighbourhood Development Plan Working Group considers that the Neighbourhood Development Plan meets the Basic Conditions. This statement also includes the screening report for the Strategic Environmental Appraisal and Habitats Regulations Assessment and addresses how the plan contributes to the achievement of sustainable development.

(d) SEA report

Comment on Documents submitted

I am satisfied having regard to these documents and other relevant documents, policies and legislation that the St Just-in-Penwith Neighbourhood Development Plan

does, subject to the recommended modifications, meet the Basic Conditions.

4.10 Planning Policy

4.10.1. National Planning Policy

National Policy guidance is in the National Planning Policy Framework (NPPF). At the time of the preparation of the Neighbourhood Plan the relevant NPPF was the National Planning Policy Framework (NPPF) July 2021 (as updated).

To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the NPPF requires that a Neighbourhood Plan “must be in general conformity with the strategic policies of the local plan”.

Paragraph 29 states:

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

The St Just-in-Penwith Neighbourhood Development Plan does not need to repeat national policy, but to demonstrate it has taken them into account.

I have examined the St Just-in-Penwith Neighbourhood Development Plan and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Plan, subject to modification does meet the Basic Conditions in this respect.

4.10.2. Local Planning Policy- The Development Plan

St Just-in-Penwith lies within the area covered by Cornwall Council. The relevant development plan is the Cornwall Local Plan 2016.

4.10.3 To meet the Basic Conditions, the St Just-in-Penwith Neighbourhood Development Plan must be in “general conformity” with the strategic policies of the development plan.

The NPPF 2021 (updated) states:

“20. Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision¹² for:

- a) housing (including affordable housing), employment, retail, leisure and other commercial development;
- b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- c) community facilities (such as health, education and cultural infrastructure); and
- d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”

4.10.4 Neighbourhood Plans should only contain non-strategic policies. The NPPF 2021(updated) states:

“Non-strategic policies

28. Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

4.10.5 Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy, which is contained in the last document to become part of the development plan.

4.10.6 The distinction between strategic and non-strategic policies is important because of the relationship with Neighbourhood Plans. Neighbourhood Plans only have to be in general conformity with the strategic policies of the development plan (Localism Act 2011, Schedule 4B, s7 (2)(e)) When made, neighbourhood plan policies take precedence over existing non-strategic policies in the local plan, where they are in conflict.

4.10.7 Planning Policy Guidance paragraph 41-076-20140306 sets out that:

“Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic”

I have considered the Strategic policies of the Development Plan and the Policies of the St Just-in-Penwith Neighbourhood Development Plan and consider that, subject to the recommended modifications, the Plan does meet the Basic Condition in this

respect and is in general conformity with the Strategic policies of the Cornwall Local Plan 2016.

4.11. Other Relevant Policy Considerations

4.11.1 European Convention on Human Rights (ECMR) and other European Union Obligations

As a 'local plan', the Neighbourhood Development Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC Office.

In the case of Directive 2001/42/EC the St Just-in-Penwith NDP Steering Group requested that Cornwall Council screen the Neighbourhood Plan for Strategic Environmental Assessment and Habitat Regulations Assessment on 1 July 2020. Natural England, the Environment Agency and Historic England were consulted as part of the screening process. The screening opinion concluded that 'based on the scale and location of development proposed in the draft plan, Cornwall Council is of the opinion that the St Just-in-Penwith Parish NDP is unlikely to have significant effects on the environment or on European Sites and that SEA and HRA is therefore not required' (Letter, 5 October 2020.)

Directive 92/43/EEC and Directive 2009/147/EC seek to protect and improve Europe's most important habitats and species. As part of the screening request for the SEA a Habitats Regulations Assessment Screening request was also submitted to Cornwall Council. Based on the scale and location of development proposed in the draft plan Cornwall Council concluded that the St Just-in-Penwith NDP is unlikely to have significant effects on the environment or on European Sites and an HRA was therefore not required (Letter, 5 October 2020.).

Natural England, the Environment Agency and Historic England were consulted as part of the screening process.

I am satisfied with this conclusion.

Prescribed Matters

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out a further basic condition for a Neighbourhood Development Plan in addition to those set out in the primary legislation. Being that:

- the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended) in relation to the examination of neighbourhood development plans.)

There are no relevant prescribed matters that this Plan needs to take into account.

4.11.2 Sustainable development

The Basic Conditions Statement sets out how the plan addresses achieving sustainable development:

I am satisfied having regard to this document and other relevant documents, policies and legislation that the St Just-in-Penwith Neighbourhood Development Plan does, subject to the recommended modifications, meet the Basic Conditions in this regard.

European Convention of Human Rights and to comply with the Human Rights Act 1998.

The Neighbourhood Development Plan is required to take cognisance of the European Convention of Human Rights and to comply with the Human Rights Act 1998.

The Basic Conditions Statement refers to how the development of the plan and its policies accord with EU Human Rights obligations.

I am satisfied with this conclusion.

I am satisfied that the St Just-in-Penwith Neighbourhood Development Plan, subject to modification meets the basic conditions on EU obligations.

4.11.3 Excluded development

I am satisfied that the St Just-in-Penwith Neighbourhood Development Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.

4.11.4 Development and use of land

I am satisfied that the St Just-in-Penwith Neighbourhood Development Plan covers development and land use matters.

4.12.1 St Just-in-Penwith Neighbourhood Development Plan Policies

General comments

Planning Guidance on preparing neighbourhood plans and policies is clear, it states:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”

In order to provide clarity and to ensure that the policies in the St Just-in-Penwith Neighbourhood Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies. This includes modifications where:

- Policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.
- A policy has not been drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.

The details of these modifications are set out within my comments on the related policies. My comments on policies are in blue with the modified policies in red.

12.The Neighbourhood Plan Vision, Strategic Aims and Policies

VISION

The Vision for St Just-in-Penwith Parish

St Just Parish is proud of its heritage, the unique character of the town and settlements which make it up and its community spirit. Through the Neighbourhood Development Plan we will foster a vibrant and diverse community that:

- has at its heart good quality housing to meet the needs of the current and future local population
- supports businesses and enterprises and contributes to a sustainable rural economy to support *those living locally*
- respects and values our natural and historic environment
- is visionary and progressive in its approach to developing and supporting individual and community initiatives that make it sustainable and resilient to the effects of climate change.

The NDP Objectives

“Overarching objective: climate change and renewables

37. To promote an economically, socially and environmentally sustainable and resilient community, increasing our ability to cope with global shocks such as economic downturns, rising energy prices and climate breakdown, through our strategic objectives.

38. Strategic objectives

- › **Affordable housing and other housing development: to promote housing development which focuses on local needs for affordability, size and tenure.**
- › **Appropriate development: to ensure that development is appropriate in scale and character to its setting and to balance local needs with preserving and protecting our unique natural and historic environment and landscape, strongly supporting existing designations.**
- › **Building design and outdoor space: to ensure that the design of buildings and the outdoor spaces around them is energy efficient, environmentally sustainable and respects or enhances their settings.**
- › **Renewable energy: to encourage the use of renewable energy and support the development of community energy projects.**
- › **Commercial Development: to enable commercial development which respects its setting and provides employment opportunities and additionally to provide resilience in the farming sector.**

COMMENT

I am satisfied that the St Just-in-Penwith NDP vision, aims and objectives were developed from the consultation process and that the policies within the plan reflect the vision, aims and objectives.

St Just-in-Penwith Neighbourhood Development Policies

Policy AH1

Proposals will be encouraged and supported from community groups, land trusts, and registered affordable housing providers and developers working individually or in partnership which:

1. can demonstrate a direct benefit to the local community by using innovative routes to affordable housing to provide affordable housing in perpetuity, and

2. are delivered through infill or as part of the affordable housing mix on rural exception sites.

COMMENT

I have no comment on this policy.

Policy AH2

Proposals for developments other than rural exception sites which will partly or wholly provide affordable housing will be supported if they can demonstrate that they:

1. fulfil an identified local need
2. contain a justifiable balance of open market housing with affordable housing providing a mixture of tenure which reflects local need and meets the Cornwall Local Plan target levels of affordable housing identified in Policy 8. The affordable housing element should be delivered as a tenure-blind development as defined in MHLG's Design Guide, and
3. provide for the highest possible proportion of good quality affordable housing units to rent or to buy. Reference should be made to the Cornwall Housing SPD in deciding the scheme details. <https://www.cornwall.gov.uk/media/37814118/final-housing-spd-april-2019-print-version.pdf>

COMMENT

I have no comment on this policy

Policy AH3

In accordance with Policy 9 of the Cornwall Local Plan, proposals for rural exception sites will be supported if they:

1. meet the specific needs identified for the Parish and restrict occupation of affordable homes to those in housing need and with a local connection in line with

Cornwall Local Plan Policy 9 and its adopted local connection policies

2. make provision for 100% affordable units, subject to the inclusion of open market housing only if this can be demonstrated as being essential to enable delivery of the development, and present a detailed assessment of the financial viability of the scheme which ensures delivery of the maximum number of affordable housing units, and

3. are based on land cost which conforms with paragraph 102 of the Housing SPD.

COMMENT

The land value submitted by a developer as part of a viability assessment for the provision of affordable housing cannot be specified in planning policy. To meet the Basic Conditions paragraph 3 of Policy AH3 should be deleted.

Policy AH4

Proposals will be encouraged from community groups, land trusts, and registered affordable housing providers and developers working individually or in partnership which:

1. can demonstrate a direct benefit to the local community by using different innovative routes to affordable housing such as self-build, in accordance with the NPPF definition of other affordable routes to home ownership, to provide affordable housing in perpetuity, and

2. are delivered through infill or as part of the affordable housing mix on rural exception sites.

COMMENT

I have no comment on this policy.

Policy AH5

In order to reflect the needs of the community, well-designed housing intended for

occupation by older people with a local connection and in housing need should be included as part of the overall development mix, in the form of accessible and adaptable ground floor apartments, adaptable upper floor apartments and single storey dwellings.

COMMENT

I have no comment on this policy.

Policy AH6

Proposals for open market housing will be supported if they:

1. demonstrate a mix of property suited to the specific needs identified for the Parish
2. are suitable for full-time occupation in their design, and
3. are sited in accordance with Cornwall Local Plan Policies 3.3 and 3.4.

COMMENT

I have no comment on this policy.

Policy AD1

Developments should be of a scale which is proportionate to the size and character of the existing settlement in which they are to be sited or which they would adjoin and conforms to AONB guidance. The size of the development should in no case be greater than 20 units and no further development will be permitted adjacent to the site that would make the total number of units in the combined development in excess of 20 for the duration of this Plan. The only exception to this limit would be for sites on previously developed land within existing settlement boundaries. In such cases the development footprint must not exceed that of the previously developed site, including curtilage developments where these would visually encroach into the undeveloped space.**COMMENT**

This policy introduces a development threshold of 20 units. I have not been

provided with any evidence to support this threshold and the final sentence of the policy does not provide any flexibility of approach to new development. Whilst I understand the concerns of the community regarding ensuring that proposed developments are of an appropriate scale for their location I am unable to support a blanket limit to development of 20 units.

It is also important to note the existing policy context, for example Paragraph 177. Of the NPPF 2021 (as updated) states:

“When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development (For the purposes of paragraphs 176 and 177, whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.) other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.

Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

This gives a strong policy framework for the consideration of development proposals affecting the AONB.

For clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy AD1

Proposals for residential developments will be supported where they are of a scale which is proportionate to the size and character of the existing settlement in which they are to be sited or which they would adjoin and conform to AONB guidance. Development immediately adjacent to any consented site will not be supported where the total number of units in the combined development would result in a development of a scale which is not proportionate to the size and character of the settlement for the duration of this Plan. For sites on previously developed land within existing settlement boundaries, the site coverage should reflect that of the previously developed site, including curtilage developments where these would visually encroach into the undeveloped space.

Policy AD2

Development in or adjacent to any of the Conservation Areas within the area covered by the Plan must take account of the character of the historic built environment within the area surrounding the proposal site and must:

1. demonstrate that the development would preserve or enhance the particular character of the Conservation Area, as described in the relevant Conservation Appraisal produced by Cornwall Council
2. provide a Heritage Statement/Heritage Impact Assessment for all development proposals which have the potential to impact on heritage assets within Conservation Areas, or on their settings. Such statements should conform to the guidance set out by Historic England and should outline the significance of any heritage assets which may be affected and any adverse impacts that the development may have on heritage assets
3. demonstrate that the design of the proposal is based on these findings and set out how the proposed development will contribute to the character and setting of the relevant heritage asset(s)
4. describe those mitigation measures which have been agreed with the Local Planning Authority as being appropriate where the potential for negative impacts is

identified and cannot be avoided, and

5. within Conservation Areas, preserve previously undeveloped open spaces which contribute to the character of the conservation area.

COMMENT

I have no comment on this policy.

Policy AD3

Proposals for developments within the Parish which have the potential to impact on heritage assets or their settings will only be considered where:

1. the developer has demonstrated that potential impacts on the historic environment have been professionally assessed and understood to an appropriate standard of quality through a Heritage Statement/Heritage Impact Assessment
2. the statement/assessment considers potential impacts on the settings of both designated and undesignated elements of the historic environment and the potential for impacts on Historic Landscape Character (HLC), as mapped by Cornwall Historic Environment Service, Cornwall Council, and
3. the developer can demonstrate how potential negative impacts which cannot be avoided are to be appropriately and adequately mitigated.

COMMENT

For clarity and consistency, the first sentence of the policy should be modified as follows:

Subjects to other policies in the NDP, proposals for developments within the Parish which have the potential to impact on heritage assets or their settings will only be supported where:

Policy AD4

All applications for development within Area 1 of the Cornish Mining World Heritage Site must demonstrate that they:

1. follow the guidance set out in the current versions of the WHS Management Plan and the WHS Supplementary Planning Document; developers are encouraged to seek feedback and comments on their proposals from the WHS team at pre-application stage.
2. will not negatively impact on components of the Cornish Mining World Heritage Site, including those that are currently undesignated, which contribute to its Outstanding Universal Value (OUV).

COMMENT

I have no comment on this policy.

Policy AD5

Where the re-use of a derelict, redundant or disused, historic or listed building for residential, business or other use is proposed, the developer must commission a Historic Building Recording (HBR) in advance of any significant alterations and demonstrate by means of a Heritage Statement/ Heritage Impact Assessment or equivalent that:

1. the proposal represents the only economically viable means by which the historic building can be preserved (where its loss through ongoing deterioration would otherwise be inevitable), and
2. re-use would secure the preservation of the building and retain its historic integrity
3. the proposal as a whole (including the provision of infrastructure such as new or upgraded access) would have either a neutral or positive impact on its setting.

COMMENT

National and local policy for the protection of heritage assets already exists and

does not need to be repeated in a neighbourhood plan (see paragraphs 189-208 of the NPPF 2021) however if included it must accurately reflect existing policy. Existing policy already requires the submission of supporting evidence as described in this policy:

“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.” (Paragraph 194 NPPF 2021)

“In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.” (paragraph 197 NPPF 2021)

For clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy AD5

Where the re-use of a derelict, redundant or disused designated or non-

designated heritage asset for residential, business or other use is proposed, the developer must comply fully with the relevant national policy and any policies within the development plan.

Policy AD6

Proposals dealing with the partial or total loss of community facilities (buildings and recreational spaces), must demonstrate that:

1. an alternative site has been sought for the existing community use to a standard at least of equivalent benefit, and that
2. an alternative community use has been actively sought for a period of 9 months.

COMMENT

Cornwall Local Plan Policy 4 sets out the criteria for assessing whether the loss of a community facility will be acceptable as:

- a. no need for the facility or service;**
- b. it is not viable; or**
- c. adequate facilities or services exist, or the service can be re- provided in locations that are similarly accessible by walking, cycling or public transport.**

For clarity and consistency with strategic policy 4 of the CLP the policy should be modified as follows:

Policy AD6

Proposals dealing with the partial or total loss of community facilities (buildings and recreational spaces), must demonstrate that:

- a. no need for the facility or service;**
- b. it is not viable; or**

c. adequate facilities or services exist, or the service can be re- provided in locations that are similarly accessible by walking, cycling or public transport.

Policy AD7

Proposals for development which would result in the loss of open spaces between existing settlement boundaries will be supported where they are designed to maintain the visual separation and openness, protect the landscape and historic character of the gaps and the character of the neighbouring built environment, and maintain wildlife corridors.

Proposals that bring about the coalescence of the individual historic settlements, including curtilage developments and cause their distinct individual identity to be lost will not be supported.

COMMENT

I have no comment on this policy.

Policy AD8

Development should not compromise those publicly accessible panoramas, vistas and views which characterise the Parish and must demonstrate that:

1. the development would not negatively impact upon views and vistas which are of significant historic or environmental importance, and that
2. it would preserve or enhance the character and quality of significant, key views, vistas and panoramas.

COMMENT

Whilst this policy seeks to protect “significant, key views, vistas and panoramas” these have not been identified in the plan nor is the policy linked to an evidence base which identifies them. This would make it difficult for the use of this policy in the determination of a planning application. For clarity and

to meet the Basic Conditions the policy should be modified as follows:

Policy AD8

Proposals for development should be supported with evidence, appropriate to the size and scale of the development that demonstrates how the development will enhance the character and setting of the parish and protect the views and vistas which are of significant historic or environmental importance.

Policy AD9

Proposals will be supported which maintain and enhance access to the local footpath network. Where a public right of way crosses a proposed development site, the proposal must either retain the current course of the right of way or incorporate a diversion that would not adversely impact on residential amenity or the safety of the general public.

COMMENT

I have no comment on this policy.

Policy AD10

Proposals for development must:

1. be accompanied by a preliminary ecological survey outlining the biodiversity of the site
2. provide a detailed plan of how biodiversity on the site will be conserved and enhanced to demonstrate how long-term biodiversity net gain will be achieved
3. where a preliminary survey identifies the existence of threatened or unique to the area, flora or fauna, a more detailed survey will be required identifying particular species and the threat to them
4. where a particular threat is identified by a survey, demonstrate how such a threat will be mitigated

5. if the loss of mature tree woodland, Cornish hedges, hedgerows or other habitat cannot be avoided, provide details of mitigation measures that will still achieve a biodiversity net gain within a decade.

COMMENT

Not all development requiring planning permission will be of a size and scale that warrants the application of the criteria contained within this policy. For clarity and to meet the Basic Conditions, the policy should be modified as follows:

Policy AD10

Proposals for development should:

- 1. Where required, be accompanied by a preliminary ecological survey outlining the biodiversity of the site**
- 2. Provide a plan appropriately detailed having regard to the size and scale of the development of how biodiversity on the site will be conserved and enhanced to demonstrate how long-term biodiversity net gain will be achieved.**
- 3. Where a preliminary survey identifies the existence of threatened or unique to the area, flora or fauna, a more detailed survey will be required identifying particular species and the threat to them**
- 4. Where a particular threat is identified by a survey, demonstrate how such a threat will be mitigated**
- 5. if the loss of mature tree woodland, Cornish hedges, hedgerows or other habitat cannot be avoided, provide details of mitigation measures that will still achieve a biodiversity net gain within a decade.**

AD11

Proposals for tree planting projects, and for developments including the planting of

new areas of suitable species of trees, in appropriate locations, will be supported, provided the proposal complies with advice given in the “Forest for Cornwall” planting guidance, and where the proposal would have no demonstrable adverse impact on its settings and biodiversity.

COMMENT

I have no comment on this policy.

Policy AD12

Proposals for areas to be developed as allotment sites will be supported, where structures sited within them do not have an adverse visual impact on the character, appearance and biodiversity of the area in which they are to be sited. If the area is sited on a steep gradient, landscaping must be included in the development to mitigate soil-loss through run-off.

COMMENT

I have no comment on this policy.

Policy BD1

New buildings should be designed to meet the following criteria:

1. Building design intended to replicate the local traditional vernacular should reflect existing traditional styles and features
2. The use of good quality, sustainable natural materials such as local granite, glass, wood and slate is preferred and will be supported. Developers should also evidence how they have future-proofed the appearance of new developments, replacement buildings, conversions and extensions by the use of materials which will weather well and be climate resilient
3. Cornish hedges, hedgerows and stone walls in the local style should be used for boundary treatments

4. Creative, innovative and contemporary design proposals for new developments, replacement buildings, conversions and extensions will be encouraged, where their impact on the character and appearance of the local area is not assessed as being harmful, and

5. Proposals for new developments, replacement buildings, conversions and extensions should respond to the proportions of local vernacular buildings.

COMMENT

The wording of paragraph 1. of this policy is confusing. For clarity it should be modified as follows:

1. Be locally distinctive, reflecting traditional styles and features where appropriate.

Policy BD2

Proposals meeting the following construction requirements will be supported:

1. New developments, replacement buildings and conversions should use solar PV/thermal panels in accordance with Cornwall Renewable Energy Planning Advice, unless other renewable sources can meet energy needs

2. Developers should evidence that new developments are designed, sited and orientated to optimise passive solar gain

3. Fast charging plugin points for low emission vehicles of at least 7kW should be installed at all new developments. Larger developments with communal car parking should provide a proportionate number of car charging points, sufficient for the projected needs of all occupants

4. Developers must avoid the use of impervious hard landscaping which leads to excess run-off and flood risk; finishes such as pervious brick or matrix paving should be used instead. See <https://www.rhs.org.uk/advice/profile?pid=878>

5. Developments of new buildings, replacement buildings, conversions and larger extensions should use the EA surface water flood risk map to enable developers to design their SUDS schemes in harmony with local water flows: see <https://flood-warning-information.service.gov.uk/long-term-flood-risk/postcodes> and <https://www.cornwall.gov.uk/environment-and-planning/countryside/estuaries-rivers-and-wetlands/flood-risk/sustainable-drainage-systems>

6. Opportunities to design in attractive features that encourage biodiversity, such as ponds and wetlands, should be fully exploited and will be supported.

COMMENT

The wording of this policy is confusing and has elements of repetition. For clarity the policy should be modified as follows:

Policy BD2

New developments, replacement buildings and conversions will be supported where they, in proportion to the size and scale of the development:

- 1. Incorporate the use of solar PV/thermal panels in accordance with Cornwall Renewable Energy Planning Advice, or other renewable energy sources.**
- 2. Are designed, sited and orientated to optimise passive solar gain**
- 3. Include fast charging plugin points for low emission vehicles of at least 7kW. Larger developments with communal car parking should provide a proportionate number of car charging points, sufficient for the projected needs of all occupants**
- 4. Avoid the use of impervious hard landscaping which leads to excess run-off and flood risk; finishes such as pervious brick or matrix paving should be used instead. See <https://www.rhs.org.uk/advice/profile?pid=878>**
- 5. Use the EA surface water flood risk map to design their SUDS schemes in harmony with local water flows: see [*St Just-in-Penwith Neighbourhood Development Plan*](https://flood-warning-</div><div data-bbox=)**

information.service.gov.uk/long-term-flood-risk/postcodes and <https://www.cornwall.gov.uk/environment-and-planning/countryside/estuaries-rivers-and-wetlands/flood-risk/sustainable-drainage-systems>

Opportunities to design in attractive features that increase biodiversity, such as ponds and wetlands, should be fully exploited and will be supported.

Policy BD3

New buildings, replacement buildings and conversions should be designed to follow the energy hierarchy (i.e. reduce consumption, maximise efficiency, supply through renewables) and to meet the following criteria:

1. to be as energy efficient as possible, incorporating measures such as loft and wall insulation and energy efficient glazing
2. any new development should provide at least 20% of energy needs from on-site renewable sources
3. to incorporate water re-use and recycling and rainwater harvesting to reduce demand on mains water supply
4. alterations to existing buildings must be designed with energy reduction in mind and comply with sustainable design and construction standards, and
5. the retrofit of heritage properties is encouraged in order to reduce energy demand and to generate renewable energy where appropriate, provided it safeguards historic characteristics and development is done with the engagement and permissions of relevant organisations.

COMMENT

I have no comment on this policy.

Policy BD4

Proposals will be supported which meet the following standards with regard to

private and communal outdoor space:

1. New build developments should allocate an area of outdoor curtilage space that exceeds the footprint of the building (excluding parking provision). The space should be designed to be used for a mixture of practical and recreational uses
2. Communal new build developments should allocate as much space as is proportionate, to ensure that every person living there has the continual realistic opportunity to use the space for both practical and recreational activities. Developers allocating communal outside space should demonstrate what arrangements are in place for the space to be maintained in perpetuity
3. Outside space on all new build developments, should be of sufficient size in which to accommodate, within the development curtilage, an area in which to dry laundry, an area in which to store waste and recycling containers and an area in which to store cycles. Communal developments should ensure that cycle storage areas and waste and recycling areas are in separate screened off areas of the development curtilage
4. Favourable regard will be given to proposals which also consider the allocation of an area that would enable residents to grow their own food
5. Attractive features should be included such as green living roofs, communal green open spaces and landscaping, where trees and pollinator-friendly flowers and shrubs are planted
6. Kerbs and pavements should be used to provide a safe walking space between the building and the road
7. Developments of 5 or more houses must include easily accessible links to bus stops, amenities, footways and cycle paths/routes. They should also include provision for communal outdoor play, whether equipped or unequipped, that meet the most up to date standards for open space, set by the Local Planning Authority
8. Replacement dwellings, conversions and extensions will be supported where they maintain the outside space requirements in point 3 and preferably enhance habitat

connectivity by retaining trees and green corridors. Proposals which reduce existing outside space that could otherwise be used for parking and practical and recreational use will not be supported.

COMMENT

This policy is long and in places confusing. It also seeks to make certain requirements regarding outdoor space provision which do not align with national or local policy and have not been adequately substantiated in the local context. I have not been provided with local evidence to support these additional requirements. For clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy BD4

Proposals for new residential development will be supported where:

- 1. For new build development they provide an appropriate level of private and communal outdoor space. The space should be designed to be used for a mixture of practical and recreational uses including an area in which to dry laundry, an area in which to store waste and recycling containers and an area in which to store cycles. Communal developments should ensure that cycle storage areas and waste and recycling areas are appropriately located and screened.**
- 2. For communal new build developments they allocate as much space as is proportionate, to ensure that every person living there has a realistic opportunity to use the space for both practical and recreational activities.**
- 3. Developers are encouraged to provide an area that would enable residents to grow their own food.**
- 4. included features such as green living roofs, communal green open spaces and landscaping, where trees and pollinator-friendly flowers and shrubs are planted**

5. Include kerbs and pavements to provide a safe walking space between the building and the road

6. Developments of 5 or more houses should include, where possible easily accessible links to bus stops, amenities, footways and cycle paths/routes. They should also include provision for communal outdoor play, whether equipped or unequipped, that meet the most up to date standards for open space, set by the Local Planning Authority

7. For replacement dwellings, conversions and extensions they maintain an appropriate level of outside space and preferably enhance habitat connectivity by retaining trees and green corridors.

Policy BD5

All new development proposals should:

1. provide a minimum of one off-street parking space for homes with one or two bedrooms and two spaces for homes with three or more bedrooms
2. ensure that the development will not add to existing traffic congestion and will not reduce the current on-street parking capacity
3. include on street parking, allocated parking spaces and visitor parking spaces within the development curtilage.

COMMENT

I am assuming that this policy relates to the parking provision of residential development. For clarity the first sentence of the policy should be modified as follows:

All new residential development proposals should:

Policy BD6

Proposals for the alteration of traditional shop fronts within the settlements covered

by the Plan must demonstrate that such proposals will not result in adverse impacts on them, and that they are sympathetic to the character of their frontage and built form, as well as their settings. The retention and repair of the original detailing of historic local shopfronts will be encouraged.

COMMENT

I have no comment on this policy.

Policy BD7

Proposals that have an adverse effect on trees, Cornish hedges, hedgerows and stone walls in the local style will not generally be supported. Proposals for development will be supported which:

1. retain and incorporate existing trees and woodland into the site layout and design
2. if there is any negative impact on trees, demonstrate how this will be mitigated. This could incorporate tree planting, and a tree planting plan would be required as part of the approval process for any development of more than five dwellings
3. retain and incorporate existing hedgerows, dry-stone walls and Cornish hedges into the site layout and design, and
4. where this is not possible the construction of replacement hedges must result in a net biodiversity gain.

COMMENT

I have no comment on this policy.

Policy BD8

Proposals for development will be supported where it is demonstrated that:

1. if external lighting is required, it protects the night sky from light pollution through: (i) the number, design, specification and position of lamps; (ii) full

shielding (at the horizontal and above) of any lighting fixture exceeding 500 initial lumens and evidence of limited impact of unshielded lighting through use of adaptive controls; (iii) limiting the correlated colour temperature of lamps to 4000 Kelvins or less, and (iv) movement sensors or timers are encouraged on all external lighting to minimise duration of use

2. there is provision to reduce light spill, and

3. in the case of development proposals for 5 or more dwellings, a lighting impact assessment has been carried out with appropriate lighting design solutions to minimise light pollution.

COMMENT

I have no comment on this policy.

Policy RE1

Development proposals for renewable energy schemes will be supported where they are either

1. integrated, so that the energy generated can be supplied directly to domestic, commercial and other buildings in the Parish, thereby reducing energy consumption, or

2. fully or partly owned by local residents, businesses or the community through an appropriate community enterprise.

COMMENT

The NPPF 2021 supports community-led initiatives for renewable and low carbon energy however the planning system does not control ownership. For clarity and to meet the Basic Conditions paragraph 2 of the policy should deleted. This information could be included within the justification for the policy however it cannot be made a requirement.

Policy RE2

Applications for the use of solar power will be supported in the following circumstances:

1. Proposals for rooftop solar and solar thermal arrays will normally be supported (where planning permission is required)
2. All proposals must take due account of the AONB and WHS designation
3. Proposals for ground mounted solar arrays will normally be supported provided that they ensure that the following impacts are avoided, mitigated or managed:
 - › Landscape and environment: the proposal must demonstrate that unacceptable adverse impacts on the local landscape and environment would not result from the proposal (Applicants should refer to Cornwall's Renewable Energy Planning Advice including Annexes 1 and 3, and Historic England Guidance)
 - › Residential amenity: the proposal must not have an unacceptable adverse visual impact on residential amenity or result in unacceptable impacts on highways and rights of way
4. Proposals for ground mounted solar arrays must demonstrate how they will achieve additional benefit from the scheme, in particular how land beneath and surrounding the area will be managed
5. Proposals should demonstrate how management will result in a net increase in the ecological value of the site and a broadening of biodiversity. High-grade agricultural land should not be proposed for such sites
6. Proposals should follow best practice guidance in relation to solar array design, maximising the potential for renewable energy generation alongside net biodiversity gains and agricultural activity
7. Proposals must show how land will be returned to its former use at the end of the project.

Proposals will not be supported where, together with an existing array, it would lead to a visual concentration of solar PV and have a significant detrimental impact on the character of the wider landscape. Due weight will be given to the contribution of the proposal to cutting greenhouse gas emissions and decarbonising the energy system.

COMMENT

I have no comment on this policy.

Policy RE3

Proposals for wind turbines within the area identified as potentially suitable for wind energy development in Map 11 Potential Wind Development Area (Appendix 2, page 62) will be considered against the following criteria. Proposals should address the planning impacts of the scheme in accordance with guidance in the Cornwall Renewable Energy Planning Advice and ensure that the potential harmful impacts on the following are appropriately avoided or mitigated:

1. Residential amenity: through noise generation, shadow flicker or overbearing visual impact
2. Safety: highways, principal overhead power distribution networks and public rights of way
3. Landscape and visual impact: proposals should have particular regard to the sensitivity of the landscape in relation to wind turbines, demonstrate that they respond to the AONB Management Plan and follow the advice in Cornwall Council's Renewable Energy Planning Advice 2016, Appendix 1: Landscape Sensitivity and Strategy Matrices CA02 and CA03
4. Ecology: proposals should protect and enhance biodiversity and contribute to biodiversity net gain, following the Advice Note: Biodiversity Net Gain in Cornwall
5. Heritage impact: all applications must undertake the appropriate historic environment assessments in line with Historic England Guidance relating to the

Parish's heritage assets, and should accord with the WHS Management Plan

6. Cumulative impact: proposals for wind turbines will not be permitted where, together with existing and approved turbines, they will lead to a concentration of wind turbines on a scale which would significantly change the character of the wider landscape, using Cornwall Council's Renewable Energy Planning Advice, Annex 2: Cumulative Impact Assessment Advice

7. Any potential impact on traffic operations, radar and navigational installations and the safe operation of Lands End Airport must be assessed

8. De-commissioning: proposals must show how once the development reaches the end of its operational life, it will be removed, and the site remediated, though plans will be considered for the future repowering of both new and existing sites in line with the NPPF

9. When considering such proposals, regard will be given to the wider social, economic and environmental benefits of providing energy from renewable sources, as well as the potential effects on the local environment; including any cumulative impact of these proposals.

COMMENT

I have received representation from Natural England who state:

“No objection subject to amendment of maps 11 & 12 to remove Lower Bostraze & Leswidden SAC as a potential area for wind development.”

I have also considered the response from the neighbourhood plan group to NE's comments. I concur with NE's comments and conclude that in order to meet the Basic Conditions maps 11 and 12 should be amended to remove Lower Bostraze & Leswidden SAC as a potential area for wind development.

In addition, I note that NE raise concerns that the Cornwall Council's Renewable Energy Planning Advice 2016 may be superseded by new policy

advice, in order to ensure the longevity of this policy the first paragraph of the policy should be modified as follows:

Proposals for wind turbines within the area identified as potentially suitable for wind energy development in Map 11 Potential Wind Development Area and Map 12 Possible Additional Constraints to Wind Energy Development (Appendix 2, page 62) will be considered against the following criteria. Proposals should address the planning impacts of the scheme in accordance with guidance in the Cornwall Renewable Energy Planning Advice (or any policy document which replaces it) and ensure that the potential harmful impacts on the following are appropriately avoided or mitigated:

Policy CD1

Proposals for commercial development and premises for business or other development such as infrastructure or necessary utilities (where they require planning permission) will be supported provided they demonstrate that:

1. the development does not involve building on a greenfield site unless there are no suitable, available, or deliverable opportunities to re-use existing buildings or previously developed land (including buildings and land already in commercial use)
2. the development does not entail building on good quality agricultural land (grades 1,2, 3a) or, where reasonable alternatives can be identified, grade 3b agricultural land
3. the development does not involve building on or immediately adjacent to land subject to statutory and non-statutory designations for wildlife, heritage or geological value or a semi-natural habitat
4. the development would not have significant harmful impacts on the natural and historic environment of the area or the built environment of the settlement as demonstrated by a Heritage Statement / Heritage Impact Assessment, and an

environmental impact assessment where appropriate

5. there is appropriate protection for any rare or significant species identified through a wildlife survey, or that adequate mitigation measures to offset any assessed harm have been designed into the proposal (as in policy AD9)

6. the development does not cause a new or exacerbate an existing pollution problem, including chemical, light, noise and smell pollution

7. adequate provision can be made for the disposal of foul and surface water drainage to the satisfaction of the Local Planning Authority

8. the development respects the character of the settlement and any adjoining residential properties

9. the development attains a recognised standard such as the Building Research Establishment Environmental Assessment Method (BREEAM) 'Excellent' standard and provides on-site renewable energy generation or connection to a renewable or low carbon community energy scheme, that contributes to a further 20% reduction in residual carbon emissions

10. any extension or additions to an existing complex are sympathetic in terms of scale, design and materials

11. the development has regard to the Local Landscape Character Assessments and does not require development on visually exposed sites

12. the proposal would not occupy an area subject to risk of flooding as identified by the Environment Agency

13. adequate parking and electric charge points are provided for within the design proposal

14. the development can be shown not to impact on traffic congestion, street parking or road safety within the Parish, and that access roads to the area proposed for the development were free-flowing pre-development, and have the

capacity to remain free-flowing and cope with the extra volume of traffic post-development.

COMMENT

National Planning Policy does not preclude completely development on statutory and non-statutory sites but sets out a hierarchy of importance of sites and how applications affecting them should be considered. Paragraph 180 of the NPPF 2021 states:

“180 When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;”

Whilst wanting to achieve buildings with high level environmental credentials is understandable the specific standards associated with BREEAM cannot be a requirement of Neighbourhood Plan policy.

Policy to address the risk of flooding is set out at a national level within the NPPF 2021. As with development on wildlife sites there is no complete ban on development but a structured sequential and exception test approach.

For clarity and to meet the Basic Conditions the policy should be modified as follows:

3. they are in conformity with national policy and the development plan where the proposals involve building on or immediately adjacent to land subject to statutory and non-statutory designations for wildlife, heritage or geological value or a semi-natural habitat.

9.the development is designed achieve high levels of sustainability

(meeting the Buildings Research Establishment BREEAM building standard 'excellent' assessment is encouraged) and provides on-site renewable energy generation that contributes to a further 20% reduction in residual carbon emissions.

12. the proposal would be in conformity with national policy and the development plan in relation to flood risk.

Policy CD2

Proposals must show that the development is suitably landscaped, including:

1. a mix of appropriate soft and hard landscaping, retaining existing trees, hedgerows and Cornish hedges or with provision for mitigation and replacement if necessary, and
2. appropriate landscaping and screening for external storage areas.

COMMENT

I have no comment on this policy.

Policy CD3

Applications to convert existing retail or commercial premises other than holiday lets to residential use will normally be resisted unless there is strong evidence that the premises are not commercially viable. Applications for alternative retail /service outlets and expansion of existing outlets will be supported where:

1. the scale and nature of development will be appropriate to the size and character of the immediate surroundings
2. the business will not adversely affect the locality and the amenities of residents
3. the development will be within existing settlement boundaries.

COMMENT

Not all conversions from existing retail or commercial premises to residential use require planning permission. For clarity the introduction to the policy should be modified as follows:

Where planning permission is required, applications to convert existing retail or commercial premises other than holiday lets to residential use will normally be resisted unless there is strong evidence that the premises are not commercially viable. Applications for alternative retail /service outlets and expansion of existing outlets will be supported where:

Policy CD4

Tourism-related development proposals, including camp sites, caravan parks, chalet developments and others such as those intended to enhance farm viability, must:

1. demonstrate that they would be sustainable, contribute to the local economy and provide employment opportunities for local people, and
2. provide at a minimum design and access statements demonstrating that they would not have a negative impact on the local historic or natural environment or landscape.

COMMENT

Design and access statements are not part of the planning policy regime, but part of the planning application validation process controlled by the Cornwall Council. For clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy CD4

Tourism-related development proposals, including camp sites, caravan parks, chalet developments and others such as those intended to enhance farm viability, must:

1. demonstrate that they would be sustainable, contribute to the local economy and provide employment opportunities for local people, and

2. demonstrate through the submission of appropriate reports that they would not have a negative impact on the local historic or natural environment or landscape.

Policy CD5

Proposals for development to provide employment opportunities in or adjacent to settlements will be supported provided that the proposals do not harm residential amenity, do not adversely impact upon road safety, and minimise landscape, heritage and environmental impact.

COMMENT

Cornwall Council Policy 3.3 sets the policy framework development for the location of new employment development. For clarity the policy should be modified as follows:

Policy CD5

Proposals for development to provide employment opportunities in or adjacent to settlements will be supported provided that the proposals are in conformity with CC Policy 3.3, do not harm residential amenity, do not adversely impact upon road safety, and minimise landscape, heritage and environmental impact.

Policy CD6

Proposals for development on farms which contribute to their economic sustainability will be supported in the following cases:

1. provision of non-residential structures (barns, shelters and workshops) where they are in keeping in scale and style, appropriately sited and their use can be clearly justified through business planning

2. conversion of existing traditional farm buildings on farm sites for commercial or residential use where it can be shown that the existing provision no longer meets needs or where there is a clear business justification for adaptive re-use, and which preserves the historic layout of the site.

This policy does not apply to the conversion or demolition and replacement of temporary buildings, including large portal-frame ones.

COMMENT

There are a number of circumstances where planning permission is not required for the development covered by this policy. For clarity the introduction to this policy should be modified as follows:

Where planning permission is required, proposals for development on farms which contribute to their economic sustainability will be supported in the following cases:

SECTION 5

Conclusion and Recommendations

- 1. I find that the St Just-in-Penwith Neighbourhood Development Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012. (as amended)*
- 2. The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.*
- 3. The St Just-in-Penwith Neighbourhood Development Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Development Plans in place within the Neighbourhood Area.*
- 4. The Strategic Environmental and Habitats Regulations Assessment screening meet the EU Obligation.*
- 5. The policies and plans in the St Just-in-Penwith Neighbourhood Development Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the Cornwall Local Plan 2016.*
- 6. I therefore consider that the St Just-in-Penwith Neighbourhood Development Plan subject to the recommended modifications can proceed to Referendum.*

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10th August 2021

