

John Slater Planning Ltd

St Erth Neighbourhood Plan 2017 - 2030

Submission Version

A Report to Cornwall Council on the Examination of the St Erth
Neighbourhood Plan

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Introduction

Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the adopted Cornwall Local Plan 2010-2030. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

The Neighbourhood Plan making process has been led by the St Erth Parish Council, which is a “qualifying body” under the Neighbourhood Planning legislation. It set up a Steering Group to oversee the Plan’s production.

This report is the outcome of my examination of the Submission Version of the St Erth Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the Plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by Cornwall Council, which is the Local Planning Authority for the Neighbourhood Plan area.

The Examiner’s Role

I was formally appointed by Cornwall Council in November 2017, with the agreement of the Parish Council, to conduct this examination. My role is known as an Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS)

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 39 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Cornwall Council, and St Erth Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

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Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- that the Plan should proceed to referendum on the basis that it meets all the legal requirements;
- that the Plan should proceed to referendum if modified;
- that the Plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the St Erth Neighbourhood Plan.

In examining the Plan, the Independent Examiner is expected to address the following questions:

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body?

I am able to confirm that the Plan, if amended in line with my recommendations, does relate to the development and use of land, covering the area designated by Cornwall Council, for the St Erth Neighbourhood Plan on 3rd July 2013.

I can also confirm that it does specify the period over which the Plan has effect namely the period between 2017 and 2030.

I can confirm that the Plan does not cover any “excluded development”.

There are no other neighbourhood plans covering the area covered by the Plan designation.

St Erth Parish Council is a Qualifying Body under the terms of the legislation.

The Examination Process

The presumption is that the Neighbourhood Plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

Having reviewed the Plan and the Local Plan I was satisfied that I could examine the Plan on the basis of the written material and that a public hearing would not be required to assist my examination.

I had previously carried out an unaccompanied visit to St Erth and the countryside of the surrounding area on 1st February 2018 to familiarise myself with the Plan area.

I did ask the Qualifying Body whether it had any comments to make in respect of the Regulation 16 consultation responses and I received a reply on 12th January 2018 with a set of amendments that the Parish Council would recommend that I make to respond to comments made by the Cornwall Council's Open Space Team, Historic England and Natural England.

There were a number of questions during the course of the examination which were dealt with by way of an exchange of emails. A copy of these has been placed on the appropriate website.

The Basic Conditions

The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of "soundness". Instead, the Neighbourhood Plan is tested against what is known as the "Basic Conditions" which are set down in legislation. It will be against these criteria that my examination must focus.

The questions which constitute the basic conditions, consider whether the prescribed conditions are met and prescribed matters have been complied with. These tests seek to establish that the Neighbourhood Plan:

- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State and it is appropriate to make the Plan?

- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- The making of the Plan does not breach or is otherwise incompatible with EU obligations or human rights legislation, including the SEA Directive of 2001/42/EC?
- Whether prescribed conditions are met and prescribed matters have been complied with?
- Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site as defined in the Conservation of Habitats and Species Regulations 2017 either alone or in combination with other plans and projects?

The Consultation Process

The idea regarding neighbourhood planning within the Parish area initially focussed on a Neighbourhood Development Order based around the Industrial Estate. This is then developed, following discussions with various bodies including Cornwall Council to become a Parish - wide Neighbourhood Plan. The Parish Council was one of the “Front Runner” neighbourhood areas.

Once designation of the Plan area was confirmed, the Parish Council commissioned a Resident Survey in late 2014, which had a 40% response rate. The results covered a range of topics from housing and development, housing need, green spaces, community facilities and economic opportunities.

The first public consultation event was held over two sessions in late February 2015, attracting 83 attendees. This encouraged 15 residents to volunteer to assist with the Plan making, along with five Parish Councillors who formed the Steering Group.

The Steering Group met throughout the first half of 2015 and the work was divided into theme groups. They publicised their activities in a number of ways including attending the school sports day and fete. From 20th June, onwards there was specific engagement with the business community, primarily based on the Industrial Estate and this included the distribution of a business questionnaire.

A second public consultation event took place in October 2015, this time attended by 93 members of the public, again over two sessions. This was looking specifically at policy areas.

The next stage is described as “advanced plan development” which took place

between October 2015 and August 2016. It was during this period that policies were formulated. This activity culminated in the publication of the Pre-Submission version of the Plan, which was consulted on between the 22nd August and 7th October 2016. This was known as the Regulation 14 consultation and this included five separate consultation events and this exercise generated 33 sets of comments and submissions, which are set out in the Consultation Statement.

I believe that the steering group has sought actively to engage with all sections of the local community and I have received no representations that people were not able to contribute to the Plan making process.

Regulation 16 Consultation

I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place for a 6-week period between 27th September 2017 and 8th November 2017. This consultation was organised by Cornwall Council which had received the Submitted Plan, prior to it being passed to me for its examination. That stage is known as the Regulation 16 Consultation.

In total 10 responses were received from public bodies. These were from South West Water, Highways England, Historic England, Cornwall Council – Landscape Architect, Natural England, Devon and Cornwall Police, Hayle Town Council, Ludgvan Parish Council and St Ives Town Council, and Cornwall Fire and Rescue Services. In addition, seven representations were received from local residents.

Compliance with the Development Plan

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan. That comprises the Cornwall Local Plan: Strategic Policies 2010 - 2030 which was adopted on 22nd November 2016. This set out the strategic policies that the Neighbourhood Plan has to be in general conformity with in order to pass the basic condition test.

St Erth Parish falls within the Hayle and St Ives Community Network Area (Rural) and that has a residual target of 480 homes to be built over the period April 2010 and April 2030. The requirement for St Erth is to provide a pro rata based figure of 28% of the residual housing figure excluding completions and commitments, which covers three parishes. Based on the level of completions between April 2010 and April 2017 plus the level of commitments granted as of April 2017, the Parish's share of the remaining requirement is 23 dwellings. This is based on Cornwall Council's

housing methodology. This Neighbourhood Plan provides for significantly more than that figure.

Compliance with European and Human Rights Legislation

Cornwall Council carried out an initial screening opinion as to whether the St Erth Neighbourhood Plan should be the subject of a Strategic Environmental Assessment (SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”.

Cornwall Council originally confirmed, having consulted with the three statutory consultees, to the effect that a SEA was not required. This was questioned by Historic England based on the impact on historic assets which in fact were listed walls and piers at Treloweth Farm House, some way away from both allocation sites within the village. Cornwall Council rescreened the Plan and reached the same conclusion that a SEA would not be required in a report dated 26th October 2016.

It also concluded in the same report that a Habitat Regulation Assessment was not required. It concluded that there were no direct pathways between the allocated sites and the St Erth Sand Pits SSSI or the Hayle Estuary and Carrick Gladden SSSI. I have received no representations that the European Obligations have not been complied with nor any representations that the Plan conflicts with Human Rights legislation and I am satisfied that this element of the Basic Conditions test is met.

The Neighbourhood Plan: An Overview

One of the major issues that emerged at the Regulation 16 consultation stage was the outstanding concerns of Historic England that the Plan, and in particular the housing allocation policy, had given insufficient regard to the impact of the development on the village’s heritage assets, in particular the Conservation Area and its setting, as well as listed buildings whose setting could be affected by new development.

Somewhat belatedly, as these issues had been raised by Historic England at the Pre-Submission consultation stage, the Qualifying Body has now sought to respond to the matters raised. However, the Plan that is before me at examination is the Submission Version of the Neighbourhood Plan.

At my invitation, the Parish Council has now responded to the matters raised by the Regulation 16 consultations, by proposing changes and additions to both the accompanying text and the policy. I do not necessarily consider that it is within my remit as examiner to be proposing significant changes to the supporting text, as my

recommendations should concentrate on the Plan policies that will be used to determine planning applications. It is often necessary for changes to be made to supporting text to reflect modifications that the examiner recommends to the policy wording, to ensure that the Plan reads as a coherent document. Again, in this case, I will leave the detailed wording of the supporting text and the revised Tables to be agreed between the Parish Council and Cornwall Council as Local Planning Authority. However, I can make it clear that I have no concerns with regard to the additional text which the Parish Council is proposing, which I believe addresses properly the issues raised by Historic England.

In terms of the additional wording of Policy HI1, I am treating the revisions proposed as “suggestions” that the Qualifying Body would ask me to consider making, as part of my recommendations. I am treating them on that basis, rather than an amended Plan proposal which would have to be subject to Regulation 16 consultation.

In a similar vein the Qualifying Body has reflected on the comments made at Regulation 16 consultation, by Cornwall Council’s Principal Public Space Officer. I will be adopting the suggested changes to the policy in my recommendations.

It also became apparent during my consideration of the housing requirement for St Erth Parish, that there were errors in Table 1 and the appropriate figures for the CNA commitments should be 176 and not 76. I am satisfied that the Parish’s share of the Local Plan’s requirement remains 23 units.

I would also add comments on a number of other themes. Firstly, in terms of financial contributions sought through planning obligations, there are strict rules relating to whether these can be a material consideration when determining planning applications. I have had to introduce a number of amendments that ensure that policies comply with both the statutory regulations and national policy.

The Plan, and in particular its open space policy, is well supported by proportionate evidence. However, I have had to delete, some elements of policies, relating to the protection of unidentified gaps and physical features which the Plan says contribute to the character of the village. The reason is that the policies are not specific as to what features the village considers to be of importance. That policy should have been supported by a Character Assessment or similar document, which could have described the features that the community attaches particular importance to.

Overall I consider that the Parish Council and the Steering Group have produced a well thought out, locally distinctive Neighbourhood Plan. I have made recommendations for changes, which I believe are necessary to ensure the Plan meets its basic conditions. Some of these will limit what can be achieved by the policies, but these are in the main driven by national policy considerations to allow the Plan to meet the basic conditions test. Nevertheless, I believe that the Plan clearly addresses the matters which are of importance to the local community and it

should form a sound basis for determining planning applications during the lifetime of the Plan.

The Neighbourhood Plan Policies

Policy GP1: Reduce flood risk

Having visited the village and seen the River Hayle that runs through the village of St Erth, I can understand the importance the community attaches to having a policy that deals with flood risk.

I have no issues with the policy that support flood defence works within the Parish.

In terms of the restrictions on development within “areas of known flooding”— an applicant would need to know, or indeed the Local Planning Authority or other decision maker, whether a Flood Risk Assessment is required to be carried out. I therefore propose to refer to the areas at risk of flooding as shown on the Environment Agency’s flood maps, as Flood Zones 2, 3a and 3b, which includes the functional flood plain, plus Cornwall Council’s own flood maps which show areas at different levels of risk of surface water flooding.

I cannot understand the logic of including an allowance for development in the Flood Zones 2 and 3 being permitted so “long as it would be at no risk of flooding for its lifetime”. The basis of inclusion of land within these flood zones, is that they are at risk of flooding. I will be recommending the deletion of this paragraph, as in addition, the first sentence is a statement of fact, rather than being a planning policy.

The final element of the policy imposes certain requirements. Criteria (ii) imposes obligations on development on areas which are not at risk of flooding, to show how they will deal with flood risk. This will require the submission of a Flood Risk Assessment. However, under national guidance, development within the Flood Zone 1 is only required to carry out a Flood Risk Assessment if the site is greater than 1 hectare or is in a Critical Flood Risk area. I do not believe that a Neighbourhood Plan policy can introduce an additional requirement and still be considered to be following Secretary of State advice and policy which is one of the basic condition tests.

I accept that the criteria (iv) to (viii) are legitimate matters for consideration as part of the assessment of a development proposal, but these matters should be identified by the Environment Agency, which is the appropriate body with overall regulatory responsibility, for these riparian matters.

There appears to be a disparity in terms of the last paragraph. In the supporting text, it refers to culverting “being kept to a minimum and usually limited to access

purposes". I consider the wording of the policy, which states that "culverting would not be acceptable", could prevent access being provided to sites which include limited spanning across watercourses. I will propose an appropriate modification to the wording.

Recommendations

In the second paragraph replace "of known flooding and/or shown on the EAFM and the floodplain" with "at risk of flooding as shown on the EAFM or Cornwall Council's maps of areas at risk of surface water flooding".

Delete paragraph 3

In criterion (ii) after "demonstrate" insert "if within Flood Zones 2 and 3 or within a Critical Flood Risk Area or for sites with an area of over 1ha in Flood Zone 1",

In paragraph 5 after "effect" insert "based on the advice of the Environment Agency".

In the final paragraph after "acceptable" insert "except for access purposes"

Policy GP2: Communication infrastructure

I have no comments to make on this policy.

Policy GP3: Designing out crime

I have no comments to make on this policy.

Policy GP4: Traffic safety

The title of policy refers to traffic safety, but the policy wording refers to "the type and volume of traffic" having "an unacceptable impact within the village". This could open other potential impacts which will be wider ranging and I consider that the objective of the policy is related to proposals causing an unacceptable adverse impact on *highway safety* within the village. Any offsite highway works required to be provided by a development via a planning obligation, will need to meet the tests that they are necessary to make the development acceptable in planning terms and are directly related to the development.

I can appreciate the rationale for requiring the submission with an application for a Traffic Management Plan, having driven around the roads that pass through the Plan area. However, I do not consider that the acceptability of such measures should be determining whether planning permission for the completed development is granted or refused. It would not be a reasonable, nor indeed practical, requirement for such information to be required from an applicant, before the planning application is

approved. A landowner may not be in a position to be submitting details as to the logistics of the construction traffic etc, before the principle of the acceptability of the proposal has been established. Furthermore, to have maximum value, such a Construction Management Plan (which includes traffic measures) should be drawn up and submitted by the actual contractor who will be carrying out the works. They will normally only be appointed, once the planning permission is in place. That will then be a much more meaningful document, which would have practical “buy in” from the on-site contractor.

Recommendations

In paragraph 1 after “impact” insert “on road safety”

After “developer” delete “that” and insert “where it is necessary to”

In the final paragraph replace all of the text before “submit to” and insert “Any planning permission for residential development of more than one dwelling, or on sites where access is currently restricted, will normally be subject to a condition requiring the submission to and the approval of”.

Policy HI1: Sites for new housing

I visited all the housing sites and I consider that they are all appropriate locations for residential development. I also believe that the capacity of the two allocated sites within the settlement boundary, is of the right order, based on information set out in the SHLAA which shows the capacity of “around 54 dwellings”. It will provide well above the 23 units required by the Local Plan. I would commend the village for taking such a positive approach to the planning of new development in the village.

In terms of the criteria, as I referred to in my comments on Policy GP 4, I consider that the construction traffic is a matter that can and should be dealt with by way of a planning condition. The acceptability of that submission will be a matter for Cornwall Council to determine and I do not know whether the Council’s consultation arrangements include consulting Parish Councils on details submitted to comply with planning conditions, but I would commend that approach to Cornwall Council, bearing in mind the sensitivity of the issue within the Parish.

In terms of the additional 14 criteria, the only issues I have are regarding the requirement to make contributions. I will add the caveat, in respect of planning obligations that any financial contribution is directly related to the development, necessary to make the development acceptable and is fairly related in scale and kind to the development. I will amend the wording regarding school places, to merely just refer to “school capacity”. In terms of the open space, I am not conscious that there is a nationally agreed standard.

I do not know what highway safety measures the Parish Council has in mind, but it

would need to be demonstrated that the need arises from, or existing issues will be made unacceptable, by specific development, without the improvements being sought.

Recommendations

At the start of the policy insert the following two paragraphs:

“Development in or adjacent to the Conservation Area or near important features such as Listed Buildings should take account of the historic fabric of the area and should preserve or enhance the character or appearance of the Conservation Area.

A Heritage Statement should be provided in support of all development proposals within or adjacent to the Conservation Area and other designated heritage assets. Such statement should outline the significance of any heritage assets affected and any adverse impacts that the development may have on heritage assets and the design of the scheme should demonstrate that it is based on these findings. It should also include any proposed mitigation measures, as well as how the proposed development will contribute to the character and setting of the relevant heritage asset(s).”

In paragraph 1 change “providing” with “will provide for” and delete criterion 1 and “the development shall”

In paragraph 3, replace “must” in the first and second sentence with “should” and insert after “required” the following “and the financial contribution is directly related to the development, necessary to make the development acceptable and fairly related in scale and kind to the development”.

In criterion xi replace “facilities” with “capacity”.

In criterion xvii delete “and national”.

In criterion xviii replace “expected” with “encouraged” and add to the end “which are required as a direct result of that development.”

Policy HI2: Separation of settlements

A neighbourhood planning policy is required, according to the Planning Practice Guidance, to be “precise” so that “it can be used with confidence by decision makers” when determining planning applications. Whilst I understand the objective of retaining important breaks in the built-up surroundings, or areas which provide tranquillity and interest these are a matter that is at best subjective if not identified in the Plan. An applicant would not know whether his or her proposal would be affecting such areas. It would have been possible for the Plan to have specifically identified the particular parts of the Parish, which it wished to protect by this policy or indeed, identified the prominent local features which contribute to its character and are to be protected as

such. As the Plan has not done it, I consider that these parts of the policy are imprecise and are ambiguous as to what features or which areas the policy is seeking to protect. As such I do not believe that meets the basic conditions, in terms of compliance with Secretary of State advice on how Neighbourhood Plan policies should be drafted.

Finally, the exclusion of any residential extension on the basis that it will reduce the amenity space of the dwelling, is in my opinion, totally unjustified and not backed up by any evidence of harm. Indeed, it would prevent planning permission being granted for development that could have a lesser impact, either on the size of the garden or on the character of the area than the fall-back position of what could be built under permitted development. I will recommend that this part of the policy should be deleted.

Recommendations

Delete paragraph 2 and in criterion i. delete all of text up to and including “interest or provide” and also delete criterion ii.

Delete the final paragraph.

Policy HI3: Highway safety

My only concern is that the second part of the policy, with its 4 requirements, does not comply with paragraph 32 of the NPPF, which states that

“Plans and decisions should take account of whether...

- improvements can be undertaken within the highway network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residential cumulative impacts of development are severe”.

I do consider that the offsite works or financial contributions can only be justified if they are directly required by the development and meet all the other tests as set out in Para 204 of the Framework. I will therefore propose that criteria one be deleted. The remainder of the policy does not raise any issues in terms of the basic condition test.

Recommendations

In paragraph 2 after “contributions” insert “where this is necessary to make the development acceptable, is directly related to the development and is fairly and reasonably related in scale and kind to the development”.

Delete criterion i. and renumber.

Policy HT1: Phasing development

In terms of this policy, I believe that the intention could be made clearer that it is the identification of local housing need, that justifies the development of sites C, D and E. The government is proposing that development plans should be reviewed every five years to see that the policies remain relevant and housing need is being delivered. That review could offer an opportunity to assess whether further exception sites should be considered, and if required, then these can be accommodated under Policy 9 of the adopted Cornwall Local Plan.

I do have concerns with regard to the final paragraph. Proposals for windfall development within the village settlement are acceptable under national policy and also in particular Policy 3 of the adopted Local Plan. As such, this part of the policy does not meet basic conditions and I will be recommending that it be deleted.

Recommendations

Insert in the first paragraph after “sites” the following “Sites C, D and E as shown on Map 3”.

Delete the final paragraph.

Policy HT2: Local housing need.

I do not consider that it is appropriate for a neighbourhood plan policy should be requiring that any affordable housing within the settlement boundary to be allocated via a local connection policy, even if it is one administered by Cornwall Council. The allocation of affordable houses is ordinarily a matter for the Local Housing Authority, rather than the Local Planning Authority and it is not generally, an appropriate planning policy, in my experience.

However, that will be a different matter when dealing with rural exception sites, which lie outside but the adjacent to, the settlement boundary. These are only allowable on land that would not ordinarily be allocated for residential development and can come forward only on the basis of meeting local housing need only. I believe that is already covered by the Policy HI1(vi). Accordingly, I will recommend that this policy be deleted.

Recommendation

That the policy be deleted.

Policy HT3: Single dwellings

I have no comments in terms of this policy as it relates to the basic conditions. I have noted that permitted development rights will be removed only on the grounds that it is justified on the basis of site specific issues, namely the unacceptable loss of amenity space. That will be a matter for the LPA to address on a case-by-case basis. As such it does not breach the presumption set out in Secretary of State advice namely that “permitted development rights should only be removed in exceptional circumstances”.

Policy HT4: Design and construction

The policy requires compliance with the design guidance set out in the Cornwall Council Design Guide. However, that document only makes recommendations rather than imposes requirements. It is in my opinion a valuable source of advice. I propose to change the emphasis from development having to “meet” to having “regard to” the guidance. The Secretary of State in a Written Statement to the House of Commons dated 25 March 2015, stated that neighbourhood plans must not impose technical standards with regard to the construction of new dwellings.

Recommendation

Replace “meet” with “have regard to”.

Policy HT 5: Tenure and size

This policy applies to all residential development. However, affordable housing, which includes social rented, shared ownership and low cost home ownership, can only be required to be provided on site on schemes of 11 units or over or residential schemes that have a floorspace over 1000 m². This area is a designated rural area under the terms of Section 157 of the Housing Act 1985. The Secretary of State advice is that within these designated areas, schemes of 6 to 10 units, can be expected to make financial contributions, in lieu of on-site provision, towards affordable housing. I will therefore propose appropriate wording to clarify that.

Policy HT1 also deals with matters of layout on allocated sites but this policy can cover development on non-allocated sites. The matter of highway design is already covered by Policy HI3 and to include it could lead to confusion as to which policy a decision maker would have to have regard to.

Recommendations

In the first paragraph after “residential development” insert “which will result in a net increase of over 10 dwellings or where the combined floorspace of the dwellings would be over 1,000m².”

At the end of criterion i. insert “For schemes of 6-10 dwellings, a financial contribution in lieu of affordable housing will be sought”.

Before criterion ii. insert “All residential schemes should”.

Delete criterion 3.

Policy HT6: Self build

There is a general policy support for the encouragement of self-build housing. My only concern is that as worded the policy would not achieve its stated objective to protect the visual amenity of the area and to ensure the delivery of housing, to merely require the commencement of the development within two years. This might only involve the digging of a trench. There is no requirement to ensure that the building is completed and occupied with any timescale. In any event, if the self-build part of a wider development allocated by policy HI1, the commencement would be subject to the condition relating to the commencement of the whole development. I will accordingly be recommending that this part of the policy should be deleted.

Recommendation

Delete the final paragraph.

Policy OS1: Open-space provision

I note that the requirement for 40 m² of open space has come from Cornwall Council. It is based on the Open Space Assessment. I consider that it is an evidence based policy appropriate for the Parish. I have also accepted the suggested changes advocated by the Parish Council and these will be incorporated in my recommendations.

There is one issue as it relates to the basic conditions and this relates to the accepting of financial contributions for schemes of under 6 units. The Secretary of State issued a Written Statement on 28th November 2014 stating that financial contributions via tariff style payments can only be accepted on schemes of over 5 units. To meet the basic conditions test of having regard to Secretary of State policy, the wording of the policy needs to be revised to respect that policy. In any event only 5 pooled contributions can only be accepted for one project. This matter may be removed when Cornwall Council adopts a Community Infrastructure Levy Scheme in due course.

I have no comments on the remaining parts of the policy.

Recommendations

At the end of the first paragraph, add “on residential schemes of over 5 units.”

In the second paragraph after “visibility,” insert “in particular for children’s play space”

Insert the following text and delete the third paragraph and renumber the criteria:

“Applications to provide new and diverse leisure and recreational activities in order to promote healthy and crime-free lifestyles, particularly for teenagers will be supported.

Applications for the provision of new outdoor sports facilities on open or green space identified in Tables 2 and 4 or proposals for its redevelopment for recreational facilities will be considered where the proposal would:

- i. be sited in an appropriate location and designed to be easily accessible by sustainable and active travel modes where reasonably practicable;”

Policy OS2: Open space protection

This policy seeks to protect valued open space and recreational facilities within the Plan area. The Parish Council has provided me with an amended version of Table 4 which also refers to the sites identified in the Open Space Assessment. The revised Table 4 is now divided in terms of public accessibility and they are proposing that the Well Field should no longer be referred to explicitly in the policy but their revised wording now deals with “privately owned sites of locally valued open or green space”. The amendment of the supporting text is a matter that can be dealt with outside my formal recommendations. I consider that the policy meets the basic conditions, as amended.

Recommendation

Replace the second paragraph with:

“Development proposals for privately owned sites of locally valued open or green space, due to the significant contribution it makes to public amenity by virtue of its character, appearance and/or function will only be permitted where:”

Policy OS3: Allotments

I have no comments to make on this policy.

Policy OS4: Public rights of way

I have no comments to make on this policy.

Policy OS5: Wildlife and wild places

I have one issue with the last two paragraphs. The NPPF in Paragraph 113 states

that “distinctions should be made between the hierarchy of international, national and locally distinguished designated sites so that protection is commensurate with the importance and the contribution they make to wider ecological networks”. As written, the third paragraph would offer the same level of protection against development, for locally designated sites as for national sites such as the area’s SSSIs. In accordance with Secretary of State advice in Paragraph 118 of the Framework, I will refine the policy to offer protection except where the benefits of the development at the site, clearly outweigh the impacts that development has on the features of the site that make it of ecological interest.

Recommendation

At the end of paragraph 3 insert “unless the benefits of the development clearly outweigh the adverse impacts on the ecological or geodiversity importance of the site.”

Policy OS6: Trees and hedgerows

I have no comments to make on the policy.

Policy CBF1: Conservation of the community buildings

To clarify the policy, I believe that it should read that the development of new facilities or the enhancement of existing, will be approved subject to meeting the following criteria. That change is to ensure that the Plan is written in a positive matter. The policy should also refer to the facilities as being shown on Map 5. I also believe that some of the criteria would not necessarily apply in every case, e.g. the addition of an additional toilet as an enhancement to a community building, would not necessarily generate the need for extra car parking or access alterations. I can introduce the caveat “where appropriate” to cover the situation.

In terms of the last paragraph of the policy, I am not clear what is meant by “their continued traditional use” referring to religious buildings. In any case places of worship are uses which fall within Use Class D1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and their use can be changed to a range of other uses that fall within that use class, all without requiring planning permission and therefore being covered by the provisions of this policy. I propose to delete that paragraph as it does not meet basic conditions as it purports to retain a particular type and use, when as the policy cannot achieve that objective.

Recommendations

In the first sentence after “existing ones” insert “as shown on Map 5”

In criterion iii add at the end “where appropriate”.

Delete the final paragraph.

Policy CBF2: Sustainable development

I am concerned that the second paragraph of the policy could be misinterpreted in as much as it requires that “the special characteristics of these assets can be safeguarded for the future.” I consider that the appropriate test is whether their significance’s is “protected”. Apart from that, I have no comments to make on this policy.

Recommendation

At the end of paragraph 2 replace “safeguarded for the future” with “protected”.

Policy CBF3: Improved connectivity

My only issue is whether the requirement would trigger a need to provide high speed broadband to the building. For example, an alteration to the church would not necessarily trigger a need for the church to be connected to the fibre network. I propose to cover that with “where appropriate”.

Recommendation

In paragraph 1 after “should” insert “where appropriate”.

CBF4: Support of St Erth School.

There are some other minor points that would improve the clarity of the policy. In terms of the significant “adverse traffic generation” any expansion has the potential to increase traffic generation. The question is whether the residual impact of that increase is *so severe* on the local network that permission to expand the local village school should be refused. I will be recommending amended wording. Equally the requirement that it would not result in loss of educational facilities on-site, could prevent a situation where some existing facilities to be lost would allow their replacement or enhancement of the services, through the redevelopment of these existing buildings.

The ability of the community to use school premises is not a matter that can be imposed by a planning policy. That is a matter for agreement between the respective parties, regarding management matters such as the apportionment of costs, responsibility for facilities management, hours of usage etc. However, what the policy should be able to do is, facilitate public usage of these new facilities through design.

Recommendations

Replace “significant adverse traffic generation” with “will lead to such an increase in traffic generation, resulting from the additional facilities, to the extent that the cumulative impact on the road network is severe”.

Delete criterion iv and renumber

In the final paragraph replace “meet” with “are capable of meeting”.

Delete the final sentence.

Policy ED1: Support of employment

The second sentence regarding proposals that would result in the loss of employment opportunities, needs to be clarified, to be clear that it relates to the loss of employment floorspace on the Industrial Estate. I have no other comments with regard to the basic conditions.

The provision (vi) relating to hot desking and flexible office space, is not a matter that can be covered by planning control and as such this part of the policy should be deleted, but it could be added to the supporting text.

In terms of the B8 use, this should make it clear that the policy relates to the siting of such units. I do not consider that planning can control the levels of trip generation or the vehicle routing, as this is a feature of the actual business operation occupying that warehouse unit.

Recommendations

In the second sentence, replace “will be resisted” with “on the Industrial Estate will not be supported.”

Delete criterion vi.

In the fourth paragraph delete the rest of the sentence after “road network”

Policy ED2: Use of existing building

I have no comments to make on this policy which encourages employment uses within the Parish.

Policy ED3: Communications infrastructure

A planning policy cannot dictate what documents need to accompany a planning application. That is a matter that is set out by the Local Planning Authority’s Local

Validation Checklist. However, the policy can require that an application demonstrates how the premises can be connected to the broadband network. However, I consider that the requirements should only relate to new build development rather than say extensions or alteration.

Recommendation

Replace the first paragraph with “Applications for new buildings should include the necessary ducting and infrastructure to enable the development to connect to the telecommunications network including broadband.”

Policy ED4: Resource efficiency

This policy can only relate to non-residential development if it is to meet basic conditions, with particular regard to Secretary of State advice and policy. In this case this is set out in a Written Statement to the House of Commons dated 25 March 2015 which made it clear that Neighbourhood Plans should not introduce technical standards in relation to residential development. I will recommend appropriate changes.

Recommendations

Change title of the policy to Resource efficiency on non-residential buildings.

In the first sentence after “new” insert “non-residential”.

Policy ED5: Transport infrastructure

Whilst the aspiration of the policy is laudable, I consider that the policy needs to clarify that it is through the design and layout of new buildings and associated development, which should provide for the needs for public transport, where appropriate, and the needs of cycling and walking plus those persons with limited mobility.

Recommendation

In the first sentence after “infrastructure” insert “where appropriate, through its design and layout,”.

Policy ED6: Sustainable transport

I consider that this policy needs to be clear that it relates to employment proposals, which can deliver the facilities sought by the policy.

Recommendation

After “new” insert “commercial”.

Policy ED7: Transhipment facilities

I have no comments to make regarding this policy.

Policy ED8: Support for existing business.

This policy needs to be clear what businesses are considered to be significant community facilities. I note that the introduction refers to the Post Office and café, the Star Inn, the Lamb and Flag and the Smugglers, and I believe that these four premises should be identified in the policy.

I consider that the policy does meet basic conditions but it must be recognised that some changes to the use of these premises can proceed under permitted development rights.

Recommendation

Replace “significant community facilities” with “the following important locally valued facilities, namely The Post Office and Café, The Star Inn, The Lamb and Flag and The Smugglers”.

Policy ED9: Support of tourism

I cannot see how the policy which supports tourism accommodation or its expansion can be resisted on the basis that it results in the loss of tourist accommodation. If the policy is to resist residential development it would not be covered by this policy. I will propose the deletion of criterion (iii) as tourist businesses must be able to adapt to changing market conditions, for example by introducing more all-weather facilities and if that results in the loss of some tourist beds then that is an appropriate response to secure the health of the local tourist economy.

Recommendation

Delete criterion iii.

Policy ED 10: Support of farming

Paragraph 28 of the NPPF seeks to promote all types of business and enterprise in rural areas, through the conversion of existing buildings and construction of new buildings. It also promotes the diversification of agricultural and other land-based rural businesses. I do not know how an applicant will demonstrate how the farming remains the primary business - is it through the number of persons employed, or the contribution to farm profits? The policies should be aiming at supporting the whole rural economy in line with the policy set out in the NPPF.

I consider that the second part of the policy is compatible with paragraph 55 of the NPPF which is to encourage the reuse of redundant or disused buildings.

Recommendation

Delete all text in the first paragraph after “food processing” and replace with “will be encouraged”

Policy ED 11: Promotion and advertising

I have no comments to make on this policy as regards to compliance with the basic conditions.

Policy ED12: Safeguard of food production

This policy complies with national guidance and I have no recommendations to make.

The Referendum Area

If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Neighbourhood Plan as designated by Cornwall Council on 3rd July 2013 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

Summary

I would like to take this opportunity to congratulate the Parish Council and the Steering Group for their commitment shown in terms of the obvious hard work that has been put in to this Neighbourhood Plan. This Plan will certainly provide the basis for making planning decisions in the Parish over the next 12 years.

Finally, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

John Slater Planning Ltd

I am therefore delighted to recommend to Cornwall Council that the St Erth Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning

28th February 2018