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**INDEPENDENT EXAMINER'S REPORT ON THE
PADSTOW PARISH NEIGHBOURHOOD PLAN**

DEBORAH MCCANN

SECTION 1 Contents

CONTENTS

Section 1

Contents.....	2
---------------	---

Section 2

Summary.....	3
--------------	---

Section 3

Introduction.....	4-7
-------------------	-----

Section 4

The Report.....	8-42
-----------------	------

1. <i>Appointment of the Independent Examiner</i>	8
2. <i>Qualifying Body</i>	8
3. <i>Neighbourhood Plan Area</i>	8
4. <i>Plan Period</i>	8
5. <i>Cornwall Council Regulation 15 assessment of the plan</i>	8
6. <i>Site Visit</i>	9
7. <i>Consultation Process</i>	9
8. <i>Regulation 16 Consultation and Comment on Responses</i>	9
9. <i>Compliance with the Basic Conditions</i>	10
10. <i>Planning Policy</i>	11
11. <i>Other Relevant Policy Considerations</i>	11-17
12. <i>Padstow Parish Neighbourhood Development Plan Policies</i>	17-42

Section 5

Conclusions and Recommendations.....	43
--------------------------------------	----

SECTION 2

Summary

As the Independent Examiner appointed by Cornwall Council to examine the Padstow Parish Neighbourhood Development Plan, I can summarise my findings as follows:

- 1. I find the Padstow Parish 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 Padstow Parish Neighbourhood Development Plan go to Referendum.*
- 3. I have read the Padstow 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 Padstow Parish 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 Padstow Parish 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 Padstow Parish Neighbourhood Development Plan meets the Basic Conditions and has taken into account human rights; and to recommend if the Padstow Parish 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 Padstow Parish 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 or which fall outside the scope of the planning system or introduce requirements which are indiscriminate in terms of the size of development or are overly onerous would not meet the Basic Conditions. In these circumstances it is 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 Padstow Parish 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 for 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 has appointed me as the Independent Examiner for the Padstow Parish Neighbourhood Development Plan with the agreement of Padstow Town Council.

4.2. Qualifying body

I am satisfied that Padstow Town Council is the Qualifying Body.

4.3. Neighbourhood Plan Area

Padstow Town Council applied for the designation of the Parish of Padstow as a Neighbourhood Plan Area in October 2012 under the Neighbourhood Planning Regulations 2012 (part 2, (5) (1)) and approved by the Cornwall Council (CC) on 11th January 2013.

The designated Padstow Neighbourhood Area covers the whole of the Parish of Padstow.

The Basic Conditions Statement submitted with the Padstow Parish Neighbourhood Development Plan confirms there are no other Neighbourhood Plans covering the Area of the Padstow Parish Neighbourhood Development Plan.

4.4. Plan Period

It is intended that the Padstow Parish Neighbourhood Development Plan will cover the period 2018-2030, chosen to align with the Cornwall Local Plan.

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

Padstow Council submitted the draft Padstow Neighbourhood Plan to Cornwall Council for consideration under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 in August 2021. 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 27th of January 2022 to familiarise myself with the Neighbourhood Plan Area.

4.7. The Consultation Process

The Padstow Parish 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 Padstow Parish Neighbourhood Development Plan out for consultation under Regulation 16 from the 8th of November 2021 to the 20th of December 2021, the statutory 6-week process.

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 Padstow Parish 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 take an independent view as to whether or not the assessment as submitted is correct.

I have to determine whether the Padstow Parish Neighbourhood Development 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. Since the 28th of December 2018, the Neighbourhood Planning (General) Regulations 2012 Schedule 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 included:

(a) *The Padstow Parish 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 Padstow Parish 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 Padstow Parish Neighbourhood Development Plan Steering 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.

Comment on Documents submitted

I am satisfied having regard to these documents and other relevant documents, policies and legislation that the Padstow Parish 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 my examination 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 Padstow Parish Neighbourhood Development Plan does not need to repeat national policy, but to demonstrate it has taken them into account.

I have examined the Padstow Parish 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

Padstow 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 Padstow Parish 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 provision 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 Padstow Parish 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 Padstow Parish NP Steering Group requested that Cornwall Council screen the Neighbourhood Plan for Strategic Environmental Assessment. Natural England, the Environment Agency and Historic England were consulted as part of the screening process. The screening opinion issued on the 26th of October 2020 concluded that based on the scale and location of development proposed in the draft plan, Cornwall Council is of the opinion that the Padstow NP is unlikely to have significant effects on the environment and that SEA was therefore not required.

Natural England, the Environment Agency and Historic England agreed with this conclusion.

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 screening a Habitats Regulations Assessment Screening request was also submitted to Cornwall Council in September 2020. Based on the scale and location of development proposed in the draft plan, Cornwall Council concluded that the Padstow NP is unlikely to have significant effects on the environment or on European Sites and an HRA was therefore not required. Initially Natural England queried what they saw as undeveloped sites included within the settlement boundary. These sites were confirmed as sites with extant permissions and implemented planning consent and this, along with reference to the River Camel SAC in the screening report addressed their concerns. The screening opinion was subsequently confirmed by the consultation bodies.

Natural England, the Environment Agency and Historic England agreed with this conclusion.

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, 7c.) 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.)

The following European Designated Sites are within 10km of Padstow neighbourhood area:

- River Camel Special Areas of Conservation
- Bristol Channel Special Areas of Conservation

The HRA Screening undertaken by Cornwall Council, in consultation with the environment agencies, concluded “the Padstow Parish NP does not propose any additional development over and above the Local Plan quantum, nor are any activities proposed by the plan which could cause underwater noise and trigger disturbance. The NP is therefore screened out.”

I am satisfied with this conclusion.

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 Padstow Parish Neighbourhood 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 Padstow Parish Neighbourhood Plan, subject to modification meets the basic conditions on EU obligations.

4.11.3 Excluded development

I am satisfied that the Padstow Parish Neighbourhood 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 Padstow Parish Neighbourhood Development Plan covers development and land use matters.

4.12 Padstow Parish 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 Padstow 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.

On 20 July 2021 the NPPF was updated. Any references to the previous NPPF should be updated to reflect this where necessary.

4.12.1 The Neighbourhood Plan Vision, Strategic Aims and Policies

COMMENT

Neighbourhood plans generally include a vision which describes how the community want to see their neighbourhood plan area at the end of the plan period. The Padstow NP does not include an overall vision statement but does include many references to the community vision for Padstow and I am satisfied that the Padstow NP aims, and objectives were developed from the consultation process and that the policies within the plan reflect the community’s vision, aims and objectives.

13 Padstow Neighbourhood Development Policies

Policy No. PAD1 Protecting the Natural Environment

Development proposals will be expected to have no significant adverse effect on the integrity or continuity of landscape features and habitats of local and national importance for wild flora and fauna.

Wherever possible, development should contribute to and enhance the natural and local environment by providing net gains in biodiversity.

Development which is likely to have an unacceptably adverse impact on wildlife corridors and stepping-stones will not be supported.

Development must be consistent with the policies in the latest version of the Cornwall and Isles of Scilly Shoreline Management Plan.

COMMENT

In July 2021, the NPPF was updated making it a requirement that measures to ensure biodiversity net gain must be part of any development proposals.

Paragraph 174:

174. Planning policies and decisions should contribute to and enhance the natural and local environment by:

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

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

Policy No. PAD1 Protecting the Natural Environment

Development proposals should:

- **demonstrate that they have no significant adverse effect on the integrity or continuity of landscape features and habitats of local and national importance for wild flora and fauna.**
- **contribute to and enhance the natural and local environment by providing net gains in biodiversity.**

Development which is likely to have significant harm on wildlife corridors and stepping-stones will not be supported.

Development must be in conformity with the policies in the latest version of the Cornwall and Isles of Scilly Shoreline Management Plan, where relevant.

Policy No. PAD2 Public Rights of Way

Public rights of way should be protected from development and coastal squeeze. Where a planning proposal affects an existing public right of way, appropriate mitigation must be agreed and approved as part of the planning approval process.

The improvement and enhancement of public rights of way will generally be supported.

COMMENT

I have no comment on this policy.

Policy No. PAD3 Farm Diversification

Development proposals that enable farm diversification or for changes required for agriculture or land management practices, which respect or enhance the character and natural beauty of the AONB and other areas of countryside, will be supported, providing those proposals are complementary to, or compatible with, the existing agricultural use.

COMMENT

The term “respect and enhance” should be replaced with “conserve and

enhance” to reflect the policy framework for AONBs set out in the NPPF 2021(as updated).

Policy No. PAD4 Heritage Assets

Development proposals affecting designated and non-designated heritage assets will only be supported where they preserve and enhance the built character and heritage value of the asset and its setting and acknowledge the role the asset has played in the history of the area.

COMMENT

The NPPF 2021 sets out the policy framework for dealing with heritage assets:

Paragraph 190

“Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:

- a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;”**

The NPPF 2021(as updated) paragraph 194:

“Proposals affecting heritage assets

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.

197. 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.”

A neighbourhood plan does not need to repeat this policy and should avoid including policies which paraphrase the NPPF. For clarity and to meet the Basic Conditions, the policy should be modified as follows:

Policy No. PAD4 Heritage Assets

Development proposals affecting designated and non-designated heritage should be accompanied by an appropriate assessment which sets out the significance of the asset (including its setting) and the impact of the proposal upon its significance. Applications will be determined strictly in accordance with national policy and guidance and the development plan.

Policy No. PAD5 Local Green Space

The areas listed below are designated ‘Local Green Spaces’:

1. Chapel Stile Field
2. Dennis Cove Lake Area

3. Land at Downstream Close
4. Gateway Site (at junction of B3276 & A389)
5. The Green, Porthmissen Beach
6. The Lawns Play and Recreation Area
7. Lodenek Avenue Play Area
8. Pellew Close Play Area (a)
9. Pellew Close Play Area (b)
10. Allotments adj. Plantation
11. The Plantation
12. Land at Polpennic Drive/Soldon Close
13. Land at Porthilly View
14. Rope Walk Allotments
15. Land at Junction of Treverbyn Road and Egerton Road
16. Walled Garden at St Saviours
17. Wheal Jubilee Parc

Proposals for new development on designated Local Green Spaces will only be supported where they:

- i) are ancillary to the existing recreation or amenity use of the site; and
- ii) maintain or enhance the existing use and amenity value of the site; and,
- iii) have no adverse impact on the landscape, habitat or biodiversity of the site or

provide a mitigation proposal which is agreed and approved through the planning approval process.

COMMENT

During the course of my examination, I sought clarification in relation to evidence regarding the ownership of the proposed LGS and whether or not the owners had been consulted appropriately. I was signposted to the LGS Owners Consultation Report which is available to view on the Padstow Town Council website. I am satisfied with the clarification provided in this response. Local Green Space designation is a “restrictive and significant policy designation” equivalent to Green Belt designation. It is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation are met in full.

The NPPF 2021 states:

“101. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated and be capable of enduring beyond the end of the plan period.

102. The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- c) local in character and is not an extensive tract of land.

103. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.”

Given that the Framework is not ambiguous in stating that a Local Green Space designation is not (my emphasis) appropriate for most green areas or open space, it is entirely reasonable to expect compelling evidence to demonstrate that any such allocation meets national policy requirements.

I have carefully considered the evidence put before me for the designation proposed and I am satisfied that the proposed Local Green Spaces do meet the NPPF requirements. Paragraph 103 of the NPPF states that the policies for managing development within a Local Green Space should be consistent with those for Green Belts. Paragraphs 147-149 detail the policy framework for development affecting the Green Belt. Paragraph 147, in particular states;

“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

I have examined the evidence provided in support of the proposed LGS designations and on balance I find that the following proposed sites do not meet the requirements of the NPPF:

1. Chapel Stile Field

This site is described in the LGS report submitted in evidence as being an "extensive tract of land", it therefore fails test c) for designation and should be deleted.

Policy No. PAD5 Local Green Space

The areas listed below are designated ‘Local Green Spaces’:

1. Dennis Cove Lake Area

2. Land at Downstream Close

- 3. Gateway Site (at junction of B3276 & A389)**
- 4. The Green, Porthmissen Beach**
- 5. The Lawns Play and Recreation Area**
- 6. Lodenek Avenue Play Area**
- 7. Pellew Close Play Area (a)**
- 8. Pellew Close Play Area (b)**
- 9. Allotments adj. Plantation**
- 10. The Plantation**
- 11. Land at Polpennic Drive/Soldon Close**
- 12. Land at Porthilly View**
- 13. Rope Walk Allotments**
- 14. Land at Junction of Treverbyn Road and Egerton Road**
- 15. Walled Garden at St Saviours**
- 16. Wheal Jubilee Parc**

Inappropriate development in these areas will only be supported in very special circumstances.

Policy No. PAD6 Settlement Area Boundaries

Development proposals will generally be supported within the Settlement Area Boundaries defined for Trevone on Map 8 and Padstow on Map 9, providing that the proposal:

- 1) is appropriate to its setting in terms of scale, height and massing; and

- 2) makes an appropriate use of a brownfield site; or
- 3) is considered to be infill development, as set out in the Chief Planning Officer's Advice Note 'Infill and Rounding off'; and
- 4) in other ways complies with the policies in the development plan.

COMMENT

in the Cornwall Local Plan, Policy 3: Role and function of places describes rounding off and infill as follows:

- **rounding off of settlements and development of previously developed land within or immediately adjoining that settlement of a scale appropriate to its size and role;**
- **infill schemes that fill a small gap in an otherwise continuous built frontage and do not physically extend the settlement into the open countryside. Proposals should consider the significance or importance that large gaps can make to the setting of settlements and ensure that this would not be diminished;**

it is more appropriate to refer to Policy 3 than the CPO's Advice Note. For clarity and to meet the Basic Conditions paragraph 3) of the policy should be modified as follows:

3) is considered to be infill development, in accordance with Policy 3 of the Cornwall Local Plan and

Policy No. PAD7 Development Adjoining Padstow's Settlement Area Boundary

Development proposals for new dwellings and/or community facilities and services on sites adjoining Padstow's Settlement Area Boundary will be supported if:

- 1) the site forms a logical extension to the existing built-up area and is not an isolated development in the countryside;

2) it is appropriate to its setting in terms of scale, height and massing, and choice of materials;

3) it is not within the AONB, and it does not compromise or have an unacceptable adverse impact on the quality of the environment and the special landscape character of the AONB;

4) a mix of dwelling types is provided that is reflective of the most up to date assessment of housing needs;

5) it would not have an adverse impact on adjoining uses and infrastructure; and

6) it is consistent with the strategic requirements of the Local Plan and the sustainable development criteria set out in policy PAD8.

COMMENT

Cornwall Council's affordable housing team raise the question, in relation to this policy, as to whether the intention is to support Rural Exception sites in accordance with Policy 9 of the Cornwall Local Plan or wider development proposals. As the policy includes reference to community facilities and services in addition to housing, I have concluded that the intention is not to refer solely to Rural Exception sites but to development proposals coming forward under policy 3 of the Cornwall Local Plan, specifically "rounding off".

The policy framework protecting AONB does not preclude development and to attempt to do so in policy would not meet the Basic Conditions. For clarity and to meet the Basic Conditions paragraph 3) should be modified as follows:

3) it conserves and enhances the special landscape character of the AONB

Policy No. PAD8 Sustainable Design and Development

All new development should seek to achieve high standards of sustainable development, and demonstrate in proposals how design, construction and operation has sought to:

- 1) reduce the use of fossil fuels;
- 2) promote the efficient use of natural resources, the re-use and recycling of resources, and the consumption of renewable energy;
- 3) comply with the critical drainage area guidance, if it is located within the Critical Drainage Area zone;
- 4) achieve a net biodiversity gain including, wherever possible, integrating bee bricks, bat, and bird boxes in a suitable position within the development;
- 5) avoid unacceptable levels of light, noise, air, or water pollution;
- 6) wherever practicable, incorporate Sustainable Drainage Systems (SuDS) proposals;
- 7) adopt and facilitate the flexible development of low and zero carbon energy through a range of technologies;
- 8) link the provision of low and zero carbon energy infrastructure in new developments to existing buildings; and
- 9) consider the need to design out crime and disorder, to ensure ongoing community safety and cohesion.

COMMENT

I have no comment on this policy.

Policy No. PAD9 Housing Development

Development proposals for two or more dwellings will be supported where they deliver a high-quality design and layout which demonstrates:

- 1) the density of the development is appropriate to the built character, function, setting and housing mix of the proposal site;

2) provision of safe and secure pedestrian access within the development, and links to other parts of the neighbourhood area, meet the most up-to-date standards for such provision set by the County Highways Authority;

3) good linkages to public transport networks;

4) provision of adequate off-road car and cycle parking for both residents and their visitors and electric car and cycle charging points;

5) inclusion of measures to maximise efficiency in terms of water usage and management, incorporating Sustainable Urban Drainage (SUDs) technologies; and

6) a green infrastructure approach, with links that seek to protect and enhance local biodiversity and geodiversity where appropriate.

For larger housing schemes, the provision of public open space for play and other communal uses should meet the most up-to-date standards for open space set by the local planning authority.

COMMENT

I have no comment on this policy.

Policy No. PAD10 Housing Needs and Mix

Development proposals for major housing schemes should provide a mix of housing sizes, types and tenures that satisfy an identified local need and meet local demand, based on an up-to-date local housing needs assessment.

COMMENT

I have no comment on this policy.

Policy No. PAD11 Principal Residence Requirement

Proposals for open market housing (excluding one for one replacement dwellings) will only be supported where first and future occupancy occupation is restricted by a

planning condition to ensure that each new dwelling is occupied only as a Principal Residence.

A principal residence is defined as a dwelling occupied as the resident's sole or main residence, where the resident spends most of their time when not working away from home.

Proposals for open market housing (excluding one for one replacement dwellings) without a requirement to ensure occupancy as a principal residence will not be supported.

COMMENT

I have been provided with evidence both within the PPNP and in the Second Homes Policy Paper 2019. this describes the impact of second home ownership on the local economy, local house prices and the community. Although this evidence is from 2019, i am satisfied that the situation regarding the demand for second homes in the area is likely to have increased particularly when the impact of the Covid-19 pandemic is taken into consideration. The 2019 paper states:

"There is no doubt that the demand for second homes and holiday lets in the Padstow area has had a significant impact on its housing market and house prices. Recent discussions with local estate agents described a situation, in 2018, where over 90-95% of clients are looking for second homes mainly as holiday rental purposes, although some are for non-letting second homes. The demand is across the spectrum of properties, from cottages to much larger 4-5 bedroomed properties where the sky's the limit for the right location (e.g., Padstow old town with estuary view and parking or similar in Trevone). Demand far outstrips supply. Desirable properties are snapped up immediately by clients already on agents' books. Local people simply don't have the funds to compete with the very strong second home market. Homes sold by residents nearly always sell as second homes, hence the decline in population over recent years.

Research carried out for the Daily Telegraph in 2018, showed the PL28 postcode to have highest percentage by far, of properties bought as second homes in Cornwall over the previous two years.

1) PL28 - Padstow, Crugmeer, Porthcothan, St Merryn, Trevone, Treyarnon 67%

2) PL10 - Rame, Millbrook, Kingsand, Freathy, Cremyll 29%

3) TR26 - Saint Ives 24%

4) TR2 - Truro, Gerrans 23%

5) PL27 - Wadebridge, St Eval, St Minver 21%

9. For harder facts we are still very dependent on an interpretation of the 2011 Census data. The local planning authority has established that there is a strong correlation between empty homes as recorded in the Census and second homes. The Cornwall average proportion of empty homes in 2011 was 11.2%. The Padstow parish area at that time was 34.6%; but it was closer to 58% in Trevone and central Padstow. On the newer estates on the edge of Padstow however it was only 2% of dwellings that were unoccupied."

I am satisfied that the impact of such a high level of second home must inevitably have an impact on the year-round sustainability of the local economy and the ability of local people to purchase property.

I have given very serious consideration as to whether or not I can find that this policy meets the Basic Conditions. My concerns relate to how the policy can meet the Basic Conditions particularly having regard to the NPPF – “delivering a wide choice of quality homes” and “delivering sustainable development” together with how the policy meets the requirements of the Human Rights Act 1998 and other European Legislation.

I have also considered in detail Mr. Justice (now Lord Justice) Hickinbottom’s judgment in R (RLT Environment Ltd) v Cornwall Council in relation to Policy

H2 of the St. Ives Neighbourhood Development Plan. He concluded for St Ives:

“that Policy H2 is in pursuit of legitimate public interests identified in article 8(2), namely the interests of the economic well-being of the country, and for the protection of the rights and freedoms of others.”

I have also considered carefully the potential for unintended consequences on the local housing market and the future delivery of affordable housing.

After much deliberation and on balance I have concluded that due to the adverse impact on the local community/economy of the uncontrolled growth of second homes the restriction of further second homes does in fact contribute to delivering sustainable development. In terms of “delivering a wide choice of quality homes”, I consider that the restriction could in fact be considered as facilitating the delivery of the types of homes identified as being needed within the community. I therefore conclude that policy PD11 does meet the Basic Conditions.

Policy No. PAD12 Local Travel and Safety

Development proposals, which are specifically intended to achieve any of the following, will generally be supported:

- 1) promoting walking, cycling and the use of public transport (including enhanced provision for those with limited mobility)
- 2) promoting road safety by physical means, such as the widening of pavements
- 3) alleviating traffic problems in the town centre

COMMENT

I have no comment on this policy.

Policy No. PAD13 Electric Vehicle Charging

The provision of electric vehicle charging outlets on new developments and at suitable locations to serve public demand will be supported.

COMMENT

I have no comment on this policy.

Policy No. PAD14 Public Car Parking Areas

Proposals for new public car parking facilities will be supported in their entirety, or as part of new developments, on suitable sites where the need is demonstrated subject to:

- 1) demonstrating no significant adverse impact on the surrounding natural environment and/or local built environment would occur;
- 2) flood risk being minimised, and permeable materials being used wherever practicable;
- 3) an appropriate hard and soft landscaping scheme;
- 4) any adverse impact in terms of noise, air and light pollution being satisfactorily mitigated; and
- 5) safe and convenient vehicular and pedestrian access and egress arrangements.

COMMENT

I have no comment on this policy.

Policy No. PAD15 Off-Road Parking

Wherever possible, development proposals should include provision for adequate off-road vehicle parking spaces to facilitate unimpeded road access for other road users, including motor vehicles and pedestrians.

Proposals to provide additional off-road parking spaces will be supported where they do not have an adverse impact on:

- 1) the character of the local built environment;

- 2) the quality of the surrounding natural environment;
- 3) the visual amenity of the area; and,
- 4) flood risk (including local surface water flooding).

Development proposals resulting in a loss of parking capacity of all types, except for areas of informal parking, will not be supported unless:

- a) in relation to existing public car parks, an equivalent or better capacity is provided in the vicinity; or
- b) in relation to private car parks or similar off-street parking areas, an equivalent or better capacity is provided elsewhere, or the need for the private parking capacity can be shown to be reduced as a result of the implementation of the development proposal; and
- c) in relation to the development site, it is demonstrated that adequate parking will remain available post-development.

COMMENT

I have no comment on this policy.

Policy No. PAD16 Business Development

The regeneration and small-scale expansion of existing business premises, or the sympathetic conversion of existing buildings within the settlement areas, for light industrial and business uses as identified in class E(g) of the Town and Country Planning (use classes) Order 1987 (as amended), will usually be supported.

Development proposals for new businesses and the expansion of existing businesses on brownfield sites within, or adjacent to, the Padstow settlement area boundary will be supported, subject to the development respecting local character and residential amenity, and the residual cumulative impacts on highway safety and the local transport network not being severe.

COMMENT

I have no comment on this policy.

Policy No. PAD17 Treceerus Industrial Estate

Treceerus Industrial Estate should be protected as a key employment area.

Proposals which lead to the improvement, modernisation or upgrading of current premises on the Treceerus Industrial Estate will be supported, subject to there being no adverse impacts on the amenity of existing uses and neighbours.

Proposals to extend the Treceerus Industrial Estate for B2 and E(g) business uses will be supported provided they do not:

- 1) have any unacceptable environmental impact; or
- 2) have an unacceptable impact on residential amenity; or
- 3) have an unacceptable adverse impact on the transport network.

Development proposals should include a traffic impact analysis or transport assessment which is proportionate to the development and demonstrates traffic impact and measures which may be taken to mitigate impacts.

Provision for parking should be appropriate to the needs of the development.

Proposals for B8 storage or distribution uses will be resisted.

COMMENT

The wording of paragraph 3) of this policy is subjective and difficult to apply in the determination of a planning application. for clarity and consistency with policy PAD16 the wording of paragraph 3) should be modified as follows:

3) have severe residual cumulative impacts on highway safety and the local transport network.

Policy No. PAD18 Padstow Town Centre

Padstow Town Centre is defined on Map 13. Proposals for retail and associated commercial development within this area that add to the centre's viability or community benefit will generally be supported.

Proposals for development of, or alteration to, traditional shop frontages will only be supported where they are sympathetic and in-keeping with the character of the frontage and built form of their setting.

The loss of shops and commercial units, to non-employment uses, within the defined area will not be supported unless it can be demonstrated that:

- 1) the use of the premises for these purposes is no longer economically viable and the property has been marketed at a realistic price for a minimum of one year; or
- 2) the proposed alternative use would provide equal or greater benefits for the local economy and community than the current use.

Residential use of accommodation on the upper floors of town centre businesses will be supported provided that such accommodation is not currently in employment-related use and that the residential use does not adversely affect the viability of any ground floor commercial use.

COMMENT

There are situations where the change of a retail use to another non retail use is permitted development. For clarity the third paragraph of this policy should be modified as follows:

where planning permission is required, the loss of shops and commercial units, to non-employment uses, within the defined area will not be supported unless it can be demonstrated that:

Policy No. PAD19 Tourism Development

Proposals for the development and expansion of tourism-facilities will be supported providing that:

- 1) the scale of development is proportionate to existing activity and the immediate locality;
- 2) the potential impact on neighbouring uses is acceptable having regard to potential noise and disturbance;
- 3) they do not have a significant adverse impact on the landscape of the AONB and other countryside and are mitigated, wherever necessary, by extensive landscaping and visual screening; and
- 4) traffic, access, and highway issues are satisfactorily addressed.

Development proposals should demonstrate how it will be viable, sustainable and benefit the local economy and the wellbeing of the neighbourhood area.

COMMENT

A policy framework for the protection of AONBs is set out in the NPPF 2021 as follows:

“176. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads⁵⁹. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

177. When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development 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.”

As currently worded, paragraph 3) of this policy does not reflect the NPPF. For clarity and to meet the Basic Conditions paragraph 3) should be modified as follows:

3) they conserve and enhance the landscape and scenic beauty of the AONB and other countryside and are mitigated, wherever necessary, by extensive landscaping and visual screening; and

Policy No. PAD20 Community Infrastructure

Major development should be phased in tandem with the timely provision of infrastructure to help support sustainable growth.

COMMENT

This is a statement rather than a policy to be applied in the determination of a planning application. For clarity the policy should be modified as follows:

To support sustainable growth within the parish, proposals for major development should include details of any new infrastructure to be provided and the timing of the provision of that infrastructure.

Policy No. PAD21 Community-based Initiatives

Suitably sited, community-based, recycling or renewable energy initiatives that accord with the latest supplementary planning guidance will be supported.

COMMENT

I have no comment on this policy.

Policy No. PAD22 Community Facilities

Proposals which seek to enhance or improve existing local community facilities, amenities and assets will be supported where:

- 1) there is a demonstrable need for them; and
- 2) they do not have an adverse impact on the character of the area's natural and built environments.

Proposals for the redevelopment or change of use of locally valued community facilities will only be supported where:

- 3) there is no reasonable prospect of viable continued use of the existing building or facility which will benefit the local community;
- 4) they have been subject to consultation with the local community; and,
- 5) it will provide an alternative community use.

COMMENT

I have no comment on this policy.

Policy No. PAD23 Recreation and Sports Facilities

The provision of new or improved recreational and sports facilities will be permitted in or on the edge of settlement areas provided that:

- 1) the scale is related to the needs of the area and in keeping the character of the location;

2) they do not create unacceptable disturbance to neighbouring residential properties by way of noise, light spillage, and unsociable hours;

3) the use of any floodlighting has mitigation measures in place to protect nearby residential property and areas of nature conservation; and

4) access and off-street parking can be satisfactorily provided without harming existing residential and other uses.

COMMENT

The power to approve or refuse planning applications lies with the Local Planning Authority and in order to meet the Basic Conditions the first sentence of the policy should be modified as follows:

The provision of new or improved recreational and sports facilities will be supported in or on the edge of settlement areas provided that:

Policy No. PAD24 Facilities for Young People

Proposals that provide additional facilities for the direct benefit of young people are supported where it is demonstrated, through direct engagement with the schools and recognised local youth organisations, that local young people have been consulted and involved in developing the proposal.

COMMENT

Although consultation with communities and user groups is best practice and supported by the NPPF this cannot be a requirement of planning policy in this way. For clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy No. PAD24 Facilities for Young People

Proposals that provide additional facilities for the direct benefit of young people will be supported where an application provides evidence of need.

Applicants are encouraged to ensure that local young people are consulted and involved in developing proposals including direct engagement with schools and local youth organisations. Evidence of this involvement should be provided in support of any application.

SECTION 5

Conclusion and Recommendations

- 1. I find that the Padstow Parish Neighbourhood Development Plan has been prepared in accordance with the statutory requirements and 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. (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 Padstow Parish 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 Padstow Parish 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 Padstow Parish Neighbourhood Development Plan subject to the recommended modifications can proceed to Referendum.*

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1st April 2022

