



INDEPENDENT EXAMINATION REPORT ON THE HAYLE NEIGHBOURHOOD DEVELOPMENT PLAN



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NPIERS EXAMINER

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SECTION 2

Summary

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

- 1. I find the Hayle 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 Hayle Neighbourhood Development Plan go to Referendum.*
- 3. I have read the Hayle 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 Hayle 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

Introduction

1. Neighbourhood Plan Examination.

My name is Deborah McCann and I am the Independent Examiner appointed to examine the Hayle 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 Hayle Neighbourhood Development Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the Hayle 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 Hayle 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 not require clarification or a Hearing.

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

I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the Hayle 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:

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;*
- Contributes to the achievement of sustainable development; and*
- Is in general conformity with the strategic policies contained in the Development Plan for the area.*

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

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

Development Plan.

SECTION 4

The Report

1. Appointment of the Independent examiner

Cornwall Council appointed me as the Independent Examiner for the Hayle Neighbourhood Development Plan with the agreement of the Hayle Qualifying Body.

2. Qualifying body

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

3. Neighbourhood Plan Area

The designated Hayle Neighbourhood Area covers the parish of Hayle.

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

4. Plan Period

It is intended that the Hayle Neighbourhood Development Plan will cover the period 2014-2030.

5. Cornwall Council initial assessment of the Plan. REG 15

Hayle Town Council, the qualifying body for preparing the Hayle Neighbourhood Development Plan, submitted it to Cornwall Council for consideration. Cornwall Council has made an initial assessment of the submitted Hayle Neighbourhood Development Plan and the supporting documents and is satisfied that these comply with the specified criteria.

6. Site Visit

I carried out an unaccompanied site visit on Tuesday 27th February 2018 to familiarise myself with the Neighbourhood plan Area and the various policy areas covered in the plan.

7. The Consultation Process

The Hayle 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.

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

The Unitary Authority placed the Hayle Neighbourhood Development Plan out for consultation under Regulation 16 from the 23rd of November 2017 to the 11th of January 2018

A number of representations were received during the consultation period and these were supplied by the Unitary Authority 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.

9. Compliance with the Basic Conditions

The Hayle Neighbourhood Development Plan Working Group have produced a Basic Conditions Statement. The purpose of this statement is for the Neighbourhood Development Plan Working Group to set out in some detail why they believe the Neighbourhood Development Plan as submitted does meet the Basic Conditions. It is the Examiner's Role to take this document into consideration but also make take an independent view as to whether or not the assessment as submitted is correct.

I have to determine whether the Hayle 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.*

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

(a) The Hayle 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 Hayle 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 Hayle Neighbourhood Development Plan Working Group consider that the Neighbourhood Development Plan meets the Basic Conditions. This statement also includes the screening report for the Strategic Environmental Appraisal and Habitat Regulations Assessment.

(d) Strategic Environmental Assessment

Comment on Documents submitted

I am satisfied having regard to these documents and other relevant documents, policies and legislation that the Hayle Neighbourhood Development Plan does, subject to the recommended modifications, meet the Basic Conditions.

10.Planning Policy

10.1. National Planning Policy

National Policy guidance is in the National Planning Policy Framework (NPPF) 2012.

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 16 states that neighbourhoods should "develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development; plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan".

The Hayle Neighbourhood Development Plan does not need to repeat these national policies, but to demonstrate it has taken them into account.

I have examined the Hayle Neighbourhood Development Plan and consider that, subject to modification, the plan does have "regard for National Policy and Advice" and therefore the Plan does meet the Basic Conditions in this respect.

10.2. Local Planning Policy- The Development Plan

Hayle is within the area covered by Cornwall Council. The relevant development plan is Cornwall Local Plan 2016

I have considered the Strategic policies of the Development Plan and the Policies of the Hayle 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.

11. Other Relevant Policy Considerations

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.

A Strategic Environmental Assessment (SEA) screening opinion was sought as required from the following organisations during the formal consultation period:

- *Natural England*
- *Historic England*
- *Environment Agency*
- *Cornwall Council*

Screening Opinions for Strategic Environmental Assessment and Habitats Regulation Assessment

A screening exercise was undertaken by the local planning authority to consider whether the emerging plan would have significant environmental impacts or likely significant effects on the protected characteristics of the NP area.

A screening opinion for Strategic Environmental Assessment ('SEA') was issued by Cornwall Council on 15th November 2016. It concluded: "The Hayle NDP area does contain sensitive natural and heritage assets, however the proposals in the plan are generally focused away from these areas, and there are no obvious pathways to the assets in these cases. In general, the plan is protective and the level of proposed development is not significant; however, the plan does contain 3 policies that relate to land within the Gwithian to Mexico Sands SSSI (NE2, 4 and 6, the alternatives to which should be considered. An additional policy (EX1) proposes exceptions to policy within the plan, although it does require proposals to be outside of statutory environmental, ecological and geological designations. It is not possible to discount the possibility of any significant environmental effects arising from the Neighbourhood Development Plan. As a consequence, it is concluded that SEA is required, but that HRA is not required."

Strategic Environmental Assessment

The NPSG commissioned a Strategic Environmental Assessment from, specialist consultants. Prior to the formal SEA, AECOM produced a draft scoping report and in accordance with the SEA regulations, in February

2017, consulted on the scope of the SEA with Hayle TC, Cornwall Council, Environment Agency, Natural England and Historic England. Following consultation an SEA Framework for the Hayle Neighbourhood Plan was established.

The SEA itself was published on 26th May 2017:

“Utilising the SEA Framework of objectives and assessment questions developed during the earlier scoping stage of the SEA, the SEA process has assessed the policies put forward through the current consultation version of the HNP.

The assessment has concluded that the current version of the HNP is likely to lead to significant positive effects in relation to the ‘population and community’ and ‘health and wellbeing’ SEA themes. These benefits largely relate to the focus on enhancing community provision in the Neighbourhood Plan area and the HNP’s impetus on protecting and enhancing open space and green infrastructure networks. In addition, the Neighbourhood Plan has a strong focus on protecting and enhancing landscape and townscape character and the setting of the historic environment, leading to significant positive effects in relation to the ‘historic environment and landscape’ theme.

The current version of the HNP will initiate a number of beneficial approaches regarding the ‘biodiversity’, ‘transportation’, ‘land, soil and water resources’ and ‘climate change’ sustainability themes. However, these are not considered to be significant in the context of the SEA process given the scope of the Neighbourhood Plan and the scale of proposals.

Two recommendations have been made for improving the sustainability performance of the current version of the HNP. These are summarised as follows:

There is potential for additional provisions to be included in Policy NE5 (Riviere Towans Chalets) for supporting the status of the Gwithian Towans to Mexico Towans SSSI and Hayle Dune County Wildlife Site. There is potential for the policy for Copperhouse Pool (Policy NE12) to be enhanced to further support the rich biodiversity interest of the location and the status of the Hayle Estuary and Carrick Gladden SSSI.

As a result of the SEA, the draft Neighbourhood Plan was amended to take account of the comments received. These changes were included in the Pre-submission version of the Plan.

There is a missing paragraph in the Consultation Statement on page 53, I presume this is an omission.

11.2 Sustainable development

Having examined the SEA report I am satisfied that the Hayle Neighbourhood Development Plan subject to the recommended modifications addresses the sustainability issues adequately.

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.

I am satisfied that the Hayle Neighbourhood Development Plan has done so.

I am therefore satisfied that the Hayle Neighbourhood Development Plan, subject to modification meets the basic conditions on EU obligations.

11.3 Excluded development

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

11.4 Development and use of land

I am satisfied that the Hayle Neighbourhood Development Plan, subject to modification covers development and land use matters.

11.5 The Neighbourhood Plan Strategic Aims and Policies

The Hayle Neighbourhood Development Plan Vision:

A highly connected community:

- connected by road, rail, cycle-way, sea port, National Grid and high speed broadband;*
- serving as a centre for renewable energy technology, business and tourism, and as a gateway to West Cornwall;*
- celebrating a unique heritage of industry and innovation, whilst embracing the outstanding coastal and inland waterways of our cherished natural environment, in a favoured location providing for high-quality living, work and recreation;*
- supporting individuals to develop and families to have the opportunity to stay together for their whole lives.*

The Aims and Objective of the Hayle Neighbourhood Development Plan

“This Plan seeks to achieve the Aims and Objectives that have received support from the community. These have been developed on a topic by topic basis through a consultation process. The aims and objectives for each topic are set out at in the introduction to each of the policy sections that follow. Where an objective is not reflected in the policies of the Neighbourhood Plan it is because we have assessed that it is covered satisfactorily in the National Planning Policy Framework or the new Cornwall Local Plan; it is not permitted, e.g. we may not specify insulation standards for housing in excess of those specified in the Building Regulations; or it is not appropriate for a Neighbourhood Plan that can only deal with matters relating to the use of land.”

I am satisfied that vision, aims and objectives of the plan have been developed from the consultation process and the policies within the plan flow from the aims and objectives.

12. Hayle Neighbourhood Development Plan Policies

Sustainable Development and Housing Policies (SD)

POLICY SD1 Development within Built-up Areas

Hayle, Harbour, Phillack and Angarrack built-up area boundaries are defined on Map 3 within which the principle of development is supported.

The built-up area represents the preferred location for new, small-scale development sites, whilst recognising that sites for additional “strategic” housing development may need to be allocated contiguous to this boundary (where they have no adverse impact on Hayle’s heritage assets or designation as a World Heritage Site) by the local planning authority during the plan period.

COMMENT

I have no comment on this policy.

POLICY SD2 Design and Layout of Residential Development

Proposals for residential development will be supported where they deliver a design which demonstrates that:

- i) the density of the development is appropriate to the built character, function, setting and housing mix of the proposal site;*
- i) the mix of housing types and size reflects local needs and the composition of households;*
- ii) the provision of public open space within the development that is available for equipped or unequipped outdoor play and other communal uses meet the most up-to-date standards for open space set by the Local Planning Authority;*
- iii) the provision within the development of cycle paths and secure-covered cycle parking, appropriate to the size of the development, and connected to adjacent paths, if any, meet the most up-to-date standards for such provision set by the County Highways Authority;*
- iv) the provision of safe and secure pedestrian access throughout the development, and to and from other parts of Hayle, meet the most up-to-date standards for such provision set by the County Highways Authority;*
- v) practical planning for ease of movement and connections to ensure ease of access by all forms of transport, including, but not limited to, ensuring reasonable walking distance to a bus service, meet the requirements set out in the most up-to-date Cornwall Design Guide produced by the Local Planning Authority;*
- vi) the design and layout seek to positively protect and enhance local biodiversity and geodiversity where appropriate; and,*
- vii) positively consider the need to design-out crime, disorder and anti-social behaviour to ensure ongoing community safety and cohesion.*

Where meeting a provision standard is not feasible, viable or appropriate, in proportion to the scale of the proposal, proposals will be required to make a contribution to off-site provision where provisions are not already subject to the Community Infrastructure Levy.

COMMENT

I have received representations in relation to the final paragraph of this policy which relate to concerns that there is no mechanism to require off site contributions in this form. I concur with these representations and in order to meet the Basic Conditions this paragraph should be deleted from the policy.

POLICY SD3 Community Housing

Proposals for community-owned housing developments (such as those delivered via Community Land Trusts) that respond to demonstrated local housing needs will be supported.

COMMENT

I have no comment on this policy

POLICY SD4 Parking Provision for New Housing and Other Developments

Proposals for residential development will be supported where they provide:

- i) a minimum of 1 off-street parking space for dwellings with 1-2 bedrooms and a minimum of 2 off-street parking spaces for dwellings with 3 or more bedrooms; and,**
- ii) 1 additional off-street visitor parking space for every 4 dwellings for proposals of 4 or more dwellings.**

The provision of electric vehicle charging outlets will be considered favourably.

Proposals will be supported where they meet the requirements for parking set out in the most up-to-date Cornwall Design Guide produced by the Local Planning Authority.

Proposals for residential development with parking provision of fewer parking spaces per dwelling than the above will only be permitted if:

- i) alternative and reasonably accessible car parking arrangements can be demonstrated and which themselves do not add to on-street parking; or**
- ii) otherwise acceptable and well-designed new build or conversion schemes in conservation areas would be incapable of meeting the parking provision; or**
- iii) adequate parking is available through a residents' parking scheme.**

All other, non-residential forms of development will be expected to provide a level of off-street parking that adequately serves the use proposed and takes into account a robust and realistic travel plan

COMMENT

I have received representation that this policy requires a parking standard which exceeds the requirements of the Manual for Streets and is unjustified. I understand that there is concern in many Neighbourhood Plan Areas, particularly in rural areas due to the reliance on the private car that parking provision for new developments is inadequate. I also understand that the imposition of parking standards in excess of local or national standards can impact on the viability and deliverability of new housing development. On the basis that I have not been presented with any compelling evidence as to why there should be increased parking standards for development in Hayle and on balance to ensure that this policy meets the Basic Conditions it should be modified as follows:

“Proposals for residential development with parking provision of fewer parking spaces per dwelling than the above will only be permitted:

i) where the provision of the parking requirements set out above would prejudice the viability and/or deliverability of the site.

ii) alternative and reasonably accessible car parking arrangements can be demonstrated and which themselves do not add to on-street parking; or

iii) otherwise acceptable and well-designed new build or conversion schemes in conservation areas would be incapable of meeting the parking provision; or

iv) adequate parking is available through a residents’ parking scheme.

All other, non-residential forms of development will be expected to provide a level of off-street parking that adequately serves the use proposed and takes into account a robust and realistic travel plan.”

POLICY SD5 Development in Private Gardens

Infill development in private gardens will be permitted only where all of the following apply:

i) there is no loss to the character, local amenity or environmental quality of the surroundings;

ii) the site is served by a suitable existing highway on one or more boundaries;

iii) a building-to-plot ratio representative of the surrounding plots is maintained and a usable amenity space for both the existing and additional building is provided;

iv) proper respect is given to the relationship between the building size and plot size, which should be in keeping with the character area;

vi) the proportions and positioning of the new buildings are in keeping with the character of the area, reflecting the scale, density and roofline of adjacent buildings; and

vii) significant features, trees, granite walls, etc. are preserved and reconstructed/replaced where unavoidably affected by development.

COMMENT

The numbering of this policy needs to be revised.

As the decision on any planning application rests with Cornwall Council, the Local Planning Authority the policy needs to be modified by replacing the word “permitted” with “supported”.

POLICY SD6 Local Green Space

The areas listed below and identified on Map 4 are designated as Local Green Spaces where new development is ruled out other than in very special circumstances:

1. Tremeadow Terrace

2. Isis Garden

3. Penpol Terrace

4. Wharves Branch Line

5. Bay View

6. Tremorva

7. Bodriggy Court

8. Bulls Ring

9. Ventonleague Green

10. Loggans Estate

COMMENT

Having examined the evidence to support the designation of the sites listed above as Local Green Spaces I am satisfied that they meet the requirements of paragraph 77 of the NPPF.

Business, Enterprise and Economy (BE)

POLICY BE1 Employment Opportunities in Residential Areas

Proposals for development to provide small-scale employment opportunities in residential areas, including the creation of live-work units, will be supported provided that the proposals:

- i) do not involve the loss of a dwelling;***
- ii) contribute to the character and vitality of the local area;***
- iii) do not harm residential amenity; and***
- iv) do not adversely impact upon road safety.***

COMMENT

I have no comment on this policy

POLICY BE2 Rural Industrial Development

The conversion of existing agricultural buildings for business or business-related purposes will be supported where it is justified in the interests of ensuring the continued viability of the farming business and where the proposal can demonstrate that there would be:

- i) no harmful impact upon the surrounding rural landscape;***
- ii) no unacceptable conflicts with agriculture and other land-based activities;***
- iii) no harmful impact on the local road network;***
- iv) no harmful impact on the amenities of neighbouring residents or businesses; and***
- v) no requirement for rebuilding or a disproportionate extension.***

COMMENT

I have no comment on this policy.

POLICY BE3 Catering and Food Outlets

Proposals for catering and food outlets defined as use class A3 will be supported within the town centre areas as identified in Map 5 and Map 6, provided that they will not have an unacceptable impact on:

- i) road safety;***
- ii) the environment;***
- iii) local amenity;***

iv) the character of the surrounding area; or

v) the vitality and viability of the town centre.

Proposals for change of use from use class A1 to A3 within the primary retail frontage areas will be permitted only where it can be clearly demonstrated that the retail A1 premises have been actively marketed and no demand exists for the continuation of that use and a predominance of retail uses within the town centre is retained.

COMMENT

Permitted Development rights exist, in limited circumstances from A1 to A3. For example, premises in shop use (Class A1) are able to change to café use (Class A3) providing that the premises is less than 150m² and subject to the Prior Approval from the Local Planning Authority.

The policy should be modified to reflect that Permitted Development rights exist and the policy introduction should be modified as follows:

“Where planning permission is required proposals for catering and food outlets defined as use class A3 will be supported within the town centre areas as identified in Map 5 and Map 6, provided that they will not have an unacceptable impact on:”

POLICY BE4 Out-of-Town Food Retail

Proposals for large food retail development outside of the town centres (as defined on Maps 5 and 6) will only be supported if they demonstrate that the development:

i) will enhance, and not damage, the economic vitality and viability of existing retail/commercial centres in the plan area;

ii) will enhance, and not damage, the consumer choice available within the plan area; and

iii) will not negatively impact existing, committed and planned public and private investment in the plan area.

iv) has demonstrated a sequential approach to site selection in accordance with para 24 of the NPPF and Policy 4 of the CLP

COMMENT

I have no comment on this policy

POLICY BE5 Financial and Professional Services

Change of use from residential to A2 use will be supported within the area shown in Map 7 as long as

no significant and adverse impact arises to nearby residents or other sensitive land uses from noise, fumes, odour or other nuisance associated with the work activity and visitor levels.

COMMENT

Part of the wording of this policy does not seem relevant to an A2 use. For clarity the policy should be modified as follows:

“Change of use from residential to A2 use will be supported within the area shown in Map 7 as long as no significant and adverse impact arises to nearby residents or other sensitive land uses.”

Natural Environment and Landscape Setting (NE)

POLICY NE1 Local Gaps

To ensure that Phillack and Angarrack maintain their separate identity, setting in the landscape and local built character and extent, a local green gap (as identified on Map 8) will be maintained to prevent coalescence between:

- i) Phillack and north east of Hayle and Riviere Towans;*
- ii) Angarrack and the east of Hayle and Marsh Lane employment area; and Foundry and developments to the south and west.*

Proposals for development will only be supported where they:

are for measures to prevent coastal erosion or flooding; or,

vi) propose improvements to access to the countryside; or,

vii) are for essential agricultural uses; and,

viii) do not compromise the visual openness and landscape character of the gap; and,

ix) do not compromise the character or setting of important international, national and local heritage assets.

COMMENT

I have no comment on this policy.

POLICY NE2 Undeveloped Coastal Areas

Proposals for development on the natural undeveloped coastal areas, identified on Map 9, will only be

permitted where the proposal requires a coastal location and:

(i) is for coastal defence; or

(ii) is for the improvement of an existing built facility and enhances the quality and appearance of the facility in relation to the coastal landscape and seascape; or

(iii) supports an additional public access to the beach (preferably disabled accessible) and the scale, size, siting and design of the development is in keeping with the rural character of the location and the permitted use of the site and the visual impact on the landscape and coastal setting of the site is minimal or satisfactorily mitigated;

and

(i) it protects and/or enhances the natural and undeveloped coast, geodiversity and biodiversity; and

(ii) it demonstrates, through a coastal landscape and seascape impact assessment (where required), no significant adverse impact on the natural undeveloped coast.

COMMENT

I have no comment on this policy.

POLICY NE3 Development in Keeping with its Landscape Setting

Proposals will only be considered where they:

i) have demonstrated that there are no adverse impacts on the natural environment (landscape, biodiversity, habitats and wildlife corridors) or are satisfactorily mitigated; and,

ii) enhance the natural environment where there is the opportunity to do so.

iii) Where mitigating measures are unavoidably required for development to be acceptable within its landscape setting, appropriate landscaping should be employed to mitigate the impact of the development. Such measures must include the use of appropriate planting which can enrich the biodiversity of the area such as trees and other plants native to the local area.

COMMENT

For clarity and consistency with other policies in the plan, the word “consider” should be replaced with “supported”.

POLICY NE4 Improved Access to the Beach

Proposals to improve or enhance public rights of way to and from the beach will be supported.

COMMENT

I have no comment on this policy

POLICY NE5 Riviere Towans Chalets

Proposals for replacement chalets, or small extensions, on the Riviere Towans chalet site shown on Map 10 will be permitted where they:

- i) do not increase the total footprint of the chalet to more than 63.17m² (680ft²), this includes any exterior finishes, i.e. cladding or render;***
- ii) are of a single-storey design (except for existing two-storey chalets), which is in keeping with the traditional character and topography of the site;***
- iii) do not result in a disproportionate increase in the ridge height;***
- iv) are finished in pastel or neutral colours;***
- v) have no significant impact on the existing and essential built character of the site;***
- vi) are for holiday chalet accommodation with non-permanent residence; and,***
- vii) avoid any significant negative impact on the:***
 - a) biodiversity, landscape and setting of the site;***
 - b) Gwithian Towans to Mexico Towans SSSI; and,***
 - c) Hayle Estuary & Carrack Gladden SSSI; and,***
 - d) Hayle Dune County Wildlife Site.***

Where some impact is unavoidable, it will be satisfactorily mitigated. Proposals for additional new chalets will not be supported.

The relocation of a chalet will be permitted subject to making good of the existing site and compliance with clauses (i) to (vii) above.

COMMENT

This policy is very prescriptive but on balance I consider it is acceptable other than the penultimate paragraph. Due to the reference to the SSSI sites within the policy the penultimate paragraph should be modified as follows:

“POLICY NE5 Riviere Towans Chalets

Proposals for replacement chalets, or small extensions, on the Riviere Towans chalet site shown on Map 10 will be permitted where they:

i) do not increase the total footprint of the chalet to more than 63.17m² (680ft²), this includes any exterior finishes, i.e. cladding or render;

ii) are of a single-storey design (except for existing two-storey chalets), which is in keeping with the traditional character and topography of the site;

iii) do not result in a disproportionate increase in the ridge height;

iv) are finished in pastel or neutral colours;

v) have no significant impact on the existing and essential built character of the site;

vi) are for holiday chalet accommodation with non-permanent residence; and,

vii) avoid any significant negative impact on the:

a) biodiversity, landscape and setting of the site;

b) Hayle Dune County Wildlife Site.

Proposed development on land within or outside Gwithian Towans to Mexico Towans SSSI or Hayle Estuary and Carrack Gladden SSSI likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) will not normally be permitted.

Proposals for additional new chalets will not be supported.”

POLICY NE6 Protection of Green Infrastructure

Map 11 identifies locally valued green infrastructure assets in Hayle. These are:

i) Land around and to the north of Carnsew Pool (The Spit)⁴³

ii) The Plantation

iii) Ellis Park

iv) The Millpond

v) King George V Memorial Walk

vi) Lethlean Lane Recreation Ground

vii) Trevassack

Proposals for development resulting in the loss of these green infrastructure assets will only be permitted where they include measures to mitigate the loss and enhance the overall connectivity of green infrastructure in the area and:

i) development is necessary for the continuation or enhancement of established uses for recreation, leisure or nature conservation that would result in community benefits and where the proposal maintains the open character of the area, and maintains or enhances visual amenity; or

ii) development is minor in nature and includes the provision of an appropriate equivalent or improved replacement facility in the locality, of at least quantitative and qualitative equal value to compensate for the open space loss, and it can be demonstrated that the character and appearance of the area to be lost is not critical to the setting of the area; or

iii) where development relates to a formal open space, the loss of the space can be mitigated by replacement of an equivalent or better facility within easy access of the community to which it relates.

COMMENT

The wording of this policy seems to refer to development proposals that would result in the total development of the identified site and part development and as a result is confusing. For clarity I advise the policy is modified as follows:

“Proposals for development of these green infrastructure assets will only be supported where they include measures to mitigate any loss and enhance the overall connectivity of green infrastructure in the area and:

i) the development is necessary for the continuation or enhancement of established uses for recreation, leisure or nature conservation that would result in community benefits and where the proposal maintains the open character of the area, and maintains or enhances visual amenity; or

ii) the development is minor in nature and includes the provision of an appropriate equivalent or improved replacement facility in the locality, of at least quantitative and qualitative equal value to compensate for the open space loss, and it can be demonstrated that the character and appearance of the area to be lost is not critical to the setting of the area; or

iii) where development relates to a formal open space, the loss of the space can be mitigated by replacement of an equivalent or better facility within easy access of the community to which it relates.”

POLICY NE7 Protection of Trees

Proposals for development should avoid loss of existing trees. Where unavoidable, proposals should demonstrate how the loss of trees will be mitigated through replacement planting.

Proposals must provide details of:

- i) the type of trees;***
- ii) how they will be provided for in relation to watering; and***
- iii) how they will be managed in the future.***

Trees must be of a type that will not damage the proposed and existing developments including roads, footways, etc.

COMMENT

I have no comment on this policy

POLICY NE8 Cornish Hedges

Cornish hedges should be protected within developments. The incorporation into the site design, reinstatement and extension of these features within development sites will be required whenever practicable and appropriate.

COMMENT

I have no comment on this policy

POLICY NE9 Protection of Copperhouse Pool

Development proposals within the Copperhouse Pool area shown on Map 12 should:

- i) be for community benefit and access;***
- ii) preserve the character and appearance of Copperhouse Pool;***
- iii) avoid the loss or reduction of existing open spaces between buildings that contribute to that character in views from the main road (B3301) and the King George V Memorial Walk;***
- iv) take full account of flood risk issues; and,***
- v) enable, wherever possible, the provision of additional access for the public to the poolside; and,***
- vi) support the biodiversity interest of the site and its setting and the status of the Hayle Estuary and Carrick Gladden SSSI.***

The replacement of existing buildings will be permitted where the replacement building would not obscure views to the pool to a greater degree than the existing building, including the height and width of the structure. Height shall be measured from the height above ordnance datum.

Prospective developers are encouraged to engage with the community at the earliest opportunity.

COMMENT

As the decision on any planning application rests with Cornwall Council, the Local Planning Authority the policy needs to be modified by replacing the word “permitted” with “supported”.

POLICY NE10 Wildlife

Map 13 shows areas designated by Cornwall Wildlife Trust as County Wildlife Sites and areas of importance for habitat – either for wildlife to live in or for use as a wildlife corridor.

Development proposals will only be permitted where they:

i) will not harm or cause significant impact on the nature conservation of County Wildlife Sites or integrity and role of nature corridors; and,

ii) show how they enable a net gain for biodiversity in their design, appropriate to the scale of development.

Where development is permitted, any impact on wildlife must be minimised and conditions will be imposed, or a planning obligation sought, to ensure that mitigating measures are undertaken.

COMMENT

The protection of County Wildlife sites is covered by policy 23 of the Cornwall Local Plan and therefore does not need to be repeated in the Neighbourhood Plan. If it is retained it should reflect the wording of the existing policy accurately.

Policy 23 of the Cornwall Local Plan states:

“3 (c). Local Sites

Development likely to adversely affect locally designated sites, their features or their function as part of the ecological network, including County Wildlife Sites, Local Geological Sites and sites supporting Biodiversity Action Plan habitats and species, will only be permitted where the need and benefits of the development clearly outweigh the loss and the coherence of the local ecological network is maintained.”

The policy should be reworded as follows:

Map 13 shows areas designated by Cornwall Wildlife Trust as County Wildlife Sites and areas of importance for habitat – either for wildlife to live in or for use as a wildlife corridor.

Development proposals will only be supported where they are in conformity with policy 23 of the

adopted Cornwall Local Plan 2010-2030.

Traffic and Transport (TR)

POLICY TR1 Pedestrian and Cycleway Links

Where appropriate, development proposals should demonstrate how they will provide safe and accessible links by foot or cycle to key locations such as local schools, shopping areas, leisure facilities, green spaces, employment areas and neighbouring settlements.

Such links should include:

- i) safe and adequate lighting;*
- ii) natural surveillance;*
- iii) appropriate signposting;*
- iv) dedicated cycle lanes and cycle parking;*
- v) adequate widths to allow mobility scooters to pass; and*
- vi) drop kerbs where necessary.*

COMMENT

I have no comment on this policy.

POLICY TR2 Reducing Town Centre Traffic

Proposals that serve to reduce through-traffic from using the centres of Copperhouse and Foundry will be supported where they do not deter users and visitors, nor prevent service access to the two centres.

COMMENT

I have no comment on this policy

POLICY TR3 Junction Safeguarding

Map 14 shows the location of potential junctions on the A30. No development will be permitted that would prevent the delivery of these junctions.

COMMENT

The safeguarding of land for highway improvements can lead to planning blight. Highway

improvements of this nature are dealt with by the Highway Authority and outside the control of the Neighbourhood Plan and therefore should not form a policy within the plan. I note that the area shown on Map 14 is the same as that indicated on the Cornwall Council Site Allocations Development Plan Document. The policy could be retained within the plan as a proposal, reworded and placed in a separate section of the plan. Suggested rewording:

“The Neighbourhood Plan supports the safeguarding of the area of land for junction improvements included within the Cornwall Council Site Allocations Development Document and illustrated on Map 14 of the Neighbourhood Plan.”

POLICY TR4 Traffic Impact

Major development proposals should identify the realistic level of traffic they are likely to generate and should include assessments at peak times in the tourist season. They must assess the potential impact of this traffic on pedestrians, cyclists, road safety, parking and congestion within the area and include measures to mitigate any impacts.

Development that would give rise to significant residual cumulative impact on the transport network, that cannot be satisfactorily mitigated, will not be supported.

COMMENT

Paragraph 32 of the NPPF states:

32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- safe and suitable access to the site can be achieved for all people; and*
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

The final paragraph of this policy should be modified to reflect the precise wording of paragraph 32:

“Development that would give rise to severe residual cumulative impact on the transport network, will be refused.”

POLICY TR5 Public Parking Areas

The following off-street public parking areas (shown on Map 15) are important assets to the local community and economy and are essential to the functionality of the town centres:

i) Foundry Square car park

ii) Commercial Road car park

iii) ASDA car park – South Quay

iv) Store car park – Copperhouse

Their use as public-access car parks should be safeguarded and their capacity maintained.

Development proposals to provide areas for off-street public parking will be supported where they:

i) provide parking spaces of a size and standard that meet relevant guidance as set out in the County Parking Standards, including an acceptable number of parking spaces for the disabled and dedicated coach parking spaces;

ii) provide appropriate access, surfacing, drainage, lighting;

iii) include appropriate landscaping to ensure the character and visual amenity of the area is not harmed; and

iv) incorporate pedestrian links to nearby facilities.

COMMENT

I have no comment on this policy.

Community Wellbeing (CW)

POLICY CW1 Community Facilities

The leisure and recreation facilities listed below and shown on Map 16 are important to the local community and should be protected:

i) Angarrack Village Hall

ii) High Lanes Youth Club

iii) Ventonleague Chapel

iv) St Elwyn's Church Hall

v) Phillack Church Hall

vi) Band Room, St John's Street

vii) Scout Hut, Penpol

viii) Salvation Army Hall

ix) Bodriggy Family Centre

x) Drill Hall

xi) Day Care Centre, Commercial Road

xii) Hayle Library

xiii) Passmore Edwards Institute

Proposals for the redevelopment or change of use of these spaces and facilities in part or whole will only be supported where:

i) an assessment has been undertaken that clearly shows that the facility (and any ancillary buildings essential to its use) to be surplus to local or strategic need and demand; or

ii) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity, quality and community accessibility in a suitable location; or

iii) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss.

In all circumstances involving the change of use or possible loss of community facilities, prospective developers are encouraged to engage with the local community at the earliest opportunity.

COMMENT

I have no comment on this policy.

POLICY CW2 Facilities for Young People

Proposals for development that provide facilities for the benefit of young people will be supported where it is demonstrated that:

i) the proposal is based on an up-to-date understanding of needs and demand for the proposed facility; and,

ii) there would be no adverse impact on the amenity of nearby residential areas.

COMMENT

I have no comment on this policy.

POLICY CW3 New Recreation and Sports Facilities

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

i) the scale of the facility is related to the needs of the area; and

ii) there is safe and convenient access for potential users.

COMMENT

As the decision on any planning application rests with Cornwall Council, the Local Planning Authority the policy needs to be modified by replacing the word “permitted” with “supported”.

Heritage, Culture and the Built Environment (HB)

POLICY HB1 Protection of Heritage Assets

Development proposals within the World Heritage Site must demonstrate by reference to the appropriate current guidance and policy documents that:

i) they have understood the significance of heritage assets and their settings;

ii) they have assessed the potential impact of the proposal on Hayle’s heritage assets;

iii) the proposal is appropriate in terms of size, height, density and scale; and

iv) the proposal adequately protects, conserves and enhances the inscribed Outstanding Universal Value.

New development or redevelopment that is likely to lead to significant harm to or loss of a designated heritage asset will only be supported where it can be demonstrated that:

i) it is necessary in order to achieve substantial public benefits that outweigh the harm or loss; or

ii) the nature of the heritage asset prevents all reasonable uses of the site; and

iii) there is no viable use of the heritage asset that will enable its conservation; and,

iv) it can be demonstrated that conservation of the heritage asset is not possible; and,

v) the harm or loss is outweighed by the benefit of bringing the site back into use.

Proposals for development or redevelopment that are within the setting of heritage assets which enhance or highlight the significance of the asset will be supported in principle, subject to other development plan policies and material considerations.

COMMENT

The NPPF, in paragraph 133 sets out the requirements where proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset:

“133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and*
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- the harm or loss is outweighed by the benefit of bringing the site back into use.”*

The plan does not need to repeat this policy but if it is retained it must reflect the precise wording of paragraph 133 not paraphrase it. The policy should be reworded as follows:

“New development or redevelopment that is likely to lead to significant harm to or total loss of significance of a designated heritage asset will be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and*
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- the harm or loss is outweighed by the benefit of bringing the site back into use. only be supported where it can be demonstrated that:*

Proposals for development or redevelopment that are within the setting of heritage assets which enhance or highlight the significance of the asset will be supported in principle, subject to other development plan policies and material considerations.”

POLICY HB3 Signs, Advertising and Illuminations

Development proposals within or affecting the Conservation Area or the World Heritage Site shall not include:

- i) advertising or other signs that are internally illuminated; and*
- ii) external illumination of buildings or signs that impact adversely on the heritage areas.*

COMMENT

I have no comment on this policy.

POLICY HB4 Loggans Mill Protection Zone

Proposals for development within the Loggans Mill Protection Area shown on Map 18 will be supported where they contribute to the sustainable development of the asset by:

- i) improving access to the mill building;*
- ii) preserving the setting of the buildings and ancillary features;*
- iii) providing an appropriate reuse of the buildings to secure its future and contribute to the preservation of the mill through works necessary to preserve the structure; and*
- iv) avoiding areas of flood risk and reducing the risk of flooding.*

COMMENT

I have no comment on this policy

Sustainable Tourism (ST)

POLICY ST1 Tourism Development

Proposals for tourism-related development that extends or broadens or in other ways enhances the neighbourhood area's tourism 'offer' will be supported where they demonstrate they will:

- i) benefit the local economy;*
- ii) not adversely affect local infrastructure;*
- iii) not have an adverse impact on the character of the area but rather will enhance its location and setting;*
- iv) not harm residential amenity; and*
- v) not adversely impact upon road safety.*

Development proposals will be considered according to their compliance with the above criteria and subject to appropriate mitigation measures which address any negative impacts.

Proposals for the development of accommodation that relates directly to, and caters for, the needs of eco-tourism and environmental education activities will be particularly welcomed.

COMMENT

I have no comment on this policy

POLICY ST2 Camping and Caravan Sites

Development of new sites or the extension or intensification of existing sites for caravans and tents, including static or other year-round stationed units, will be supported only where there would be no harm to the character of the countryside and the site is capable of being effectively screened by landform, trees or planting.

Ancillary facilities to serve persons staying on the site and/or visitors must be on or immediately adjacent to the site in existing buildings or new buildings which are of a form, bulk and general design in keeping with their surroundings.

COMMENT

I have no comment on this policy

Exceptional Development Proposals (EX)

POLICY EX1 Exceptional Non-residential Development Sites

Development proposals for B1, A2, D1, D2 and sui generis 73 uses in the countryside will only be supported in exceptional circumstances where:

- i) the proposed development demands a countryside location;*
- ii) other locations within the built-up area boundary or on its edge are not appropriate for the proposed use; and,*
- iii) the proposal is outside of statutory environmental, ecological and geological designations. Proposals preferably will be on a brownfield site.*

For proposals to be considered exceptional, they should demonstrate, through a Planning Statement and Business Plan, that:

- i) there is a local need and long-term market demand for the proposed development;*
- ii) it would make a substantial contribution to the economic, employment, social, cultural and other key objectives of the town;*

iii) it would enhance Hayle's distinctive identity;

iv) it would demonstrably raise the profile of Hayle regionally or nationally;

v) evaluates siting options;

vi) mitigation measures will be put in place to offset the loss of the natural environment, landscape and ecology arising from development of the site; and

vii) the benefits for the community arising from the proposal outweigh the loss of the site and its setting.

Proposals should be accompanied by:

i) a Travel Plan that minimises the impact of increased traffic on the local road network and seeks to enhance sustainable travel options for employees and visitors; and

ii) a Statement of Community Consultation detailing how the communities of the neighbourhood area have been consulted on the exact nature of the development proposal.

COMMENT

Community Consultation requirements are set by the LPA and will depend upon the size and scale of any proposed development. In order to meet the Basic Conditions paragraph ii) should be modified to read:

ii) where appropriate, a Statement of Community Consultation detailing how the communities of the neighbourhood area have been consulted on the exact nature of the development proposal.

SECTION 5

Conclusion and Recommendations

1. *I find that the Hayle Neighbourhood Development Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.*
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 Hayle 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 and the subsequent Strategic Environmental Assessment meet the EU Obligation.*
5. *The policies and plans in the Hayle 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 Hayle Neighbourhood Development Plan subject to the recommended modifications can proceed to Referendum.*

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8th March 2018

