

# Ludgvan Neighbourhood Plan 2018-2030

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## **Submission Version**

A Report to Cornwall Council on the Examination of the Ludgvan Neighbourhood Plan

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## Executive Summary

My examination has concluded that the Ludgvan Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- Allowing mitigation if a new public right of way could affect the value of a wildlife corridor.
- Delete the Coastal Change Management Area policy.
- Delete the Heritage Asset policy.
- Allow development on LGS in exceptional circumstances.
- Amend the line of the settlement boundary at Longrock to that shown on the Pre-Submission version of the plan.
- Retitle the policy “Development in the countryside” to “Development in Other Settlements”.
- Expand the scope for development in those settlements without a settlement boundary to include the redevelopment of previously developed land, one for one replacement, and subdivision or conversion of existing properties.
- Change the criterion in the design policy so that the environmental performance requirements only apply to non-residential development.
- Retitle policy on “Open Space” to “Landscaping on Local Development Sites”
- Restrict requirements to show how the scheme is meeting local housing needs to major schemes only and local needs refers to meeting the needs of the parish and the wider Penzance / Newlyn Area.
- Delete the second homes policy.
- Remove restrictions on the expansion of employment premises to small scale expansion only.

The referendum area does not need to be extended beyond the plan area.

## Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the Cornwall Local Plan Strategic Policies 2010-2030 and the Site Allocation DPD. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been led by Ludgvan Parish Council. A Steering Group was appointed to undertake the plan preparation made up of local volunteers, along with representatives of the Parish Council. Ludgvan Parish Council is a “qualifying body” under the Neighbourhood Planning legislation.
3. This report is the outcome of my examination of the Submission Version of the Ludgvan Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by Cornwall Council, the Local Planning Authority for the neighbourhood plan area.

## The Examiner’s Role

4. I was formally appointed by Cornwall Council in September 2019, with the agreement of Ludgvan Parish Council, to conduct this examination. My role is known as an Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS).
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 41 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Cornwall Council and Ludgvan Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
6. Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:
  - That the plan should proceed to referendum on the basis that it meets all the legal requirements.

- That the plan should proceed to referendum if modified.
  - That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.
7. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Ludgvan Neighbourhood Plan area.
  8. In examining the Plan, the Independent Examiner is expected to address the following questions
    - a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
    - b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
    - c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.
  9. I am able to confirm that the Plan does relate only to the development and use of land, covering the area initially designated by Cornwall Council, for the Ludgvan Neighbourhood Plan, on 30<sup>th</sup> April 2015.
  10. I can also confirm that it does specify the period over which the plan has effect namely the period from 2018 up to 2030.
  11. I can confirm that the plan does not cover any “excluded development”.
  12. There are no other neighbourhood plans covering the area covered by the Plan designation.
  13. Ludgvan Parish Council, as a parish council, is a qualifying body under the terms of the legislation.

## **The Examination Process**

14. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.
15. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
16. I am satisfied that I am in a position to properly examine the plan without the need for a hearing.

17. I carried out an unaccompanied visit to Ludgvan, and the surrounding countryside on Wednesday 16<sup>th</sup> October 2019. I was able to drive around the Parish and visit each of the settlements. I walked around a number of the villages and visited each of the proposed local green spaces. I was able to experience the stunning countryside and the coastline. I also visited the adjacent towns of Penzance, Marazion and Hayle to understand their relationship with the plan area. I experienced the traffic conditions on the A30 both on the Wednesday and also during the peak morning conditions the next day.
18. Following my site visit, I sent a document entitled "Initial Comments of the Independent Examiner" dated 18<sup>th</sup> October 2019 which asked a series of questions or sought clarification on a number of matters. I received a reply from Cornwall Council on 31<sup>st</sup> October 2019 and also a separate response from the Parish Council on 6<sup>th</sup> November 2019. These responses prompted a number of matters that needed further clarification relating to the HRA screening and its relationship to the settlement boundary and also the actual extent of the Coastal Change Management Area. I set these out in a document "Further Comments of the Independent Examiner" dated 20<sup>th</sup> November 2019. I received a joint response on 27<sup>th</sup> November 2019.
19. I also, whilst drafting this report, had communication with the Council and the Parish Council regarding the policy for the Coastal Change Management Area. This provided me with more information as to the introduction of the policy and both parties stated that they would have no objections, if I was minded to recommend that the policy be deleted.

## **The Consultation Process**

20. In 2014, a number of public meetings were held across the parish to gain community support for the preparation of a neighbourhood plan. This led to the setting up of the Steering Group in March 2016, drawn from persons who had expressed an interest in getting involved with drafting the plan. This was after the plan area had been formally designated in 2015. During the summer of 2015, questionnaires were distributed around the parish, as well as being made available at Morrison's Supermarket and at the Horticultural Show as well as at Ludgvan school's sports day. Approximately 300 responses were received, outlining the issues that were considered important by the community. There was also a separate consultation with the business community which generated 10 responses.
21. The Steering Group appointed an engagement task group to organise a series of community meetings, which collectively were attended by over 200 participants. These highlighted areas worthy of protection, raised issues of rights of way and identified important local green spaces.
22. This was preparatory work for a workshop session held on the 12<sup>th</sup> December 2017 which drew up draft aims and initial objectives for the plan. These were then put out

to public consultation sessions, in late January 2018, which were attended by just under 200 people.

23. The Parish Council organised an informal round of consultation on the first draft of the neighbourhood plan, in September 2018, which identified that only limited amendments were needed.
24. All this activity culminated in the formal Regulation 14 consultation on the Pre-Submission version of the plan, which ran from 1<sup>st</sup> April 2019 to 13<sup>th</sup> May 2019. This generated only six responses, as set out in Appendix 17 of the Consultation Statement, which includes details of how the plan was amended in response to the comments received.
25. I am very satisfied that the plan making process has been both open and transparent and that the views of the community have been positively sought and have been able to influence the final content of the neighbourhood plan.

## **Regulation 16 Consultation**

26. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place over a 6-week period, between 12<sup>th</sup> August 2019 and 24<sup>th</sup> September 2019. This consultation was organised by Cornwall Council, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 consultation.
27. In total, 9 responses were received, from Natural England, National Grid, Historic England, Highways England, Cornwall Council's Affordable Housing Team, South West Water, Devon and Cornwall Police, Cornwall Public Spaces Officer and Savills on behalf of the Truro Diocesan Board of Finance.
28. I have carefully read all the correspondence and had regard to them, where they have been relevant to my considerations and conclusions either in respect of specific policies or the plan as a whole.

## **The Basic Conditions**

29. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of "soundness". The Neighbourhood Plan is tested against what is known as the Basic Conditions, which are set down in legislation. It will be against these criteria that my examination must focus.
30. The five questions which constitute the basic conditions test, seek to establish: -
  - Has the plan had regard to the national policies and advice contained in the guidance issued by the Secretary of State and is it appropriate to make the Plan?

- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- Whether the making of the Plan breaches ~~or~~ is otherwise incompatible with EU obligations or human rights legislation?
- Whether the making of the Plan would breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

### **Compliance with the Development Plan**

30. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the adopted Cornwall Local Plan – Strategic Policies as well as the Site Allocation DPD.
31. Policy 3 of the Local Plan identifies part of the parish, at Longrock, as one of the named urban areas, which are expected to be the focus of new housing and employment, alongside Penzance, Newlyn, Heamoor, and Gulval. Strategic site allocations at Longrock are made through the Site Allocations DPD. The rest of Ludgvan parish, beyond Longrock is covered by the third part of Policy 3, which allows for the rounding off of settlements and development of previously developed land within or immediately adjoining the settlement, of a scale appropriate to its size and role or through infill schemes or through the development of rural exception sites.
32. The Site Allocation DPD, was only recently adopted, on 26<sup>th</sup> November 2019. It allocates the Longrock Industrial Estate as a safeguarded employment area, for B1, B2 and B8 uses. There is also a housing site allocated, PZ–H1 for approximately 150 dwellings and a new employment allocation site known as Longrock East covering some 3.2 ha.
33. Other relevant policies in the strategic policies plan, include Policy 4 dealing with shopping services, Policy 5 – business and tourism, Policy 10 – housing mix, Policy 12 – design, Policy 13 – development standards, Policy 16 – health and well-being, Policy 23 – natural environment, Policy 24 – historic environment, Policy 25 – green infrastructure, Policy: 26 – flood risk management and Policy 27 – transport and accessibility. The Basic Condition Statement provides a useful cross-reference table linking neighbourhood plan policies with the equivalent local plan policy.
34. The housing requirements for the West Penwith CNA is set as 1000 new dwellings, which after discounting completions and commitments, leaves a residual need for 270 new dwellings for the network area. Cornwall Council has indicated that the



Ludgvan share of that figure, excluding the strategic allocation at Longrock is 37% of the CNA residual requirement, which equates to 56 dwellings.

35. My overall conclusion is that the neighbourhood plan, apart from where I have noted in the commentary on individual policies, is in general conformity with the strategic policies in the Cornwall Local Plan.

## **Compliance with European and Human Rights Legislation**

36. Cornwall Council issued a Screening Report, on 14<sup>th</sup> January 2019, which concluded, having consulted with the three statutory consultees, that a full assessment, as required by EU Directive 2001/42/EC, which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would not be required as its view was that the scale and location of development proposed in the Pre-Submission Version of the plan was unlikely to have significant effects on the environment. The plan was re-screened on 13<sup>th</sup> June 2019 based on the Submission Version of the plan, which had introduced a Coastal Change Management Area policy and it maintained its conclusion that an SEA was not required.
37. Cornwall Council, as competent authority, also issued, in the same reports its screening under the Habitat Regulations. The screening assessed the submitted plan and concluded that its provisions would not have any adverse effects upon European protected sites or their qualifying features, in particular the Marazion Marsh Special Protection Area (SPA), and an Appropriate Assessment would not be required.
38. One issue that emerged during the examination was that it transpired that the second screening had not taken into account that the Submission Version of the plan was proposing changes to the settlement boundary at Longrock closer to the SPA. This was a matter that was highlighted by Natural England in its Regulation 16 comments. It was clear that the screening had not assessed the implications of that change and potentially a new screening and indeed an Appropriate Assessment could be required under the Habitat Regulations, as the policies could potentially allow development closer to the SPA. As part of the Further Comments document, I highlighted this anomaly and the Parish Council agreed to a possible recommendation that the line of the settlement boundary should revert to the original line, as per the Pre-Submission version of the plan, which had been properly screened. As I am minded to agree to that suggestion and will be making an appropriate recommendation, then the original confirmed screening opinion remains valid.
39. I am therefore satisfied that the basic conditions regarding compliance with European legislation, including the newly introduced basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the plan has

no conflict with the Human Rights Act especially as I am recommending that the policy preventing the occupation of property as a second home be deleted.

## The Neighbourhood Plan: An Overview

40. The Parish Council is to be congratulated on seizing the opportunity presented by neighbourhood planning to produce a plan that reflects the wishes of the residents of the parish. As part of the development plan, it will sit alongside the strategic policies set by the Cornwall Local Plan and the strategic allocations in the Site Allocation DPD. It will provide a local dimension to the planning policies that affect the parish.
41. It recognises the different roles of the numerous settlements in the plan area, which are intended to allow them to continue to thrive, whilst protecting the intrinsic character of the countryside areas. It also rightly sets high expectations as to the quality of new development.
42. This neighbourhood plan will be an important document, as it will be used to determine planning applications in the parish and the Secretary of State advice sets out important requirements as to how policies are to be drafted. They need to give certainty to how a decision maker should react to a proposal and, in a couple of instances, I have changed the emphasis, by saying that proposals *will* be supported rather than proposals *may* be supported. Similarly, the NPPF states that plans should avoid unnecessary duplication of policies that already apply within an area. I have recommended that the heritage assets policy be deleted as the topic is covered more comprehensively by the local plan and the draft policy does not actually accord with the Secretary of State's approach to protecting non-designated heritage assets.
43. Neighbourhood plans should not promote less development than is allowed by the strategic policies in the local plan. I have had to expand the categories of new development allowed in settlements, so that the policies in the neighbourhood plan are not more restrictive than the local plan.
44. PPG guidance on policy making requires that planning policies should be based on evidence. In the case of the policy on second homes, I do not consider that the policy has been justified, on the basis of any existing harm caused by the present number of second homes/ holiday lets within the parish.
45. Overall I am satisfied that the plan as a whole, if modified in line with my recommendations, does have regard to national policy and advice.
46. Another of the basic conditions, is whether the plan will deliver sustainable development. The plan addresses the economic needs of the area by identifying new areas for both housing and employment uses and encourages new development to harness high speed broadband. The plan also seeks to protect and enhance the community assets of the area, as well as the area's open spaces and recreation areas. The final strand of sustainable development is the environmental role of the plan. This is demonstrated by policies protecting the natural environment, biodiversity, wild life corridors etc. as well as demanding high design standards.

47. The whole document is well presented and in particular the plans are sufficiently clear to identify the actual extent of the proposed designations. I find the plan document fit for purpose.
48. My recommendations have concentrated on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend editorial changes to the supporting text. Changes to the supporting text will be required as a result of my recommendations. These can be agreed between Cornwall Council and the Steering Group so that the Referendum Version of the plan reads as a coherent planning document.

## **The Neighbourhood Development Plan Policies**

### **Policy No LUD1 Protecting the Natural Environment**

49. Essentially this policy is consistent with the provisions of the NPPF and Policy 23 of the Cornwall Local Plan. I have identified a drafting error through the inclusion at the end of the first sentence of “may be supported”. The Parish Council has in response to my Initial Comments agreed that these words should be deleted.
50. Neighbourhood plans are required to contain policies that are “clearly written and unambiguous, so that it is evident how decision makers should react to development proposals”. I therefore consider that the wording of the policy could provide greater certainty by the following amendment, namely that “proposals which incorporate conservation and or appropriate habitat enhancement to improve biodiversity will be supported”.
51. Subject to these amendments, I am satisfied that the policy meets basic conditions.

#### ***Recommendations***

***At the end of the first sentence delete “may be supported”.***

***At the end of the second sentence change “may” to “will”.***

### **Policy No LUD2 Wildlife Corridors**

52. This policy is consistent with Secretary of State’s policy which recognises the “importance of wildlife corridors and stepping stones which connect them.”

### **Policy No LUD3 Public Rights of Way**

53. The policy supports the extension of the rights of way network, subject to their value as a wildlife corridor being protected. In my experience, any proposal which introduces public usage, on a new route, has the potential to impact on its biodiversity value, when measured against their wildlife value without public access. However, I am satisfied that by taking specific measures where the impact is likely to be significant, it is possible to mitigate such impact. By introducing the concept of mitigation, this policy can balance benefits of increased public access into the countryside with wildlife interests.

54. The policy seems to differentiate between public rights of way and bridleways. A bridleway is a public right of way and I propose that for the purposes of clarity to move the unnecessary reference to “*and bridleways*”.

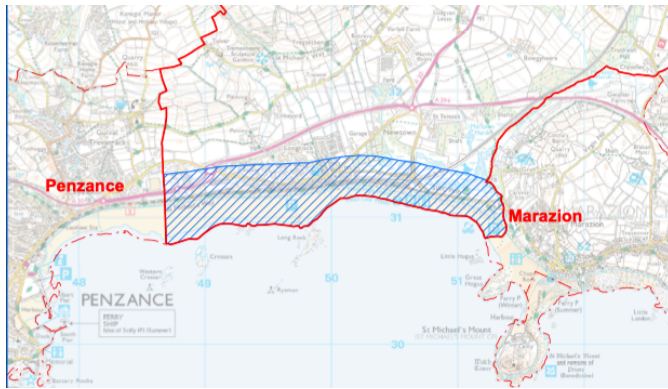
***Recommendations***

***Delete “and bridleways”***

***Replace “protected” with “mitigation is put in to address any significant adverse impacts”***

**Policy No LUD4 Coastal Change Management Area**

55. This policy was introduced by the Parish Council, at the request of Cornwall Council, following the Regulation 14 consultation. As the Longrock area is a low-lying coastal area, I can understand fully the importance of planning for coastal change in this area. However, the introduction of the policy, at this late stage, has proved to be more problematical, especially once the full extent of the area covered by the Coastal Change Management Area (CCMA) designation, is fully appreciated.
56. My initial interest in this policy was triggered by a need to have clarity as to what the extent of the CCMA was, and where the policies set out in the sub criteria a), b) and c) of the policy would apply. From the description in paragraph 7.25 of the plan I had envisaged that the extent of the CCMA would cover the seaward side of the plan area beyond the railway line.
57. However, I was provided with the following plan which shows an exclusion zone which runs considerably beyond the railway line and covers much of the urban area of Longrock, including both commercial and residential areas. Under the terms of Policy LUD4, this policy would rule out any development, apart from that necessary for the management of “protected natural habitats”, coastal management purposes or the creation and maintenance of a coastal footpath. This is notwithstanding the fact that this is an existing developed area and is proposed to be included within a settlement boundary which, in line with Policy LUD7, is to be the focus for housing and employment growth.
58. Therefore, within this exclusion area, the neighbourhood plan is promoting mutually exclusive policies, one encouraging development and another, actively preventing all but a limited range of development. The implications of this disparity are only revealed when the extent of the exclusion zone is defined on a map. Not only would it be inconsistent with the thrust of the neighbourhood plan but also with the spatial policy set out in Policy 3 of the Local Plan.



59. In considering policy in areas which are potentially subject to coastal change, an important document is the Shoreline Management Plan (SMP). Due to the presence of the Marazion Marshes SPA, the policy of the SMP is to “hold the line” along this stretch of coast, to protect this European designated site and *managed retreat* would not be countenanced. Secretary of State advice, set out in the Coastal Change section of the PPG, in paragraph 72(Ref ID 7-072- 20140306) is that a coastal change management area “will not need to be defined where the accepted shoreline management plan policy is to hold the line or advance the line..... for the whole period covered by the plan”
60. I appreciate that Cornwall Council’s thinking on this issue is evolving, with greater focus being placed on adapting to climate change, but that demands a holistic approach, taking full account of the impact of a strategy of managed realignment in an urban area, as opposed to the undeveloped coast, where the implications on property and infrastructure are different.
61. I have been advised by officers, that Cornwall Council is considering producing a Climate Change DPD, although it does not appear in the latest version of the Local Development Scheme. I would agree that taking a strategic approach to this issue is vital, rather than inserting such a far-reaching policy into a neighbourhood plan at a late stage, without the full extent of the area affected being published or placed in front of the community.
62. As far as I am aware, there has been no public consultation of the extent of this exclusion zone locally and certainly not in the context of this neighbourhood plan. As worded, the policy would rule out both residential and commercial development, in an area which the plan is actively encouraging and I am sure would come as a complete surprise to landowners, residents and businesses in the area affected. It could have significant blighting effects.
63. I have therefore concluded, that whilst neighbourhood plans are encouraged to consider CCMA’s and to give a local perspective if the community wishes, that it is better to follow the advice set out in the PPG that their designation should be through Local Plans. They are essentially strategic policies, particularly where they are proposing exclusion zones covering existing built up areas.
64. I conclude that this policy is not in general conformity with the strategic policy set out in the Local Plan, particularly the emphasis on concentrating development in existing settlements, it will not deliver sustainable development as it would prevent the reuse

of previously developed land. The policy could, it could be argued, under some scenarios, lead to an adverse impact on the protected European site at Marazion Marshes, if the decision is taken not to hold the line. I note that the LPA and the Parish Council have indicated that they accept that this policy can be deleted from the plan.

***Recommendation***

***That the policy be deleted.***

**Policy No LUD5 Heritage Assets**

65. The policy does not differentiate between designated heritage assets and non-designated heritage assets. It imposes the same test on any decision maker irrespective of the status of the heritage asset, namely, that proposals must conserve or enhance the character and setting of the asset and refer to it being used in “an appropriate manner”.
66. There are already well established legal tests for assessing proposals that impact upon listed buildings and also proposals which affect their setting. As the supporting text notes, they are already offered protection by Policy 24 of the Local Plan. However, that policy rightly refers to assessing the harm to the significance of the asset. Such an approach is consistent with paragraphs 195 and 196 of the NPPF. However, the Secretary of State imposes a different test in terms of development which affects non-designated heritage assets. This requires a judgement, balancing the “scale of any harm or loss and the significance of the asset”. Such a balance is not set out in the policy as proposed for non-heritage assets in the parish.
67. I am aware that the Ludgvan plan has not taken the opportunity to itself designate locally listed buildings, as non-designated heritage assets, but the intention is that the Parish Council will be making its nominations to Cornwall Council, as local planning authority, to designate such buildings within the parish. These nominations will emerge from its own consultation exercise, as described in its response to my Initial Comments question.
68. As submitted, I do not believe that the policy meets basic conditions, in that it is inconsistent with Secretary of State advice in respect of the assessment required of proposals affecting non-designated heritage assets – it deals with all heritage assets in the same way. I have considered modifying the policy to bring it in line with national policy, but Policy 24 in the Local Plan, already comprehensively protects heritage assets in the parish. As paragraph 16 of the Framework states plans should avoid “unnecessary duplication of policies that apply to a particular area”.
69. Accordingly, I recommend the policy be deleted but the section of the plan can be retained, stating Policy 24 of the Cornwall Local Plan will be relied upon to assess proposals which affect both designated and non-designated heritage assets.

***Recommendation***

***That the policy be deleted.***



### Policy No LUD6 Local Green Space

70. On my visit, I visited all six areas of green space and I am satisfied they meet all the national criteria for designation as Local Green Space as set out in paragraph 100 of the Framework. The plan does need to reflect the presumption against development on local green space, other than in exceptional circumstances and I will recommend a minor revision to the wording.

### Recommendation

***After “supported” insert “other than in exceptional circumstances”***

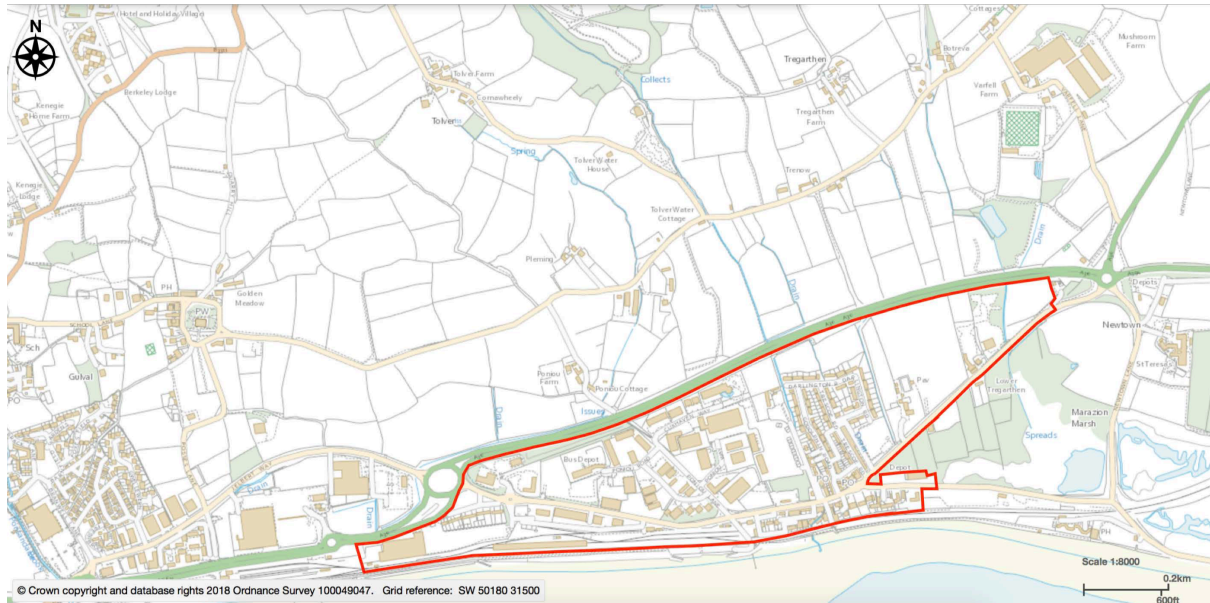
### Policy LUD7 Settlement Area Boundaries

71. The Parish Council has adopted a policy of using settlement boundaries for the main villages to meet the need to accommodate new homes and jobs in the parish. These are applied to Crowlas, Ludgvan and Longrock. This is consistent with the approach set out in the Local Plan, Policy 3 which includes – rounding off of settlements and development of previously developed land within or immediately adjoining settlement, of the scale appropriate to its size and role as well as infill schemes.
72. I am satisfied generally that the boundaries have been identified based on sound and recognised criteria. I did need to consider whether establishing these boundaries would be consistent with the need to provide a supply of housing over the plan period. In this case, the up-to-date housing supply position, as advised by Cornwall Council in its response to my Initial Comments is that the neighbourhood plan area is already based on the completions and commitments, meeting its indicative housing requirements. I am satisfied that there is scope within the boundaries or adjoining the boundaries, (as allowed by the relevant local plan policy) to meet the local housing requirements of the plan area in the period up to 2030. The wording of the policy offers a pragmatic approach to development and is consistent with both national and local plan policy.
73. There is one area, where at a later stage of the plan’s preparation, proposed the inclusion of land into the settlement boundary on the south side of the unnamed road, running southwest from the roundabout of the A30 and the A394 to Longrock. This included a small number of dwellings/buildings and allotments. It was pointed out by Natural England that these sites would be close to the adjoining SPA and had not been included within the Council’s HRA Screening decision. As previously noted, I drew this anomaly to the attention of both Cornwall Council and the Parish Council and asked for their intentions to resolve the situation, whether to extend the scope of the appropriate assessment/screening or reinstate the boundary as per the Regulation 14 consultation. It was confirmed that the Parish Council was happy that the settlement boundary should run along the northern side of the road and I am very happy to make that adjustment, as my view was that areas on the south side would not have the same built up character that the land on the north side would have, once the allocation sites were developed. For the avoidance of doubt, I attach the

map that shows the settlement boundary that I am recommending be reinstated in to the plan.

### *Recommendation*

Replace Map 6b with the following map



### **Policy No LUD8 Development in the countryside**

74. This policy essentially addresses two different scenarios, but the policy groups them together under one heading – Development in the Countryside. The policy actually addresses development in settlements which do not have settlement boundaries. The title appears to deal with development in the open countryside but the policy does not reflect that. I will recommend that the title of the policy be changed to “Development in Other Settlements”.
75. Policy 3 of the Local Plan includes reference to other forms of development within rural settlements, beyond infill and extensions to existing dwellings. This supports the development of previously developed land and also the replacement or subdivision of existing houses and needs to be referenced in the policy as a neighbourhood plan cannot deliver fewer houses than a local plan.
76. I agree with the response from the Parish Council that housing development away from any settlement is already adequately covered by Policy 7 of the Local Plan.

### *Recommendation*

**Retitle the policy “Development in Other Settlements”.**

**After “frontage,” insert “the redevelopment of previously developed land or the one to one replacement, subdivision, conversion,”**



### Policy No LUD9 Sensitive Design and Sustainable Development

77. I am generally comfortable with the policy, which I believe sets robust design requirements. However, the final criterion requires development to incorporate measures to improve its environmental performance. These aspirations run contrary to Secretary of State policy set out in his Written Statement to the House of Commons dated 25<sup>th</sup> March 2015, which states that neighbourhood plans should not set “any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.”
78. Energy performance can be set by local plan policy and I note that criterion vii of Policy 13 of the Cornwall Local Plan encourages connections to an existing or proposed heat network. In order to bring the policy into line with Secretary of State policy I will be including a caveat that the final criterion only applies to non-residential development. That will then ensure that the policy meets basic conditions by having regard to Secretary of State policy.

#### *Recommendation*

***After” features” insert “into non-residential development”.***

### Policy No LUD10 Open Space

79. I have no issues with the wording of the policy, but its contents do not relate to open space provision. The Parish Council has suggested a more appropriate heading would be “Landscaping on Local Development Sites”. I will recommend accordingly. The supporting text also needs to focus on site landscaping, rather than the quantity of new open space.

#### *Recommendations*

***Retitle “Landscaping on Local Development Sites”***

***Reword the justification to relate to on site landscaping of development sites.***

### Policy No LUD11 Local Housing Needs

80. I do not consider that it is proportionate for small-scale development applicants to have to make reference to the housing needs survey in support of their application. That report is primarily used to assess housing need in terms of persons wishing to rent or for help to buy. I consider that reference is more appropriate where there is a policy requirement to deliver affordable housing. I will recommend that the first sentence of the policy be deleted and reference to having regard to local housing need assessments be a component of influences of the mix of affordable and other specific housing types on major schemes where there is an expectation that they will include an affordable housing component as required by Policy 8 of the Local Plan.
81. The policy refers to priority being given to local households. I sought clarification from the Parish Council as to what it considers to be *local households*, particularly as the Longrock housing allocation is intended to be meeting the needs of the wider Penzance/Newlyn area. The Parish Council responded that it would be supportive of

that to be included as a definition within the policy. A planning policy cannot bind the actual allocation of housing, as those decisions are taken by Cornwall Council in its role as the Local Housing Authority, implementing its housing allocation policy rather than being a policy for the use and development of land. I therefore propose that the tenure of housing types and sizes be appropriate to meeting the needs of local households.

### **Recommendations**

#### **Remove the first paragraph**

**Delete the rest of the policy after “rent” and insert “in accordance with the most recent assessment of the local housing need for the type, size and tenure of properties, covering the parish and the wider Penzance / Newlyn area.”**

### **Policy No LUD12 Second Homes**

82. I am familiar with the pressure, particularly in the South West for new houses to be subject to a principal residency test as a result of issues surrounding second homes and holiday lets especially in coastal communities. However, to introduce stringent controls, which have implications for human rights in terms of restrictions of people's ownership of properties, can only ever be justified on the basis that such a policy is supported by robust evidence, both in terms of the current level of such uses affecting the sustainability of communities, or that second homes/holiday lets are artificially inflating house prices beyond what local people can afford.
83. I have been presented with no evidence at this examination, beyond the fact that current levels are in the region of 4% or less, which is low compared to other neighbourhood plans which have been able to justify such policies. I also note that this was a policy arose from public consultation. Whilst I acknowledge that the Parish Council argues that “prevention is better than cure”, I do not believe that the policy meets the Secretary of State's requirements that policy must be supported by evidence. I will recommend that the policy be deleted.

### **Recommendation**

**That the policy be deleted.**

### **Policy No LUD13 Community Facilities**

84. I have no concerns with this policy, which seeks to permit and encourage new community facilities, in line with local plan and national policy as well as allowing existing services to be extended and enhanced.

### **Policy No LUD14 Recreation and Sports Areas**

85. I have no comments to make on this policy.

### Policy No LUD15 Sports Facilities

86. I have no comments to make on this policy.

### Policy No LUD16 Community Horticulture

87. My only comment is that the facilities to provide a replacement allotment land “elsewhere” could be interpreted as elsewhere/anywhere. I will suggest the addition of “within the parish”.

#### *Recommendation*

***Insert at the end” within the parish”.***

### Policy No LUD17 Communications and Connectivity

88. The only issue with the policy is to clarify what is meant by “adequate provision” in item 2. To remove the ambiguity, I will recommend that the policy requires the necessary infrastructure to be installed “to allow connection to high-speed broadband that serves the area”.

#### *Recommendation*

***Delete “make adequate provision for” and replace with “provide the necessary infrastructure to allow connection to” and insert at the end “that serves the area.”***

### Policy No LUD18 Traffic Management

89. I do have a concern that the objectives of the policy are not aimed at policies for the use and development of land, but at securing improvements to traffic management measures in the parish. These fall under the responsibilities of the Highway Authority rather than planning authority. In my experience, it is highly unlikely that it is development proposals that are linked to traffic management measures rather it is traffic management measures that arise from the development.

90. I consider that the thrust of the policy can be achieved by amending the wording to “development proposals which deliver, with the approval of the Highway Authority, traffic management measures which reduce the impact to traffic in residential areas and improve highway safety, will be supported.”

91. I have no issues with the second part of the policy, which ties in with the information already requested by Cornwall Council in its local validation checklist.

#### *Recommendations*

***Replace the first paragraph after “Where appropriate,” with “development proposal which deliver, with the approval of the Highway Authority, traffic management measures which reduce the impact to traffic in residential areas and improve highway safety, will be supported.”***

### **Policy No LUD19 Parking**

92. My initial concerns regarding this policy related to the second part of the policy. Cornwall's parking standards are expressed in terms of a maximum figure. Therefore, if parking is lost, it could still be argued that it meets the standard as it does not breach the maximum figure. I consider that it is appropriate, in the light of Secretary of State policy, as set out in paragraph 106 of the NPPF, that maximum parking standards should only be set where there is clear and compelling justification. I consider that the Parish Council's objectives are clearly set out in the second paragraph and this is a locally distinct policy which responds to specific issues in the parish. I consider that it meets basic conditions.

### **Policy No LUD20 Electric Charging Outlets**

93. I have no comments to make on this policy.

### **Policy No LUD21 Walking and Cycle Routes**

94. I have no comments to make on this policy.

### **Policy No LUD22 Public Transport**

95. Whilst issues covering public transport provision are primarily matters for the bus company or through regulation by the Passenger Transport Authority or through public subsidy, I do recognise that there could be some need for planning applications to be submitted to support bus facilities whether it be new bus shelters or a transport interchange. I therefore conclude that it does meet basic conditions.

### **Policy No LUD23 Business Development**

96. Policy 2, which sets out the Spatial Strategy in the Cornwall Local Plan, supports "the expansion of the existing businesses". I cannot see any justification that the neighbourhood plan should restrict the expansion of existing employment premises to only small scale expansion, if that expansion can drive the economic prospects of the parish
97. I propose to remove reference to "small scale". I will also, to provide the clarity expected of a planning policy, remove "usually" so that it is clear that proposals that meet the criteria will be supported.

### **Recommendations**

***In the first sentence, delete "usually"***

***In a) remove "small- scale"***

### **Policy No LUD24 Employment Space**

98. I have no comments to make on this policy.

### The Referendum Area

99. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Ludgvan Neighbourhood Plan as designated by Cornwall Council on 30<sup>th</sup> April 2015 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

### Summary

100. I must congratulate Ludgvan Parish Council for preparing a locally distinct and focussed neighbourhood plan, which seeks to deliver on the expressed priorities of the community, in terms of where new development is to be located and how it is to be designed within the parish. It identifies the assets and facilities it wishes to protect.
101. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.
102. **I am therefore delighted to recommend to Cornwall Council that the Ludgvan Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.**

JOHN SLATER BA(Hons), DMS, MRTPI  
John Slater Planning Ltd  
21<sup>st</sup> December 2019