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**INDEPENDENT EXAMINER'S REPORT ON THE  
ST NEWLYN EAST AND MITCHELL  
NEIGHBOURHOOD DEVELOPMENT PLAN**

Deborah McCann

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## **SECTION 2**

### **Summary**

As the Independent Examiner appointed by Cornwall Council to examine the St Newlyn East and Mitchell Neighbourhood Development Plan, I can summarise my findings as follows:

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

## **SECTION 3**

### **3.Introduction**

#### **3.1. Neighbourhood Plan Examination.**

My name is Deborah McCann, and I am the Independent Examiner appointed to examine the St Newlyn East and Mitchell Neighbourhood Development Plan.

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

My role is to consider whether the submitted St Newlyn East and Mitchell Neighbourhood Development Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the St Newlyn East and Mitchell 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 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. This additional information is publicly available on the Cornwall Council website and covered in my report within the relevant policy.

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

The examiner is required to check whether the neighbourhood plan:

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

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

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

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

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

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

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

I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the St Newlyn East and Mitchell Neighbourhood Development Plan go to Referendum.

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

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

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

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

1. *Has regard to national policies and advice*

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

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

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

## **SECTION 4**

### **4.The Report**

#### **4.1. Appointment of the Independent examiner**

Cornwall Council has appointed me as the Independent Examiner for the St Newlyn East and Mitchell Neighbourhood Development Plan with the agreement of St Newlyn East Parish Council.

#### **4.2. Qualifying body**

I am satisfied that St Newlyn East Parish Council is a qualifying body and entitled to submit a Neighbourhood Development Plan (NDP).

#### **4.3. Neighbourhood Plan Area**

Application for designation as a Neighbourhood Plan Area under the Neighbourhood Planning Regulations 2012 (part 2, S6) and it was formally designated by Cornwall Council on 7 January 2017.

The designated St Newlyn East and Mitchell Neighbourhood Area covers the whole of the St Newlyn Parish and the Basic Conditions Statement submitted confirms there are no other Neighbourhood Plans covering the area.

#### **4.4. Plan Period**

It is intended that the St Newlyn East and Mitchell Neighbourhood Development Plan will cover the period to 2030, chosen to align with the Cornwall Local Plan.

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

St Newlyn East Parish Council submitted the draft St Newlyn East and Mitchell Neighbourhood Development Plan to Cornwall Council for consideration under Regulation 15 of the Neighbourhood Planning (General) Regulations. Cornwall Council made an initial assessment of the Neighbourhood Development Plan and the supporting documents and is satisfied that these comply with the specified criteria.



## **Site Visit**

I carried out an unaccompanied site visit on the 21 November 2023 to familiarise myself with the Neighbourhood Plan Area.

### **4.7. The Consultation Process**

The St Newlyn East and Mitchell 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.

I am satisfied that the consultation process was carried out robustly, that the community were aware of the process and had the opportunity to comment at the appropriate stages and that the Consultation Statement as submitted meets the required standard.

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

The Cornwall Council placed the St Newlyn East and Mitchell Neighbourhood Development Plan out for consultation under Regulation 16 from 19 September 2023 to 31 October 2023.

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

#### **4.9. Compliance with the Basic Conditions**

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

I have to determine whether the St Newlyn East and Mitchell Neighbourhood Development Plan:

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

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

- (a) The St Newlyn East and Mitchell Neighbourhood Development Plan:

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

(b) The Consultation Statement:

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

(c) Basic Conditions Statement.

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

### **Comment on Documents submitted**

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

### **4.10 Planning Policy**

#### **4.10.1. National Planning Policy**

National Policy guidance is in the National Planning Policy Framework (NPPF). At the time of my examination of the Neighbourhood Plan the relevant NPPF was the National Planning Policy Framework (NPPF) December 2023.

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

Paragraph 29 states:

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

The St Newlyn East and Mitchell Neighbourhood Development Plan does not need to repeat national policy, but to demonstrate it has taken them into account.

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

#### **4.10.2. Local Planning Policy- The Development Plan**

St Newlyn East and Mitchell lies within the area covered by Cornwall Council. The relevant development plan is the Cornwall Local Plan 2016.

4.10.3 To meet the Basic Conditions, the St Newlyn East and Mitchell Neighbourhood Development Plan must be in “general conformity” with the strategic policies of the development plan.

The NPPF 2023 states:

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

- a) housing (including affordable housing), employment, retail, leisure and other commercial development;
- b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- c) community facilities (such as health, education and cultural infrastructure); and

d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”

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

“Non-strategic policies

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

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

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

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

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

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

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

I have considered the Strategic policies of the Development Plan and the Policies of the St Newlyn East and Mitchell Neighbourhood Development Plan and consider that, subject to the recommended modifications, the Plan does meet the Basic Condition in this respect and is in general conformity with the Strategic policies of the Cornwall Local Plan 2016.

#### **4.11. Other Relevant Policy Considerations**

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

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

The St Newlyn East and Mitchell Neighbourhood Development Plan Steering Group requested that Cornwall Council screen the Neighbourhood Plan for Strategic

Environmental Assessment. Natural England, the Environment Agency and Historic England were consulted as part of the screening process. The screening opinion, issued on 19 July 2022 concluded:

"Based on the scale of development proposed and the sensitive nature of the environment in the Neighbourhood Plan area, Cornwall Council is of the opinion that the St Newlyn East and Mitchell Parish Neighbourhood Plan could have a significant impact on the environment and therefore, Strategic Environmental Assessment (SEA) is required."

AECOM were commissioned to carry out a SEA for the Regulation 14 version of the Plan in January 2023. The conclusion of the report was that the Plan was likely to have significant positive effects on community well being, transportation; minor positive effects on climate change and broadly neutral effects on biodiversity. Considering the Historic Environment, the report concluded that "there remains a potential for residual negative effects on key views and heritage assets, however these are not likely to be significant, with most growth directed to an area of less sensitivity and being supported by appropriate policy requirements. This includes ensuring suitability and quality of design – which will likely minimise impacts on the setting of key views within the conservation areas. The delivery of a link road alongside new housing could lead to long term positive effects on the historic environment through removing traffic from the village centre. This would likely enhance the setting of the historic villagescape character, the conservation area and the fabric and setting of designated and non-designated features of historic significance."

With regard to greenfield expansion at land off Halt Road, the report considered it is likely to lead to residual negative effects in relation to landscape impact however "These will not be significant in nature, as the St NEM NP places an emphasis on protecting and enhancing the special qualities of the parish, supporting the quality of the public realm, and incorporating high-quality and sensitive design through development proposals. Furthermore, it is considered that the delivery of a link road alongside new housing will remove congestion and bottlenecks through the village, which may offset any temporary negative effects on the local landscape. This has

the potential to lead to positive effects in the long term, improving the local villagescape character and protecting the special qualities of the St NEM NP area."

In relation to Land, Soil and Water Resources the report states that there are positive effects through the implementation and application of SuDS and supporting for redevelopment of brownfield sites and/or re-use of existing buildings. However, the loss of approximately 6ha of greenfield and BMV agricultural land, would lead to significant negative effects.

Directive 92/43/EEC and Directive 2009/147/EC seek to protect and improve Europe's most important habitats and species. As part of the screening request for the SEA screening a Habitats Regulations Assessment Screening request was also submitted to Cornwall Council. Cornwall Council concluded as part of the SEA screening:

"With regard to European Sites, we are unable to conclude that the Plan will not impact upon Newlyn Downs SAC, Penhale Dunes SAC and the Fal and Helford SAC and as such Appropriate Assessment (HRA) will also be required under the Habitats Regulations Directive. This view is confirmed by the consultation bodies."

AECOM were commissioned to carry out an HRA in October 2022. The Assessment concluded:

"It has been concluded that the St. Newlyn East Neighbourhood Plan will not affect the integrity of European sites in relation to recreational pressure due to the overarching provisions of Policy 22 within the Cornwall Local Plan and the Supplementary Planning Documents (SPD) for terrestrial, marine and estuarine sites. Policy 22 states all new residential, student and tourist accommodation will need to comply with a suite of monitoring and mitigation measures which are described within the SPDs for terrestrial, marine and estuarine sites.

The Neighbourhood Area lies within the catchment of both Penhale Dunes SAC and Fal & Helford SAC. As no specific policy within the Neighbourhood Plan references this policy or protections for either Penhale Dunes SAC or Fal & Helford SAC it is recommended that a paragraph referencing Policy 22 of the Cornwall Local Plan is added to Policy No. NEM1. As an example, text could include "All development within St. Newlyn Parish must adhere to Policy 22 of the Cornwall Local Plan and provide SMM contributions per dwelling with regards to mitigation recreational



pressure on Penhale Dunes SAC and Fal & Helford SAC, in line with the European Sites Mitigation SPD (2021) or any subsequent document”.

With this recommendation implemented it can be concluded that the St. Newlyn East Neighbourhood Plan will not have an adverse effect on the integrity of any European sites in Cornwall, either alone or in combination with other plans and projects."

I am satisfied with this conclusion.

The required change has been made to Policy NEM 1.

### **Prescribed Matters**

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

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

I am satisfied with the HRA conclusion that there are no likely significant effects on any European site resulting from the policies in the Plan and therefore the Prescribed Matters in this connection are met.

#### **4.11.2 Sustainable development**

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

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

this regard.

### **European Convention of Human Rights and compliance with the Human Rights Act 1998.**

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

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

I am satisfied with this conclusion.

An equality checklist was also prepared for the Plan, and this confirmed that St Newlyn East Parish considered the impact of the policies in the Plan on all groups with protected characteristics. It concluded that the policies in the St Newlyn East and Mitchell Neighbourhood Plan will not disadvantage any groups regarded by Cornwall Council as having “protected characteristics”.

I am satisfied with this conclusion.

I am satisfied that the St Newlyn East and Mitchell Neighbourhood Development Plan, subject to modification meets the basic conditions on EU obligations.

#### **4.11.3 Excluded development**

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

#### **4.11.4 Development and use of land**

I am satisfied that the St Newlyn East and Mitchell Neighbourhood Development Plan covers development and land use matters.

### **4.12 St Newlyn East and Mitchell Neighbourhood Development Plan Policies**

## **General comments**

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

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

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

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

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

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

### **4.12.1 The Neighbourhood Plan Vision, Aims, Objectives and Policies**

#### **The Vision for St Newlyn East and Mitchell Parish 2030**

"A distinctive and attractive place to live, work and visit, with a community aware and engaged in achieving a more sustainable way of living."

The Aims and Objectives of the St Newlyn East and Mitchell NDP are set out on pages 14 and 15 of the Plan.

## **COMMENT**

**I am satisfied that the St Newlyn East and Mitchell NDP vision, aims and objectives were developed from the consultation process and that the policies within the plan reflect the vision, aims and objectives.**

### **4.13 St Newlyn East and Mitchell Neighbourhood Development Plan Policies**

#### **Policy No. NEM1 Protecting the Natural Environment**

Development proposals should have no significant adverse effect on the integrity or continuity of landscape features and habitats of importance for wild flora and fauna. Development must contribute to and enhance the natural environment by providing a minimum of 10% biodiversity net gain, in line with the Local Plan and national policy.

The mitigation hierarchy must be followed. 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.

All development within the neighbourhood area must adhere to Policy 22 of the Local Plan and provide contributions per dwelling with regards to the mitigation of recreational pressure on Penhale Dunes SAC and Fal & Helford SAC, in line with the European Sites Mitigation SPD (2021) or any subsequent document.

## **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM2**

#### **Existing Woodlands, Trees, and Hedges**

Whenever possible, development proposals must retain and incorporate trees, woodland, hedgerows, and Cornish hedges which contribute to the character of the landscape, settlements, nature conservation, local amenity, or environmental character of their surroundings.

Wherever possible and appropriate, development proposals should include provision for additional planting of trees and hedges to enhance the landscape character of the immediate area and wider parish.

### **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM3**

#### **Agricultural Buildings on Existing Farms**

Where planning permission is required, the conversion of existing agricultural buildings for business or business-related purposes will be supported where it supports the continued viability of the farming business and where the proposal can demonstrate that there would be:

- a) no harmful impact upon the surrounding rural landscape;
- b) no unacceptable conflicts with agriculture and other land-based activities;
- c) no harmful impact on the local road network;
- d) no harmful impact on the amenities of neighbouring residents or businesses; and
- e) no significant requirement for rebuilding or extending the building; and

f) where the building remains an ancillary part of the existing agricultural business.

## **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM4 Public Rights of Way**

Public rights of way, shown on Map D, should be protected from development.

Where a planning proposal affects an existing public right of way, public access must be maintained. Any changes to the route must be agreed and approved as part of the planning approval process. Any replacement route must offer the same or better access than the previous route.

The improvement and enhancement of the existing rights of way network will be supported where the proposal will protect and enhance existing wildlife corridors and historic features.

## **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM5 Access to the Countryside**

Proposals to facilitate and enhance informal recreational activities and access to the countryside or to create safe walking and cycling routes will be supported provided they demonstrate, through an ecological and landscape assessment and/or Planning Statement that they:

a) do not harm recognised local ecological and geological features and habitats;

b) will have no adverse impact on landscape character or such impacts can be satisfactorily mitigated; and

c) they would not have a significant adverse impact on other land uses in the vicinity;

or

d) an acceptable mitigation proposal is agreed and approved through the planning process.

## **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM6 Sustainable Tourism Development**

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

- a) the scale of development is generally small and proportionate to existing activity and the immediate locality;
- b) the potential impact on nearby residential properties is acceptable having regard to potential noise and disturbance;
- c) they do not have a significant adverse impact on landscape character, but where such impacts are unavoidable, they will satisfactorily be mitigated through appropriate design, landscaping, planting, and visual screening; and
- d) traffic, access, and highway issues are satisfactorily addressed.

## **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM7 Local Heritage Assets**

Development proposals should demonstrate, where relevant, that they respect and will cause no significant harm to heritage assets and their setting.

Development proposals affecting designated and non-designated heritage should be accompanied by an appropriate assessment which sets out the significance of the

asset (including its setting) and the impact of the proposal upon its significance. Applications will be determined strictly in accordance with national policy and guidance and the development plan.

The development of any of the sites identified in Policy NEM11 must carefully and comprehensively consider any heritage assets on the site and within the setting of the site in line with the NPPF and policy 24 of the Cornwall Local Plan: Strategic Policies. Development proposals for sites identified in Policy NEM11 should be accompanied by proportionate historic environment heritage impact assessments including the archaeological potential of the sites, identifying the significance of heritage assets that would be affected by the proposals (including their settings) along with any potential archaeological remains, and the nature and degree of those effects, demonstrating how any harm would be avoided, minimised, or mitigated. Where appropriate, development should take opportunities within the setting of any heritage assets to better reveal their significance.

#### **COMMENT**

**The policy framework for consideration of planning applications affecting designated or non-designated heritage assets is set out in national policy through the NPPF 2023 and national planning guidance. The first paragraph of this policy does not reflect the NPPF and should be deleted from the policy.**

#### **Policy No. NEM8 St Newlyn East Village Centre**

Proposals within St Newlyn East village centre, as defined on Map G, that enhance the public realm or diversify and enhance the range of local shops, services and community facilities and create jobs, strengthening the role, function and vitality of the village centre will generally be supported.

#### **COMMENT**

**I have no comment on this policy.**

#### **Policy No. NEM9 Sensitive Design and Development**



Development should be well designed to fit in with the local area and contribute to creating a strong sense of Place.

New development will be required to demonstrate a high quality of design, use of materials and detail which respect the heritage and character of its setting and have regard to the prevailing scale, massing, and density in the locality.

Extensions and alterations to buildings will be supported so long as they complement and enhance the main building and its setting.

Replacement of any building will only be supported if the proposed development makes a positive contribution to the character of the area.

Boundary treatments for new and amended curtilages should reflect that prevailing in the surrounding area.

All development proposals should consider the need to design out crime, and disorder to ensure ongoing community safety and cohesion.

## **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM10 Local Green Spaces**

The areas listed below, and shown on Maps H and I, are designated 'Local Green Spaces':

1. Preaching Pit
2. Allotments, Neeham Road
3. War Memorial
4. St Newlyna Churchyard
5. Play Area, Mitchell

## 6. Play Area, St. Francis Meadow

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

- a) are ancillary to the existing recreation or amenity use of the site; and
- b) maintain or enhance the existing use and amenity value of the site; and,
- c) have no adverse impact on the landscape, habitat or biodiversity of the site or provide a mitigation proposal which is agreed and approved through the planning approval process.

Otherwise, proposals for development on any designated local green space will be resisted other than in very special circumstances.

### **COMMENT**

**Local Green Space designation is a “restrictive and significant policy designation” equivalent to Green Belt designation. It is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation are met in full.**

**The NPPF 2023 states:**

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

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

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

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

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

In addition, Neighbourhood planning guidance states:

" Different types of designations are intended to achieve different purposes. If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space."

Importantly, sites which are already subject to a statutory designation such as Historic Parks and Gardens or Scheduled Ancient Monuments are already subject to high levels of protection and would not benefit from an additional local designation. Likewise, sites which fall within the curtilage of a listed building or Conservation Area do not necessarily need additional protection under this policy as their importance and contribution to a settlement must already be considered if any application falls within or in the vicinity of these sites.

I have carefully considered the evidence put before me for all the designations proposed. The decision to designate a particular site is a matter of planning balance and I have made my decision based on whether or not I consider the

proposed designations meet the NPPF tests. I find that the proposed LGSs do meet the requirements of the NPPF.

Paragraph 107 of the NPPF states that the policies for managing development within a Local Green Space should be consistent with those for Green Belts. Paragraphs 152-156 detail the policy framework for development affecting the Green Belt. Paragraph 152, in particular states;

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

It should be noted that designation as a LGS does not preclude all development. It protects a designated site from inappropriate development except in very special circumstances. Paragraph 154 of the NPPF 2023 sets out what types of development would not (my emphasis) be considered inappropriate:

" 154. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;

f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

For Clarity, the policy should be modified to reflect the requirements of the NPPF 2023 and recent caselaw (see Court of Appeal Judgement in the Case of The Queen (On the Application of Lochailort Investments Limited) and Mendip District Council Norton St Philip Parish Council 2nd October 2020) which clearly states that Local Green Space policies in neighbourhood plans should not deviate from the policy requirements of the NPPF. For clarity and to meet the Basic Conditions the policy should be modified as follows:

### **Policy No. NEM10 Local Green Spaces**

**The areas listed below, and shown on Maps H and I, are designated ‘Local Green Spaces’:**

**1. Preaching Pit**

**2. Allotments, Neeham Road**

**3. War Memorial**

**4. St Newlyna Churchyard**

## **5. Play Area, Mitchell**

## **6. Play Area, St. Francis Meadow**

**Inappropriate development\* on any of the areas listed above will not be supported except in very special circumstances.**

**\* Ref paragraphs 107 and 152 of the NPPF 2023**

### **Policy No. NEM11 Site Allocations**

The following sites, as shown on the Proposals Maps J and K, are allocated for development: For residential purposes:

- Land off Halt Road, St Newlyn East
- Land at Chapel Terrace, Mitchell for community purposes
- Land at Four Winds, Mitchell

Support for development proposals on each of the allocated sites will be subject to them satisfying the criteria set out in their respective Neighbourhood Plan policy, conforming to other policies in the Neighbourhood Plan and demonstrating how they have applied the principles and policy requirements of the Cornwall Climate Emergency DPD20.

### **COMMENT**

**A number of objections have been submitted in connection with the proposed allocations during the Regulation 14 and Regulation 16 consultation periods. These objections include concerns about the impact of the allocations on existing residents, the local road network and local services. In addition, concern was raised regarding the robustness of the site selection process. Historic England also raised concerns that in making the site selections inadequate account was taken of potential impacts on heritage assets and the historic environment in general. Having examined the evidence provided**

**including consultee responses and the Heritage Assets and Allocated Sites Report prepared by the Neighbourhood Plan Group I find that the site selection process was adequate, and that consideration has been given to both the impact of the site selection on the issues of concern raised by the community and Historic England.**

### **Policy No. NEM12 Development on Unallocated Sites**

Development proposals on small unallocated sites within the existing settlement areas of St Newlyn East and Mitchell will be supported where:

- a) the location is a sustainable site for development;
- b) there is a demonstrable need for the development;
- c) they are of a suitable scale, relative to the site's location and its setting;
- d) they are considered to be infill or rounding off development, in accordance with Policy 3 of the Cornwall Local Plan;
- e) the location, scale, density, and pattern of the development is appropriate to the existing character of the location;
- f) the development will not result in the loss of existing amenity or public open space unless it is replaced by open space of a similar or improved area and quality;
- g) they demonstrate high standards of quality and design, access (including by walking, cycling and public transport), parking, and amenity space; and,
- h) the development would not have an unacceptable adverse impact on the transport network.

Development proposals for affordable housing-led schemes will be supported where they meet the requirements of Local Plan Policy 9 for rural exception sites.

## COMMENT

I have no comment on this policy.

### **Policy No. NEM13 New Housing Provision**

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

- a) On sites of more than 10 dwellings, with a maximum combined gross floor space of more than 1,000 square metres, developers will normally be required to meet a target of 30% or more affordable housing provision.
- b) For developments of between 6 and 10 dwellings, in such areas a financial contribution in lieu of on-site provision of affordable housing will be sought per unit of affordable housing that would have been provided.
- c) Although a full range of affordable housing will be needed, the intermediate housing provision should include a proportion of Discount Market Sale dwellings, in line with current guidance from Cornwall Council.
- d) Mixed affordable and open market housing developments should be tenure blind, such that market and affordable homes are indistinguishable in design, materials used and form (should market dwellings be provided).

The height of dwellings and the density of the residential development should respect its setting and reflect the existing pattern of housing in the area.

## COMMENT

I have no comment on this policy.

### **Policy No. NEM14 Land off Halt Road, St Newlyn East**

Land off Halt Road, St Newlyn East is allocated for residential development of approximately 120 dwellings.



1. Development proposals will be supported where the development conforms with other relevant policies in the Neighbourhood Plan and a comprehensive proposal addressing all of the following criteria:

a) provision of landscaping, including tree-lined roads and pathways, to minimise any visual impact on the setting of the village and local landscape character;

b) use of sustainable construction techniques and energy conservation measures;

c) provision of appropriate safe vehicular and pedestrian access, including a pedestrian connection from the development to the village via Tinnars Croft;

d) provision of adequate drainage, promoting the use of Sustainable Drainage Systems (SuDS) and ensure there will be no net increase in flood risk;

e) adequately take account of local infrastructure needs and capacity;

f) provision of a play area, public amenity space and allotments as required to satisfy the LPA's standards of provision; and

g) provision of a new road designed and constructed in accordance with 'streets for people' design code principles, which will serve as a safe vehicular, cycle and pedestrian link between Halt Road and Station Road, as well as the main access road to the new residential development. This new route must be constructed to Part 1 Works 28 and open to the public before occupation exceeds 40% of the total houses on the site.

2. The design and layout of roads should comply with the standards of Cornwall Council and provide adequately for the safety of all road users as well as the amenity of residents.

3. A comprehensive masterplan shall be submitted to the Local Planning Authority for approval, which demonstrates a fully integrated and co-ordinated development.

4. Proposals should demonstrate, where relevant, that they respect and will cause no significant harm to heritage assets and their setting.

## COMMENT

Please refer to my comments under NEM 11. Paragraph 4 of this policy is intended to deal with the protection of heritage assets however the wording does not reflect national policy. For clarity and to meet the Basic Conditions, paragraph 4. should be modified as follows:

**4. To protect the historic environment, proposals must ensure that any impact upon designated or non-designated heritage assets (including assets of archaeological importance) and their settings have been assessed in accordance with national policy and guidance and will only be supported where they meet the relevant requirements of the NPPF and Development Plan.**

### **Policy No. NEM15 Redevelopment of Land at Chapel Terrace, Mitchell**

1. Proposals for the redevelopment of land at Chapel Terrace, Mitchell for housing will be supported provided:

- a) they respect and do not adversely affect the character and setting of the Conservation Area;
- b) the design is of high quality and incorporates energy conservation measures;
- c) appropriate safe vehicular and pedestrian, and cycle access is provided; and
- d) adequate drainage provision, incorporating Sustainable Drainage Systems (SuDS) technologies, will ensure there will be no net increase in flood risk.

2. Proposals should demonstrate, where relevant, that they respect and will cause no significant harm to heritage assets and their setting.

## COMMENT

**There are elements of this policy that either lack clarity or do not reflect national policy.**

**When a planning application is submitted for development in a conservation**

area, in dealing with it the planning authority is required by legislation to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

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

**Policy No. NEM15 Redevelopment of Land at Chapel Terrace, Mitchell**

**1. Proposals for the redevelopment of land at Chapel Terrace, Mitchell for housing will be supported provided:**

**a) they preserve or enhance the character and setting of the Conservation Area;**

**b) the design is of high quality and incorporates energy conservation measures;**

**c) appropriate safe vehicular and pedestrian, and cycle access is provided; and**

**d) adequate drainage provision, incorporating Sustainable Drainage Systems (SuDS) technologies, will ensure there will be no net increase in flood risk.**

**2. To protect the historic environment, proposals must ensure that any impact upon designated or non-designated heritage assets (including assets of archaeological importance) and their settings have been assessed in accordance with national policy and guidance and will only be supported where they meet the relevant requirements of the NPPF and Development Plan.**

**Policy No. NEM16 Businesses Development**

Where planning permission is required, proposals for the change of use of existing business premises away from employment activity will not be supported unless it can be demonstrated that the existing use is no longer economically viable, and all reasonable steps have been taken to let or sell the site or building for employment

purposes for a period of at least 12 months.

Proposals for the improvement, modernisation or upgrading of current employment sites will be welcomed and supported, where there are no adverse impacts on the amenity of neighbours.

The redevelopment of brownfield sites and/or re-use of existing buildings for employment purposes will be supported where the proposed development respects local character and residential amenity, and the residual cumulative impact on highway safety and the transport network is assessed as acceptable.

## **COMMENT**

**Cornwall Council have made representation that the requirement for a 12-month marketing period does not align with CLP policy. For consistency and clarity, the first paragraph of this policy should be modified as follows:**

**Where planning permission is required, proposals for the change of use of existing business premises away from employment activity will not be supported unless it can be demonstrated that the existing use is no longer economically viable, and all reasonable steps have been taken to let or sell the site or building for employment purposes for a period of at least 9 months.**

### **Policy No. NEM17 Employment Land at Mitchell**

Development proposals that provide additional employment opportunities on land adjacent to the A30 north of Mitchell for B2 or B8 or E use classes, will be supported provided a comprehensive masterplan is submitted that:

- a) delivers a good quality of design and layout of buildings and spaces;
- b) does not detract significantly from the setting of the Conservation Area and/or local heritage assets;
- c) will not have a detrimental impact on residential amenity;

- d) ensures safe and satisfactory access/egress for pedestrians, cyclists, and public transport;
- e) provides suitable vehicular access and the necessary level of locally available car parking, or includes proposals to increase car parking provision;
- f) accommodates delivery vehicles or other forms of logistical support without adversely impacting upon traffic circulation;
- g) includes adequate landscaping or screening; and
- h) generally conforms with other policies in the Development Plan.

The masterplan should demonstrate, through an appropriate assessment of traffic impacts, that any infrastructure or highways improvements necessary to mitigate the impact on the A30 and local highway network have been identified and shall be delivered as part of the scheme.

## **COMMENT**

**As stated previously the policy framework for determining planning applications affecting the historic environment is already in place and the wording of paragraph b) does not reflect this. For clarity and to meet the Basic Conditions the policy should be modified as follows:**

### **Policy No. NEM17 Employment Land at Mitchell**

**Development proposals that provide additional employment opportunities on land adjacent to the A30 north of Mitchell for B2 or B8 or E use classes, will be supported provided a comprehensive masterplan is submitted that:**

- a) delivers a good quality of design and layout of buildings and spaces;**
- b) will not have a detrimental impact on residential amenity;**
- c) ensures safe and satisfactory access/egress for pedestrians, cyclists, and public transport;**

- d) provides suitable vehicular access and the necessary level of locally available car parking, or includes proposals to increase car parking provision;**
- e) accommodates delivery vehicles or other forms of logistical support without adversely impacting upon traffic circulation;**
- f) includes adequate landscaping or screening; and**
- g) generally conforms with other policies in the Development Plan.**

**The masterplan should demonstrate:**

- i. though an appropriate assessment of traffic impacts, that any infrastructure or highways improvements necessary to mitigate the impact on the A30 and local highway network have been identified and shall be delivered as part of the scheme.**
- ii. that any impact upon designated or non-designated heritage assets (including assets of archaeological importance) and their settings have been assessed in accordance with national policy and guidance and they preserve or enhance the character and setting of the Conservation Area;**

### **Policy No. NEM18 Working Close to Home**

Where planning permission is required, development proposals for home working will be supported where the amenity and privacy of neighbouring residents is not significantly adversely affected.

Proposals for new development that combines living and small-scale employment space will be supported, provided there is no adverse impact on the character and amenity of nearby residential areas.

Development proposals for the provision of workshops to support small local businesses will be supported where they have no adverse impact on:

- a) the character of the built environment (including but not limited to the setting of

- b) listed buildings and the Conservation Area);
- c) the character and setting of the natural environment;
- d) residential amenity; traffic generation; noise; and light pollution.

## **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM19 Communication Network**

The development of a super-fast communication infrastructure to serve the area will be supported where it is sensitively sited and sympathetically designed.

All new residential, educational, and business premises development is required to make provision for highspeed broadband and other communication networks.

## **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM20 Safe Walking and Cycling**

The provision of safe walking and cycling routes will be supported.

Major development proposals should provide for appropriate and practical pedestrian and cycling routes that link to existing footpaths, roadways and/or the village centre. These should benefit from natural surveillance of public spaces as well as satisfactory lighting where appropriate, in accordance with national and local planning guidance.

Proposals to further the provision of a dedicated cycle link between Mitchell and St Newlyn East are encouraged.

## **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM21 Pedestrian Safety in Village Centres**

Improvements to the village centres to provide a better and safer environment for pedestrians will be supported.

Proposals that increase the level of provision and/or improve the functionality of off-street parking to serve the village centres will be supported.

#### **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM22 Off-Road Parking Provision**

Development proposals should include provision for adequate off-road vehicle parking spaces commensurate with the level and intensity of the proposed use, to facilitate unimpeded road access for other road users, including motor vehicles and pedestrians. Development proposals to provide additional off-road parking spaces, including the provision of a public car park serving village facilities at St Newlyn East, will be supported where they do not have an adverse impact on:

- a) the character of the local built environment;
- b) the quality of the surrounding natural environment;
- c) the visual amenity of the area; and,
- d) flood risk (including local surface water flooding).

Wherever practical, facilities for charging plugin and other ultralow emission vehicles should be incorporated into the proposal.

#### **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM23 Electric Vehicle Charging Points**



Development proposals to provide public electric vehicle charging outlets at suitable locations will be supported.

## COMMENT

**I have no comment on this policy.**

### **Policy No. NEM24 Existing Community Facilities**

Development proposals which seek to improve or extend existing local community facilities and assets, or provide for appropriate shared use, will be supported where:

- a) there is a demonstrable local need for them; and
- b) there will be no significant adverse impact upon nearby residents and uses.

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

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

Or proposals will provide equivalent facilities at an improved standard at a suitable and accessible nearby location.

## COMMENT

**I have no comment on this policy.**

### **Policy No. NEM25 New Community Facilities at Mitchell**

Land at Four Winds, Mitchell, as shown on Map O, is allocated for community purposes.

The provision of additional leisure and community uses and/or community facilities that meet identified needs of Mitchell will be supported if there is suitable access, including safe pedestrian access to the site from Mitchell, servicing and parking provision, and the amenity of residents is adequately safeguarded.

## **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM26 Community Energy Initiatives**

Development proposals for individual and community-scale energy from wind turbines, solar photovoltaic panels, local biomass facilities, anaerobic digestion, and wood fuel products, that require planning permission, will be supported subject to all the following criteria:

- a) the siting and scale of the proposed development is appropriate to its setting and position in the wider landscape;
- b) the proposed development does not create an unacceptable impact on the amenities of residents in terms of noise, vibration, or electromagnetic interference; and
- c) where appropriate, the energy generating infrastructure and its installation complies with the Microgeneration Certification Scheme or equivalent standard.

Planning permission should be subject to a requirement that the energy generating infrastructure is removed at the end of its useful life.

## **COMMENT**

**The Cornwall Climate Emergency DPD (CCEDPD) February 2023 provides an important, strategic policy framework for the consideration of energy initiatives. The St Newlyn East and Mitchell NDP does not identify areas suitable for wind turbines and therefore relies on the areas identified in the CEDPD as appropriate for wind turbine development. For clarity and to meet**

**the Basic Conditions the policy should be modified as follows:**

**Policy No. NEM26 Community Energy Initiatives**

**Development proposals for individual and community-scale energy from wind turbines, solar photovoltaic panels, local biomass facilities, anaerobic digestion, and wood fuel products, that require planning permission, will be supported where they are in conformity with the requirements of the CCEDPD and subject to all the following criteria:**

- a) the siting and scale of the proposed development is appropriate to its setting and position in the wider landscape;**
- b) the proposed development does not create an unacceptable impact on the amenities of residents in terms of noise, vibration, or electromagnetic interference; and**
- c) where appropriate, the energy generating infrastructure and its installation complies with the Microgeneration Certification Scheme or equivalent standard.**

**Planning permission should be subject to a requirement that the energy generating infrastructure is removed at the end of its useful life.**

**Policy No. NEM27 Recreation and Sports Facilities**

Development proposals that would result in the loss of an existing recreation or sports facility to a non-recreation use will not be supported unless:

- a) the applicant satisfactorily demonstrates that there is no continuing demand for the facility, and it is not possible to use the facility for other sports; or
- b) alternative provision of at least an equivalent quality, size, suitability, and convenience within the Neighbourhood Plan Area is made.

The provision of new or improved recreation and sports facilities within or on the

edge of villages will be supported provided:

- c) the scale of the facility is related to the needs of the area;
- d) there is safe and convenient access for potential users; and
- e) residential amenity has been adequately safeguarded.

The provision of an outdoor area for recreation at Mitchell will be particularly supported should the opportunity arise, especially where this incorporates a children's play area and a space for casual sports, and its design has been the subject of consultation with the local community.

## **COMMENT**

**I have no comment on this policy.**

### **Policy No. NEM28 Children and Youth Facilities**

Provision for children's play in the villages of St Newlyn East and Mitchell should meet or exceed the approved standards of the local planning authority.

On major new developments, play areas for children should be provided in accordance with the guidelines in force at the time; or a financial contribution to off-site open space and play areas should be provided.

Development proposals to provide improved youth facilities will be supported where it is demonstrated that:

- a) the proposal is based on an up-to-date understanding of needs and demand for the proposed facility from young people; and,
- b) there would be no adverse impact on the amenity of nearby residential areas.

## **COMMENT**

**I have no comment on this policy.**

## SECTION 5

### Conclusion and Recommendations

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

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3 January 2024

