Mabe Parish Neighbourhood Development Plan 2022-2030

Submission Version

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

John Slater BA (Hons), DMS, MRTPI

John Slater Planning Ltd

johnslaterplanning@gmail.com

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Executive Summary

My examination has concluded that the Mabe Neighbourhood Area 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 –

- Rather than stating specifically how a proposal meets the requirements to reduce the use of fossil fuels, requiring new technology to develop low and zero carbon energy, efficient use of resources and car charging for electric vehicles, the policy should instead require applicants to show how they meet the requirements of the Cornwall Climate Emergency DPD (DPD).
- Focusing the renewable energy policy on community led renewable energy schemes.
- Refining the wind turbine policy to identify the whole parish as an area of search, appropriate for turbines up to 99 m in height, so long as they meet the DPD's requirements and do not affect highway safety or public rights of way.
- Replacing the solar energy policy to support schemes that meet DPD requirements and have no significant impact on highway safety, public rights of way and, if possible, when located on agricultural land, allow agricultural uses to continue.
- Removing the requirements on hydro and micro hydro schemes to have Environment Agency consent before planning permission can be granted.
- Support low carbon heat so long as it meets the requirements of Policy SE1 of the DPD, particularly supporting community led projects to reduce levels of CO2 across the parish.
- Removing the policy requirement to deliver a minimum of 10% net biodiversity gain and instead referring to Policy G2 of the DPD and defining "designated areas" on a map of the parish.
- The heritage policy should relate only to non-designated heritage assets and the policy now identifies 76 non-designated assets across the parish.
- Clarifying the policy on new employment land / live work units by identifying the locations where such uses will be supported.
- Deleting the policy on developer contributions.
- Restricting the policy requirement to have to create a defined safe route to village facilities to those sites which fall within or adjacent to the settlement boundary.
- Removing duplication from the requirements covering biodiversity by cross referencing Policy G3 of the DPD.
- Retitling the Housing and Community Benefits policy to become "Residential development within the settlement boundary of Mabe Burnthouse" and clarify that the settlement boundary extension to include

each respective site should be applied upon the implementation of the residential planning permissions for that site.

- The “Small-Scale Infill and Rounding Off” policy should be renamed “Residential development outside of the settlement boundary of Mabe Burnthouse”.
- Rural exception sites do not need to be limited to only five dwellings and removing the need for support to be shown by a community referendum.
- Removing the requirement for elderly or assisted dwellings to have to have easy access to village amenities.
- Deleting the Principal Residency policy.

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 an opportunity to create the policies that will shape the places where they live and work. A neighbourhood plan provides the community with the ability to allocate land for particular purposes and to prepare the policies that 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 policies of the Cornwall Local Plan: Strategic Policies DPD, adopted in November 2016, the Site Allocations DPD adopted in November 2019 and the Climate Emergency DPD adopted recently in February 2023. 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 undertaken under the supervision of Mabe Parish Council. A Steering Group was appointed to undertake the Plan's preparations.
3. This report is the outcome of my examination of the Submission Version of the Mabe 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 Examiner's Role

4. I was appointed by Cornwall Council in January 2023, with the agreement of Mabe Parish Council, to conduct this examination.
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 44 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 my neighbourhood planning consultancy, John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Cornwall Council and Mabe 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 Mabe Neighbourhood Plan area.
8. In examining the Plan, the Independent Examiner is expected to address the following questions
    - 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?
    - 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.
    - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and been developed and submitted by a qualifying body?
9. I am able to confirm that the Plan, if modified by my recommendations, only relates to the development and use of land, covering the area designated by Cornwall Council, for the Mabe Neighbourhood Development Plan, on 18th April 2019.
10. I can also confirm that it does specify the period over which the Plan has effect, namely the period from 2022 up to 2030 which coincides with the end date of the Cornwall Local Plan: Strategic Policies DPD.
11. I can confirm that the Plan does not contain policies dealing with any "excluded development''.
12. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
13. I am satisfied that Mabe Parish Council as a parish council can act as a qualifying body under the terms of the legislation.

The Examination Process

14. The presumption is that the neighbourhood plan examination will proceed by way of the consideration 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 forward 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 can properly examine the Plan without the need for a hearing.
17. I carried out an unaccompanied visit to Mabe on 22nd January 2023. My first visit was to the university campus at Penryn before entering the village of Mabe

Burnthouse from the north, down Treliever Road. I toured each of the different character areas within the village and was able to successfully negotiate the somewhat unusual road junction configuration at the centre of the village. I then drove south down Rose Valley to Treverva and then looped up to Halvesso before joining the A394 at Longdowns. I then explored the lanes of the northern section of the parish before completing another circuit of the parish, this time approaching Treverva from the east, having crossed between the two reservoirs. On approaching the village of Mabe Burnthouse again, I travelled through the hamlets of Trenowith and Antron before leaving the main village, via Antron Hill.

18. Following my site visit, I prepared a document seeking clarification on a number of matters, which I sent to both the Parish Council and Cornwall Council, entitled "Initial Comments of the Independent Examiner", dated 25th January 2023. I received responses from both the Parish Council and Cornwall Council on 9th February 2023. This prompted me to produce "Further Comments of the Independent Examiner" which I issued on 17th February 2023 which invited the preparation of various maps and clarification of certain matters. It invited the collaboration between the Qualifying Body and Cornwall Council and I was copied into various email exchanges where this work was being taken forward. I received, on 30th March 2023, the joint response including new maps and supporting information relating to non-designated heritage assets and important areas for biodiversity.

The Consultation Process

19. Once the neighbourhood area had been formally designated, a Steering Group was formed. The first public meeting was held on 23rd September 2019. The meeting was to explain to residents the neighbourhood planning process and it asked 3 key questions, which would subsequently be used to inform a public questionnaire published on 13th December 2020. That was published on the parish website and the newly created neighbourhood plan website and was publicised on the Facebook pages and on other social media. The questionnaire was posted to every household within the parish and generated 132 responses.,
20. The residents' responses informed the preparation of the Pre-Submission version of the Neighbourhood Plan which was the subject of a sixteen - week consultation, known as the Regulation 14 consultation, which ran from 15th January to 10th April 2020. The responses from residents are set out in Appendix 2 of the Consultation Statement with the response from Cornwall Council being set out in Appendix 3 and the statutory consultees responses are included in Appendix 4. The responses are summarised in the Consultation Statement.
21. I am satisfied that the Parish Council has actively sought the views of local residents and other stakeholders and their input has helped shape the Plan.

Regulation 16 Consultation

22. 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 six- week period, between 30th November 2022 and 17th January 2023. 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.
23. In total, 14 responses were received from Stithians Parish Council, Budock Parish Council, Penryn Town Council, National Highways, Historic England, Devon and Cornwall Architectural Liaison Officer, Defence Infrastructure Organisation, and the following officers or teams within Cornwall Council; Spatial Planning for Health Principal Public Spaces Officer, Forestry Officer, Environmental Resilience and Adaptation Team, Lead Local Flood Authority, Affordable Housing Team and the Neighbourhood Plan Team.
24. I have carefully read all the correspondence and I will refer to the representations where relevant to my considerations and conclusions in respect of specific policies or the Plan as a whole.

The Basic Conditions

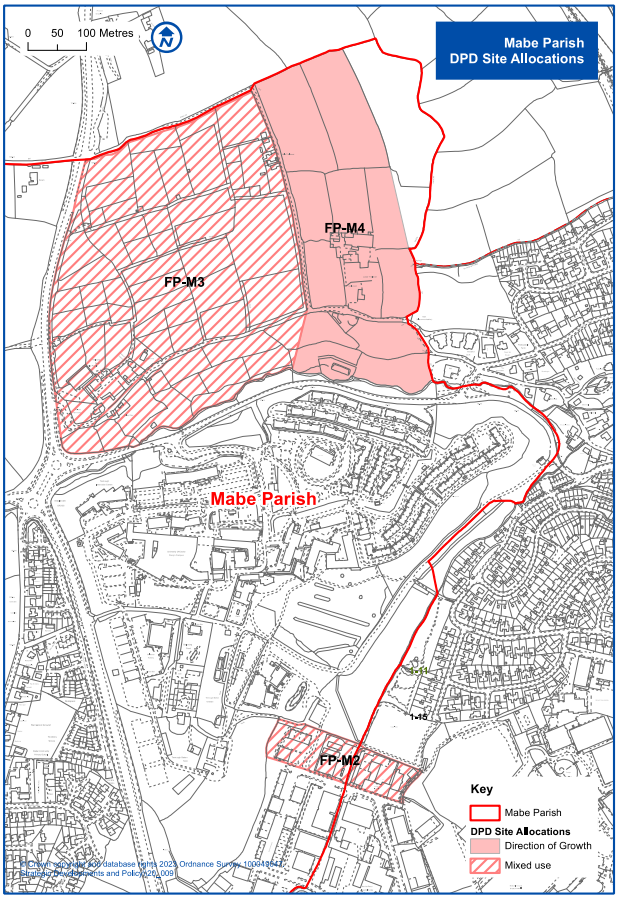
25. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of "soundness". The Neighbourhood Plan is tested against what are known as the Basic Conditions as set down in legislation. It will be against these criteria that my examination must focus.
26. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -

- Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
- 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?
- Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
- Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

Compliance with the Development Plan

27. The development plan currently comprises the Cornwall Local Plan: Strategic Policies DPD, the Site Allocation DPD and the Climate Emergency DPD which was recently adopted in February 2023. Also part of the development plan is the Mineral Safeguarding DPD and the sole saved Policy C3 of the Cornwall Minerals Local Plan.
28. Policy 2 establishes the plan's overall spatial strategy and Policy 3 identifies an overall housing requirement for Cornwall and establishes a figure of 600 new homes for the rural parts of the Falmouth and Penryn Community Network Area, which the plan forms part of. The parish is expected to provide 8% of that housing need and Cornwall Council has confirmed that on the basis of 139 homes being built since 2010, and planning consents being granted planning permission, that there is no requirement for the neighbourhood plan to be identifying sites to be allocated for housing. Policy 3 does support housing and employment development within or immediately adjoining settlements through infill, rounding off and the development of previously developed land as well as rural exception sites plus any sites that are allocated in neighbourhood plans.
29. Policy 5 deals with business and tourism development and allows employment uses in the countryside and small rural settlements, if it is of a scale appropriate to its location or can demonstrate an overriding locational and business need to be in that location, such as farm diversification. Policy 7 presumes against housing in the countryside unless the proposal is a replacement dwelling, subdivisions, the reuse of redundant buildings, temporary workers' accommodation and agricultural and other rural workers housing. Rural exception sites are allowed as per Policy 9. Policy 12 is the overarching design policy and Policy 13 covers development standards.
30. Policy for renewable and low carbon energy development is set out in Policy 14 and it sets criteria for wind turbines, being restricted to areas identified in neighbourhood plans and where it meets certain development management criteria. Policy 15 is complimentary in that it sets a presumption in favour of the development of poor-quality land in preference to high-quality agricultural land.
31. Policy 23 addresses the impact of development on the natural environment and Policy 24 equally applies to development which affects the historic environment and Policy 25 protects and enhances the green infrastructure of Cornwall. Policy 28 covers the infrastructure requirements arising from development.
32. The Site Allocation DPD not only deals with site allocations but includes a number of other policies. Policy 1, for example, covers windfall development, setting requirements when considering infill development and rounding off.
33. The DPD allocates the land to the north of the University campus at Penryn through Policy FP – M3 Treliever for a mixed-use development comprising uses falling within Use Class B1a) and B1b) as well as B1c), B2 and B8 alongside

education facilities and student accommodation. The parcel of land to the east of the former allocation site is the subject of policy FP – M4 Treliever, entitled Future Direction of Growth, which is expected to be developed upon the completion of the M3 allocation. The map in the submission version does not show the allocation clearly and I have been provided with the following map, which should be inserted at the appropriate location in the document as Figure 2.



34. Of particular relevance to this neighbourhood plan, is the Cornwall Climate Emergency DPD. The Local Plan Inspector's report was only published on 10th January 2023 and that provided the necessary certainty as to whether and in what form the proposed new development plan was to be progressed. Cornwall Council accepted the proposed modifications and made the decision to adopt the plan on 21st February 2023 and it is a key document to this examination, as there is a significant overlap between its provisions and the policies that the neighbourhood plan is advancing. I will be discussing the relationship between the two sets of policies in the Plan Overview section of this report.
35. In terms of its contents, Policy C1 sets Cornwall's climate change principles and Policy G1 addresses Green Infrastructure Design and Maintenance and Policy G2 sets of the requirement for a minimum 10% net biodiversity gain to be imposed on major residential schemes pending the national mandating of biodiversity net gain. Policy AG1 addresses rural development and diversification. Policy AL1is an innovative policy, which deals with what is described as "regeneration and low

impact development (One Planet Development)" where off grid lifestyles are to be facilitated.

36. Renewable and low carbon energy developments are dealt with in Policy RE 1, which makes policy provision for wind energy, solar energy and hydroelectric development. In terms of the construction, Policy SE 1 deals with sustainable energy and construction.
37. 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 these strategic policies, which comprise the Cornwall Development Plan.

Compliance with European and Human Rights Legislation

38. Cornwall Council issued a Screening Opinion, in a report dated November 2022, which concluded, after consulting the 3 statutory bodies, that a full strategic environmental 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.
39. The Council, as competent authority, in the same screening report, screened the Plan under the Conservation of Habitat and Species Regulations. This concluded that a full Habitat Assessment would not be required as the plan would not be expected to have any significant effect upon European protected sites, the nearest of which is the Fal and Helford SAC.
40. I am satisfied that the basic conditions regarding compliance with European legislation, including the more recent 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.

The Neighbourhood Plan: An Overview

41. The submission of the neighbourhood plan marks the culmination of a great deal of hard work by the Steering Committee. It is clear that the plan is a bespoke community plan, which is distinctive to the parish, addressing issues which are clearly important to the community.
42. A strong theme that has emerged during this examination has been the consequences of the recent adoption of the Cornwall Climate Emergency DPD which, as a newly adopted strategic plan, covers much of the same ground as is intended to be introduced by the neighbourhood plan and in many cases, the DPD policies go into greater detail. These new policies are covering such issues as sustainable construction, renewable energy and net biodiversity gain, and are already capable of being applied to development taking place within Mabe parish. They would not have done so, during the time the neighbourhood plan was being prepared and I can fully appreciate the desire for the neighbourhood plan to be seeking to address these same matters.

43. However this examination has come at a good time and it has allowed me to cross reference to and build upon Cornwall's policies, so that users of the neighbourhood plan are signposted to the newly adopted DPD. There is clear national guidance that plans should not seek to duplicate planning policies, which are found elsewhere. It is also evident that the new Cornwall policies are based on more up-to-date evidence, than the neighbourhood plan had been able to rely upon, predominantly evidence that supported now superseded planning policies.
44. There are a number of policies in the plan, where the Parish Council is seeking to specify what documents need to accompany planning applications and setting out what those documents should be addressing. Good examples are design and access statements and heritage impact assessments. These are matters which are covering how planning applications are to be submitted i.e. are process driven rather than matters which the neighbourhood plans are required by law to address, namely how planning application are to be determined. It is not possible for one parish in a local authority area to require the submission of different documents to accompany a planning application compared to the rest of the parishes. That is the role of the local validation list, which is not a development plan document.
45. During the examination process, the Parish Council has been asked to map the extent of key biodiversity and historical assets within the parish. It is important that decision-makers know where planning policy are to be applied. This mapping has been facilitated and undertaken by Cornwall's neighbourhood planning team and I must record my appreciation to both principal parties who worked so closely together in this examination. I also wish to record my appreciation for the positive recommendations put forward by Cornwall's officers for my consideration, proposing revised wording to policies, which still incapsulate the community's aspirations, but in a way that provides the clarity expected of a neighbourhood plan.
46. One of the basic condition tests is whether the neighbourhood plan will deliver "sustainable development". On this point, I am satisfied that the plan, when read as a whole, will deliver that sustainable development. The policies encourage new forms of renewable energy in the parish, promote the protection and enhancement of key ecological assets in the parish, which are now mapped and developers are requires to enhance. The plan takes the opportunity to recognise and designate a large number of historical assets in the parish, which are now offered a degree of protection, albeit commensurate with their lower status as non-designated heritage assets. The policies specify locations where new housing is to be allowed, setting a new settlement boundary for Mabe Burnthouse and supporting rural exception sites and self-build homes. The plan has a strong design policy, which is well illustrated by the professionally produced Mabe Design Guide and Code.
47. Cornwall Council has, in its submissions, raised a number of textual issues which are not directly related to the policies in the plan but address matters in the supporting text. I am afraid this goes beyond my remit as an examiner, to have

to address such issues as I am required only to deal with the matters set out in legislation which are predominantly basic conditions issues. That is not to say the points being raised are unimportant and offer the opportunity to improve the final version of the plan.

48. I will be therefore leaving it to the Parish Council / Steering Group to work alongside Cornwall Council planners to address these issues, when collating the Referendum Version of the plan, which will have to be prepared alongside Cornwall Council's Decision Statement. There will also be consequential changes to the supporting text which are necessary to reflect the policy changes that I am recommending in my report, and consequentially numbering issues that need to be addressed so that the neighbourhood plan will read as a coherent document.

The Neighbourhood Development Plan Policies

Policy 1: Sustainable Development and Climate Change

49. There are clear overlaps between the aspirations are set out in this policy dealing with sustainable development and climate change and the recently adopted Policy SEC1 – Sustainable Energy and Construction within the Climate Emergency DPD. Both policies seek to ensure higher standards of design, construction and operation, sustainable construction, encouraging renewable energy and efficient use of materials.
50. The neighbourhood plan policy is not as prescriptive as the DPD policy, in that it is referring to the need to "reduce the use of fossil fuels, and adapt and facilitate the flexible development of low and zero carbon energy and promote efficient use of natural facilities". The DPD is far more specific in that it is setting out requirements to achieve net zero carbon and establishes specific requirements in terms of space heating, energy consumption and matching on-site renewable generation with energy consumption. It then sets a hierarchy of policy compliance cannot be achieved by setting priorities and allowing offset payments. It also places limits on water consumption per person, where feasible. Policy SEC1 2b) covers all residential development, not just on major schemes.
51. I consider that the neighbourhood plan policy can still highlight this matter, as it clearly is an issue of community importance, by referring to the requirements of the Climate Emergency DPD in the way that it has been recommended by Cornwall Council in its Regulation 16 comments.
52. This will ensure that with the later adoption of the neighbourhood plan, it does not override the recently adopted DPD as could happen due to the stipulation set out in paragraph 30 of the NPPF.
53. I will also be proposing deletion of policies referring to the Mabe Parish Design Code, as this will duplicate Policy 20 of the plan. I will similarly remove reference to the encouragement for electric car charging capability as this is now a matter that is separately required by Part S of the Building Regulations.

54. The response of the Parish Council to my Initial Comments document, pointed out that the requirements in the Cornwall Council policy do not extend to the need to produce a Design and Access Statement in respect of householder applications. However the changes that were introduced by the Town and Country Planning (Development Management Procedures) Order 2015, restricts the requirement to produce a design and access statement to major schemes only i.e. development of over 10 residential units or individual houses in a Conservation Area or a World Heritage site. The reference quoted by the Parish Council to Regulation 7 c) ii) of the above Order, is not relevant to this matter as that relates to the information which is required to be submitted to describe what the application is seeking planning permission for.
55. A neighbourhood plan policy cannot require the submission of any document to accompany a planning application. The modified policy does place an obligation on applicants to still demonstrate how will they be complying with the policy requirements. I consider that this is a more objective requirement than that what the Parish Council is seeking.

Recommendations

In the first sentence of the policy replace "has sought to" with "addresses the requirements of the Cornwall Climate Emergency DPD "and delete a) to e)

Policy 2: Community Led Renewable Energy

56. The title of the policy acknowledges the community's role in renewable energy development and innovation. The policy wording refers to renewable energy schemes being supported where it provides direct benefits to the parish, either through direct supplies or through community ownership. Policy RE1 is the overarching DPD policy covering renewable and low carbon energy and that does provide for commercial schemes with a capacity of over 5MW should provide an option for communities to own at least 5% of the scheme, subject to viability.
57. I consider that if this neighbourhood plan policy explicitly is related to community led renewable energy schemes in Mabe parish, then this neighbourhood plan policy can sit side-by-side with Policy RE1 covering commercial energy schemes. This policy would then, as the title suggests, be relevant for community led energy projects. The policy as is related to energy production, cannot have an impact on energy consumption, although as Cornwall Council points out it could reduce fossil fuel consumption.

Recommendations

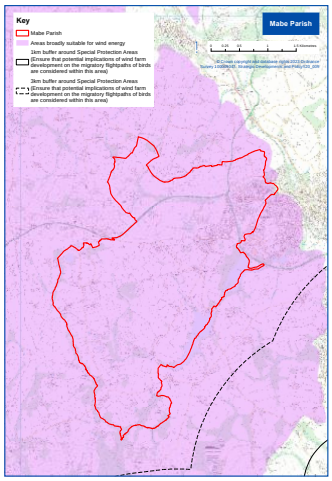
Insert "community led:" before "renewable energy"
In a) insert "homes" before "business" and delete the remainder of the sentence after "parish"
Insert "or at the end of a) and "and" at the end of b)

Policy 3: Wind Energy

58. This policy draws upon the 2016 Cornwall Renewable Energy SPD which has now been superseded by the Climate Emergency DPD. The document draws upon the

Cornish Renewable Energy Landscape Sensitivity Assessment. This document was updated in 2020 and moved away from landscape sensitivities to an approach which looked at the sensitivities for turbines of different sizes in the landscape.

59. Figure 8 is a plan that divides the powers into different zones where different heights of turbines will be acceptable. The strategic approach outlined in the recently adopted DPD, essentially defines the whole parish, (based on the latest evidence base), as an area which is suitable for wind turbines up to 99 m, subject to meeting a number of criteria. The Renewable Energy Landscape Sensitivities Assessment defines the parish as having high sensitivities for turbines over 100 m, where the largest installations can change the character of the landscape.
60. All the parish falls within the area of search shown below, where the principle of turbines will be separately subject to a list of criteria. These are set out in Policy RE1 and a number are also included in the policy, such as landscape impacts and decommissioning. In fact, a close analysis shows that all the considerations identified in paragraph 3.2 to 3.7 are covered by Policy RE1 1c), 1 g) and 2c) of the DPD and the policy is essentially repeating existing policy, which will already be covering the parish.
61. The following map has been provided which shows the area of search and can be included within the policy.



62. The only consideration not covered by Policy RE1 relates to the safety of highways and public rights of way. I propose to recommend that schemes should be meeting the requirements of Policy RE1 but also should not impact adversely on the safety of users of existing highways or public rights of way in the vicinity of the installation
63. The concerns expressed by the Defence Estates regarding the implications of turbines on flight operations from RAF Culdrose is, in my view, already covered by Policy RE1 2c).

Recommendation

Replace the policy with:
"Proposals for wind turbine development will be supported within the area shown in Map X up to a height of 99m, where they meet the requirements of Policy RE1 of the Climate Emergency DPD and where the proposal does not adversely affect highway safety or public rights of way"

Replace figure 8 with Map X

Policy 4: Solar Energy

64. Working on the same premis, that a neighbourhood plan policy should not include requirements that essentially duplicate the recently adopted Policy RE1, I propose to adopt the same approach as with wind energy. I am satisfied that most of the requirements in this policy, as proposed, are already in place through the DPD's criteria. There are, however, two areas where this neighbourhood plan policy could introduce additional requirements not included, as sought by Mabe Parish Council. These relate to the protection of residential amenity and assessing the impact of solar installations on highway safety and public rights of way. I will recommend accordingly.
65. There is an issue relating to whether agricultural uses can be required to continue beneath the solar arrays. The Secretary of State's policy, as set out in paragraph 174b) of the NPPF, recognises the economic and other benefits arising from the best and most versatile agricultural land. The glossary to the NPPF defines "best and most versatile land" as Grade 1, 2 and 3a of the Agricultural Land Classification. Unfortunately, the agricultural classification maps which I have seen only show Grade 3 and 4 being within the parish. They do not differentiate between Grade 3a) and Grade 3b). I understand that differentiation could only be done through a detailed agricultural land classification assessment, which would only be undertaken if a proposal is forthcoming. It is clear however that the thrust of government policy is to seek to encourage alternative uses on areas of poorer quality land instead of high-quality land. That is also set out in the Planning Practice Guidance which states:

    "*where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays"*
66. On this matter, I have sought the advice of Cornwall Council as to the practicality of a policy requiring agricultural uses to continue beneath solar arrays, if it was shown to be "land with a high potential for agriculture". The response highlighted that there have been examples where agriculture uses continue on solar farms, but it is generally grazing use rather than the growing of crops. The council suggested that this requirement should not be included as a policy requirement, but as a matter that could be encouraged and it has put forward some text, which could be inserted, which supports continued grazing.
67. Having considered this matter, I place weight on the fact that the Climate Emergency DPD's Policy RE1 e) does not differentiate between Grade 3a and 3b land and merely refers to all agricultural land and poses the question for the decision maker whether the proposal allows for the continuation of the use of the land for some sort of agricultural activity. To be consistent with that strategic policy, I propose not to seek to differentiate between Grade 3a and 3b, as suggested by Cornwall Council in its suggested modification, as the policy does not provide for

a different outcome, if the land is within Grade 3a. I will therefore recommend that the policy merely encourages the possibility of agricultural uses continuing, if the land is in agricultural use.

68. In view of that conclusion I will now be recommending that figure 9 should be omitted.

Recommendations

Replace the policy wording with:
"Proposals for ground mounted solar arrays will be supported where they meet the requirements of Policy RE1 of the Climate Emergency DPD; and

- ***where there is no significant negative impact on residential amenity or on highways or Public Rights of Way; and***
- ***where proposals are for land in agricultural use, wherever possible, proposals should enable continued agricultural use underneath the panels"***

Delete Figure 9

Policy 5: Hydro Power

69. Again, there is duplication with Policy RE1-4), which is also supportive of such installations, but set out in greater detail the impact that proposals need to be considered, such as the implications for the water regime, landscape and nature conservation. The main issue with the neighbourhood policy is that it requires Environment Agency consent to be obtained before a scheme can be supported. The promoters of such schemes cannot be required to have in place all the regulatory approvals required before applying for planning permission. The Secretary of State's advice is clear as set out in paragraph 188 of the NPPF, which is that "the focus of planning policies and decisions should be on whether the proposed development is an acceptable use of land, rather than control processes or emissions… planning decisions should assume these regimes will operate effectively."

70. I note that the plan wishes to reflect the community support for hydropower in which case I will recommend the policy should be cross-referenced with the hydroelectric policy in the Climate Emergency DPD.

Recommendation

Replace the policy with:
"Schemes for hydro power will be supported where they meet the requirements of Policy RE1 and in particular the criteria set out in Policy RE1- 4 of the Climate Emergency DPD".

Policy 6: Micro Hydro

71. Again, the issue is one of having to have Environment Agency consent in place, equally applies to this policy and I would adopt a similar approach to that in Policy 5.

Recommendation

Replace the policy with:

"Schemes for hydro power will be supported where they meet the requirements of Policy RE1 and in particular the criteria set out in Policy RE1- 4 of the Climate Emergency DPD".

Policy 7: Low Carbon Heat

72. There is a degree of duplication with the Climate Emergency DPD. Cornwall Council has pointed out that Policy SEC 1 covers much of the same grounds as this neighbourhood plan policy. They recommend that paragraphs 7.1 to 7.3 be deleted and this appears to have been accepted by the Parish Council. It allows the retention of policy that specifically supports community projects to reduce CO2 levels. On that basis I conclude that the policy meets the basic conditions.

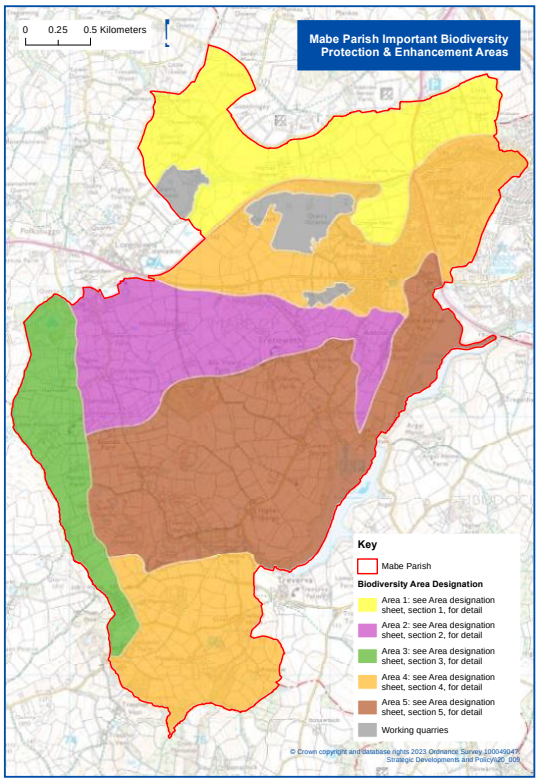
Recommendations

Replace the policy with:
"Proposals for development within the parish which meet the requirements of Policy SEC 1 or Policy RE1 of the Climate Emergency DPD will be supported;
In particular, proposals will be supported that are specifically community led projects, designed to reduce levels of CO2 across the parish as a whole, or that benefit specific sectors of the community (renewable energy, traffic reduction, cycle lanes, rainwater harvesting, tree planting and community open space initiatives; low voltage lighting and Community Car Charging.)
Applications will be supported that clearly demonstrate an intent to sustainably minimise waste or improve the management of resources."

Policy 8: Protection and Enhancement of Biodiversity

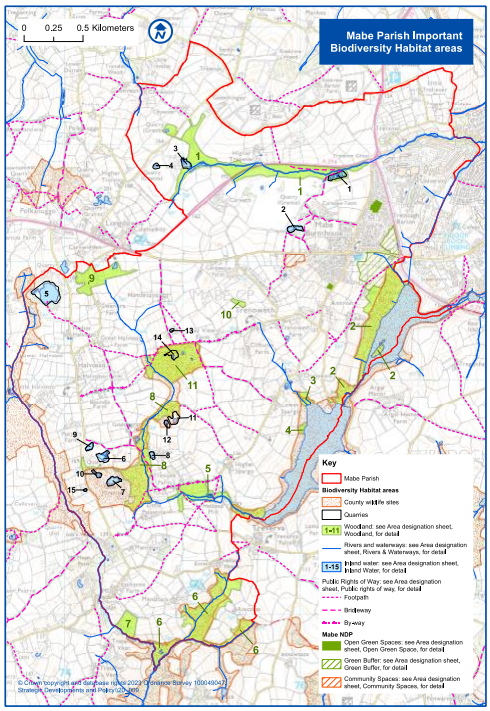
73. This policy refers back to the now superseded Biodiversity SPD, which has now been replaced by Policy G2 of the Climate Emergency DPD. I recommend the updating of that policy to refer to the policy which provides for 10% net biodiversity gain as recommended by Cornwall Council in its Regulation 16 representations. I consider that the neighbourhood plan can play a role in identifying and mapping the important areas for biodiversity within the parish, which it describes as "designated areas". That will add to the requirement that will already be covering the parish. I propose to recommend the reference to "*biodiversity offsetting"* be omitted as it is covered in specific detail by the third element of the DPD Policy G2.
74. The DPD policy currently only requires the 10% net biodiversity gain within major development proposals, whilst the neighbourhood plans intention is that it be applied to all developments. The threshold for major schemes to meet the 10% net gain requirements was not proposed by Cornwall Council and it was the Local Plan Inspector who proposed modifications to ensure that it covered all development except where there were exceptions. He then inserted the requirement that it be limited to major schemes until the "national mandating" had taken place.

75. My view is that if the strategic policy is restricting the 10% requirements to only major schemes, for the neighbourhood plan to require it to apply to all development within Mabe parish, would not be in the general conformity with the local plan policy. Furthermore, Natural England is proposing there will be a small sites matrix, which is a simplified version of the Biodiversity Matrix 3.1, specifically designed for small development sites, where the number of units is to be between 1 and 9, or the size of site is less than one hectare; where the number of units is not known then the site area is less than 0.5 ha. For other types of development the site area is less than 0.5 ha.
76. It is my understanding that the government is proposing to introduce the necessary regulations to implement the net biodiversity provisions of the Environment Act in November 2023, but this initially will be related to major schemes. The separate provisions for smaller schemes are then likely to follow in April 2024. In view of the short period between any making of this neighbourhood plan and the implementation of the national net gain biodiversity obligations, it would be over onerous to impose that obligation on all development especially as the small sites' matrix will not be in place.
77. The Parish Council has also prepared a map dividing the parish into 5 biodiversity protection and enhancement areas, which is supported by descriptions of their habitat significance. Reference to this map can be inserted into the first part of the second element of the policy and the accompanying schedule can be added either as an appendix to the plan or be included in the plan itself.

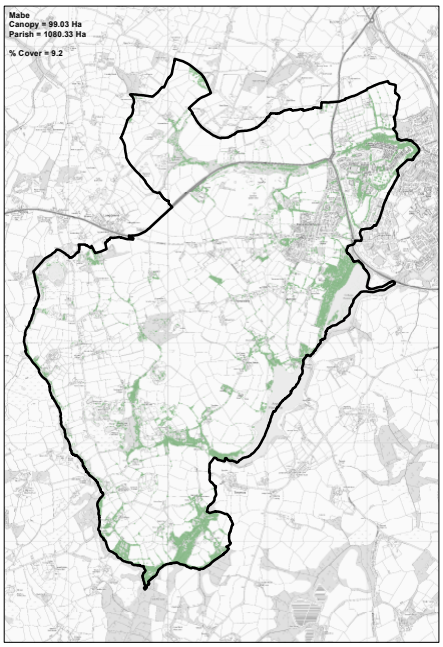


78. The requirements in Policy 8.2 a) are that development should be avoiding "designated areas", but these are not defined or mapped nor does the policy clarify what is considered *designated areas*. Paragraph 179 a) of the Framework sets

out that plans should map local wildlife rich habitats and wider ecological networks, which include the hierarchy of designated sites of importance to biodiversity, wildlife corridor and stepping stones. The Parish Council has now provided me with a very clear and helpful map, entitled Important Biodiversity Areas which I believe meets these Secretary of State requirements in terms of identifying those areas of ecological importance. I will refer to this in my suggested modifications and this plan should be inserted into the plan.



79. The Parish Council has also produced the following plan showing the extent of tree cover in the parish which it wishes to protect and enhance. Reference to this plan can be included with paragraph d).



Recommendations

In 8.1 delete "minimum of 10%" and replace the text after "biodiversity" with "in accordance with Policy G2 of the Climate Emergency DPD"
In 8.2 replace "of the parish" with "the different Important Biodiversity Protection and Enhancement Areas as shown in Figure X and as described in Appendix 1"
In 8.2 a) after "designated areas" insert "as shown on Figure Y entitled Mabe Parish Important Biodiversity areas"
In 8.2 d) after "native trees" insert "and trees canopy as shown in Figure Z"
In 8.2 f) delete all the text after "limited"
Insert the relevant maps into the plan document referred to as Figure X, Y and Z.

Policy 9: Community Identity and Heritage

80. The policy, as submitted, imposes the same tests on decision-makers, irrespective of whether a proposal affects a designated or non-designated heritage assets. The Secretary of State imposes a different test, as described in paragraph 199 to 202 of the NPPF, where proposals affect designated assets and in paragraph 203, a different threshold for schemes for non-designated heritage assets.
81. I consider that existing planning policy, as set out in the NPPF, plus the statutory tests set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 supplemented by Policy 24 of the Cornwall Local Plan, provides adequate protection to the listed buildings within the parish and that the policy should concentrate on setting the policy relating to non-designated heritage assets, incorporating the advice set out in paragraph 203 of the Framework.
82. Again, a neighbourhood plan policy cannot dictate what documents are required to be submitted with a planning application. That is the role of the local validation checklist, which is a requirement set out by the Town and Country Planning (Development Management Procedures) Order 2015. The Cornwall list requires the submission of a heritage impact assessment for all applications that affect a site in a conservation area or a listed building. Archaeological assessment is required by the local list where the land is known to have archaeological interest or affects the character of setting up a designated asset. I will therefore propose deletion of the second and third paragraphs of the policy.
83. The Parish Council has in an accompanying document identified a number of buildings it wishes to be designated as non-designated heritage assets. The neighbourhood plan can be the tool to confer such a designation but that should be done so by listing them in the policy. In my Further Notes document, I invited the Parish Council to submit that list with addresses, along with a map indicating the location of the proposed designation. I also have received confirmation that the Parish Council had notified the owners of the intention that they be recognised as non-designated heritage assets. The schedule setting out the significance of each non designated assets should be publicly available, perhaps through the

neighbourhood plan website or if it desires can be included within the document itself.

Recommendations

Insert a new paragraph at the start of the policy which reads as follows: "The following are designated non designated heritage assets as shown on Map X:

1. ***1-3 Southleigh Place, Antron Hill***
2. ***1-7 Grove Cottages, Antron Hill***
3. ***1-4 Antron Hill***
4. ***1-2 The Cottages, Antron Hill***
5. ***Glenderry, Antron Hill***
6. ***The Granite House, Antron Hill***
7. ***Mabe Parish Hall and WI, Antron Hill***
8. ***Eastleigh, Antron Hill***
9. ***Vale View Cottage, Antron Hill***
10. ***The New Inn, Church Road***
11. ***Alexandra House, Church Road***
12. ***Deliberately left blank***
13. ***Calene, Antron Hill***
14. ***Canstead Farm, Antron Hill***
15. ***Antron Manor, Antron Hill***
16. ***The Old Coach House, Antron Hill***
17. ***Antron Hill Farm, Antron Hill***
18. ***Burnthouse Quarry***
19. ***Trewnoweth Old Chapel, Antron Hill***
20. ***Naturrian Farm, Antron Hill***
21. ***Tremough Barton Farmhouse, Penrhyn Campus***
22. ***Melrose, Church Road***
23. ***Turnemere Farmhouse, Church Road***
24. ***Carn Cottage, Church Road***
25. ***2 Glenview, Church Road***
26. ***Mignonette Cottage, Church Road***
27. ***Tinpit Cottage, Church Road***
28. ***1- 4 Harmony Place, Church Road***
29. ***Trenoweth Farm, Trenoweth***
30. ***Nanpara, Trenoweth***
31. ***Sea View, Trenoweth***
32. ***1-2 The Old School, Trenoweth***
33. ***1-6 Trenoweth Terrace, Trenoweth***
34. ***Cliftures Farm, Trenoweth***
35. ***Cliftures Cottage, Trenoweth***
36. ***1-3 Oak Villas, Trenoweth***
37. ***Trenoweth Vean Farm, Trenoweth Lane***
38. ***Trenoweth Cottages, Trenoweth Lane***
39. ***Lilliput, Trenoweth Vean Farm, Trenoweth Lane***
40. ***Thumberlina, Trenoweth Vean Farm, Trenoweth Lane***
41. ***Corpascus Farm, Corpascus***
42. ***1-3 Corpascus Cottages, Corpascus***
43. ***Hantervis, Longdowns***
44. ***Pampaluna, Corpascus***

45. ***Chynoweth Farm, Rose Valley***
46. ***Trewatha, Rose Valley***
47. ***Rose Cottage, Rose Valley***
48. ***Granite Barns adj Rosswithian House, Rose Valley***
49. ***Lower Spargo Farmhouse, Rose Valley***
50. ***1-5 Rosswithian Barns , Rose Valley***
51. ***The Olad Vicarage, Rose Valley***
52. ***Higher Spargo West and barns opposite, Rose Valley***
53. ***Trevone Farmhosue and buildings, Trevone***
54. ***Helland Mill, Rose Valley***
55. ***Chyglidden Cottage, Rose Valley***
56. ***Menallack Farm, Helland***
57. ***Roscollas Farm, Rose Valley***
58. ***Eathorne Manor, Constantine***
59. ***Eathorne Farm, Constantine***
60. ***Higher Eathorne Farm, Constantine***
61. ***Eathorne Bridge Cottage, Constantine***
62. ***Great Halvosso Farmhouse, Halvosso***
63. ***Old Chapel School Hall, Halvosso***
64. ***Higher Halvosso Farm, Halvosso***
65. ***Lower Halvosso, Halvosso***
66. ***Halvosso Farm, Halvosso***
67. ***1-4 Halvosso Cottages, Halvosso***
68. ***Little Halvosso Farm + 7 converted barns***
69. ***Chy-an – Gof, Halvosso***
70. ***Druscilla's Cottage, Halvosso***
71. ***Boundis Farmhouse and 4 converted barns, Halvosso***
72. ***Little Palestine+ 3 converted barns, Jobs Water***
73. ***Little Treliever Farm, Treliever***
74. ***Lower Treliever Farm, Treliever***
75. ***Treliever Farm, Treliever***
76. ***Higher Treliever Farm, Longdowns***
77. ***Chywoon Farm, St Gluvias"***

In 9.1 delete "a designated or"

Delete 9.2 and 9.3

Policy 10: Economy and Employment

83. Cornwall Council has suggested a redrafting of the policy so that it is expressed positively as supporting development that meets the specific criteria. That criteria, to a large extent, covers most of the matters put forward in the submission version of the policy. I do not consider that the requirement to be accompanied by a business plan is necessarily justified as planning controls essentially relate to the land use implications rather than the robustness of the business who propose to occupy a particular unit. The ownership or tenancy of such premises can change without being the subject of planning controls. I do consider that it is reasonable that the applicant to have to show that the long term viability of a business use in these rural areas can be demonstrated.
84. It is not possible for a neighbourhood plan to trigger a requirement for requiring that national standards of floorspace for residential accommodation as these can

only be introduced, if there is a local plan policy, justified by evidence and Policy 13 of the Cornwall Local Plan only requires them for affordable housing which would not be appropriate for live – work units. I will therefore be including the suggestion that the employment element should be at least 60% of the total floorspace.

Recommendations

Replace the policy with

"*1. Proposals for new employment land and uses will be supported where:*

a. They are within, or well-related to, the settlement boundary for Mabe Burnthouse; or
b. They are within or well related to the built form of other recognised settlements within the parish; or
c. Where the proposal is for the expansion or diversification of an existing employment use; or
d. Where the scale and nature of development is appropriate in size and character to its immediate surroundings; and
e. Where there are no significant adverse impacts on the amenity of neighbouring residents or property; and
f. Where there is no significant harm to landscape or heritage features.

2. Proposals for live-work units will be supported where:

a. They are within, or well-related to, the settlement boundary for Mabe Burnthouse; or
b. They are within or well related to the built form of other recognised settlements within the parish; or
c. They make use of existing buildings or brownfield sites within the parish; or
d. The location is otherwise justified by the nature of the proposal; and
e. the scale and nature of development is appropriate in size and character to its immediate surroundings; and
f. there are no significant adverse impacts on the amenity of neighbouring residents or property; and
g. there is no significant harm to landscape or heritage features; and
h. the residential use is subservient to the business use with at least 60% of the built infrastructure for employment use; and
i. in rural locations, the need for a live-work unit in the location can be justified and evidence is provided to demonstrate the long-term business viability; and
j. Residential space may only be occupied by a person working full-time in the business and their immediate family.

The development will be restricted to live-work use and change of use or conversion to fully residential use will not be supported."

The Glossary and Abbreviation on page 4 should include the following definitions:

"Live-work units – these are buildings or groups of buildings that offer the opportunity to live and work in the same location. The residential use must be subservient to the work use. They may be new build or converted from existing buildings.

Well-related – for the purposes of this NDP , a development is considered to be well related where it is located within 1km by road (or approx. 10-15 min walk) of a recognised settlement in Mabe parish. Recognised settlements include Mabe Burnthouse, Antron, Trenoweth, Halvosso"

Policy 11: Development Contributions

84. The policy seeks to support applications which contribute through the Community Infrastructure Levy (CIL), or through planning obligations made in a Section 106 agreement.
85. The payment of CIL is not discretionary. It is a charge that is payable, based on the specific categories of development, which are set out in the Cornwall CIL Schedule. As such it is not a matter that can be subject to planning policy which dictates how a planning application should be determined.
86. Similarly, Section 106 contributions can only be sought where they meet 3 statutory tests. The first is that they are necessary to make the scheme acceptable in planning terms, i.e. approval should not be given without the obligation. Secondly the payment should be relevant to planning and finally the sum is fairly and reasonably related in scale and kind of development being sought. These requirements are set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. Infrastructure requirements are already required by virtue of Policy 28 in Cornwall Local Plan.
87. This neighbourhood plan policy seeks to ringfence such contributions, some of which may be paid on completion of the development as opposed to "prior to development" as sought by the Parish Council. The Section 106 funds can only be spent on the projects specified in the planning agreement and will ordinarily have to be returned if they are not spent on that project.
88. The spending of CIL receipts is essentially a budgetary decision for Cornwall Council rather than a matter of planning policy used to determine planning applications. There is an element of CIL money that will pass to the Parish Council and there is no reason why the neighbourhood plan cannot set out its local priorities upon which it will spend its proportion of the receipts. Again it would not be a policy for the use and development of land to be used for determining a planning application. The Parish Council's aspirations can be set out in the non-policy part of the document.
89. I will be recommending that the policy be deleted as it is not a policy that can be used to determine a planning application.

Recommendation

That the policy be deleted.

Policy 12: Transport and Accessibility

90. The wording of the policy relates to all new development, but some developments such as changes of use or domestic extensions, will not need to be able to include safe and effective provision for access for vehicles, pedestrians and cyclists. I will qualify that by inserting, "where appropriate" which will allow the decision maker to judge whether these requirements are justified by the nature of the development.
91. The second element, seeks to ensure that new development has a defined safe route to and from village facilities, schools and public transport facilities through, if necessary, new footpaths and cycle routes. Whilst I consider that it is clearly desirable that new residential development should generally have safe cycle and pedestrian links, I do not consider that to be a practical or feasible proposition for applicants for schemes on sites that are to be developed, well away from the settlement of Mabe Burnthouse, or land which is adjacent to it to be required to provide such links in order to be acceptable. If the plan is seeking affordable housing, perhaps in areas beyond the main settlements, then it will be over onerous to expect the developer to fund and build a new pedestrian and cycle route from that site, to the main village or indeed the nearest railway station at Penryn some miles away, even if there was the land available to make that a practical proposition. I will therefore be recommending that the requirement should only relate to sites within the settlement boundary or in close proximity to it.
92. The penultimate part of the policy assumes that all non-residential development will have a travel plan. The Secretary of State's approach, as set out in paragraph 11 of the Framework, is that travel plans should only be required for development which generate significant amounts of movement. The final paragraph refers to the "requirements of part 2" which I assume is an error and should refer to Policy 12.3.

Recommendation

In 12.1, after "include" insert ", where appropriate"
In 12.2 after "New development" insert "within or adjacent to the settlement of Mabe Burnthouse" and then delete "only" and "it can demonstrate adherence to". After "development for" insert "pedestrians and cyclists" and delete "to and from" from before "village facilities"
In 12.3 delete e)
In 12.4 delete "off street" and also "and its associated travel plan". insert at the end "and in line with CC Parking Standards
In 12.5 replace "part 2" with "Policy 12.3"

Policy 13: Conservation of the Environment

93. There is again a degree of duplication, again, with policies in the Climate Emergency DPD and in particular Policies G1, G2 and G3. There is also duplication with other neighbourhood plan policies, particularly Policy 8 dealing with net biodiversity gain.
94. Cornwall Council has proposed some changes which, on the whole, improve the clarity of the policy and eliminate duplication. They are also expressed positively,

setting out expectations. However there are features of the local environment that could benefit from specific reference, for example, green corridors, Cornish hedges and natural streams and ponds.

95. The policy includes reference to SUDS resilience and run-off, but includes no new locally distinctive elements which differentiate it from existing policy as set out in Policy 26 of the Cornwall Local Plan. I will also remove reference for development to have to show compliance with the other legislation and regulatory regimes.

Recommendation

Replace the policy with:
"13.1Applications will be expected, where appropriate, to have a positive effect on green infrastructure.
13.2 New development proposals will be supported that conserve and enhance the landscape and natural environment of the parish including public rights of way.
13.3 a) All new development should seek to retain existing trees and to increase on site canopy cover in accordance with Policy G3 of the Climate Emergency DPD. Trees should have sufficient growing space to enable healthy growth and avoid later pressure for their removal.
b) Hedgerows and Cornish hedges should be retained, wherever possible.
13.4 a) Development proposals will be supported where they have no significant adverse effect on the integrity or continuity of landscape features and habitats of local and national importance to wild flora and fauna.
b) Development proposals will be supported where they maintain or improve the amenity value, landscape character, enjoyment of and access to publicly accessible places.
c) Proposals for new public allotment space will be supported.
d) Development proposals which remove or alter existing public right-of-way will not be supported unless a suitable alternative route which provides safe and convenient access with no adverse impact on the caharcater to be fair is provided. Proposals for new and improved rights of way to provide connections within and between communities will be supported.
13.5 Development proposals will be supported where they protect existing habitat and provide bee bricks, bat and bird boxes in accordance with policy G1: 10 of the Climate Emergency DPD.
a) Applications that show clearly how they intend to create suitable habitats or routes, such as badger/fox gates in fencing or for improving wildlife corridors will be supported."

Policy 14: Housing and Community Facilities

96. I have no comments to make in terms of the proposed settlement boundary for Mabe Burnthouse, which follows the current edge of the built-up area. I agree that it is sensible that when the two housing developments, which have planning permission on the eastern and south western edge of Mabe Burnthouse, are implemented, then the settlement boundary should be considered to have been

amended to incorporate them, otherwise they could be treated as countryside. I will be recommending that the trigger should be upon substantial implementation rather than completion, as it is the implementation that creates the fall-back position, upon which the development will thereafter be capable of being completed. That will prevent the consents from lapsing.

97. I believe that the settlement boundary map should be an integral part of the neighbourhood plan rather than being within an Appendix as it should allow users of the document to understand where the policy should apply.

98. The policy itself has two elements, development within the settlement boundary and in the second part, 14.2, development outside the boundary, which is also dealt within Policy 15. I agree with Cornwall Council that these latter elements should be within the same policy and the policy should be retitled "Development within Settlement Boundary".

99. In terms of the specific criteria, the threshold for residential amenity should be set at proposals that have a *significant* adverse impact on neighbours. There is no need to include in that criteria a reference to the "character of the locality" as it already covered in b) and it is unnecessary duplication.

100. I am also concerned that the requirement for all new development, irrespective of the size and type of development, should have to contribute positively to the delivery of local facilities, services or infrastructure. I am not satisfied that this is a reasonable expectation or is justified.

Recommendations

Change the title of the policy to "Residential Development within the Settlement Boundary of Mabe Burnthouse"
Replace "map in Appendix 4" with "Figure X. Upon the commencement of residential development in either of the areas shaded in blue, the settlement boundary will be deemed to follow the perimeter of that site."
In b) at the end insert "as shown in green in Figure X"
In d) before "detriment" insert "significant" and delete "or to the character of the locality"
Delete e)
Delete 14.2

Policy 15: Small Scale Infill and Rounding-off

101. I consider that, in order that this policy recognises the circumstances allowed at strategic level, the amendments proposed by Cornwall Council should be incorporated into the policy. Again, the comments regarding levels of impacts on the adjacent residents should be set at a higher threshold and that all development should not be required to deliver community benefits to be acceptable, is not reasonable, as that is a matter that is either covered by the Community Infrastructure Levy or where the proposal generates a demand that would meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Recommendations

Retitle policy "Residential Development outside of the settlement boundary for Mabe Burnthouse"
Replace the policy with "Residential development outside of the settlement boundary for Mabe Burnthouse will be supported where:

a. It is in accordance with Policy 3 or 7 of the Cornwall Local Plan, or with Policy TC5 in the Climate Emergency DPD; or
b. It is to deliver affordable housing in response to a demonstrated and supported local need and in accordance with Cornwall Local Plan Policy 9 and Policy 16 of this plan; or
c. It delivers low impact development in accordance with policy AL1 of the Climate Emergency DPD; or
d. It is for a single plot, self-build, affordable home in accordance with Policy 18 of this plan; and
e. It conserves and enhances the settlement's special historic, architectural and landscape character; and
f. Where there is safe access for vehicles and people; and
g. ***it does not cause a significant detriment to the residential amenity of any existing or neighbouring dwellings (e.g. through loss of privacy) or to the character of the locality.***

Policy 16: Rural Exception Policy

102. This policy seeks to limit the size of rural exception sites to a maximum of five dwellings. Cornwall Council points out that rural exception sites would normally need to incorporate some market housing to cross-subsidise the affordable housing. That concession, to ensure viability, is acknowledged in paragraph 78 of the NPPF. Under this policy, the implications of that concession could reduce the amount of affordable housing on such schemes to only 3 units. This matter is already covered by Policy 9 of the Cornwall Local Plan. I propose to remove that limit, as it could mean that local housing need is not met and in any event the capacity of sites will depend on the site area and also the size of units that are proposed. A low threshold could encourage proposals for a smaller number of larger properties, to remain under the limit, which may not reflect the actual housing needs of the parish.
103. The need for an expression of support, specifically via a community referendum would introduce, what I feel is an unacceptable barrier to acceptable development, undermining the governance of the planning decision-making process. The determination of planning applications is not subject to referendums or public polling. The responsibility for determining planning application, lies with the local planning authority or the Secretary of State via the appeal mechanism, under current legislation. There is an alternative procedure which is open to the Parish Council, which could grant planning permission via a local referendum and that is through a Community Right to Build Order. This is a neighbourhood planning mechanism that has the effect of granting planning permission, but is separate to the planning application procedure. It is not being promoted by the Parish Council.

104. The Parish Council did point me to the proposed Street Votes, which is one of the provisions of the Levelling Up and Regeneration Bill, currently before Parliament. However this provision will be the subject of further regulation, as and when they are enacted through a Commencement Order. I do however recognise that the expression of public support will be helpful in considering development proposal in locations where they would not ordinarily be allowed.
105. I did initially propose a form of wording that would effectively have given the Parish Council a veto on any possible planning application for rural exception site in Mabe. On reflection, including considering the email submissions of both the local authority and the Parish Council, I have concluded that it would not be appropriate to make it a pre requisite, that Mabe Parish Council must support the application, if it is to be approved, as it is only a consultee on any planning application. The planning system makes Cornwall Council, as the Local Planning Authority, the accountable body for planning decisions, which has the duty to balance the provisions of the development plan against other material considerations.
106. However, it is important that any affordable housing within the exception site does meets the specific housing requirements generated within the parish and the Parish Council can play an important role in establishing whether there is a need for such housing and of what type, size and tenure. If upon receipt of a planning application for development that is not required to meet the specific housing needs of the parish, as endorsed by the Parish Council, it would have a strong case to argue that the proposal does not meet the needs of Policy 9 of the Local Plan, as well as the neighbourhood plan policy as I propose that it be modified to.
107. The final requirements for CIL cannot be required by policy as the CIL Scheme states that affordable housing does not have to pay CIL. If Section 106 payments are required, then they must meet the three tests set out in Regulation 122 of the CIL Regulations 2010 will apply.

Recommendation

Replace the policy with:
"***Rural exceptions sites which meet the requirements of Policy 9 of the Cornwall Local Plan and other policies in the Mabe Neighbourhood Plan will be supported where they are needed to meet an evidenced local need for affordable housing and where:***

a. Affordable homes will be well integrated with market housing; and
b. The type and size of affordable homes is endorsed by the Parish Council and meets the specific needs identified for Mabe Parish; and
c. The proposal has a target of 100% affordable housing. Any reduction will need to be supported by a viability assessment; and
d. The affordable dwellings will be occupied by people with a local connection in housing need in accordance with the Local Housing Authority's standard definition."

Policy 17: Assisted Community and Accessibility

108. There is an inconsistency between the policy in a), which indicates that new homes should be located close to and with safe and easy access to village amenities. That is different to the Parish Council response submitted, in reply to my Initial Comments question whether the policy was restricted to the village of Mabe Burnthouse, which indicated that it would apply to locations permitted under Policy 15, which would of course not be close to village amenities. In order to provide flexibility, I will remove the requirement to be close to village amenities.

Recommendation

In a) delete the text after "sites"

Policy 18: Custom and Self Build

109. This policy provides a supportive framework for self build housing. Cornwall Council has proposed some refinements to the policy which I considered clarify the basis on how such proposals should be assessed.

110. There is no need for g) as a reference to the Mabe Parish Design Guide is included in the initial paragraph of the policy. I will recommend that it be retitled "Mabe Design Code and Guidelines"

111. Cornwall Council has confirmed that the only protected landscape within the parish is the Area of Great Landscape Value which is in the southern part of the parish. I will clarify that in my recommendations.

Recommendations

The AECOM document should be retitled "Mabe Parish Design Code and Guidelines"

Replace the policy with:

"***Proposals for single self-build affordable dwellings will be supported where They meet the criteria set out in Policy 9 of the Cornwall Local Plan and where applicants are able to demonstrate that:***

- ***a. They require affordable housing, have a strong local connection with the parish area, and meet Cornwall Council's eligibility criteria and there are no other reasonable options which address their housing needs, having regard to any other nearby settlements; and existing or planned rural exception schemes; and***
- ***b. The site is sustainably located, within or well related to the built form of a settlement; and***
- ***c. It will not result in development in an isolated location; and***
- ***d. The dwelling will remain affordable in perpetuity through a percentage reduction on market value agreed by legal agreement; the property may be rented at an affordable rent to persons meeting Cornwall Council's eligibility criteria; and***
- ***e. The site area, including any access arrangements, is no more than 0.05ha; and***
- ***f. The dwelling is designed to meet current and future household requirements and should not exceed the maximum floorspace prescribed in the Nationally Described Space standards for a 6-person household, although the provision of a single detached***

garage to the maximum of 18 sq. metres would be supported in addition; and

g. The design and character comply with the design requirements of the Mabe Design Code or Guidelines and

h. It is served by an adequate access and infrastructure and has reasonable access to local services by walking, cycling or public transport; and

i. The development is not located in within the Area of Great Landscape Value within Mabe Parish.

Policy 19: Principal Residency

106. I am familiar with the pressure, particularly in the South West, for new homes to be subject to a principal residency test, which are normally imposed as a result of issues surrounding second homes and holiday lets, especially in coastal communities. However, to introduce stringent controls, does have implications for human rights in terms of imposing restrictions of people's ownership of residential properties. That 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 the main driver artificially inflating house prices, beyond what local people can afford. I have had regard to both to the supporting text which accompanies the policy and also the separate document entitled "Additional Information / evidence to support the inclusion of a Principal Residency Policy in Mabe". The Parish Council has pointed to 2 reasons for the need to impose this restriction. Firstly the close proximity to the university leads to a higher percentage of students living within the parish. However I discount that as a justification, as students living in any new houses will, most likely, be able to meet the principal residency criteria, in any event. For example, they are likely to be on the local electoral register or are registered with the local GPs. I do not consider the inclusion of this policy would solve what the Parish Council argues is already a problem.
107. The second ground is due to the number of second homes / holiday accommodation within the parish. However Cornwall's evidence is that the percentage of second homes in the parish is relatively low, certainly under 8%. The Parish Council has not been able to identify the exact percentage of second homes, but points to two holiday letting change over agencies which are located within the parish and has made anecdotal comments about constant turnover destroying the community feel. To quote from the response to my Initial Comments document, the Parish Council stated "The policy is designed to be a preventative measure to counter balance further loss of community services and sense of belonging." I am not satisfied that there is a compelling case that in the context of Mabe parish, justifies the imposition of a Principal Residency condition to prevent the occupation of any new home as a second homes or holiday let.
108. In my experience, where other neighbourhood plans which have been able to justify such policies, the level of holiday lets/ second homes has been much

higher and the Parish Council's plan has been unable to demonstrate the effect on house prices being inflated above the established market for homes in this part of the south west. Whilst I acknowledge that the Parish Council argues that it is a preventative measure, I do not believe that the policy meets the Secretary of State's requirements that policy must be supported by evidence and therefore does not meet the basic condition test. I will recommend that the policy be deleted.

Recommendation

That the policy be deleted.

Policy 20: Design Policy

112. I consider that this is a comprehensive and well drafted policy which generally accords with the expectations of the Secretary of State. The matters covered in Criteria d) are already the subject of Policy 7 and their inclusion in this policy is unnecessary duplication.
113. Beyond that I consider the policy meets the basic conditions.

Recommendation

Delete criteria d)

The Referendum Area

114. 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 Mabe Neighbourhood Plan as designated by Cornwall Council on 18th April 2019 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

Summary

115. I congratulate Mabe Parish Council on producing this locally distinctive neighbourhood plan. The plan will now sit comfortably alongside the recently adopted Cornwall Climate Emergency DPD and, in its final form, will still allow the Parish Council to promote the issues which clearly are important to residents especially renewable energy, sustainable development, and biodiversity net gain, by signposting applicants and decision makers to the new DPD policies which cover all of Cornwall including Mabe parish. Other policies recognise the rural characteristics of the Mabe parish and it has allowed the community to identify and map heritage and ecologically important areas.
116. It is clear that a huge amount of hard work has gone into this plan by volunteers on behalf of the local community and I am pleased to recognise their sterling work.

117. I appreciate that some of my recommendations may disappoint the Steering Group but by making these recommended modifications, they have allowed me to recommend that the plan can move forward to referendum. All the changes are required to address basic conditions issues.
118. 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.
119. I am therefore delighted to recommend to Cornwall Council that the Mabe Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI, FRGS.
John Slater Planning Ltd
26th April 2023