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**Draft INDEPENDENT EXAMINER'S REPORT ON THE MADRON NEIGHBOURHOOD
DEVELOPMENT PLAN**

Deborah McCann

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SECTION 2

Summary

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

1. *I find the Madron 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 Madron Neighbourhood Development Plan go to Referendum.*
3. *I have read the Madron 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 Madron 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 Madron 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 Madron Neighbourhood Development Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the Madron 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 Madron Neighbourhood Development Plan has to be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.

The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I did not require any further clarification.

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 Madron 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 appointed me as the Independent Examiner for the Madron Neighbourhood Development Plan with the agreement of Madron Parish Council.

4.2. Qualifying body

I am satisfied that Madron Parish Council is the Qualifying Body.

4.3. Neighbourhood Plan Area

Madron Parish Council applied for designation as a Neighbourhood Plan Area under the Neighbourhood Planning Regulations 2012 (part 2, S6) and it was formally designated by Cornwall Council (CC) on the 2 August 2019.

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

4.4. Plan Period

It is intended that the Madron Neighbourhood Development Plan will cover the period 2022-2030, chosen to align with the Cornwall Local Plan.

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

Madron Parish Council submitted the draft Madron Neighbourhood 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.

4.6 Site Visit

I carried out an unaccompanied site visit on the 29 September 2022 to familiarise

myself with the Neighbourhood Plan Area.

4.7. The Consultation Process

The Madron Neighbourhood Development Plan has been submitted for examination with a Consultation Report which sets out the consultation process that has led to the production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.

The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):

- (a) It contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- (b) It explains how they were consulted; (c) It summarises the main issues and concerns raised by the persons consulted; and
- (d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed neighbourhood development plan.

Examination of the documents and representations submitted in connection with this matter have led me to conclude that the consultation process was thorough, well conducted and recorded.

A list of statutory bodies consulted is included in the Consultation Statement.

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

The Cornwall Council placed the Madron Neighbourhood Development Plan out for consultation under Regulation for the required 6 weeks 16 from 9 June 2022 to 21 July 2022.

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 Madron 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 Madron 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 Madron 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 Madron 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 Madron 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.

(d) Madron Design Guide.

(e) Evidence Base.

Comment on Documents submitted

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

4.10 Planning Policy

4.10.1. National Planning Policy

National Policy guidance is in the National Planning Policy Framework (NPPF). At the time of my examination of the Neighbourhood Plan the relevant NPPF was the National Planning Policy Framework (NPPF) July 2021 (as updated).

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

Paragraph 29 states:

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory

development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

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

I have examined the Madron 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

Madron 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 Madron Neighbourhood Development Plan must be in “general conformity” with the strategic policies of the development plan.

The NPPF 2021 (updated) states:

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

- a) housing (including affordable housing), employment, retail, leisure and other commercial development;
- b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- c) community facilities (such as health, education and cultural infrastructure); and
- d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”

4.10.4 Neighbourhood Plans should only contain non-strategic policies. The NPPF

2021(updated) states:

“Non-strategic policies

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

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

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

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

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

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

- whether the policy sets out an overarching direction or objective

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

I have considered the Strategic policies of the Development Plan and the Policies of the Madron 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 Madron parish NDP Steering Group requested that Cornwall Council screen the Neighbourhood Plan for Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) in June 2021. Natural England, the Environment Agency and Historic England were consulted as part of the screening process. Historic England raised concerns over the evidence to support the development of the Tregoddick Farm site (referred to as Site A in the draft NDP). The concern related to the heritage considerations of the specified number of units that could be

supported on the site. It was strongly advised that Policy H2 should be modified to remove the number of units aspired to for the site and rely on subsequent planning applications to determine an appropriate number of dwellings at the application stage. This modification has been made. The screening opinion dated November 2021 concluded that no SEA was required.

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. Based on the scale and location of development proposed in the draft plan it was concluded that there will be no impact on the integrity of the European sites and therefore no HRA was required.

Natural England, the Environment Agency agreed with this conclusion.

I am satisfied with this conclusion.

Prescribed Matters

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

- the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &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.)

The Madron NDP Screening Opinion confirms that the Madron NDP will not cause significant environmental effects on these areas.

I am satisfied with this conclusion.

4.11.2 Sustainable development

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

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

European Convention of Human Rights and to comply with the Human Rights Act 1998.

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

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

I am satisfied with this conclusion.

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

4.11.3 Excluded development

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

4.12 Madron 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 Madron 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, Strategic Aims and Policies

THE VISION FOR MADRON PARISH

“Throughout the duration of the Plan, Madron Parish will remain a beautiful rural

Parish with a strong community spirit, proud of its special landscape, natural environment, historic village and hamlets. The community will enjoy the levels of housing, employment and infrastructure that maintain a cohesive and happy life”

4.12.2 The Objectives for the Madron Neighbourhood Development Plan.

A. Natural Environment Objectives.

To protect and enhance the unique landscape character, in particular the AONB, AGLV and other environmental designated and non-designated areas; and,

- a. To be supportive of development that conforms with the extant plans, protection and strategies that relate to the natural environment and where the development proposed will not cause significant harm to key landscape features, characteristics and wildlife habitats. Development proposals will be welcomed that incorporate conservation and/or appropriate habitat enhancement to improve biodiversity.
- b. To ensure that the wildlife in all its facets is protected from the harmful effects of development and to be supportive of measures to enhance and extend the biodiversity.
- c. To protect and enhance the local green spaces and infrastructure.
- d. To be supportive of improvements and enhancements to the network of public rights of way.
- e. To encourage reforestation using location appropriate species.
- f. To support development that assists farms to remain sustainable whilst also improving the natural environment.

B. Built Environment Objectives.

To protect, enhance and strengthen the character and important heritage of Madron Parish, including the Conservation Area, and the many archaeological and ancient sites and:

- a. To maintain a distinct gap created by the existing green space between the built

environments of Madron village and those of Heamoor.

- b. To provide adequate car parking for the community within Madron village.
- c. To improve the road safety for pedestrians within the village.
- d. To improve the rural road conditions for safe driving.
- e. To ensure climate change protection and energy saving features are an intrinsic part of all new developments.

C. Housing Objectives.

To identify the need for new housing to meet local needs and to support development proposals that meet these needs in terms of type and numbers, whilst maintaining a sustainable community, and with any new homes built in harmony with the environment and retaining the community spirit.

To define a development boundary around Madron village that will provide the opportunities in the preferred locations for the development needed by the community.

D. Community Facilities and Services Objectives

To enable a high quality of life in the parish through improved community facilities that meet the changing needs for all sections, both young and old; and:

- a. To promote a supportable local shop facility for Madron village, possibly in conjunction with the village pub.
- b. To enhance and protect the existing sports and recreation facilities.
- c. To reduce the isolation of the parish rural community by improving the transport services.
- d. To improve the Broadband connectivity and IT services across the parish.

E. Transport Objectives

- a. To focus on those traffic issues and transport opportunities that can be addressed

at the neighbourhood planning level.

- b. To facilitate changes in the interests of road safety and to reduce carbon emissions.
- c. To promote the use of public transport facilities in preference to personal car use.
- d. To ensure any new development and/or retail development has electric car charging points.

F. Business and Jobs Objectives

- a. To support sustainable communities with appropriate employment space within the Parish by facilitating local job creation in order to reduce travel need, and:
- b. To avoid the loss of existing jobs within our community by protecting existing employment opportunities from being redeveloped into non-employment spaces.

COMMENT

I am satisfied that the Madron NDP vision and objectives were developed from the consultation process and that the policies within the plan reflect both the vision and themes.

4.13 MADRON NEIGHBOURHOOD DEVELOPMENT PLAN POLICIES

Madron NDP Policy NE1: Conservation and Biodiversity

Development proposals should incorporate conservation and/or appropriate habitat enhancement measures to improve biodiversity protection and the enhancement of wildlife, green spaces and the connections between them. New developments should achieve a minimum biodiversity net gain of over 10% on predevelopment values.

Developments which would have an adverse impact on County Wildlife Sites will not be supported unless there are no suitable alternative sites, impacts are unavoidable and there is full provision for habitat re-creation and management.

Proposals are expected to be in accordance with the Cornwall Council Biodiversity Planning Guide. As a minimum, proposals will be expected to comply with the mitigation hierarchy in the Planning for Biodiversity Guide of “enhance-avoid-mitigate-compensate”. As recommended in the Guide, there should be one bat or bird box for each new build dwelling. For new housing development sites, habitat linkage should be provided for hedgehogs, including 13cm x 13cm holes in the bottom edge of new fencing to allow them access to large areas.

Proposals should respect local landscape quality, habitats of local and national importance for wild flora and fauna and ensure that views and vistas are maintained.

Proposals should demonstrate how they will:

- I. Avoid harm to designated areas and seek to protect large areas of semi-natural habitat in non-designated areas.
- II. Maintain and/or link patches of semi-natural habitats as part of intended end land-use.
- III. Ensure retention, restoration and/or re-creation of habitat linkages such as Cornish hedges, and existing trees and hedges should be retained within developments as opposed to being replaced with newly planted small trees.
- IV. Create new semi-natural habitat off-site if opportunities on-site are limited.

COMMENT

Whilst the NPPF positively supports biodiversity and it is anticipated that the Environment Bill will bring in a biodiversity net gain target, currently there is no requirement to provide a 10% biodiversity net gain. For clarity and to meet the Basic Conditions the policy should be modified as follows:

Madron NDP Policy NE1: Conservation and Biodiversity

Development proposals should incorporate conservation and/or appropriate habitat enhancement measures to improve biodiversity protection and the

enhancement of wildlife, green spaces and the connections between them. New developments should demonstrate how a biodiversity net gain equal to or exceeding national policy requirements will be delivered.

Developments which would have an adverse impact on County Wildlife Sites will not be supported unless there are no suitable alternative sites, impacts are unavoidable and there is full provision for habitat re-creation and management.

Proposals are expected to be in accordance with the Cornwall Council Biodiversity Planning Guide. As a minimum, proposals will be expected to comply with the mitigation hierarchy in the Planning for Biodiversity Guide of “enhance-avoid-mitigate-compensate”. As recommended in the Guide, there should be one bat or bird box for each new build dwelling. For new housing development sites, habitat linkage should be provided for hedgehogs, including 13cm x 13cm holes in the bottom edge of new fencing to allow them access to large areas.

Proposals should respect local landscape quality, habitats of local and national importance for wild flora and fauna and ensure that views and vistas are maintained.

Proposals should demonstrate how they will:

I. Avoid harm to designated areas and seek to protect large areas of semi-natural habitat in non-designated areas.

II. Maintain and/or link patches of semi-natural habitats as part of intended end land-use.

III. Ensure retention, restoration and/or re-creation of habitat linkages such as Cornish hedges, and existing trees and hedges wherever possible within developments as opposed to being replaced with newly planted small trees.

IV. Create new semi-natural habitat off-site if opportunities on-site are limited.

Madron NDP Policy NE2: – Local Green Spaces and Infrastructure (Madron

village)

The following open spaces (shown at Figure 7) are designated as Local Green Spaces in accordance with paragraph 99 of the National Planning Policy Framework:

- a) King George V Playing Field
- b) Gulval Cricket Ground

Development that would harm the openness or special character of a Local Green Space, or its significance and value to the local community, will not be permitted unless the proposal can demonstrate very special circumstances that outweigh the harm to the Local Green Space. Development proposals affecting this designated space will only be supported where:

- a) The development would be subordinate to the use of the site and enhance the use of the playing field by providing play or sports equipment; or
- b) The development would enable the provision of community facilities, such as a clubhouse or changing rooms, and would not by means of scale, siting and design of the proposal harm the character, appearance and the use of the space; or
- c) It can be shown that the area of open space affected is surplus to requirements; or
- d) The loss resulting from the development would be replaced by equivalent or better provision

in a suitable location, accessible to the community.

The opportunity should be sought to create a new linking footpath from the housing at Parc Abnac to the King George V Playing Field, as shown in Figure 8.

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 2021 states:

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

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

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

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

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

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 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 103 of the NPPF states that the policies for managing development within a Local Green Space should be consistent with those for Green Belts. Paragraphs 147-149 detail the policy framework for development affecting the Green Belt. Paragraph 147, in particular states;

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

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 149 of the NPPF (2021) sets out what types of development would not (my emphasis) be considered inappropriate:

" 149. 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 2021 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 as follows:

Madron NDP Policy NE2: – Local Green Spaces and Infrastructure (Madron village)

The following open spaces (shown at Figure 7) are designated as Local Green Spaces in accordance with paragraph 99 of the National Planning Policy Framework:

a) King George V Playing Field

b) Gulval Cricket Ground

Inappropriate development will not be supported except in very special circumstances.

The opportunity should be sought to create a new linking footpath from the housing at Parc Abnac to the King George V Playing Field, as shown in Figure 8.

Madron NDP Policy NE3: – Development in the Natural Environment

Development proposals should enhance, retain or provide wildlife corridors and stepping-stones such as: hedgerows, ditches, strips of tree planting, green open spaces with trees and grass verges to roads. Projects for reforestation will be encouraged with the use of location appropriate species, and development that improves the natural environment should be supported. Measures that improve and extend the existing network of public rights of way will be encouraged.

All proposals for development in, or within the setting of, the Cornwall AONB will be required to conserve or enhance the landscape character and the scenic and natural beauty of the AONB, as set out in the Statement of Significance contained within the Cornwall AONB Management Plan. Development proposals should demonstrate how they have responded to and met the policy framework established within the Cornwall AONB Management Plan.

Development proposals within the AONB are expected to support the West Penwith Dark Sky Park project.

Proposals should demonstrate how the long-term maintenance of green and blue infrastructure will support biodiversity, e.g. avoiding excessive grass cutting, planting trees and hedges on public land, and restricting the strimming of Cornish hedges. New development should take full account of existing trees and hedgerows and be informed by a BS5837; 2021 Tree Constraints Plan by a qualified arboriculturalist. Where tree loss is unavoidable, significant mitigation will be expected through replacement planting with appropriate species to achieve a net gain in canopy cover.

Development proposals should be in areas away from flood risk zones 2 and 3 and use Natural Flood Management solutions.

Further guidance on achieving environmentally friendly developments that would be supported is set out in the supplementary document “A Design Guide for Madron Parish”.

COMMENT

National policy requires proposals to conserve and enhance an Area of Outstanding Natural Beauty, for clarity the second paragraph of this policy should be modified as follows:

All proposals for development in, or within the setting of, the Cornwall AONB will be required to conserve and enhance the landscape character and the scenic and natural beauty of the AONB, as set out in the Statement of Significance contained within the Cornwall AONB Management Plan. Development proposals should demonstrate how they have responded to and met the policy framework established within the Cornwall AONB Management Plan.

Madron NDP Policy BEH1: - Design of New Developments

Developments should demonstrate a high quality of design, respect the historic and natural assets of the surrounding area, and take every opportunity, through design

and materials, to reinforce local distinctiveness and a strong sense of place.

Developments should:

- a. Not result in unacceptable levels of light, noise, air or water pollution
- b. Take account of the need to design out crime, disorder and anti-social behaviour
- c. Take every opportunity, where practicable, viable and visually acceptable, to incorporate features that improve environmental performance and the reduction of carbon emissions.

These features must include both energy efficiency measures and green energy generation, and new developments will be expected to provide electric vehicle charging points for each household.

Developments should be informed by the Cornwall Council “Cornwall Design Guide”, and the “Madron Parish Design Guide” in order to maintain the local distinctiveness of the parish

Developments should be compliant with the Cornwall Council Sustainable Drainage Policy and the draft Climate Emergency DPD policy CC4. New developments should ensure there is sufficient consented sewage treatment capacity to ensure no adverse impact on bathing water quality in Mounts Bay.

Developments should seek to incorporate new community facilities such as play spaces and recreational space (see Policy CFS 3).

COMMENT

The Climate Change Emergency DPD hasn't been adopted yet and neighbourhood plan policies cannot refer to draft documents. For clarity the policy should be modified as follows:

Madron NDP Policy BEH1: - Design of New Developments

Proposals should demonstrate a high quality of design, respect the historic

and natural assets of the surrounding area, and take every opportunity, through design and materials, to reinforce local distinctiveness and a strong sense of place and will be supported where they:

- a. Do not result in unacceptable levels of light, noise, air or water pollution
- b. Take account of the need to design out crime, disorder and anti-social behaviour
- c. Take every opportunity, where practicable, viable and visually acceptable, to incorporate features that improve environmental performance and the reduction of carbon emissions, including energy efficiency measures and green energy generation. New residential development will be expected to provide electric vehicle charging points for each household.
- d. They are informed by the Cornwall Council “Cornwall Design Guide”, and the “Madron Parish Design Guide” in order to maintain the local distinctiveness of the parish
- e. They are compliant with the Cornwall Council Sustainable Drainage Policy and Development Plan policies relating to the Climate Emergency. New developments should ensure there is sufficient consented sewage treatment capacity to ensure no adverse impact on bathing water quality in Mounts Bay.
- f. They incorporate new community facilities such as play spaces and recreational space in accordance with the requirements of the Development Plan (see Policy CFS 3).

Madron NDP Policy BEH2: - Preservation of Heritage

A key part of the cultural heritage of the Parish is in its field patterns and their boundaries. New developments should retain and/or enhance this historic hedgerow network. Cornish hedgerows should be categorically retained within a development proposal unless there are exceptional reasons to the contrary. Where hedgerow loss is unavoidable, replacement will be required to achieve a net gain in Cornish hedge length. Opportunities should be taken to reinstate previously removed hedgerows as

documented through historic mapping.

The inclusion, integration and incorporation of suitable existing historic structures into new developments should be encouraged and supported, such that there is an ability to see, read, and be aware of, the history of the site under development.

COMMENT

There are elements of this policy which are overly onerous, for clarity and to meet the Basic Conditions, the policy should be modified as follows:

Madron NDP Policy BEH2: - Preservation of Heritage

A key part of the cultural heritage of the Parish is in its field patterns and their boundaries particularly Cornish hedgerows. Wherever possible proposals should retain and/or enhance the historic hedgerow network. Cornish hedgerows should be retained within a proposal unless there are exceptional reasons to the contrary. Where hedgerow loss is unavoidable, replacement will be required to achieve a net gain in Cornish hedge length. Opportunities should be taken to reinstate previously removed hedgerows as documented through historic mapping.

The inclusion, integration and incorporation of suitable existing historic structures into new developments should be encouraged and supported, such that there is an ability to see, read, and be aware of, the history of the site under development.

Madron NDP Policy BEH3: - Replacement Dwellings

Replacement dwellings will be supported where they maintain, and preferably enhance, habitat connectivity and flood management by retaining trees and green corridors, and by using permeable surfaces.

COMMENT

I have no comment on this policy.

Madron NDP Policy H1: – Development Boundary

This plan establishes a development boundary for the village of Madron as indicated in Figure 12 Madron Village Development Boundary:

- 1) Within the development boundary, Site A and Site B are the designated development locations with Site B, the old workhouse/abattoir, as the preferred location, otherwise small scale infill, rounding off and development on previously developed land may be supported where such development conforms to other policies in this Plan.
- 2) Development of open market housing proposals outside but adjacent to the development boundary will not normally be supported. Exceptions may be made for development that is affordable housing led, meets evidenced local need and is appropriate in scale and location in accordance with Policy 9 of the Cornwall Local Plan.
- 3) Outside of the development boundary in the open countryside only development which conforms with Policy 7 of the Cornwall Local Plan: Housing in the Countryside, may be supported.
- 4) There may be scope for very limited infill development in smaller hamlets in the parish. Proposals will be judged against Policy 3 of the Cornwall Local Plan.
- 5) Proposals for more than 50 dwellings or non-residential structures of 1000 square metres within the Critical Drainage Area should demonstrate Natural Flood Management measures such as land management, tree planting, hedge restoration etc., or exceptionally make provision for them offsite.

COMMENT

I have examined the evidence and the methodology underpinning the position of the boundary and am satisfied that it meets the Basic Conditions. For clarity, paragraph 1) of the policy should be modified as follows:

1) Within the development boundary, Site A and Site B are the allocated

development locations with Site B, the old workhouse/abattoir, as the preferred location, otherwise small-scale infill, rounding off and development on previously developed land may be supported where such development conforms to other policies in this Plan.

Madron NDP Policy H2: – Housing Mix of Tenure

Development proposals should include a proportion of affordable housing, mostly comprising of smaller housing units being of one and two bedrooms to reflect the local needs, with an overall mix of tenure and to include a limited number of units designed to current mobility standards.

Of the two sites identified in the evidence base and arising from the HNS survey and consultations, the following is the preferred provision:

On Site A, open market dwellings, with some bungalows/assisted living units in the mix, is the preferred choice.

On Site B, a mix of open market, affordable housing, and assisted living units is preferred.

COMMENT

I have no comment on this policy.

Madron NDP Policy CFS1– New Community Facilities

Developments should seek to improve or extend the existing local community facilities and assets, or provide for appropriate shared use, where there is a demonstrable need for them and there is no significant adverse impact upon nearby residents and uses. Development for new or additional services and facilities should be supported where they meet a need identified by the community concerned or by a body with statutory responsibility for a particular service, providing:

- a. They do not create unacceptable noise, fumes, smell or other disturbance to neighbouring residential properties

b. Do not cause adverse traffic issues

c. Access and off-street parking can be satisfactorily provided without harming existing residential and other uses.

Development that would result in the loss of a local service or facility will be resisted unless it is demonstrated that the use is no longer viable or a replacement facility of an equivalent or better standard is provided.

COMMENT

For clarity and consistency, the phrase "should be supported" in the first paragraph of the policy should be replaced with "will be supported".

Madron NDP Policy CFS2: – King George V Playing Field

The Madron King George V Playing Field sports and recreation facility and pitches is safeguarded for its existing and continuing use by its designation as a Green Space (see Policy NE2) and by its control by the Fields in Trust charity. Development that would result in a loss to or loss of this facility and its pitches must have the support of the Fields In Trust charity and be supported by an assessment that clearly shows: the facility is now surplus to need; or that the loss would be replaced by an equivalent or better provision in a suitable location that demonstrated community benefit; or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss; and in all cases that there is secured community access.

COMMENT

This policy is unnecessary as it has been designated through policy NE2 as a Local Green Space and should be deleted.

Madron NDP Policy CFS3: – New Recreation and Sports Facilities

The development of new or improved recreational and sports facilities may be supported where they are sustainably located, provided that the scale of the facility is

related to the needs of the area and there is safe and convenient access for potential users.

COMMENT

For clarity and consistency, the phrase "may be supported" should be replaced with "will be supported".

Madron NDP Policy CFS4: – Community Allotments, Orchards and Composting Initiatives

The development of redundant land for community allotments, orchards and composting initiatives in suitable locations, and where viable, should be considered favourably. Development that would result in the loss of all or part of existing allotment spaces will not be supported unless alternative and equivalent allotment space is provided. Steep hillsides are not considered suitable locations for allotments due to the adverse impacts of surface water run-off.

COMMENT

For clarity and consistency, the phrase "should be considered favourably" should be replaced with "will be supported".

Madron NDP Policy CFS5: – High Speed Broadband and Mobile Phone Coverage

Development to provide a super-fast broadband communication infrastructure to serve the Parish should be supported where it is sensitively sited and sympathetically designed. Improved mobile phone coverage also should be supported where it too is sensitively sited and sympathetically designed. All new residential, educational and business premises development should endeavour to provide the necessary infrastructure to allow connection to high-speed broadband and other communication networks that serve the area.

COMMENT

This policy lacks clarity and should be modified as follows:

Madron NDP Policy CFS5: – High Speed Broadband and Mobile Phone Coverage

Proposals to provide a super-fast broadband communication infrastructure and improved mobile phone coverage to serve the Parish will be supported where it is sensitively sited and sympathetically designed. All new residential, educational and business premises development should endeavour to provide the necessary infrastructure to allow connection to high-speed broadband and other communication networks that serve the area.

Madron NDP Policy T1: – Traffic Management

Where appropriate, development proposals that deliver traffic management measures that reduce the impact to traffic in residential areas and improve highway safety should be supported. Development proposals that generate a significant amount of traffic movement must show how the effects of the increase will be mitigated.

COMMENT

For clarity and consistency, the phrase "should be supported" at the end of the first sentence of this policy should be replaced with "will be supported".

Madron NDP Policy T2: – Parking

Where development (including extensions) of existing dwellings will occupy existing parking space(s), and/or reduce the number of off-road parking spaces available to accommodate vehicles used by residents of the dwellings, proposals will need to demonstrate that there are adequate alternative parking provisions to serve the dwellings, such that road and pedestrian safety will not be compromised.

Where possible the opportunity will be taken with new developments within Madron village to provide additional public car parking spaces that serve village facilities.

All new parking surfaces should be permeable.

COMMENT

I have no comment on this policy.

Madron NDP Policy T3: – Walking and Cycling Routes and Public Transport

Developments should improve and/or extend existing walking and cycling routes and link them to the wider network. Development proposals specifically intended to maintain and enhance existing public transport provision within the area should be supported.

COMMENT

The requirements of this policy will not be relevant for all development proposals. For clarity and to meet the Basic Conditions, the policy should be modified as follows:

Madron NDP Policy T3: – Walking and Cycling Routes and Public Transport

Wherever possible, proposals should improve and/or extend existing walking and cycling routes and link them to the wider network. Development proposals specifically intended to maintain and enhance existing public transport provision within the area will be supported.

Madron NDP Policy BJ1: – Development of Businesses and Facilities

Development may be supported that provides for the sustainable growth of businesses, such as farms, and that does not cause any unacceptable nuisance or harm to its setting or nearby land users. This applies to employment development throughout the Parish. This includes the conversion or reuse of redundant buildings for business or commercial activity, where the development and resultant business activity does not have a significant negative impact on the amenity and character of the surrounding area. Enlargement of other employment spaces, such as the public house, schools, and holiday parks, will only be considered if in keeping with the

locality and where a need can be demonstrated, otherwise the presumption is to reuse brownfield sites.

New developments that provide live/work units to stimulate local, sustainable enterprises within the rural setting of the Parish will be encouraged. Housing design that provides for live/work small business opportunities also will be welcomed where these reduce the carbon impacts of commuting and create more sustainable communities.

COMMENT

The content of this policy is confusing and, in some areas, repetitive. For clarity the policy should be modified as follows:

Madron NDP Policy BJ1: – Development of Businesses and Facilities

Development that provides for the sustainable growth of businesses, including the conversion or reuse of redundant buildings for business or commercial activity throughout the Parish, will be supported where it does not cause any unacceptable nuisance or harm to its setting or nearby land users. does not have a significant negative impact on the amenity and character of the surrounding area. Enlargement of other employment spaces, such as the public house, schools, and holiday parks, will only be supported if in keeping with the locality and where a need can be demonstrated. The reuse of brownfield sites is strongly encouraged.

Proposals that provide live/work units to stimulate local, sustainable enterprises within the rural setting of the Parish will be encouraged. Housing design that provides for live/work small business opportunities also will be welcomed where these reduce the carbon impacts of commuting and create more sustainable communities.

Madron NDP Policy BJ2: – Reuse of Agricultural Buildings

The reuse of redundant farm buildings will only be supported where a test applied by the county land agent as part of any change of use proposal shows that there is no

commercial agricultural use left in the building(s). There are some permitted development rights which could mean that barns are converted under Class Q of the General Permitted Development Order (although this won't apply in the AONB or World Heritage Sites).

COMMENT

This policy introduces very specific requirements not supported by existing national policy. For clarity and to meet the Basic Conditions, the policy should be modified as follows:

Madron NDP Policy BJ2: – Reuse of Agricultural Buildings

Where planning permission is required the change of use of redundant farm buildings will only be supported where the proposal is supported by evidence which demonstrates that the building is no longer required for agriculture.

Madron NDP Policy BJ3: – Business Development within Historic Sites

Development that enhances historic sites to promote employment opportunities within the tourism sector will be encouraged, if in keeping with the site and with the full approval of Historic England and other relevant bodies.

COMMENT

For clarity the policy should be modified as follows:

Madron NDP Policy BJ3: – Business Development within Historic Sites

Development that enhances historic sites to promote employment opportunities within the tourism sector will be encouraged, if it is in full compliance with national policy and guidance and the development plan with regard to the historic environment.

SECTION 5

Conclusion and Recommendations

1. *I find that the Madron 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 Madron 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 Madron 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 Madron Neighbourhood Development Plan subject to the recommended modifications can proceed to Referendum.*

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