

**Tywardreath and Par Parish
Neighbourhood Development Plan
Submission Version 2020 – 2030**

Report of Examination

December 2020

Undertaken for Cornwall Council with the support of Tywardreath and Par Parish Council on the submission version of the neighbourhood plan.



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Abbreviations used in the text of this report:

The Tywardreath and Par Parish Neighbourhood Plan is referred to as ‘the Plan’ or ‘TPNDP’.

Tywardreath and Par Parish Council is referred to as ‘the Parish Council’.

Cornwall Council is also referred to as the Local Planning Authority - abbreviated to ‘LPA’.

The National Planning Policy Framework is abbreviated to ‘NPPF’.

The National Planning Practice Guidance is abbreviated to ‘NPPG’.

The Cornwall Local Plan Strategic Policies 2010 - 2030 is abbreviated to ‘CLP’.

The Cornwall Site Allocations Development Plan Document is abbreviated to ‘SADPD’.

Regulations 14 and 16 are abbreviated to ‘Reg14’ and ‘Reg16’ respectively.

Summary

- I have undertaken the examination of the Tywardreath and Par Parish Neighbourhood Development Plan (TPNDP) during November and early December 2020 and detail the results of that examination in this report.
- The Parish Council have undertaken extensive consultation on this Plan, and it complies with legislative requirements. The Plan is well evidenced and a lot of hard work has gone into framing the Plan and its policies. To suit the coastal location there is an innovative use of the concept of blue/green open space. The Cornwall Local Plan Strategic Policies and Site Allocations Documents provide a comprehensive strategic policy framework.
- I have considered the comments made at the Regulation 16 Publicity Stage, and where relevant these have to an extent informed some of the recommended modifications.
- Subject to the modifications recommended, the Plan meets the basic conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

Acknowledgements: Thanks to Local Authority and qualifying body staff for their assistance with this examination and responses to questions. My compliments to the local community volunteers and Tywardreath and Par Parish Council, who have produced a comprehensive Plan focused on local issues, and undertaken extensive consultation with their local community.

1. Introduction and Background

1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowered local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF para 29) states that:

“neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can ... help to deliver sustainable development”.

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’, and in Tywardreath and Par Parish that is the Tywardreath and Par Parish Council. Drawing up the Neighbourhood Plan was undertaken by a steering group working to the Parish Council .

1.2 Independent Examination

1.2.1 Once the Parish Council had prepared their neighbourhood plan and consulted on it, they submitted it to Cornwall Council. After publicising the plan with a further opportunity for comment, Cornwall Council were required to appoint an Independent Examiner, with the agreement of the Parish Council to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this Plan. I am a chartered Town Planner with over thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have recently concentrated on supporting groups producing neighbourhood plans. I have been appointed through the Neighbourhood Plan Independent Examiners Referral Service (NPIERS). I am independent of any local connections to Tywardreath and Par Parish and Cornwall Council, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 As the Independent Examiner I am required to produce this report and recommend either:

- (a) That the neighbourhood plan is submitted to a referendum without changes; or
- (b) That modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) That the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.2.4 The legal requirements are firstly that the Plan meets the 'Basic Conditions', which I consider in sections 3 and 4 below. The Plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

The TPNDP complies with the requirements of Paragraph 8(1). The Neighbourhood Area was designated on the 10th June 2015 by Cornwall Council. With the changes detailed in Modifications 2,3 and 7 of section 4 below, the Plan does not relate to land outside the designated Neighbourhood Area. It specifies the period during which it has effect as 2020 – 2030 and has been submitted and prepared by a qualifying body and people working to that qualifying body. It does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure.

1.2.5 I made an unaccompanied site visit to Tywardreath and Par to familiarise myself with the area and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations, as I did not consider a hearing necessary.

1.2.6 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 5 at the end of this report.

1.3 Planning Policy Context

1.3.1 The Development Plan for Tywardreath and Par Parish, not including documents relating to excluded mineral and waste development, are the Cornwall Local Plan (CLP) Strategic Policies adopted in 2016 and the Cornwall Site Allocation Development Plan Document (SADPD) adopted in November 2019. Both documents are strategic, and all policies in them should be considered as strategic policy for the purposes of the Basic Conditions.

1.3.2 The National Planning Policy Framework 2019 (NPPF) sets out government planning policy for England, and the National Planning Practice Guidance (NPPG) website offers guidance on how this policy should be implemented.

1.3.3 During my examination of the TPNDP I have considered the following documents:

- National Planning Policy Framework (NPPF) 2019
- National Planning Practice Guidance 2014 and as updated
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning Regulations 2012 (as amended)
- Submission version Tywardreath and Par Parish Neighbourhood Development Plan (TPNDP)
- The Basic Conditions Statement submitted with the TPNDP
- The Consultation Statement submitted with the TPNDP
- The Strategic Environmental Assessment Screening Decision for the TPNDP
- Neighbourhood Area Designation (map)
- Evidence Summary for the TPNDP
- Housing Needs Survey Tywardreath and Par Parish 2019 Cornwall Council
- Cornwall Local Plan Strategic Policies 2016 (CLP)
- Cornwall Site Allocations Development Plan Document 2018 (SADPD)
- Mineral Safeguarding Development Plan Document and Interactive Map 2018
- Cornwall Beach and Dune Management Plan – Par Sands Cornwall Council 2016
- Cornwall Planning for Biodiversity Guide Cornwall Council October 2018
- Housing – SPD Cornwall Council adopted February 2020
- Representations received during the publicity period (reg16 consultation)

2. Plan Preparation and Consultation

2.1 Pre-submission Process and Consultation

2.1.1 The Parish of Tywardreath and Par in Cornwall has a short coastline at Par Beach, and an industrial heritage of metal mining and china clay working. Tywardreath is the older settlement, with an historic centre that is a designated conservation area. The Parish covers a significant rural hinterland, and is located about 6km to the East of the large town of St Austell. The SADPD identifies a large eco-site at Par Docks for mixed development including 500 new homes outside but nearby to the Parish boundary.

2.1.2 A Steering Group, made up of Parish Councillors and volunteers from the local community, worked on developing the Plan and consultation around this task. Steering Group meetings were open to the public with the agenda available beforehand on the Parish Council website, and minutes of meetings published afterwards. Five topic groups were established, one dealing with community engagement. The Steering Group had representatives from both villages and the rural areas.

2.1.3 The Consultation Statement sets out the nature and form of consultation prior to the formal Reg14 six week consultation. There was an over-arching aim to include as many residents and stakeholders as possible, and a range of engagement methods were used. Social media was found to engage a younger audience, and the Facebook page was accessed by more women than men. A local community newsletter was used for publicity, and local radio. Existing community groups were consulted, youth groups, patient participation groups and disability representatives as well as businesses in all sectors of the local economy.

2.1.4 The start of the regulation 14 (Reg14) consultation required by the Neighbourhood Planning Regulations 2012, unfortunately coincided with the start of the formal 'lock down' for the Covid19 pandemic. The consultation started on Monday 23rd March 2020, and as a result the proposed actions had to be revised. Emails were sent to community groups, asking for comments on the Plan, and suggesting policies that may be of particular interest to them. Local businesses were emailed about the consultation. The deadline for comments was extended to the 1st June 2020, and it was agreed to accept comments for a short while after. Hard copies had been declared a health risk, so the consultation was on line and publicised via public notices around the Parish.

2.1.5 Annex 12 of the Consultation Statement lists the Statutory Consultees and Community Groups notified during the consultation, and fourteen organisations replied, several in some detail. The response from the qualifying body is noted and comprehensive. Representations were also received from twenty eight residents and businesses, many congratulating the Steering Group on the Plan. Again each comment was replied to in detail, and some minor amendments have been made to the Plan as a result of the comments received. I am satisfied that due process has been followed during the consultation undertaken on the Plan under difficult circumstances. The level of support offered during the Reg14 consultation may well be as a result of comprehensive earlier consultation that brought the community fully into the process and decisions.

2.1.6 As required, the amended plan, together with a Basic Conditions Statement, a Consultation Statement, the Screening Opinion and a plan showing the neighbourhood area were submitted to Cornwall Council on the 8th July 2020.

2.2 Regulation 16 Consultation Responses

2.2.1 Cornwall Council undertook the Reg16 consultation and publicity on the TPNDP for an extended ten week period, from the 6th August to the 15th October 2020. This was to allow for the added difficulties of commenting due to on-going pandemic restrictions. Seventeen representations were received during this consultation: four statutory consultees had no specific comments to make on the Plan but offered general guidance; four residents offered support for the Plan. Extra time was allowed for one resident to comment as a hard copy request had been overlooked; I have taken this comment into consideration, but it was mainly support for the Plan.

2.2.2 The owners of a site designated as Local Green Space complained through an agent that they had not been previously consulted. The Parish Council have apologised for the oversight, which seems to have been due to relying on verbal communication with another family member. The comments from the landowners on aspects of the designation and Policy E1, as it is currently framed, are considered further in section 4 of the report. Generally, issues that comments at Reg16 raise that are pertinent to my consideration of whether the Plan meets the basic conditions, are considered in sections 3 and 4 of this report below.

2.2.3 Imerys Minerals Ltd requested that the Plan be assessed for any potential impact on mineral extraction. There are no site allocations or designations in the TPNDP affecting designated mineral protection areas within the neighbourhood area. Mineral planning generally is excluded development for the purposes of neighbourhood planning, which means that Neighbourhood Plans cannot include policies dealing with mineral development and extraction. The relevant development plan documents for minerals, including the CLP and the Minerals Safeguarding DPD 2018, will continue to be the policy framework for mineral planning applications.

2.2.4 I am specifically limited by legislation to correcting with recommended modifications the Plan's compliance with the Basic Conditions and other legal requirements. Notification of minor corrections needed to the text are very useful, but again cannot be the subject of any modifications I recommend. The LPA will be aware however that it is authorised to correct minor errors that may have been missed so far [Town and Country Planning Act 1990 Schedule 4B section 12(6)].

3. Compliance with the Basic Conditions Part 1

3.1 General legislative requirements of the 1990 Town and Country Planning Act (TCPA) other than the Basic Conditions are set out in paragraph 1.2.4 above. The same section of this report considers that the TPNDP has complied with these requirements. What this examination must now consider is whether the Plan complies with the Basic Conditions, which state it must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations and comply with human rights law; and
- Not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (*prescribed basic condition since December 2018*).

3.2 A 'light touch' Sustainability Appraisal was carried out on the Plan, using 19 key sustainability objectives, taken from the Sustainability Appraisal of the Local Plan. The Appraisal assessed the objectives of the Plan and its policies, and found all to have a positive impact on the sustainability objectives. The Plan includes a tightly drawn development boundary, but also includes a Rural Exception Site policy H3 for affordable housing. The housing allocation to 2030 for the Parish and the Community Network Area (LPA defined housing area) has already been exceeded. I accept that the Plan does contribute to sustainable development in line with the Basic Conditions.

3.3 A screening opinion has been issued by Cornwall Council which considers whether Strategic Environmental Assessment (SEA) and/or Habitat Regulations Assessment (HRA) are required for the TPNDP. These environmental requirements in EU law are the main EU Directives that neighbourhood plans need to comply with. The Screening opinion states that:

- "Based on the scale and location of development proposed in the draft plan, and the strategic and local policy framework, Cornwall Council is of the opinion that the Tywardreath and Par Parish NDP is unlikely to have significant effects on the environment and that SEA is therefore not required. This view has been confirmed by the consultation bodies."

- “The NDP was screened out for impacts on European Sites and Cornwall Council concluded at (*sic*) HRA was not required. Natural England has confirmed that they are satisfied with this conclusion.”

3.4 The TPNDP in my view complies with Human Rights Legislation. It has not been challenged with regard to this, and the consultation statement showed that the need to consult with a wide cross-section of the community was appreciated.

4. Compliance with the Basic Conditions Part 2: National Policy and the Development Plan

4.1 The final and most complex aspect of the Basic Conditions to consider is whether the TPNDP meets the requirements as regards national policy and the development plan. This means firstly that the Plan must have regard to national policy and guidance, which for this neighbourhood plan is the NPPF 2019 and the NPPG. Secondly the Plan must be in general conformity with the strategic policies of the development plan. The phrase 'general conformity' allows for some flexibility. If I determine that the Plan as submitted does not comply with the Basic Conditions, I may recommend modifications that would rectify the non-compliance.

4.2 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards national policy and the development plan. If not, then modifications required to bring the plan into conformity are recommended.

Modifications are boxed in this report, with text to *remain in italics*, new text **highlighted in Bold** and text to be deleted ~~shown but struck through~~. Instructions for alterations are underlined.

4.3 The background evidence references for the Plan are gathered in a separate Evidence Summary document, and the Appendices document also offer extensive supporting evidence. The latter would more correctly be titled 'Appendices' not 'Appendix' (singular), but that is not a Basic Conditions issue. I find the numbered references rather distracting, but I accept that they are necessary: they have not been included in the modifications of this report. A lot of work has gone into the drafting of this Plan, which is to be commended, and it is presented concisely and in a readable format. The Plan itself is well laid out, with Policies clearly visible. The reduced size version of the online Submission Plan is not acceptable however, as all figures are too blurred to be readable. If this is offered as an option it should come with a warning that the full version should be used to clarify detail. The NPPF (para 16d) requires Plans to be clearly understood, and so in order to comply with national policy I recommend the Plan should be issued in a form that is readable as set out in Modification 1.

Modification 1: The full electronic version of the Plan to be offered as the statutory document.

4.4 **Policy Tywardreath and Par Parish NDP F1: Flood Risk** Complies with the Basic Conditions.

4.5 **Policy Tywardreath and Par Parish NDP F2: StARR Sites** Complies with the Basic Conditions.

4.6 **Policy Tywardreath and Par Parish NDP F3: Flood Risk** The policy title is the same as Policy F1, and for clarity and the avoidance of confusion, as required by the NPPF para 16d), this should be changed. The TPNDP can only deal with development within the neighbourhood area, the Parish of Tywardreath and Par. The figures used to define the corridors the Policy applies to, show them extending outside the Parish. The parish boundary is clearly shown on the figures, but the policy wording currently applies to all of the defined corridor within and outside of the neighbourhood area. The wording of Policy F3 needs to be altered to make it clear that the Policy only applies within the neighbourhood area.

4.6.1 In order that Policy F3 meets the Basic Conditions and has due regard to government policy, and complies with the legal requirements of a neighbourhood plan, I recommend that it is amended as shown in Modification 2.

Modification 2: Policy F3 to be altered as follows:

The policy title to be changed to 'Flood Risk in Blue Green Corridors'

The first paragraph of Policy F3 should be altered to read:

"The parish's potential Blue Green corridors are identified on the following maps: Flood Water Map, Figure 3 and the Blue Green Corridors Map, Figure 6. **Within the parish of Tywardreath and Par, Development in these corridors** ~~within these areas~~ will only be permitted where:..."

4.7 **Tywardreath and Par Parish NDP Policy BTT1 Business, Retail and Community Uses** The Policy references 'B1' Use Class in bullet g), which has now been revoked and reference to this Use Class needs to be deleted. As The Use Classes Order expressly stated that B1 uses were appropriate in a residential area, it would have been contrary to national policy to automatically restrict them to employment sites only.

4.7.1 Figure 7 covers a much wider area than the designated neighbourhood area, this is in order to include a 3 mile radius as discussed in para 9.15 of the TPNDP, and demonstrate sufficient employment sites within or near the parish. This results in the sites actually relevant to this Plan by

reason of being within the neighbourhood area being difficult to see. As the policy applies to the sites within the neighbourhood area only the boundaries of these sites needs to be clearer, and Figure 7 should be amended to show by some means these sites clearly in order that the required policy clarity in the NPPF (para 16d) has been met and the Basic Conditions complied with.

4.7.2 The fact that Figure 7 shows sites outside of the neighbourhood area to which the policy cannot apply has sometimes been acknowledged in Policy BTT1, but there are instances where it has not. To comply with the legal requirements of neighbourhood plans this will need to be modified. It is possible that if an inset or additional figure shows the sites in the parish clearly, and only them, that reference to this new figure could be substituted for the recommendation in Modification 3, but I am proceeding at present on the assumption that the inset detail for figure 7 remains part of figure 7 and the text of the policy needs to alter as shown. In order that Policy BTT1 and Figure 7 meet the Basic Conditions with regard to clarity; do not make reference to a revoked Use Class and do not deal with sites outside of the neighbourhood area, I recommend that they are altered as shown in Modification 3:

Modification 3: Policy BTT1 to be amended as follows:

*... b) Proposals which modify the existing employment space **within the neighbourhood area**, as shown on the Employment Sites and Land Map, Figure 7*

*...g) Proposals for ~~B1~~ B2 and B8 Use Class activity will only be supported at designated employment and industrial sites **within the neighbourhood area** as shown on the Employment Sites and Land Map, Figure 7.*

Figure 7 to be amended to show the employment sites within the parish and neighbourhood area clearly with boundaries of the areas visible. This could be undertaken with a new figure 7A, which would then need to be referenced in the policy where it currently states Figure 7.

4.8 Tywardreath and Par Parish NDP Policy BTT2: Blue Green Tourism The Policy title has missed out the word 'Policy': a minor correction that the LPA can correct. The Policy complies with the Basic Conditions.

4.9 Tywardreath and Par Parish NDP Policy BTT3: Transport Like several other policies in this Plan, reference is made to needing to be consistent with certain policies of the Cornwall Local Plan: Policies 12 and 16. Although it is understood that any planning application has to have due regard to every policy in the development plan, I can see that there is merit in drawing attention to policies that are particularly relevant. The policy could be misunderstood to override other policies by mentioning only these two policies, not on its own a Basic Conditions issue. However the same bullet that names the particular Policies also goes on to state that there needs to be “no adverse impact on the environment or neighbours’ amenity”. Other policies in this Plan have used a phrase like ‘no significant detrimental impact on...”, the point being that any development or change is likely to have some adverse impact, however small, and to require no adverse impact is unduly restrictive, contrary to the requirements of the NPPG for positive planning that does not undermine deliverability (ID: 41-005-20190509).

4.9.1 This form of words is also found in Policy CHW1 (bullet b); Policy CHW2 (bullet 2); Policy CHW3 (bullet b) and Policy CHW4 (bullet a). In order that Policy BTT3, Policy CHW1, Policy CHW2, Policy CHW3 and Policy CHW4 have due regard to government policy concerning clarity of policy and the need to plan positively, and comply with the Basic Conditions, I recommend they are amended as shown in Modification 4:

Modification 4: Policy BTT3 bullet a) to read as follows:

*“Development proposals to encourage the use of public transport and accessible, sustainable modes of transport will be strongly encouraged, e.g. making the platforms accessible to all at Par Station, where this is consistent with **the development plan and particularly Policies 12 and 16 of the Cornwall Local Plan (2016 or any update)** and provided there is no **unacceptable** adverse impact on the environment or neighbours’ amenity.”*

Policy CHW1 (bullet b); Policy CHW2 (bullet 2); Policy CHW3 (bullet b) and Policy CHW4 (bullet a) are to be amended to read:

*“...where this is consistent with **the development plan and particularly Policies 12 and 16 of the Cornwall Local Plan (2016 or any update)** and provided there is no **unacceptable** adverse impact on the environment or neighbours’ amenity.”*

4.10 Tywardreath and Par Parish NDP Policy BTT4: Public Rights of Way, Multi Use Trails and Cycle Paths Complies with the Basic Conditions.

4.11 Tywardreath and Par Parish NDP Policy CHW1: Healthcare Facilities Complies with the Basic Conditions when altered as shown in Modification 4 above.

4.12 Tywardreath and Par Parish NDP Policy CHW2: Care Home Facilities Complies with the Basic Conditions when altered as shown in Modification 4 above.

4.13 Tywardreath and Par Parish NDP Policy: CHW3 Educational Facilities: Complies with the Basic Conditions when altered as shown in Modification 4 above.

4.14 Tywardreath and Par Parish NDP Policy: CHW4 Community Facilities Accessibility Complies with the Basic Conditions when altered as shown in Modification 4 above.

4.15 Tywardreath and Par Parish NDP Policy CHW5: This policy, and others that follow have also referred to 'no adverse impact'. There is also a confusion likely in that bullet c) refers to mitigation measures to deal with adverse impact, and then rules out any adverse impact. Mitigation is used to deal with the unacceptable impact of development and bring it to a place where any impact is minimised and acceptable. For Policy CHW5 to make internal sense therefore, and comply with the NPPF para 16d) requirement that policy is clear the text needs to be amended to indicate that it is no unacceptable adverse impact that is not supported.

4.15.1 The policy also includes at bullet d) a requirement that 'all development proposals' consider the need to design out crime, disorder and anti-social behaviour, and that details of this should be given in in the planning application. This would not be reasonable for smaller planning applications, and contrary to NPPG guidance that planning policies are positive and not unduly restrictive. In

order that Policy CHW5 meets the Basic Conditions and has due regard to government policy and guidance, I recommend it is altered as shown in Modification 5 below:

Modification 5: in Policy CHW5 bullet points a); c) and e) where the phrase ‘adverse, negative effect’ or ‘adverse impact’ is used in relation to the environment and/or on neighbours’ amenity, that phrase to be amended to “unacceptable adverse impact”.

Policy CHW5 bullet point d) to read:

*“d) All development proposals should consider the need to design out crime, disorder and anti-social behaviour to ensure ongoing community safety and cohesion; and **where appropriate**, details on how this aspect has been addressed should be given at application stage....”*

In Policy CHW6 bullet points a) and b) to both be amended to read ...”no **unacceptable** adverse impact”...

4.16 Tywardreath and Par Parish NDP Policy CHW6: Community Infrastructure Priorities This Policy also uses the phrase ‘no adverse impact’ in both bullet points. In order that Policy CHW6 has due regard to government policy and complies with the Basic Conditions I recommend that both phrases are replaced with ‘no **unacceptable** adverse impact’, as described in Modification 5 above.

4.17 Tywardreath and Par Parish NDP Policy E1: Local Green Space Designation This policy proposes the designation of twenty areas of Local Green Space (LGS) in the Parish. They are well described in the text. The NPPG states that LGS should be “demonstrably special to the local community” (ID: 37-009-20140306) and the NPPF para100 b) states additionally that it will hold a particular local significance because of its beauty, historic significance, recreational value, tranquillity or richness of wildlife – this list of attributes not being exclusive.

4.17.1 Local people are well placed to know what is locally significant, but the phrase ‘demonstrably special’ implies a value of the attribute(s) that is apparent to anybody, including myself when assessing the case made, and visiting sites. I have found some of the proposed designations not ‘demonstrably special’, and I have set out my reasons for this below.

4.17.2 There is also a requirement in the NPPG that

“Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making (ID: 37-007-20140306)”.

I find the amount of LGS designation in the TPNDP proposed amounts to an unacceptable constraint on sustainable development, given that several of the sites are not in my view ‘demonstrably special’.

4.17.3 The following proposed LGS designations do not have due regard to national policy in the NPPF (paras 99 and 100) and guidance in the NPPG:

Proposed site	Reason for denying the designation
GS-c GV	A small area of allotments with no special features
GS-c LP	A small area of allotments with no special features. NB this site appears to be wrongly designated as ‘GS-c WA in para 9.85.
GS-c UP	A small area of allotments with no special features
GS-j	The description of this site states that it is ‘largely overgrown with brambles’. The potential of the site is discussed, but it is not presently ‘demonstrably special’.
GS-k	The play area and its immediate setting is not demonstrably special.

4.17.4 Land for local food growing is important and I accept that the larger allotment site is of local significance and could be said to be special due to its size and the established allotment use. The site is wrongly labelled however within para 9.85 of the TPNDP as ‘GS-c WA’. This should be ‘GS-c LP’. I have agreed to designation of the community orchard (GS-g), a recently planted area, as over time this will become a difficult site to re-locate and there are good views out to sea possible from it. Similarly the Community Garden (GS-f) is a small, well used site of clear local use and an important green space in a more urban environment than the rural ambience of much of the rest of the Parish. GS-e Poldrea Play Area is an important open space for the local community, with key views taken from it, as is the playing field GS-a. Treemill Road Triangle (GS-p) was a surprise, there is a lot of interest both ecological and visual on it, and clear local use and affection. Its designation is deserved. Other designations have been justified in the text by reason of ecological, historic and visual importance.

4.17.5 Paragraph 9.99 of the TPNDP states that developments on LGS GS-I Fields between Tywardreath, Par and Polmear will only be supported if related to supporting the aims of CHICKS. This is not acceptable in the Plan's justification, as it is written as policy. Were it to be in Policy E1 it would not be acceptable due to its conflict with national policy; NPPF para 101 states that policies for managing development on a LGS should be consistent with those for Green Belts. The issue was raised during the Reg16 consultation, and I agree with the owner of the site that they should be able to continue to use their land for agricultural use.

4.17.6 In order that Policy E1 complies with the NPPF para 101, bullet points b) and c), will need to be written in a way that they do not conflict with development management policies for Green Belt. Green Belt policy in the NPPF (para 143) allows some exceptions 'in very special circumstances'. Additionally Policy E1 as currently written has some internal inconsistencies; the community garden and orchard are not open green areas, neither are the allotments.

4.17.7 In order that Policy E1 and Figure 9 comply with national policy and guidance with regard to Local Green Space and clarity, I recommend that they are amended as shown in Modification 6.

Modification 6: Figure 9 to remove reference to sites GS-c GV; GS-c WA; GS-c UP; GS-j and GS-k where site GS-c WA is understood to refer to the allotments at Woodland Avenue and not those at Lower Poldrea.

Policy E1 to be altered as follows:

... b) **Development proposals inappropriate to a Local Green Space will only be allowed in very special circumstances.** ~~will only be supported where they do not diminish the open, green character of the designated local green space.~~

c) **Appropriate** ~~Development which is proposed solely~~ *Development which is proposed solely to enhance the community use of the designated local green space may be permitted.* ~~provided it does not diminish the open, green character of the area e.g. a shelter with seating.~~

d) **Where appropriate,** *development should follow guidance on standards in the 'Open Space Strategy for Larger Towns in Cornwall', 2014 and/or any update relating to the parish.*

4.18 Tywardreath and Par Parish NDP Policy E2: Tranquil Areas Complies with the Basic Conditions.

4.19 Tywardreath and Par Parish NDP Policy E3: Views, Panoramas and Vistas The policy has identified views that are certainly worth protecting, and Figure 11 generally sets out where they are clearly. However view 14 is currently outside the neighbourhood area, and a neighbourhood plan can only have policies that apply to the neighbourhood area – for Tywardreath and Par Parish that is the parish boundary.

4.19.1 I have discussed this matter with the qualifying body and their representatives, and they have submitted evidence of alternative places within the parish from which the same outstanding view can be taken from a public place. Thus Policy E3 will comply with the legal requirements of neighbourhood planning [Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990], as set out in para 1.2.4 on page 5 of this report above.

4.19.2 The last bullet point of Policy E3 deals with Cornish hedges, although Policy E4.2 has this matter as a more core concern and it is also repeated in Policy E5.5. The bullet point could lessen the requirements of Policy E4.2, and being located within a policy concerned with views is confusing. For the clarity required by national policy and guidance and to comply with the Basic Conditions I recommend that bullet d) is deleted from Policy E3 and that for legal reasons Figure 11 and the location of viewpoint 14 is amended as set out in Modification 7.

Modification 7: Figure 11 to be amended so that view 14 is relocated to point J on the B3269 within the parish boundary as shown on the map submitted during this examination:



Bullet point d) of Policy E3 to be deleted.

4.20 **Tywardreath and Par Parish NDP Policy E4.1: Biodiversity** The policy applies to all development proposals, but some of the requirements are not reasonable for householder and some other minor applications. The NPPG requires that planning policy does not undermine deliverability (ID: 41-005-20190509) and for this reason bullets b) and d) require the caveat of 'where appropriate'. Bullet f) sets out useful guidelines for habitat protection and enhancement, but it will not always be reasonable to expect a demonstration that the guidelines have been met. In order that Policy E4.1 complies with the Basic Conditions and has due regard to government policy and guidance, I recommend that it is amended as shown in Modification 8.

Modification 8: Policy E4.1 to be amended as follows:

.... b) **Where appropriate**, *A Wildlife Assessment Check should be undertaken at the earliest possible stage in the development of the proposal.*

c) *Development proposals should recognise the importance of hedges/field boundaries as 'bat and wildlife corridors' and take all possible measures to minimise disruption, including with regard to lighting.*

d) **Where appropriate**, *development proposals should demonstrate how they aim to achieve a net gain in biodiversity.*

e) *Wherever possible, new developments should contribute to the Forest for Cornwall initiative.*

f) *Development proposals should **comply with the following, and where appropriate and when required demonstrate that they have:***

.....

4.21 **Tywardreath and Par Parish NDP Policy E4.2: Trees and Cornish Hedges** The Policy is accompanied by a survey of Cornish Hedges in the parishes, a commendable piece of work and very useful for this policy. However, in a similar way to Policy E4.1; this Policy E4.2 needs to allow that small and minor planning applications cannot reasonably be expected to be accompanied by a survey as required by bullet a). In any case legislation covers what may be expected to be submitted as part of a planning application and the LPA will need to have regard to this. The setting of a 15 metre boundary between any ancient woodland and ancient/veteran trees has not been justified in the text, although the local importance and presence of ancient woodland has. Requirements for this distancing of development, and the planting of 3 trees for each new dwelling will not always be

reasonable and comply with the NPPG's requirement that planning be positive and not undermine deliverability (ID: 41-005-20190509). Planning policy needs to be flexible to respond to conditions on site, and the development proposed.

4.21.1 In order that the policy meets the Basic Conditions and has due regard to national policy and planning guidance with regard to positive planning, has the clarity required and a robust evidence base (NPPG ID: 41-040-20160211) I recommend Policy E4.2 is amended as shown in Modification 9.

Modification 9: Policy E4.2 to be altered as follows:

a) **Where Appropriate**, development proposals should be accompanied by a survey in accordance with BS5837 that establishes the health and longevity of any affected trees or hedgerows and a management plan to demonstrate how they will be so maintained. Developers should follow '**Cornish Hedges on Development and Housing Sites**' ~~the guidance~~ provided by the Cornish Hedges Group concerning the retention and re-establishment of hedges on development sites.

b) **Wherever possible**, development needs to retain existing landscape features such as mature native trees, woodland and hedgerow boundaries. Any development that affects Cornish Hedges should follow Cornwall Planning for Biodiversity Guide, 2018, and/or any update.

c) Development proposals that impact on trees or Cornish Hedges, **as shown but not exclusively on ~~cf. Cornish Hedges~~**, Figure 12, will only be supported if they:

i) sympathetically incorporate and retain trees and Cornish Hedges or hedgerows of good arboricultural and amenity value in a sustainable way into the overall design of the scheme; and

ii) include measures to ensure their protection during the course of development using recommendations in BS5837 as a minimum and their continued survival in the long term; and

iii) maintain a minimum buffer **as recommended by a competent authority of at least 15 metres in ~~width~~** between ancient woodland and ancient/veteran trees and any development boundary **during construction as well as in the final agreed scheme; and**

iv) retain and maintain trees subject to Tree Preservation Orders and seek to protect and maintain non-designated native trees and naturalised trees that provide landscape character **including as described in the Cornwall Landscape Character Assessment 2007**, visual amenity, skyline interest and natural shelter/windbreak. ~~or are described in the relevant character area description covering the application site; and~~

v) incorporate the planting of additional trees **in suitable and agreed locations on the development site including replacing and increasing tree cover on sites where some tree loss is proposed as a result of the development.** ~~at a minimum of 3 trees for each dwelling or 1 tree for each 50 sqm of gross business floorspace. Where development proposals result in the loss of trees, every tree lost should be replaced with 2 similar sized trees planted in areas where they are able to attain mature proportions without causing a nuisance. Any replacement planting should be of a proven Cornish provenance where possible. See Cornwall Council Guidance or any update.~~

4.22 Tywardreath and Par Parish NDP Policy E5.1: Character and setting of the Tywardreath Conservation Area The Policy meets the Basic Conditions, but its punctuation needs to be consistent: I would suggest the format ‘; and’ after each of the bullet points i) to vi). Technically the word ‘and’ need only come once, on the penultimate bullet of the set. I will leave this alteration to the LPA under their powers to implement minor corrections.

4.23 Tywardreath and Par Parish NDP Policy E5.2: Character and setting of Tywardreath Priory Complies with the Basic Conditions.

4.24 Tywardreath and Par Parish NDP Policy E5.3: Character and setting of the 1644 Civil War Battlefield Site Complies with the Basic Conditions.

4.25 Tywardreath and Par Parish NDP Policy E5.4: Maintaining the Outstanding Universal Value of the World Heritage Site Complies with the Basic Conditions.

4.26 Tywardreath and Par Parish NDP Policy E5.5: Historic Landscape Character of the Parish The policy has a bullet point b) that suggests Cornish Hedge removal will be allowable in some instances, with no requirement for any removal to be mitigated or justified. Policy E4.2 however suggests that any removal or damage to Cornish Hedges should be re-established and where appropriate a management plan and survey will be required. The two policies are not internally consistent therefore. I accept that Cornish Hedges are an integral part of the historic landscape and need to be mentioned in the policy but for the clarity required by the NPPF the policies of the Plan need to be consistent. In order that Policy E5.5 meets the Basic Conditions and has due regard to national policy, I recommend that it is amended as set out in Modification 10 below.

Modification 10: Policy E5.5 to be amended as follows:

a) *Development proposals must retain and respect the integrity of the historic landscape character of the rural parts of the parish.*

b) *Field boundary removal should be wholly exceptional and **Cornish Hedges will be expected to be retained and enhanced in line with Policy E4.2 of this Plan.*** ~~; c.f. Cornish Hedges Map, Figure 12.~~

4.27 Tywardreath and Par Parish NDP Policy E5.6: Character and setting of the historic industrial features within the parish; c.f. Industrial Assets Map, Figure 17

The title of this policy cannot include the reference to a relevant evidence figure, as it is not clear what the purpose of doing this is. The reference is needed at the end of the first sentence of the policy, which again for clarity does not require to be a bullet point of one. In order that Policy E5.6 meets the Basic Conditions and has due regard to the NPPF requirement for clarity of policy I recommend it is altered as set out in Modification 11.

Modification 11: Policy E5.6 is to be amended as follows:

Policy E5.6: Character and setting of the historic industrial features within the parish ~~c.f. Industrial Assets Map, Figure 17~~

a) *Development proposals must retain and respect the integrity of the industrial features within the parish **as shown but not exclusively on Figure 17.** These include the remains of structures and features associated with deep mining, the Par canal, and the railway and associated infrastructure and furniture.*

4.28 Tywardreath and Par Parish NDP Policy E5.7: The protection of non-designated heritage assets

The policy has a requirement that the Historic Environment Record for Cornwall should be consulted, but this is not an issue for a land-use plan. The policy can make it clear that it applies to assets mentioned in the Record, which would suggest consultation is needed. In order that the Plan

and its policies meet the Basic Conditions and deal with land-use issues as required by the NPPG (ID: 41-004-20190509) I recommend that Policy E5.7 is amended as shown in Modification 12.

Modification 12: Policy E5.7 to be altered as follows:

~~There are many~~ **The non-designated heritage assets scattered throughout the parish including those recorded in the Historic Environment Record (HER) are to be protected wherever possible. In particular if any development proposals should: come forward:**

~~a) the Historic Environment Record for Cornwall²⁸ should be consulted; and~~

~~b) a) minimise adverse impacts on non-designated heritage assets should be minimised wherever possible and appropriate mitigation measures be put in place as necessary; and~~

~~c) b) if an asset cannot be retained it should be professionally excavated and recorded.~~

4.29 Tywardreath and Par Parish NDP Policy H1: Development Boundary The policy needs to formally designate the boundary in order to have the clarity required of the NPPF. I recommend therefore that Policy H1 is amended as shown in Modification 13 and thus complies with the Basic Conditions.

Modification 13: Policy H1 to be amended as follows:

~~Tywardreath and Par Parish NDP establishes A new development boundary for the settlements of Tywardreath and Par parish~~ **is designated as shown on the Development Boundary Map, Figure 18.**

....

4.30 Tywardreath and Par Parish NDP Policy H2: General Development Principles For the clarity required by the NPPF (para 16d) it is not acceptable to use initials only within a policy. Although policy in neighbourhood plans are not able to set building standards above those required nationally, this policy only asks that specific standards are taken into consideration, which is not a requirement and so acceptable.

4.30.1 Bullet f) of Policy H2 has again required that all development proposals include information regarding aspects of development that will not always be appropriate or in line with government guidance that planning be positive and not undermine deliverability (NPPG ID: 41-005-20190509). Policy should not be repetitive, and bullet point f)i) is contrary to policy in the NPPF regarding policy repetition (para 16f). Other minor changes are also recommended for the clarity required by the NPPF of policy. In order that Policy H2 meets the Basic Conditions and has due regard for national policy and guidance, I recommend that it is amended as shown in Modification 14.

Modification 14: Policy H2 to be altered as follows:

The initials 'BREEAM' to be followed by the full title “**the Building Research Establishment Environmental Assessment Method**”.

The initials 'CEEQUAL' to be followed by the full title “**the Civil Engineering Environmental Quality Assessment and Awards Scheme**”.

The initials 'HAPPI' to be followed by “**Housing our Aging Population Panel for Innovation**”

Bullet f) to read:

f) **Where appropriate, development proposals should:**

~~i) indicate how the proposal has met the requirements of Policies F1 and F3; and~~

i) *include a statement indicating the extent to which the development meets accessibility for all criteria, such as the requirement for easy and safe access for users with a variety of needs who wish to access local shops, services and community facilities on foot, by bicycle or with mobility aids, ~~e.g. via well lit routes with no steep gradients;~~ ; and*

ii) *consider the need to design out crime, disorder and anti-social behaviour to ensure ongoing community safety and cohesion; and*

iii) *indicate how the proposal will “protect the quality and natural beauty, including the landscape, ecology and historic character of our environment for its own sake, for the ecosystem it provides, but also as an economic driver” (CLP, p.16, para 1.4) e.g. in respect of Blue Green (aka Wellness Tourism); and*

iv) *take appropriate measures to identify and where relevant conserve archaeological materials and evidence; and*

v) *ensure that any land contamination ~~where appropriate~~ can be satisfactorily reduced to an acceptable level dealt with.*

4.31 Tywardreath and Par Parish NDP Policy H3: Affordable Housing on Rural Exception Sites

The policy is putting local detail on Policy 9 of the CLP and guidance in the 2020 SPD 'Housing'. Bullet b) needs to be clearer as regards the guidance referred to, and both bullets b), d) and e) need to remove what is justification for the policy, from the text. Both of these changes are necessary in order that the policy has the clarity required by the NPPF (para 16d). Bullets f) and g) also need revision in order that the intent is clear. Development can't be 'used' to extend the development boundary, but a statement that it will remain as set out in this Plan is useful for clarification. The factors referred to in bullet g) need to be articulated; referencing the previous policy is too vague.

4.31.1 In order that Policy H3 has due regard to national policy and complies with the Basic Conditions, I recommend that it is amended as shown in Modification 15.

Modification 15: Policy H3 to be amended as follows:

~~..... b) The development is small scale as per Cornwall Council guidance: "The NPPF does not define 'small' but the inference is clear and Local Plan Policy 9 requires the scale to be appropriate"~~ **defined in the Housing SPD 2019, Policy 9 of the Cornwall Local Plan Strategic Policies 2016 and any future document updating these; and**

~~..... d) The size of the homes is decided with reference to existing housing provision in Tywardreath and Par Parish and the needs of those on the Cornwall Homechoice register and other potential applicants, e.g. where 1 bedroom properties are the priority need these should form part of the provision~~ **and type of home provided meets the proven need at the time of the proposal with reference to existing affordable housing provision in Tywardreath and Par Parish; and**

~~e) The development is adjacent to the development boundary as shown on the Development Boundary Map, Figure 18 and there is good connectability by sustainable modes of transport e.g. on foot to local shops, services and community facilities including Blue and/or Green spaces to local facilities; and~~

~~f) Such development is not used to extend the development boundary.~~ **The development boundary remains as shown in Figure 18 of this Plan; and**

~~g) A statement is included at planning application stage confirming that factors which may impact on viability including contaminated land and archaeological remains such as those described in policy H2, have been investigated and~~ **where appropriate mitigation measures identified.**

... ..

4.32 Tywardreath and Par Parish NDP Policy H4: Housing Design The policy speaks of ‘favouring’ certain development proposals, a word that does not imply the neutrality required for making planning decisions; the correct word to use in this context is ‘encourage’. The policy wording has again included wording that is more properly justification. Illustrative examples should be given in the justification rather than the policy as they are by definition open-ended and not definitive. These issues both need correcting in order that the policy has the clarity required by the NPPF, as does bullet k) discussed below.

4.32.1 The numbering system of bullets in the policy is very complex with bullet k) further subdivided into a further 4 bullets. In fact these further 4 bullets are examples of requirements in the Building for Life 12 standards (Bfl12) and the policy should be simplified with the removal of these bullets which are really examples of using the standard, and often direct quotes from Bfl12. This level of detail is also too prescriptive and does not comply with para 126 of the NPPF, which advised against planning advice being too prescriptive. The text shown for removal from this bullet can be included in the justification for Policy H4 if desired. Bfl12 standard is compatible with the NPPF and recommended by it (para 129).

4.32.2 In order that Policy H4 meets the Basic Conditions and has due regard to government policy and guidance regarding the avoidance of excessive prescription and clear policies that are easy to understand, I recommend that it is amended as shown in Modification 16 below.

Modification 16: Policy H4 to be amended as follows:

Development proposals which include the following as part of housing design will be ~~favoured~~ encouraged:

- a) *Rainwater Storage Systems e.g. for garden and outdoor use;*
- b) *Low carbon heating, e.g. solar panels and/or heat pumps or other sources of renewable energy;*
- c) *Electric vehicle charging points for both individual homes and public access;*
- d) *Bird boxes, e.g. swift bricks;*
- e) *Sprinkler systems;*
- f) *Homes built in line with Secured by Design recommendations;*
- g) **Where appropriate, design which incorporates ~~HAPPI~~ Housing our Aging Population Panel for Innovation (HAPPI) recommendations; including “Rural proofed” HAPPI features where appropriate** ~~e.f. Appendix F.~~
- h) *Commission for Climate Change (CCC), 2019, recommendations (or any updates thereof) including for the provision of fresh air and the Energy Hierarchy recommendations; ~~e.f. Appendix L.~~*
- i) **Future-proofing for lifetime needs and higher accessibility standards;** ~~e.g. consideration is given to accessibility needs, such as obstruction free wheelchair access to front doors, space provided for a through floor lift, or staircases sufficiently wide for a stairlift with safe access for anyone walking up and down;~~
- j) **Where provided, external lighting provides safe access, but also is installed and of an illumination level that ensures it does not significantly adversely impact on the dark of a specification protects the night sky as far as possible.**
- k) **Building for Life 12 Bfl12 ~~Section 12~~ standards particularly for external storage and amenity space, e.g.**
- ~~i) Convenient, dedicated bin and recycling storage where bins and crates can be stored out of sight; and~~
- ~~ii) Garages (when provided) and parking spaces that are large enough to fit a modern family sized car and allow the driver to get out of the car easily; and~~
- ~~iii) A secure place to store cycles and garden equipment; and~~
- ~~iv) Rear gardens (when provided) which are at least equal to the ground floor footprint of the dwelling.~~

5. The Referendum Boundary

5.1 The Tywardreath and Par Parish Neighbourhood Development Plan has no policy or proposals that have a significant enough impact beyond the designated Neighbourhood Plan Boundary that would require the referendum boundary to extend beyond the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the Tywardreath and Par Parish Neighbourhood Development Plan 2020 – 2030 shall be the boundary of the designated Neighbourhood Area for the Plan.