




# **Independent Examiners Report of the** **South Hill Neighbourhood** **Development Plan**



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## **SECTION 2**

### **Summary**

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

- 1. I find the South Hill Neighbourhood Plan Area 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 South Hill Neighbourhood Development Plan go to Referendum.*
- 3. I have read the South Hill Consultation Statement and the representations made in connection with this subject I consider that the consultation process was adequate and that the Neighbourhood Development Plan and its policies reflect 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 South Hill Neighbourhood Development Plan can, subject to the recommended modifications proceed to Referendum.*
- 5. At the time of my examination the Development Plan was Cornwall Plan, adopted 2016*

## **SECTION 3**

### **Introduction**

#### **1. Neighbourhood Plan Examination.**

*My name is Deborah McCann and I am the Independent Examiner appointed to examine the South Hill 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 South Hill Neighbourhood Development Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the South Hill 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 South Hill 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 require clarification on a particular issue relating to the development of the policies within the plan. This point was dealt with by written representations in a question and answer format. This additional information is publicly available on the Cornwall Council website. I was satisfied that the written responses adequately clarified the issues and I concluded that it was not necessary to hold a Hearing.*

#### **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*
- 3. The Plan does not meet the legal requirements and cannot proceed to a Referendum*

*3.1 I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the South Hill Neighbourhood Development Plan go to Referendum.*

*3.2 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.*

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

- *Has regard to national policies and advice contained in guidance issued by the Secretary of State;*
- *Contributes to the achievement of sustainable development; and*

*- Is in general conformity with the strategic policies contained in the Development Plan for the area.*

*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 Cornwall Council 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**

### **The Report**

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

*Cornwall Council appointed me as the Independent Examiner for the South Hill Neighbourhood Development Plan with the agreement of South Hill Parish Council, the Qualifying Body.*

#### **2. Qualifying body**

*I am satisfied that South Hill Parish Council is the Qualifying Body.*

#### **3. Neighbourhood Plan Area**

*The designated South Hill Neighbourhood Plan Area covers all of South Hill Parish the Basic Conditions Statement submitted with the South Hill Neighbourhood Development Plan confirms there are no other Neighbourhood Plans covering the Area of the South Hill Neighbourhood Development Plan.*

#### **4. Plan Period**

*It is intended that the South Hill Neighbourhood Development Plan will cover the period 2016-2030.*

#### **5. Cornwall Council Regulation 15 Assessment of the Plan.**

*South Hill Parish Council, the qualifying body for preparing the South Hill Neighbourhood Development Plan, submitted it to Cornwall Council for consideration. Cornwall Council has made an initial assessment of the submitted South Hill Neighbourhood Development Plan and the supporting documents and is satisfied that these comply with the specified criteria.*

#### **6. The Consultation Process**

*The South Hill 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.*

*I have received representation that the scope of the consultation process was not wide enough and the policies developed did not reflect the outcome of the consultation process.*

*Having examined the documents, considered the focus of the Neighbourhood Plan and the further information received I conclude that the consultation process was adequately conducted and recorded.*

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

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

*Cornwall Council placed the South Hill Neighbourhood Development Plan out for consultation under Regulation 16 from the 26<sup>th</sup> May to the 7<sup>th</sup> July 2017.*

*A number of detailed representations were received during the consultation period and these were supplied by Cornwall Council as part of the supporting information 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.*

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

*The South Hill Neighbourhood Development Plan working Group produced a Basic Conditions Statement on behalf of South Hill Parish Council. The purpose of this statement is for the Neighbourhood Plan Working Group to set out in some detail why they believe the Neighbourhood Plan as submitted does meet the Basic Conditions. It is the Examiner's Role to take this document into consideration but also make take an independent view as to whether or not the assessment as submitted is correct.*

*I have to determine whether the South Hill 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.*

*Documents brought to my attention by Cornwall Council for my examination include:*

*(a) The South Hill Neighbourhood Development Plan: This is the main document, which includes the policies developed by the community.*

*(b) Consultation Statement: This is a statement setting out how the community and other stakeholders have been involved in the preparation of the South Hill Neighbourhood Development Plan and is supported by an evidence base which arose from the consultation.*

*(c) The Basic Conditions Statement: This is a statement setting out in detail how South Hill Parish Council considers that the Neighbourhood Plan meets the Basic Conditions.*

*Comment on Documents submitted*

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

## **9.Planning Policy**

### **9.1. National Planning Policy**

*National Policy guidance is in the National Planning Policy Framework (NPPF) 2012.*

*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 16 states that neighbourhoods should “develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development; plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan”.*

*The South Hill Neighbourhood Development Plan does not need to repeat these national policies, but to demonstrate it has taken them into account.*

*I have examined the South Hill Neighbourhood Development Plan and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the*

*Plan does meet the Basic Conditions in this respect.*

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

*South Hill is within the area covered by Cornwall Council. Currently the relevant development plan is the Cornwall Local Plan Strategic Policies, adopted 2016.*

## **10. Other Relevant Policy Considerations**

### **10.1 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.*

*A Strategic Environmental Assessment (SEA) screening opinion was sought as required from the following organisations during the formal consultation period:*

- Natural England*
- Historic England*
- Environment Agency*
- Cornwall Council*

*The view of Cornwall Council was that a SEA (Strategic Environmental Assessment) or HRA (Habitats Regulation Appraisal) was not required (22/09/2016). This view was confirmed by the consultation bodies.*

### **10.2 Sustainable development**

*There is no requirement for a Neighbourhood Development Plan to carry out a Sustainability Appraisal, but the South Hill NDP policies have been developed to take account of the 3 dimensions of sustainability, economic, environmental, and social.*

*I am satisfied that the South Hill Neighbourhood Development Plan subject to the recommended modifications addresses the sustainability issues adequately.*

*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.*

*I am satisfied that the South Hill Neighbourhood Development Plan has done so.*

*I am therefore satisfied that the South Hill Neighbourhood Development Plan, subject to the recommended modifications meets the basic conditions on EU obligations.*

### **10.3 Excluded development**

*I am satisfied that the South Hill 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.*

#### **10.4 Development and use of land**

*I am satisfied that the South Hill Neighbourhood Development Plan, subject to modification covers development and land use matters.*

#### **10.5 The Neighbourhood Plan Strategic Aims and Policies**

*The South Hill Neighbourhood Development Plan Vision*

##### *10.6. Vision and Objectives*

###### *10.6.1. Vision*

*The vision for South Hill Parish in 2031 is:*

- The Parish of South Hill has established appropriate new housing to meet the Parish's needs for new and affordable homes by utilising any suitable sites within the Parish.*
- The Parish Hall has continued to be the hub of the parish, having developed even further into a community centre with social and recreational facilities for all parish residents.*
- The introduction of advanced communications has contributed towards the establishment of a number of small businesses including a number based in homes.*

###### *10.6.2. Objectives*

*To meet the vision a number of objectives have been identified and are outlined within the policies:*

- To meet future housing needs of the Parish. (Policy H1)*
- To encourage suitable business development. (Policies B1 & B2)*
- To encourage energy conservation and reduction in the carbon footprint of the Parish. (Policy E1)*
- To protect and enhance community facilities and social cohesion. (Policies C1 & C2)*
- To protect assets valuable to the community. (Policy C3)*

*I am satisfied that the policies of the Neighbourhood Plan have been developed from the consultation process and address the vision and objectives identified.*

## **11. South Hill Neighbourhood Development Plan Policies**

### **HOUSING POLICIES**

#### **Housing Development**

##### **Policy H1: Housing Development**

***a. Small-scale housing development shall be permitted at a level that is commensurate with, and that will help to support, social and community facilities available in the Parish. This would entail a growth of up to 10% of the current housing stock (214 dwellings) over the period of the plan. This shall be developed through:***

***i. Infill development of typically one or two dwellings in the village, hamlets and small settlements.***

***ii. Small-scale affordable housing on the edge of existing settlements where there is a demonstrated local need. In accordance with the Cornwall LP: SP Policy 9; The number, type, size and tenure of the affordable dwellings should reflect identified local needs as evidenced through the Cornwall Housing Register.***

***iii. The conversion of redundant buildings.***

***iv. Housing for a rural worker; where there is an essential need to the business for a rural worker to live permanently at or near their place of work in the countryside.***

***b. Any new development proposal should demonstrate how it reflects and complements the locally distinctive character of the site and its immediate context. They should, where possible, have pitched roofs orientated to allow for the efficient use of solar panels and should incorporate off-road parking. All new homes should comply with the guidance set out in the Cornwall Council's Design Guide.***

***c. To preserve and enhance the green infrastructure which helps to give the area its unique character, all new housing development should include the planting of one or more trees, of species which are native and common in Cornwall. New trees should also be planted to replace any trees that were felled during construction***

***d. For any new homes, or where buildings are converted for residential use, measures should be included which protect and enhance the habitat for wildlife, such as the installation of bat, bird and owl boxes, hedgehog friendly fences and bee bricks.***

## **COMMENT**

*The Housing Policies within the Neighbourhood Development Plan should be in general conformity with the strategic policies contained within the Cornwall Local Plan, in this case specifically, Policies 3, 8 and 9 relating to affordable housing provision, and to the Affordable Housing SPD.*

*Cornwall Council Affordable Housing Team responded to this policy by saying:*

*“Given the very rural nature of the Parish with few facilities and infrastructure, as well as the low housing need, the Affordable Housing Team (AHT) is supportive of the provision of only small scale housing development over the plan period.*

*However, the Policy appears to limit housing numbers to a 10% increase (of the existing 214 dwellings) therefore 21.4 dwellings over the 14 years. As this would include open market dwellings the AHT is concerned to ensure that flexibility is provided within this policy to support sufficient affordable housing numbers to meet identified local need where necessary.”*

*I consider that paragraph ii. provides adequate flexibility in this respect. I am however concerned that the use of the words “up to” are overly restrictive and therefore in order to meet the Basic Conditions, the first paragraph of this policy should be modified as follows:*

*a. Small-scale housing development shall be permitted at a level that is commensurate with, and that will help to support, social and community facilities available in the Parish. This would entail a growth of approximately 10% of the current housing stock (214 dwellings) over the period of the plan. This shall be developed through:*

## **BUSINESS POLICIES**

### **Business Development**

#### **Policy B1: Business Development**

**a) New business and commercial development involving change of use of existing buildings will be supported in the Parish subject to the following criteria:**

**i. Any development is of an appropriate scale to its surroundings, and it is sited, designed and landscaped to be sympathetic to the character and appearance of any**

*neighbouring residential properties.*

*ii. No development should impact on the amenities of nearby residential properties or the rural environment in terms of its scale and visual appearance, noise, effluent or fumes it would emit, and the traffic it would generate.*

*iii. Where possible any roofs for new business premises should be orientated to allow for the efficient use of solar panels.*

*iv. Priority will be given to the conversion of existing buildings or the use of brownfield sites. Plans for new buildings on greenfield sites will be required to provide evidence as to why a conversion or use of an existing brownfield site is not possible.*

*v. Any development must retain trees and hedgerows and should seek to include additional planting and landscape management*

*vi. Outside storage areas should be adequately screened from public view, including from neighbouring residential properties*

*vii. Proposals must include details of appropriate treatment of boundaries and means of enclose and surfacing within the site.*

*viii. Any development should incorporate an area of off-road parking large enough accommodate all owners', employees' and any site visitors' vehicles*

*b) Existing employment sites should remain in employment use. Proposals which lead to the improvement, modernisation or upgrading of current employment sites will be welcomed and supported, subject to there being no adverse impact on the amenity of its neighbours*

*c) For any new business development, or where buildings are converted for commercial use, measures should be included which protect and enhance the habitat for wildlife, such as the installation of bat, bird and owl boxes, hedgehog friendly fences and bee bricks.*

#### **COMMENT**

*Paragraph a) of this policy appears to be referring to both new development and change of use but the wording is confusing. For clarity this paragraph should be modified.*

*Paragraph v." Any development must retain trees and hedgerows and should seek to*

*include additional planting and landscape management". It may not be possible in all circumstances to retain all trees and hedgerows on site and in order to meet the Basic Conditions this paragraph should be modified.*

*With regard to paragraph b) of the policy the National Planning Policy Framework states at Paragraph 22:*

*"Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.*

*In order to meet the Basic Conditions this part of the policy should be modified.*

*In order to meet the Basic Conditions, the following sections of the policy should be modified:*

*a) New business and commercial development, including change of use of existing buildings will be supported in the Parish subject to the following criteria:*

*v. Where possible, existing trees and hedgerows should be retained and proposals should include details of additional planting and future landscape management.*

*b) The retention of existing employment sites will be supported. Proposals which lead to the improvement, modernisation or upgrading of current employment sites will be welcomed and supported, subject to there being no adverse impact on the amenity of its neighbours*

## **COMMUNITY POLICIES**

***The Parish Hall, Golberdon***

***Policy C1: The Parish Hall, Golberdon***

***a) Applications which promote the continued improvement of the Parish Hall at Golberdon (shown in Fig. 2) for use by the local community for social, recreational and educational reasons will be supported.***

***b) The change of use or redevelopment of the Parish Hall to a non-community use will only be permitted where the facility is:***



***a. Incorporated or replaced i.e. of the same quality or better within the new development; or***

***b. Relocated to a more appropriate building or to a location which improves its accessibility to potential users; or***

***c. Is no longer required because there are easily accessible alternatives in the locality which can offer the same facility***

**COMMENT**

*I have no comment on this policy*

**Local Green Spaces**

**Policy C2: Local Green Space Designations**

***a) The areas outlined in Fig. 3: Children’s Play Area at Golberdon and in Fig. 4: Golberdon Recreational Field are formally designated as Local Green Spaces in accordance with Paragraph 77 of the NPPF. These areas shall be safeguarded as public open spaces and amenity areas and any development impacting upon these areas will be required to conform with the requirements or paragraph 78 of the NPPF.***

***b) Development of the Golberdon Recreation Field will only be permitted for uses that are ancillary to the sport and recreational use of the land, provided that the openness of the site is preserved.***

**COMMENT**

*Paragraph 76 of the National Planning Policy Framework states as follows:*

*“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”*

*In order to meet the Basic Conditions, paragraph b) should be modified as follows:*

***b) Development of the Golberdon Recreation Field will only be permitted in very special circumstances for uses that are ancillary to the sport and recreational use of the land, provided that the openness of the site is preserved.***

**Community Infrastructure Levy**

***Policy C3: Community Infrastructure Levy (Local Element)***

***a) The (25%) Local Element of the Community Infrastructure Levy (CIL) income, must be spent in accordance with the list of local projects maintained by the South Hill Parish Council.***

***COMMENT***

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

## **SECTION 5**

### **Conclusion and Recommendations**

1. *I find that the South Hill Neighbourhood Development Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.*
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 South Hill 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 SEA and Habitats Regulations Assessment screening (HRA), meet the EU Obligation.*
5. *The policies and plans in the South Hill 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 Plan 2016.*
6. *I therefore consider that the South Hill Neighbourhood Development Plan subject to the recommended modifications can proceed to Referendum.*

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*30<sup>th</sup> October 2017*

