



(Save Heamoor from Excess Development)

represented by Stephen Reynolds

EXAMINATION IN PUBLIC – CORNWALL SITE ALLOCATIONS DPD (CSADPD)

POSITION STATEMENT – MATTER 2 – PENZANCE/NEWLYN SPATIAL STRATEGY AND SITE ALLOCATIONS POLICIES PZ-H4, PZ-H5, PZ-H6, PZ-H7 AND PZ-H8

Our representation

We reiterate the objections to the above policies (the “Heamoor sites”) contained in our SHED **representation (reference 213)**, and will now reformulate those objections for the purposes of the present Position Statement in light of subsequent information obtained through:

- officer responses;
- the Examination Library;
- face-to-face meetings with Cornwall Council (CC) via the Heamoor Consultative Group (HCG), set up by CC to discuss development issues affecting our village.

1. Infrastructure delivery

SHED and local residents have consistently raised concerns about whether the infrastructure needed to support the scale of development for Heamoor can or will ever be delivered. As the Inspectors pointed out in their initial questions to CC:

“The timely delivery of necessary highway improvements, and indeed other additions to infrastructure, might be crucial to the effectiveness of the Plan in bringing forward the respective town strategies and ultimately to its soundness.”

In response to the Inspectors, Cornwall Council (CC) provided Appendices showing the infrastructure needed to support the CSADPD.

The gap between the costs listed in the Appendices and the potential funding sources available provide ample evidence of the pertinence of the Inspectors’ comment:

- Appendix 1 (ref CC.S3.1) shows **transportation projects** supporting the CSADPD costing £420m¹, but S106 funding secured to date of only £16m.
- For **Penzance**, the cost is £16.6m. At an HCG meeting on 14/12/2017, CC’s Transport Planning and Strategy Officer told us just £200k of funding has been secured to date.
- Appendix 3 (ref CC.S3.2) shows **education projects** supporting the CSADPD costing £129m¹, including £5.7m for Penzance; countywide S106 funding secured to date is only £17m.

¹ Our calculation. The tables provided in the Appendix were not footed.

These are huge shortfalls given the funding issues faced by CC:

- **No EU funding.** European growth funding will cease from 2020. Total potential EU funding available to 2020 was **€600m**. There will be **no new EU money after 2020**.
- **No guarantee of government funding.** In Appendix 1, CC claims an “*excellent record in securing grant funding*”. However in February 2017, it was announced that Cornwall had been awarded just £18m Growth Deal 3 funding despite having applied for £127m (14%). It was also announced on 01/02/2018 that the government had awarded only £8m from the Marginal Viability Fund to support two housing projects in Cornwall. This represents less than 1% of the £886m awarded countrywide.
- **Financial crisis within CC.** For both transport and education, the Appendices cite “Cornwall Council investment” as a potential source of funding. On 08/12/2017, CC announced £75m of budget cuts over the next four years.
- **No guarantee of developer funding.** CC’s decision not to apply CIL to CSADPD sites means no guaranteed funding stream from new developments. Instead funding will be wholly reliant on individually negotiated s106 agreements. The end of EU money and shortfall in Growth Deal 3 funding have put CC in a weak bargaining position.

NPPF says that “*Local Plans should be aspirational but realistic*” (paragraph 154). The shortfall in funding suggests that while the CSADPD may be “aspirational”, it is far from “realistic”.

2. Flood risk

Flood risk from the proposed sites is a key concern of SHED and local residents.

Paragraph 1.5 (“Evidential Requirements”) of the Planning Inspectorate’s “Procedural Practice in the Examination of Local Plans”, 4th Edition V.1., June 2016, states that:

“Local circumstances will be directly relevant. For example a plan for an area vulnerable to flooding will require more extensive evidence about this matter than a plan for an area where there is no flood risk.”

CC has failed to provide such extensive evidence. The officer response has been simply to assert that CC would be “looking for betterment” through SUDS, which is merely an aspiration with no guarantee of delivery. No evidence has been provided to support this assertion, and as with transport and education there are serious infrastructure delivery issues.

- **No guaranteed funding.** The Cornwall Infrastructure Needs Assessment (January 2016) calls for flood prevention projects with an estimated capital cost of £53m, only £20m of which is funded. The remainder is to be “provided through development” i.e. s106 agreements in the case of the CSADPD sites.
- **Liability for maintenance costs.** The Cornwall Infrastructure Needs Assessment also refers to ongoing maintenance of SUDS schemes as “potentially very costly”. With the non-enactment of Schedule 3 of the Flood and Water Management Act (FWMA), it is uncertain who will be liable for those maintenance costs and hence whether the schemes will be properly maintained.

- **No powers or responsibility to inspect SUDS schemes.** CC's Sustainable Drainage Lead Officer confirmed to us in an e-mail dated 19/12/2017 that due to non-enactment of FWMA Schedule 3, CC (as Lead Local Flood Authority) *"has no powers or responsibility to inspect SuDS during or post construction. We find this situation very frustrating and have been lobbying Government for a change in this approach."* Given the reliance on SUDS to address potential flood risk in Heamoor this is a matter of great concern.

As industry expert Mark Goodger wrote on 22 May 2017:

*"Without the mandatory adoption of SuDS systems by SABs to ensure long-term maintenance we will therefore still run the risk of SuDS being built and maintained for an initial period (say 10 years to align with the NHBC warranty) and then subsequently abandoned. A SuDS system that isn't maintained is a liability, an eyesore and could increase the flood risk it was originally designed to alleviate. Recovery of such systems can also run into millions of pounds."*²

These are key issues for the Heamoor sites.

Why? Because all the sites are in the Penzance Critical Drainage Area, defined by the EA in 2015³ as *"a rapid response catchment with flood risk from the coast"*. This creates specific evidential requirements that CC have failed to meet:

- **No Surface Water Management Plan.** In 2015, the EA required an SWMP to be produced for the Penzance CDA. There is no SWMP. CC's Sustainable Drainage Lead Officer confirmed to us in an e-mail dated 19/12/2017 that *"this has not been produced as yet due to funding constraints"*.
- **No offsite infrastructure assessment.** In the absence of an SWMP, the EA requires that if extensive development is planned, the *"wider impact within the catchment"* should be considered, including potential offsite infrastructure changes. There is nothing in the evidence base to indicate that this has been done.
- **No Local Flood Risk Management Strategy.** CC is required to prepare such a strategy under Section 9 of the FWMA. "Part 1 – Vision" has been completed. "Part 2 – Evidence" has not. This is crucial because it generates flood risk profiles for communities identified as having the highest flood risk. The CC website says Part 2 will be available in "2014 or 2015", but also (as of 28/01/2018) that the Penzance & Newlyn flood risk profile remains "under development". Indeed, none of the 28 community profiles due to be available in 2014/15 has yet been completed and published on the website.
- **Inadequate strategic flood risk assessments (SFRAs).** The SFRAs produced in support of the Heamoor sites take each site in isolation and do not assess their cumulative impact on the rapid response catchment, or on the flood risk zone 3 areas immediately adjacent, or on properties and critical infrastructure assets downstream of the sites.
- **Failure to take account of surface water issues.** The SFRAs completely miss a number of issues raised by local residents such as active springs at PZ-H5 and waterlogging due to hard bedrock close to the surface at PZ-H7 and PZ-H8. Repeated invitations by SHED to accompany CC officers on site visits to familiarise them with these issues have all been declined.

² Mark Goodger, "EFRA Post-legislative scrutiny report recommendations", www.engineeringnaturesway.co.uk

³ <https://www.cornwall.gov.uk/media/16936475/penzance-cda-2015.pdf>

We have been told by CC officers that these issues will be addressed at planning application stage. But by then it will be too late to take a cumulative view. Under Policy 1 of CC's Local Plan Strategic Policies (LPSP), adoption of a site in the CSADPD creates a presumption of sustainability: *"Planning applications that accord with the policies in this Local Plan and supporting Development Plan ... will be regarded as sustainable development and be approved, unless material considerations indicate otherwise."*

This means that the only opportunity to test the sites for "sustainability" is now. And they cannot be tested for sustainability without the extensive supporting evidence that CC is under a statutory duty to produce as LLFA but has so far failed to do.

In the absence of such evidence, the Heamoor sites should not go forward.

Retaining the sites would put the CSADPD in conflict with the LPSP:

- **LPSP Paragraph 2.199:** *"Policies will seek to ensure development does not add to the flooding of existing communities and new development is located to avoid areas of flood risk."*
- **LPSP Policy 26(f):** Development should be located in a manner that *"does not create avoidable future liability for maintenance for public bodies and communities"*.

3. Employment provision

Another concern expressed by local residents, and in SHED's representation, is whether sufficient jobs can be created locally to support the significant increase in population proposed.

The officer response is that the quantum of employment space targets for the Penzance/Newlyn area (and its relationship with housing growth) were considered as part of the examination of the LPSP so are not for consideration within this consultation.

However, Appendix 4 as supplied by CC in response to the Inspectors' initial questions (ref CC.S3.4) has revealed important new evidence about the deliverability of employment space in the local area.

- Appendix 4 shows net completions of industrial space to 01/04/2017 in the West Penwith CNA are **negative** (by **6,061 m²**), against a target of 16,083 m².
- The comparable figure on page 36 of the LPSP shows negative net completions of **321 m²** for the 2010-2015 period.
- West Penwith has therefore **lost 5,740 m² of industrial employment space in two years**.

LPSP paragraph 2.15 states that the CSADPD *"should ensure that the employment space targets can be delivered"*. On the evidence of Appendix 4, there must be serious doubts about the deliverability of the Penzance/Newlyn targets.

Further erosion can be expected in the years ahead as **EU funding dries up**:

- The LPSP was prepared in the pre-Brexit era and relies on *"economic projections that incorporate factors such as European funding programmes and the addition of space created through this support"* (LPSP paragraph 1.49).

- The LPSP evidence base includes a specific assumption that 6,700 extra jobs would be created county-wide as a result of EU funding (“Ash Futures” report, page 26)⁴.
- The report by Simon Emerson, the Inspector for the LPSP examination, explicitly referred to this issue: “*given the uncertainty about the timing and the terms for the UK leaving the EU... the position will need to be reviewed when there is more certainty*”.

The officer response to our representation seeks to address this issue as follows: “*in line with the concerns about the lack of European funding, the Council is looking at various mechanisms to address this issue, including the establishment of its own investment plan*”.

This is merely aspirational. There is no robust evidence for the deliverability of sufficient employment provision to support the increased population proposed for Heamoor. This is a serious issue given that the proportion of the village’s population not in active employment is already well above the national average.

By contrast with West Penwith, some Cornish communities are well ahead of their target for industrial employment space according to Appendix 4:

- Truro & the Roseland (by 29,676 m²)
- China Clay (by 25,741 m²).

Paragraph 37 of the NPPF requires development proposals to be designed so that “*people are encouraged to minimise journey lengths for employment*”. As argued in our representation, the scarcity of employment opportunities in the Penzance area would potentially force residents of the proposed developments to travel long distances (25 to 45 miles along an already congested road network) to centres of employment such as Truro or the China Clay country.

Overall, recent changes in employment space in the West Penwith area are such that the CSADPD in its current form is also in conflict with NPPF paragraph 158:

“*Each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are **integrated**, and that they take full account of relevant market and economic signals.*” [our emphasis]

The housing and employment strategies for West Penwith can no longer be seen as “integrated”, and the housing allocations for Heamoor should be redistributed to areas of the county with better prospects of employment delivery.

4. Out-of-date evidence – Transport models

Representations from SHED and local residents cited concerns about traffic, in particular CC’s assertion that no capacity issues have been identified at the Heamoor roundabout on the A30.

⁴ “Cornwall Employment Projections To Inform Housing Needs Analysis – Supporting Technical Advice”, prepared by Ash Futures Ltd for Cornwall Council, September 2015.

The officer response on this issue stated that *“the strategic transport model was used to review all proposed growth within the Penzance, Newlyn, Heamoor, Gulval and Longrock areas”*.

- The model referred to is the “Penzance Town Model” Appendix B.
- The Model is dated May 2017 per the cover sheet, but was in fact issued on 12/05/2015 (page 1); it is nearly three years old. It relies on 2011 travel-to-work census data.
- Traffic patterns have evolved significantly since then, including exponential growth in deliveries caused by the growth of online shopping not reflected in the Town Model.
- CC transport officers confirmed to SHED at an HCG meeting on 14/12/2017 that the town model needs updating, and that this is scheduled for 2018 (funding permitting).

On this point, we would remind the Inspectors of paragraph 1.15. of “Procedural Practice in the Examination of Local Plans”:

“Evidence base documents relating to retail, employment & housing that date from 3 or more years before the submission date are at risk of having been overtaken by events, particularly as they may rely on data that is even older.”

This is directly relevant in that the out-of-date Penzance Town Model is used as a key part of the evidence base to support the housing proposals for Heamoor.

In addition, the Highways England (HE) representation (reference 127) raised concerns about capacity effects on the A30 Newtown to St Erth.

The Statement of Common Ground (SCG) added to the Examination Library on 21 December 2017 addresses these issues but fails to provide robust evidence about the impact of the CSADPD development proposals. According to the SCG:

- *“The Strategic Model and HE’s own work have identified future traffic increases on the A30 west of the St Erth junction.”*
- *“It is agreed that the traffic impacts identified are not allocation specific”.*

This is wholly inadequate as evidence.

- Firstly, there is no indication of the **size** of the *“future traffic increases”*. The HE representation referred to a 41% increase, but no figure is cited in the SCG.
- Secondly, in order for a conclusion to be reached on the impact of the CSADPD policies, it is not enough merely to say that the impact is *“not allocation specific”*. CC and HE should be able to supply evidence as to the **specific impact of the policies**, i.e. the increased traffic flow should be split out between projections with and without development.

Capacity issues on this stretch of road are all the more critical in light of the travel-to-work issue raised in point 3 above.

Pending an update to the Penzance Town Model and clarification on A30 traffic flow increases, the CSADPD policies for Heamoor fail to meet the requirement in NPPF paragraph 158 for *“adequate, reliable and up-to-date evidence”*.

5. Open countryside

Our representation argued that the Heamoor sites are in conflict with LPSP Policy 7 prohibiting new housing development in the open countryside other than for on-site agricultural workers, and that the sites meet CC's definition of "open countryside".

- The officer response does not challenge this but instead asserts that *"sites that will be allocated through the Site Allocations DPD, will not be deemed to be in the open countryside"*.
- This is a circular argument. The LPSP went through rigorous consultation, was approved by the independent inspector, and was passed by full council in November 2016.
- Consequently, open countryside enjoys absolute and unqualified protection under the LPSP, which cannot be varied by any subsequent DPD. The LPSP contains no exception to Policy 7 for future site allocations.
- If the sites are open countryside under Policy 7, they remain so regardless of red lines drawn on the CSADPD map. The Policy 7 definition – *"the area outside of the physical boundaries of existing settlements (where they have a clear form and shape)"* – refers to actual physical characteristics and not to planning designation as determining what is open countryside.

The proposed allocations are therefore unsound due to conflict with LPSP Policy 7.

Conclusion – MAJOR MODIFICATION requested:

We request the deletion of policies PZ-H4, PZ-H5, PZ-H6, PZ-H7 and PZ-H8 of the CSADPD due to lack of robust evidence that the sites are sound, sustainable and deliverable by reference to national and local planning policies.

Specifically, there are very significant inadequacies in the evidence base relating to:

- **the funding and deliverability of infrastructure;**
- **the impact of the development proposals on flood risk;**
- **the use of out-of-date traffic modelling.**

The policies are also in clear breach of LPSP Policy 7 on open countryside.

Retaining these policies within the CSADPD would vitiate the entire document.

Consequently, they should be deleted in order for the modified CSADPD to go forward.

Once these policies have been deleted, we would reiterate our offer to work with CC and other interested parties to develop alternative solutions that avoid the serious planning issues raised.