



INSP.S4 Matter 1 Legal Compliance

Cornwall Council Position Statement

19 February 2018

a. The Duty to Co-operate

The Council has undertaken and fulfilled the requirement under the Duty to Co-operate, under Section 10 of the Localism Act and the Planning and Compulsory Purchase Act 2004. The Council's Duty to Co-operate Statement Oct-17 (ref B.5) sets out the process undertaken through a number of different measures including:

- Scoping Consultation
- Formal (public) consultation exercise
- Partnership Group meetings
- Individual meetings
- Email (and telephone) engagement

The Council has engaged with its neighbouring authorities:

- Dartmoor National Park Authority
- Devon County Council
- Plymouth City Council
- Torridge District Council
- South Hams District Council
- West Devon Borough Council
- The Isles of Scilly

The Council engaged throughout with the other public bodies (set out in Part 2 of the Town & Country Planning (Local Planning) (England) Regulations 2012) which are listed on page 2 of the Duty to Cooperate Statement (B.5).

The following is an excerpt from page 2 of the submitted Duty to Co-operate Statement (B.5):

Formal Public Consultation Exercises – *As part of the preparation of the Allocations DPD there were various public consultation exercises undertaken, at which time, the public bodies and neighbouring authorities were invited to provide feedback. These consultation exercises included:*

Jan 2012	Site Options Consultation (Penzance & Newlyn, Hayle, St Ives & Carbis Bay, CPIR, Falmouth & Penryn, Newquay, Liskeard, Launceston, Bude-Stratton-Flexbury-Poughill, Saltash) (Reg 18)
Mar 2013	Helston Site Options Consultation (Reg 18)
Mar 2013	Bodmin Site Options Consultation (Reg 18)
Oct 2013	Bodmin Site Options Consultation (Reg 18)
Apr 2014	St Austell Site Options Consultation (Reg 18)
Nov 2014	St Austell Retail Site Options Consultation (Reg 18)
Oct 2016	Preferred Options Consultation (Penzance, Hayle, St Ives & Carbis Bay, CPIR, Helston, Falmouth & Penryn, St Austell, Bodmin, Launceston, Saltash) (Reg 18)
June 2017	Submission Stage Consultation (Reg 19/20)

Partnership Group meetings – Set up originally to support Cornwall Local Plan: Strategic Policies document, progress of the Cornwall Allocations DPD was reported to this group

Individual Meetings – A range of meetings were set up with particular stakeholders to explore certain issues in more detail. Meetings took place with a range of bodies that indicated an interest in the development of the document, including Highways England; Historic England; Natural England; Plymouth City Council; Environment Agency; etc.

E-mail/Phone Engagement – There was occasional correspondence with stakeholders, to consult on emerging work, outside of the formal public consultation exercises and meetings.

Pages 4 - 42 within the Duty to Cooperate Statement (B.5) records the engagement with neighbouring authorities and other public bodies specified. Appendices detail relevant notes from meetings and correspondence.

Cornwall Council has worked diligently in fulfilling the Duty to Cooperate, evidenced by no outstanding objections to the CSADPD by any of the Duty to Cooperate partners.

In undertaking this work Cornwall Council has agreed and submitted three Statements of Common Grounds between:

- CC & Highways England (CC.S4.2)
- CC & Historic England (CC.S4.3)
- CC & Natural England (CC.S5)

The above SoCG resolved all outstanding issues or objections with the three Statutory Consultees in relation to the CSADPD.

The Council has recently resolved outstanding issues and objections with Plymouth City Council in relation to Saltash as set out in a SoCG; a signed

version of which has been submitted. Cornwall Council has engaged all neighbouring authorities and there are no outstanding issues/objections to the CSADPD.

The CSADPD is legally compliant in relation to the Duty to Cooperate requirements.

b. Sustainability Appraisal and Habitats Regulations Assessment

Sustainability Appraisal (SA)

The Council has undertaken SA throughout the preparation of the CSADPD. The process undertaken is set out and explained within the 'CSADPD SA Report accompanying the Regulation 19 consultation – March 2017' (doc ref D5). SA Appendices 1 (D5.1) and 2 (D5.2) set out the sustainability objectives and sustainability scoring methodology. Appendices 3 to 12 (D5.3 to D5.12) set out the individual town SA's including the process undertaken; including the consideration of reasonable alternatives and a site prioritisation stage. (SA's for the West Carclaze and Par Docks sites document ref's are D9.1, D9.1.1 and D9.1.2). These documents set out the sustainability appraisal process undertaken throughout the preparation of the CSADPD, which as explained on page 7 of the Reg 19 SA Report (D5) can be identified as three key stages in the SA development for all CSADPD towns as:

- Stage 1: Options Stage SA (reported as part of the TFP Background Papers, available at www.cornwall.gov.uk)
- Stage 2: Prioritisation Stage SA (presented as part of the site selection process which is documented within the Housing and Employment Evidence Base Reports for each town, also available at www.cornwall.gov.uk)
- Stage 3: Policy Formation Stage SA (presented in Appendices 3-12 of the SA report)

The above documents clearly demonstrate that an SA process has been undertaken as an integral part of preparing the CSADPD, in accordance with the requirement set out in the Planning and Compulsory Purchase Act 2004.

The SA has been undertaken in line with the procedures prescribed by the Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations) which transpose into national law European Union Directive 2001/42/EC 'on the assessment of the effects of certain plans and programmes on the environment'. SA widens the scope of the assessment to also include social and economic issues.

In preparing and finalising the SA process towards the Reg-19 consultation in 2016 and 2017 Cornwall Council commissioned Aecom to act as a peer review consultant to inform the final stages of the process and drafting the overall final

documentation. This peer review provided a further level of robustness to the overall SA process and ensured that the SA fully meets the requirements for SA under the above legislation.

Habitats Regulations Assessment (HRA)

The Council commissioned WSP / Parsons Brinkerhoff to undertake a HRA of the CSADPD and prepare the HRA Screening Report Feb 2017 (doc ref D2). As set out in the Council's previous Position Statement (PS.CC.1) under question g) the HRA concluded at para 6.1.2 "*it is considered that Likely Significant Effects can be screened out for the site allocations or otherwise impacts can be avoided with the implementation of mitigation and environmental control measures*". Para 6.1.5 then identifies 6 bullet points of mitigation measures that will apply and detailed mitigation measures are listed in Table 5.2 of the HRA in relation to each relevant allocation. The Council and Natural England have proposed a number of minor modifications as set out in the agreed SoCG (CC.S5) which resolves minor inconsistencies to certain policy references within the submission draft CSADPD. With these modifications the CSADPD fully complies with the recommendations as set out in the HRA document (D2). (Appendices 2 (D2.1) and 4 (D2.4) contain related but individual HRA's undertaken for two sites, Broadmoor Farm and West Carclaze, in relation to planning applications that have been progressed to these sites).

A European Sites Mitigation SPD is currently progressing towards final consultation and adoption by the Council, which contains the mitigation and contributions required in relation to pressures from strategic recreation in relation to three EU designated sites:

- Penhale Dunes Terrestrial SAC,
- Fal & Helford Estuarine SAC, and
- Plymouth Sound and Estuaries SAC & Tamar Estuaries Complex SPA.

CC and Natural England as set out in the submitted SoCG have agreed the process, specific SPD content and timescale, with all elements of the SPD adopted by summer 2018, prior to the adoption of the CSADPD. The specific content of the SPD will not be included in the CSADPD; policies within the CSADPD refer to the detail that will be set out in the SPD.

The HRA Screening Report Feb 2017 (D2) and the emerging European Sites Mitigation SPD demonstrate, together with the agreement and support of Natural England, that the HRA has been prepared in accordance with the relevant legislation (under the requirements of the European Council Directive 92/43/EEC 'The Habitats Directive' and the Council Directive 79/409/EEC 'The Wild Birds Directive (as transposed into UK legislation by The Conservation of Habitats and Species Regulations 2010: 'The Habitat Regulations')).

c. Statement of Community Involvement and Local Development Scheme

Statement of Community Involvement (SCI)

The CSADPD has been prepared throughout in accordance with the Councils adopted SCI (B4). The SCI was adopted in December 2011, and is subject to regular review (every 3 years if required).

Table 1 in the SCI shows the stages of preparing a Development Plan Document. Table 2 then shows a further column setting out what the Council will do regarding involvement at each stage. Stage 1 'Evidence gathering – preparation of a DPD' relates to the Reg-18 plan preparation stage; 'stage 2 'Publication of a proposed DPD' corresponds to the Reg-19 stage.

At the Reg-18 stage the SCI lists the followings methods of involvement:

- Write to statutory consultees and other organisations and invite representations about what the plan should contain
- Make consultation documents available at CC offices, public places and website
- Discuss issues/options with partners and groups/forum
- Use local media to raise awareness
- Offer advice/information to the public as requested
- Arrange open participation events/workshops to discuss issues and proposals

The Councils submitted Reg-22 Statement of Representation (B.8), on page 5 shows a table of the development stages of the CSADPD under Reg-18 which sets out 8 individual consultation events from the Cornwall Core Strategy preferred approach in Jan–March 2012, through to the CSADPD preferred options in Oct/Nov-16, including individual consultations on Helston, Bodmin and St Austell in 2013/14 and a Scoping Consultation with Statutory consultees in Dec-13.

Section 2, page 6 of the Reg-22 statement (B.8) sets out what the Council did during each of the above consultation stages, which includes all of the above 6 bullet points set out within the SCI. Section 3 of the Reg-22 Statement (B.8) in the same way sets out what the Council did under Reg-19 in accordance with the SCI.

The Council maintains a database of bodies, organisations and individuals that are required to be notified of plan making stages. Under both Reg-18 and 19, emails and/or letters (as preferred) were sent to bodies/organisations/individuals on this list notifying of the consultation, including where they could access documentation and further information, and details of events (when held).

The Oct-2016 Reg-18 and June-2017 Reg-19 consultations were publicised in various ways to promote it to as many people as possible, including those that are often harder to reach for consultations of this kind. As well as more traditional methods, such as press notices, press releases and Letters / E-mails to landowners; statutory consultees; people that have previously responded to consultations, other methods used included:

- Through social media; including Facebook advertising which was seen by over 22,000 people
- Through local members and Town/Parish Councils
- Documents in local one-stop-shops throughout Cornwall
- Plus a satchel drop through primary schools (for Oct-2016 Reg-18 consultation)

All of the above was undertaken at the start of the consultations; plus most of this was also repeated near to the end of the consultation to remind people of the deadline. The Reg-19 consultation period also ran for 8 weeks.

Furthermore in relation to each town within the CSADPD as section 2 'Developing Options' of the Reg-22 Statement (B.8) sets out, local member steering groups were established to inform/advise on the relevant town strategy and allocations, as part of ongoing involvement. These groups provided an important local forum with elected members and other key representatives of the local community involved throughout the process.

During the Examination of the Cornwall Local Plan the issue of the protection of national minorities was raised as a strategic issue regarding the Soundness of the Plan. It is therefore appropriate to note that these matters were thoroughly considered and reported by the Inspector for the Local Plan Strategic Policies which has been found legally compliant and sound and is now adopted as part of the statutory development plan. The SADPD now under examination is merely required to be consistent with the LPSP, which the Council maintains it is. This necessarily limits the scope to consider the matter of Cornish Minorities or language further. However the Council maintains, similar to the conclusions of the Local Plan Inspector, that the CSADPD is not in breach of the Convention and, more generally, is not at odds with the interests of the Cornish Minority.

Throughout the preparation of the CSADPD the above demonstrates that it has been prepared in accordance with the Councils SCI

Local Development Scheme (LDS)

The Cornwall LDS has been through several iterations from 2009 through to 2016, and was most recently updated and placed on the Councils website 20th Dec-17 (doc ref B.3).

The LDS was also updated in response to the Inspectors request under question 6 in (INSP.S1) to accurately list DPD's being prepared and more accurately reflect their timescale for production.

In a practical context Local Authority Plan making can be a lengthy process within and around which, local and national, political processes can sometimes cause an element of delay to certain key milestones.

The timescale for the CSADPD slipped slightly due to awaiting the Inspectors final report on the Local Plan, with the occurrence of local elections and a national election in spring-2017 also delaying publication.

The updated Dec-17 LDS (B.3) now accurately reflects the CSADPD timescale in appendix 1, profile 3, as:

- Publication in Jun-17
- Submission in Oct-17
- Examination hearings commencing Feb-18, and
- (Anticipated) adoption in summer 2018.

Profile 3 also sets out the scope of the CSADPD as "*how and where housing, employment and retail development will be delivered in some of Cornwall's main towns up to the year 2030*". This corresponds to and accurately reflects the scope and purpose, as set out in para 1.4 of the CSADPD.

Other changes reflected in the Dec-17 LDS (B.3) include:

- An additional DPD allocating sites in Bude (with scoping consultation Jul-18 through to adoption in spring 2020, see Appendix 1, Profile 4).
- Removal of SPDs from the LDS. This is because of ongoing changes to the programmed documents. The Council's website will be kept up to date with the SPDs to be produced.
- The LDS text has been updated and simplified in the interests of making it clearer.

The CSADPD has been prepared throughout in accordance with the Councils adopted LDS Dec-17 (B.3).

d. Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (England) Regulations 2012

Planning and Compulsory Purchase Act 2004

The CSADPD has been prepared in accordance with overarching legislation within the Planning and Compulsory Purchase Act 2004 which introduced Local Development Frameworks. In particular Part 2 of the Act requires LPA's to prepare a LDS setting out what Local Development Documents they will prepare and their timescale. The Councils LDS Dec-17 (B.3) fulfils this requirement. Furthermore, as set out within the LDS, and in accordance with the overarching legislation within the Planning and Compulsory Purchase Act 2004, the Cornwall

Local Plan was adopted in Nov-17 and the CSADPD has been prepared and is progressing towards adoption.

Town and Country Planning (England) Regulations 2012

The CSADPD has been prepared in accordance with overarching legislation within the Town and Country Planning (England) Regulations 2012. In particular, the CSADPD has complied with Reg-18 'Preparation of a local plan' and Reg-19 'Publication of a local plan'. The Council's Reg-22 Statement of Representations (B.8) sets out in detail in section 2 how the Council complied with Reg-18, and in section 3 how the Council complied with Reg-19.

The Council received representations under Reg-20 which are summarised within the Reg-22 Statement (B.8). Thereafter the Council submitted the CSADPD in accordance with Reg-22 in Oct-17, making copies of the submitted documents available as required.

In accordance with Reg-24 the Council made documentation available and notified any person who made representation under Reg-20 of the date and time of the hearings, and the person appointed to carry out the EIP; this can be seen in the Notice of Examination Hearings:

<http://www.cornwall.gov.uk/media/30753468/notice-of-examination-allocations-dpd-for-web.pdf>

The above demonstrates that the CSADPD meets the requirements of the legislation.

e. National Policy

NPPF: the CSADPD has been prepared throughout in accordance with the policy and principles set out in the NPPF. In particular para 17 of the NPPF sets out 12 core principles that should underpin plan making, including at bullet point 3 '*to proactively drive and support economic development to support homes and business*', and at bullet point 5 '*take account of different roles and character of different areas*'. This is evident in the scope and purpose of the CSADPD, allocating sites for homes and business, whilst respecting the role and character of 10 different towns (and eco-community sites). The strategy for each town within the CSADPD can be seen to reflect all 12 NPPF core principles, through the effective use of land, actively managing growth, promoting mixed use developments whilst seeking to conserve and enhance the natural environment.

The CSADPD accords with NPPF requirements to allocate sites to promote development (para 157), and for Plans to be informed by an up to date and relevant evidence base, (paras 157 and 158)). Furthermore in line with para 182 of the NPPF the Council has submitted the CSADPD which it considers is "sound" as being:

- Positively prepared (the strategy meets objectively assesses development requirements)
- Justified (it is the most appropriate strategy against reasonable alternatives)
- Effective (the plan is deliverable over its period)
- Consistent with national policy (in accordance with the NPPF)

Planning Practice Guidance (PPG): in preparing the CSADPD the Council referred to the online PPG at key stages, to ensure the plan making process was adhering to the appropriate and relevant national guidance.

Cornwall Local Plan Strategic Policies– Policy 2 of the adopted LPSP (E1) sets out the spatial strategy for Cornwall, including under criteria 3, spatial references to a number of towns within the CSADPD setting the broad spatial development context. The CSADPD seeks to enable this within the more detailed development strategy for places and allocation of sites. The CSADPD seeks to allocate sites to meet the housing and employment requirements set out in the LPSP Policy 2a: ‘Key targets’ and related housing apportionments.

LPSP Policy 3: ‘Role and function’ of places sets out that delivery of development will be managed through a Site Allocations DPD (and NDPs) for certain locations. The CSADPD fulfils this requirement for the relevant named towns, including the two eco-community sites. (This is also set out in the Councils previous response in CC.S1 under question 3).

The CSADPD does not seek to duplicate the LPSP policies, which also apply to allocations within the CSADPD.

The LPSP Community Network Area (CNA) Sections 2010 2030 (E1.1), sets out key facts; objectives; and broad development strategy text covering housing, employment, retail and infrastructure. The CSADPD expands on these aspects, with the aim and purpose of ensuring a deliverable development strategy in accordance with the overarching LPSP.

In summary and as set out within the Councils Position Statements in relation to each town (Matters 2 to 11) the CSADPD was developed over a period of time, which both supported the production of the LPSP and the strategy for individual towns, as well as the SADPD responding to the final LPSP. In this way the CSADPD has been prepared in full accordance with the Cornwall Local Plan (E1) and the relevant CNA Sections 2010–2030 (E1.1).