

# **St Eval Neighbourhood Development Plan**

**Report by Examiner**

**Graham Self**

September 2014

## Introduction

1. I was appointed in early September 2014 as the independent examiner for the St Eval Neighbourhood Development Plan. The plan has been prepared by St Eval Parish Council with the support of the local planning authority (Cornwall Council) and other bodies. It is the first neighbourhood plan in Cornwall to have reached examination stage.
2. The examiner's role is to provide an independent review of the plan and to make recommendations in accordance with the 2011 Localism Act and related regulations. In particular, the examiner has to consider whether the plan meets certain "basic conditions", satisfies legal requirements, and identifies an appropriate area for a referendum.
3. In order to act as examiner I am required to be appropriately qualified. I am a chartered town planner with previous professional experience in local government, consultancy and the Planning Inspectorate. I am independent of Cornwall Council and of St Eval Parish Council, and I have no interests in any land or property in or near St Eval.
4. The basic conditions, which are set out in the legislation,<sup>1</sup> are intended to ensure that neighbourhood plans fit with their wider context. In summary, the plan must:
  - have regard to national planning policies and guidance;
  - contribute to achieving sustainable development;
  - be in general conformity with the strategic policies of the development plan; and
  - be compatible with European Union law and human rights obligations.
5. The policies of neighbourhood plans should also relate to the development and use of land in a designated neighbourhood area, should be prepared by a qualifying body, should specify the period for which they are intended to have effect, should not include provisions on excluded development,<sup>2</sup> and should not cover more than one neighbourhood area.
6. National policy is set out in the National Planning Policy Framework ("NPPF"), published in 2012. National Planning Practice Guidance ("NPPG") provides advice on the preparation of neighbourhood plans.
7. Under current legislation and policy, examinations of neighbourhood plans may be carried out on the basis of written representations or may include public hearings, although the guidance in the NPPG is that most examinations are not expected to include a public hearing. I have undertaken this examination by written representations.<sup>3</sup>

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<sup>1</sup> The legal source of these basic conditions is the Localism Act 2011, which inserted Schedules 4A and 4B into the Town and Country Planning Act 1990. I have paraphrased the Basic Conditions here.

<sup>2</sup> "Excluded development" refers to matters such as minerals or waste development or national infrastructure projects which are not relevant here.

<sup>3</sup> I decided that it was not necessary to carry out any site inspections, bearing cost considerations in mind. I have used Google Streetview and aerial photographs as an aid.

### Format of Report

8. I have set out this report in the following sequence. This Introduction refers to various background matters including the reference documents supplied to me, the written representations submitted during the most recent period of consultation on the Neighbourhood Plan, and the examination procedure. In the next section I cover some general points relating to the development plan, the neighbourhood plan area, preparation procedures and regulatory requirements. The policies of the plan are then considered in plan sequence, with recommendations made where appropriate. Some comments and suggestions are then made about other aspects of the plan. A final section after concluding comments briefly considers the next stage.
9. In addition to recommendations, this report contains what I have termed suggestions. (The recommendations and suggestions are highlighted in bold.) The *recommendations* cover matters where I consider a specified action needs to be taken. My *suggestions* relate to points of generally lesser importance, where I think improvements could usefully be made but are optional. My intention is to leave the latter points for consideration jointly by the Parish Council and Cornwall Council. Although the power to make changes to the plan at this stage lies with Cornwall Council as planning authority, I assume that the Parish Council will have an input and that there will continue to be discussion or joint working between these bodies.
10. While reading the plan I noticed a number of minor textual flaws. I have provided a list with suggested corrections as an appendix to this report. I hope this will help the process of editing the plan before it is finalised.
11. On a detailed aspect of report format, I use the terms "Neighbourhood Plan" and "Neighbourhood Development Plan" interchangeably as having the same meaning. I have adopted a style convention that when referring to neighbourhood plans in general, or when using the words "neighbourhood plan" as adjectival nouns, I have normally used lower case initial letters. When referring to the St Eval Neighbourhood Development Plan, or to the St Eval Neighbourhood Plan, or to "the Neighbourhood Plan" (meaning the St Eval plan), I normally use initial capitals.
12. The documents supplied to me appear to use the names "Trevisker St Eval" and "St Eval village" as alternatives referring to the same settlement. I have adopted a similar approach. Even if I have misunderstood this aspect of local naming, I do not think it affects my recommendations or suggestions.

### The Neighbourhood Plan and Other Documents

13. The version of the St Eval Neighbourhood Development Plan which I have examined is the "submission plan" which was submitted to Cornwall Council in May 2014. Apart from the Neighbourhood Plan itself, the main source documents which I have read or referred to, all of which were sent to me by Cornwall Council, are as follows.

St Eval Parish Neighbourhood Development Plan 2014-2030  
Supplementary Document.

St Eval Neighbourhood Development Plan Basic Conditions Statement  
2014.

Decision of the Portfolio Holder for Environment, Heritage and Planning  
Portfolio Advisory Committee (with officer's report), 30 June 2014.

St Eval Neighbourhood Development Plan - Consultation Statement.

Consultation Responses on Draft NDP (bundle of approximately 26 A3-size sheets).

Saved Policies contained within North Cornwall District Plan 1999 and strategic policies in Cornwall Local Plan Proposed Submission Document 2010-2030 that relate to St Eval's NDP proposal.

Development Brief for St Eval Cornwall, Ministry of Defence, Defence Infrastructure Organisation, October 2011.

Part of Eastern Section of MoD Land at Trevisker, St Eval - Ecological Assessment. Report by Cornwall Environmental Consultants Ltd, August 2012.

Rural Community Profile for St Eval (Parish) - report by Action with Communities in Rural England Rural Evidence Project, January 2012.

St Eval Wadebridge Extended Phase 1 Habitat Survey. Report by Ecosulis Ltd, May 2014.

Cornwall Council Officer Report recording consultee representations.

14. Other documents I have referred to include: an emailed note (sent on behalf of both the Parish Council and Cornwall Council) setting out responses to questions I raised; a map showing a Ministry of Defence "safeguarding area"; a copy of a letter containing comments made to Cornwall Council by Cornwall Wildlife Trust; and a Cornwall Council "Report to Portfolio Holder" about the representations submitted by the council.

#### **Representations**

15. The closing date for representations to be made following the most recent public consultation on the submission version of the Neighbourhood Plan was originally 27 August 2014. Cornwall Council extended the period to 5 September 2014 to allow more time for the Environment Agency to submit representations.<sup>4</sup> I then received a document from the council in which the consultee representations were reproduced. Some 54 parties named in this document evidently made no response. Those who submitted representations are listed as follows (in the same sequence as in the council's document):

Highways Agency.

Central 2 East 1 and E2 Historic Environment Planning Team.

Affordable Housing.

Mr A Hensher for Sterling Housing St Eval Ltd.<sup>5</sup>

Economic Development.

English Heritage.

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<sup>4</sup> In the event no representations were submitted by the Environment Agency by the closing date. On 15 September 2014 I received some papers from Cornwall Council which included a letter dated 11 September from the Environment Agency making comments on Policies SNDP2 and SNDP4 in the Neighbourhood Plan. It would not be fair to those who made representations during the allocated period to treat this letter as duly made representations and the planning authority has not asked me to do so.

<sup>5</sup> Although Cornwall Council's document reproducing the representations listed these representations under Mr Hensher's name, Mr Hensher was apparently acting on behalf of Sterling Housing St Eval Ltd, so I am treating the representations as having been made by the company. Later in this report, to avoid repetition, I sometimes use the abbreviated name "Sterling Housing".

Sport England.

South West Water Services Ltd.

Ramblers Association (Cornwall).

16. The **Highways Agency** comment that the proposals in the plan are unlikely to have a negative impact on the strategic road network. The Agency welcomes the policies which seek to improve local employment opportunities to reduce out-commuting.
17. **Sterling Housing St Eval Ltd** has made a number of comments on the plan, following earlier comments on the draft plan. In summary, the company opposes the "cap" of 100 new dwellings in Policy SENDP2 on the grounds that it is inconsistent with national policy and with the local plan. The company disagrees with the findings of the ecology report on which Policy SENDP4 is partly based, and does not feel that the American Buildings should be designated as a heritage asset (Policy SENDP5). The company supports Policy SENDP6 but asks that it be modified to allow development where there is an over-provision of playing fields or where a loss of such facilities would be replaced by equivalent or better provision.
18. **English Heritage** confirm that they are satisfied that the assertions made in the Consultation Statement about the protection of heritage assets "had been underpinned by an appropriate level of understanding of their significance", and on that basis they have no additional comments.
19. The representations from **Sport England** describe the role of that body and contain various comments about neighbourhood plans in general; but there is no indication in these representations that Sport England has read the Neighbourhood Plan or wishes to make any comments on it.
20. **South West Water Services Ltd** advise that the settlement does not benefit from any foul drainage facilities or immediate access to public water mains.<sup>6</sup>
21. **Ramblers Association (Cornwall)** have written to confirm that they have no objection to the plan.
22. I have taken account of these representations where appropriate when considering the individual policies of the plan later in this report.
23. The situation regarding the representations from the other parties listed above (**Central 2 East 1 and E2 Historic Environment Planning Team, Affordable Housing, and Economic Development**) is explained in paragraphs 25-26 below.

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<sup>6</sup> South West Water Ltd (SWWL) have later stated that this information is not correct. SWWL sent a message to the planning authority which was forwarded to me, from which I understand that SWWL have in fact installed a new foul sewage pumping station to serve St Eval. The pumping station was designed to cater for existing properties and would not have the capacity to accept significant growth. Additional capacity could be provided, although the funding would fall to the developer.

### **Examination Procedure**

24. As a result of my initial reading of the documents sent to me by Cornwall Council, I put a number of questions to the Parish Council and to Cornwall Council, for which purpose I sent emails to both bodies inviting responding answers and comments. These questions were sent before I received the "consultation responses", that is to say the responses to the consultation period ending on 5 September 2014, as recorded in the last of the documents listed in paragraph 13 above. A joint reply to my questions was emailed to me on behalf of both bodies.
25. After receiving the consultation responses, I sent a further email to both councils. This second email partly concerned the fact that several of the consultation responses appeared to have been made separately by departments or officers of the planning authority. I asked for revised representations to be submitted, for two main reasons: first, I was not sure whether the views expressed by individual departments or officers were the considered views of the council (and if not, I did not think it appropriate for an examiner to mediate between different officers of the same planning authority); secondly, one of the objections related to the boundary of the Neighbourhood Plan area, and it seemed to me that this objection in particular raised a potentially important issue, especially as it had apparently been made on behalf of the planning authority and concerned such a basic matter as the area covered by the plan.
26. This matter has been resolved by the revised representations sent in response to my queries. The later document<sup>7</sup> makes clear that Cornwall Council supports the Neighbourhood Plan and does not have any objections to it. I have therefore taken it that the objections originally raised by the council, including the planning department's objection to the neighbourhood plan area, are not being pursued and have in effect been withdrawn.
27. I am grateful to all those involved in responding to my questions. Although some delay was caused, I judged that this was necessary to clarify points in the plan or matters arising from the representations.

## **General Matters**

### **The Development Plan**

28. The development plan current for the St Eval area with relevance to the Neighbourhood Plan at the time of writing consists of the "saved policies" of the North Cornwall District Local Plan 1999. A new development plan (referred to as the emerging Cornwall Local Plan) is being prepared but is not yet finalised.

### **Neighbourhood Plan Area**

29. The plan area is the Parish of St Eval. On the face of it, the boundary of the plan area looks odd in two respects. One of these is that a group of houses on the south-eastern edge of St Eval village - houses which for most practical purposes are apparently part of the village - are excluded from the plan area. These properties are across the parish boundary in St Ervan parish, but from a planning viewpoint it would appear sensible to include them in the plan area so as to avoid policy anomalies within the same small settlement.
30. I understand that there was joint working with St Ervan parish in the early stages of the Neighbourhood Plan, but later a decision was made not to include the part

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<sup>7</sup> Report to Portfolio Holder dated 22 September 2014.

of the village which falls outside the St Eval parish within the plan area. This part of the village would be covered by wider development plan policies.

31. Even after reading Cornwall Council's revised representations as mentioned above, I still find it difficult to see the planning or geographical logic for excluding the south-eastern part of St Eval village from the neighbourhood plan area. I am not aware of any disagreement between the two neighbouring parish councils, and I do not know the reasons behind what seems to have been a change of approach. However, bearing in mind that the planning authority does not wish to pursue the objection originally lodged on this matter, I conclude that although this is a flaw in the plan, it does not affect compliance with the basic conditions set out in legislation. On that basis, no amendment to the plan area is necessary.
32. The second apparent oddity is the straight line marking part of the north-west boundary of the "St Eval village boundary" on Figure 3 of the plan. The text of the plan states (on page 7) that in defining the village boundary, part of the methodology was that "the village boundary followed clear defined physical features". The north-west boundary does not do so - it seems not to bear any relationship to physical features on the ground, as far as I can tell from maps and aerial photographs. This line also differs from the boundary of the area labelled as "MoD Land to be Sold" in the October 2011 Ministry of Defence Development Brief - the latter covers a much bigger area and is a different shape.
33. I now know that the area sold by the Ministry of Defence is not the same as the area labelled "MoD Land to be Sold" shown in the MoD development brief.<sup>8</sup> I understand that the straight-line north-west boundary of St Eval village accords with the boundary of the land actually sold by the MoD. Although this boundary appears arbitrary, since it is based on current ownership (which could change at any time) rather than on physical features, there is some justification for it. The suggestion below is made as I consider that it would be helpful to explain this point in the plan.
34. **I suggest that the text on page 7 of the plan (indicating that the village boundary follows clear defined physical features) should include a brief comment explaining why part of the village boundary is an exception.**

#### **Preparation Procedures and Regulatory Requirements<sup>9</sup>**

35. St Eval Parish Council are the qualifying body responsible for the preparation and submission of the Neighbourhood Development Plan. The original motivation for a neighbourhood plan evidently arose when it became known that the Ministry of Defence intended to close the Navy, Army and Air Force Institute (NAAFI) building and sell some of their land at Trevisker St Eval. A community body known as SEACAF CIC (St Eval Area Community Action Forum Community Interest Company) was formed to acquire the NAAFI building. A five- year lease was acquired on the building (one of the "American buildings") and a community centre opened there in January 2012; it includes meeting rooms, a hairdressers, social club, post office and shop.

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<sup>8</sup> Source: Online Estates Gazette publication of property details (undated). This information was not apparent from the documents originally sent to me.

<sup>9</sup> The source of most of the information reported here about the plan preparation procedures is the December 2013 Consultation Statement. Other information is sourced from the Basic Conditions Statement.

36. A Steering Group was formed in the spring of 2012. Various surveys and events have been held, including consultation events in Trevisker St Eval and Porthcothan in May and June 2012, a parish survey and housing needs survey in November and December 2012, and further consultation days at Trevisker School and Trevisker St Eval Community Centre in December 2012. In February 2013 the Steering Group decided to prepare a Neighbourhood Development Plan, instead of the original Neighbourhood Development Order which would have been directed specifically at influencing development of the MoD land.
37. A questionnaire survey of businesses in the parish was carried out in September 2013, to identify needs and future development. A community consultation event with staffed displays and explanations of policies was held at Trevisker St Eval Community Centre in December 2013. A similar event was repeated at St Eval Parish Hall in January 2014. Both of these events were publicised with posters and flyers, and enabled those attending to provide comments or feedback. Some changes were made to the plan as a result. The plan as drafted for submission to the planning authority was approved by the Parish Council on 5 February 2014, and was subject to a six-week "pre-submission" consultation period starting on 10 February 2014. The plan with related documents was submitted to Cornwall Council on 15 May. Cornwall Council then carried out a final consultation process, which ended (after extension as previously explained) on 5 September 2014.
38. The plan period (2014-2030) is published on the outside cover. The Parish Council evidently intend to update the plan at an earlier stage if that becomes appropriate, having regard to the emerging local plan, which is also intended to cover a similar time period.
39. In December 2013 Cornwall Council issued a "screening opinion", after carrying out a screening exercise on the expected contents of the plan. This advised that the plan did not require a Strategic Environmental Assessment ("SEA"). Statutory consultees were evidently involved in this procedure (the Environment Agency, English Heritage and Natural England for SEA, and Natural England for Habitats Regulation Assessment).
40. The plan contains a number of policies aimed at ensuring that development is sustainable and (subject to my recommendations relating to topics such as energy consumption) it contributes to achieving sustainable development.<sup>10</sup> Other regulatory requirements relating to European Union and human rights obligations have also been met. Neither an Environmental Impact Assessment nor a Habitat Regulations Assessment appears necessary.
41. The Basic Conditions Statement explains that the Neighbourhood Plan has been prepared with planning officers from Cornwall Council as part of the project team. The Statement reviews each policy of the Neighbourhood Plan against the relevant provisions of the NPPF and against the strategic policies of the North Cornwall District Plan. The Statement describes how the neighbourhood plan policies have regard to the NPPF and are in general conformity with the North Cornwall District Plan.
42. The main unusual aspect of this comparison is that the number of new dwellings referred to in Policy SENDP2 of the Neighbourhood Plan is far more than envisaged in the District Plan (in which St Eval is categorised as a minor village

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<sup>10</sup> The term "sustainable development" as used in the NPPF has three main dimensions: economic, social and environmental.

where the only housing development is expected to be from infilling, conversion or redevelopment). However, the statutory development plan is now quite old and its provision for residential development has been superseded by the NPPF and by more up to date estimates of housing need in Cornwall, which have informed the emerging Cornwall Local Plan. It is sensible to have regard to this latter plan, which should also soon supersede the current statutory development plan.

43. In summary, the information available to me shows that the Neighbourhood Plan has been prepared by a properly constituted qualifying body, that the plan covers a properly designated area, and that all other appropriate regulations relating to the preparation process either have been met or would be met after amendment as recommended. If the recommendations made in this report are accepted, the plan would be in general conformity with the strategic policies of the development plan for this area and would have appropriate regard for national policies and guidance. In view of the apparently large discrepancy in proposed housing provision between the statutory development plan and the Neighbourhood Plan, I may be stretching the meaning of the phrase "general conformity with strategic policies"; but there is good reason to do so.

## The Plan and its Policies

### Background

44. It is not part of an examiner's role specifically to test the soundness of a neighbourhood plan. However, it is national policy, as stated in paragraph 17 of the NPPF, that: "plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency". Similar advice is contained in the NPPG mentioned above, which states that:

"A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence".<sup>11</sup>

45. In view of this advice - and with past experience of holding many planning inquiries where the meaning of policies has been disputed - I have given particular attention to the wording of policies and related supporting text in the Neighbourhood Plan. Even apparently minor points of interpretation can cause problems for those responsible for deciding planning applications and appeals, and can also result in developers seeking to carry out development contrary to the plan-makers' intentions.
46. The plan contains what are nominally seven policies, but in effect they constitute about eleven policies - some "policies" are really topics or subjects, on which there are two or three separately numbered policy statements. There is nothing wrong with this format, but it means that in reviewing the policies and supporting text, it is necessary to consider these separate components.

### Policy SENDP1

47. The policy refers to the former American buildings "identified within Figure 3". This may seem a detailed point to some people, but the plan at Figure 3 does not in fact "identify" the former American buildings - it shows four buildings coloured pale brown as "Heritage". It is possible to detect that these are the former

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<sup>11</sup> NPPG, Section 5.

American buildings, but this aspect of the plan would be clearer if a sentence were added to the supporting text stating that these buildings are those shown in pale brown on Figure 3 (this could be conveniently done by adding to the text under the heading "Intention"). Then it would not be necessary to include this point in the wording of the policy itself. (My comments about Figure 3 later in this report are also relevant here.)

48. The provisos in sub-paragraph (b) of the policy refer to various use classes (A1 shops, A2 financial and professional services, etc). These references are to classes of the Town and Country Planning (Use Classes) Order 1987 as amended (the "UCO"). They raise two potential problems. First, the terms used in the plan may mislead some people, particularly those not familiar with the UCO. For example, Class A1 of the UCO (described as "shops" in the policy - understandably since this label is used as a heading in the UCO) includes use for the direction of funerals, use as a travel agency, use for washing clothes on the premises and use as an internet café. Class B1 (described in the policy as "business", as is again headed in the UCO) can include various types of industrial processing.
49. Secondly, the UCO has been subject to a number of changes recently, and more change appears quite likely in the near future. If references are made in the plan to the UCO, a brief explanation could be given in a footnote, making clear that the descriptions "shops", "business" etc are not complete, and that the effects of the UCO can be changed by legislation. On balance, however, I think it would be simpler not to specify potentially acceptable uses by reference to the UCO, thereby avoiding the complications which could arise from changes in legislation.
50. I have reservations about the proviso in sub-paragraph (c) of the policy that development proposals should "give consideration to the current uses within existing facilities: community centre and post office/shop". This is one of the matters I raised in written questions, for two main reasons: first, the expression "give consideration to" is rather vague; secondly, it appears to be aimed at safeguarding the commercial viability of the existing shop, and as a general principle, planning powers should not normally be used to stifle commercial competition. Indeed, in defining "sustainable development", the NPPF refers to the need to build a "competitive economy", so this part of Policy SENDP1 could be seen as contrary to national policy.
51. From the responding comments, I note that the local community are concerned that if the type of local convenience shop operated by some national retailers were to come to St Eval, it would have "devastating effects on the [existing] shop....[and] impacts would be detrimental to local livelihoods". This response confirms to my mind that the policy is indeed aimed at preventing competition. If a national retailer were to open a shop selling convenience goods in St Eval (which is for commercial reasons unlikely anyway, in my view) and the existing shop then closed, the community would still have a shop, and local people would have the opportunity of employment there. The post office facility is probably affected by different factors, on which I cannot comment as I do not know the financial arrangements under which post office services are currently provided.
52. The apparent aim of this policy could also be readily thwarted. An applicant or agent could, for example, obtain planning permission for development which might appear not to involve competition with the existing shop (such as a different type of shop, or perhaps a café) and then sell or lease the premises with permission for retail use - either direct or through permitted development rights - to a national retailer of the type which the Parish Council are concerned about.

Such a change of ownership or operation would not normally be subject to planning control.

53. Taking all those points into account, I have framed my recommendation so as to try to make the policy workable and in general accordance with national policy, whilst recognising the concerns and desires of the local community.

**54. I recommend that Policy SENDP1 be amended so that it reads:**

**Proposals which support the re-use of the former American buildings will be encouraged and permitted where an applicant for planning permission can show that the proposal:**

**(a) would create local employment opportunities or community facilities; and**

**(b) would maintain or enhance the function of the American buildings in providing local shopping and other services.**

**55. I suggest that consideration be given to adding a sentence to the supporting text as described in paragraph 47 above.**

#### **Policy SENDP2**

56. I consider first the objection to this policy by Sterling Housing St Eval Ltd. The main issue arising from this objection is whether the policy should state a maximum number of new dwellings, with the words "up to" 100 dwellings in the period up to 2030.

57. In my judgment there is some merit in the objector's argument, though perhaps not for the same reasons as those put forward. The company's case is partly based on how the provision of new housing in St Eval would relate to the emerging draft Cornwall Local Plan, not to the current statutory development plan (the North Cornwall District Plan) as required by the basic conditions set out in the Localism Act. Nevertheless as I have already commented in paragraph 42 above, it is sensible to have regard to the draft emerging Local Plan. Otherwise the Neighbourhood Plan could lose weight quite quickly by becoming partly superseded as soon as the new Local Plan is adopted. Whatever the precise number of dwellings, there appears to be general agreement that new housing in St Eval would be beneficial to the local community socially and economically, while also helping to meet wider needs for Cornwall as set out in the emerging Local Plan.

58. The imposition of a "cap" on the number of new dwellings could have undesirable consequences if, for example, 100 dwellings happened to be built during the early part of the plan period, and then a proposal for an otherwise entirely acceptable scheme for a house (or perhaps more than one house, or a conversion scheme involving more than one dwelling) were to be made. Such a proposal would, on the face of it, conflict with Policy SENDP2. Exceptions can always be made to policies, but in such circumstances a potential developer would appear to be in a weaker position than would apply if the policy were less rigid, so future development could be unsuitably hindered.

59. It seems to me that a precise figure for the number of dwellings which could suitably be developed in the plan area is likely to depend on factors such as site capacity, proposed phasing (too much too quickly may be undesirable), and the feasibility of meeting requirements for providing improved sewerage or community benefits such as "affordable housing". One factor affecting the capacity of land in St Eval for new housing development is a covenant covering

some of the former MoD land. This evidently imposes a height limit of 3.4 metres, which would prevent the construction of two-storey houses, or even bungalows of much size unless they were to have fairly low-pitched roofs. These are the sort of constraints which would have to be considered by a developer if or when any application for planning permission were to be made. From the information made available to me I do not perceive a convincing case for the 100 dwelling maximum, as opposed to, say 90, or 105, or 110.

60. I conclude that the proviso in sub-paragraph (a) of Policy SENDP2 should be omitted; but the supporting text should also be amended so that it refers to the figure of 100 new dwellings as an approximate indication of the plan's intention. That would provide an appropriate guide to potential developers without imposing an unduly rigid cap or limit.
61. The proviso in the policy that housing development should not "result in the loss of land allocated or protected for other uses" would cause problems for decision-makers trying to apply this policy. The plan appears to allocate or protect the land coloured blue on Figure 3 for "environment", but also envisages allowing the loss of some of this land to housing development, despite the proviso I have just quoted. There would also be some conflict with the policy on "green assets" because Policy SENDP2 would not allow, for example, housing development on the tennis court, whereas under Policy SENDP6, such development would be allowed provided that acceptable alternative provision was made.
62. The reference to the provision of "recycling facilities" in sub-paragraph (h) is so generalised as to be ambiguous. It is apparently intended to refer to rubbish or waste bins.
63. I have used wording similar to the draft plan as far as possible in the recommendation below, with some minor variations for grammatical reasons where I considered this appropriate.
- 64. I recommend that Policy SENDP2 be amended so that it reads:**

**Housing development will be permitted within the village boundary of St Eval where the development would meet the following criteria:**

- (a) Proposals must provide quality design and layout<sup>12</sup> which suits St Eval and demonstrate that the existing context, local constraints and land covenants have been considered, and that the development would make a positive contribution to social, economic and environmental sustainability.**
- (b) [As per sub-paragraph (c) in the draft plan].**
- (c) Development must provide community benefits in the form of affordable housing and contributions for local facilities, services or infrastructure requirements.**
- (d) [As per sub-paragraph (e) in the draft plan].**
- (e) [As per sub-paragraph (f) in the draft plan].**
- (f) [As per sub-paragraph (g) in the draft plan].**

<sup>12</sup> The wording here is the same as in the draft plan - I have not altered it. But I wonder whether this text was intended to read either: "...provide a quality of design and layout which suits ..." etc; or perhaps: "...provide a high quality of design and layout which suits..." etc. I leave this for possible amendment at the discretion of the planning authority.

**(g) The proposed design and layout must provide suitable space for rubbish or waste bins.**

- 65. I also recommend that the last sentence of the supporting text under the heading "Intention" on page 7 be deleted and replaced by:**

**"As a general indication, it is envisaged that about 100 new dwellings would be provided within the settlement boundary of St Eval in the period up to 2030, subject to the conditions set out in the policy".**

**Policy SENDP3**

66. Under sub-paragraph (c) in this policy, the replacement of existing dwellings outside the village boundary of St Eval will be permitted where (among other things) there is "no increased character". The meaning of the expression "increased character" is difficult to discern. The criterion that there should be no visual impact, or no increased visual impact, is also not clear since this part of the text could be interpreted in those two different ways. My recommendation is aimed at making this part of the policy clearer, so that it reads: "...and there is no harmful visual impact ...".
- 67. I recommend that in sub-paragraph (c) of Policy SENDP3, the words "increased character or" be deleted and substituted by "harmful".**

**Policy SENDP4**

68. This policy makes three separate policy statements set out in three numbered paragraphs, all under the heading "Policy SENDP4 - Environment". There are several flaws in the policy.
69. The first part of paragraph 1 of the policy sets out a requirement that development which is "likely to have either a direct or indirect adverse impact on the locally designated sites (identified in Figure 3) for nature conservation, priority habitats and/or protected species should demonstrate that appropriate mitigation and/or compensation will be provided". This requirement is reasonably capable of interpretation, although my recommendation below includes a minor amendment to improve clarity.
70. The second part of this paragraph adds, after a semi-colon: "and where possible, achieve a net enhancement to the biodiversity within Trevisker St Eval". It is possible to assume that "within Trevisker St Eval" is meant to refer to the boundary line labelled as "St Eval village boundary" on the map at Figure 3, but the "where possible" qualification makes this criterion imprecise and open to argument. The requirement that development should achieve a net enhancement, for environmental features which are, at most, of no more than local significance is also in my judgment too severe an imposition. On balance, I consider that this second part of paragraph 1 should be omitted.
71. In paragraph 2, the phrase "within the Parish of St Eval" appears to be superfluous, since unless specified otherwise, the plan's policies apply to the whole area of the plan, which is the parish of St Eval. It is not clear what is meant by "natural" species of trees. I guess that the intention here was probably to refer to "indigenous" species. Be that as it may, a requirement for development proposals to retain and enhance existing hedgerows and trees is unduly restrictive and would anyway be quite likely to achieve the opposite of its intention, since it could encourage potential developers to remove existing

vegetation before any planning application is made. In my judgement the intent of this part of the policy would be adequately covered by the requirement for appropriate mitigation and/or compensation in paragraph 1, so I am recommending that paragraph 2 be omitted.

72. In paragraph 3, the comments I have just made about the phrase "within the Parish of St Eval" apply again. There is also some ambiguity in this paragraph, since it is difficult to be sure whether the "where feasible" criterion is intended to refer to the whole of paragraph 3, or only to the immediately preceding requirement to make new links. It is unrealistic to require that *all* development proposals - including, for example, house extensions or changes of use - *must* enhance the existing walking, cycling and horse riding network. I allow for this point in my recommendation below.
73. Some of the evidence about the area's ecology is disputed. Sterling Housing commissioned a recent survey (May 2014) which resulted in some findings different from those recorded in an ecological assessment carried out for the Parish Council in 2012 - for example, the recent survey found no evidence of lowland meadow habitat and found that the ecological value of woodland containing conifer and broad-leaved species did not warrant local or national designation.
74. Some at least of the differences between the survey results are likely to have arisen because of the different seasons when the surveys were undertaken. In any event, it is only necessary for the policy to provide guidance, leaving detailed assessments to be made where appropriate as and when applications for planning permission are made. For the reasons explained above I partly accept the case put forward by Sterling Housing that the requirement to retain and enhance existing hedgerows and trees should not be included in the policy. Where development would have an adverse impact on nature conservation (which would include existing hedgerows and trees) the requirement for "appropriate mitigation and/or compensation" in paragraph 1 of the policy should provide sufficient control whilst allowing for the possibility of replanting or new planting.
- 75. I recommend that Policy SENDP4 be amended in the following ways:**
- 1. by changing the words in brackets "identified within Figure 3" to "shown in blue and labelled 'Environment' in Figure 3".**
  - 2. by omitting the words "and where possible, achieve a net enhancement to the biodiversity within Trevisker St Eval";**
  - 3. by omitting paragraph 2;**
  - 4. by re-labelling paragraph 3 as paragraph 2 and amending the text so that it reads: "Proposals for new housing or other built development must show that where appropriate, the existing walking, cycling and horse riding network would be retained and improved".**

#### **Policy SENDP5**

76. I have had some difficulty working out exactly what this policy is trying to achieve. The stated intention of the policy (as set out in the text headed "Intention") is to conserve and enhance the *setting* of the American Buildings - not the buildings, only the setting. The policy itself seems to be directed more at the buildings themselves (that is to say, the areas coloured pale brown on Figure 3), though the policy does not make the preservation of the buildings a particularly high priority; it only specifies that a balanced judgement should be

made when planning decisions are made about development likely to affect either the significance of the American Buildings or the "non-designated heritage assets". (Incidentally, the policy appears to draw a distinction between "the significance" of the American Buildings and the actual buildings, and I am not sure what this distinction is.)

77. A more minor point of wording is that the policy refers to the effect of "an application" on the significance of the American buildings. An *application* would have no such effect. It is *development* which might have an effect.
78. In response to my written request for clarification, the Parish Council and Cornwall Council have stated that the policy seeks to "protect the presence of the American buildings" and to encourage their suitable re-use, and that the community want the actual buildings to be retained. As noted above, that is not what is stated under the "Intention" heading which refers just to the setting of the buildings.
79. Sterling Housing point out that the American buildings are less than 20 years old, and I can understand why the company oppose treating these buildings as heritage assets. The term "heritage" would normally be regarded as applying to older, more historic features. However, local people evidently regard the American buildings as having played an important part in the history, albeit fairly recent history, of St Eval, and it is appropriate for the Neighbourhood Plan to recognise this perception. I also note that the development brief prepared for the Ministry of Defence considered that the American buildings were "worthy of retention due to their structural condition and appearance".
80. Taking those points into account, I do not accept the objector's argument that Policy SENDP5 should be omitted from the plan. Nevertheless I consider that changes are needed, primarily to make the policy and its supporting text clearer and more consistent. The revised wording below would not rule out changes to the buildings and could allow development of a type not currently envisaged, but is intended to provide positive guidance on the type of development likely to be acceptable.
- 81. I recommend that Policy SENDP5 be amended so that it reads:**
- The effect of development on the American buildings should be taken into account in determining applications for planning permission. Development proposals involving the retention of the American buildings and their re-use for small-scale commercial purposes or as community facilities will be supported.**
- 82. I also suggest that in the explanatory text headed "Intention", the words "the setting of" be omitted.**

**Policy SENDP6**

83. This policy is subdivided so as to constitute more than one policy statement, with paragraphs numbered 1 and 2. Paragraph 1 provides that development proposals relating to St Eval playing field will be permitted where (in summary) either the development "focuses on enhancing the playing field" or a building such as a clubhouse or changing rooms for community use would be provided.
84. This aspect of the policy is partly, but only partly, in accordance with national policy as set out in paragraphs 73-74 of the NPPF, and is subject to an objection by Sterling Housing, who contend in essence that the policy is too restrictive.

The NPPF states that planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities, and that existing open space or playing fields should not be built on unless (among other things) an assessment has been undertaken showing that the land is surplus to requirements, or that the loss resulting from the development would be replaced by equivalent or better provision. More specifically, the NPPF states:

"The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what ....provision is required."

85. The Neighbourhood Plan describes the Trevisker St Eval playing field, surrounding green spaces and tennis courts as "well used", important and valued by the community. This is reflected in background evidence, as recorded, for example, under the heading of "Green and Open Space Provision" on page 13 of the Supplementary Document. It would be unreasonable to expect a neighbourhood plan to involve the sort of statistical detail which might be appropriate for some other types of plan; but in this instance the playing field area appears to be unusually large compared with the size of St Eval village and its population, and I have not found evidence of any quantified assessment of the sort described in the NPPF which might explain why such an apparently disproportionate area is needed.
86. I am not suggesting that there would necessarily be good reason to build on any part of the playing fields; but I consider that the policy should reflect the national policy issues mentioned above. At the same time, the wording of sub-paragraph (a) could be made a little more concise.
87. In paragraph 2, the requirement that alternative provision of tennis courts must be obtained "through the use of a planning obligation" would be unnecessarily inflexible. There are various ways in which such alternative provision could be achieved; in some circumstances this might be possible to do this by a condition on a planning permission, or by a legal agreement other than the "planning obligation" specified in the policy.
- 88. I recommend that Paragraph 1 of this policy be amended so that it reads:**
- Development proposals affecting St Eval playing field (identified as a "green asset" in Figure 3) will be permitted where:**
- (a) the development would enhance the use of the playing field by providing play or sports equipment; or**
  - (b) the development would provide a building with community facilities such as a clubhouse or changing rooms, subject to the scale, siting and design of the proposal; and**
  - (c) it can be shown that the area of playing field affected is surplus to requirements; or**
  - (d) the loss resulting from the development would be replaced by equivalent or better provision in a suitable location.**
89. I also recommend that part 2 of this policy be amended by omitting the words "through the use of a planning obligation".

**Policy SENDP7**

90. This is another policy which is subdivided so as to set out what are in effect two policies. I have five concerns about this policy. First, paragraph 1 refers to "development within St Eval". Elsewhere in the plan, there are various references to the "parish of St Eval", to "Trevisker St Eval", and to "St Eval". In Figure 3, I note that the key mentions "St Eval village boundary" - so on that basis, it would be reasonable to interpret Policy SENDP7 as only applying to the village of St Eval, not to the whole parish or plan area. However, it would seem logical that a policy seeking to obtain "high standards of sustainable development" should apply across the whole of the plan area.
91. Second, the policy states that proposals for development should "seek to achieve high standards of sustainable development" and demonstrate how design, construction and operation has sought to promote (among other things) "the production and consumption of renewable energy". I can see what the policy is trying to get at, but the requirements about "seeking to achieve" and demonstrating that a proposal has "sought" to do other things are too vague to be effective in actually achieving what is desired.
92. Third, sub-paragraph (b), taken on its face, appears to promote the consumption of energy. Even though such promotion only refers to renewable energy, this is contrary to national policies aimed at reducing energy consumption.
93. My fourth concern relates to the statement in paragraph 2 that certain types of renewable energy projects (essentially those which would harm the special qualities of the Area of Outstanding Natural Beauty) "will not be supported". The wording here was evidently inserted in response to a representation by English Heritage on a previous draft of the plan. However, an absence of support is equal to abstention; it is neither support nor opposition, and this policy would mean that the Neighbourhood Plan would be neutral with regard to renewable energy projects which would harm the special qualities of the AONB. Perhaps that is the intention; but I doubt it - and if it is the intention, this part of Policy SENDP7 might as well be omitted.
94. Fifthly and perhaps more importantly, there is nothing in the supporting text helping to explain or justify this part of the policy. The supporting text, under the headings "Policy Justification" and "Intention" is all about reducing "our carbon footprint" and encouraging the use of renewable energy - indeed, it refers to increasing the production of renewable energy and states that the majority of survey respondents are in favour of alternative energy sources. Also, other documents do not mention this part of Policy SENDP7 - for example, on page 10 of the Basic Conditions Statement, the aim of Policy SENDP7 is summarised with no reference to paragraph 2 of the policy. Similar comments apply to page 20 of the Basic Conditions Statement.
95. In summary, paragraph 2 of this policy appears to have been inserted without being justified or covered by a statement of intention. It is also relevant to note that both the statutory and emerging local plans contain policies on renewable energy projects and the relationship between such development and the Cornwall AONB. These plans would continue to give policy guidance without the complication of a neighbourhood plan policy which appears to be inconsistent with its supporting text.
96. Having regard to the above points, I conclude that paragraph 2 of this policy should be omitted.

**97. I recommend that Policy SENDP7 be amended so that it reads:**

**Development proposals should achieve high standards of sustainable development and demonstrate how their design, construction and operation would minimise the use of fossil fuels and natural resources.**

**Other Aspects of the Plan****Map at Figure 3 and Related Text**

98. The map at Figure 3 of the plan is helpful to some extent, but the relationship between the map and the text of the plan is indistinct. This is partly because the map purports to be either an "Illustrative Map" or a "Map showing key areas" (depending on which of the two map titles is taken to apply), while in reality the map seems to be a mixture of general information and policy boundaries. For example, the location of the scheduled monument is a point of information, whereas the blue-coloured areas show the extent of the areas intended to be subject to part of Policy SENDP4, and the green-coloured areas show the land intended to be subject to part of Policy SENDP6.
99. I refer to "part of Policy SENDP4" here because paragraphs 2 and 3 of Policy SENDP4 apply not just to the areas coloured blue, but to all development proposals in the whole parish. Also, if the words "within Trevisker St Eval" at the end of paragraph 1 of Policy SENDP4 are meant to apply to the whole of this paragraph (a point on which I am not sure) the areas coloured blue on Figure 3 which are outside the line labelled as "St Eval village boundary" would not be subject to paragraph 1 of Policy SENDP4.
100. For those reasons it seems to me that the way Figure 3 is presented could cause scope for argument or confusion when planning applications are being considered. At the very least, I think consideration should be given to amending the labelling, so that, for example, the pale brown areas are shown in the key as "American buildings subject to Policy SENDP5"; and perhaps the blue areas should be limited to the land within the village boundary and labelled "Land subject to Policy SENDP4", or "Land subject to paragraph 1 of Policy SENDP4".
- 101. I suggest that the purpose of the map at Figure 3 be reviewed and that the map (and/or its title and key) be amended in the light of the comments above.**

**Concluding Comments**

102. Although I have made a number of recommendations and suggestions, many of them cover detailed points aimed at helping the Neighbourhood Plan to comply with national guidance about the need for clarity, precision and absence of ambiguity in planning policies. Some other recommendations result from my consideration of objections to the plan. But the general thrust of the plan remains, and all those in the Parish Council and others who have worked on preparing the plan are to be commended on steering it through what has probably seemed a convoluted process, especially as much of this work has been carried out by people giving their time as volunteers.

**The Next Stage - the Referendum and its Area**

103. This report contains recommendations and suggestions relating to the policies in the plan, to parts of the supporting text and to one of the maps. These points will now need to be considered as part of the next stage.
104. I recommend that the Neighbourhood Plan, as amended following my recommendations, be submitted to a referendum.
105. One of an examiner's duties is to recommend whether the referendum area should extend beyond the neighbourhood plan area. I have considered this matter with particular reference to my earlier comments about the south-eastern part of the neighbourhood plan boundary. Some of the plan's policies - for example, on local community facilities - may well affect people whose dwellings are geographically part of the settlement of St Eval but for administrative purposes are in St Ervan parish. Guidance in the NPPG suggests that the key issue is whether the scale and nature of the proposals or policies in the plan are likely to have a substantial, direct and demonstrable impact beyond the neighbourhood area. On balance, I judge that the plan would not be likely to have such an impact. Therefore I am not recommending any extension beyond the area of the neighbourhood plan for the purposes of holding the referendum.
106. If the plan goes forward to a referendum and receives a simple majority of the votes cast, it will then proceed to be "made" by Cornwall Council, so that it can become part of the statutory development plan for the area, carrying the weight appropriate to such plans when planning decisions are taken.

**Graham Self MA MSc FRTPI**

30 September 2014.

## APPENDIX 1: SUGGESTED EDITING CORRECTIONS

Page

3. In the text under the heading "1.3 Plan Period", the statement that the plan "will need to be in general conformity with the Local Plan" is inaccurate, since it is apparent from the context that this statement is meant to refer to the draft emerging local plan (not to the North Cornwall District Plan). Neighbourhood plans have to be in general conformity with the strategic policies of the development plan. The emerging local plan is not, as yet, the development plan for the area. To avoid any misunderstanding, I suggest that the first part of this sentence could be omitted, so that it starts: "It is appropriate that..."
7. In Item No 2, "the curtilage...are" should be "the curtilages...are".
7. In item No 4, "dwellings and curtilage that does not" should be "dwellings and curtilages that do not".
8. In line 13, the word "the" appears to have been omitted (ie "emerging Local Plan" should be "the emerging Local Plan").
8. In line 14, the comma after "deliver" should be deleted.
8. In the last paragraph, checks I have made on the company's website indicate that the correct name of this company is "Sterling Housing St Eval Ltd" (ie without the word "Association").
11. In the second paragraph under the heading "Policy Justification", there is a reference to "the three remaining former American Buildings". The map in Figure 3 appears to show (in pale brown colour labelled "Heritage" in the key) that there are *four* remaining American Buildings. If this is so, I suggest that to avoid possible confusion, the sentence in question on page 11 should be amended so that it reads: "St Eval residents believe that this community centre and the three other remaining former American Buildings...."..."etc.
12. In the second paragraph, the comma after "community" should be omitted.
12. In Policy SENDP2, "constrains" should be "constraints".
13. In line 5, "that" should be replaced by "where".
13. In the second paragraph under the heading "Policy Justification", the references to policy HSG 4 of the North Cornwall District Plan are incorrect; I think these should be references to policy HSG8.
14. In the second paragraph under the heading "Policy Justification", the word "illuminated" seems incorrect, as there is no proposal to provide lighting in the areas shown in blue on Figure 3.
16. The reference to the playing field, surrounding green spaces and tennis courts "illustrated in Figure 3" would be clearer if these features were described as "identified as 'green assets' in Figure 3". (This point may alternatively be covered by the comments I have made on Figure 3 elsewhere in my report.)