

Report to:	Service Director for Planning and Sustainable Development	
Date:	12 March 2021	
Title:	Nansledan Local Development Order (2021)	
Portfolio Area:	Culture, Economy and Planning	
Divisions Affected:	<p>St Mawgan and Colan (this division includes the majority of the area referred to in this report)</p> <p>Newquay Tretherras (this division includes a comparatively small area at the west end of the area referred to in this report, and for which major development is not proposed)</p> <p>Newquay Treviglas (this division directly adjoins most of the northern boundary of the area referred to in this report)</p>	
Local Member(s) briefed:	<p>Y</p> <p>Councillor John Fitter – St Mawgan and Colan</p> <p>Councillor Kevin Towill – Newquay Tretherras</p> <p>Councillor Mark Formasa – Newquay Treviglas</p>	
Relevant Scrutiny Committee: Economic Growth & Developmen		
Authors, Roles and Contact Details:	<p>Adam Birchall Head of Sustainability Growth and Innovation; 01209 614273; adam.birchall@cornwall.gov.uk</p>	
Approval and clearance obtained:	Y	
For Cabinet and delegated executive decisions only		
Key decision? (≥£500k in value or significant effect on communities in two or more electoral divisions)	N	
Published in advance on Cabinet Work Programme?	Y	
Urgency Procedure(s) used if 'N' to Work Programme?	N	
Date next steps can be taken	On publication	

Recommendation:

That the Nansledan Local Development Order (2021) be adopted subject to the annual review and monitoring provisions set out in this report and taking in to account the associated Environmental Impact Assessment (recorded on the planning register under PA20/08661) and incorporating the associated parameter plans and maps, design manual and mitigation checklist (as set out in the appendices to the report).

1 Executive Summary

- 1.1 The Nansledan Local Development Order (LDO), when adopted, will grant a form of planning permission for land at Nansledan, Newquay, which is owned and administered by the Duchy of Cornwall. It is the largest single development site in Cornwall. The origins of the Nansledan scheme go back nearly 20 years and there is a long history of joint working between Cornwall Council and the Duchy of Cornwall (the landowner).
- 1.2 The main construction is currently undertaken either directly by the Duchy, or via a consortium of three developers (C Fry and Son, Morrish Homes, and Wain Homes) appointed by the Duchy, and who operate within the constraints outlined in this report. The Council itself is responsible for delivery of key parts of a related link road known as the Newquay Strategic Route.
- 1.3 It is important to highlight that the proposed LDO has only been progressed because of the following factors:
 - a) the strong masterplan framework rooted in the community planning process of “enquiry by design” of 2004;
 - b) the proven track record of the Duchy of Cornwall in delivering and overseeing the development in accordance with these parameters on this and other sites;
 - c) the certainty of design control and compliance in accordance with the masterplan framework exerted by Duchy of Cornwall via covenants on the land (referred to as the “estate stipulations” and explained elsewhere in this report); and
 - d) the funding provided by the Duchy through a planning performance agreement to support the preparation of the LDO
- 1.4 The land to be covered by the proposed LDO consists of the following:

- land on which circa 400 consented homes are already constructed;
 - further land with extant planning permissions;
 - further areas that are allocated for development within the Cornwall Local Plan via the Site Allocations Development Plan Document (DPD);
 - areas secured for suitable alternative natural green spaces via associated legal agreements.
- 1.5 Construction at Nansledan is projected to continue up to the year 2050 providing approximately 3,700 homes by that time, along with commercial uses, community facilities and sections of the Newquay Strategic Route (NSR).
- 1.6 The LDO has been prepared with engagement from local Parish and Town Councils and key stakeholders and has been subject to a period of public consultation during the Autumn of 2020. The Council has worked with the Duchy as landowner and officers have been supported by a specialist multi-disciplinary consultant team (including planning consultants and lawyers) in preparing the LDO documents.
- 1.7 The intention and purpose of the LDO is to simplify and streamline the planning process for development proposals moving forward, by bringing all of the areas mentioned above under one policy and planning control document. This will reduce the need for a large number of planning applications, in turn reducing the resource implications in terms of officer time and associated cost for the Council moving forward. It will also benefit residents by reducing the consents that are required for any alterations to their home.

2 Purpose of Report and key information

- 2.1 The principle of development at Nansledan has long been established with an Enquiry by Design in 2004 setting the context for the original masterplan for the site. The Duchy of Cornwall, as main landowner, has a track record of delivering high quality development within Cornwall and across the South West, including at this site. Significant areas are already consented. The adopted Cornwall Site Allocations DPD, which forms part of the Development Plan, also contains further site allocations and planning policies for the Nansledan development area and identifies areas of Nansledan that benefit from an existing planning consent.
- 2.2 The LDO is effectively another form of planning permission. Instead of being restricted to a particular project or change of use, it provides flexibility for multiple projects and changes of use subject to proposals complying with the parameters in the Order. It will therefore reduce the number of formal planning applications that are required within the Nansledan development area.
- 2.3 The LDO sets standards and guidelines for development. To that end, the LDO consists of the following documents:

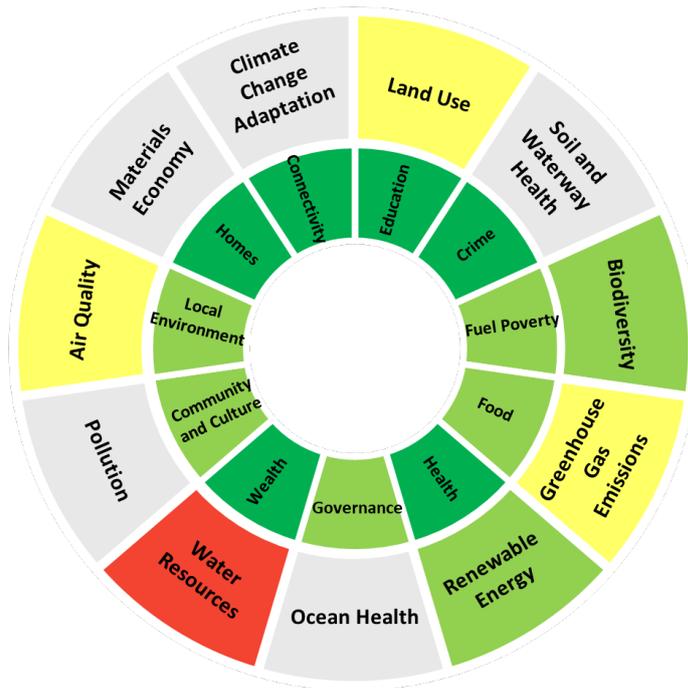
- The LDO itself (a short technical legal document);
 - Parameter Plans and Maps (with which any future proposals must comply with and which are consistent with the current planning consents, masterplans, design manuals and site allocation planning policy – i.e. the LDO is not proposing any significant change to the current parameters);
 - A Design Manual (a detailed masterplan and design guidance for the site);
 - An Environmental Impact Assessment (assessing the environmental, social and economic implications of development);
 - A Mitigation Checklist (a range of mitigation measures which proposals must comply with under the LDO).
- 2.4 In addition, there is an associated Section 106 Agreement. Whilst not formally part of the LDO documentation, this has been prepared alongside the LDO and it sets out the contributions that are required by development proposals that come forward under the LDO, which will ensure continued provision of community infrastructure.
- 2.5 The LDO was subject to a period of public consultation, from 14 October to 17 November 2020. Informal engagement has also been undertaken throughout its preparation, including with Cornwall Councillors, Newquay Town Council and Colan Parish Council. Statutory stakeholders including Highways England, Environment Agency and Natural England have also been engaged throughout the process. All comments received on the LDO have been assessed and have informed the final LDO documentation where appropriate.
- 2.6 One of the catalysts for pursuing the LDO was a recognition by Cornwall Council and local members that minor applications from householders were generally approved provided that they were in accordance with the established design manual. In other words, the design manual was setting a clearer standard than normal planning policy, and the covenants used by the Duchy of Cornwall through the estate stipulations provided stronger control. Therefore, the planning process is currently duplicating what is controlled through these other means.
- 2.7 Once the Nansledan LDO is adopted, applications for new phases of development, or residents who wish to make alterations to dwellings, will be made to the Duchy. It is important to note that the Duchy cannot grant permission – as permission will be granted under the LDO. The Duchy's role will be to consider the request to approve development under a Certificate of Conformity procedure. This is set out below.
- 2.8 The Duchy will review and assess if development proposals are in accordance with the LDO through what is called a Certificate of Conformity. A fee will be payable. The Certificate of Conformity is a detailed checklist to demonstrate that a phase of development is in accordance with the plans, uses, and conditions set out within the LDO. Importantly, all development proposals will

need to demonstrate compliance with the Design Manual and Mitigation Checklist set out within the LDO documents. Neighbour notification on householder proposals will take place under the LDO and will be conducted by the Duchy.

- 2.9 If proposals are found to be in conformity with the LDO requirements, the Duchy will issue a certificate of conformity enabling development to proceed. When considering proposals, the Duchy will also continue to liaise with relevant Cornwall Council Officers where necessary; for example, regarding technical issues covering highways, drainage and environment health (noise/dust etc). These issues are specifically identified and controlled through the mitigation checklist which forms part of the LDO. The existing planning performance agreement will be updated to ensure an appropriate level of resource is funded by the Duchy and provided by the Council. The Duchy will provide an annual report to Cornwall Council which will include details of all Certificates of Conformity issued and phases of development during that year, which will form part of the Council's annual monitoring and review process. This enables the Council to review that the LDO is performing as anticipated.
- 2.10 If any development proposals or alterations to development do not meet the requirements in the LDO, then the Duchy will not issue a Certificate of Conformity and development would not be permitted. Cornwall Council can still take enforcement action at any time if it is deemed necessary. Furthermore, although the LDO is expected to be in place for a number of years, the Council can revoke it at any time if it is not performing as anticipated.
- 2.11 Separate to the LDO the Duchy has an existing set of Nansledan Estate Stipulations which all development and alterations need to comply with; for example, in relation to design features, frontages, cladding and boundary treatments. The existing Estate Stipulations give an extra level of control at Nansledan, through the Duchy, which in turn enables the Council to have a degree of confidence in control over and the quality of development moving forward under the LDO.
- 2.12 If the Duchy itself wishes to undertake development, it must also adhere to the parameters as set out and also report this activity through the process outlined above.
- 2.13 There will also be a requirement for the Duchy of Cornwall and consortium to comply with the Heads of Terms as set out in the signed Section 106 Planning Obligations.
- 2.14 Two versions of the Climate Decision Wheel have been applied; one with the LDO adopted, and one not adopting the LDO. Results are broadly very similar in both instances. In summary, if the LDO does not proceed to adoption,

development would still come forward at Nansledan under the normal planning application process, resulting in the same or very similar mix and quality of built development. If the LDO is adopted, although not certain, there is some potential for phases of development to come forward slightly quicker over time. The main difference with the LDO in place is it would result in less administrative burden on applicants and may reduce costs for homeowners in applying for consent. Therefore, if the LDO is adopted the only tangible differences may be under the governance and wealth scores with potential for small beneficial results in both instances.

- 2.15 While the difference in the two climate wheel results are minimal, with or without an LDO in place, fundamentally the LDO will result in the development at Nansledan being able to proceed under one policy and decision making document, with Nansledan continuing to be built to the high quality that has already been demonstrated on site. Therefore, the LDO would result in developments that would have positive social impacts in relation to provision of new homes, education and health infrastructure. It would also have positive impacts for wealth, through job creation and potential for higher quality jobs. There would be connectivity and health benefits resulting from the aim of creating a high quality permeable and connected neighbourhood, promoting walking, cycling and public transport. There would be some benefits to biodiversity, the local environments and community and culture, and design would be high quality reflecting the Duchy design manual and strong focus on creating sustainable communities. Green infrastructure will be a key requirement, ensuring a net increase in biodiversity, and provision of a comprehensive SANG.
- 2.16 As with larger sites of this nature, there would be some long-lasting negative impacts resulting from agricultural land and open fields being permanently lost to new built development, and in turn air quality impacts from construction and an increase in vehicles. There would also be an increase in greenhouse gas emissions from construction and vehicle use. However, Nansledan will provide positive benefits for climate change adaptation as more stringent building regulations will apply over time, together with the Duchy target of achieving net zero carbon by or before 2030. On balance it is considered the positive benefits of adopting the LDO outweigh the negatives. The climate wheel graphic which has been applied to adopting the LDO is below:



Climate Decision Wheel applied to adopting the LDO

3 Benefits for Customers/Residents

- 3.1 The adopted Cornwall Local Plan and Cornwall Site Allocations DPD set out the development strategy for Cornwall as a whole and its main towns, including Newquay, up to the year 2030. Nansledan is a key element of the growth strategy for Newquay and the mid Cornwall area, providing high quality homes (including 30% affordable), jobs, community infrastructure and a distinctive sense of place. The Local Plan and Site Allocations DPD both require development proposals to ‘assist the creation of resilient and cohesive communities,’ which is a key aim of Nansledan.
- 3.2 Residents of Newquay and the Nansledan area have had the opportunity to be involved in the preparation of the LDO through the consultation and engagement process and have been able to contribute their ideas and views. Prior to the development of the LDO, residents of Newquay have been involved in the planning of Nansledan over the course of many years, providing essential community input into local issues, plans and designs. Opportunities for community involvement will continue to be available through the LDO process, once adopted.
- 3.3 The LDO will simplify the planning process for residents of Nansledan. The current planning application process duplicates a further consent procedure for residents that exists with the Duchy of Cornwall in relation to existing estate stipulations, controlling design and appearance of buildings. In this way, the LDO will reduce the amount of paperwork required through one

consent process which will be managed by the Duchy but monitored and overseen by Cornwall Council.

- 3.4 There is a long and complex set of planning documents. The LDO will bring this planning history together in one place.

4 Relevant Previous Decisions

- 4.1 The Newquay Growth Area (in which Nansledan sits) has had a long gestation period which dates back to an original allocation for extending the town, contained within the former Restormel Borough Local Plan. In 2004 the Duchy of Cornwall commenced an Enquiry by Design process, followed by approval of a Masterplan framework in 2011, and several planning permissions which have granted permission for new housing, employment, a new primary school, open spaces and new road infrastructure, including the Newquay Strategic Route. Under the administration of Cornwall Council (from 2009), the Growth Area has been adopted as part of the Cornwall Wide Site Allocations DPD and between that document and existing planning permissions, the principle and extent of this large scale mixed use development has been defined, and is to be carried forward within the proposed Local Development Order red line up to 2050, in accordance with the following description:

“Development comprising a maximum of 3,700 dwellings, 87,000 sq m gross internal area (GIA) in Use Classes B (B2,B8), C (C1 & C2), E and F (F1 & F2), (including development granted permission under extant outline or full permissions, or under permitted development located within the LDO area), in addition to GP surgery, pharmacy, church, sui generis uses, bus shelters, rail halt, park and ride, Household Waste and Recycling Centre, highways and access, pedestrian paths and cycle paths, landscaping, bastion wall, drainage infrastructure, earthworks and engineering works necessary to carry out the development, green infrastructure, plays areas, sport and recreation, allotments, Suitable Alternative Natural Greenspace, associated works.”

- 4.2 The proposed development will provide a balanced mix of house types and tenures and progress in a similar manner to the house types and architectural form that have already been built to date at Nansledan. Nansledan is being built in eight key phases of ‘Quarters;’ each expressing a slightly different architectural character to reflect local vernacular and each with its own emblem. The Quarters are named: Trevenson, Halfenton, Kosti Veur, Riel, Kosti Vian, Chapelenrhwili North, Trewolek and Hendra.
- 4.3 Of the maximum 3,700 dwellings, 30% will be affordable, which will be provided through 50% affordable rent and 50% shared ownership and discount market housing (of which at least 50% of this will be shared ownership). This split has already been applied to development built to date

and in fact the first 497 consented under the 2010 Outline Planning Permissions have a tenure split of 33.3% Affordable Rent and 66.7% Intermediate Affordable Housing.

- 4.4 The LDO will grant consent for 87,000 sq m gross internal area (GIA) of employment and commercial space. The use classes for the Proposed Development and examples of their definitions (but not restrictive) are provided as follows: Use Class B2 – General Industrial / B8 – Storage and Distribution / C1 – Hotels and guest houses / C2 – Residential Institutions, care homes, nursing homes, colleges / E – Commercial Business and Service – e.g. hairdressers, pet shops, sandwich bars, dry cleaners, professional and financial services, restaurants and cafes, day nursery, health centre / F1 – Learning and non-residential institutions – e.g. church / F2 – Local Community – e.g. shops / Sui Generis – e.g. Drinking Establishments (with or without food provision), date centres, tanning or beauty salons.
- 4.5 The Masterplan will facilitate job creation, aiming to deliver one job per household and therefore 3,700 jobs. Nansledan is a mixed use community with walkable neighbourhoods where daily needs can be served by foot, cycle or public transport. Shops and services will be provided within a five minute walk time and bus services within a ten minute walk time. Employment generating uses will be integrated with residential areas to encourage those that work at Nansledan to also live there. The masterplan positively plans for employment generating uses to create a balance between jobs and homes.
- 4.6 Existing commercial and employment uses at Nansledan include for example: Duchy of Cornwall offices, sales hubs for Morrish, Fry and Wainhomes, cafes, a bakery, a beauty salon, a bridal gown boutique, a barber shop, holiday lettings and a florist.
- 4.7 As at 31 March 2020, within Nansledan the following development had been delivered:
- 388 dwellings and associated roads, drainage, parking and landscaping;
 - 1,654.64 sqm of built floorspace (Use Classes A1, A2, A3, B1);
 - The two form entry (2FE) primary school that opened in September 2019 (named Skol Nansledan);
 - NSR from Rialton Road to the proposed Market Street;
 - Pedestrian / cycle paths from Quintrell Downs station to Skol Nansledan and along Quintrell Road; and at Tretherras as part of St Pirrans’s Trail;

- Earthworks adjacent to Skol Nansledan and levelling the recreation ground;
- Haul Route to enable construction of the NSR bridge over the Chapel Stream;
- Allotments at Quintrell Downs and Tretherras;
- Green Infrastructure and Suitable Alternative Natural Greenspace (SANG);
- Works to create Newquay Community Orchard and erection of the Education Building; and
- Infrastructure and site clearance associated with the above and future phases.

4.8 As identified elsewhere in this report, the area within the proposed LDO includes extant planning consents. Up until adoption of the LDO, construction at the site will continue as these permissions are built out in response to market demand. Once the LDO is in place, development can either be completed in accordance with existing planning permissions or delivered within the parameters of the LDO. However, it is noted that the practical difference is minimal as the LDO is drafted to be consistent with planning permissions and planning obligations that already exist.

5 Consultation and Engagement

- 5.1 Planning Application reference PA20/08661 has been submitted for the following development:
- The Nansledan Local Development Order (2020) (draft) (the Order);
 - Article 38 Town and Country Planning (Development Management Procedure) (England) Order 2015;
 - Regulation 19 the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
- 5.2 As part of the process for formal assessment of this application, extensive consultation, neighbour notification and publicity has been carried out.
- 5.3 Appendix 5 to this report, sets out the full extent of consultee responses received. In brief, the following themes have been flagged up:

Issue	Mitigation or changes made to the draft Order as a result of consultee comments
Concerns expressed that regulatory controls (Noise and Land Contamination monitoring for example) may not be followed through and signed off by Cornwall Council before development consent is issued;	Specific requirement for engagement as part of compliance certification within the mitigation checklist
Achieving targets for reducing car use and managing travel planning including modal shift	The Duchy and their consortium are committed to working with Cornwall Council to roll out the Travel Plans and through the masterplan implementations, a number of new ped/cycle links throughout the development and connecting with / upgrading parts of existing routes. These initiatives will be secured appropriately within in the mitigation checklist.
Regulatory adoption standards for new highways overseen and signed off by Cornwall Council	There is strong liaison between the Duchy, planning officers and highways officers
Monitoring of future phases of development to ensure that environmental design and mitigation is integral to the planning and consent process in the absence of Cornwall Council input or external consultee input;	This is set out clearly in the design manual and there is the opportunity for annual review
Incorporating future changes in standards for building design and / or wider environmental challenges e.g climate change.	The review mechanisms allow for such changes to be incorporated and responded to.

Habitat Regulations - Appropriate Assessment

Summary and Conclusions of the Appropriate Assessment (Appended to this report) (outlines the overarching conclusions that can be drawn from the analysis in relation to the Habitats Regulations Assessment process).

Summary

It has been necessary for Cornwall Council to undertake an Appropriate Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) because the LDO will rely on impact avoidance and mitigation measures in order to address the residual uncertainty regarding the combined effects of this and other development on Penhale Dunes SAC.

A thorough analysis of the available evidence, including desktop information, visitor survey data, ground truthing and recreational catchment analyses, has shown that it is likely that any increase in visitation on Penhale Dunes SAC resulting from the development proposals at Nansledan is likely to be low. Further, that the in-combination increase in conjunction with development coming forward under the Local Plan is likely to have been overestimated, albeit in the absence of further information it is nonetheless recommended that measures be taken on a precautionary basis to provide impact avoidance and mitigation to ensure that there is no adverse effect on the integrity of the SAC.

The Council has already adopted its *Terrestrial European Sites SPD (2020)* to ensure that developer tariffs are collected to address the potential for in-combination effects that might otherwise arise from other non-LDO development.

Pras Trewolek SANG, which represents Phase 1 of the potentially available SANG area, has already been approved and has been implemented, in relation to previously approved applications within the Nansledan LDO area. Analysis undertaken shows that the SANG has good potential to divert a large number of potential visitors away from the SAC, such that there is no net increase in visitation as a result of the approved Nansledan developments.

Future monitoring surveys are planned (and will be secured through the Section 106 Agreement associated with the LDO) to ensure that residents who previously visited the SAC are now choosing to use the SANG for at least some of their usual visits. These results will feed into future management of the

SANG and be taken into consideration during the design of any future SANG phases. The results will be reported to Cornwall Council as part of the monitoring and review mechanisms secured through the Section 106 Agreement, and this will enable Cornwall Council to require the delivery of additional SANG area or SAMM payments should this be required in future. Ultimately it is also open to the Council to revoke the LDO in the very unlikely event that the ongoing monitoring that will be secured through the Section 106 shows that recreational pressure on Penhale Dunes SAC is increasing and that additional SANG and SAMM is not providing adequate mitigation. There is therefore considerable comfort that it is within the Council's control to prevent adverse effects on the integrity of the SAC.

Pras Trewolek SANG is evidence that high-quality and effective SANG can be delivered as part of the Nansledan scheme, ensuring no net increase in visitation to the Penhale Dunes SAC. It can therefore be considered that future SANG phases will be able to deliver satisfactory impact and avoidance measures for future development phases within the LDO area, and the Environmental Statement for the LDO contains sufficient information for the Council to be able to conclude that there are no insurmountable constraints to sufficient additional SANG being brought forward to address any likely worst-case scenario that might arise.

Therefore Cornwall Council have the confidence that the consents as sought under the LDO for Nansledan will be able to provide appropriate impact avoidance and mitigation, through a combination of SANG and SAMM, thereby preventing adverse impacts on the integrity of Penhale Dunes SAC, either alone or in combination with other projects.

As future phases of development come forward under the LDO, bespoke impact avoidance and mitigation packages will be designed on the basis of the available monitoring information to ensure no net increase in the number of visitors to the Penhale Dunes SAC. Further SANG phases will form the basis of these mitigation strategies, with SAMM applied where necessary.

SANG is already being successfully delivered in relation to earlier phases of the development. In conjunction with the information provided in the ES of the LDO, CC can be confident future SANG phases are deliverable in line with Natural England guidelines, and local policy, and that a mechanism can be put in place to secure this through the Section 106 Agreement associated with the LDO.

It is therefore considered that mitigation packages relating to each phase of the development, contributing to an overarching mitigation objective can be

achieved through a combination of SANG delivery and SAMM contributions, as a result of which proposed development under the LDO will not have an adverse effect on the integrity of the Penhale Dunes SAC.

Consequently, taking into account the information referenced above in this document Cornwall Council concludes that the LDO proposals will not lead to an adverse effect on the integrity of the Penhale Dunes SAC, either alone or in combination with other plans and projects and consequently that an Appropriate Assessment of the Local Development Order for the Nansledan Development under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (as amended) can be passed.

The site's Conservation Objectives have been taken into account including the reason for site citation as set out on the Natura 2000 Data Forms and related site documentation available from the JNCC and Defra web pages.

No potential for significant¹ interference with key relationships have been identified.

It is concluded that the construction and operation of the LDO is not predicted to affect the functioning of the SAC and therefore will not represent an Adverse Effect on the Integrity (AEOI) of the site.

6 Financial Implications of the proposed course of action/decision

- 6.1 The main financial implication is the change to the way planning fees will be received in the future. The adoption of the LDO means that Cornwall Council will not receive planning fees linked to applications at Nansledan. However, its costs (including planning officers and those of internal consultees) will be covered by amendments to the existing planning performance agreement, which will be monitored to ensure the Council does not suffer a shortfall against its costs of monitoring and administering the LDO in the future.

7 Legal/Governance Implications of the proposed course of action/decision

- 7.1 The Town and Country Planning Act 1990 and the Town and Country Planning (Development Management Procedure) (England) Order 2015 clearly set out the legal responsibilities and timeframes for the Council's work on LDOs. It is anticipated that the ongoing engagement with Legal and Governance

¹ Significant impacts are those that affect features of international or national importance.

colleagues around the preparation of the LDO, consultation, publicity requirements, Environmental Impact Assessment, consideration of representations and adoption should ensure that there are 'no surprises' and that potential legal/governance implications have been properly considered within the wider process.

- 7.2 As part of this engagement, it is clear that a key issue is the ability for ongoing proper checks and balances to be in place for post- adoption, when the Council must maintain the Register of LDOs. Reassuringly, there is also a provision for regular stakeholder meetings and the monitoring of Affordable Housing provisions on the site.
- 7.3 Counsel's advice received has also concluded that the legal procedural requirements have been satisfied and would result in an LDO that is compliant and likely to be endorsed by the Secretary of State.
- 7.4 The proposed LDO includes a review mechanism which allows the Council and Duchy to address any changes required; for instance those arising from legislative changes, or those arising from practical experience of operating the LDO. The Council's position as Local Planning Authority will not be weakened in any way. Its enforcement powers will continue to apply and ultimately the LDO may be revoked at any time.
- 7.5 Through the process of consultation on the submitted LDO (and EIA), Cornwall Council has sought the advice and feedback of both Natural England and the Environment Agency.
- 7.6 In respect of Natural England, Cornwall Council has followed the duty placed on the Local Planning Authority under the Conservation of Habitats and Species Regulations 2017 (as amended) and completed an Appropriate Assessment (summarised above and attached to this report). In response to written advice received from Natural England on 18th November 2020 and 5th January 2021, the Duchy of Cornwall and their ecological consultant (EPR) has also provided a detailed clarification note to aid Natural England in understanding and interpreting the Environmental information that has been produced to inform Cornwall Council in its preparation of the Nansledan LDO. Together with the published Appropriate Assessment, this information has been sent to Natural England on 20th January 2021 for clarification and their review. Natural England formally responded 8th February 2021 raising no objection. However, they did require that in respect of the Appropriate Assessment, Cornwall Council should include a clearer commitment to 'post consent Monitoring Strategy' for the measuring any adverse effect on the Penhale Dunes SAC and clearer pathway for 'early warning triggers for thresholds reached within Nansledan, to require release of the Phase 2 SANG provision. The Duchy of Cornwall has confirmed that the Section 106 Planning

Obligation by Agreement shall include an obligation to agree a detailed visitor monitoring strategy with Cornwall Council within 1 year of the LDO being adopted and thereafter carry out monitoring annually; and, more frequent review mechanism of Phase 1 SANG to monitor whether capacity of this first phase has been reached, to trigger additional SANG.

- 7.7 In respect of the Environment Agency the position is that following their initial response and further questions contained in the representation of 19th January 2021, again the Duchy of Cornwall and their ecological consultant (EPR) have provided a final clarification note issued on 2nd February 2021. The final response from the Environment Agency has been received on 22 February 2021 in which they confirm their satisfaction that the clarification note addresses their previous concerns and have no objections to the Local Development Order as a consequence. The focus of their support is on the requirements in the Mitigation Checklist which are assessed to be sufficient to ensure that culverts will be designed in line with best practice and rivers and streams will be accounted for in the Biodiversity Metric in future revisions. Separately, Cornwall Council's Drainage Team (as the Lead Local Flood Authority) have also confirmed that their earlier objection has been lifted and now support the provisions as contained in the latest Mitigation Checklist.
- 7.8 The Council and the Duchy of Cornwall estate have clear and distinctly separate roles in this process. The Council is acting in its role as the Local Planning Authority in granting a planning consent via the LDO together with the ongoing control and oversight of the LDO including retention of public records and information on the planning register. The Duchy is a private estate, and will be administering its own internal process to prepare evidence of compliance with the LDO to submit to the Council. This includes evidence submitted to engage with consultees in accordance with the mitigation checklist. The point at which such evidence is submitted to the Council is the point at which such material is placed on the planning register and public record (subject to any normal exemptions as with any other application). Prior to this, any such material simply forms part of the Duchy's own estate management and administrative processes in its capacity as a private estate.

8 Risk Implications of the proposed course of action/decision

- 8.1 The risks are as follows:

Risk	Mitigation
Perceived inability to control future development	The LDO has been prepared in accordance with the existing site allocations DPD, extant consents and

	masterplan. It has a strong compliance and monitoring structure and can be rescinded unilaterally by the Council
Challenge to the LDO adoption	Counsel's opinion has been sought and has provided assurance that the Council have followed due process
Creation of precedent for other developers	As set out at paragraph 1.3 there are some clear principles that have enabled the LDO to be progressed, and other developers would have to demonstrate that they can meet these
Changes to planning controls in future legislation (for instance use classes)	A review process is set out in the draft LDO

- 8.2 There are also opportunities. The learning from the preparation of the LDO puts the Council in a strong position to administer future requests for LDOs. It also prepares the Council to implement or respond to future legislative changes which seek to incorporate the freedoms and flexibilities of LDOs more widely.
- 8.3 If there were to be a choice not to progress the LDO at this stage, there would clearly be a reputational risk for the Council given the resources committed to the scheme over the last 12 months, and it would be inconsistent with the conversations held with Newquay Town Council, Colan Parish Council and the local Cornwall Councillors.

9 Comprehensive Impact Assessment Implications

- 9.1 A Comprehensive Impact Assessment (CIA) has been undertaken. Benefits highlighted by the CIA included: the LDO and the Nansledan scheme more generally over a number of years, have enabled high quality engagement activity in developing the detailed proposals. Further engagement would also be required on delivering proposals at Nansledan, between the Duchy and the Council. Local residents and other stakeholders have had a number of opportunities and will continue to have an opportunity in helping to shape the development. Residents will continue to be notified by the Duchy when phases of development are proposed under the LDO. A green infrastructure strategy is integral within the design of Nansledan, ensuring proposals under

the LDO will have a positive influence on the environment / with a biodiversity net gain within the area.

- 9.2 Nansledan has been developed to be in general conformity with the Cornwall Local Plan and Site Allocations DPD, which were both subject to Examinations in Public and found to be sound. The Cornwall Local Plan and Site Allocations DPD provides for the objectively assessed need for housing to meet the needs of all the community, requiring high quality development and delivery of community infrastructure, which development at Nansledan and the LDO has been prepared in accordance with, subject to public consultation and local stakeholder endorsement. Affordable properties will be allocated to households who have a local connection to Cornwall, either through residency or employment. This will have a positive impact for people of Cornish origin who will receive preference for allocation through meeting the criteria.
- 9.3 The site wide features including open and communal spaces, will encourage and facilitate positive social and community culture within the development, and in terms of aspect and accessibility in relation to surrounding developed areas.
- 9.4 Measures to encourage sustainable modes of transport are a priority, including cycling and walking, and are included in the designs for the Nansledan area. These include adequate and early bus route provision, continuous walkways and cycleways throughout the site, permeability into the existing residential areas of the town including to the rail station.
- 9.5 A range of impacts will be considered in relation to the development of the site through the LDO planning process and covered in particular by the Councils annual monitoring and review of the LDO performance. Ongoing engagement with local stakeholders and between the Duchy and relevant Council officers, will ensure a key method of ensuring any impacts are understood and minimised or mitigated.

10 Options available

- 10.1 The main alternative option is not to progress the Local Development Order as proposed. However, this would simply maintain the status quo which has a series of shortcomings as set out in the report and creates risks as at paragraph 8.3 above.

11 Supporting Information (Appendices)

- 11.1 Appendix 1 – Local Development Order
- 11.2 Appendix 2 – Illustrative Masterplan

- 11.3 Appendix 3 – Design Manual (i to iv)
- 11.4 Appendix 4 – Mitigations checklist
- 11.5 Appendix 5 – Consultee summary
- 11.6 Appendix 6 – Appropriate Assessment
- 11.7 Appendix 7 – Nansledan AALDO Visitor Survey Methodology

12 Background Papers

- 12.1 Other information, including the EIA, is available to view via the Cornwall Council website and through the planning service webpages reference PA20/08661.

<https://www.cornwall.gov.uk/planning-and-building-control/planning-applications/online-planning-register/>

13 Approval and clearance

All reports:

Final report sign offs	This report has been cleared by (or mark not required if appropriate)	Date
Governance/Legal (Required for all reports)	Ben Curnow	05/03/2021
Finance (Required for all reports)	Tracy Stepney	08/03/2021
Equality and Diversity (If required)		
Service Director (Required for all reports)	Adam Birchall – Head of Sustainable Development	11/03/2021
Strategic Director (If required)		