

CD 6.4

Town and Country Planning Act 1990

Acquisition of Land Act 1981

Local Government (Miscellaneous Provisions) Act 1976

The Highways Act 1980

Inquiry into:

**THE CORNWALL COUNCIL (LANGARTH GARDEN VILLAGE, THREEMILESTONE) COMPULSORY
PURCHASE ORDER 2022**

Appendices to Proof of Evidence

of

Gavin Smith

2 January 2024

- GS1 Summary of Planning History of Site**
- GS2 Summary analysis of Scheme compliance with Local Plan (Strategic Policies)**
- GS3 Summary analysis of Scheme compliance with TKNDP 2016 and 2023**
- GS4 Summary analysis of Scheme compliance with NPPF (December 2023) policies**
- GS5 Summary analysis of Scheme compliance with other relevant planning policies and guidance**
- GS6 Policy Timeline**
- GL7 Legal Note on Arsenal Condition**

Langarth Garden Village Planning History¹

TABLE 1: Third Party Planning Applications unrelated to LGV

Site name & Applicant	Development description	Planning reference / type of approval	Date and current status
West Langarth <i>Inox Property Ltd And Inox Cornwall Stadium Limited</i>	Mixed-use proposal for retail (A1 – 5,574 sqm supermarket and five non-food (comparison) retail units with a floorspace of 4,645 sqm gross (3,716 sqm net)) with associated petrol filling station and car parking (providing space for mobile library); food and drink (A3 / A4 / A5 – 929 sqm (gross) floorspace) / day nursery (D1); residential (C3 – approximately 130 dwellings); community and sports facility (D1 / D2 – 500 sqm); public open space (including formal playing pitch provision); and other associated infrastructure (inclusive of linkage to consented Langarth/Stadium sites)Means of access to be determined only)	PA14/08092 (Outline)	Permitted 11 th August 2016 EXPIRED
Langarth Farm <i>Inox Group & Exemplar Projects (Truro) Ltd</i>	Mixed use development comprising circa 1500 dwellings (C3), restaurant (A4), retail floorspace (A1), hotel (C1), employment floorspace (B1/B8), care home (C2), park and ride extension (sui generis), primary school, community space (D1) and associated public open space and infrastructure (means of access to be determined only)	PA11/06124 (Outline)	Permitted 10 th July 2013 Expires 10 July 2026 assuming no further reserved matters applications are submitted
	Nonmaterial amendment for the insertion of text into condition 2 which refers to the submission of the final reserved matters application timeframe. An application for the approval of final reserved matters	PA15/11745 (NMA)	Approved 7 th July 2016

¹ This table excludes historic linked applications which were withdrawn or refused

Site name & Applicant	Development description	Planning reference / type of approval	Date and current status
<i>Inox Capital Limited And Exemplar Projects (Truro) Ltd</i>	shall be made before the expiration of 13 years (10 th July 2026.)		
	Layout, appearance, landscaping, and scale related to the construction of 494 dwelling houses (C3) and internal roads / paths alongside the creation of areas of public open space and realm, and landscaping.	PA15/11489 (RMA)	Approved 20 th October 2016 EXPIRED
Pollards Field <i>Inox Property Ltd</i>	Residential development comprising of up to 78 dwellings (C3) with associated open space and infrastructure (means of access only to be determined).	PA14/03065 (Full)	Permitted 11 th August 2016 EXPIRED
East Langarth / Willow Green <i>LXB (Willow Green) Ltd</i>	435 dwellings, nursing home, food store, petrol station, 1 form entry primary school, community hall, public house / restaurant, central component of the NAR (including vehicular / pedestrian / cycle details), public open space, service diversions and foul and surface water drainage infrastructure, ground remodelling works including moving of material on and off-site and demolition of existing buildings and detailed approval of access point from the A390.	PA14/10755 (Outline)	Permitted 25 th July 2016 EXPIRED
	Reserved matters details of access, appearance, landscaping, layout and scale for a foodstore and associated car park, service yard, location of petrol filling station along with full details of a section of the Northern Access Road (Phase 1A)	PA16/07602 (RMA)	Approved 2 nd November 2016 EXPIRED
	Reserved matters details of access, appearance, landscaping, layout, scale for public open space to the south of the northern access road and proposed earthworks on the site of the public house (Phase 1A)	PA16/07603 (RMA)	Approved 2 nd November 2016 EXPIRED
	Reserved matters details of access, appearance, landscaping, layout, scale for a community hall to the north of the northern access road including parking, landscaping and access arrangements (Phase 1A)	PA16/07610 (RMA)	Approved 11 th November 2016 EXPIRED

Site name & Applicant	Development description	Planning reference / type of approval	Date and current status
Maiden Green <i>Maiden Green Ltd</i>	Up to 515 dwellings (including extra care), school, employment space, convenience shop, community pavilion, infrastructure works, landscaping and public open spaces; district centre including supermarket, petrol station, retail units, community hall, restaurant / cafe uses, hotel, creche, medical centre, mobile library parking, parking, and servicing; and in detail access from the A390, the NAR and connections to Penventinnie Lane within RCHT.	PA14/00703 (Outline)	Approved 11 th August 2016
<i>Mr Richard Walker / Maypool Estates</i>	Reserved matters application for access for site outside of scope of the existing full consent, appearance, landscaping, layout and scale for 515 dwellings, 2no. community buildings and land for a primary school with public open space, landscaping and associated infrastructure	PA22/07181(RMA)	<i>Pending decision</i>
Stadium for Cornwall <i>Inox Group & Exemplar Projects (Truro) Ltd</i>	Erection of a 10,000-person stadium (D2) including ancillary office and hospitality floor space and hotel (C1) and infrastructure. Includes the provision of a 102-space car park to the south and west of the stadium to be accessed via the NAR. Proposals include a permanent emergency vehicle access point and pedestrian access between the Langarth P&R car park to the eastern side of the stadium.	PA11/06125 (Outline)	Permitted 12 th January 2012 EXTANT – conditions discharged pursuant to CDN ref PA19/05201 and works commenced
<i>Cornwall Community Stadium Ltd</i>	Reserved matters application for the erection of a 10,000 person stadium (D2) including ancillary office and hospitality floorspace and hotel (C1) and infrastructure	PA12/09036 (RMA 1)	Approved 4 th April 2013
<i>Cornish Pirates Ltd</i>	Non-material amendment (1) to amend the trigger points of four conditions as follows: Condition 7 - Amended to: "Prior to first use/occupation"; Condition 8 - Amended to: "Prior to first use/occupation";. Condition 20: - Amended to: "Prior to first use/occupation and prior to the installation of	PA18/07777 (NMA)	Approved 8 th April 2019

Site name & Applicant	Development description	Planning reference / type of approval	Date and current status
<i>Cornish Pirates Ltd</i>	any boundary treatments" and Condition 31 - Amended to: "Prior to first the installation of any fixed plant"		
	Reserved matters of access, appearance, landscaping, layout and scale. This submission provides details of access and seeks approval for minor changes to the design of the proposal including revised details to those approved under previous reserved matters approval PA12/09036 in relation to layout, appearance, scale and landscaping in respect of the West and South Stands of the approved Stadium only	PA19/05099 (RMA 2)	Approved 30 th January 2020
Hendra <i>Hendra TC And CP Limited</i>	Hybrid planning application comprising - Commercial Phase: Full planning application for the erection of an 80-bed hotel, commercial units and associated car parking and servicing. Residential Phase: Outline planning application for residential development and associated car parking and servicing	PA12/11527 (Hybrid)	Permitted 21 st March 2013 EXPIRED
<i>Mr Bob Hyatt</i>	Application for approval of layout reserved matter in respect of application PA12/11527	PA16/02385 (RMA)	Approved 9 th January 2017 EXPIRED
<i>Marsh & Baxter Developments Ltd & Hendra TC & CP Ltd</i>	Outline application for proposed Class A1 retail of 6,708 sqm (gross internal (4,360 sqm net), car park, community hub of 1,930 (gross internal) sqm (comprising A1 coffee shop, A3 restaurant and A3/A4 Pub Restaurant, B1 offices including starter units, D2, D1 crèche and associated facilities), pedestrian and cycle links, access works, landscaping and associated works	PA14/09345 (Outline)	Permitted (on appeal) 27 th October 2016 EXPIRED
<i>Mr W Marsh</i>	Reserved matters: access, appearance, landscaping, layout and scale following outline permission APP/D0840/W/15/3137929 (PA14/09345)	PA18/00474 (RMA)	Approved 07 th December 2018 EXPIRED
Petrol filling station	Full planning permission for the development of Petrol filling station including new sales building.	PA18/11022 (FULL)	Permitted 12 th September 2019

Site name & Applicant	Development description	Planning reference / type of approval	Date and current status
Mr Richard Walker	S73 Application to increase hotel floorspace and reduce office floorspace	To carry out development without compliance with condition 2 in relation to decision notices PA19/07921 dated 30/11/2020 and PA23/04870 dated 07/07/2023	<i>Pending determination</i>
Willow Green Cottage <i>Mr Gary Andrew</i>	Outline Planning Application with all matters reserved for up to 5 dwellings and associated access road and services within the curtilage of Willow Green Cottage	PA23/00635	<i>Pending determination</i>
Land To South East Of Penventinnie Barn <i>Mr and Mrs Flavelle</i>	Construction of a detached two storey dwelling	PA23/02842	<i>Pending determination</i>

TABLE 2: Council/LLP led applications in connection with LGV

Site name	Development description	Planning reference / type of approval	Date and current status
Interim Link Road	Construction of interim link road to provide access from the A390 to the proposed Northern Access Road to facilitate construction access at Langarth Farm. Upon completion of the Northern Access Road junction from the A390 the interim link road will revert to a bus gate	PA20/00009 (Full)	Permitted 06 th March 2020 <i>Works completed</i>
Energy Centre	Construction of energy centre incorporating substation and battery storage	PA20/09599 (Full)	Consented 21 st January 2021 <i>Works commenced</i>

Site name	Development description	Planning reference / type of approval	Date and current status
Langarth Garden Village	Hybrid planning application for Langarth Garden Village comprising: A. A full planning application for construction of the Northern Access Road and associated access junction arrangements onto the A390, new junctions to the quiet lanes and associated infrastructure and earthworks and retaining and boundary features; B. An outline planning application with all matters reserved to create a mixed use, landscape-led community comprising a phased development of up to 3550 dwellings plus 200 extra care units and 50 units of student/health worker accommodation	PA20/09631 (Hybrid)	Permitted 5 th April 2022
Listed Milestone	Listed building consent for the removal of milestone during construction work and relocation to its same co-ordinates on the southern side of the new junction following its completion	PA20/09610 (LBC)	Consented 5 th April 2022
Condition 17 NMA	Nonmaterial amendment to condition 17 (Cornish hedges)	PA22/07415 (NMA)	Approved 30 th August 2022
Plot B6 NMA	Nonmaterial amendment for alterations to the alignment of the access side road within Plot B6 and alignment of the ramped bridleway access on the private land (the connection points to the Northern Access Road, private land, and proposed school remain unchanged)	PA22/07415 (NMA)	Approved 23 rd September 2022
Governs Farm RMA	Reserved Matters application following outline approval PA20/09631 for the 35.92Ha Governs Park, roads and parking area including SANG (Suitable Alternative Natural Greenspace) to include details of the access, appearance, landscaping, layout and scale	PA22/07093 (RMA)	Approved 23 rd February 2023
Eastern Junction	Pre-application advice for the provision of a single carriageway link road between the NAR and the A390/Higher Besore Road junction (Eastern Junction)	PA22/02098/PREAPP (pre-application advice)	Approved 5 th April 2023

Site name	Development description	Planning reference / type of approval	Date and current status
Pumping Station 1	Proposed new pumping station (SWW), NW Governs	PA22/09111 (Full)	Approved 8 th May 2023
Pumping Station 2	Proposed new Pumping station (SWW), Penventinnie	PA23/02209 (Full)	Approved 18 th May 2023
Parameter Plans NMA	1) Amendments to Parameters Plans 2) Updated Site Wide Masterplan (Phase 1 only)	PA23/06481 (NMA)	<i>Pending decision</i>
Phase 1 green infrastructure and utilities	Reserved matters application for access, appearance, landscaping, layout and scale of the 15.46ha parks and infrastructure area supporting Phase 1 of the Langarth Garden Village development including roads and drainage systems	PA23/06512 (RMA)	<i>Pending decision</i>
Primary School	Reserved matters application for access, layout, scale, appearance and landscaping for a new 3 form entry Primary School (Use Class F1)	PA23/05687 (RMA)	<i>Pending decision</i>
Eastern Junction	Reserved matters application following outline approval of PA20/09631 (Application B) to provide details of the Maiden Green Link Road including layout, access, appearance, landscaping of the link road between the Truro Northern Access Road and the A390.	PA23/07445 (RMA)	<i>Pending decision</i>
Neighbourhood Design Codes (NDC)	Condition discharge application under conditions 8 and 9 to secure approval of NDC for West Langarth Character Area	PA23/07057 (CDC)	<i>Pending decision</i>

SUMMARY ANALYSIS OF COMPLIANCE WITH KEY LOCAL PLAN POLICIES

CORNWALL LOCAL PLAN STRATEGIC POLICIES 2010-2030

Policy	Theme
1	Presumption in Favour of Sustainable Development
<p>Policy 1 (Presumption in Favour of Sustainable Development) provides that planning applications that accord with the policies in the Local Plan and supporting development plan (including, where relevant, with policies in Neighbourhood Plans) will be regarded as sustainable development and be approved unless material considerations indicate otherwise.</p> <ul style="list-style-type: none"> ✓ As set out below, the Scheme accords with the policies in the Local Plan (Strategic Policies). ✓ The Scheme is principally situated on land which identified for development in the 2016 TKNP and 2023 TKNP. Policy compliance with the TKNP is considered further in Appendix GS3. ✓ In headline summary, the 2013 TKNP was emerging at the point of grant of Planning Permission; it has now been adopted and Policy H3 (Langarth) provides further support for the Scheme. ✓ Future applications for the Site (whether under the Planning Permission or otherwise) will be assessed against this policy. 	
2	Spatial Strategy
<p>Policy 2 (Spatial Strategy) provides that new development should provide a sustainable approach to accommodating growth, providing a well-balanced mix of economic, social, and environmental benefits. Development should do this by: (1) respecting and enhancing quality of place; (2) providing solutions to current and future issues and (3) generating and sustaining economic activity.</p> <ul style="list-style-type: none"> ✓ The Scheme supports Truro's wider role as an economic and service centre by providing new homes, infrastructure and facilities where they are needed to service existing economic activity. ✓ The Scheme represents a sustainable approach to growth. It provides a well-balanced mix of economic, social and environmental benefits. ✓ The masterplanning process undertaken by the Council as Applicant has sought to provide solutions to current and future issues. ✓ Amongst other matters, the LPA welcomes the way in which the Scheme seizes opportunities to address climate change challenges in terms of energy storage and production as well as local food production. ✓ The LPA also welcomes the way in which the Scheme has sought to achieve connectivity with areas of green infrastructure. This is very difficult to achieve in the absence of a sitewide masterplan. ✓ The LPA also supports the Scheme's ambitious modal shift target and its efforts to promote public transport and active forms of travel via design and through section 106 mitigation (sustainable transport bond and travel planning obligations). ✓ The LPA is pleased to note that the Scheme seeks to integrate with neighbouring land uses, for example, by making provision for complementary land use quarters such as the Sports Quarter and the Hospital Quarter. 	

Policy	Theme
2a	Key Targets
<p>Policy 2a (Key Targets) highlights the targets for, inter alia, housing, employment and purpose-built student accommodation in Cornwall. These targets include a minimum of 52,500 new homes by 2030, with Truro with Threemilestone being apportioned 3,900 new homes and a further 1,200 homes targeted in the wider Truro and Roseland CNA residual area.</p> <ul style="list-style-type: none"> ✓ The Scheme contributes a significant proportion of these homes as the Site represents the single largest remaining strategic site in the area. 	
3	Role and Function of places
<p>Policy 3 (Role and Function of Places) requires the scale and mix of uses to be based to the role and function of places.</p> <ul style="list-style-type: none"> ✓ The Scheme is located well to link into the major employment providers to the west of Truro, in particular, the Hospital and the Treslke Industrial Estate. ✓ The Scheme is in a location which is able to utilise existing public transport links to the city centre. ✓ It also makes positive steps to improve public transport provision via planning obligations (for example, financial contributions towards bus services). ✓ The LPA is satisfied that the Scheme achieves its wider objective of reducing the net imbalance of 'in commuting' into Truro. 	
4	Shopping and Community Facilities
<p>Policy 4 (Shopping Services and Community Facilities) supports retention of the retail hierarchy and role of town and city centres as a focus for retail growth. Truro is identified in the spatial strategy as having a major retail and service role, as a sustainable alternative to major centres outside of Cornwall.</p> <ul style="list-style-type: none"> ✓ The Scheme contains an appropriate range of shops, services, and community facilities and (unlike previous proposals for the Site) is not reliant on significant out of town retail floorspace. ✓ The Scheme does not undermine the vitality and viability of Truro. 	
5	Business and Tourism
<p>Policy 5 (Business and Tourism) provides support for business space that is well integrated with city and towns or well-served by public transport and communications infrastructure.</p> <ul style="list-style-type: none"> ✓ The Scheme incorporates employment floorspace and other proposals for a diverse array of economic activity. ✓ The Scheme is situated in a location adjoining other major employment sites and is on a well-served public transport corridor. ✓ The Scheme addresses the strategic ambition in Policy 5 to develop 'smart specialisations' by including proposals for office and other employment space across the Site and near major existing employers. 	

Policy	Theme
✓	The LPA attributed weight to the Royal Cornwall Hospital's support for the Scheme and welcomes, in particular, its ability to cater for the Hospital's future direct and indirect needs in terms of housing, employment, energy etc.
6	Housing Mix
	<p>Policy 6 (Housing Mix) requires development of 10 or more dwellings to provide an appropriate mix of house sizes, types, cost, and tenures and to be responsive to the requirements of a changing population and of groups in the community.</p> <p>✓ In line with Policy 6, the Scheme includes provision for specialist housing in the form of extra care units, as well as student / key worker accommodation that will service the specialist needs of, inter alia, the health sector. The Scheme also makes provision for self-build housing.</p>
8	Affordable Housing
	<p>Policy 8 (Affordable Housing) seeks to provide 35% affordable housing in the Truro area, with a tenure split of 70% affordable rent and 30% intermediate housing for rent or sale.</p> <p>✓ The Scheme makes provision for 35% affordable housing, in line with the overall target for the area.</p> <p>✓ The Scheme also provides a policy compliant tenure split of 70% affordable rent and 30% intermediate housing.</p> <p>✓ Within these parameters, details for house size, type, price, and tenure will be fixed at reserved matters stage, via affordable housing schemes to be approved under the pro forma section 106 planning obligation accompanying the Planning Permission.</p> <p>✓ As appropriate for development of this scale, size and lifetime, the tenure split and phasing of overall affordable housing provision is to be kept under review over the lifetime of the Scheme, to ensure it effectively meets local needs as may be defined from time to time.</p>
12	Design
	<p>Policy 12 (Design) seeks to ensure Cornwall's enduring distinctiveness and to maintain and enhance its distinctive natural and historic character.</p> <p>✓ The LPA is satisfied that the masterplanning process underpinning the Scheme has carefully and sensitively considered the existing natural and historic context and how the Scheme can maintain and enhance Cornwall' distinctive natural and historic character.</p> <p>✓ The conditions to the Planning Permission secure a Design Code which carefully considers and responds to each of the limbs in Policy 12: character, layout, movement, adaptability, minimising neighbour impacts and maximising opportunities for private amenity and public open space.</p> <p>✓ The approved Design Code provides a robust mechanism to ensure the design ambitions of the Scheme are taken through to implementation.</p> <p>✓ The implementation and review of the Design Code is supported through financial contributions secured under the pro forma section 106 planning obligation accompanying the Planning Permission. These are intended to ensure that the Design Code can adapt to changes in the wider planning and regulatory environment over the build period for the Scheme.</p>

Policy	Theme
13	Development Standards
<p>All new development will be expected to achieve the provision of sufficient internal space in housing and public open space provision which is proportionate to the scale of development and responsive to local need.</p> <p>Where there is access to alternative facilities that would meet the needs of the new development, contributions to the ongoing maintenance and management of these alternative facilities may be required as part of a reduced requirement on site.</p> <p>The policy also requires an appropriate level of on street parking and cycle parking taking into account the accessibility of the location in terms of public transport and proximity to facilities and services.</p> <p>The policy also seeks adequate waste disposal strategy and measures to minimise the impacts of noise, dust, odour, vibration, vermin, waste, pollution and visual effects.</p> <p>Finally, the policy encourages developers to utilise opportunities for natural lighting, ventilation and heating by design, layout and orientation and, where feasible and viable, connect to an existing or planned heat network.</p> <ul style="list-style-type: none"> ✓ The Scheme has been designed to comply with nationally described space standards and makes policy compliant open space provision on site. In respect of open space typologies where there is an under-provision, the Scheme makes financial contributions towards offsite provision (for example, towards formal sports provision). ✓ The parking standards for the Scheme are appropriate taking into account the accessibility of the location. ✓ The planning conditions secure the implementation of mitigation specified in the ES. This mitigation addresses both construction and operational period environmental effects around noise, dust, vibration etc. ✓ Reserved matters applications need to be accompanied by a heat plan which specifies the heat source for the individual development parcel, with a preference given to sustainable energy generation sources. ✓ The pro forma section 106 obligation also requires connection to a district heating network where one is available and the connection is feasible and viable. 	
14	Renewable and low carbon energy
<p>Development proposals will be supported that maximise the use of the available resource by deploying installations with the greatest energy output practicable.</p> <ul style="list-style-type: none"> ✓ Whilst this policy is primarily focused on renewable energy development, the Scheme incorporates an energy centre which meets the aspirations of this policy and the LPA's wider commitment to climate change resilience (see Appendix GS5). 	
16	Health and Wellbeing
<p>Development should protect residents from health risks, maximise the opportunity for physical activity and social interaction; and encourage community food production.</p>	

Policy	Theme
	<ul style="list-style-type: none"> ✓ The Scheme maximises the opportunity for physical activity and social interaction by making effective use of open space and providing or enhancing opportunities for sustainable travel, including the infrastructure required to facilitate pedestrian and cycle movements. ✓ The Scheme also makes provision for a community farm and allotments.
21	Best Use of Land and Existing Buildings
	<p>This policy seeks to ensure the best use of land with encouragement being given to sustainably located proposals.</p> <ul style="list-style-type: none"> ✓ The Scheme has been designed to make environmentally sensitive and efficient use of land. ✓ In compliance with Policy 21, the Scheme supports a range of densities to make the best use of land, create space for more strategic open space and, in general, support a more walkable neighbourhood.
22	European Protected Sites – mitigation of recreational impacts from development
	<p>Where development is situated within identified zones of influence and gives rise to recreational impacts on European Sites, mitigation is required to address adverse recreational impacts on these protected sites. Policy compliant mitigation measures include onsite access and management and offsite provision of suitable alternative recreational facilities.</p> <ul style="list-style-type: none"> ✓ These objectives are met by the provision of SANG and payment of financial contributions towards marine habitats, which are secured under section 106. ✓ In respect of later phases, terrestrial impacts are mitigated by payment of policy compliant financial contributions, which are secured under section 106.
23	Natural Environment
	<p>Policy 23 (Natural Environment) seeks to ensure that development sustain local distinctiveness and character and protects and, where possible, enhances Cornwall's natural environment and assets.</p> <p>Development should avoid adverse impacts on existing features as a first principle and enable net gains by designing in landscape and biodiversity features.</p> <ul style="list-style-type: none"> ✓ Some habitat loss is inevitable in connection with greenfield development. ✓ The loss of arable land means loss of habitat for wintering woodlarks. This habitat loss will be mitigated through the provision of offsite compensatory habitat secured through the pro forma section 106 planning obligation accompanying the Planning Permission. ✓ This habitat loss is counterbalanced by the sensitive landscaping proposals for the Scheme (which include elements of habitat creation) as well as its wider biodiversity net gain strategy. This strategy is secured by a combination of planning conditions and planning obligations. ✓ The Scheme achieves a 29% increase in biodiversity for habitat units and 12% for hedgerow units.
24	Historic Environment
	<p>Policy 24 (Historic Environment) provides that development proposals will be permitted where they would sustain the cultural distinctiveness and significance of Cornwall's historic rural, urban, and</p>

Policy	Theme
	<p>coastal environment by protecting, conserving and where appropriate enhancing the significance of designated and non-designated assets and their settings.</p> <ul style="list-style-type: none"> ✓ Consistent with Policy 24, the masterplan for the Scheme avoids adverse impacts on existing natural and historic features of value, wherever possible, while existing features are utilised to create a link to the natural and historic heritage of the Site. ✓ Great care has been taken to retain and enhance the network of Cornish hedges on the Site, which form part of the character of the area, as well as being a key biodiversity feature. ✓ The masterplan is based on a series of character areas and development grains, to respond to the different characters and needs of different parts of the Site. Without limitation, groupings of original farm buildings have been retained, to provide a link back to the historic landscape and uses of the area as well as to the adjoining WHS. ✓ The approved Design Code contains design responses to topography which are common to Cornish settlements.
25	Green Infrastructure
	<p>Policy 25 (Green Infrastructure) provides that development proposals should contribute to an enhanced connected and functional network of habitat, open spaces and waterscapes.</p> <ul style="list-style-type: none"> ✓ In line with Policy 25, the Scheme is structured around a strong framework of green infrastructure. This green infrastructure framework provides the skeleton for the Scheme, joining up parts of the body of the Site. It has multiple functions, from open space, recreation, local food production and providing routes for walking and cycling; to sustainable surface water drainage management, as well as a means by which to promote biodiversity and heritage values. ✓ The ongoing management and maintenance of green infrastructure is secured via the section 106 agreement accompanying the Planning Permission and associated planning conditions (CEMP, LEMP, BNG etc.).
26	Flood risk management and coastal change
	<p>Policy 26 (Flood Risk Management and Coastal Change) requires development to take account of and be consistent with any adopted strategic and local flood and coastal management strategies including the Shoreline Management Plan and Catchment Flood Management Plans for Cornwall and the South West River Basin Plan.</p> <ul style="list-style-type: none"> ✓ The Scheme makes section 106 contributions to design work for improvements to New Mill Dam, to improve future extreme event resilience.
27	Transport and Accessibility
	<p>Policy 27 (Transport and Accessibility) provides that all developments should provide safe and suitable access to the site for all people and not cause a significantly adverse impact on the local or strategic road network that cannot be managed or mitigated.</p> <ul style="list-style-type: none"> ✓ The design of the Scheme is based around a number of key movement features which have been developed as a direct response to Policy 27. Amongst these, the NAR takes centre stage. It provides an essential route across the Site and serves to divert a proportion of traffic from the A390. ✓ The NAR is designed to provide high quality cycle and walking facilities along its route.

Policy	Theme
✓	Policy 27 should be read alongside the Local Transport Plan and accompanying implementation plans; as well as the Infrastructure Delivery Plan accompanying the Local Plan. These highlight the importance of the Park & Ride within the Site in reducing car trips into Truro and list the NAR as one of the schemes proposed for the period of 2015-2019.
28	Infrastructure
	<p>Developer contributions will be sought to ensure that the necessary physical, social, economic and green infrastructure is in place to deliver development.</p> <p>✓ These contributions are summarised in the Section 106 obligations tracker in Appended to the proof of evidence of Mr Terry Grove White (TGW3)</p>

SUMMARY ANALYSIS OF COMPLIANCE WITH KEY NEIGHBOURHOOD PLAN POLICIES

TRURO AND KENWYN NEIGHBOURHOOD DEVELOPMENT PLAN (10 November 2016) (2016 TKNP)

Policy	Theme
Background	Role of TKNP
<p>In accordance with paragraph 1.36 of the Local Plan, the TKNP performs the function performed by the Site Allocations DPD (2019) for other areas in Cornwall, for the area of Truro with Threemilestone.</p> <p>The 2016 TKNPDP explains the position as follows: <i>"The Cornwall Local Plan sets a requirement of land to be identified for the building of around 3,900 houses in the period up to 2030. This Plan must provide land for at least this amount, taking into account any need for housing identified above that level. At the time that this Plan was prepared there was need for only a small proportion of that housing to be allocated by the Plan as permissions have already been granted since 2010 for around 4100 dwellings in Truro and Kenwyn."</i></p> <p>The supporting text to Policy EJ2 in the 2016 TKNP provides: <i>"Recent planning permissions at Langarth will create substantial new communities in the west of the Plan area."</i></p> <p>In effect, the 2016 TKNP relied upon the previous permissions for the Site to meet the strategic housing requirement for the Truro with Threemilestone area¹.</p>	
Policy E1	Sustainable development
<p>New development will be approved where it can be demonstrated that the proposal is sustainable, embodying the three dimensions of sustainability: social, economic and environmental.</p> <ul style="list-style-type: none"> ✓ The Scheme has been developed around Government's Garden Community key qualities, which seek to address the three dimensions of sustainable development, in line with Policy E1. ✓ As explained in the Local Plan policy summary document, the Scheme is also consistent with the Cornwall Local Plan (Strategic Policies) (2016), which address the three dimensions of sustainability at a strategic level. 	
Policy E2	Sustainable drainage
<p>Where permitted, new developments should provide SUDS, minimise the amount of green space lost to hard surfacing, decrease surface water runoff in the problem drainage catchments, utilise green infrastructure provision where possible, minimise flood risk and provide for the future maintenance of SUDS.</p> <ul style="list-style-type: none"> ✓ The masterplan for the Scheme was developed using landscape-led approach which focused on the development of a comprehensive network of green infrastructure. ✓ This network performs multiple functions, from recreation, movement to drainage - in line with Policy E2 and E5 (see below). 	
Policy E4	Building quality

¹ The 2023 TKNDP progressed in parallel with the Application and now formally allocates land falling within the Site – see further below. The 2023 TKNDP was an emerging planning policy and material planning consideration at the Application stage. It is part of the statutory development plan against which future applications for the Site will be assessed.

Policy	Theme
	<p>Applications for development will be expected to provide secure, high quality, energy efficient design and accessible layouts. Amongst other things, development will be permitted where it integrates and strengthens existing neighbourhoods and builds a distinctive and cohesive place.</p> <ul style="list-style-type: none"> ✓ The detailed design and layout of the new homes will be subject to reserved matters applications, but these will be guided by parameters set by the Parameter Plans as well as the Design Code approved under the Planning Permission. ✓ The Design Code incentivises the use of high quality, energy efficient design and accessible layouts, in accordance with Policy E4.
Policy E5	Green Infrastructure
	<p>New development will be permitted where</p> <ul style="list-style-type: none"> • a net increase in biodiversity is provided; • new open space provision prioritises opportunities for the provision of allotments or community growing schemes; • opportunities to connect to existing or new footpath links beyond the application site are maximised; and • key areas of biodiversity and green space... are preserved or enhanced or appropriately buffered by proposals. <p>In line with Policy E5:</p> <ul style="list-style-type: none"> ✓ The Scheme achieves BNG. ✓ The Scheme provides for allotments and a community farm. ✓ The Scheme provides for new and improved footpath connections which have been designed with a view to optimising integration with the surrounding area. ✓ Key areas of biodiversity and greenspace are preserved or enhanced – like the SANG at Governs.
Policy E6	Character and setting of settlements
	<p>Developments must respect the special character and setting of the settlements in the Plan area. Development will only be permitted where it would not by means of its scale, height, materials, or layout result in the loss or significant impact upon:</p> <ul style="list-style-type: none"> • the green foreground or background important to the character of the settlement; or • a significant green gap between two or more settlements which are close to each other and in danger of losing their separate identity... <ul style="list-style-type: none"> ✓ In accordance with Policy 6 (and E7 – see below), the masterplan for the Scheme is based on an extensive historic and environmental analysis of the area and seeks to work with the historic and natural character and landscape of the Site.

Policy	Theme
✓	The masterplan retains hedgerows and quiet lanes as part of the fabric of the Scheme as part of a landscape-led design.
Policy E7	Character of the highways and byways
<p>Development affecting roads, streets, slopes, lanes, bridges and pavements in the Plan area should retain and enhance the character of the material and construction of the structure or surface making, where possible environmental improvements by retaining or reinstating historic paving and construction materials, sympathetic landscaping and planting, or removing unsightly elements such as hoardings; integrating road signs and markings as far as possible with the character of the space.</p> <p>✓ The Design Code and Neighbourhood Design Codes will help ensure that new primary and secondary routes and other highways and byways, so far as possible, work with natural character and landscape.</p> <p>✓ Further historic hedgerow protection is secured via appropriate planning conditions.</p>	
Policy T1	Transport Strategy Contributions
<p>The Truro Sustainable Transport Strategy ... identifies measures to reduce congestion and increase capacity in the transport network in the Plan area... s106 contributions should be secured towards these measures, alongside measures within proposals to increase the use of non-car-based modes of transport.</p> <p>✓ Financial contributions towards wider capacity improvements and other measures to reduce congestion are secured under the pro forma section 106 accompanying the Planning Permission, in line with the Truro Sustainable Transport Strategy and Policy T1.</p> <p>✓ The Scheme is also supported by a Framework Travel Plan. Occupier travel plans and travel plan monitoring via a travel plan coordinator are secured through the pro forma section 106 which accompanies the Planning Permission.</p>	
Policy T3	Sustainable transport
<p>Development will be permitted where:</p> <ul style="list-style-type: none"> • The site or proposal is well served by public transport, walking and cycling routes or has deliverable potential to be. • The movement hierarchy of the proposal maximises opportunities within and adjoining the development to prioritise non-car-based modes of transport, including walking, cycling and public transport. • Where the scale of development allows, public transport routes should be incorporated into or enhanced to provide accessible bus stop infrastructure within 400m walking distance of dwellings or employment uses. • Connections are made for cycling and walking routes beyond the site wherever possible. <p>In accordance with Policy T3:</p>	

Policy	Theme
	<ul style="list-style-type: none"> ✓ The Scheme provides for the delivery of the NAR which is designed to reduce congestion along the A390, provide improved access to the adjoining Hospital site and give priority to non-car-based modes. ✓ The NAR prioritises pedestrians and cycles and provides regular bus stops within walking distance across of the Site. ✓ More generally, the Scheme has been developed to give priority to non-car-based modes of transport through a range of measures including segregated cycle infrastructure on and off site mobility hubs, extension of the Park & Ride site and provision, under section 106, for additional public transport services. ✓ The Scheme incorporates a range of local centres and arrival spaces across the Site to improve accessibility for local residents to services by non-car mode. ✓ Higher densities, where appropriate, provide more walkable neighbourhoods particularly on key routes, such as the NAR and A390. ✓ The Scheme includes a network of cycle and pedestrian routes to give greater priority to non-car-based modes, provides a network of on and off site mobility hubs and (as stated in response to Policy T1 above) makes financial contributions towards further linkages and improvements in the wider network.

SUMMARY ANALYSIS OF COMPLIANCE WITH KEY NEIGHBOURHOOD PLAN POLICIES
TRURO AND KENWYN NEIGHBOURHOOD DEVELOPMENT PLAN (20 June 2023) (2023 TKNP)²

Policy	Theme
Background	Langarth allocation
Supporting Text	<p>When the first neighbourhood plan was developed, permissions had been granted for the development of around 2700 new houses on Langarth, Maiden Green and Willow Green Farms as well as significant commercial development. These permissions are now known collectively as Langarth and will be a significant new development area.</p> <p>However since those permissions were first granted land ownerships have changed, commercial circumstances have changed and new priorities have emerged which has stalled the progression of the developments and required that a new direction is taken.</p> <p>Cornwall Council has committed to significant work to help re-design and improve the layout, design and functioning of the developments.</p> <p>Langarth has now been awarded ‘Garden Village status’. Government has awarded £47million for the creation of a new high-quality route through the sites and a new outline hybrid application for planning permission was submitted in early 2021 to support the development of an overall masterplan.</p> <p>The 2023 TKNP expects any future applications to be consistent with the masterplan.</p> <ul style="list-style-type: none"> ✓ This explanatory statement to the new plan is consistent with the Council’s Statement of Case and evidence for the CPO. ✓ It helps explain the interface between the Application and masterplan for the Scheme, the Planning Permission and the formal allocation of the Site for development through the TKNP 2023 as a development plan document.
H3	Langarth
	<p>The Langarth site ... is identified for development as a sustainable community comprising a mix of high quality housing, public and private spaces and supporting infrastructure and facilities.</p> <ul style="list-style-type: none"> ✓ The Scheme provides for a sustainable community with a mix of high-quality housing, public and private spaces and supporting infrastructure and facilities. <p>Development which accords with the following principles is supported by the 2023 TKNP:</p> <ul style="list-style-type: none"> • Makes provision of a NAR with new vehicular junctions onto the A390 at West Langarth, the junction for Richard Lander School and Penventinnie Lane. <ul style="list-style-type: none"> ✓ The Scheme provides for the NAR together with the junctions identified in the 2023 TKNP. • Designs the NAR route to provide for:

² Future planning applications for the Site, including reserved matters applications under the Planning Permission, will be assessed against the 2023 TKNDP, which is now part of the statutory development plan. This is why this policy is examined in full here and an extract is appended to this summary.

Policy	Theme
	<ul style="list-style-type: none"> ○ a high quality, tree lined thoroughfare, designed for low traffic speeds and public transport; ○ a segregated, safe cycle and pedestrian friendly environment; ○ sustainable surface water drainage features/systems throughout its length; ○ give priority to cyclists and pedestrians; ○ provide easy to use, direct crossings and routes that follow safe desire lines. <p>✓ The NAR route has been designed to provide for these features/addresses these objectives.</p> <ul style="list-style-type: none"> ● Provides for coherent and comprehensively planned neighbourhoods, with a mix of uses, tenures and housing sizes and adequate parking provision to be connected by a planned network of green infrastructure and active travel routes. <p>✓ The Scheme provides for a network of neighbourhoods connected by green infrastructure.</p> <ul style="list-style-type: none"> ● Makes targeted and appropriate use of higher densities to create centres and hubs for public transport and community facilities across the site. <p>✓ The neighbourhoods comprised in the Scheme are walkable neighbourhoods.</p> <ul style="list-style-type: none"> ● Utilises green gaps and provides for a coherent and functional network of green infrastructure. <p>✓ The Scheme is underpinned by a network of green infrastructure which is punctuated by green gaps.</p> <ul style="list-style-type: none"> ● Provides for early implementation of key infrastructure including (but not limited to) strategic movement routes, green infrastructure networks, schools and improved access and accessibility throughout and between the neighbourhoods and to services and facilities within site. <p>✓ The Council's 'infrastructure first' delivery strategy for the Scheme (explored in further detail in the proof of evidence of Mr Harry Lewis) accords with this objective.</p> <p>✓ In addition, the planning conditions and section 106 obligations imposed in connection with the Planning Permission help ensure that development does not come forward without necessary supporting infrastructure and facilities.</p> <ul style="list-style-type: none"> ● Provides for movement routes which support access to Threemilestone, Gloweth, Highertown and Truro city centre by non-motorised transport, use existing green lanes wherever possible and protect quiet lanes to reduce attractiveness to cars/rat running. <p>✓ The access and movement parameter plan approved under the Planning Permission addresses these objectives.</p> <ul style="list-style-type: none"> ● Facilitates development that is genuinely reflective of and responds to local character in terms of materials and utilises typical building forms that work with the topography of the sites and minimise the need for large retaining structures or land sculpting. <p>✓ The Scheme has been designed with a view to minimising impacts on landscape and character as well as minimising the need for significant earthworks.</p>

Policy	Theme
	<ul style="list-style-type: none"> ✓ The parameter plans and Design Code help secure these objectives. • Is underpinned by proportionate historic environment assessments and demonstrate how harm avoided minimised or mitigated. ✓ The Scheme is informed by appropriate heritage impact assessments. • Takes opportunities to enhance or better reveal the significance of settings of heritage assets. ✓ The Scheme provides for measures to, for example, better interpret the significance of the Penventinnie Round Scheduled Monument. • Incorporates energy efficient buildings, uses and infrastructure. ✓ These objectives are promoted by the Design Code and section 106 requirement to submit an Energy Strategy. • Incorporates measures to prevent further incursion of new built development into surrounding countryside. ✓ The landscape-led approach to the Scheme works with the topography of the Site to provide an overall framework for development which responds to this particular policy objective. ✓ The parameter plans approved under the Planning Permission provide robust parameters with clearly defined boundaries for development. These reflect the landscape character with changes in density and height at the edges of the Site in the north as it meets the adjoining rural landscape. • Provides for benchmarks of good quality development/appropriate level of design coding. ✓ The Planning Permission is accompanied by a Design Code and neighbourhoods will be developed in accordance with area specific Neighbourhood Design Codes, which are secured via planning condition. ✓ The Scheme has ‘Building With Nature’ accreditation which was used to assess and test the development principles. • Planned and coherent network of multi-functional green infrastructure that results in BNG and reduces loss of Cornish hedges. ✓ The landscape-led masterplan is underpinned by a network of multi-functional green infrastructure and the Scheme achieves c. 29% BNG in habitats and c. 12% BNG in hedges. • Provides opportunities for co-created public spaces to be facilitated for and by the community. ✓ The Scheme incorporates a community farm and allotments. • Where any land parcel comes forward separately within the allocated site (either before or after the completion of the masterplan for the whole allocated site), the design and layout for those land parcels must deliver the principles set out in this policy, including demonstration that the development does not compromise the ability to deliver the main strategic route, wider movement network (including to areas beyond the site boundary) and green infrastructure linkages through that area of the overall site or the ability to deliver other key infrastructure.

Policy	Theme
<ul style="list-style-type: none"> ✓ Future development cannot undermine the delivery of the NAR or the delivery of other key infrastructure required to achieve a sustainable community on this site allocation. ✓ Future applications will be assessed against Policy H3. 	
Supporting Text to note	Extra care housing
<p>The plan promotes provision of new facilities for extra care housing and residential and nursing beds in the community. Provision of such capacity, particularly in the Treliske and Langarth area, helps reduce pressure on the main hospital and acute services.</p> <ul style="list-style-type: none"> ✓ The Scheme provides for extra care housing in line with the objectives of the 2023 TKNP. 	
Supporting Text to note	Green infrastructure
<p>Development proposals should protect, improve and extend our green infrastructure network. This is particularly important where the Langarth ... sites will create significant new residential areas that need to be linked both to Truro, Threemilestone and the surrounding countryside.</p> <ul style="list-style-type: none"> ✓ As a landscape-led proposal, the Scheme is underpinned by a coherent green infrastructure network. 	
Supporting Text to note	Masterplanning
<p>The development of Langarth ... will be subject to comprehensive masterplanning to create sense of place, quality of development.</p> <p>A key reason for the need for a site-wide masterplan approach is to ensure the early delivery of the strategic infrastructure required by the Langarth Garden Village development, including key facilities, such as the NAR and local school.</p> <ul style="list-style-type: none"> ✓ The Scheme facilitates the early delivery of the NAR and the first primary school on the Site. 	
Supporting Text to note	Sustainable transport
<p>The emphasis of policies for new development, particularly at ... Langarth is around the design of layouts and routes to encourage active and sustainable transport.</p> <ul style="list-style-type: none"> ✓ The NAR has been designed to priorities non-motorised users and the Scheme makes section 106 contributions to pump prime public transport (bus) provision to serve the new community. 	
Supporting Text to note	Self-sustaining communities and town centre impacts
<p>Recent planning permissions at Langarth will create substantial new communities in the west of the Plan area. These areas should be able to access day to day shopping needs without having to access the city centre and this is provided for in the principles for the Langarth Garden Village Masterplan in policy H3 of this plan.</p> <ul style="list-style-type: none"> ✓ The Scheme is intended to facilitate a self-sustaining, sustainable community with reduced town centre impacts relative to previous proposals for the Site. 	

Policy	Theme
Supporting Text to note	Density
<p>The changes that have occurred since the granting of permission for a number of individual land parcels that make up Langarth means that significant areas that were to be occupied by retail sheds and other uses will be available to provide additional housing.</p> <p>This ability to increase densities and use land that was underutilised in previous permissions will help to reduce the need for allocating new housing land in the future, but the masterplan must sensitively consider density, reduce impact on the surrounding rural landscape and protect the green infrastructure that is important to the site.</p> <ul style="list-style-type: none"> ✓ The supporting text for the 2023 TKNP recognises the opportunities for further housing in place of large retail. ✓ The supporting text also underscores the need for development which is sensitive to the character and appearance of the area. 	
Supporting Text to note	Developer contributions
<p>Developers may be required to enter into a framework S.106 agreement to ensure that developer contributions are fairly and consistently apportioned between the development sites.</p> <p>Developer contributions from developers/landowners of parcels of land within the Langarth development site (or benefitting from the strategic infrastructure to be provided as part of Langarth site development) will be sought to ensure that the necessary physical, social, economic and green infrastructure is in place to deliver the development. These developer contributions will be required on a pooled and, where applicable, retrospective basis (i.e. even where the infrastructure has already been built or provided through forward-funding a developer contribution will still be required).</p> <ul style="list-style-type: none"> ✓ The Planning Permission is accompanied by a pro forma or ‘framework’ section 106 planning obligation. ✓ Development may not proceed pursuant to the Planning Permission on third party land, until this has been entered into by the third-party landowner. ✓ As above, planning applications proceeding independently of the Planning Permission will be assessed against the requirements of Policy H3, including the requirement to make developer contributions to strategic infrastructure. 	

**ANALYSIS OF COMPLIANCE WITH NATIONAL POLICIES IN THE NPPF
(JULY 2021, as updated in SEPTEMBER & DECEMBER 2023)**

Para	Theme
Presumption in favour of sustainable development and a plan led system	
Para 11	<p>Paragraph 11 provides that decisions should apply a presumption in favour of sustainable development. This means ... approving development proposals that accord with an up-to-date development plan without delay.</p> <p>✓ The LPA considers that the Scheme accords with an up-to-date development plan, first and foremost, the Local Plan (Strategic Policies).</p>
Para 28 to Para 30	<p>Paragraph 29 provides that neighbourhood planning gives communities the power to develop a shared vision for their area.</p> <p>✓ This helps explain the focus on the TKNP 2023 revision as the plan which has progressed in parallel with the masterplan for the Site and the ultimate vehicle for the Site allocation.</p>
Para 58	<p>Paragraph 58 provides that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable.</p> <p>✓ The Scheme provides for policy compliant section 106 mitigation.</p>
Para 74	<p>Paragraph 74 provides that the supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes).</p> <p>✓ The Scheme is designed around the Government's Garden Community principles.</p> <p>✓ It represents a larger-scale proposal on the outskirts of Truro, which is underpinned by necessary infrastructure and facilities to serve a new sustainable community.</p> <p>✓ On this basis, the Scheme accords with the objectives of paragraph 74.</p>
Delivering a sufficient supply of housing	
Para 60 to Para 67	<p>Paragraphs 60-68 reflect the Government's objective to significantly boost the supply of new homes including affordable housing. Paragraph 66 provides that major development should expect at least 10% of the homes to be affordable unless this would exceed local need or prejudice the ability to meet identified need for specific groups.</p>
(Now Paras 60-68)	<p>✓ The section 106 agreement accompanying the Planning Permission provides for the locally set target of 35% affordable housing and has made provision for extra care and other specialist accommodation, including self-build housing, key worker accommodation and self build housing.</p>
Building a strong, competitive economy	
Para 85	<p>Paragraph 85 (Building a strong, competitive economy) underscores that planning decisions should help create the conditions in which businesses can invest, expand and adapt.</p> <p>✓ The Scheme will not just provide new homes near existing jobs, it will also create opportunities for local employment to support the new community.</p>

Para	Theme
	<ul style="list-style-type: none"> ✓ The land use mix incorporated in the Scheme is diverse and balanced laying the groundwork for economic growth and productivity and thereby should help create conditions in which businesses can invest, expand and adapt.
Ensuring the vitality of town centres	
Para 90-95	<p>Paragraph 90 (Ensuring the vitality of town centres) highlights that planning decisions support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.</p> <ul style="list-style-type: none"> ✓ The Town Centre Impact Assessment prepared by Lichfields in support of Scheme concluded that the Scheme will not have a significant impact on the vitality or viability of the city centre. ✓ This contrasts with the position under the previous retail-led permissions, which included substantial levels of out-of-town retail floorspace, as illustrated in Appendix 2 to the proof of evidence of Mr Philip Mason. ✓ The transport strategy for the Scheme places an emphasis on connectivity to the city centre, to reduce trips to out of town shopping developments, particularly those on the main A30 trunk route to the west and east.
Promoting healthy and safe communities	
Para 96 to 93	<p>Paragraph 96 (Promoting healthy and safe communities) explains the role of planning in promoting healthy, inclusive and safe places which promote social interaction, are safe and accessible and enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.</p> <ul style="list-style-type: none"> ✓ The description of development illustrates that the Scheme has been designed with all of the above objectives in mind. ✓ Amongst other things, the Scheme incorporates a mix of uses and a network of local centres, promotes pedestrian and cycle use and makes provision for safe and accessible green infrastructure/open space, formal sports facilities, local shops, allotments etc. <p>Paragraph 97 explains the role of planning decisions in helping provide the social, recreational, and cultural facilities and services the community needs.</p> <ul style="list-style-type: none"> ✓ The Scheme provides a better coordinated response to the social, recreational and cultural needs of the new community than the previously permitted proposals in the Site area.
Importance of educational facilities in place making	
Para 99	<p>Paragraph 99 highlights the importance of adequate educational facilities in place-making.</p> <ul style="list-style-type: none"> ✓ The Scheme makes provision for up to two new primary schools, in line with the pupil place needs assessment and advice from the Education Authority. ✓ The delivery of the first school is to be provided to coincide with the occupation of the first phase of residential development; a reserved matters application has been submitted and is pending consideration as at the date of this proof of evidence.

Para	Theme
	<ul style="list-style-type: none"> ✓ The delivery of the second primary school will track need and the delivery of later phases of development.
Sport and recreation	
Para 102	<p>Paragraph 102 recognises the importance of access to a network of high-quality open spaces and opportunities for sport and physical activity, for the health and well-being of communities.</p> <ul style="list-style-type: none"> ✓ High quality open spaces and opportunities for physical activity are key features of the Scheme. ✓ The Council's decision to acquire land at Governs Farm to deliver SANG at Governs and to subsequently secure reserved matters approval for this mitigation measure demonstrates the depth of the commitment to this aim. ✓ The Scheme also makes contributions to offsite sports facilities/pitches and proposals are currently being worked up for the Truro Sports Hub on the former Stadium land.
Protect and enhance public rights of way and access	
Para 104	<p>Paragraph 104 states that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks.</p> <ul style="list-style-type: none"> ✓ The Scheme retains and enhances existing public rights of way across the Site. ✓ The movement framework for the Scheme includes a number of proposals for extensions to existing public rights of way, or the creation of new rights of way. ✓ The Scheme also makes financial contributions towards offsite links and cycle/pedestrian routes to improve wider connectivity.
Promoting sustainable transport	
Para 108 to Para 109	<p>Paragraph 108 (Promoting sustainable transport) explains that transport issues should be considered from the earliest stages of development proposals.</p> <ul style="list-style-type: none"> ✓ The planning application for the Scheme was supported by a Transport Assessment which addresses the impacts of the Scheme on existing transport networks. Together with the ES, it explains how environmental impacts are mitigated through embedded mitigation such as the design of the new NAR and the layout of the Scheme, as well as through additional mitigation. This additional mitigation includes developer contributions (secured under the pro forma section 106 planning obligation accompanying the Planning Permission) towards both strategic and site-specific highway infrastructure improvements. ✓ The Transport Assessment also explains how the Scheme seizes opportunities around changing transport technology and usage (such as electric vehicles and car-pooling) as well as how the Scheme prioritises walking, cycling and public transport. <p>Paragraph 109 explains how significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.</p> <ul style="list-style-type: none"> ✓ The location of the Scheme provides an opportunity to take advantage of existing public transport networks and facilities (including the existing Park and Ride) and the

Para	Theme
	<p>physical proximity of key services and employers (such as Royal Cornwall Hospital, the Industrial Parks at Treliske and Threemilestone and Truro and Penwith College).</p> <ul style="list-style-type: none"> ✓ The Scheme also incorporates a range of facilities to support working at home, further reducing the need to travel by private car.
Para 114 to Para 117	<p>Paragraph 116 encourages developments to give priority to pedestrian and cycle movements, both within the scheme and with neighbouring areas. So far as possible, development should facilitate access to high quality public transport, through layouts that maximise the catchment area for bus or other public transport services and appropriate facilities that encourage public transport use.</p> <ul style="list-style-type: none"> ✓ The NAR design prioritises cycle and pedestrian movements. ✓ The Scheme also makes financial contributions towards public transport (bus services) and mobility hubs and related infrastructure.
Making effective use of land and achieving effective densities	
Para 123 to Para 130	<p>Paragraph 123 (making effective use of land) explains that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.</p> <ul style="list-style-type: none"> ✓ The Scheme makes effective use of previously consented land to meet the need for new homes, in a way which maximises opportunities for high densities, where appropriate, whilst being respectful of existing environmental and heritage constraints. ✓ By promoting sustainable transport and travel and providing ample opportunities for onsite recreation and leisure, the Scheme strives to create healthy living conditions for the new community. ✓ The Scheme provides circa 1,000 more homes (about 35% more) than the previous schemes for the Site. ✓ It is acknowledged that the developable land area is slightly greater than under the previous schemes. It is also acknowledged that some land previously earmarked for retail use is identified for residential use. The comparison is, nevertheless helpful in illustrating the way in which the Scheme makes effective use of land in a coherent manner, in line with national policy on site optimisation and density.
Achieving well designed and beautiful places	
Para 131 to Para 141	<p>Paragraph 131 explains how the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve.</p> <ul style="list-style-type: none"> ✓ These principles are endorsed by the Government's Garden Community principles which lie at the heart of the Scheme. The Scheme has been designed in line with these principles as a landscape-led development based around a cohesive network of green infrastructure. ✓ The approved Langarth Garden Village parameter plans and Design Code will form the backbone for high quality place-making. <p>Further detailed design guidance will be developed and evolve in localised Neighbourhood Design Codes (NDCs) which will help refine and realise the LPA's high quality place-making objectives.</p>

Para	Theme
Community engagement and design quality	
Para 134 to 137	<p>Paragraph 134 provides that applications that can demonstrate early, proactive, and effective engagement with the community should be looked on more favourably than those that cannot.</p> <ul style="list-style-type: none"> ✓ The Scheme was underpinned by early discussion with the local community about the design and style of the emerging proposals, as set out in the the submitted Statement of Community Involvement (SCI) and explained in the proof of evidence of Mr TerryGrove-White. ✓ The LPA is satisfied that designs for the Scheme evolved taking into account of the views of the community. ✓ To ensure continued community engagement, the Planning Permission (both for the NAR and the outline element) requires the setting up of a local forum, to help engagement with future reserved matters applications. ✓ The local forum has been set up and is proving a useful tool for seeking views on LGV reserved matters (and other) applications and coordinating development outcomes on the ground. ✓ In addition, the pro forma section 106 planning obligation contains obligaitons relating to a stewardship vehicle, which will be set up to oversee the ongoing management and maintenance of certain green and other assets. ✓ The stewardship vehicle will also promote community participation in decisions relating to the future of the new community and the LPA will monitor progress and compliance via, inter alia, the section 106 planning obligation.
Meeting the challenge of climate change, flooding, and coastal change	
Para 157 to 154	<p>Paragraph 157 provides that the planning should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should also help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.</p> <p>Paragraph 159 provides that new development should be planned for in ways that reduces greenhouse emissions, avoids increased vulnerability to climate change impacts and manage those risks through suitable adaptation measures, including through the planning of green infrastructure.</p> <ul style="list-style-type: none"> ✓ The Scheme prioritises walking, cycling and public transport; making provision for a network of cycle and pedestrian routes, mobility hubs and public transport infrastructure and services (such as the bus subsidy secured under section 106). ✓ The Scheme is supported by an Energy Strategy which provides for net carbon zero homes. ✓ The Scheme is underpinned by a landscape-led design based around the creation of a cohesive network of green infrastructure which supports sustainable drainage, biodiversity, recreation and movement.

Para	Theme
	<ul style="list-style-type: none"> ✓ Part of this green infrastructure nature includes a strategic network of sustainable urban drainage (SUDS) to make space for water across the Site. ✓ The Scheme has been designed to reduce greenhouse gases and achieve climate change resilience. These design features include smart orientation of buildings, efficient lighting, high levels of insulation etc. which are secured through the Design Code. ✓ The technical assessments supporting the Scheme make a 40% allowance for the effects of climate change on rainfall and drainage. ✓ The Scheme makes a financial contribution towards future resilience studies for the New Mills Dam, a flood storage reservoir that forms part of the River Kenwyn Flood Relief Scheme.
Planning and flood risk	
Para 173 to 175	<p>Where appropriate, Paragraph 173 provides that applications should be supported by a site-specific flood-risk assessment.</p> <ul style="list-style-type: none"> ✓ Both the NAR and the outline element of the scheme were supported by a site specific flood-risk assessment (FRA). ✓ The Lead Local Flood Authority accepted the principles set out in the FRAs and surface water management strategies. ✓ The ES concluded that the built-in measures within the Scheme design would sustainably manage the land drainage regime and prevent increased flood risk. ✓ Further groundwater monitoring is secured via planning conditions. ✓ Planning conditions also help ensure that the SUDS installed as part of development accord with the technical assessments carried out at Application-stage and are appropriately managed and maintained for the lifetime of the development. ✓ The scheme includes a sitewide strategy for making space for water as part of a cohesive network of green infrastructure.
Conserving and enhancing the natural environment	
Para 180	<p>Paragraph 180 provides that planning decisions should contribute to and enhance the nature and local environment, noting the need to protect and enhance valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).</p> <ul style="list-style-type: none"> ✓ It is acknowledged that the Scheme would result in the loss of 180.94 ha of agricultural land. This land would be lost to the agricultural businesses as each field was built out, reducing the area available for grazing or arable production. ✓ The phasing of the development and pre-requisite notice periods would allow the enterprises to adapt or move to minimise the impact on economic performance of the businesses affected as much as possible. In addition, it is worth noting that the implementation of the previous permissions would ultimately have led to these same outcomes in terms of disrption to business/loss of agricultural land.

Para	Theme
	<ul style="list-style-type: none"> ✓ There are no other strategically preferable sites identified in the Local Plan, 2016 TKNP or 2023 TKNP to deliver the homes required to be delivered in the plan area. ✓ While acknowledging the loss of agricultural land, the Scheme design as set out in the approved parameter plans provides for a net increase in biodiversity across the Site. ✓ The Scheme has been designed to achieve Building with Nature accreditation, which was used to assess and test the development principles within the masterplan.
Biodiversity	
Para 186	<p>Paragraph 186 (a) provides that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Paragraph 186 (d) provide that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate</p> <ul style="list-style-type: none"> ✓ The Scheme provides for c. 29% biodiversity net gain (BNG) for habitats and 12% for hedges. This is secured via a combination of planning conditions and section 106 planning obligations which help ensure delivery aligns with the biodiversity impact assessments and landscape strategies considered at Application stage. ✓ The Scheme achieves a positive BNG outcome by promoting multi functional natural green spaces/green infrastructure, in line with the LPA's local policies. ✓ As noted above, the Scheme has Building with Nature accreditation.
Habitats	
Para 188	<p>Paragraph 188 states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.</p> <ul style="list-style-type: none"> ✓ The appropriate assessment carried out by the LPA concluded that the Scheme does not adversely affect the integrity of protected habitats sites. ✓ The Scheme makes policy compliant section 106 contributions towards habitat mitigation and secures the delivery of SANG at Governs.
Heritage assets	
Para 195 to 214	<p>Paragraph 195 acknowledges that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 203 provides that in determining applications, local planning authorities should take account of:</p> <ol style="list-style-type: none"> a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.

Para	Theme
	<ul style="list-style-type: none"> ✓ When determining the planning application for the Scheme, in accordance with Paragraphs 200 and 203, the LPA attributed great weight to the conservation of designated heritage assets and required the Applicant to provide clear and convincing justification for any harm to or loss of the significance of such assets. ✓ This was provided through the ES and bespoke Heritage Impact Assessments submitted in support of the Application for the Scheme. ✓ Pursuant to Paragraph 209, the LPA also took into account the effect of the Scheme on the significance of a number of non-designated heritage assets situated on the Site. ✓ The technical assessments prepared by the Applicant helped the LPA conclude that the Scheme does not give rise to substantial harm to any designated heritage assets. ✓ The less than substantial heritage harms caused by the Scheme were, in the LPA's view, outweighed by the substantial public benefits of the Scheme. ✓ The Scheme incorporates SANG at Governs. Detail to the proposals at Governs has now been worked out through the reserved matters approval (ref PA22/07093). This includes provision for improved public interpretation and management of an 'at risk' Scheduled Monument.

NOTE: The NPPF was revised on 5 September 2023 and again on 20 December 2023. The Scheme was assessed against the policies of the national framework before these revisions (July 2021 iteration). The September and December 2023 revisions do not have any material bearing on the Scheme or reserved matters applications submitted under the outline element of the Hybrid Planning Permission so are not analysed in any further detail in this proof of evidence.

POLICY/GUIDANCE DOCUMENT ¹	FUNCTION	RELEVANT POLICIES OR GUIDANCE	COMPLIANCE STATEMENT
<p>CORNWALL CLIMATE EMERGENCY DEVELOPMENT PLAN DOCUMENT (2023)</p>	<p>The emerging policies in this DPD informed the masterplan for the Scheme and were a material planning consideration to the determination of the Application.</p> <p>Since the Planning Permission was granted the DPD has been adopted and now forms part of the statutory development plan for Cornwall. Future applications for the Site will be assessed against this DPD.</p>	<p>Policy G1 – Green Infrastructure (GI) Design and Maintenance</p> <p>GI should be central to the design of schemes; multifunctional networks, sustainable drainage and blue infrastructure are supported; schemes should make provision for the long-term post-development management and maintenance for all green infrastructure, including provision for community representation and management.</p> <p>Policy G2 – Biodiversity Net Gain</p> <p>All development proposals must achieve a minimum of 10% Biodiversity Net Gain over the pre-development site value as measured by the latest version of the DEFRA Biodiversity Metric</p> <p>Policy G3 – Canopy</p> <p>All major development should provide canopy coverage equal to at least 15% of the site area (excluding areas of the site that are priority habitat types) in accordance with a Cornwall Council approved calculator or metric.</p>	<p>The Scheme is characterised by a cohesive network of multi-functional GI. The Planning Permission takes subject to biodiversity net gain planning conditions and planning obligations which help ensure long term management and maintenance of GI.</p> <p>The Scheme provides around 28% net gain in biodiversity areas and a 12% net gain in Cornish hedges.</p> <p>The updated Arboricultural Impact Assessment for the Scheme estimates that the Scheme will achieve 25% canopy cover.</p>

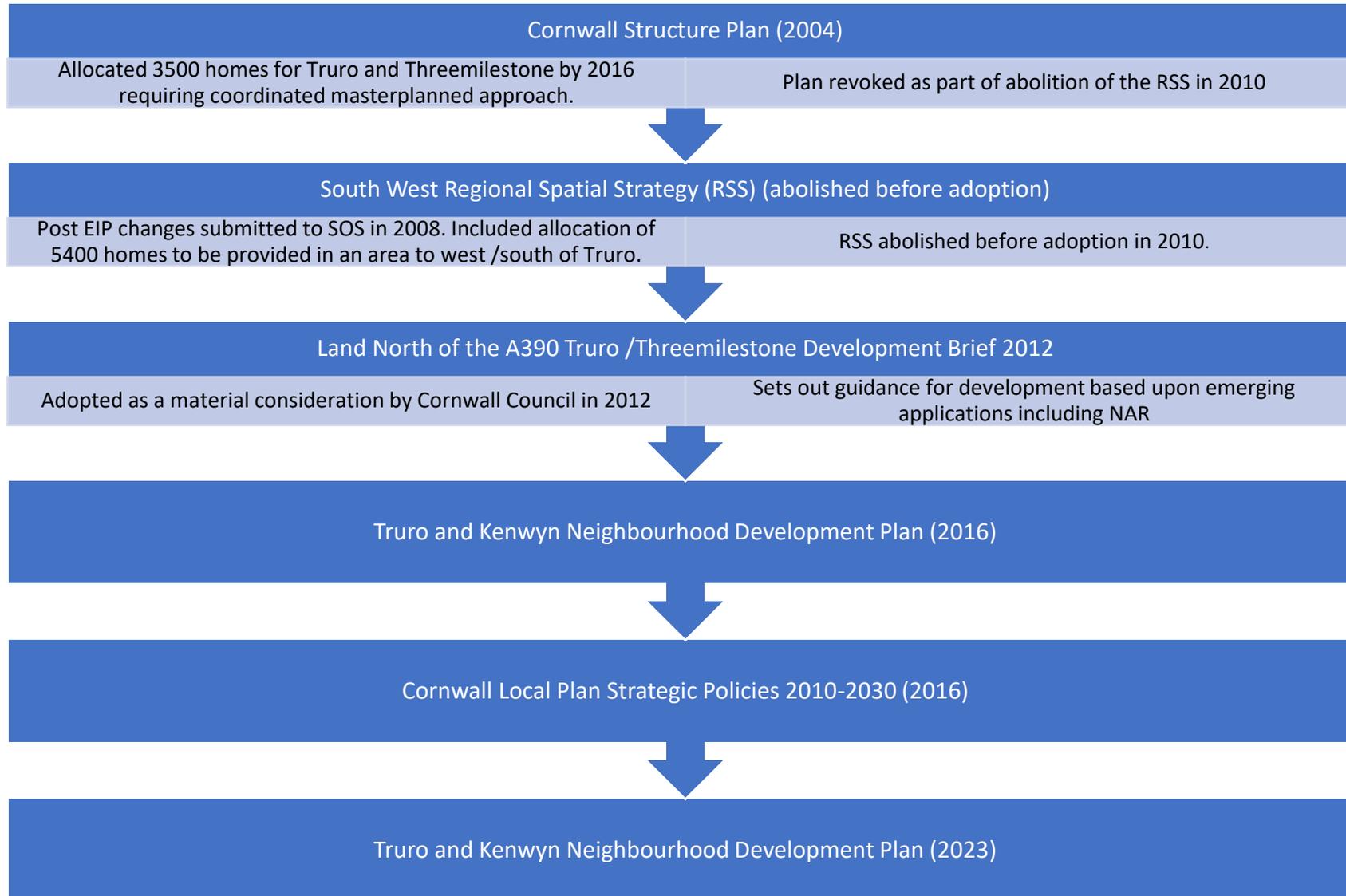
¹ This summary document does not set out every policy guidance document that informed the LPA's decision to grant Planning Permission Scheme but identifies the key policies that were instrumental to that decision and which would guide future planning applications on the Site.

POLICY/GUIDANCE DOCUMENT ¹	FUNCTION	RELEVANT POLICIES OR GUIDANCE	COMPLIANCE STATEMENT
		<p>Policy T1 – Sustainable Transport</p> <p>This policy seeks to ensure new development is designed to support a modal hierarchy which prioritises walking, cycling and public transport and integrates with existing settlements.</p> <p>Policy T2 Parking</p> <p>Parking should meet the Council's parking standards but reflect the new sustainable travel hierarchy.</p> <p>Policy RE1 - Renewable and Low Carbon Energy</p> <p>Renewable and low carbon energy-generation, distribution and storage are supported.</p> <p>Policy SEC1 – Sustainable Energy and Construction</p> <p>The policy supports BREEAM excellent for non-residential development and net zero carbon for residential development.</p> <p>Policy CC3 – Reduction of Flood risk</p> <p>Development is required to be designed to reduce flood risk to the application site and its surroundings.</p>	<p>The Scheme is in a sustainable location in terms of existing public transport links and includes a network of cycle and pedestrian routes within the Site and to key destinations outside of the Site. Without limitation, it also provides mobility hubs and facilities for cycle parking and electric vehicles.</p> <p>The approved Design Code ensures parking does not dominate the street-scene and the Scheme makes provision for mobility hubs and cycle parking.</p> <p>The Scheme includes an Energy Centre and is supported by a Utility Strategy which focuses on non-gas-based heating.</p> <p>These Scheme is supported by an Energy and Carbon Statement which explains how the Scheme can achieve these policy objectives at detailed approval stage. In addition, the Design Code encourages better than Building Regulation compliant energy standards.</p> <p>The Scheme was worked up in consultation with the EA and the planning conditions require compliance with an approved flood risk assessment.</p>

POLICY/GUIDANCE DOCUMENT ¹	FUNCTION	RELEVANT POLICIES OR GUIDANCE	COMPLIANCE STATEMENT
		<p>Policy CC4 – Sustainable Drainage System Design</p> <p>This policy prioritises the use of above non-buried SUDS.</p>	<p>The Scheme is served by a network of SUDS swales and attenuation ponds. SUDS infrastructure will be situated principally in GI spaces.</p>
<p>CORNWALL LOCAL PLAN-COMMUNITY NETWORK SECTIONS (2016)</p>	<p>This document should be read in conjunction with the Local Plan Strategic Policies, which are reviewed in greater detail in Appendix 4.</p> <p>It sets out the objectives of each community network area (CNA) across Cornwall.</p> <p>It supports the Strategic Policies but is not itself part of the statutory development plan.</p>	<p>Policy PP6 sets out the objectives for the Truro and Roseland CNA as follows: -</p> <ol style="list-style-type: none"> 1. Plan for location and distribution of housing growth... 2. Balance the provision of employment and housing to reduce commuting. 3. Provide high-quality, well-paid employment in locations that reduce the need to travel. 4. Enable the use of more sustainable transport modes and reduce congestion through the provision of additional transport infrastructure and ensuring sustainable transport is designed into new development. 5. Support the retail function of Truro. 6. Ensure facilities are provided to support new development and address existing deficiencies. 7. Ensure development is adaptable, sustainable and of a high-quality design and layout. 	<ol style="list-style-type: none"> 1. The Scheme is a significant contributor to the housing target for this CNA. 2. The Scheme allows residents to live closer to work and services and reduces the need for commuting. 3. The socio-economic chapter of the ES estimates that the Scheme will generate 1020 construction jobs over the lifetime of the construction phase and 1130 permanent jobs. 4. The NAR is designed to give greater priority to public transport, cycling and walking. The Park & Ride helps with sustainable transit into the city centre. 5. The Scheme supports the retail function of Truro, as set out in the Langarth Garden Village Retail Impact Assessment (Lichfields, 2020) (C 5.1). 6. Amongst other matters, the Scheme provides for community facilities, health facilities, work hubs, two new primary schools, a community farm, allotments and a range of open space.

POLICY/GUIDANCE DOCUMENT ¹	FUNCTION	RELEVANT POLICIES OR GUIDANCE	COMPLIANCE STATEMENT
		<p>8. Ensure that development respects the distinctive landscape settings of both Truro and Highertown /Threemilestone area.</p> <p>Provide a strategic framework to balance economic development, maritime industries, protection of the environment and access to the coast.</p>	<p>7. The approved Design Code helps ensure the Scheme remains adaptable, sustainable and high quality in terms of design and layout.</p> <p>8. The masterplan has been designed to respect the distinctive landscape settings of Truro and Threemilestone.</p> <p>The Scheme balances the need for economic development and housing against appropriate environmental protection.</p>
<p>EUROPEAN SITES MITIGATION SUPPLEMENTARY PLANNING DOCUMENT (2021)</p>	<p>This SPD sets out a strategic approach to the provision of mitigation for an increase in potentially harmful recreational impacts arising from new housing and tourism growth.</p> <p>It is a material consideration informing the decision to grant the Planning Permission as well as future applications for the Site.</p>	<p>The SPD identifies Penhale Dunes Special Area of Conservation (SAC) as a vulnerable terrestrial site and the Fal and Helford SAC, Plymouth Sound and Estuaries SAC and Tamar Estuaries Complex Special Protection Area (SPA) as vulnerable marine sites.</p> <p>The Scheme is in the zone of influence of Penhale Dunes SAC and FAI and Helford SAC.</p>	<p>The Scheme provides for SANG as well as policy compliant SAC and SAMM contributions secured via section 106.</p>
<p>CORNWALL PLANNING FOR BIODIVERSITY GUIDE (2018)</p>	<p>This document helps supplement Local Plan Policies 22 and 23, and policies G1-4 of the Climate Emergency DPD and provides guidance on implementation of those policies.</p>	<p>Major development is required to demonstrate 10% BNG, and applications need to be supported by a BNG Plan based on the latest version of the BNG metric</p>	<p>The Application was supported by appropriate BNG assessments and the BNG on the Site is achieved through the provision of a GI network covering 110 hectares. This includes SUDS and wetlands, areas of species rich grasslands, a network of Cornish hedges and a new woodland area of 5 hectares. Management and maintenance of BNG is secured via an appropriate section 106 obligation.</p>

POLICY/GUIDANCE DOCUMENT ¹	FUNCTION	RELEVANT POLICIES OR GUIDANCE	COMPLIANCE STATEMENT
<p>THE OPEN SPACE STRATEGY FOR LARGER TOWNS IN CORNWALL (2014)</p>	<p>This Strategy identifies targets for the amount and type of open space, as well as specifying accessibility standards and management requirements.</p>	<p>The focus is on publicly accessible open space. However, the strategy recognises that places such as Truro have, in addition, significant areas of formal open space operated as either private clubs (for example, golf clubs) or as part of schools and colleges.</p>	<p>The Scheme provides for policy compliant levels of most types of open space. In respect of typologies which are not provided to policy compliant levels on the Site (formal sport), a financial contribution is secured via the section 106 planning obligation accompanying the Planning Permission.</p>



Legally Privileged

ADVICE NOTE

Cornwall Council – Langarth Garden Village Grampian or Arsenal Conditions and Section 106

1. BACKGROUND

1.1 We have been asked to advise on the options available to Cornwall Council in its capacity as Local Planning Authority (**LPA**) in circumstances where:

1.1.1 the Council is the landowner of part of the application site and cannot enter a section 106 planning obligation with itself¹; and

1.1.2 third party landowners of the balance of the application site are not prepared to enter a section 106 planning obligation,

in connection with the grant of planning permission for Langarth Garden Village (**LGV**).

1.2 This note is provided in support of planning conditions 30 and 31 to the LGV hybrid planning permission (see **Appendix 1** for the full terms of the conditions).

1.3 It sets out the relevant tests in law, policy and guidance for the imposition of a negatively worded or 'Grampian' planning condition which restricts development on the unbound land until a section 106 planning obligation is secured in respect of that land. It also provides examples of other schemes in and out of Cornwall where this approach has been successfully adopted.

2. BINDING LAND UNDER SECTION 106

2.1 The usual starting point for a LPA is to require all persons with an interest in a planning application site to enter the section 106 planning obligation required to make development acceptable in planning terms.

2.2 This convention ensures the section 106 obligations "run with the land", as provided under section 106 of the Town and Country Planning Act 1990 (**TCPA**).

3. NO LEGAL REQUIREMENT TO BIND ALL LAND WITHIN AN APPLICATION SITE

3.1 However, section 106(1) of the TCPA states that, "*Any person interested in land in the area of a local planning authority may...enter into an obligation*". It is not therefore a statutory requirement that each person with a land interest in the application site must enter the section 106 planning obligation required in connection with a development.

3.2 In practice, LPAs want to ensure that as many landowners as possible enter planning obligations before grant of planning permission to minimise the chances of non-policy compliant development coming forward.

3.3 However, LPAs have the discretion to exclude both land and interests from any section 106 planning obligation, for example:

¹ Entering into a contract requires separate legal personality, a separation of statutory or other functions is not sufficient

- 3.3.1 where the land does not relate to/is not required to perform the substantive obligations, for example, a highway verge where no section 106 mitigation is proposed; or
 - 3.3.2 where the land interest is, itself, insufficient to implement the permission, for example, minor leasehold interests or land interests attributable to statutory undertakers.
- 3.4 LPAs also have the discretion to defer binding land and interests unless and until development under the planning permission comes forward in respect of the relevant land. This note examines the parameters of this discretion.

4. **BINDING LAND AFTER GRANT OF PERMISSION**

- 4.1 In the case of large-scale development sites with multiple landowners, it can be difficult for the Council (as applicant and/or LPA) to compel everyone with a land interest in the application site to enter the section 106 planning obligations at the point of grant of planning permission. This often occurs where site assembly follows grant of planning permission and/or requires the use of CPO powers.
- 4.2 A practical solution, in such circumstances, is to impose a negatively worded planning condition on the planning permission, prohibiting commencement of development on the unbound land until a section 106 planning obligation has been entered into in respect of that land.
- 4.3 Such conditions are sometimes referred to as "Grampian conditions" named after the case of *Grampian RC v City of Aberdeen* DC 1984 S.C. (H.L.) 58, [1983], which is examined further at 5.3 below.
- 4.4 They are also sometimes referred to as "Arsenal conditions", as a type of negatively worded (or Grampian) condition which was used to secure the section 106 planning obligations required in connection with the Arsenal Stadium Redevelopment.
- 4.5 Please see **Appendix 2** for the form of condition used in connection with the Arsenal Stadium Redevelopment and examples of other comparable schemes where such "Arsenal conditions" have been successfully used.
- 4.6 Importantly, the precedent planning conditions in Appendix 2 have each been tailored to the specific facts of the initial landownership position and development in case. This demonstrates that there is no 'one size fits all' approach to planning conditions to secure section 106 planning obligations and that LPAs have latitude to formulate their own approach to suit local circumstances.
- 4.7 We consider that this locally tailored "Arsenal condition" approach is lawful and justified in connection with LGV, for the reasons set out below.

5. **USE OF PLANNING CONDITIONS**

Statute

- 5.1 LPAs have broad powers under the TCPA to impose conditions when granting planning permission.
- 5.1.1 Under section 70(1), LPAs may grant permission "subject to such conditions as they see fit".

5.1.2 Under section 72(1)(a), planning conditions can be made "so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorised by the permission".

5.2 This broad statutory discretion needs to be exercised within the parameters set by case law and planning policy and guidance. These parameters are examined below.

Case law

5.3 Following the case of *Grampian*, as subsequently demonstrated in the context of the Arsenal Stadium Redevelopment, a planning condition "not to commencement development on land [x] until a section 106 planning obligation in the form of [y] has been entered into" can be lawful, depending on the planning circumstances.

5.4 National planning policy and guidance explain the kinds of planning circumstances where such a negatively worded condition may be appropriate.

Policy – the six tests

5.5 The starting point for the imposition of any planning condition, is Paragraph 56 of the National Planning Policy Framework 2021 (**NPPF**). This sets out the six general tests for the imposition of planning conditions. Each planning condition must be:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

5.6 If a planning condition does not meet all six tests, then its lawfulness is open to legal challenge. Whether a planning condition meets all six tests is a question of fact and degree.

Guidance - the exceptional circumstances test

5.7 The Government's Planning Practice Guidance (**PPG**) provides support for the use of negatively worded planning condition to require a section 106 planning obligation to be entered into before development can commence, as follows:

... in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply in the case of particularly complex development schemes). In such cases the 6 tests should also be met.

Where consideration is given to using a negatively worded condition of this sort, it is important that the local planning authority discusses with the applicant before planning permission is granted the need for a planning obligation or other agreement and the appropriateness of using a condition. The heads of terms or principal terms need to be agreed prior to planning permission being granted to ensure that the test of necessity is met and in the interests of transparency.

Paragraph: 010 Reference ID: 21a-010-20190723

Revision date: 23 07 2019

5.8 In summary, the PPG provides that a negatively worded condition requiring a planning obligation to be entered into before certain development can commence can be used in

exceptional circumstances, if it also meets the six general tests outlined above. It also recommends that the heads of terms or principal terms should be agreed prior to the planning permission being granted, in the interests of transparency and to ensure the general test of precision is met.

Guidance - some prospect of the action being performed on land which is not in the applicant's control

- 5.9 Negatively worded conditions relating to works or other activities on land that is not controlled by the applicant must also satisfy a specific test relating to prospects of performance. The PPG provides:

Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. It may be possible to achieve a similar result using a condition worded in a negative form (a Grampian condition) – ie prohibiting development authorised by the planning permission or other aspects linked to the planning permission (eg occupation of premises) until a specified action has been taken (such as the provision of supporting infrastructure). Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.

Paragraph: 009 Reference ID: 21a-009-20140306

- 5.10 In summary, the PPG provides that such conditions can be used where there is some prospect of the action in question being performed within the time-limit imposed by the permission.

Application of the tests in policy and guidance to LGV

- 5.11 In this case, the exceptional circumstances test, the six general tests and the test relating to works or activities on third party land, are satisfied for the reasons set out below.

- 5.12 In compliance with the six general tests for the imposition of planning condition, a negatively worded planning condition restricting development on the application site until the necessary section 106 mitigation has been legally secured is clearly:

1. necessary - to ensure the LGV development is acceptable in planning terms;
2. relevant to planning - to secure compliance with policy-compliant section 106 obligations binding the LGV application site;
3. relevant to the development permitted – to secure necessary environmental and other mitigation assessed as necessary pursuant to the technical reports submitted in support of the LGV planning application;
4. precise – a negatively worded condition restricting commencement on a specified parcel of land is precise, especially when – as here – such a condition is backed by a template planning obligation, published alongside the planning permission;
5. enforceable – a breach of such a condition can be enforced by the LPA, as established in the case of *Grampian*;
6. reasonable in all other respects – such a condition facilitates grant of planning permission in a timely fashion and helps unlock the delivery and the public benefits of the LGV.

- 5.13 It also meets the exceptional circumstances test in the PPG. Paragraph 010 of the PPG gives a fair indication of what might constitute exceptional circumstances, in this context. These include:

- 5.13.1 complex development schemes – like the LGV, which is a hybrid permission for the NAR and a sustainable new garden community of over 3,500 new homes;
- 5.13.2 where there is clear evidence that the delivery of the development would otherwise be at serious risk - permission for the LGV is required to enable the delivery of the NAR within the HIF funding deadlines and to unlock critical housing delivery to allow the LPA to meet its strategic housing targets for the Truro area;
- 5.13.3 where the heads of terms or principal terms can be agreed prior to grant of permission – in this case, the planning permission is accompanied by a template planning obligation setting the fair and transparent expectation that all land with the benefit of the planning permission would be bound by equivalent terms.
- 5.14 Finally, the specific test relating to the imposition of negatively worded conditions relating to works or activities on third party land (in this case, the balance of the application site) is satisfied so long as there is some prospect of the action in question (in this case, the section 106 obligation being entered into) being performed within the time-limit imposed by the permission.
- 5.15 This is a very low threshold in law. It simply needs to be possible, rather than impossible. The prospects do not even need to be "reasonable"; the only bar to using such a condition cannot be if there are "no prospects at all" of performance. This is supported by the House of Lords decision in *British Railways Board v Secretary of State and Hounslow LBC [1994] J.P.L 32*, which established that:
- "the mere fact that a desirable condition, worded in the negative form, appears to have no reasonable prospects of fulfilment does not mean that planning permission must necessarily be refused as a matter of law."*
- 5.16 In this case, there is of course no absolute guarantee that the all the land in the application site will be bound by the section 106 planning obligations specified at the point of grant of planning permission. The Council can control this outcome on its land through its disposal strategy; for example, by requiring that its successor in title enters the planning obligation as a condition of sale (see planning condition 30 and discussion below).
- 5.17 In respect of the third-party land included in the application site (the subject of planning condition 31), this outcome can be incentivised by structuring the permission and section 106 obligations in a way which make this option commercially appealing – for example, by allowing phased discharge of obligations and minimising the extent of sitewide obligations. The template LGV section 106 planning obligation has, so far as possible, been structured in this way. There is therefore some prospect that third party landowners will enter the template section 106 planning obligation published alongside the LGV planning permission. If they refuse to do so, they cannot take the benefit of/commence development under the LGV planning permission.
- 5.18 Together, planning conditions 30 and 31 help ensure that the LGV development – whether on Council land or third-party land - does not 'take free' of the section 106 mitigation required to make the development acceptable in planning terms.

6. MEMORANDUM OF UNDERSTANDING

- 6.1 We understand that the Council may retain a land interest in the application site at the point the development is commenced and may also retain control of land required for the delivery of key infrastructure. This is, inter alia, to allow development to get underway in parallel with the proposals for land assembly/consolidation of land and interests through the CPO for LGV and to control the delivery of key social and green infrastructure.

- 6.2 In these kinds of circumstances, we understand the LPA has previously required a Memorandum of Understanding (**MOU**) to be entered between the Council and the LPA (and any other delivery partners), whereby the Council and/or delivery partners effectively underwrite the performance of planning obligations in the template section 106 planning obligation until such time as the land is bound under section 106 in the normal way².
- 6.3 This MOU is not legally binding but is a public facing ‘commitment device’ which creates legitimate expectations that the planning obligations required to make the LGV development acceptable in planning terms will be honoured until such time as the land is bound under section 106 in the normal way. This is the function of planning condition 30 to the LGV planning permission. We consider it a reasonable way of providing comfort to the LPA that the public benefits of the LGV development will accrue where the Council is or remains the landowner.
- 6.4 Planning condition 30 requires that, in addition to entering the Memorandum of Understanding, the Council undertakes that its delivery partner/successor in title enters the planning obligation as a condition of sale, to ensure that the land is bound and subsequently runs with the land in the normal way.
- 6.5 **CONCLUSION**
- 6.6 For the above reasons, we consider that planning conditions 30 and 31 to the planning permission for LGV are reasonable and lawful means of ensuring that the section 106 mitigation required to make the LGV development acceptable in planning terms are secured before substantive development commences under the LGV planning permission under either the Council land or third-party land.

Pinsent Masons LLP

² See for example planning conditions 28 and 29 to the Pydar scheme reference PA21/04889, which is another Council-led scheme on Council owned land in Truro

Appendix 1

PLANNING CONDITIONS TO SECURE SECTION 106 MITIGATION IN CONNECTION WITH LGV

30 Section 106 Obligation - Council Land

If, at the point of commencement of any development (save for Enabling Works) in any phase, sub-phase or development parcel, the Cornwall Council owns a relevant legal interest in the land comprised in that phase, sub-phase or development parcel, no development (save for Enabling Works) shall take place in that phase, sub-phase or development parcel unless and until a Memorandum of Understanding has been submitted to and approved in writing by the Local Planning Authority which:

1. Details how the obligations in the Section 106 Obligation accompanying this planning permission will be complied with in respect of that phase, sub-phase, or development parcel; and
2. Includes an undertaking that the Cornwall Council will not (unless the obligations in the Section 106 Obligation have been fully discharged in respect of that land) dispose of any relevant interest in that phase, sub-phase or development parcel unless and until the disponent has entered into a planning obligation with the Local Planning Authority pursuant to Section 106 of the Town and Country Planning Act 1990 substantially in the form of the Section 106 Obligation accompanying this planning permission (with the intent that all of the covenants, obligations and restrictions contained therein will be enforceable not only against the disponent but also their successors in title and any person corporate or otherwise claiming through or under them an interest or estate in that land).

The obligations in the S106 Obligation accompanying this planning permission must thereafter be delivered in accordance with the approved Memorandum of Understanding.

Reason: Cornwall Council as landowner of part of the application site cannot enter into the Section 106 Obligation with itself. The condition will allow the timely issuing of the planning permission whilst ensuring the development will accord with the aims of Policies 1 and 28 of the Cornwall Local Plan Strategic

31 Section 106 Obligation - Other Land

If, at the point of commencement of any development (save for Enabling Works) in any phase, sub-phase or development parcel, any party other than the Cornwall Council owns a relevant legal interest in the land comprised in that phase, sub-phase or development parcel, no development (save for Enabling Works) shall take place in that phase, sub-phase or development parcel unless and until every party with a relevant legal interest in the land comprised in the phase, sub-phase or development parcel has entered into a planning obligation with the Local Planning Authority pursuant to Section 106 of the Town and Country Planning Act 1990 substantially in the form of the Section 106 Obligation accompanying this planning permission (with the intent that all of the covenants, obligations and restrictions contained therein will be enforceable not only against the original covenantor but also their successors in title and any person corporate or otherwise claiming through or under them an interest or estate in that land).

Reason: The condition will allow the timely issuing of the planning permission whilst ensuring the development will accord with the aims of Policies 1 and 28 of the Cornwall Local Plan Strategic Policies 2010-2030 and paragraphs 55, 56, 57 and 58 of the National Planning Policy Framework 2021.

Appendix 2

EXAMPLES OF “ARSENAL CONDITIONS” USED ELSEWHERE

1. Example 1: Arsenal Emirates Stadium (P002501)

Condition DC1 of the Arsenal Stadium permission states:

No works shall be carried out under this planning permission (save for preparatory works of surveying, testing, sampling, soil tests, pegging out, tree protection, archaeological investigation, construction of temporary boundary fencing hoardings, works of demolition, works of remediation and decontamination in accordance with the relevant planning conditions and including any necessary service diversions and the erection of contractors compounds) unless and until all parties with any legal or equitable interest in the following land have been joined as parties to the S.106 Agreement on the basis of which this permission is granted, and the title to such land shall have been properly deduced to the Council:

Description of Land in respect of which parties with interest need to be joined to S.106: [list of land with title numbers]

Reason: The Council would have refused the planning application in the absence of the S106 agreement and at the time of this permission being issued the applicant is not able to bind all relevant interests in the site to the terms of the planning obligations that it contains.

2. Example 2: Earls Court Redevelopment (PP/11/01937)

Condition 11 to the Earls Court Redevelopment permission states:

No development shall Commence on an Area of Land (or any part thereof) detailed in the Schedule below unless and until:

(i) all parties with any freehold or Relevant Leasehold Interest in that Area of Land (excluding Network Rail Infrastructure Limited (or any successor to its operational functions) in relation to item 2 below) have entered into a Confirmatory Deed to bind the relevant Area of Land in its entirety ... by the planning obligations contained in the Section 106 Agreement; and

(ii) the Council has confirmed in writing it is satisfied, having been provided with and investigated title, that all such interests in the relevant Area of Land are bound by the said Confirmatory Deed.

Schedule: Areas of Land [list of land titles]

Reason: To ensure that development is restricted on this land until such time that it is bound by a Confirmatory Deed and the planning obligations contained in the s106 Agreement are enforceable in accordance with the aims and objectives of Policies C1 and CA7 of the Core Strategy 2010.

3. Example 3: Brent Cross Cricklewood Regeneration Area (C/17559/08)

Condition 6 to the Brent Cross Cricklewood Regeneration permission states:

6. Planning Obligations to bind all land within Phases before Development

6.1. No part of the Development within any Phase or Sub-Phase (which in the case of Phase 1 shall mean the whole of that Phase) shall Commence unless and until all estates and interests in such Phase or Sub-Phase that need to be bound to ensure satisfactory enforcement of the obligations contained in the Initial Planning Agreement (and any other Planning Agreement required or entered into in relation to the Development including any such agreements as may be required in support of any Reserved Matters Approval or any Other Matters Approval or any Additional Planning Permission or any Alternative Energy Approval) shall (in accordance with Clause 6 of the Initial Planning Agreement) have been bound or made subject to the Planning Obligations and other provisions relating thereto to the reasonable satisfaction (as confirmed in writing) of the LPA insofar as such obligations relate to or affect either the whole of the Site or to such Phase or Sub-Phase specifically.

Reason: To ensure that the proposed development can be carried out in accordance with the relevant framework of control contained in these Conditions and the Planning Agreement and (as assessed in the EIA Process) does not cause unacceptable harm to the Environment or prejudice the amenities of existing occupiers.

6.2. Condition 6.1 shall not apply if and to the extent that the LPA shall have previously approved in writing Commencement of the Development in any Phase or Sub-Phase without complying with this Condition before all interests in the whole of that Phase have been so bound but no such approval will be granted unless (a) the area of land which is not so bound into the Planning Obligations is minor and insignificant in terms of the future enforcement of the Planning Obligations and (b) the approval is unlikely to cause significant environmental impacts compared to the impacts as assessed in the EIA Process and is unlikely to significantly undermine the comprehensive Development of the relevant Phase or Sub-Phase and/or the Site as a whole.

Reason: To ensure that the development is effectively carried out in a manner which is consistent with the framework of control contained in these Conditions and the Planning Agreement and (as assessed in the EIA Process) does not cause unacceptable harm to the environment or prejudice the amenities of existing occupiers.