

**Pembrokeshire Coast National Park
Replacement Local Development Plan (2015-2031)
Public Examination**

Supporting Document

Appendix 03

beforeInspector: Mrs Nicola GulleyMA MRTPI

**Representations by and on behalf of the
NEWPORT AREA ENVIRONMENT GROUP (NAEG)**

Secretary : Mrs. Sandra Bayes

Agent/Representative Mr. Robert L. MANSON

Ref: 3778

NEWPORT AREA ENVIRONMENT GROUP (NAEG)

Support Document Appendix 03

Rebuttal Arguments

for oral presentation

on 2nd July 2019

1. In the following items – which are numbered as in the Consultation Report on PCNPA LDP2 Deposit Version, the wording in red is the PCNPA Officer response to representations by Newport Area Environment Group (Sandra Bayes) and succeeded by NAEG's further statements

1. The issue of occupancy controls could usefully be discussed at Examination particularly given recent developments at Swansea's Local Development Plan Examination and the previous outcomes of the Anglesey and Gwynedd Local Development Plan. 2. Additional references have been added to the Housing Background Paper (Updated November 2018) in respect of these Plans.

2. The High Court Judgement in the St Ives' case¹ not only takes precedence over any Planning Inspector's decisions but is also the most closely relevant to Newport's proposal in concerning restricting occupancy to 'principal place of residence', and not also local needs. NAEG supplies the High Court JR judgement highlighting the most important decisions in relation to the Newport proposal for LDP2 Policy 3a) at Appendix (4). We refer to the most relevant findings below.

NAEG has studied the references now given by PCNPA

3. In the case of the Anglesey and Gwynedd Joint Local Development Plan 2011-2026², the Authorities sought to restrict new housing in specified settlements (mainly coastal towns & villages like Newport) to '**local market housing**' which would operate alongside the affordable housing policies.

*"... The policy is the Councils' response to the particular housing pressures faced by the most popular tourist destinations, mainly coastal villages, where the effect of second and holiday home demand has had the greatest impact on local house prices. As a consequence a disproportionately high proportion of local residents cannot afford to compete in the open market and are forced to move out to find a suitable home, to the detriment of the social fabric of the community"*³

The Inspector concluded that the Authorities had produced enough evidence to justify the policy.⁴

4. In the case of the Swansea Local Development Plan, we append parts of the finally approved & adopted LDP and the Inspectors Report with relevant text highlighted (Appendix 6&7 respectively)

¹R (RLF Built Environment Ltd.) v. Cornwall C.C. & St. Ives T.C. [2016] EWHC 2817 (Admin) of which copy extracts are supplied see now at Appendix (04) in supporting documentation

² We append parts of the LDP and Inspectors' Report with relevant text highlighted (Appendix 05) in supporting documentation

³Ibid as above fn 2 see @ para 5.11

⁴Anglesey and Gwynedd Joint Local Development Plan 2011-2026 – Inspectors' Report Paragraphs 5.11 to 5.18 page 25 see @ Appendix (05)

The Inspector acknowledged that the Authority sought to restrict occupancy of new market dwellings to persons with a specific connection to the local area

“where a disproportionately high proportion of local residents, in particular younger residents, cannot afford to compete in the open market and are forced to seek suitable housing elsewhere”⁵

The Inspector then further stated, as follows:

The imposition of an occupancy restriction would, over time, secure a modest pool of market housing that would be available to qualifying persons. This would be likely to be more affordable than open market housing, providing an opportunity for local residents to buy homes whose income means that they are not eligible for intermediate housing but who cannot compete in the locally inflated housing market. In doing so, the policy would also be likely to assist in increasing churn, to the benefit of the local housing market as a whole. We are therefore satisfied that occupancy restrictions are justified in this case and would accord with national policy^{89.6}

(emphasis added)

The Inspector concluded that occupancy restrictions were justified in this case and would accord with national policy⁷

5. In both of the above cases, policies are not applied to whole Local Planning Authority areas; but instead to discrete & specific wards, just as NAEG seeks an amended policy to apply to Newport alone, and not whole of the National Park.

3. A submission regarding principal residences at Preferred Strategy Stage was considered as an additional housing option, (see Alternative Options & Appraisal Background Paper (March 2018), and this has not resulted in it becoming the preferred housing option for the Plan. This assessment was on the basis of a Park wide application of the Policy.

4. It did not perform as well as others. Concerns include the ability to justify a divergence from national planning policy, the impact of the policy in practice. Would it really be the right solution for this National Park? What would be the unintended consequences of implementation? Would there be practical difficulties of enforcement? Would it meet the soundness tests?

(emphasis added)

6. NAEG is not proposing a divergence from national planning policy. Instead PPW10 clearly states , as follows :

⁵Swansea Local Development Plan 2010-2025 - Inspectors' Report Paragraph 6.23 Page 37 (Appendix 06)

⁶ ibid Paragraph 6.27 Page 38

⁷Ibid @ Report (p.37)

*“4.2.9 Planning authorities, in partnership with the community, including the private sector, must develop policies to meet the challenges and particular circumstances evident in their areas. **If these policies need to diverge from national policies in order to meet specific local housing needs for market housing, which normally would have no occupancy restriction, planning authorities must provide clear and robust evidence to support the approach taken. The justification might be in terms of, for example, land supply, environmental or social impacts either individually or in combination.**”⁸*

(emphasis added)

7. St Ives has led the way with a Neighbourhood Plan policy to restrict the occupancy of new build properties to permanent residency. New homes with the principal residence condition have been and are being built, with affordable housing being included in the larger developments, subsidised by the market housing. *“Planning applications for new dwellings appear to have been largely unaffected by the NDP”* (St Ives Neighbourhood Development Plan 2015-2030 Twelve Month Review Delivery of Housing: Applications for Dwellings page 20)
8. There has been little effect on the take-up of existing market housing as second homes or any substantial increase in house prices. We have been advised by St Ives Council Planning Committee Chairperson that It is too early to fully evaluate the impact of the policy but this will be assessed as part of the 5 year review of the Neighbourhood Plan

Again, NAEG is not claiming that this would be the right solution for the whole of the National Park.

9. As for enforcement, NAEG presents suggested potential evidentiary sources whereby a resident may establish an address as providing their place of ‘*sole or principal residence*’ in its proposed language on definition & meaning of the expression “main or principal place of residence”⁹
10. NAEG apologises that this suggested language was not included in its original comments on the deposit LDP2 but, having studied the Anglesey and Gwynedd and Swansea LDPs, NAEG has updated its submission to accord with the best practice as exemplified in those instances. The formulation chosen we submit is entirely consistent with the now approved and adopted formulation in the equivalent definition in the Swansea LDP¹⁰

⁸PPW v.10 @ Page 56

⁹See now our Proposed change document (Appendix 01)

¹⁰See now at Swansea LDP Appendices 6A & 6B in (Appendix 07)

5. These are issues which when explored resonate with the Authority's experience in seeking to include a local needs policy some time ago as summarised in the Background Paper for Housing. These concerns remain whether such a policy was applied widely or in a localised situation. If localised then what would be the justification? The Alternative Options & Appraisal Background Paper (March 2018) provides more advice

11. NAEG is not seeking a "Local Needs" Housing Policy and apart from the same officers being in post in 2006 when the Inspector then conducting the public inquiry into the Deposit JUDP, NAEG cannot see the relevance of the Inspector's decision to reject a policy of local needs housing (not restriction on occupancy), especially in view of the St Ives' judgement and more recent LDP Inspectors' Reports in Wales.
12. However, we wish to point out that whilst the JUDP Inspector's view back in 2006 was that restriction of housing to local needs was "potentially" in contravention of human rights under §8 of the European Convention of Human Rights; this matter has now subsequently & specifically been addressed in the judgement of Mr Hickinbottom J. in the St Ives JR, as follows:¹¹

"102. For those reasons, which reflect Mr Lowe's compelling submissions on this issue, I consider that Policy H2 is in pursuit of legitimate public interests identified in article 8(2), namely the interests of the economic well-being of the country, and for the protection of the rights and freedoms of others.

....

108. Consequently, I consider Policy H2, and its consequences, sufficiently certain that an individual can reasonably organise his affairs. He will know, when he purchases and/or occupies a dwelling with the restriction that, if he chooses to move away – or, by dint of circumstance, is required to do so – then that restriction will require him to sell the St Ives dwelling. Any claim that his article 8 rights will be infringed by enforcement of the restriction will have to be considered through that glass. Any purchase price he may have paid will have reflected that risk. In any event, I do not consider that this policy is, in any respect, not "in accordance with the law".

(emphasis added)

13. NAEG has already supplied statistical justification which is as striking as in the cases of St Ives and areas cited in Swansea Gower or Anglesey and Gwynedd¹²

6. With regard to specific queries raised the Authority relies on the Local Housing Market Assessment for housing need figures which is the requirement of Planning Policy Wales. Substantive amounts of affordable housing are required

¹¹ see above @ ft/nt (1)

¹² see our x2pp Statistical summary at (Appendix 02)

14. The Local Housing Market Assessment 2014 gives affordable housing need up to 2019 only. How can this information be sufficient to support policy decisions in a Plan to last till 2031? The LHMA does not begin to assess the market housing need and the proportion of market housing that needs to be of a value attainable by those on wages in local jobs.
15. The National Park has not sought low cost homes (intermediate housing) within the affordable element of provision on housing allocations, blaming problems with occupants obtaining mortgages. NAEG urges that this is never the case in future, especially in view of recent government initiatives supporting first time buyers.
16. Finally the so-called 'Joint' "Joint Housing Land Availability Study" = "JHLAS" which deals with housing land supply, as opposed to the "Local Housing Market Assessment" - which seeks to deal with extant housing stock mixes, but which the NPA also relies upon in its opposition - is in point of fact not relevant or applicable to Newport at all. It is both produced and updated by PCC alone, not the NPA, and in so far as it is capable of analysis & breakdown application to specific community council areas, these are only as to be found in the County but outside the Park i.e. excluding NEWPORT¹³
17. As stated already the obligation placed on Welsh LPAs by § 9.1.4 PPW includes :

*" They should ensure that development plan policies are based on an up-to-date assessment of **the full range of housing requirements** across the plan area over the plan period. Local authority planning and housing staff should work in partnership with local stakeholders, including private house builders, to **produce Local Housing Market Assessments** (LHMAs)*

(emphasis added)

We don't think that completely ignoring the character of occupancy mix in a given community is in any way an adequate fulfilment of this obligation. And don't forget the **FOAN** (Full Objective Assessment of Housing Need) §47 NPPF , the inclusion within which of second & holiday home proportions has, as a legitimate and proper consideration in Plan preparations, been fully endorsed in the English Courts. See in the first instance Higginbottom in the St.Ives judgement¹⁴, as follows @para.61 :

"A development plan must, of course, consider future housing requirements. As I described recently in Gallagher Homes Limited and Lioncourt Homes Limited v Solihull Metropolitan District Council [2014] EWHC 1283 (Admin) at [37], this is a complex business. It starts with demographically-based household projections, from which the Full Objective Assessment of Need for Housing ("FOAN") is assessed. This is a "policy-off" figure. The actual housing requirement figure for the development plan area is

¹³ see now our appendix 08 document titled « Calculating the Housing Need in Newport »

¹⁴ Ibid as above at fnnt. 1

then determined on the basis of, not only the FOAN, but also any policy considerations that might require that figure to be manipulated to determine the actual policy-on housing need for an area. Once that figure has been determined, it is broken down, generally geographically, i.e. between the various towns and other areas within the development plan area.

Then as for instance also applied specifically to the issue of second/holiday homes as per Dove J In *King's Lynn and West Norfolk BC v SoSCLG* (CO/914/2015)

"Assessing FOAN requires analysis of statistical and econometric data and trends, and judgments to be made on those data. The Inspector's judgment to take account of the existing extent of vacancy and second homes and to project it forwards was part of a statistical assessment of housing needs and part and parcel of the FOAN equation. It did not involve the application of policy."

Where is the NEWPORT FOAN ?

18.LHMA

7. With reference to identifying the number of second homes in any community in Pembrokeshire this is a difficult exercise and it depends on the reference and definition used. It is particularly difficult as the impact of changes to the Council Tax system has seen the categorisation of properties change. A table has been provided by the Authority to the representor from Census data and it is understood that Pembrokeshire County Council has also provided Council Tax data.

8. In terms of the preferred option for housing as published in the Preferred Strategy the provision of market housing serves to deliver/subsidise affordable housing. Market housing is housing that is not subject to an occupancy condition so could conceivably be used for holiday let, a second home or a main residence. If a principal residence occupancy control was placed on all housing then affordable housing could not be secured save for exceptional land releases which tend to be small in number – see paragraph 9.2.14 and the last sentence of paragraph 9.2.16 of Planning Policy Wales Edition 9 November 2018. Delivering affordable housing is a key objective for the Authority. On balance the achievement of affordable housing is seen as the preferred option.

18. St Ives has shown that new homes with an occupancy condition cross-subsidise affordable housing. This contradicts PCNPA's statement that *"If a principal residence occupancy control was placed on all housing then affordable housing could not be secured..."* (St Ives Neighbourhood Development Plan 2015-2030 Twelve Month Review Delivery of Housing: Applications for Dwellings page 20)

19. The principal occupancy planning restriction placed on St Ives new housing has not prohibited the securing of affordable homes, as the following extract¹⁵ shows:

¹⁵Page 31 St Ives Area Neighbourhood Development Plan 2015 - 2030
St Ives NDP Twelve Month Review April 2018

“The housing sites allocated in the Plan are being used, and there are affordable elements being provided within them. In addition there is a more innovative self-build scheme planned for one of the allocated sites. It will be interesting to see what applications come forward for the remainder of the sites. Creativity and innovation would surely be welcomed as to how the most can be made of them. St Ives Community Land Trust was established following St Ives Area NDP, with the aim of using the Plan to deliver housing and other developments of maximum value to the local community, in line with the overall objectives of the Plan (see Appendix 3). The five year review can look at whether this is occurring.”

Whilst,

“It was noted that the delivery of affordable housing is falling far short of the need. This is largely due to the raising of the threshold nationally, but is something that future review of the NDP needs to consider.”¹⁶

20. Swansea has shown that an affordable housing policy (their Policy H2) and controls restricting occupancy to principal residency (their Policy H5) can have a synergetic relationship, far from the latter excluding the efficacy of the other.
21. The main point to make is that in the last 5 years the National Park hasn't even tried to determine the proportion of homes left empty for vast swathes each year in Newport¹⁷. Local people who have carried out house to house visits 3 times over last winter and spring are convinced that 2011 census figures (already at the frightening figure of 38%) are no longer useable, as they are far too low.
22. In 2001, there were 825 household spaces in Newport ward, of which 553 were “all household spaces with residents”, 73 “all household spaces with no residents-vacant”, 199 “all household spaces – with no residents – second homes”, meaning the % of household spaces with no usual resident was 33%.¹⁸
23. In 2011, there were 930 household spaces in Newport ward, of which 583 were household spaces with one usual resident, and 347 “household spaces with no usual residents”, meaning the % of household spaces with no usual resident had risen to 37%.¹⁹
24. The increase in all household spaces between 2001 and 2011 was 105
The increase in household spaces with no usual resident between 2001 and 2011 was 75
The increase in household spaces with at least one usual resident between 2001 and 2011 was 30

¹⁶Notes from Neighbourhood Development Plan Review Group Meeting 30th April 2018

¹⁷ibid as above pnt 12

¹⁸KS401EW – Dwellings, household spaces and accommodation type (ONS Crown Copyright Reserved [from Nomis on 30 April 2018] as supplied to NAEG by PCC

¹⁹KS016 – Household spaces and accommodation type (ONS Crown Copyright Reserved [from Nomis on 30 April 2018] as supplied to NAEG by PCC

The increase in household spaces with no usual resident between 2001 and 2011 was 150% of the increase in household spaces with at least one usual resident between 2001 and 2011²⁰

There is a strong local perception that this trend has escalated recently

9. In terms of other points raised the outcomes of engagement manifest themselves in the consultation material published at formal stages of Plan preparation. There have been engagement events in Newport both with the Town Council and also in conjunction with other interested parties. Officers were not aware that specific feedback to NAEG was anticipated in addition to the formally approved response by the Authority (of which all representors were notified).

The NAEG response was covered in the NAEG statement to the LDP2 Inspector Matter 1 doc.

10. The Scale and Location of Growth Background Paper (Updated March 2018) has tables removed because the Authority had a separate commission done regarding population projections and it was considered it would lead to confusion to have two sources for figures.

25. It is especially noted that Officers are not claiming that the figures given in the original Welsh Government Scale and Location of Growth Paper as appearing in their Round 1 Background Documentation were wrong. NAEG carried out detailed analysis of the first Paper (Attached- Appendix 8). Please recall that this official WG projection for the future change in the Park population was

“ population (22,800 in 2013) is estimated to fall by 11.5 per cent”

and in relation to the housing need here in Newport the NPA's own table showed that when broken down by Park settlements this would equate with a reduction of householder need in Newport of **minus -52 over the Plan period 2015-2031**.²¹ *Candidly, not so much avoiding a confusion as evading a bloody awkward truth !*

11. The current wording of the text for Newport in the Local Development Plan is considered to be adequate and results from consideration of detailed comments mainly prior to publishing the Preferred Strategy. The Inspector's views are welcomed.

NAEG (speaking with crossed fingers) couldn't agree more. The Inspector's views, on what we perceive to be an overwhelming case, with both recent precedent, multiple statistics & simple experience and local knowledge so massively on its side, are indeed keenly awaited. Experience, however, has also taught us keep our welcomes to follow the event !

Robert Manson (Agent)

Sandra Bayes (Secretary)

²⁰ Ibid above ft/nt 15

²¹ See table @ p.8 in attached (Appendix 08)