

“Neighbourhood Plans – the experience of one St Ives volunteer”

by Delia Brotherton

Following the recent (November 2016) successful decision in St Ives’ favour in the High Court after an unsuccessful challenge to the St Ives Neighbourhood Development Plan by a local company, I was asked give an account of my experiences as a volunteer on the St Ives Neighbourhood Development Plan (NDP) Culture and Heritage group.

We started work in June 2013 and in general the whole process seemed to take a long time to run its course, but it was delayed by the above mentioned challenge from a local architect/developer who claimed that the St Ives NDP was against the human rights of those who wished to own a second or third home. The judge dismissed this assertion and Cornwall Council’s press release said..

10.11.16 Cornwall Council welcomes High Court decision on St Ives Neighbourhood Development Plan judicial review.

Cornwall Council is welcoming the news that the claim for judicial review submitted by RLT Built Environment Limited of the authority’s decision to support the publication of the St Ives Neighbourhood Development Plan and put it to a referendum in St Ives has been dismissed on all counts.

The judgement handed down today by Mr Justice (now Lord Justice) Hickinbottom means that, subject to no appeal being lodged, the Council will now be able to progress the ‘making’ of the St Ives Neighbourhood Development Plan (NDP).

The decision also means that town and parish councils with similar policies in their Neighbourhood Plans will also be able to progress them. These will be dealt with on a case by case basis subject to supporting evidence and the relevant Examiner’s report.

“This is a hugely important judgement for Cornwall, St Ives Town Council and for the residents of St Ives who wanted to ensure that any new homes in the town would be the resident’s sole or main residence,” said Edwina Hannaford, the Council’s Cabinet Member for Planning.

“We also know that a number of other local communities, both in Cornwall and across the rest of the country, are also interested in including similar policies in their own Neighbourhood Plans and have been watching this case with interest”.

The St Ives Neighbourhood Development Plan was the subject of referendum on 5 May 2016 and of the 47% of electors entitled to vote , 83% voted in favour of Cornwall Council using the St Ives NDP to help decide planning applications in the Neighbourhood Area which covers St Ives and Carbis Bay.

Immediately prior to the referendum RLT Built Environment Limited, a firm of architects specialising in residential development and design, challenged the Council’s decision made on 17 March 2016 to proceed to referendum. The original challenge comprised 8 grounds, all but 3 of which were abandoned prior to the hearing on 6 October 2016, with the main challenge claiming that Policy H2 – the principal residency requirement , was incompatible with Article 8 of the European Convention on Human Rights.

In dismissing the judicial review Mr Justice Hickinbottom said he had not been convinced by any of the grounds put forward by the claimants. "I do not consider any of the grounds strong – and I have expressly found some to be unarguable" he said. "I heard full submissions on all of the grounds, and I have given a full judgment. In all the circumstances, not without hesitation, I shall grant permission to proceed on all grounds; but, having done so, refuse the substantive application".

It would be wrong to suggest that NDPs are anything other than a daunting task, but if you are fed up to the back teeth of developers popping up from nowhere with not an apparent care for local needs, Cornish culture or indeed any interest in Cornwall apart from the value of a sea view, then you will be spurred on to get involved.

You will need an army of local volunteers to work alongside local councillors, who will in turn liaise and work with experienced Cornwall Council staff, whose help we found to be very useful especially where we needed to make sure the wording was watertight to throw off potential challenges, like the one mentioned above. Draft copies of documents went back and forth for months while the details were sorted.

The more NDPs that are made the better for those who have yet to start as you will not be starting with a blank sheet of paper, although of course every town and settlement will have different needs. However, at the very least you can use the St Ives plan as a framework for your own and add or reject those sections that are relevant (or not) to you. I understand that, in the early days, the Totnes Transition Town plan formed one of the starting points for creation of NDPs.

Initially I had not appreciated that NDPs were to be mostly about development. We called them Neighbourhood Plans at first, which made them seem more benign, and sub committees were formed to look at various issues such as transport, culture, heritage and the built environment (i.e. existing buildings) but it became obvious as time went on that the issue of housing was the issue needing the most attention. We had come through the shock of the announcement of an increased total of 52,000 houses for Cornwall. Of these St Ives was required to build 1,100 houses over the next 15 years, which is the lifetime of the NDP. It turned out that around 65% of this allocation had already received planning permission or was in the pipeline, so we had just 35% of this 1,100 left to try and get under sensible control.

It was during the local discussions that the idea of trying to keep this remaining allocation for principal residence first arose among one of our sub committees.

Once the draft plan had been agreed we held a series of "roadshows" around the locality where people could come and view the plans and ask questions of town councillors and any volunteers who were available.

You know the outcome. It has caused some ill feeling in the town as some people tried to persuade others that if you can't build houses for tourists and second homers then the whole economy will collapse, or that it will make properties not subject to the ban even more expensive, but 83% of those who voted supported the idea of new builds being used as a primary residence only. Voter turnout was 47.2%.

Since then people have remained positive about the NDP although many wonder how it will be enforced. That is probably down to Cornwall Council who will have to show more backbone than in the past when developers have blatantly defied the permissions granted and built more or bigger than allowed, without subsequent challenge. I assume the financial implications for a council of a legal challenge that they have no guarantee of winning is what gives a developer the "courage" to ignore the detail of the permission granted. Let's hope the legally adopted NDP, when it becomes so, and the recent High Court case will give Cornwall Council some comfort to face down any further challenges.

There is a website for the St Ives NDP <https://stivesnplan.wordpress.com/> although it does not include news of the recent High Court case. This will be updated when the Plan has been adopted by Cornwall Council.

Here is the link to the final draft, dated March 2015.

<https://www.cornwall.gov.uk/media/12861065/Appendix-2-St-Ives-Area-Neighbourhood-Development-Plan-Submission-Draft.pdf>

You'll see that the appendices include extensive lists of buildings and spaces that the steering group considered to be in need of protection. Some of these are private, for example, "Chylason" in Carbis Bay, the former home of Robert Morton Nance, father of the Cornish language revival, is included.

Following my email I received the following response from one of our local town councillors, Cllr Rita Lait. (The content is slightly edited.)

In answer to your query about the draft plan, the version available via the (St Ives) Town Council website is what was submitted to Cornwall Council early in 2015 for the final consultation, which led to the referendum. Nothing has been done to it since then, pending the outcome of the court case. A letter threatening a legal challenge to the Plan was sent in February but nevertheless Cornwall Council decided to go ahead with the referendum because they were determined to fight for a curb on second homes / holiday lets. Their resolve to do so was strengthened when the examiner of the draft Local Plan announced that they would have to increase the new housing provision to allow a requirement for second homes!

The Plan will require minor amendments to bring it line with the Government's latest guidelines (e.g. the threshold for affordable housing is now for developments of 10 or more

*dwelling whereas it was 2 or more when we wrote the Plan) - & the policies have to be in compliance with the Cornwall Local Plan, which is soon to be adopted. **** (see below)*

Cornwall Council's legal team will be checking through our Plan before it can be 'made'. The sign off for the Plan will be on/soon after the 5 December, which is when it will be discussed at the Planning Advisory Committee. The Secretary of State will also have to make his decision on the proposed Gonwin development. The public inquiry on that was held almost a year ago.

Little did we realise what a protracted process it would be to produce a Neighbourhood Plan on behalf of the local community. The first meeting about having a Neighbourhood Plan for St Ives was held way back in 2013. We're very fortunate to have had such a dedicated & hard working team of volunteers who have contributed to the production of our Plan. After the euphoria of the referendum result, it's been an agonising wait for the legal challenge to be resolved. 'RLT v. Cornwall Council' will be a landmark court case which will encourage communities elsewhere around the country to stand up for their rights. This is what 'localism' is all about.

******** Edwina Hannaford tweeted on 23rd November that the Cornwall Local Plan has been adopted.

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