

Legal Compliance Assessment

Dalwood Neighbourhood Plan Submission

Introduction

At this stage in the development of a Neighbourhood Plan, the draft Plan is formally submitted to the Council and assessed for soundness under the relevant provisions of Neighbourhood Planning Regulations and the Town & Country Planning Act 1990. This stage is not specifically concerned with details of plan wording or policy or sites, but is a legal compliance checking exercise.

Legal Compliance Assessment:

The following sets out the Officer assessment of the Dalwood Neighbourhood Plan against the relevant legal requirements. The questions relate to the requirements of Sections 38A, 38B & 38C and Schedule 4B of the Town & Country Planning Act 1990 and Regulations 14 & 15 of the Neighbourhood Planning (General) Regulations 2012.

Part 1 – Overall Requirements

Question 1

Is the Plan Producer is authorised to act?

Answer

Yes, the Neighbourhood Plan was produced by Dalwood Parish Council. The Neighbourhood Plan was submitted on its behalf, on 14th April 2021, by its Neighbourhood Plan Steering Group lead. Dalwood Parish Council is authorised to act, being the approved Qualifying Body, and formally approved the Neighbourhood Plan for submission at its meeting of 7th April 2021.

Question 2

Is the draft Neighbourhood Plan a 'repeat' proposal?

Answer

No, this is the first and only Neighbourhood Plan submitted for this Neighbourhood Area.

Question 3

Is there another Neighbourhood Plan in place in respect of the designated Neighbourhood Area?

Answer

No, there is not another Neighbourhood Plan already in place in respect of the Neighbourhood Area which is the whole of the parish of Dalwood.

Question 4

Have the Neighbourhood Plan Regulations been complied with, including the minimum 6 week pre-submission (Regulation 14) Consultation?

Answer

Yes. The Consultation Statement and Basic Conditions Statement set out how the Neighbourhood Plan has complied with the Regulations, including how the Plan was appropriately advertised for a full 6 weeks in accordance with Regulation 14.

Part 2 - The submitted Draft Plan**Question 1**

A map or statement is included identifying the area to which the plan relates?

Answer

Yes, the submission includes a map and a statement identifying the area to which it relates (see section 1.2 and Figure 2a of the submitted Neighbourhood Plan). There is no annotation on the base map in Figure 2a to definitively identify the land shown as Dalwood Parish, but this is confirmed when read in conjunction with the map showing the parish in context at Figure 2b.

Question 2

The consultation statement is included and contains details of those consulted (how they were consulted, summarises the main issues and concerns raised and how these have been considered, and where relevant addressed in the proposed Neighbourhood Plan)?

Answer

Yes, the submission includes a detailed Consultation Statement which addressed all of these requirements.

Question 3

The submission includes the proposed Neighbourhood Plan?

Answer

Yes, it includes the proposed Neighbourhood Plan (Submission Version, dated March 2021).

Question 4

A statement is included explaining how the Neighbourhood Plan meets the 'basic conditions'? These are the requirements as set out in paragraph 8(2) schedule 4B Town & Country Planning Act 1990.

Answer

A Basic Conditions Statement accompanies the submission, setting out clearly how the submitted Plan meets the relevant basic conditions.

With reference to the requirements and the full set of Submission documentation, the Local Planning Authority considers that the submitted Plan meets the basic conditions because:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood development plan,
- the making of the neighbourhood development plan contributes to the achievement of sustainable development,

- the making of the neighbourhood development plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
- the making of the neighbourhood development plan does not breach, and is otherwise compatible with, EU obligations, and
- prescribed conditions are met in relation to the neighbourhood development plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood development plan.

It should be noted Points (b) and (c) of the requirements as set out in Schedule 4B of the TCPA are not applicable. These relate to Neighbourhood Development Orders. The Dalwood Neighbourhood Plan is not a Neighbourhood Development Order and does not contain such orders.

Question 5

The Submission includes either an environmental report (prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 (a)); or a statement of reasons for the determination of why the plan proposal is unlikely to have significant environmental effects?

Answer

A screening process was carried out by East Devon District Council as the local planning authority in December 2019 on the draft Dalwood Neighbourhood Plan to determine whether a Strategic Environment Assessment (SEA) or Habitat Regulations Assessment (HRA) would be required in support of the Dalwood Neighbourhood Plan. Neither an SEA nor HRA were deemed necessary and the Screening Assessment concluding this forms part of the Submission. It is not considered that there have been any significant change in circumstances that would indicate the need for a re-screening. Therefore, basic conditions concerning Habitats and Environmental Impact Assessment as described in Schedules 2 and 3 of the Regulations have been accounted for.

The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998.

Conclusion

In the opinion of the East Devon District Council Policy Team, having consulted (if appropriate) with Legal Services, the relevant legal requirements at Submission stage have been fully met. The Plan Producer can be notified as such and the Plan can proceed to Regulation 16 Consultation.