

Legal Compliance Assessment

Broadclyst Neighbourhood Plan Submission (June 2022)

Introduction

At this stage in the development of a Neighbourhood Plan, the draft Plan is formally submitted to the Council and assessed for legal compliance 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 primarily a legal compliance checking exercise.

Legal Compliance Assessment:

The following sets out the Officer assessment of the Broadclyst Neighbourhood Plan against the relevant legal requirements. The questions relate to the requirements of Sections 38A, 38B & 38C of the Planning and Compulsory Purchase Act 2004 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 authorised to act?

Answer

Yes, the Neighbourhood Plan was submitted by the Plan Producer, Broadclyst Parish Council, on 22nd June 2022. Broadclyst Parish Council is authorised to act, being the approved Qualifying Body.

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.

N.b. An earlier version of this same Plan was submitted previously in December 2014, but following advice from Officers, it was withdrawn at that stage to enable additional evidence gathering relating to viability and further work to the Basic Conditions Statement. This work has since been undertaken and the Plan re-submitted.

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 Broadclyst.

Question 4

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

Answer

Yes. The necessary steps appear to have been followed and the Neighbourhood Plan was appropriately advertised for the required minimum of 'at least 6 weeks' in accordance with Regulation 14 (as set out in the consultation statement). In total, the consultation ran for over 12 weeks to allow more time than usual for responses due to the impact of the restrictions relating to the Covid-19 pandemic and the Christmas period. A range of digital and non-digital methods of communication were used to raise awareness of the consultation to those who live, work and carry out business in the parish.

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 (the whole of the parish of Broadclyst).

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 consultation statement and separate appendices contained in two further files. The documentation is particularly detailed, but is considered overall to meet these requirements. This sets out extensive efforts to raise awareness and engage the community during the plan preparation process.

Question 3

The submission includes the proposed Neighbourhood Plan?

Answer

Yes, it includes the proposed Neighbourhood Plan, undated, but labelled 'Reg 16 Version'.

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

Yes. A Basic Conditions Statement accompanies the submission and is considered to be fit for purpose.

The Neighbourhood Plan does not contain any Neighbourhood Development Orders.

As such, officers understand a Neighbourhood Plan will be considered to have met the Basic Conditions if:

- 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, retained 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.

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

Yes. The documentation submitted includes the required Environmental Reports, which reflect the conclusions of the EDDC Screening Opinion (February 2020 and updated June 2022). 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 also had 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.

Note on documentation accessibility:

Outside the Legal Compliance Check under the TCPA Act & NP Regulations, an 'accessibility check' has been undertaken (using Adobe software) of the main Submission documents. This has indicated that the Neighbourhood Plan itself is an accessible document. Where there are accessibility issues with other documents, Officers are liaising with the QB, with reference to EDDC's Accessibility Statement and the Accessibility Statement provided by the QB, in order to comply with the [Accessibility Regulations](#) and facilitate engagement in the Regulation 16 consultation. Officers notes the endeavours of the QB to improve document accessibility for this re-Submission.