

Legal Compliance Assessment

Clyst Honiton Neighbourhood Plan Submission (February 2024)

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 Clyst Honiton Neighbourhood Plan submission against the relevant legal requirements. The questions relate to the requirements of Sections 38A, 38B & 38C of the Planning and Compulsory Purchase Act 2004, Schedule 4B of the Town & Country Planning Act 1990 and Regulations 14 & 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

Part 1 – Overall Requirements

Question 1

Is the Plan Producer authorised to act?

Answer

Yes, the Neighbourhood Plan was submitted by the Plan Producer, Clyst Honiton Parish Council, between 29th January and 19th February, upon which a full and final set of documentation was registered as received. Clyst Honiton Parish Council, as a Parish Council, is authorised to act as the approved 'Qualifying Body' for the Clyst Honiton Neighbourhood Area, designated 2 April 2014.

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 covers the majority (but not all of) the parish of Clyst Honiton (excluding the strategic sites of Skypark, Cranbrook and its expansion area, Exeter Airport, Exeter Business Park and the Intermodal Freight Facility site (known as Exeter Gateway)).

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). The evidence in the Consultation Statement describes a phased advertising of the consultation over the first 2 weeks it was live to engage local people. In total, the consultation ran for an extended period of 9 weeks from 9th June 2023 to 11th August 2023 (extended from an initial c.7 weeks), and a good 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 as set out in the Consultation Statement.

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 detailed explanation identifying the area to which the Neighbourhood Plan relates and why this is less than the whole parish (as described in Part 1, Question 3 above), on pages 9 to 11 of the neighbourhood plan. The map was also submitted as a standalone document.

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 which clearly sets out all of the above in both summary terms and with fuller, more detailed evidence appended. Although the document reports a low response to the Pre-Submission consultation from local residents (17 no. responses), it is noted that the resident population is small and notable also that the plan preparation has taken place over an extended period, since 2014, due in part to the particular circumstances and complexities associated with the work being pursued alongside but separate to the neighbourhood plan for a neighbourhood development order to secure a new community facility.

Evidence submitted indicates considerable efforts have been made to keep the community informed and engaged as far as possible throughout the process, and to be responsive to comments made in the final Plan content.

Question 3

The submission includes the proposed Neighbourhood Plan?

Answer

Yes, it includes the proposed Neighbourhood Plan, clearly labelled on the front cover as 'Regulation 16 Submission Version January 2024'. The Submission is also accompanied by a number of supporting appendices.

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. This is clearly written and presented and is considered to be fit for purpose.

The Neighbourhood Plan does not contain any Neighbourhood Development Orders. However, it should be noted that a Neighbourhood Development Order was also consulted on alongside the Regulation 14 (Pre-Submission) Consultation on the Neighbourhood Plan, at which time the NDO site/proposal was also included in the draft Neighbourhood Plan. Following the review of consultee comments at Regulation 14 (Regulation 21 for the NDO), the Parish Council have taken the decision to pursue the NDO proposal separately and submit this at a later date, and aligned to this has removed this particular site allocation from the submitted Neighbourhood Plan.

As such, Officers understand that the 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) (which is currently the adopted East Devon Local Plan 2013-2031),
- 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.

This will be considered in more detail and formally commented on by East Devon District Council in its consideration of the Regulation 16 Submission Version of the Plan and supporting appendices. Any comments will be submitted to the independent examiner, along with those received from other consultees, who will examine the Plan in respect of compliance with these Basic Conditions.

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 Screening Opinion of the LPA concludes that the Plan as submitted is unlikely to have significant environmental effects. However, the documentation submitted includes Environmental Reports comprising both a Strategic Environmental Assessment and Habitat Regulations Assessment, that have both informed the preparation of the Plan and were made available for comment by the Qualifying Body as part of the documentation consulted on at Pre-Submission (Regulation 14 stage) and have been updated in January 2024 to align to the Submission Version of the Plan. Therefore, basic conditions concerning Habitats and Environmental Impact Assessment as described in Schedules 2 and 3 of the Regulations have been accounted for.

The Submission also includes a Sustainability Appraisal (at Appendix 4) which considers the environmental, economic and social impacts of each of the policies in the Plan.

The Neighbourhood Plan is also considered to have had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and to comply with the Human Rights Act 1998. The Consultation Statement and Equalities Impact Statement (Appendix 22) evidence how the plan process has been managed to enable different groups engage in and influence the plan preparation at all stages of its preparation, via a range of different means, both on- and off-line.

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:

Clyst Honiton Parish Council have confirmed that all of the pdfs submitted in terms of the main Neighbourhood Plan are accessible as defined in the CHNP Accessibility Statement. Where documents do not meet EDDC's own Accessibility Statement in full, Officers are liaising with CHCP to secure compliance as far as possible to facilitate engagement in the Regulation 16 consultation (without any changes to content) and in view of the expectation that in due course the Plan will be made and will form part of the statutory development plan, adopted by East Devon District Council.