

Legal Compliance Assessment

Clyst St Mary and Sowton (Bishops Clyst) Neighbourhood Plan Review Submission – (December 2024)

Introduction

At this stage in the development of a new or modified Neighbourhood Plan, the Plan (or Modification) Proposal is formally submitted to the Council and assessed for legal compliance under the relevant provisions of the Neighbourhood Planning Regulations, the Town & Country Planning Act 1990 and Planning and Compulsory Purchase Act 2004. 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 St Mary and Sowton (Bishops Clyst) Neighbourhood Plan Modification submission against the relevant legal requirements. The questions relate to the requirements (as applicable) of Sections 38A, 38B & 38C and Schedule A2 of the Planning and Compulsory Purchase Act 2004 (as inserted by the Neighbourhood Planning Act 2017), 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 (as proposed to be modified) was submitted by the Plan Producer, Bishops Clyst Parish Council, on 16th December 2024. Bishops Clyst Parish Council, as a Parish Council, is authorised to act as the approved 'Qualifying Body' for the Clyst St Mary and Sowton (Bishops Clyst) Neighbourhood Area. The Neighbourhood Area, which was designated on 5 March 2014, covers the whole of the Parish Council's administrative area.

Question 2

Is the draft Neighbourhood Plan a 'repeat' proposal?

Answer

No. This is a first and only proposal for the modification of the existing Bishops Clyst Neighbourhood Plan (Made 2017), following its review.

Question 3

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

Answer

As above, there is a made Neighbourhood Plan in place for this Neighbourhood Area. This is the Bishops Clyst Neighbourhood Plan (2014-2031), 'made' March 2017. The submission proposes to modify and replace this Plan, as detailed in the submitted Modification Statement. This is in accordance with the provision for modifications of neighbourhood plans introduced through the Neighbourhood Planning Act 2017.

Question 4

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

Answer

Yes. There has been considerable liaison throughout the process leading up to submission of the proposal between the Qualifying Body and Officers. From initial review of the submission documents, it is Officers view that the necessary steps appear to have been followed. In relation to Regulation 14, the Neighbourhood Plan (as proposed to be modified) was appropriately advertised for more than the required statutory minimum of 'at least 6 weeks'. It ran for an extended 8-week period from 1st July 2024 to 26th August 2024, as evidenced in the submitted 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. A map and explanatory text identifying the area to which the Neighbourhood Plan relates is included on pages 2 to 3 of the draft Neighbourhood Plan and page 3 of the Basic Conditions Statement. There is no change proposed to the existing designated Neighbourhood Area to which the made neighbourhood plan relates. It covers the combined area of the civil parishes of Clyst St Mary and Sowton, jointly known as 'Bishops Clyst', and forms the entire administrative area of Bishops Clyst Parish Council.

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 draft 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. This is set out in two parts comprising consultation with the community and consultation with statutory bodies. It illustrates significant efforts to inform and engage stakeholders throughout the process and take account of comments received.

Question 3

The submission includes the Neighbourhood Plan (the 'draft plan')?

Answer

Yes. The submission includes the proposed modified Neighbourhood Plan, labelled as the Clyst St Mary and Sowton (Bishops Clyst) Neighbourhood Plan 2023 – 2040 Submission Version, and dated December 2024. The draft Plan appears to comply with the legal definition of a neighbourhood development plan as it sets out policies in relation to the development and use of land in the neighbourhood area specified in the plan; it specifies the period for which it is to have effect (2024-2040); it does not include provision about development that is 'excluded development'; and, it does not relate to more than one neighbourhood area.

The Submission is also accompanied by a number of supporting appendices, including those submitted to meet prescribed legal requirements and further supporting evidence documents made available on the Parish Council website.

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 or, as applicable, in the case of a modification proposal the requirements of paragraph 11 of Schedule A2 Planning and Compulsory Purchase Act 2004).

Answer

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

The Proposal does not contain any Neighbourhood Development Orders.

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),
- 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 upon by East Devon District Council in its consideration of the Submission under Regulation 16. 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 the necessary 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 draft plan is unlikely to have significant environmental effects?

Answer

Yes. The documentation submitted includes Environmental Reports comprising both a Strategic Environmental Assessment and Habitat Regulations Assessment, that have 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). The SEA has been updated since in November 2024 to align to the Submission Version of the Plan. A Screening Opinion was provided by the LPA in May 2023. This concluded that a Strategic Environment Assessment would be required. In respect of HRA, an Appropriate Assessment was carried out due to potential significant effects on two European sites. It was concluded that sufficient strategic mitigation is in place. However, for completeness, an HRA has been included with the submission.

Basic conditions concerning Habitats and Environmental Impact Assessment as described in Schedules 2 and 3 of the Regulations have therefore been accounted for.

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 includes a short section on Equality and Inclusivity (page 4) and there is evidence throughout this document as to how the plan process has been managed to enable different groups to engage in and influence the plan preparation at all stages of its preparation, via a range of different means, both on- and off-line.

Question 6 (In relation to modification proposals only)

The Submission includes a statement setting out whether or not the qualifying body consider that the modifications contained in the modification proposal are so significant or substantial as to change the nature of the neighbourhood development plan which the modification proposal would modify, giving reasons for why the qualifying body is of this opinion?

Answer

Yes. The submission includes a Modification Statement which sets out the reasons for undertaking a review of the made Neighbourhood Plan, itemising the modifications that are proposed, the reason for these changes and in relation to each, whether the Parish Council considers the nature of the change to be: minor (non-material); material but not such that it would change the nature of the plan, or, material such that it does change the nature of the plan.

Overall, it is concluded that, taken as a whole, the proposed modifications (which include the addition of a site allocation for residential development as well as changes to various existing policies and 7 new policies) will be such that the nature of the Plan proposed to be modified would be changed and that in the view of the Parish Council, the Plan will therefore require examination and referendum. East Devon District Council will itself consider this and prepare a statement for submission to the independent examiner for their consideration and determination.

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.