

Legal Compliance Check – Submission of Neighbourhood Plan

Neighbourhood Plan	Hermitage
The Qualifying Body	Hermitage Parish Council
Date Submitted	17 February 2023
Date of Assessment	14 July 2023

Requirements and relevant legislation and/or guidance	West Berkshire District Council (WBDC) comments	Legally compliant?
<p>Neighbourhood Planning (General) Regulations 2012 (as amended) – Regulation 15 requirements:</p> <p><i>A qualifying body is required to submit:</i></p> <p><i>(a) A map or statement which identifies the area to which the proposed neighbourhood development plan relates</i></p>	<p>A map identifying the neighbourhood plan area can be found in the Submission Hermitage Neighbourhood Plan (NP) – see Figure 1.1 in Chapter 1 Introduction (page 3).</p>	Yes
<p><i>(b) A consultation statement;</i></p> <p>(the statement must contain details of (a) those consulted, (b) how they were consulted, (c) summarises the main issues and concerns raised and (d) how these have been considered, and where relevant addressed in the proposed Neighbourhood Plan – Regulation 15 (2) Neighbourhood Planning (General) Regulations 2012).</p>	<p>(a) A Consultation Statement accompanies the Submission Hermitage NP. Chapter 3 of the Consultation Statement includes details of statutory and local consultees consulted. These include:</p> <ul style="list-style-type: none"> • Local Planning Authorities which adjoin West Berkshire • Parish and Town Councils within and adjoining West Berkshire • Local organisations, eg. Primary School, Hermitage Village Hall users, Holy trinity Church. • Local landowners • Local businesses, eg. pubs, Hermitage Post Office and Store, Downland Surgery. • Environment Agency 	Yes

Requirements and relevant legislation and/or guidance	West Berkshire District Council (WBDC) comments	Legally compliant?
	<ul style="list-style-type: none"> • Historic England • Mid and West Berks Local Access Forum • Mobile UK • National Grid • National Highways • Natural England • NHS England South East • NHS Newbury and District Clinical Commissioning Group • North Wessex Downs AONB • Police and Crime Commissioner • Scottish and Southern Electricity • Sport England • Thames Water • The National Federation of Gypsy Liaison Groups • West Berkshire Heritage Forum <p>The Consultation Statement also indicates that a flyer was delivered to all households within Hermitage Parish.</p> <p>(b) The way in which interested parties were consulted is set out within paragraphs 3.1 to 3.4 of the Consultation Statement. This explains that statutory consultees and other parties were sent email notifications. Flyers were delivered to every household in the Parish, posters were displayed throughout the village, and announcements were made on the Hermitage Village Facebook and in the Pathfinder magazine.</p> <p>Paper copies were made available at three locations within Hermitage, whilst the plan was also made available to view online.</p>	

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	<p>(c) A summary of the main issues and concerns raised as a result of the pre-submission consultation are contained within Appendix B of the Consultation Statement.</p> <p>(d) The pre-submission consultation representations can be found within Appendix B. This appendix also details the response to each representation received and how they have been considered in the Submission Hermitage NP.</p>	
<p><i>(c) The proposed neighbourhood development plan;</i></p>	<p>The Local Planning Authority received the Submission Hermitage NP on 17 February 2023. It was accompanied by:</p> <p><u>Core documents:</u></p> <ul style="list-style-type: none"> • Consultation Statement • Basic Conditions Statement • Hermitage Strategic Environmental Assessment / Habitat Regulations Assessment Screening Report – Consultation Version (October 2022) • Hermitage Strategic Environmental Assessment / Habitat Regulations Assessment Screening Report – Post Consultation Version (November 2022) • Hermitage Strategic Environmental Assessment / Habitat Regulations Assessment Screening Decision (November 2022) <p><u>Evidence documents:</u></p> <ul style="list-style-type: none"> • AECOM (2022) Hermitage Design Guidelines and Codes, for Hermitage Parish Council • Arc4 (2021) Hermitage Housing Needs Survey, for Hermitage Parish Council • Chartered Institute of Ecology and Environmental Management (2017) Guidelines for Ecological Report Writing, Second Edition 	<p>Yes</p>

Requirements and relevant legislation and/or guidance	West Berkshire District Council (WBDC) comments	Legally compliant?
	<ul style="list-style-type: none"> • David Lock Associates (2019) West Berkshire Density Pattern Book, for West Berkshire District Council • DEFRA (2015) Non-statutory Technical Standards for Sustainable Drainage Systems • GL Hearn (2016) Berkshire (including South Bucks) Strategic Housing Market Assessment, for West Berkshire Council • Hermitage Neighbourhood Plan Group (2023) Hermitage Green Spaces Audit • Hermitage Parish Council (2014) Hermitage Footpaths, Bridleways and Byways • Icenl (2022) West Berkshire Housing Needs Assessment Update, for West Berkshire District Council • Institute of Lighting Professionals (2021) Guidance Note 1 for the Reduction of Obtrusive Light, GN01/21 • NHBC (2021) Biodiversity in new housing developments: creating wildlife-friendly communities, NF89 • West Berkshire Council (2018) Sustainable Drainage Systems Supplementary Planning Document • Wildlife Trusts (2018) Homes for people and wildlife 	
<p><i>(d) A statement explaining how the proposed neighbourhood development plan meets the 'basic conditions', i.e. the requirements of paragraph 8 of Schedule 4B to the 1990 Act.</i></p> <p>The local planning authority has to be satisfied that a basic conditions statement has been submitted but it is not required at this stage to consider whether the draft plan or order meets the basic conditions. (PPG - Paragraph: 053 Reference ID: 41-053- 20140306)</p>	<p>A Basic Conditions Statement accompanies the Submission Hermitage NP. This considers each Basic Condition in turn and explains how the policies in the plan meets these.</p>	Yes
<p><i>(e) Environmental Assessment;</i></p> <p>The Plan needs to be submitted with one of the following:</p>	<p>Hermitage Parish Council requested a HRA screening opinion on 23 September 2023, and provided a draft version of the NDP. This included all the necessary information that WBDC required</p>	Yes

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<p>(i) a statement of reasons for a determination under regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004 that the proposal is unlikely to have significant environmental effects OR</p> <p>(ii) an environmental report in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 ((Regulation 15 of the Neighbourhood Planning (General) Regulations 2012.)</p> <p>If an Environmental Report is required, then this needs to have been subject to the required level of consultation and should comply with the government's SEA guidance. In terms of consultation, the 'consultation bodies' (Environment Agency, Historic England, and Natural England) must have been consulted at scoping stage (for 5 weeks). There is no requirement for public consultation on the scoping report. The draft Environmental Report on the pre-submission neighbourhood plan will need to be subject to public consultation for 6 weeks. The draft Environmental Report must be made available at the same time as the draft plan, as an integral part of the consultation process, and the relationship between the two documents clearly indicated. (See A Practical Guide to the SEA Directive, ODPM – 2005)</p>	<p>for the purposes of conducting an HRA screening assessment. The final determination was issued on 29 November 2022 following a 5-week consultation with the three statutory bodies in accordance with the Conservation of Habitats and Species Regulations 2017. The screening concluded that the NDP will not give rise to significant effects on Habitats Sites either alone or in-combination with other plans and projects.</p> <p>The screening report was submitted alongside the NP.</p>	
<p>The draft neighbourhood Plan should be checked to ensure it is not a 'repeat' proposal. If so, the Local Planning Authority (LPA) can decline to consider the plan (1990 Act Schedule 4B Paragraph 5 and Regulation 18).</p>	<p>The Submission Hermitage NP is not a repeat proposal.</p>	Yes

Requirements and relevant legislation and/or guidance	West Berkshire District Council (WBDC) comments	Legally compliant?
<p>The body submitting the neighbourhood plan is authorised to act (2004 P & CP Act as amended by Localism Act 2011 Section 38 A (2) and 1990 Act schedule 4B as it applies- 61F (2)).</p>	<p>The qualifying body is Hermitage Parish Council. The neighbourhood area was designated on 26 April 2019.</p> <p>Hermitage Parish Council, as the qualifying body, have formally (at a Parish Council meeting on 16 February 2023) resolved to submit the NP to WBDC.</p> <p>The Plan was produced by the Hermitage NP Steering Group, a group of volunteers, having been commissioned to do so by the Parish Council.</p>	<p>Yes</p>
<p>The pre-submission publication requirements need to have been satisfied. Before submission to the LPA the qualifying body should:</p> <ol style="list-style-type: none"> 1. Publicise (but this does not have to be on a web site) in a way that is likely to bring to the attention of people who live work or carry on business in the area details of: <ul style="list-style-type: none"> (a) the proposals (b) when and where they can be inspected (c) how to make representations, and (d) the deadline for making representations – not less than 6 weeks from first publicised. 2. Consult any consultation body whose interests they consider may be affected by the proposals for a NP (please see Appendix A below). 3. Send a copy of the NP to the LPA. <p>(Regulation 14 of the Neighbourhood Planning (General) Regulations 2012.</p>	<p>The Consultation Statement demonstrates that these requirements have been satisfied:</p> <ol style="list-style-type: none"> 1. The Regulation 14 consultation version of the plan has complied with the regulations, and this is evidenced by the Consultation Statement which accompanies the Submission Hermitage NP. It shows in Chapter 3 that the Regulation 14 consultation was publicised by a variety of means including a leaflet drop to all households, on the Hermitage Village Facebook page, in a local magazine, and posters were displayed around the village. <p>The plan was available to view online at https://hermitage.org.uk/NDP14. The publicity material also explained how representations could be made and the address and website to be used. The consultation lasted for 6 weeks and ran from 24 October 2022 to 5 December 2022.</p> <ol style="list-style-type: none"> 2. The Consultation Statement includes a list of Statutory Consultees and non-statutory consultees who were consulted as part of the Regulation 14 pre-submission consultation. This is included in Chapter 3 of the Consultation Statement. 	<p>Yes</p>

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	3. The NP Steering Group emailed WBDC on 9 October 2022 and the NP was included as an attachment. A notification letter was also attached and this included a link to the consultation documents on the Hermitage Parish Council website.	
<p>The Conservation of Habitats and Species Regulations 2017 Regulations 105 and 106:</p> <p><i>A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 105 or to enable them to determine whether that assessment is required</i></p>	<p>On 29 November 2022, WBDC issued its screening opinion concerning the need for a HRA in relation to the Hermitage NP. The screening process undertaken concluded that a HRA was not required.</p> <p>The three 'consultation bodies' were consulted on the screening opinion, and responses were received from Historic England and Natural England who both agreed that a HRA was not required. No response was received from the Environment Agency.</p>	Yes
<p>Meets the definition of a 'neighbourhood development plan':</p> <p><i>"A plan which sets out policies (however expressed) in relation to the development and use and of land in the whole or any part of a particular neighbourhood area specified in the plan"</i></p> <p>(2004 Planning and Compulsory Purchase Act as amended by Localism Act 2011 Section 38 A (2))</p>	<p>The Submission Hermitage NP meets the definition of a 'neighbourhood development plan'.</p>	Yes
<p>Meets the scope of neighbourhood plan provisions, ie. specifies the period for which it covers, does not include provision about development that is 'excluded development' (as set out in section 61K of the 1990 Act) and does not relate to more than one neighbourhood area.</p> <p>(2004 Act s 38B (1, 2) (4))</p>	<p>The Submission Hermitage NP specifies that it covers the period 2022 to 2039.</p> <p>The Submission Hermitage NP does not contain policies relating to 'excluded development'.</p> <p>It does not relate to more than the neighbourhood area.</p>	Yes

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<p>Meaning of 'excluded development':</p> <p>The following development is excluded development for the purposes of section 61J—</p> <ul style="list-style-type: none"> (a) development that consists of a county matter within paragraph 1(1)(a) to (h) of Schedule 1, (b) development that consists of the carrying out of any operation, or class of operation, prescribed under paragraph 1(j) of that Schedule (waste development) but that does not consist of development of a prescribed description, (c) development that falls within Annex 1 to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (as amended from time to time), (d) development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008), (e) prescribed development or development of a prescribed description; and (f) development in a prescribed area or an area of a prescribed description. 		

Conclusion: West Berkshire District Council confirms that the Hermitage Neighbourhood Plan meets the legislative requirements.

Where the draft neighbourhood plan submitted to a Local Planning Authority meets the requirements in the legislation, the Local Planning Authority must publicise the neighbourhood plan for a minimum of 6 weeks, invite comments, notify any consultation body referred to in the consultation statement and send the draft neighbourhood plan to independent examination (see regulations 16, 17, 23 and 24 of the Neighbourhood Planning (General) Regulations 2012 (as amended), Planning Practice Guidance - Paragraph: 054 Reference ID: 41-054-20140306).

Following examination, the Council will determine whether or not the plan is ready for a public referendum or if further modifications are required (Schedule 4B of the Town and Country Planning Act 1990 (as varied by s38A & 38C of the Town and Country Planning Act)). Please note that all references to primary and secondary legislation are to those enactments as amended.

Appendix A – Consultation Bodies

The Neighbourhood Planning (General) Regulations 2012 Schedule 1 Consultation bodies that the Parish Council or Neighbourhood Forum should consult (at pre-submission stage):

- In a London Borough, the Mayor of London
- A Local Planning Authority, county council or parish council any part of whose area is in or adjoins the area of the Local Planning Authority
- The Coal Authority
- The Homes and Communities Agency (now known as Homes England)
- Natural England
- The Environment Agency
- Historic England
- Network Rail Infrastructure Limited
- National Highways
- The Marine Management Organisation
- Any person to whom the electronic communications code applies, or who owns or controls electronic communications apparatus situated in any part of the area of the Local Planning Authority
- Where they exist a Primary Care Trust, licensee under the Electricity Act 1989, Licensee of the Gas Act 1986, sewerage undertaker and water undertaker
- Voluntary bodies whose activities benefit all or part of the neighbourhood area
- Bodies representing the interests of different racial, ethnic or national groups in the neighbourhood area
- Bodies representing the interests of different religious groups in the neighbourhood area and
- Bodies representing the interests of disabled people in the neighbourhood area.