

## Legal Compliance Check – Submission of Neighbourhood Plan

<b>Neighbourhood Plan</b>	Cold Ash
<b>The Qualifying Body</b>	Cold Ash Parish Council
<b>Date Submitted</b>	20 June 2023
<b>Date of Assessment</b>	14 July 2023

<b>Requirements and relevant legislation and/or guidance</b>	<b>West Berkshire District Council (WBDC) comments</b>	<b>Legally compliant?</b>
<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 Cold Ash Neighbourhood Development Plan (NDP) – see Chapter 1, Figure 1 on page 7.</p> <p>A map is also included at Figure 1 within the Basic Conditions Statement.</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 Cold Ash NDP. Appendix B of the Statement lists the statutory and local consultees who were notified of the Regulation 14 pre-submission consultation. These include:</p> <ul style="list-style-type: none"> <li>• West Berkshire District Council</li> <li>• Adjoining local authorities</li> <li>• Adjoining Parish Councils</li> <li>• Berkshire Primary Care Trust</li> <li>• Environment Agency</li> <li>• Homes England</li> </ul>	Yes

Requirements and relevant legislation and/or guidance	West Berkshire District Council (WBDC) comments	Legally compliant?
	<ul style="list-style-type: none"> <li>• Natural England</li> <li>• National Grid</li> <li>• National Highways</li> <li>• North Wessex Downs AONB</li> <li>• Landowners of proposed Local Green Spaces</li> <li>• Local businesses</li> <li>• Thames Water</li> <li>• UK Power Networks</li> </ul> <p>It also indicates that all those on the NDP mailing list were notified.</p> <p>(b) How interested parties were consulted is set out is set out within paragraphs 2.32 to 2.35.</p> <p>Paragraphs 2.32 and 2.25 explain that the consultation was communicated to the local community via social media, an article in the Parish newsletter, and fliers and posters. All those on the NDP mailing list were notified by email, whilst statutory consultees were written to.</p> <p>Two Q&amp;A sessions were held, with one session held online with a second in person. All of the consultation documents were placed on the Parish Council's website, and hard copies were made available upon request.</p> <p>A survey was prepared which respondents could complete either online or in hard copy.</p> <p>(c) A summary of the main issues and concerns raised as a result of the pre-submission consultation are contained within Appendix C of the Consultation Statement. An overview is also provided in paragraphs 2.38 to 2.49. The comments in full are contained within the document 'Cold Ash Parish Council pre-submission draft NDP feedback survey'.</p>	

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	(d) Consideration of how the matters have been addressed within the NDP are set out within Appendix B. An overview is also provided within paragraphs 2.38 to 2.49.	
<i>(c) The proposed neighbourhood development plan;</i>	<p>The Local Planning Authority received the Submission Cold Ash NDP on 20 June 2023. It was accompanied by the following documents:</p> <ul style="list-style-type: none"> <li>• Consultation Statement;</li> <li>• Basic Conditions Statement;</li> <li>• Evidence underpinning the spatial strategy for the NDP;</li> <li>• SEA/HRA final (post-consultation) screening opinion (Nov 2022);</li> <li>• SEA/SRA screening decision notice (Nov 2022);</li> <li>• SEA/HRA final (post-consultation) screening opinion (Dec 2021);</li> <li>• SEA/SRA screening decision notice (Dec 2021);</li> <li>• Evidence list;</li> <li>• Contact details of Reg 14 consultees for Reg 16 consultation;</li> <li>• Regulation 14 statutory consultees and Parish Council contacts; and</li> <li>• Pre-submission Draft Neighbourhood Plan Feedback Survey (Regulation 14 consultation).</li> </ul>	Yes
<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 Cold Ash NDP. This considers each Basic Condition in turn and explains how the policies in the plan meets these.</p>	Yes
<i>(e) Environmental Assessment;</i>	WBDC conducted a screening opinion on a draft of the Cold Ash NDP and consulted within the three statutory bodies (the Environment Agency, Natural England, and Historic England) on the draft screening determination	Yes

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<p>The Plan needs to be submitted with one of the following:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(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.)</li> </ul> <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' (EA, NE and HE) 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,</p>	<p>for the minimum 5-week period (from 5 November 2021 until 10 December 2021). Drawing on the feedback from the consultees, WBDC concluded that the NDP was unlikely to have significant environmental effects and therefore does not require a Strategic Environmental Assessment (SEA).</p> <p>The Council also determined that the NDP will not give rise to significant effects on Habitats Sites (which include Special Areas of Conservation and Special Protection Areas) either alone or in-combination with other plans and projects. It was therefore considered that a Habitats Regulations Assessment (HRA) Appropriate Assessment was not required.</p> <p>On 16 March 2022 Natural England designated the hydrological catchment of the River Lambourn (which is a Special Area of Conservation) as a Nutrient Neutrality Zone (NNZ) due to the unfavourable condition of the watercourse because of unnaturally high levels of phosphorus.</p> <p>The River Lambourn NNZ covers the northern and western parts of Cold Ash Parish, and because of this WBDC advised that the draft NDP would need to be re-screened to consider its impact upon the NNZ.</p> <p>A revised screening opinion was prepared, and the three statutory bodies were consulted between 24 October 2022 and 28 November 2022. The final conclusions remained unchanged from the original screening opinion, ie. SEA and HRA Appropriate Assessment are not required.</p>	

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and the relationship between the two documents clearly indicated. (See A Practical Guide to the SEA Directive, ODPM – 2005)		
The draft neighbourhood Plan should be checked to ensure it is not a 'repeat' proposal. If so, the LPA can decline to consider the plan (1990 Act Schedule 4B Paragraph 5 and Regulation 18).	The Submission Cold Ash NDP is not a repeat proposal.	Yes
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>The qualifying body is Cold Ash Parish Council. The neighbourhood area was designated on 19 March 2018.</p> <p>Cold Ash Parish Council, as the qualifying body, have formally (at a Parish Council meeting on 13 June 2023) resolved to submit the NDP to the WBDC.</p> <p>The Plan was produced by the Cold Ash NDP Steering Group, a group of volunteers, having been commissioned to do so by the parish council.</p>	Yes
<p>The pre-submission publication requirements need to have been satisfied. Before submission to the LPA the qualifying body should:</p> <p>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:</p> <p>(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.</p>	<p>The Consultation Statement demonstrates that these requirements have been satisfied:</p> <p>1. The Regulation 14 consultation version of the plan has complied with the regulations, and this is evidenced in paragraphs 2.28 to 2.34 of the Consultation Statement which accompanies the submission Cold Ash NDP. It shows that the Regulation 14 consultation was publicised by a variety of means including social media, notifications to those on the NDP mailing list, and fliers and posters were placed around the village.</p> <p>The plan was available to view online at <a href="https://coldashpc.org.uk/ndp/ndp-consultations/cold-ash-ndp-pre-submission-consultation/">https://coldashpc.org.uk/ndp/ndp-consultations/cold-ash-ndp-pre-submission-consultation/</a>, whilst hard copies were available at Cold Ash Parish Council office. The publicity material also explained how representations could be made and the address and website to be used.</p>	Yes

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<p>2. Consult any consultation body whose interests they consider may be affected by the proposals for a NDP (please see Appendix A below).</p> <p>3. Send a copy of the NDP to the LPA.</p> <p>(Regulation 14 of the Neighbourhood Planning (General) Regulations 2012.</p>	<p>The consultation lasted for 6 weeks and ran from 1 March 2023 until 19 April 2023.</p> <p>2. Appendix B of 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.</p> <p>3. The NDP Steering Group emailed WBDC on 16 March 2023 to advise of the consultation, and a link to the consultation documents on the NDP website was included.</p>	
<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>Cold Ash Parish Council requested a HRA screening opinion on 1 August 2021, and provided a draft version of the NDP. This included all the necessary information that WBDC required for the purposes of conducting an HRA screening assessment. The final determination was issued on 13 December 2021 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>A new screening opinion was requested on 20 September 2022 following the designation of the River Lambourn NNZ which covers parts of Cold Ash Parish. The revised screening opinion, which was issued on 29 November 2022, 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>Both screening opinions were submitted to WBDC alongside the NDP.</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</i></p>	<p>The Submission Cold Ash NDP meets the definition of a 'neighborhood development plan.'</p>	Yes

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<p><i>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>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>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"> <li>(a) development that consists of a county matter within paragraph 1(1)(a) to (h) of Schedule 1,</li> <li>(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,</li> <li>(c) development that falls within Annex 1 to Council Directive 85/337/EEC on the</li> </ul>	<p>The Submission Cold Ash NDP specifies that it covers the period 2021 to 2039.</p> <p>The Submission Cold Ash NDP does not contain policies relating to 'excluded development.'</p> <p>It does not relate to more than the neighborhood area.</p> <p>These points are reiterated in the Basic Conditions Statement.</p>	<p>Yes</p>

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<p>assessment of the effects of certain public and private projects on the environment (as amended from time to time),</p> <p>(d) development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008),</p> <p>(e) prescribed development or development of a prescribed description; and</p> <p>(f) development in a prescribed area or an area of a prescribed description.</p>		

**Conclusion: West Berkshire District Council confirms that the Cold Ash Neighbourhood Development 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.