

Legal Compliance Check – Submission of Neighbourhood Plan

Harston Neighbourhood Plan – December 2024



Legal Compliance Check

Requirements and relevant legislation and/or guidance

The body submitting the neighbourhood plan is authorised to act (Planning and Compulsory Purchase Act 2004, as amended by the Localism Act 2011 s38A(1,2), S38C(2)(a) and 1990 Act schedule 4B, 6(2), as it applies 61F).

In a designated neighbourhood area, which contains all or part of the administrative area of a town or parish council, the town or parish council is responsible for neighbourhood planning. The relationship between any steering group and the town or parish council should be transparent to the wider public. For example, it should be clear whether a steering group or other body is a formal sub-committee of the parish or town council. The terms of reference for a steering group or other body should be published and the minutes of meetings made available to the public.

Local Planning Authority Comments

The qualifying body is the Harston Parish Council.

In October 2021 the parish council agreed to go ahead with producing a neighbourhood plan.

The neighbourhood area was designated on 17 June 2022 which follows the parish boundary.

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

Section 38A of the Town and Country Planning Act 1990 as amended (by the Planning and Compulsory Purchase Act 2004 and the Localism Act 2011) defines a neighbourhood development plan as “a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan.”

Local Planning Authority Comments

The submission version of the Harston Neighbourhood Plan meets this definition of a neighbourhood plan.

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

SI 2012/637 The Neighbourhood Planning (General) Regulations 2012, Regulation 15 – A qualifying body is required to submit:

- (a) A map or statement which identifies the area to which the proposed neighbourhood development plan relates.

Local Planning Authority Comments

The designated neighbourhood area is shown in Map 1 on page 9 of the submission version of the Harston Neighbourhood Plan

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

SI 2012/637 The Neighbourhood Planning (General) Regulations 2012, Regulation 15 – A qualifying body is required to submit:

(b) A consultation statement.

The statement should contain 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.

Local Planning Authority Comments

A Consultation Statement accompanies the submission Neighbourhood Plan. The Consultation Statement includes:

- information on how the community have been kept informed throughout the production of the neighbourhood plan;
- the details of those consulted and how they were consulted;
- a summary of the issues and concerns raised; and
- details on how the issues and concerns have been considered and where relevant, addressed.

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

SI 2012/637 The Neighbourhood Planning (General) Regulations 2012, Regulation 15 – A qualifying body is required to submit:

- (c) The proposed neighbourhood development plan.

Local Planning Authority Comments

The Local Planning Authority received the submission version of the Harston Neighbourhood Plan 11 December 2024

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

SI 2012/637 The Neighbourhood Planning (General) Regulations 2012, Regulation 15 – A qualifying body is required to submit:

- (d) A Statement explaining how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act as revised by s38C of the Planning and Compulsory Purchase Act 2004, (as amended).

The local planning authority has to be satisfied that a basic condition statement has been submitted.

Local Planning Authority Comments

A Basic Conditions Statement accompanies the submission Neighbourhood Plan.

The statement clearly demonstrates how Harston Parish Council considers that each of the Basic Conditions have been met.

The legislation and planning policies referred to in the statement are correct at the time of submission.

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

SI 2012/637 The Neighbourhood Planning (General) Regulations 2012, Regulation 15 – A qualifying body is required to submit:

(e) The Plan needs to be submitted with one of the following:

- 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
- ii) an environmental report in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004 (as set out in the Neighbourhood Planning (General Amendment) Regulations 2015, (which amends Regulation 15 of the Neighbourhood Planning (General) Regulations 2012)).

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, Natural England and Historic 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.

Local Planning Authority Comments

In February 2024, South Cambridgeshire District Council and Harston Parish Council published a Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) Screening Determination Statement. This Statement was underpinned by a SEA/HRA screening report undertaken by Essex Place Services on behalf of South Cambridgeshire District Council and Harston Parish Council, and the opinions of the three statutory bodies. Consultation with the three statutory bodies (Environmental Agency, Natural England and Historic England) on the draft screening report for the Neighbourhood Plan took place in March 2024.

The consultation responses received are included in Appendix 2 of the Screening Determination Report. The Statutory bodies agreed with the conclusion reached in the Screening Report that the draft Harston Neighbourhood Plan:

- Required a Strategic Environmental Assessment due to the neighbourhood plan making an allocation of site for development purposes.
- Is not predicted to have a significant effect on any European site so no further HRA assessment was required.

The SEA Screening Determination Statement (including the SEA and HRA screening reports) is available on both the South Cambridgeshire District Council website and the Harston Parish Council website alongside the submitted Harston Neighbourhood Plan.

A full SEA of the Harston Neighbourhood Plan was undertaken in July 2024. Amendments were made to the draft plan following the SEA.

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

The Neighbourhood Plan and accompanying documents meet the scope of neighbourhood plan provisions i.e. 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 - s38B(6) Planning and Compulsory Purchase Act) and does not relate to more than one neighbourhood area (2004 Acts 38B (1 & 2) (4)).

Local Planning Authority Comments

The submission Neighbourhood Plan covers the period 2024 - 2041.

The submission Neighbourhood Plan does not contain policies relating to 'excluded development'.

The Neighbourhood Plan does not relate to more than one neighbourhood area.

There is not more than one Neighbourhood Plan in existence in Harston.

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

The Qualifying Body has undertaken the correct procedures in relation to consultation and publicity.

Local Planning Authority Comments

The Parish Council has submitted a Consultation Statement that demonstrates compliance with SI 2012/637 The Neighbourhood Planning (General) Regulations 2012, Regulation s15(2).

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

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 (Town and Country Planning Act 1990 Act Schedule 4B s5 and s18 as varied by s38C of the Planning and Compulsory Purchase Act 2004).

Local Planning Authority Comments

The submission of the Harston Neighbourhood Plan is not a repeat proposal.

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

The pre-submission consultation requirements need to have been satisfied. Before submission to the LPA the qualifying body should:

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:
 - 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 Neighbourhood Plan.
3. send a copy of the Neighbourhood Plan to the LPA. (Regulation 14 of the Neighbourhood Planning (General) Regulations 2012.

Local Planning Authority Comments

Harston Parish Council has complied with the requirements of the regulations in respect of the scope of their pre-submission consultation and this is evidenced within Chapter 4 of their submitted Consultation Statement.

The consultation period for the pre-submission Neighbourhood Plan was 22 April to 11 June 2024. The statutory consultation bodies consulted are listed in Section 7 of the Consultation Statement.

A copy of the pre-submission Neighbourhood Plan was provided to the LPA.

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

Are there any conflicts in the Neighbourhood Plan between policies and other statements or information? (s38B(3) Planning and Compulsory Purchase Act 2004.)

If to any extent a policy set out in a neighbourhood development plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy.

Local Planning Authority Comments

No, there are no conflicts.

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Requirements and relevant legislation and/or guidance

The Conservation of Habitats and Species Regulations 2010 as amended by Schedule 2 of the Neighbourhood Planning (General Regulations) 2012, i.e. Regulations 102 and 102A, Assessment of implications for European site: 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 102 or to enable them to determine whether that assessment is required.

Conservation of Habitats and Species (Various Amendments) (England and Wales) Regulations 2018 came into force on 28 December 2018. These Regulations amend the basic condition set out in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended)

Local Planning Authority Comments

In February 2024, South Cambridgeshire District Council and Harston Parish Council published a Strategic Environmental Assessment (SEA) / Habitat Regulations Assessment (HRA) Screening Determination Statement. The statement sets out the reason for requiring a full SEA. In addition, this statement determined that the making of the Harston Neighbourhood Plan is not likely to have a significant effect on a European site and therefore further Habitats Regulations Assessment work is not required.

This Screening Determination Statement was underpinned by a SEA Screening Report undertaken by Essex Place Services on behalf of South Cambridgeshire District Council and Harston Parish Council, and the opinions of the three statutory bodies. Consultation with the three statutory bodies (Environment Agency, Natural England and Historic England) on the draft screening report for the Neighbourhood Plan took place in March 2024. The consultation responses received are included in Appendix 2 of the Screening Determination Statement. The statutory bodies agreed with the conclusion reached regarding the HRA.

The SEA/HRA Screening Determination Statement (including the SEA and HRA screening reports) is available on both the South Cambridgeshire District Council website and the Harston Parish Council website alongside the submitted Harston Neighbourhood Plan.

Legal compliance

The Harston Neighbourhood Plan is legally compliant with the requirements and relevant legislation and/or guidance.

Conclusion

South Cambridgeshire District Council has issued an initial confirmation that the submission version Harston 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. 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.