

Appendix 1

Gwennap Neighbourhood Development Plan Legal Compliance Check				
Stage	Description	Relevant legislation and regulations	Actions	Compliant
Definition of a neighbourhood area	An area that is designated by the LPA as a neighbourhood area when a parish council applies	1990Act 61G (1) (2)		
Information on receipt of area application for a NDP	The information that should be submitted to the LPA is: 1. A map identifying the area 2. Statement explaining why it is considered an appropriate neighbourhood area 3. Statement that the organisation making the application is a relevant body. If the application does not contain this information it should be returned.	Regulation 5 1990 Act 61G (2) b.	Gwennap Parish Council submitted an application and map to appropriately designate their Neighbourhood Area as an entire parish on 30 th June 2016, stating that they are the relevant qualifying body. This was approved by Cornwall Council on 31st August 2016.	Yes
Publicising the application for the area NDP	The LPA should, as soon as possible after receipt of the application for area designation, publicise* the application on its website and in such other manner as they consider is likely to bring the area application to the attention of people who live, work or carry on business in the area to which the applications relates and invite representations for a period of not less than 6 weeks. The information to be publicised is: 1. a copy of the area application 2. details of how to make representations 3. details of the deadline for representations, not less than 6 weeks after the date of publication.	Regulation 6 Amendment Regulations 2016 Regulation 5a	Application publicised on CC website Advertisement placed in the West Briton 7th July – 18 th August 2016, Hard copies were available at the Cornish Arms and Cusgarne Community Primary School during the six week consultation period. Information publicised as per Regulation 6	Yes

Determining the application criteria for a neighbourhood area	The LPA should be sure that parish council applications cover part or all of the Parish. In determining the application, the LPA must consider: 1. how desirable it is to designate the whole of the parish area as a neighbourhood area, and 2. how desirable it is to maintain the existing boundaries of areas already designated as neighbourhood areas (as designated neighbourhood areas must not overlap), as well as 3. whether they should designate the area as a business area.	1990 Act 61G (3) (4) (7) 61H (1)	Individual Portfolio Holder Decision Report produced. The decision notice was issued on 31st August 2016.	Yes
Publicising a designation of a neighbourhood area	If the LPA approves the application it should publicise on its website its decision and: 1. the name of the neighbourhood area 2. a map identifying the area 3. the name of the parish council who applied for the designation.	Regulation 7	The designation application, map and decision notice was placed on the Cornwall Council website on 31st August 2016 and sent to the parish council.	Yes
Definition of an NDP	“A plan which sets out policies (however expressed) in relation to the development use and of land in the whole or any part of a particular neighbourhood area specified in the plan”	2004 P & CP Act as amended by Localism Act Section 38 A (2)	The Gwennap NDP contains land use policies relating to Housing, the Economy and Jobs, Flood Risk, Traffic Management, Community and Well-being, Design, Green Spaces and Recreational Areas, Local landscape and wildlife, Sustainability and climate change and Heritage.	Yes
Scope of NDP Provisions	1. The NDP must specify the period for which it is to have effect 2. It cannot include provision about development that is ‘excluded development’	2004 Act s 38B (1 & 2) (4)	1. The plan covers the period 2018 – 2030. 2. Does not include ‘excluded development’	Yes

	3. It cannot relate to more than one neighbourhood area or repeat an existing planning permission		3. The plan only relates to the one neighbourhood area as agreed by the designation notice approved 31 st August 2016 and does not repeat an existing PP.	
Pre-submission consultation by Parish council	<p>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 : <ol 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 listed in The Neighbourhood Planning (General) Regulations 2012 Schedule 1 whose interests they consider may be affected by the proposals for a NDP. 3. send a copy of the NDP to the LPA 	Regulation 14	<p>The Pre-Submission Consultation was held between 23rd June and 6th August 2018. A roadshow was held which was supported by a slide set and handouts were distributed at the event. There were posters used to promote comment from the public.</p> <p>The NDP documents were available to download from the Gwennap Neighbourhood Plan website and a web link to the site was placed on the parish council. All statutory consultation bodies were consulted.</p>	Yes
Receipt of draft NDP by LPA	<p>The draft plan should include:</p> <ol style="list-style-type: none"> 1. a map or statement identifying the area to which the plan relates, 2. the consultation statement - which 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 NDP, 3. the proposed NDP, 	Regulation 15	<p>Documents received by Cornwall Council 5th March 2019</p> <ol style="list-style-type: none"> 1. Plan contains map 2. Consultation statement received which covers these points 3. Plan received 4. Basic conditions statement 5. Strategic Environment Assessment Screening Opinion Decision is available as Appendix 2 in the basic conditions statement, 	Yes

	<p>4. a statement explaining how the NDP meets the 'basic conditions' ie requirements of para 8 schedule 4B to the 1990 Act</p> <p>5. Where appropriate, the information to enable appropriate environmental assessments if required e.g. that will enable the LPA to make an assessment under the Conservation of Habitats and Species Regulations 2010 where the plan proposal is likely to have significant effects on a European site or European offshore marine site, or the Environmental Assessment of Plans and Programmes Regulations 2004</p> <p>6. The making of the neighbourhood plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(3).</p>	<p>The Conservation of Habitats and Species Regulations 2010 as amended by Schedule 2 of the Neighbourhood Planning General Regulations) 2012. i.e Regs 102 and 102A</p>	<p>Screening Opinion given 16th February 2017 concluded that Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment was not required.</p> <p>6. The report was updated on 31st December 2018 due to a legal judgement which has implications for the way Habitats Regulations Assessment screening is carried out for NDPs. The assessment concluded that there will be no impact on the European Sites. See appendix 2 of the basic conditions statement.</p> <p>Supporting documents submitted included:</p> <ul style="list-style-type: none"> - Design Guide - Delivery Strategy - Local Landscape Character Assessment and; - Housing Needs Analysis Report - An Equality Impact Assessment 	
<p>Reasons for a LPA declining to consider the proposal for the NDP</p>	<p>The LPA can decline to consider a plan proposal if it is a repeat, and notify the body of that fact and their reasons for declining.</p>	<p>1990 Act Schedule 4B para 5 And Regulation 18</p>	<p>N/A</p>	<p>N/A</p>

Criteria that the LPA must consider when assessing a neighbourhood plan	The LPA must consider: 1. whether the parish council is authorised to act 2. whether the proposal and accompanying documents a. comply with the rules for submission to the LPA b. meet the 'definition of an NDP' and c. meet the 'scope of NDP provisions', and 3. whether the parish council has undertaken the correct procedures in relation to consultation and publicity	1990 Act Schedule 4B para 6 38 A and B	1. Yes – see area application above 2. a. Yes – see 'Receipt of Draft NDP by LPA' above b. Plan meets definition (See above) c. Plan meets Scope of provisions (see above) 3. See the Consultation Statement pre-submission consultation – Appendix 4	Yes
LPA decision grounds for refusal	The LPA can refuse to take forward a plan proposal if any of the criteria above do not apply	1990 Act Schedule 4B Para 6 (4) (b)	N/A	N/A
Notification of the LPA's decision	The LPA must notify the parish council whether or not they are satisfied that the proposal complies with the criteria for a neighbourhood plan. Where it is not satisfied the LPA can refuse and must notify them of the reasons. It must also publicise its decision in a 'decision	1990 Act Schedule 4B para 6 (4) Regulation 19.	<i>To be undertaken after Portfolio Holder Decision</i>	
Publicising the NDP Proposal	The LPA is required to publicise on its website : 1. the details of the plan, 2. where and when it can be inspected, 3. how to make representations on the plan proposals, 4. that a representation can include a request to be notified of the LPA decision on the plan proposal, and 5. the deadline for receipt of the proposals (this must be not less than 6 weeks from the first day the proposed plan is publicised).	Regulation 16	<i>To be undertaken after Portfolio Holder Decision</i>	

	The LPA is required to notify the bodies referred to in the parish councils' consultation statement that the plan has been received as soon as possible.			
Appointment of Examiner	The LPA must consider whether the submitted draft neighbourhood plan meets the requirements set out in the 1990 Act and notify the qualifying body as to whether or not they are satisfied (see above section on criteria). Once satisfied the LPA appoints an independent examiner with the consent of the parish council or submitting the plan. (If there is no agreement the Secretary of State can appoint).	1990 Act Schedule 4B para 6	<i>To be undertaken after Portfolio Holder Decision</i>	