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## Writing a Basic Conditions Statement

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When submitting your draft neighbourhood plan proposals to the local planning authority, Wiltshire Council, the legislation requires you to submit a number of other documents with it. One of these is commonly known as a 'basic conditions statement'. This document sets out how you need to prepare your neighbourhood plan to meet the requirements of each basic condition (paragraph 8 schedule 4B of the Town and Country Planning Act 1990) and other legal tests.

Only a Neighbourhood Plan that meets each of a set of basic conditions can be put to a referendum and be 'made'.

## What are the basic conditions and other legal requirements?

There are five basic conditions that must be met if the draft neighbourhood plan is to proceed to a referendum. These are:

1. having regard to national policies and advice contained in guidance issued by the Secretary of State.
2. the making of the neighbourhood plan contributes to the achievement of sustainable development.
3. the making of the neighbourhood 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).
4. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations .
5. prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

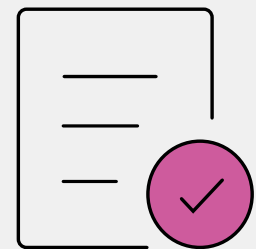
Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.<sup>3</sup> It states that:

- The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

Neighbourhood Plan must also meet human rights requirements and demonstrate the following:

- It has been prepared and submitted for examination by a qualifying body (i.e. a town/parish council).
- It has been prepared for an area that has been properly designated for such plan preparation.
- It meets the requirements to:
  - i) specify the period to which it has effect;
  - ii) not include provision about excluded development (e.g. it cannot cover mineral extractions and waste development);
  - iii) not relate to more than one designated neighbourhood area.
- Its policies relate to the development and use of land for a designated neighbourhood area.

## The basic conditions in a bit more detail...



### **(1) Having regard to national policies and advice, and (3) being in general conformity with the strategic policies in the development plan for the local area**

Your Neighbourhood Plan must have regard to national planning objectives, such as the National Planning Policy Framework (NPPF) and Planning Practice Guidance.

When looking at national policy and advice, you only need to consider the elements which are relevant to your Neighbourhood Plan. For example, if your Neighbourhood Plan is not dealing with housing then the section of the NPPF on 'delivering a sufficient supply of homes' will not be relevant. However, if your plan has policies that relate to listed buildings and/or a conservation area, then the section on 'conserving and enhancing the historic environment' in the NPPF will be relevant.

Your Neighbourhood Plan must also be in general conformity with the strategic policies in the development plan for the local area. In Wiltshire, the main policy document is the Wiltshire Core Strategy and the emerging Wiltshire Local Plan. The independent examiner will need to consider:

- Whether your Neighbourhood Plan supports and upholds the general principle that the strategic policy is concerned with.
- The degree, if any, of conflict between your Neighbourhood Plan and any strategic policy.
- Whether your Neighbourhood Plan provides an additional level of detail and/or a distinct local approach to that set out in strategic policy without undermining that policy.
- The rationale for the approach taken and the evidence to justify the approach.

Remember, the test is general conformity rather than absolute conformity with the strategic policies in the development plan. If any of your draft neighbourhood plan policies take a different approach to the strategic policies in the adopted development plan, then your Basic Conditions Statement will need to explain the differing approach, the specific circumstances (and associated evidence) that supports the approach taken and how the policy still meets the test of general conformity.

## **(2) Contributing to the achievement of sustainable development**

You will need to demonstrate how your neighbourhood plan contributes to improvements in environmental, economic and social conditions. If there are any adverse impacts arising from the proposals in your plan, you will need to explain how will these be prevented or off-set?

There is no legal requirement for a neighbourhood plan to have a Sustainability Appraisal, but it can be a way of demonstrating how this basic condition is met.

## **(3) Being compatible with EU obligations and (5) meeting the prescribed conditions**

A neighbourhood plan must be compatible with retained European Union (EU) obligations. A number of retained EU obligations may be of relevance for these purposes including those obligations in respect of Strategic Environmental Assessment, Environmental Impact Assessment, Habitats, Wild Birds, Waste, Air Quality and Water matters.

On 28 December 2018, the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) was substituted by a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 which provides that the making of the plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations. (as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019).

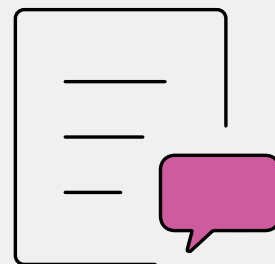
Your draft neighbourhood plan should be screened at an early stage to ascertain whether a SEA or an Appropriate Assessment needs to be carried out. More information on this is available in our guidance note **Environmental Assessment**.

## When should you consider the basic conditions?

Meeting the basic conditions is not a tick box exercise. You should consider how your draft neighbourhood plan meets the basic conditions throughout the process of developing it, not just at the end. Early consideration will help you understand how the policies in your draft neighbourhood plan can fit in with existing planning policy and add an extra layer of local value.

As each policy is developed it is a good idea to test it against each of the basic conditions and keep a record of why it meets each of these. Considering the basic conditions as you go along will also make preparing the Basic Conditions Statement at the end of the process much easier.

## What should your Basic Conditions Statement say?



Your Basic Conditions Statement needs to clearly explain how your Neighbourhood Plan meets the requirements of each of the basic conditions and other legal tests. There is no set structure for the statement, but it should be written in a logical and concise manner. Many groups have opted to present the information in the form of a table which lists and addresses each legal requirement and basic condition in turn.

The basic conditions statement is your opportunity to defend and justify your draft neighbourhood plan policies. It is therefore important that you take note of any consultation responses which identify possible conflicts with a basic condition.

You should clearly cross reference to any background evidence, studies or technical reports that you consider support your statement that your draft neighbourhood plan meets the basic conditions and legal requirements. You might want to include an appendix which lists each of the policies in your plan and identify the relevant pieces of evidence for each.



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