

## Legal Requirements Check of the Broughton Neighbourhood Development Order (NDO)

**Completed by Kettering Borough Council**

**October 2017**

Reference	Considerations	Comments	Legally compliant?
<b>Designation of a Neighbourhood Area</b>			
Designation of the Neighbourhood Area  1990 Act 61G  Neighbourhood Plan Regulations 5-7	Has the neighbourhood area been designated in accordance with the legal requirements?	Yes. The Parish Council area was designated as the Neighbourhood Area by KBC following a six week period of consultation on the 15 <sup>th</sup> January 2014.	Yes
<b>Producing a Neighbourhood Development Order</b>			
Definition of an NDO  1990 Act 61E	Does the NDO meet the definition for an NDO – An order that grants planning permission in a particular neighbourhood for a specified development or development of any specified class of the Use Classes Order?	Yes. The order would grant planning permission for a specified development.	Yes
Body proposing the NDO  TCPA 1990 61F	The body proposing a Neighbourhood Development Order should be a parish council or neighbourhood forum.	Under 61F a parish council can act as a qualifying body for the purposes of preparing a Neighbourhood Development Order. The NDO has been prepared and submitted by Broughton Parish Council.	Yes
Scope of NDO provisions  1990 Act 61F  1990 Act 61J	A proposal can't be made if there is, at the time, another outstanding proposal by the parish council in relation to the area. An NDO can apply in relation to: 1. All the land in the neighbourhood area specified in the order. 2. Any part of the land.	The NDO relates to a specific site and there are no other outstanding proposals in relation to the site.	Yes

	<p>3. A site.</p> <p>4. Different provision for different cases or circumstances.</p>		
<p>Types of permission an NDO can grant</p> <p>1990 Act 61L</p>	<p>1. Unconditional.</p> <p>2. Subject to conditions or limitations specified in the order which can include:</p> <ul style="list-style-type: none"> <li>• Obtaining the approval of the LPA.</li> <li>• Specifying the period within which the application may be made to the LPA for approval of any matter specified in the order.</li> <li>• Specifying the period within which the development must begin.</li> </ul>	<p>The proposed NDO is subject to conditions.</p>	<p>Yes</p>
<p>Permissions an NDO cannot grant</p> <p>1990 Act 61J and Schedule 1</p> <p>Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended)</p> <p>Reg 78A Conservation Habitats and Species Regulations 2010 as amended by Schedule 2 of the Neighbourhood Planning (General) Regulations 2012.</p>	<p>1. Grant of permission of excluded development.</p> <p>2. Grant of permission of any development in any case where planning permission is already granted.</p> <p>3. Permission on land in more than one neighbourhood area.</p> <p>4. Permission which would be contrary to the EIA regulations see 'Screening for EIA Regulations'.</p> <p>5. Permission which would be likely to have a significant effect on a European Site or a European offshore marine site and is not directly connected with or necessary to the management of the site.</p>	<p>1. The NDO does not seek to grant permission for excluded development.</p> <p>2. There is no planning permission already granted on the site.</p> <p>3. The permission only relates to a site in the Broughton Neighbourhood Area.</p> <p>4. The permission would not fall within a category of development which requires screening for EIA.</p> <p>5. A HRA Screening report has been prepared and concluded there would be no significant effect on a European Site.</p>	<p>Yes</p>

Pre submission consultation and publicity by the parish council of the proposed Neighbourhood Development Order			
<p>Consultation by the parish council</p> <p>1990 Act Schedule 4B</p> <p>Neighbourhood Planning (General) regulations as amended Reg 21 and Schedule 1</p>	<p>Regulation 21</p> <p>Before submitting an order proposal to the local planning authority, a qualifying body must—</p> <p>(a) publicise, in a manner that is likely to bring it to the attention of people who live, work or carry on business in the neighbourhood area—</p> <p>(i) details of the proposals for a neighbourhood development order or community right to build order;</p> <p>(ii) details of where and when the proposals may be inspected;</p> <p>(iii) details of how to make representations; and</p> <p>(iv) the date by which those representations must be received, being not less than 6 weeks from the date on which details of the proposals are first publicised;</p> <p>(b) consult—</p> <p>(i) any consultation body referred to in paragraph 2(1)(a) to (c) of Schedule 1 whose interests the qualifying body considers may be affected by the proposals for a neighbourhood development order or a community right to build order; and</p> <p>(ii) where the qualifying body considers the development to be authorised under the proposed neighbourhood development order or community right to build order which falls within any category set out in the Table in paragraph 2 of Schedule 1, any consultation body mentioned in the Table in relation to each of those categories; and</p> <p>(iii) any person who, on the date 21 days before the order proposal is submitted under regulation 22, the qualifying body considers to be—</p> <p>(aa) an owner of any of the land which is proposed to be developed under the order proposal; and</p> <p>(bb) a tenant of any of that land; and</p> <p>(c) send a copy of the proposals for a neighbourhood</p>	<p>(a) A pre-submission consultation on the Neighbourhood Development Order took place from 14<sup>TH</sup> June 2017 to 26<sup>th</sup> July 2017.</p> <p>(b) The consultation statement sets out how people were consulted and included a list of consultation bodies consulted. The consultation was advertised on social media, the village and Borough Council websites and consultation bodies were notified. The list of those consulted includes the owner of the site (BT/Telereal Trillium).</p> <p>(c) A copy of the Neighbourhood Development Order was sent to the Local Planning Authority.</p>	<p>Yes</p>

	development order or a community right to build order to the local planning authority.		
Receipt of draft neighbourhood development order by LPA			
Order proposals	<p>Regulation 22</p> <p>(1) Where a qualifying body submits an order proposal to the local planning authority it must include—</p> <p>(a) a map which identifies the land to which the order proposal relates;</p> <p>(b) a consultation statement;</p> <p>(c) the proposed neighbourhood development order or community right to build order;</p> <p>(d) where the qualifying body considers it appropriate, following consultation with the Historic Buildings and Monument Commission for England (known as English Heritage), an archaeology statement;</p> <p>(e) a statement explaining how the proposed neighbourhood development order or a community right to build order meets the basic conditions in paragraph 8(2) of Schedule 4B to the 1990 Act; and</p> <p>(f) in the case of a proposal for a community right to build order, details of the enfranchisement rights, if any, which the qualifying body proposes are not exercisable and the properties, or types of properties, in relation to which to the enfranchisement rights are not exercisable.</p>	<p>(a) The NDO includes a map which identifies the land to which the order relates.</p> <p>(b) -A consultation statement has been submitted with the NDO.</p> <p>(c) The proposed NDO has been submitted.</p> <p>(d) Following consultation with Historic England and NCC the Parish Council considers that an archaeology statement is not required.</p> <p>(e) A basic conditions statement has been submitted with the NDO.</p> <p>(f) Not relevant.</p>	Yes