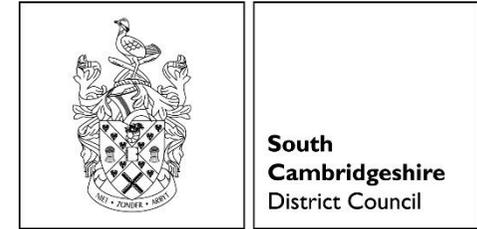


**Appendix 3 –
Basic Conditions and Legal Compliance Check – ‘For Referendum’ Neighbourhood Plan**



Cottenham Neighbourhood Plan – February 2020

a. Basic Conditions Check

Requirements	Local Planning Authority Comments	Basic Condition met?
<p>The Neighbourhood Plan has regard to national policies and advice contained in guidance issued by the Secretary of State and it is appropriate to make the Neighbourhood Plan.</p>	<p>The Council considers that the Neighbourhood Plan is consistent with national policies and advice in that the core land use planning principles set out in the National Planning Policy Framework (2012)¹ have been embodied in the Neighbourhood Plan.</p> <p>This conclusion is consistent with the examiner’s conclusions² that the Neighbourhood Plan has had regard to national planning policies and guidance, in that it sets out a positive vision for the future of the neighbourhood area and provides clarity and consistency on the shape of future development within the parish. The examiner has recommended a series of modifications to provide clarity and precision to the policies to ensure that the Neighbourhood Plan fully accords with national policy and guidance. South Cambridgeshire District Council and Cottenham Parish Council have agreed each of the</p>	<p>Yes</p>

¹ Paragraph 214 of the National Planning Policy Framework (2018) confirms that for the purposes of examining a Neighbourhood Plan, the policies in the previous National Planning Policy Framework (2012) will apply where the Neighbourhood Plan was submitted to the local planning authority before 24 January 2019. The Cottenham Neighbourhood Plan was submitted to South Cambridgeshire District Council on 15 January 2019, and therefore references to the National Planning Policy Framework refer to the National Planning Policy Framework 2012 and not the National Planning Policy Framework 2018.

² Examiner’s Report on the Cottenham Neighbourhood Plan (see paragraph 6.23): <https://www.scambs.gov.uk/media/14231/cottenham-neighbourhood-development-plan-examiners-report-final-101219.pdf>

Requirements	Local Planning Authority Comments	Basic Condition met?
	recommended modifications and the modifications are included in the 'For Referendum' version of the Neighbourhood Plan.	
The making of the Neighbourhood Plan contributes to the achievement of sustainable development.	<p>The Council considers that the Neighbourhood Plan contributes to the achievement of sustainable development, specifically by:</p> <ul style="list-style-type: none"> • including policies for both housing and employment within the Plan; • seeking to secure new community facilities through the Plan with policies for a new village hall, nursery and sports facilities and • including policies for the protection of the natural, built and historic environment of the parish. <p>This conclusion is consistent with the examiner's conclusion³ that the Neighbourhood Plan has set out to achieve sustainable development in the neighbourhood area:</p> <ul style="list-style-type: none"> • in the economic dimension through policies for housing and employment development (Policies COH/2-1 to 2-3 and COH/5.1 to 5.2 respectively) • in the social role it includes a policy on a village hall (Policy COH/4-2, a nursery (COH/4.3) and sports facilities(COH/4-4). • in the environmental dimension the Plan seeks to protect its natural, built and historic environment. It has a specific batch of policies in the village character part of the Plan (Policies COH/1-1 to 1-8). 	Yes
The Neighbourhood Plan is in general conformity with	The development plan for South Cambridgeshire consists of	Yes

³ Examiner's Report on the Cottenham Neighbourhood Plan (see paragraph 6.11): <https://www.scambs.gov.uk/media/14231/cottenham-neighbourhood-development-plan-examiners-report-final-101219.pdf>

Requirements	Local Planning Authority Comments	Basic Condition met?
<p>the strategic policies contained in the development plan for the area.</p>	<p>the adopted South Cambridgeshire Local Plan 2011-2031, and a list of strategic policies is included in Appendix E of the Local Plan. The Basic Conditions Statement, submitted by Cottenham Parish Council, considers whether the Neighbourhood Plan is in general conformity with these strategic policies.</p> <p>The Council considers that Policies of the Neighbourhood Plan are in general conformity with the strategic policies in the adopted South Cambridgeshire Local Plan.</p> <p>The examiner in his report concludes⁴ that the Neighbourhood Plan delivers a local dimension and supplements the detail already included in the adopted Local Plan, and on that basis is satisfied that the Neighbourhood Plan is in general conformity with the strategic policies in the development plan (see paragraph 6.12 -6.13 of the examiner's report)</p>	
<p>The making of the Neighbourhood Plan does not breach, and is otherwise compatible with, European Union obligations.</p> <p>Prescribed conditions are met in relation to the Neighbourhood Plan, including that the making of the neighbourhood plan is not likely to have a significant effect on a European wildlife site or a European offshore marine site either alone or in combination with other plans or projects.</p>	<p>The Council considers that the Neighbourhood Plan does not breach and is compatible with European Union Obligations.</p> <p><u>Strategic Environmental Assessment and Habitats Regulations Assessment</u>: a Strategic Environmental Assessment screening has been undertaken that determines that the Neighbourhood Plan is likely to result in significant environmental impacts and therefore does requires a Strategic Environmental Assessment. A Strategic Environmental Assessment was carried out in October 2018 to accompany</p>	Yes

⁴ Examiner's Report on the Cottenham Neighbourhood Plan (see paragraph 6.13.): <https://www.scambs.gov.uk/media/14231/cottenham-neighbourhood-development-plan-examiners-report-final-101219.pdf>

Requirements	Local Planning Authority Comments	Basic Condition met?
	<p>the submission version of the Neighbourhood Plan. This was consulted upon from 7 December 2018 until 11 January 2019.</p> <p>A Habitat Regulations Assessment screening has also been undertaken that indicates that the Neighbourhood Plan is not predicted to have significant effects on any European site, either alone or in conjunction with other plans and projects. These conclusions are supported by the responses from the statutory bodies.</p> <p>During the course of the preparation of the Neighbourhood Plan, a case in the European Court (People Over Wind and Peter Sweetman, April 2018) changed the basis on which competent authorities are required to undertake Habitats Regulations Assessments. In September 2018, Essex Place Services, on behalf of South Cambridgeshire District Council, undertook a review of the screening determination from March 2018. The review concluded that the earlier Habitats Regulations Assessment screening determination was properly reached without regard to measures intended to avoid or reduce harmful effects on any European protected site either alone or in combination. The review also concluded that there was no need to progress to an Appropriate Assessment.</p> <p>As the modifications made to the Cottenham Neighbourhood Plan following its examination do not change the essence of its planning policies, the Strategic Environmental Assessment and Habitats Regulations Assessment screening undertaken on a draft version of the Neighbourhood Plan in March and September 2018, and the screening determination published in</p>	

Requirements	Local Planning Authority Comments	Basic Condition met?
	<p>September 2018 remain valid. As does the Strategic Environmental Assessment carried out in October 2018.</p> <p>This conclusion is consistent with the examiner's conclusion⁵ that a proportionate process has been undertaken in accordance with the various regulations and the Neighbourhood Plan is compatible with European obligations.</p> <p><u>Human Rights:</u> these issues have been considered in the preparation of the Neighbourhood Plan, as to meet the Basic Conditions a Neighbourhood Plan must not breach, and is otherwise compatible with, European Union obligations, including Human Rights. The Examiner in his report is satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and that it complies with the Human Rights Act. There is no evidence that has been submitted to suggest otherwise. (see paragraph 6.22 of the Examiners Report)</p>	

⁵ Examiner's Report on the Cottenham Neighbourhood Plan (see paragraph 6.14-6.22.): <https://www.scamb.gov.uk/media/14231/cottenham-neighbourhood-development-plan-examiners-report-final-101219.pdf>

b. Legal Compliance Check

Requirements and relevant legislation* and/or guidance	Local Planning Authority Comments	Legally compliant?
<p>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).</p> <p>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.</p>	<p>The qualifying body is Cottenham Parish Council.</p> <p>The neighbourhood area was designated on 17 November 2015.</p> <p>Early in 2015 Cottenham Parish Council delegated two parish councillors and a district councillor to investigate the potential value of a Neighbourhood Development Plan for Cottenham. There were further discussions at the Annual Parish Meeting in 2015. The Parish Council allocated funding to the neighbourhood plan working party to start preparing a plan. (See paragraph 2.1-2.4 of the Consultation Statement). This working group has reported regularly on the progress of the plan to the parish council.</p>	<p>Yes</p>
<p>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.”</p>	<p>The ‘for referendum’ version of the Cottenham Neighbourhood Plan meets this definition of a neighbourhood plan.</p>	<p>Yes</p>
<p>SI 2012/637 The Neighbourhood Planning (General) Regulations 2012, Regulation 15 – A qualifying body is required to submit:</p>	<p>The designated neighbourhood area is shown in Figure 1 of the ‘for referendum’ version the Cottenham Neighbourhood Plan.</p>	<p>Yes</p>

Requirements and relevant legislation* and/or guidance	Local Planning Authority Comments	Legally compliant?
<i>(a) A map or statement which identifies the area to which the proposed neighbourhood development plan relates.</i>		
<p><i>(b) A consultation statement.</i></p> <p>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.</p>	<p>A Consultation Statement accompanied the submission Neighbourhood Plan. The Consultation Statement includes:</p> <ul style="list-style-type: none"> • 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. 	Yes
<i>(c) The proposed neighbourhood development plan.</i>	<p>The Local Planning Authority received the submission Neighbourhood Plan on 15 January 2019.</p> <p>The independent examiner appointed to examine the Neighbourhood Plan has concluded that subject to a series of recommended modifications set out in his report that the submitted Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum. A 'for referendum' version of the Neighbourhood Plan has been prepared taking account of the Examiner's recommended modifications. The 'for referendum' version of the plan also includes some additional minor modifications to update the Plan. .</p>	Yes
<i>(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</i>	<p>A Basic Conditions Statement accompanied the submission Neighbourhood Plan.</p> <p>The statement clearly demonstrates how Cottenham Parish</p>	Yes

Requirements and relevant legislation* and/or guidance	Local Planning Authority Comments	Legally compliant?
<p><i>Compulsory Purchase Act 2004, (as amended).</i></p> <p>The local planning authority has to be satisfied that a basic condition statement has been submitted.</p>	<p>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.</p> <p>The 'for referendum' version of the Neighbourhood Plan includes some minor modifications to update the Plan.</p>	
<p><i>(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)).</i></p> <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 Strategic Environmental Assessment 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</p>	<p>In September 2018, South Cambridgeshire District Council and Cottenham Parish Council published a Strategic Environmental Assessment Screening Determination Statement. This statement sets out the reasons for the determination that the Cottenham Neighbourhood Plan is likely to result in significant environmental effects and therefore requires a Strategic Environmental Assessment. This was carried out in October 2018.</p> <p>The Screening Determination Statement was underpinned by a Strategic Environmental Assessment Screening Report undertaken by Essex Place Services on behalf of South Cambridgeshire District Council and Cottenham 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 Cottenham Neighbourhood Plan started on 19 March 2018. The consultation responses received are included in Appendix 2 of the Screening Determination Statement. The statutory bodies agreed with the conclusion reached.</p> <p>The Strategic Environmental Assessment Screening Determination Statement (including the Strategic</p>	Yes

Requirements and relevant legislation* and/or guidance	Local Planning Authority Comments	Legally compliant?
<p>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.</p>	<p>Environmental Assessment and Habitats Regulations Assessment screening reports) and the Strategic Environmental Assessment was submitted by Cottenham Parish Council alongside the Neighbourhood Plan.</p> <p>As the modifications made to the Cottenham Neighbourhood Plan following its examination do not change the essence of its planning policies, the Strategic Environmental Assessment screening undertaken on a draft version of the Neighbourhood Plan in March and September 2018, and the screening determination published in September 2018 and Strategic Environmental Assessment published in October 2018 remain valid.</p>	
<p>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)).</p>	<p>The 'for referendum' version of the Neighbourhood Plan covers the period 2018-2031, mirroring the adopted South Cambridgeshire Local Plan.</p> <p>The 'for referendum' version of the Neighbourhood Plan does not contain policies relating to 'excluded development'.</p> <p>The Neighbourhood Plan does not relate to more than one neighbourhood area.</p> <p>There is not more than one Neighbourhood Plan in existence in Cottenham</p>	Yes
<p>The Qualifying Body has undertaken the correct procedures in relation to consultation and publicity.</p>	<p>The Parish Council submitted a Consultation Statement, alongside the submission version of the Neighbourhood Plan, that demonstrates compliance with SI 2012/637 The Neighbourhood Planning (General) Regulations 2012, Regulation s15(2).</p>	Yes

Requirements and relevant legislation* and/or guidance	Local Planning Authority Comments	Legally compliant?
<p>The draft Neighbourhood Plan should be checked to ensure it is not a 'repeat' proposal. If so, the Local Planning Authority 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).</p>	<p>The 'for referendum' version of the Cottenham Neighbourhood Plan is not a repeat proposal.</p>	<p>Yes</p>
<p>The pre-submission consultation requirements need to have been satisfied. Before submission to the Local Planning Authority 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 whose interests they consider may be affected by the proposals for a Neighbourhood Plan. 3. send a copy of the Neighbourhood Plan to the Local Planning Authority. (Regulation 14 of the Neighbourhood Planning (General) Regulations 2012. 	<p>Cottenham 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 Section 6 of their submitted Consultation Statement.</p> <p>The parish council carried out two pre-submission consultations – one in 2017 followed by one in 2018.</p> <p>The consultation period for the latest pre-submission Neighbourhood Plan was 19 June to 7 August 2018. The statutory consultation bodies consulted are listed in Appendix C of the Consultation Statement.</p> <p>A copy of the pre-submission Neighbourhood Plan was provided to the Local Planning Authority.</p>	<p>Yes</p>
<p>Are there any conflicts in the Neighbourhood Plan between policies and other statements or information? (s38B(3) Planning and Compulsory Purchase Act 2004.)</p>	<p>No, there are no conflicts.</p>	<p>Yes</p>
<p>The Conservation of Habitats and Species</p>	<p>In September 2018, South Cambridgeshire District Council and</p>	<p>Yes</p>

Requirements and relevant legislation* and/or guidance	Local Planning Authority Comments	Legally compliant?
<p>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: <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 102 or to enable them to determine whether that assessment is required.</i></p>	<p>Cottenham Parish Council published a Strategic Environmental Assessment Screening Determination Statement. This statement determines that the making of the Cottenham Neighbourhood Plan is not likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This Screening Determination Statement was underpinned by a Habitats Regulations Assessment Screening Report undertaken by Essex Place Services on behalf of South Cambridgeshire District Council and Cottenham 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 Cottenham Neighbourhood Plan started on 19 March 2018. The consultation responses received are included in Appendix 2 of the Screening Determination Statement. The statutory bodies agreed with the conclusion reached.</p> <p>The Strategic Environmental Assessment Screening Determination Statement (including the Strategic Environmental Assessment and Habitats Regulations Assessment screening reports) and the Strategic Environmental Assessment was submitted by Cottenham Parish Council alongside the Neighbourhood Plan.</p> <p>During the course of the preparation of the Neighbourhood Plan, a case in the European Court (People Over Wind and Peter Sweetman, April 2018) changed the basis on which competent authorities are required to undertake Habitats Regulations Assessments. In September 2018, Essex Place</p>	

Requirements and relevant legislation* and/or guidance	Local Planning Authority Comments	Legally compliant?
	<p>Services, on behalf of South Cambridgeshire District Council, undertook a review of the screening determination from March 2018. The review concluded that the earlier Habitats Regulations Assessment screening determination was properly reached without regard to measures intended to avoid or reduce harmful effects on any European protected site either alone or in combination. The review also concluded that there was no need to progress to an Appropriate Assessment.</p> <p>As the modifications made to the Cottenham Neighbourhood Plan following its examination do not change the essence of its planning policies, the Habitats Regulations Assessment screening undertaken on a draft version of the Neighbourhood Plan in March 2018, and the screening determination published in September 2018 along with the Strategic Environmental Assessment carried out in October 2018 remain valid.</p>	

CONCLUSION: South Cambridgeshire District Council has confirmed that the ‘For Referendum’ version of the Cottenham Neighbourhood Plan meets the legislative requirements.

The draft Cottenham Neighbourhood Plan submitted to South Cambridgeshire District Council met the requirements in the legislation, and South Cambridgeshire District Council publicised the neighbourhood plan for a minimum of 6 weeks, invited comments, notified any consultation body referred to in the consultation statement and sent the draft neighbourhood plan to independent examination. Following examination, South Cambridgeshire District Council has determined that the ‘For Referendum’ version of the Cottenham Neighbourhood Plan is ready for a public referendum (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.