

Report to COUNCIL

Local Planning Scheme of Delegation

Portfolio Holder:

Councillor Amanda Chadderton (Leader) - Cabinet Member for Regeneration and Housing

Officer Contact: Emma Barton, Executive Director for Place & Economic Growth

Report Author: Elizabeth Dryden-Stuart, Strategic Planning and Information Team Leader

Ext. 1672

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Reason for Decision

To amend the Council's Local Development Framework Scheme of Delegation (last approved 14 September 2011) to bring the decision-making process up to date and reflect recent legislative changes.

Executive Summary

The report sets out the levels of decision-making required for documents prepared as part of, and in support of, the Local Plan to:

- Reflect legislative changes and operational experience since it was last amended in 2011; and
- To set out the processes for dealing appropriately with the preparation of a Neighbourhood Plan, should one be proposed, and the Brownfield Land Register.

Recommendations

That the revised Local Planning Scheme of Delegation be approved and adopted.

Amendments to the Local Planning Scheme of Delegation

1 Background

- 1.1 The Council's Constitution is a living document that requires regular updating to ensure it reflects legislative and organisational changes. The current Local Development Framework Scheme of Delegation was approved 14 September 2011. As such, an update to the scheme of delegation is required in respect of changes to the local planning decision-making process. This includes renaming it as the Local Planning Scheme of Delegation.
- 1.2 Having an up-to-date Local Planning Scheme of Delegation links to the Council's Corporate Plan and Priorities, in particular supporting local leaders and working with a resident focus through ensuring there is a clear and transparent decision-making process for documents that are prepared as part of, and in support of, the Local Plan, and which reflects the recent legislative changes.

2 Current Position

Changes to the Local Planning System

- 2.1 The current Local Development Framework Scheme of Delegation was adopted 14 September 2011 to reflect changes in the procedures to be followed in relation to the production of development plan documents, following amendments to the Town and Country Planning (Local Development) (England) Regulations 2004.
- 2.2 Since the Scheme of Delegation was last updated legislative changes have taken place, including:
- The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended;
 - The Neighbourhood Planning (General) Regulations 2012; and
 - The Town and Country Planning (Brownfield Land Register) Regulations 2017
- 2.3 As such, changes need to be made to the existing Local Development Framework Scheme of Delegation in relation to the following in particular:
- Terminology (such as replacing references to the Local Development Framework);
 - References to regulation stages within the decision-making procedures; and
 - Decision making processes for Neighbourhood Planning.
- 2.4 There may be further changes as a result of the recently announced Levelling Up and Regeneration Bill. Any changes needed to the Scheme of Delegation will be considered at the appropriate time once further guidance and legislation has been published.

Neighbourhood Planning

- 2.5 Neighbourhood planning was introduced as part of the Localism Act 2011. Communities have been part of the plan-making process for a long time, however the Government introduced new legislation to empower communities so that they could have a greater say in helping shape where they live and work through 'neighbourhood planning'.
- 2.6 Parish Councils or, in non-parished areas, neighbourhood forums can develop a shared vision and planning policies through a neighbourhood plan that, once passed, becomes part of the statutory development plan and is used to determine planning applications alongside the Local Plan for that neighbourhood area.
- 2.7 A Neighbourhood Plan should support the strategic development needs set out in the Local Plan and must address the development and use of land.
- 2.8 The Localism Act has also given communities the ability to grant planning permission through Neighbourhood Development Orders (NDOs) or Community Right to Build Order (CRBO). An NDO (or CRBO) can grant planning permission for specific types of development in a specific neighbourhood area, they can:
- Apply to a specific site, sites, or wider geographical area;
 - Grant planning permission for a certain type or types of development; and
 - Grant planning permission outright or subject to conditions.
- 2.9 NDOs (or CRBO's) only grant planning permission, and do not remove the need to comply with other relevant legislation and regulations.
- 2.10 Whilst a Neighbourhood Plan or NDO is not prepared by the Council as Local Planning Authority (LPA), we are required to support and assist those preparing them. In relation to Neighbourhood Plans, upon a successful examination and referendum the neighbourhood plan becomes part of the statutory development plan once it has been made (brought into legal force) by the LPA. As such, the necessary decision-making processes for the preparation of neighbourhood plans need to be incorporated into the Local Planning Scheme of Delegation.
- 2.11 The proposed levels of decision-making for neighbourhood planning are set out below.

Brownfield Land Register

- 2.12 Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017 requires local planning authorities to prepare, maintain and publish a register of previously developed (brownfield) land. The Register must be reviewed at least once a year.
- 2.13 The Brownfield Land Register is split into two parts: Part 1 includes all those brownfield sites suitable and available for residential development in the borough and which meet certain criteria; Part 2 is a subset of Part 1, and this identifies those which have been granted permission in principle through Article 4 of the Town and Country Planning (Permission in Principle) Order 2017. Prior to entering

a site in Part 2, the LPA must undertake the necessary requirements for publicity, notification and consultation (set out in regulations 6 to 13 of the Town and Country Planning (Brownfield Land Register) Regulations 2017). The Council does not currently have any sites on Part 2 of the Brownfield Land Register.

- 2.14 The proposed levels of decision-making for the Brownfield Land Register are set out below.

Places for Everyone

- 2.15 The Council is in the process of preparing the Places for Everyone Joint Development Plan with Bolton, Bury, Manchester, Rochdale, Salford, Tameside, Trafford and Wigan. The Places for Everyone Publication Plan (2021) has now been submitted for examination. The proposed levels of decision-making required for Places for Everyone are reflected in the section on the preparation of joint development plans below.

Local Planning Scheme of Delegation

- 2.16 References to regulations in the Local Planning Scheme of Delegation relate to the Town and Country Planning (Local Planning) (England) Regulations 2012 as amended, unless otherwise stated.
- 2.17 In addition to the specific powers outlined above, there may other powers and duties relating to local planning. Where not specifically outlined below it is suggested that these duties may be exercised by Council officers under the general scheme of delegation relating to Local Planning matters.

Local Development Scheme

- 2.18 The Local Development Scheme (LDS) is a public statement setting out the Council's project plan for preparing the Local Plan and its supporting documents.
- 2.19 The purpose of the LDS is to:
- Set out what planning policy documents exist and what new documents will be prepared as part of, and in support of, the Local Plan;
 - Set out the timescales the public can expect for the preparation and review of these documents;
 - Indicate when the local community can get involved and influence the plan-making process;
 - Enable work programmes to be set for the preparation of Local Plan documents; and
 - Show how the programme for the production of documents will establish and reflect the council's priorities and to assist the programming of other Council strategies and programmes.

2.20 The proposed levels of decision-making for the LDS are:

LDS Review (<i>S15(8)(a) Planning and Compulsory Purchase Act (PCPA) 2004</i>)	Portfolio Member in consultation with Executive Director
All other powers and duties relating to the LDS	Executive Director

Statement of Community Involvement

2.21 The Statement of Community Involvement (SCI) outlines when and how we will engage the community in the preparation of the Local Plan and other planning documents. It outlines how we will provide guidance and assistance to neighbourhood planning groups. It also sets out how the community will be consulted on planning applications.

2.22 Changes to the Regulations introduced in 2012 mean that there is no longer an obligation to undertake consultation on the SCI before its adoption.

2.23 The proposed levels of decision-making for the SCI are:

Adoption of SCI (<i>S23 PCPA 2004</i>)	Council
All other powers and duties relating to the SCI	Executive Director

Development Plan Documents (DPDs)

2.24 These documents form the heart of the Local Planning system and include documents relating to the development and use of land and which contain the statutory planning policies used to guide future development. Together these form the adopted Development Plan for the borough. The primary DPD is usually the Local Plan.

2.25 The process of preparing a DPD requires public consultation/participation at key stages and decisions will be required prior to each stage of consultation.

2.26 The proposed levels of decision-making for DPDs are:

Approval of documents for public consultation as part of Regulation 18	Cabinet
Approval of Publication Plan prepared as part of Regulation 19 for public consultation	Cabinet
Approval for Submission of Publication Plan and supporting	Council

evidence and documentation to Secretary of State for independent examination (<i>S20 PCPA 2004</i>)	
Preparation, and submission, of material requested by the inspector as part of the examination process.	Head of Service
Approval of, and publication of, modifications to the Publication Plan, as recommended through the independent examination, for public consultation. (<i>S20(7C) PCPA 2004</i>)	Cabinet
Adoption (<i>S23 PCPA 2004</i>)	Council
All other powers and duties relating to DPDs	Executive Director

- 2.27 The same levels of decision-making would be followed for an Area Action Plan were one to be produced. These may be prepared to provide a greater level of detail in the planning of key areas.

Supplementary Planning Documents

- 2.28 Supplementary Planning Documents (SPDs) are designed to support, explain and expand upon policies contained in Local Plans and other DPDs and are a material consideration in planning decisions. They are not DPDs and therefore should not be approved by Council.

- 2.29 The proposed levels of decision-making for SPDs are:

Approval of draft SPD for public consultation (<i>Regulation 12</i>)	Cabinet
Adoption of SPD (<i>Regulation 14</i>)	Cabinet
All other powers and duties relating to SPDs	Executive Director

Interim Planning Position Papers

- 2.30 An interim planning position paper (IPPP) provides further guidance and advice on relevant planning policy matters which may have arisen since a statutory planning document (which forms part of the adopted Development Plan for the borough) was adopted. They are not subject to consultation. IPPPs deal with topics for which additional information is required about how the matter affects Oldham and how it is to be implemented through the planning system until such time as an updated statutory planning document can be prepared. Although not part of the

Borough's statutory development plan, the IPPP will have the status of a relevant material consideration in the determination of planning applications.

2.31 The proposed levels of decision making for IPPP's are as follows:

Approval of Interim Planning Papers	Cabinet
All other powers and duties relating to Interim Planning Papers	Executive Director

Evidence Base

2.32 A Local Plan must be positively prepared, justified, effective and consistent with national policy. To do so, objective and proportionate evidence is required which can take a number of forms: work prepared in-house, work commissioned by Oldham Council and undertaken by consultants, and work commissioned by AGMA and partner bodies. This may also include designation updates, for example those from Greater Manchester Ecological Unit in relation to Sites of Biological Importance (SBI) and Regionally Important Geodiversity Sites (RIGS) and reports responding to the Housing Delivery Test.

2.33 The approval to appoint external support will be carried out in line with the Council's procurement procedures.

2.34 The proposed levels of decision-making for evidence base documents relating to the preparation of the Local Plan are as follows:

Approval, and publication of, Oldham Council prepared or commissioned evidence base.	Portfolio Member in consultation with Executive Director
All other powers and duties relating to evidence base	Executive Director

Monitoring Report

2.35 The Monitoring Report monitors:

- The progress of documents identified for production as part of the Local Plan
- The implementation of the borough's planning policies to ascertain whether:
 - They are achieving their objectives and delivering sustainable development
 - They have unintended consequences
 - The assumptions and objectives behind policies are still relevant
 - The targets are being achieved.

2.36 The Monitoring Report also:

- Provides detailed information on levels of house building, housing clearance and the borough's potential housing land supply, including the five-year deliverable housing land supply; and
- Includes the Infrastructure Funding Statement, which provides a summary of financial contributions the Council has secured through Section 106 agreements (s106) from new developments.

2.37 The proposed levels of decision-making for the Monitoring Report are:

Monitoring Report (<i>S35 PCPA 2004</i>)	Portfolio Member in consultation with Executive Director
All other powers and duties relating to the Monitoring Report	Executive Director

Joint Development Plan Documents

2.38 There will be occasions when the Council decides that it is appropriate to work with other Councils and partner bodies to jointly prepare a planning document. For example, in the past we have prepared the Joint Waste and Minerals Development Plan Documents and currently nine of the Greater Manchester districts are preparing Places for Everyone. Upon adoption these joint DPD's form part of the adopted Development Plan for the borough.

2.39 Where joint development plan documents are to be prepared, the proposed levels of decision-making are as follows:

Approval to commence the joint DPD (<i>S28 PCPA 2004 and Regulation 4(4A) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000</i>)	Council
Approval of Publication Plan, prepared as part of Regulation 19, and any supporting documents for public consultation	Cabinet
Approval for submission of Publication Plan and supporting documents to Secretary of State for independent examination (<i>S20 PCPA 2004</i>)	Council
Preparation, and submission, of material requested by the inspector as part of the examination process.	Head of Service
Approval of, and publication of, modifications to the Publication Plan,	Cabinet

as recommended through the independent examination, for public consultation. (S20(7C) PCPA 2004)	
Adoption of joint DPD (S23 PCPA 2004)	Council

Brownfield Land Register

- 2.40 The Brownfield Land Register must be reviewed at least once a year, to ensure that sites which no longer meet the criteria for inclusion are removed and new sites are entered if it is appropriate to do so.
- 2.41 The proposed levels of decision-making for the Brownfield Land Register are:

Approval to publish, and consult on, sites that the Council proposes to grant permission in principle on (Regulations 6 to 13 of the Town and Country Planning (Brownfield Land Register) Regulations 2017).	Portfolio Member in consultation with the Executive Director
Grant permission in principle on sites to be included in the Brownfield Land Register (Article 4 of the Town and Country Planning (Permission in Principle) Order 2017) upon receipt and consideration of representations.	Planning Committee
Approval and publication of the Brownfield Land Register (Part 1 and Part 2)	Portfolio Member in consultation with the Executive Director

Consultation Responses

- 2.42 From time-to-time Oldham Council may be invited to comment on a relevant planning consultation. This may, for example, relate to changes in national planning guidance or consultations being carried out by relevant statutory providers and neighbouring local planning authorities.
- 2.43 When it is considered appropriate to submit comments on relevant planning consultations the proposed levels of decision making are as follows:

Approval of comments to relevant planning consultations on behalf of Oldham Council.	Executive Director in consultation with Portfolio Member.
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All other powers and duties relating to relevant planning consultations.	Executive Director
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Neighbourhood Plans

- 2.44 The legal procedure for producing a neighbourhood plan is set out in Schedule 4B of the Town and Country Planning Act 1990 (TCPA 1990) and the Neighbourhood Planning (General) Regulations 2012 (NPR). Matters relating to a neighbourhood plan are not functions which must be dealt with by a body other than the Executive. As a result, they are the responsibility of the Cabinet (although they can be delegated to individual Cabinet members or Council officers).
- 2.45 The key stages in the preparation of a neighbourhood plan and proposed levels of decision making are set out in the table below:

Designation of an organisation or body as a neighbourhood forum (<i>S61F Town and Country Planning Act (TCPA) 1990</i>) for preparation of a neighbourhood plan.	Cabinet
Powers to 1). decline to consider a neighbourhood forum application where there is an existing forum (<i>Reg 11 NPR</i>); where any application is currently under consideration (<i>Reg 5 NPR</i>) or where it is a repeat proposal (<i>Schedule 4B TCPA 1990</i>); 2). consider the withdrawal of an organisation or body's designation as a neighbourhood forum (<i>S61F TCPA 1990</i>); and 3). consider whether a qualifying body is authorised and application documentation is complete (<i>Schedule 4B TCPA 1990</i>);	Portfolio Member in consultation with the Executive Director
Designation of a Neighbourhood Area (the area to which a proposed neighbourhood plan would apply), or an amendment to an existing Neighbourhood Area, following receipt of a proposed neighbourhood area and public consultation.	Cabinet
Approval of publication of the	Cabinet

neighbourhood plan for public consultation. (<i>Regulation 16</i>) (<i>NPR</i>)	
Approval of submission for independent examination of the neighbourhood plan (<i>Regulation 17</i>) (<i>NPR</i>)	Cabinet
Powers to: 1). consider recommendations made in the Inspectors Report (<i>Schedule 4B TCPA 1990</i>); 2). refer an issue to independent examination where proposed recommendation differs from that made by the examiner (<i>Schedule 4B TCPA 1990</i>); and 3). Revoke or modify a neighbourhood plan (<i>S61M TCPA 1990</i>)	Portfolio Member in consultation with the Executive Director
Approval of Neighbourhood Plan following successful independent examination and referendum. (<i>Regulation 18 NPR</i>)	Council
All other powers and duties relating to Neighbourhood Plans	Executive Director

2.46 The key stages in the preparation of a NDO / CRBO and proposed levels of decision making are set out in the table below:

Approval of the publication of a NDO / CRBO for public consultation. (<i>Regulation 23</i>) (<i>NPR</i>)	Cabinet
Approval of submission for independent examination of the NDO / CRBO (<i>Regulation 24 NPR</i>)	Cabinet
Decisions regarding NDO / CRBO proposal following examiners report and approval of publication thereof (<i>Regulation 25 (1), (2) NPR</i>)	Council
All other powers and duties relating to Neighbourhood Plans	Executive Director

3 Options/Alternatives

- 3.1 Option 1 – To approve and adopt the revised levels of decision-making in respect of local planning. This would reflect the latest terminology and regulations and provide greater clarity when making decisions in respect of local planning.
- 3.2 Option 2 – Not to approve and adopt the revised levels of decision-making in respect of local planning. This would result in the continued use of an out-of-date scheme of delegation and a lack of clarity.

4 Preferred Option

- 4.1 Option 1 is the preferred option as this would reflect the latest terminology and regulations and provide greater clarity when making decisions in respect of local planning.

5 Consultation

- 5.1 Not applicable

6 Financial Implications

- 6.1 Not applicable

7 Legal Services Comments

- 7.1 Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the Cabinet is responsible for the discharge of the function of formulating or preparing plans and alterations which together comprise the Development Plan, except in relation to actions specified below, which are not to be the responsibility of the Cabinet:
- (a) the giving of instructions requiring the Cabinet to reconsider any draft development plan document submitted by the Cabinet for the Council's consideration;
 - (b) the amendment of any draft development plan document submitted by the Cabinet for the Council's consideration;
 - (c) approval, of any development plan document
 - (d) the approval, for the purpose of its submission to the Secretary of State for independent examination under section 20 (independent examination) of the Planning and Compulsory Purchase Act 2004, of a development plan document; (e) the adoption (with or without modification) of the development plan document. (A Evans)

8. Co-operative Agenda

- 8.1 The amendments proposed to the Local Planning Scheme of Delegation seek to ensure effective and efficient decision-making, enabling delivery of the council's priorities and objectives under the Co-operative Agenda.

9 **Human Resources Comments**

9.1 Not applicable

10 **Risk Assessments**

10.1 Not applicable

11 **IT Implications**

11.1 Not applicable

12 **Property Implications**

12.1 Not applicable

13 **Procurement Implications**

13.1 Not applicable

14 **Environmental and Health & Safety Implications**

14.1 Regard will be given to environmental and health and safety issues / implications during the preparation of relevant documents under the revised Local Plan Scheme of Delegation as appropriate and in line with the relevant statutory regulations.

15 **Equality, community cohesion and crime implications**

15.1 Regard will be given to the need to carry out an Equality Impact Assessment in line with the relevant statutory regulations during preparation of documents under the revised Local Plan Scheme of Delegation as appropriate.

16 **Equality Impact Assessment Completed?**

16.1 No. See above.

17 **Key Decision**

17.1 No

18 **Key Decision Reference**

18.1 Not applicable

19 **Background Papers**

19.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act :

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- Town and Country Planning Act (TCPA) 1990 (<https://www.legislation.gov.uk/ukpga/1990/8/contents>)
 - Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (<https://www.legislation.gov.uk/uksi/2000/2853/made?view=plain>)
 - Planning and Compulsory Purchase Act (PCPA) 2004 (<https://www.legislation.gov.uk/ukpga/2004/5/contents>)
 - The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended (<https://www.legislation.gov.uk/uksi/2012/767/contents/made>);
 - The Neighbourhood Planning (General) Regulations 2012 (<https://www.legislation.gov.uk/uksi/2012/637/contents/made>); and
 - The Town and Country Planning (Brownfield Land Register) Regulations 2017 (<https://www.legislation.gov.uk/uksi/2017/403/contents/made>)

20 **Appendices**

20.1 None