

Report to CABINET

Approval of Draft South Pennine Moors Special Area of Conservation (SAC) / Special Protection Areas (SPAs) Supplementary Planning Document

Portfolio Holder: Cllr Elaine Taylor Cabinet Member for Decent Homes

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Reason for Decision

To approve the draft South Pennine Moors Special Area of Conservation (SAC) / Special Protection Areas (SPAs) Supplementary Planning Document (SPD) (Appendix 1), and supporting documents (Appendices 2 and 3) as the basis for a six-week public consultation; and to delegate approval to Assistant Director for Planning, Transport and Housing Delivery to make minor, non-material modifications to the draft South Pennine Moors SPD before consultation commences, subject to consultation and agreement with the two other Places for Everyone authorities (Rochdale Council and Tameside Council). This will enable stakeholders to have the opportunity to provide comments on the South Pennine Moors SAC / SPA SPD before it is formally adopted.

Executive Summary

N/A. Main body fewer than five sides in length.

Recommendations

- To approve the draft South Pennine Moors Special Area of Conservation (SAC) / Special Protection Areas (SPAs) Supplementary Planning Document (SPD)

(Appendix 1) and supporting documents (Appendices 2 and 3) as the basis for a six-week public consultation commencing no earlier than 1st November 2024.

- To delegate approval for Assistant Director Planning, Transport and Housing Delivery to make minor, non-material modifications to the draft South Pennine Moors SAC / SPA SPD and supporting documents before consultation commences, subject to consultation and agreement with the two other Places for Everyone authorities who are jointly preparing the SPD (Rochdale Council and Tameside Council).

Approval of Draft South Pennine Moors Supplementary Planning Document

1 Background

- 1.1 The Places for Everyone Plan (PfE Plan) is a joint development plan document of nine Greater Manchester authorities which was adopted on 21st March 2024.
- 1.2 The PfE Plan sets out a clear spatial strategy for delivering new homes and businesses along with infrastructure to support development and to protect and enhance our towns, cities and landscapes. It covers a timeframe up to 2039.
- 1.3 The South Pennine Moors Special Area of Conservation (SAC) / Special Protection Areas (SPAs) Supplementary Planning Document (SPD) (hereafter referred to as the 'South Pennine Moors SPD') is applicable to three of the PfE Plan authorities - Oldham (not including the area covered by the Peak District National Park), Rochdale and Tameside and is being prepared jointly by these three authorities.
- 1.4 The importance of the South Pennine Moors is reflected in a range of international, national and local habitat designations. It supports important breeding bird populations and is classified as a SAC and two SPAs. The SPD relates to the:
- South Pennine Moors SAC;
 - Peak District Moors SPA; and
 - South Pennine Moors Phase 2 SPA.
- 1.5 Through the Habitats Regulation Assessment (HRA) process in support of the PfE Plan new development within parts of these authorities was identified as having the potential to cause an adverse impact on the protected habitats and species on the South Pennine Moors areas listed above. To mitigate against this potential harm, PfE Plan Policy JP-G5: Uplands provides policy which will ensure that new development in these areas will not result in an adverse impact on the protected habitats and species.
- 1.6 The aim of this jointly produced SPD is to provide further guidance on how criterion 7 of PfE Policy JP-G5 will be implemented and, in particular, parts a and b of criterion 7.
- 1.7 PfE Policy JP-G5 parts 7a and 7b seek to ensure that new development does not have an adverse impact on protected habitats of the South Pennine Moors SAC, the Peak District Moors SPA and the South Pennine Moors Phase 2 SPA from urban edge effects (within 400m of the SAC and SPAs boundaries) or loss of and/or disturbance to functionally linked habitats (within 2.5km of the SAC and SPAs boundaries).
- 1.8 PfE Policy JP-G5 parts 7c relates to a potential recreation impact zone - up to 7km from the SAC and SPAs. This is where new residential development could result in recreation disturbance impacts on the SAC and SPAs and development may be required to mitigate this impact. Since production of the PfE HRA, Natural England has now indicated that there is no credible risk to the habitats and species on the SAC and SPAs from recreation impacts. Consequently, Natural England considers that new development within the PfE area, specifically the three areas of Oldham, Tameside and Rochdale, does not need to provide mitigation in accordance with part 7c of JP-G5. If further evidence is prepared on recreational impacts from new development, at a strategic level (i.e. not at a local level, such as the three PfE authorities, but across the whole South Pennines Moors area),

Natural England will review its position and advice to LPAs. Correspondence from Natural England confirming this approach is included as an appendix within the SPD.

1.9 The aims of the South Pennine Moors SPD are to:

- Provide clear advice to developers as to what development may be considered an exception within the “Urban Edge Zone” (within 400m of the South Pennine Moors SAC/SPAs) where development would not normally be acceptable, unless as an exception, the development and/or its use would not have an adverse effect on the integrity of the SAC or SPAs.
- Provide clear advice to developers as to the type and scope of habitat survey, which applications for development within 2.5km of the South Pennine Moors should be accompanied by. It also details that where such a habitat survey has identified the potential for functional linked habitats to the SPA, further evidence, including species surveys, will need to be provided and avoidance or mitigation measures also provided.

1.11 Once adopted, the SPD will be a material consideration in planning decisions. If development proposals do not comply, the SPD and the policy it supplements may be used as a reason for the refusal of planning permission.

1.12 The SPD will link to the Council’s Corporate Plan Priority for a clean and green future through protecting the integrity of the South Pennines Moors SAC / SPAs.

1.13 The SPD therefore aims to have a positive impact on the environment. Other implications will be limited in terms of implications on:

- (a) Community Cohesion Implications, including crime and disorder implications under Section 17 of the Crime and Disorder Act 1998.
- (b) Risk Assessments
- (c) Co-operative Implications, Human Resource Implications, IT implications, Property Implications, Procurement Implications and Health and Safety Implications – any development proposals on council assets within 2.5km of the South Pennines SAC / SPA will subject to PfE Policy JP-G5 Uplands and guidance within this SPD.

2 **Current Position**

2.1 Given the recently received advice from Natural England, the scope of the South Pennine Moors SPD is limited to providing advice on JP-G5 parts 7a and 7b.

2.2 The SPD makes it clear that the requirements are cumulative. Therefore, if an application site is within 400m of the South Pennine Moors then it follows that it is also within 2.5km and those requirements will also apply.

2.3 The SPD explains why it is necessary to identify a 400m zone. It is necessary to: provide protection for the supporting habitat around the periphery of the European site boundary; to reduce the impacts from recreation; and to address adverse urban effects.

2.4 As such and reflecting Policy JP-G5 7a, the presumption is that no development will be permitted within this zone. However, the SPD provides guidance on what types of development and / or its use may be considered an exception within the “Urban Edge Zone”. This includes householder development and replacement dwellings. It should be noted that the SPD explains that meeting an exception does not automatically mean that the development would be acceptable as there may be other material planning reasons as to why it may not be acceptable.

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- 2.5 Areas of land outside the boundary of the South Pennine Moors SPAs could be important in supporting birds for which the SPAs have been designated. Therefore, PFE Policy JP-G5 7b states that in locations up to 2.5km from the South Pennine Moors it is necessary to confirm, via a habitat survey, whether relevant habitats (that could indicate a functional link to the SPA) are present. The SPD defines the geographical location of the functionally linked habitat zone, i.e. the 2.5km zone from the SAC and SPAs. In this zone, the SPD explains that applications for new development should be accompanied by a habitat survey undertaken by a suitably qualified ecologist with experience of the relevant bird species to determine if the site provides, or has the potential to provide, foraging habitats for the qualifying bird species of the SPAs. If foraging habitats are found on site, appropriate avoidance and/or mitigation measures will be required. The SPD clarifies that applications which result in adverse impacts after avoidance or mitigation will not be supported.

Consultation

- 2.6 The South Pennine Moors SPD is being prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. The Regulations set out that a draft SPD must be:
- Screened to determine whether Strategic Environmental Assessment or Habitat Regulation Assessment is required. The outcomes of the screening opinion will be published alongside the draft SPD.
 - Made available for public consultation for a 4-week minimum period.
 - Made available for inspection, at a Council's principal office and at other places within its area as the local planning authority consider appropriate, during normal office hours.
 - Made available as an online copy.
- 2.7 The SPD will be prepared in accordance with these regulations and the council's Statement of Community Involvement (SCI). Relevant material will be made available for inspection on the GMCA's website, on behalf of the three PFE authorities, including via a link from Oldham Council's web site. The documentation will also be made available for inspection at public libraries within Oldham.
- 2.8 Letters/emails will also be sent to stakeholders on Oldham Council's Local Plan mailing list. Oldham Council will publish a public notice in the Oldham Times and a press release will be issued. Other forms of communication such as use of social media platforms may also be utilised.
- 2.9 Following consultation, the draft South Pennine Moors SPD will, if necessary, be amended before being brought back to Members seeking formal approval for the adoption of the document.

3 Options/Alternatives

- 3.1 Option 1 – To approve the draft South Pennine Moors Special Area of Conservation (SAC) / Special Protection Areas (SPAs) Supplementary Planning (SPD), and supporting documents (Appendices 2 and 3) as the basis for a six-week public consultation commencing no earlier than 1st November 2024; and to delegate approval for Assistant Director Planning, Transport and Housing Delivery to make minor, non-material modifications to the draft South Pennine Moors SAC / SPA SPD and supporting documents before consultation commences, subject to consultation and agreement with the two other Places for Everyone authorities who are jointly preparing the SPD (Rochdale Council and Tameside Council). This will enable stakeholders to have the opportunity to provide comments on the South Pennine Moors SPD before it is formally adopted. There are no disadvantages to this option.

3.2 Option 2 - To not approve the South Pennine Moors Special Area of Conservation (SAC) / Special Protection Areas (SPAs) Supplementary Planning Document (SPD) and supporting documents (Appendices 2 and 3) as the basis for consultation. This would prevent stakeholders commenting on the SPD. This would result in the future adoption of the document being contrary to planning regulations and would significantly limit the ability of the PFE authorities to secure appropriate development in the South Pennine Moors area of the three authorities.

4 **Preferred Option**

4.1 Option 1 – To approve the draft South Pennine Moors Special Area of Conservation (SAC) / Special Protection Areas (SPAs) Supplementary Planning (SPD), and supporting documents (Appendices 2 and 3) as the basis for a six-week public consultation commencing no earlier than 1st November 2024; and to delegate approval for Assistant Director Planning, Transport and Housing Delivery to make minor, non-material modifications to the draft South Pennine Moors SAC / SPA SPD and supporting documents before consultation commences, subject to consultation and agreement with the two other Places for Everyone authorities who are jointly preparing the SPD (Rochdale Council and Tameside Council). This will enable stakeholders to have the opportunity to provide comments on the South Pennine Moors SPD before it is formally adopted. There are no disadvantages to this option.

5 **Consultation**

5.1 The report is seeking approval for public consultation on the draft South Pennine Moors SAC / SPA SPD, including making supporting documents available.

6 **Financial Implications**

6.1 The cost to display the draft South Pennine Moors Special Area of Conservation (SAC) / Special Protection Areas (SPAs) Supplementary Planning Document is expected to be circa £700 and will be revenue expenditure.

6.2 This will be funded from the budget allocated to public notices within the Planning Service.

(Mohammed Hussain)

7 **Legal Implications**

7.1 An SPD is defined in Regulation 2 of the Town and Country Planning (Local Planning) (England) Regulations 2012 as a local development document which is not a local plan. A local plan is prescribed by the Regulations as a development plan document. Thus an SPD falls outside the category of town and country planning and development control documents which cannot be approved by a local authority's executive, namely local development documents which are development plan documents.

7.2 Under the Council's scheme of delegation for the local development framework, approval of the draft SPD for public consultation lies with the Cabinet. It is a requirement of the Town and Country Planning (Local Planning) (England) Regulations 2012 that the Council must consult the public on the draft SPD for not less than 4 weeks. (A Evans)

8 **Equality Impact, including implications for Children and Young People**

8.1 Please see appendix 4.

9 **Key Decision**

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- 9.1 Yes
- 10 **Key Decision Reference**
- 11.1 ESR-10-24
- 12 **Background Papers**
- 12.1 Places for Everyone Joint Development Plan Document, available to view online at <https://www.greatermanchester-ca.gov.uk/media/9578/places-for-everyone-joint-development-plan-document.pdf>
- 13 **Appendices**
- 13.1 Appendix 1 - South Pennine Moors SAC/SPA SPD
- 13.2 Appendix 2 – Strategic Environmental Assessment SEA Screening statement
- 13.3 Appendix 3 – Habitats Regulations Assessment Screening Statement
- 13.4 Appendix 4 – Oldham Council Impact Assessment