

## **Report to CABINET**

# **South Pennine Moors Special Area of Conservation (SAC) / Special Protection Areas (SPAs) Joint Supplementary Planning Document**

**Portfolio Holder:** Cllr Elaine Taylor Cabinet Member for Decent Homes

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**24 March 2025**

### **Reason for Decision**

To agree to adopt the South Pennine Moors Supplementary Planning Document (SPD), attached at Appendix 1, and for the Deputy Leader and Cabinet Member for Decent Homes and Assistant Director Planning, Transport and Housing Delivery to be given delegated authority to agree the date on which the SPD takes effect; and to delegate approval to the Assistant Director Planning, Transport and Housing Delivery to make minor, non-material modifications to the South Pennine Moors SPD before final publication, subject to consultation and agreement with the two other relevant Places for Everyone authorities (Rochdale Council and Tameside Council).

### **Executive Summary**

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

### **Recommendations**

That Oldham Council:

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- i. Agrees to adopt the South Pennine Moors Supplementary Planning Document (SPD), attached at Appendix 1, and for the Deputy Leader and Cabinet Member for Decent Homes and Assistant Director Planning, Transport and Housing Delivery to be given delegated authority to agree the date on which the SPD takes effect.
  - ii. Delegates approval to the Assistant Director Planning, Transport and Housing Delivery to make minor, non-material modifications to the South Pennine Moors SPD before final publication, subject to consultation and agreement with the two other relevant Places for Everyone authorities (Rochdale Council and Tameside Council).

**South Pennine Moors Joint 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 Supplementary Planning Document (SPD) is applicable to three 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 Special Area of Conservation (SAC) and two Special Protection Areas (SPA). 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 Policy JP-G5 of PfE 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 part 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 adopting the PfE Plan, Natural England has indicated that further evidence needs to be prepared, at a strategic level, i.e. across the whole South Pennine

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Moors area and not at a local level, such as the three PfE authorities. Consequently, Natural England advised that it would be prudent to wait for this research to be undertaken before providing further advice to developers in the form of a SPD.

- 1.9 Given the advice from Natural England, the scope of the South Pennine Moors SPD is limited to providing advice on JP-G5 parts 7a and 7b.
- 1.10 The aims of the 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 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.
- 1.12 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. 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 type(s) of exceptional circumstances may result in a development and/or its use not having an adverse effect on the integrity of the SAC or SPAs, 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 be considered not.
- 1.13 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.
- 1.14 The SPD will link to the Council’s Corporate Plan Priority for “Green and Growing” through protecting the integrity of the South Pennines Moors SAC / SPAs.
- 1.15 The SPD therefore aims to have a positive impact on the environment. Other implications will be limited in terms of:

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- a) Community Cohesion Implications, including crime and disorder implications under Section 17 of the Crime and Disorder Act 1998 – Not applicable.
  - b) Risk Assessments – the SPD aims to avoid and mitigate against adverse impacts on the South Pennines SAC/SPA.
  - 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 The SPD is being proposed for adoption following a six-week period of public consultation between 1 November 2024 and 12 December 2024 (see consultation section below for further details).
- 2.2 Members are asked to adopt the document presented at Appendix 1. Following its adoption, the SPD will be a material consideration in planning decisions. If development proposals do not comply, the SPD and the PfE policy it supplements (JP-G5) may be used as a reason for the refusal of planning permission.

## **3 Options/Alternatives**

- 3.1 Option 1 - That Oldham Council: i) Agrees to adopt the South Pennine Moors Supplementary Planning Document (SPD), attached at Appendix 1, and for the Deputy Leader and Cabinet Member for Decent Homes and Assistant Director Planning, Transport and Housing Delivery to be given delegated authority to agree the date on which the SPD takes effect; and ii) Delegates approval to the Assistant Director Planning, Transport and Housing Delivery to make minor, non-material modifications to the South Pennine Moors SPD before final publication, subject to consultation and agreement with the two other relevant Places for Everyone authorities (Rochdale Council and Tameside Council). This will ensure that the South Pennine Moors SPD can become a material consideration in the determination of planning applications and that development does not cause / mitigates adverse impact(s) on the protected habitats and species of the relevant parts of Oldham, Rochdale and Tameside local authority areas. There are no disadvantages to this option.
- 3.2 Option 2 - To not approve the SPD for adoption. This would prevent the SPD from becoming a material consideration in the determination of planning applications and would significantly limit the ability to secure appropriate development in the South Pennine Moors area of the three relevant PfE authorities. There are no advantages to this option.

## **4 Preferred Option**

- 4.1 Option 1 - That Oldham Council: i) Agrees to adopt the South Pennine Moors Supplementary Planning Document (SPD), attached at Appendix 1, and for the Deputy Leader and Cabinet Member for Decent Homes and Assistant Director Planning, Transport and Housing Delivery to be given delegated authority to agree the date on which the SPD takes effect; and ii) Delegates approval to the Assistant Director Planning, Transport and Housing Delivery to make minor, non-material modifications to the South Pennine Moors SPD before final publication, subject to consultation and agreement with the two other relevant Places for Everyone authorities (Rochdale Council and Tameside Council). This will ensure that the South Pennine Moors SPD can become a material consideration in the determination of planning applications and that development does not cause / mitigates adverse impact(s) on the protected habitats and species of the relevant parts of Oldham, Rochdale and Tameside local authority areas.

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## 5 Consultation

- 5.1 The South Pennine Moors Supplementary Planning Document (SPD) has been 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 were published alongside the draft SPD.
  - Made available for public consultation for a 4-week minimum period. This SPD was made available for six weeks.
  - 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. Details of where the SPD was made available can be found in the consultation statement for the SPD, presented at Appendix 2.
  - Made available as an online copy. The draft SPD was hosted on the GMCA's website, on behalf of the three PFE authorities, with links provided from the individual authorities' websites.
- 5.2. Letters/emails were also sent to consultees on the PFE and individual districts Local Plan mailing lists and the consultation was advertised via social media platforms.
- 5.3. A total of 20 responses were received to the consultation draft SPD.
- 5.4 The Consultation Statement at Appendix 2 provides a full summary of the issues raised during the consultation and how the three local authorities have responded to those issues in the preparation of the final SPD.
- 5.5. From the main issues raised by respondents, the issues outlined below were the most relevant:
- Support of the SPD to protect designated species and habitats, including from Natural England.
  - Supplementary Policy SP-1 Urban Edge should include a definition of householder development.
  - Support for Supplementary Policy SP-2 Functionally Linked Habitats, with some proposed minor amendments to the supplementary policy and supporting text to make it clear on the requirements for habitat and bird surveys and on the types of habitats that could support foraging birds.
  - Concerns that not implementing part 7c of PFE Policy JP-G5, based on the advice from Natural England, does not adequately respond the precautionary principle and known effects on the national park from recreation pressures, which conflicts with the approach taken by other authorities that are close to the national park to mitigate the impacts of recreation.
- 5.6. The support for the SPD was noted. It is proposed to make a minor amendment to the supporting text to Supplementary Policy SP-1 Urban Edge to define householder development. It is proposed that minor changes will be made to Supplementary Policy SP-2 Functionally Linked Habitats and the supporting text to: make it clearer that bird surveys should include breeding and winter bird surveys; that Lowland fen, and Lowland wet and dry heath and acid grassland could indicate the presence of foraging habitats; and to remove the reference to arable land as land use that would rule out foraging habitats on the site. This is because arable land could support foraging birds.

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5.7. Regarding not implementing part 7c of PfE Policy JP-G5, it is proposed that no changes will be made to the final SPD as Oldham Council, Rochdale Council and Tameside Council agree with Natural England's advice contained in their letter in Appendix 2 of the SPD that advises that as far as Natural England are aware, there is no piece of ecological evidence showing impact to the bird species for the SPAs or the habitats the SAC is classified for. As such, Natural England go on to advise that without ecological evidence, the credible risk is not currently there and new development within the boundary of the PfE Plan does not need to provide mitigation towards the South Pennine Moors SAC/SPAs.

5.8. The Greater Manchester Ecological Unit (GMEU) was consulted on the proposed changes to the final SPD as outlined above, which they agreed were appropriate to make and also agreed that no other changes to the SPD should be made. No other issues raised during the consultation warranted an amendment to the final SPD.

## **6 Financial Implications**

6.1 Following adoption of the SPD the council must make the SPD and adoption statement available (at the principal office and other places such as libraries and on the council's website) and send a copy of the adoption statement to anyone that has asked to be notified of the adoption of the SPD. This will incur a minimal cost against strategic planning budget.

(Mohammed Hussain)

## **7 Legal Implications**

7.1 Under the Council's scheme of delegation for the local development framework, adoption of a SPD is delegated to the Cabinet. As soon as reasonably practicable after the SPD is adopted it must be published on the Council website and made available for public inspection at the Council's principal office and such other places within the area as we consider appropriate. (A Evans)

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

8.1 No. See Appendix 3.

## **9 Key Decision**

9.1 Yes

## **10 Key Decision Reference**

11.1 ESR-05-25

## **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

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- 13.2 Appendix 2 – Consultation Statement
  - 13.3 Appendix 3 - Oldham Council Impact Assessment