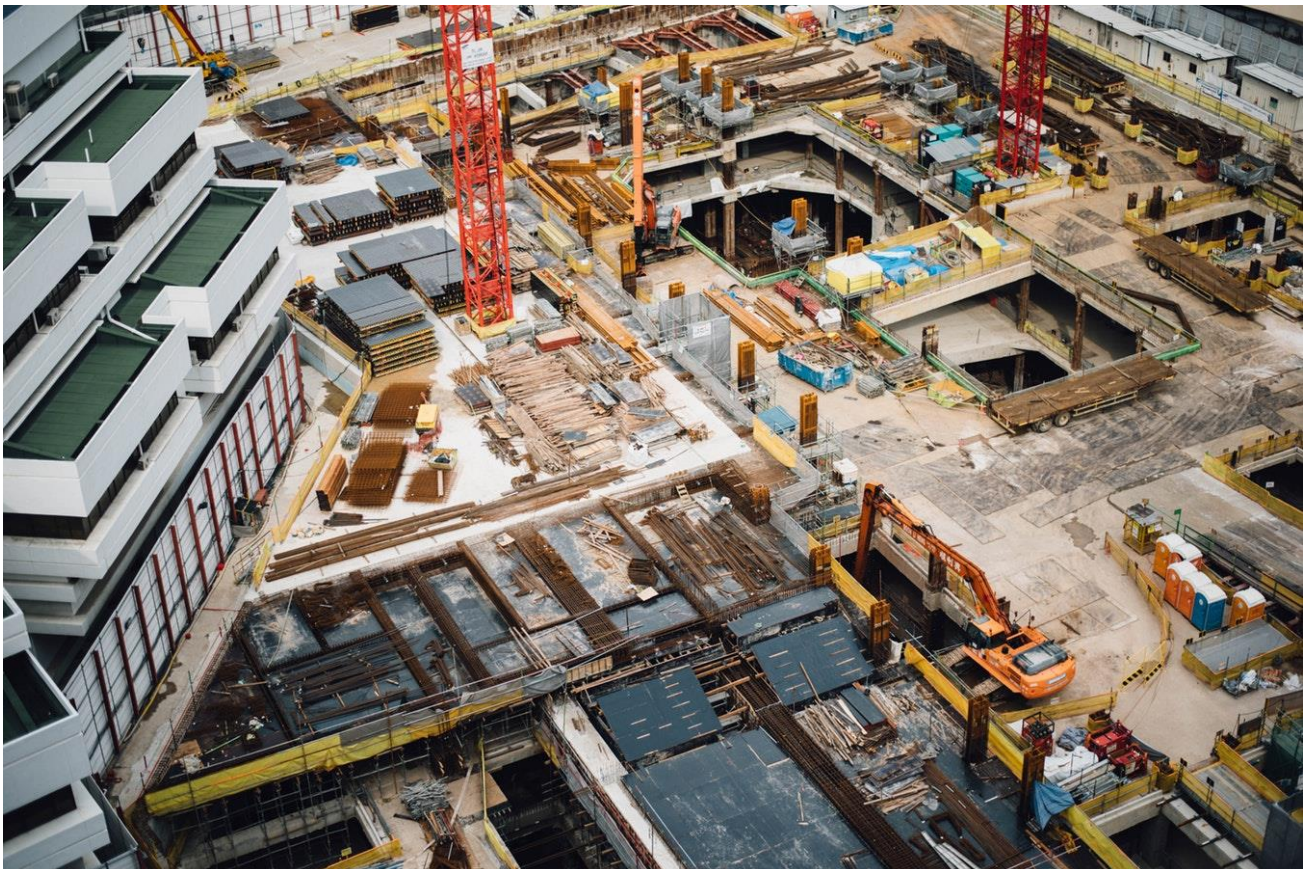


Local Development Orders

Guidance for councils on preparing local development orders

March 2019



Acknowledgements

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Document Information

This guide will be edited and added to in response to experience of using it and as necessary in response to any future changes in the regulatory framework. A summary of the changes included in each version will be recorded here.

Version Schedule

Version	Date
First Publication	13 th March 2019

Relationship with other Local Development Order guidance published by PAS

Local Development Orders (LDOs) were first introduced in the Planning and Compulsory Purchase Act 2004. Since then PAS has published a number of guidance notes and technical case study reports on LDOs. This current publication will consolidate and update previous guidance where relevant and should be considered the most up to date guidance on LDOs published by PAS.

Earlier publications will still be available on the PAS archive pages of the website, however the reader should be aware when considering this information that parts may now be out of date.

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Executive Summary

Planning has a positive and proactive role to play at the heart of local government. It can help to stimulate growth whilst balancing social, economic and environmental needs to achieve sustainable development. Enabling the delivery of new homes, workplaces and supporting facilities is an essential part of this process and many local authorities across the country are working hard to speed up the delivery and build out of developments that meet local needs.

Local Planning Authorities (LPAs) have a critical role in bringing forward more land in the right places to meet local needs and to contribute to the government's target of 300,000 net additional homes a year by the mid 2020's and beyond¹. To support this ambition the [National Planning Policy Framework](#), February 2019, places a renewed emphasis on encouraging LPAs to use Local Development Orders (LDOs) to help set the planning framework for an area and bring forward development.

LDOs provide permitted development rights for specified types of development in defined locations. They are flexible and locally determined tools that LPAs can use to help accelerate the delivery of appropriate development in the right places.

LPAs can use LDOs to enable growth by positively and proactively shaping sustainable development in their area. LDOs can play an important role in incentivising development by simplifying the planning process and making investment more attractive.

This guidance document has been written for LPAs who want to use LDOs in their area. It has been written for council officers to provide technical guidance on how to bring them forward and includes advice on the development and implementation of LDOs as well as the monitoring and delivery of them.

Alongside this guidance, the Planning Advisory Service (PAS) has [published a review of 10 case study LDOs](#) that cover a range of development types and scales. The case studies bring this guidance document to life by evidencing examples of good practice and identifying lessons learned during the preparation and delivery of LDOs.

To summarise the detail covered in this document over the page is a technical overview of what LDOs are and the key reasons why they can help LPAs to bring forward the right development in the right places.

¹ Autumn Budget 2017

Technical overview and summary of LDOs

<p>What is a LDO?</p>	<p>An Order made by a local planning authority (LPA) (under the Town and Country Planning Act 1990) that grants planning permission for a specific development proposal or classes of development.²</p>
<p>Why are the use of LDOs being encouraged?</p>	<p>LPAs are encouraged to use LDOs to set the planning framework for particular areas or categories of development where the impacts would be acceptable, and in particular where this would promote economic, social or environmental gains for the area.³</p>
<p>Who should bring forward a LDO?</p>	<p>LPAs in partnership with key internal and external stakeholders.</p>
<p>What are the benefits of LDOs?</p>	<ul style="list-style-type: none"> • They simplify the planning process by removing the need for planning permission where appropriate and proportionate; • They provide flexibility as LDOs can be applied to a range of sites and types of development; • They reduce the pressure on resources for both applicants and LPA's; • They provide greater certainty and make investment in a site more attractive helping to facilitate delivery of development at a range of scales including major housing development; • They can bring forward regeneration faster and avoid delays.
<p>What are some of the key facts that you should know about LDOs?</p>	<ul style="list-style-type: none"> • They can permit any kind of development but not development that would affect a listed building; is development within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations, 2017; or following an appropriate assessment is development that would adversely affect the integrity of a European site or a European Offshore Marine Site. • They can grant unconditional permission or be subject to conditions; • They can cover any area within a LPA boundary but cannot straddle LPA boundaries; • They do not supersede an extant permission and do not prevent further planning applications being made in the area; • They can be time limited or permanent; • They can be revoked or modified; • Development may still be liable for payment of the Community Infrastructure Levy; • Development may be subject to a Section 106 agreement. • Resources to develop and enable them can be significant however, this should be balanced against the long term benefits that they offer and the opportunity to share costs with developers / landowners and the imposition of fees.

² The National Planning Policy Framework, February 2019

³ The National Planning Policy Framework, Paragraph 51, February 2019

<p>What is the process for bringing forward a LDO?</p>	<ol style="list-style-type: none"> 1. Preparation of a draft LDO; 2. Preparation of a statement of reasons that includes (i) the description of the permitted development; and (ii) defines the area that it effects; 3. Formal consultation; 4. Consideration of representations and drafting of any modifications; 5. Decision to adopt; 6. Notification to Secretary of State.
<p>Where have LDOs been put in place?</p>	<p>The Planning Advisory Service (PAS) have published on their website an interactive map of England which highlights all of the LPAs that have brought forward LDOs along with details of the types of LDOs and links to further information.</p> <p>Case study research on a range of LDOs has also been published alongside this guidance on the PAS website.</p>

1. Introduction

1.1 Background

Development does not in all instances require a planning application to be made for permission to implement the works. In recent years the government have encouraged, through national planning policy and guidance, Local planning authorities (LPAs) to drive the use of a range of planning tools that enable a tailoring of planning controls to local circumstances⁴. The intention is that these tools will help to enhance the efficiency in the planning process and ultimately help councils to deliver development by aiding, on appropriate sites, the delivery of much needed housing and wider economic benefits.

Local Development Orders (LDOs) are locally focussed planning tools that LPAs can use to grant planning permission for specific types of development within a defined geographical area. They are designed to help streamline the planning process by removing the need for developers to make a planning application.

LDOs help to create certainty as well as the saving of time and money for those involved in the planning process. In a period where the provision of new homes and associated development is so critical, and in areas where the impacts of such development would be acceptable, LDOs are one tool that LPAs can use to accelerate delivery and promote economic, social and environmental gains in their area.

⁴ The National Planning Policy Framework, February 2019, paragraphs 51 to 53.

1.2 Why bring forward a LDO?

LDOs are a positive and pro-active planning tool. They create a more certain planning environment and thereby make investment more attractive. They embody a fundamental shift for LPAs from waiting for the market to come to them with a proposal, to initiating development activity by granting planning permission for the kind of development that councils want to come forward on a site.

With a LDO in place for specified development on an identified site, planning consent should be easier, less expensive, less risky and faster for developers as there is no need to prepare a planning application and wait for a decision.

The benefits for councils who take this pro-active approach are varied. From the enhanced reputation as an attractive place to do business, to encouraging landowners and developers to seize the opportunity to develop on stalled sites. LDOs can help to create great places as well and enable faster more flexible delivery for developers allowing them to meet their own development priorities and achieve a competitive return.

Housing delivery lies at the heart of the [National Planning Policy Framework](#) (“the NPPF”), February 2019. Through the housing delivery test, the NPPF places greater responsibility and accountability on both LPAs and developers to bring forward development. Ensuring that planning permissions are in place on sites that are suitable for housing is therefore a priority. LDOs have an important role to play in achieving this as they can set the conditions that will encourage landowners

to bring forward sites for housing as well as other types of development.

One of the principal advantages of a LDO is that it can be shaped to local circumstances and to embody local aspirations. They can be as simple as to grant permission for an extension to permitted development rights ([as in Dudley](#)) to free up resource to deal with more complicated planning applications. Or they can be used to set the wider development parameters for a major mixed use development ([as in West Lindsey](#)). Their versatility makes them a useful tool to help demonstrate that councils are proactively addressing their responsibility to bring forward sites for delivery.

1.3 What do LDO's look like?

LDOs are usually prepared as written reports that have been developed in accordance with the relevant legislation (see section 2 and appendix 1) and that include the relevant matters set out in that legislation. They are prepared in draft, consulted upon, and only come in to effect when there has been a resolution by the LPA to make the order.

LDOs should provide a clear explanation of their purpose, the development to be permitted by the LDO and the area to which it applies. They should also contain, or cross reference through conditions, all of the ingredients that are designed to make it work. This might include setting out what those conditions are and what further approvals might be required for development to proceed. It is also common for LDOs to include guidance for future developers on what process they may be required to go through to comply with the provisions of the LDO.

1.4 The use of LDOs in England

By the end of 2018 there were over 100 LDOs that had been granted across 54 councils in England. Many of the early LDOs were for commercial type developments however, more residential schemes have come forward in recent years.

The Planning Advisory Service (PAS) has published [case study research](#) which demonstrates the versatility to which LDOs can be applied. The report provides a detailed analysis of 10 LDOs that have been chosen to demonstrate the range of land uses, and scales of development, that LDOs can cover.

The [case study report](#) shows that by the end of 2017 around 20% of the LDOs made included new build residential schemes, mixed use development and smaller scale householder developments.

[A map of England](#) highlighting all of the LDOs that had been granted to the end of 2018 has been published on the PAS website. The LDOs are shown by LPA area with a short description of their type and a link to further information. It is anticipated that the map will be updated annually and in order to demonstrate their versatility it will show all LDOs made, including those that may have since expired.

1.5 The role of this guidance document

The Government have published advice on making LDOs through the [National Planning Policy Guidance](#) ("the NPPG"). The aim of this document is to supplement the NPPG by providing more detailed practical guidance for LPAs on their development including an overview of the legislative requirements and advice on

how LDOs are designed, implemented, delivered and monitored.

This guidance and associated [case study research](#) should support LPAs in the making of their LDOs as well as provide a platform to learn from the experience of others.

2. The LDO Process - Legislative Framework

2.1 The basics

LPAs can grant planning permission for development specified in a LDO. The legislative procedures that must be followed in order to bring forward and adopt a LDO are set out in [sections 61A to 61D](#) and [Schedule 4A of the Town and Country Planning Act 1990](#), as amended, and [articles 38 and 41 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#).

A LDO can only relate to land within a LPAs area. It cannot straddle boundaries although neighbouring LPAs can bring forward separate LDOs that adjoin. LDOs may relate to:

- All land in the relevant area of a LPA;
- Any part of that land; or
- A site specified in the LDO

A LDO cannot grant planning permission for development:

- that affects a listed building;
- that is within Schedule 1 of the [Town and Country Planning \(Environmental Impact Assessment\) Regulations, 2017](#);
- where following an appropriate assessment it is determined that it would have adverse effects on the integrity of a protected European Site or European Offshore Marine Site (as the case may be) (see [the Conservation of Habitats and Species Regulations 2017](#), amended by [the Conservation of Habitats and Species and Planning \(Various Amendments\)](#))

[\(England and Wales\) Regulations 2018\)](#)

Planning permission granted by a LDO may be granted unconditionally, or subject to conditions or limitations as are specified in the order. Section 106 planning obligations cannot be required under a LDO however, this does not prevent them being offered by a developer in their response to discharge a condition. More information on what type of conditions might be included in a LDO is included at section 4.

LDOs can be time limited and LPAs may revoke or modify them at any time. The Secretary of State can also require the revision of a LDO at any point before or after its adoption.

To come in to effect a LDO must be adopted by resolution of the LPA. The Secretary of State must be notified of the adoption, via the Planning Casework Unit at PCU@communities.gov.uk as soon as practicable after the decision.

Planning permission can still be granted in the normal manner in an area that has a LDO in effect. LDOs do not supersede any planning permissions that have already been granted in the area and nor do they stop the implementation of development that is covered by other permitted development rights.

2.2 Interaction with other legislation and regulations

As set out in the Government's NPPG LDOs only grant planning permission, and do not remove the need to comply with other relevant legislation. This is relevant when making the LDO as well as for future developers in implementing development that is permitted by the LDO. For developers this means ensuring that

any other consents, permissions and permits are put in place where required. This can for example include the requirement to make a Community Infrastructure Levy (CIL) payment on implementation of a development that is permitted through a LDO.

When making the LDO compliance with the [Town and Country Planning \(Environmental Impact Assessment\) Regulations 2017](#) (as amended) will need to be considered in relation to developments that fall under Schedule 2 of those regulations. For such development LPAs should not make a LDO unless a screening opinion has been adopted or the Secretary of State has made a screening direction. If screening identifies likely significant environmental effects, then an Environmental Impact Assessment (EIA) will be required. The procedure for making a LDO for which an Environmental Statement has been prepared is set out in [regulation 32](#).

Regulation 80 of [the Conservation of Habitats and Species Regulations 2017](#) as amended by [the Conservation of Habitats and Species and Planning \(Various Amendments\) \(England and Wales\) Regulations 2018](#) must also be applied to the making of all LDOs. This states that the assessment provisions at regulation 63 apply to the making of a local development order, but that regulation 64 does not apply to the making of a local development order.

Where it is determined that the development:

- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

- (b) is not directly connected with or necessary to the management of that site,

An appropriate assessment must be made of the implications of the development for that site in view of that site's conservation objectives. The making of the LDO should only proceed where, taking account of the assessment, it can be concluded that the development will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be). The procedures for consulting on such an assessment, where this is appropriate, are set out in regulation 63.

In the event that a LDO has been made before the date on which a site becomes a European site or a European offshore marine site, LPAs must determine whether the assessment provisions in regulation 63(1) would apply as if the LDO were to be considered again.

In these circumstances authorities are required to reconsider whether an appropriate assessment is required and as soon as practical review the decision to make the order and either affirm, modify or revoke it. The procedure for this is set out in regulation 65 of [the Conservation of Habitats and Species Regulations 2017](#). Note that regulation 80(5), as amended by [the Conservation of Habitats and Species and Planning \(Various Amendments\) \(England and Wales\) Regulations 2018](#), makes clear that the reference to regulation 64 in regulation 65 does not apply to a local development order.

LPAs will also need to be alive to any changes in legislation pending the United Kingdom's exit from the European Union.

2.3 Procedures - preparation, adoption and monitoring

As set out above a LDO must be prepared in accordance with the procedures as prescribed by the legislation, as well as any other relevant legislation and regulations.

Navigating the different areas of legislation can be tricky, as well as resource intense. To help understand the legal requirements, in 2015 PAS published a checklist setting out the legal procedural requirements for making LDOs. A revised copy of this checklist is included at Appendix 1. It has been updated to make it relevant to the making of LDOs today. This checklist should help LPAs to comply with the detailed requirements of the legislation but it is still important to check for any changes to legislation that postdate the publication of this guidance.

To help provide an overview of the detail set out in appendix 1, Figure 2.(i) sets out a summary of the legislative procedures that must be followed to make and adopt a LDO.

Figure 2.(i) An overview of the procedures for making a LDO

Preparation

- Define the type of development
- Define the geographic scope
- Draft the LDO including any conditions
- Identify whether the LDO includes a Schedule 2 development and if so draft an EIA screening
- Identify whether an appropriate assessment is required taking account of whether the development is likely to have significant effects on European Sites or European Offshore Marine Sites. If it is draft an appropriate assessment in line with the regulations
- Prepare a Statement of reasons

Consultation

- For Schedule 2 development consult on the EIA screening
- Where required consult on the Environmental Statement for Schedule 2 development and if relevant an appropriate assessment where there are likely significant impacts on a European site or a European offshore site
- Place the draft LDO and statement of reasons on the planning register
- Formal Consultation on the LDO; including the prescribed bodies and any person who would have been consulted on an application for planning permission
- Publish documents on the LPAs website and make paper copies available for inspection at LPAs principal offices
- Advertise the LDO consultation in a local newspaper
- Display site notices

Adoption

- Take account of any representations and make any relevant modifications. Consult again if required.
- Adoption of a LDO must be by resolution of the LPA
- Send a copy of the adopted LDO, Statement of Reasons and any Environmental Statement to the Secretary of State
- Place a copy of the LDO and Statement of Reasons on the planning register
- Notify (although not legally required) Secretary of State of and revisions / revocation
- Set a timetable for future revision or make clear where an LDO is time limited
- In the event that a LDO has been made before the date on which a site becomes a European site or a European offshore marine site, the LPA must determine whether regulation 63(1) would apply as if the LDO were to be considered again.

3. The LDO Process - Getting Started

3.1 What issue(s) are you trying to address?

Section 2 set out the legal procedures that must be gone through to make and adopt a LDO. Clearly though, there is a process that LPA's must have gone through before these formal legislative stages are undertaken.

The initial task is to identify the geographical area and the problems, or opportunities, which the LDO is seeking to address. There should also be some level of confidence that the LDO development would be deliverable.

A key benefit of LDOs is that they are a flexible tool for local authorities to adopt a local solution to local issues. The way in which a LDO is conceptualised and developed will depend on the nature of the site and the issues that the LDO is seeking to address. The process for bringing forward the LDO should be proportionate to the type of permitted development being sought and the degree of certainty around the deliverability of the desired outcome.

We can see from the LDOs that have been progressed to date that they can be used at a variety of scales and for a diverse mix of land uses. For example they have been used to promote:

- Major housing and mixed-use development;
- Commercial development at different scales;
- Extension of permitted development rights;
- Promotion of sustainable energy solutions;

- Diversification of uses in town centres.

The grounds for bringing forward a LDO is also mixed between the LPAs that have used them. LDO's have been used to:

- Promote the regeneration of an area;
- Help address housing demand in an area;
- Promote the economic development of an area by providing the conditions for commercial development to come forward;
- Free up resource to work on more complicated planning applications;
- Bringing forward stalled and difficult sites;
- Encouraging reinvestment in town centres by aiding change of use, diversification and adaptation.

It is imperative that LPAs are clear from the outset what the issue, or opportunity, is that they are seeking to address in an area, or on a site(s), through the use of a LDO.

3.2 Objective setting

LDOs allow LPAs to be proactive and visionary in bringing forward the right kind of development for an area. This can be different to the principal functions of plan making and development management.

A LDO is an implementation tool and it is important that LPAs, in association with the wider authority, are clear in their aspirations and delivery to incentivise support for bringing one forward. Having decided what the main issue is that the LDO is seeking to address clear and measurable objectives must be set to drive the design, development, implementation and outcomes of the LDO and ensure that it remains focussed. Developing a robust evidence base to support the objectives is also important.

The driver for the LDO may not always be the planning department, it could come from other senior leadership roles from within the authority, or council Members, with the desire for it to address wider aspirations of the authority. For example [the LDO for assisted living accommodation brought forward by Swindon Borough Council](#).

LDOs can also be driven by landowners and developers who would be aided by increased certainty to bring a site forward. Whatever the driver it must be clear from the beginning what outcomes are sought and that the LDO would permit development that would be acceptable in planning terms.

Although a LDO does not have to be supported by a specific development plan policy, it will give it more strength if the policy intent is already set out and supported by evidence. This can help to provide more certainty on the form of development that would be permitted through a LDO.

The 2018 [case study report](#) published alongside this guidance highlights the objectives that each of the participating LPA's set when bringing forward their LDOs. They are mixed, as would be expected given the variety of development types, but some common themes emerge. Key LDO objectives include:

- To deliver high quality sustainable development;
- To support regeneration;
- To bring forward residential development;
- To contribute to a range of housing types;
- To bring forward development on brownfield sites;
- To enable accelerated delivery;
- To provide improved and accessible public realm;

- To maximise viability of the site;
- To set out parameters for design based on the sites characteristics;
- To enable business development;
- To simplify the process for minor works;
- To speed up and simplify the process for residential self-builders;
- To streamline the process for householder development;
- To promote vitality and a wider mix of uses in town centres.

3.3 Early engagement

A fundamental component of developing and delivering a LDO is to ensure that there is effective engagement with all relevant stakeholders. This is likely to include officers from across the council, neighbouring authorities, landowners, developers, statutory consultees, the local community and other interested parties.

LDOs are often designed and led by the LPAs planning policy team however the input of development management officers is imperative to ensuring that all of the issues that would be considered as part of a planning application are dealt with. The role of monitoring officers is also important as they will be able to help provide the necessary evidence to justify bringing forward the LDO, as well as monitor the impact of adopted LDOs over time.

It is not only planning staff who should be involved in its development. The LDO will benefit from strong inter-departmental working and early engagement with Members and external stakeholders. This is critical to ensuring that considerations from key stakeholders can be taken in to account and that the vision and objectives are developed with their support.

Early engagement with the community, both to explain the objectives and to

ensure that their input on ideas and aspirations are taken account of, is also very important. LPAs experience of LDOs is that engagement of the ward Members early on in the process has often been key to successful two way conversations with the community reducing misunderstandings and promoting community aspirations for the site or area.

LDOs should be based on a cohesive and collaborative partnership approach to development. The extent of engagement will be dependent upon the type of LDO, where some will be aimed at achieving change across a wide area whilst others may be focussed on specific sites, their owners and developers. Each will require an approach to consultation that is proportionate to the outcomes and which garners support for the concept of the LDO and its objectives, both among the direct participants and wider stakeholders.

Informal consultation at the outset also provides an opportunity to discuss the potential to share the cost of preparing a LDO with landowners who would benefit from the simplified planning process being put in place.

3.4 Resources

The amount of time and resource that is required to bring forward a LDO will be dependent on the complexity of the site and the development proposed. It is important from the start to ensure that there is sufficient capacity to prepare and deliver the LDO.

This includes consideration of whether specialist support will need to be commissioned to inform the design and development of the LDO. This might include for example the procurement of consultants for matters like site investigation and analysis, environmental impact assessments, or advice from

specialist agencies such as the Environment Agency and Historic England.

The financial cost of bringing forward a LDO will also be dependent upon the scale and form of development and it is likely that more complex proposals will require greater financial resource. This is likely to be coupled with a loss of income from planning applications where that loss will be greater for larger and more complex LDO development(s).

The upfront investment required by LPAs, at whatever scale of development(s), and the associated loss of planning fee income must however be considered and balanced against the following benefits:

- The costs of preparation can be recovered, at least in part, where a fee for developers for submissions seeking conformity with the LDO and conditions can be charged (see section 5 on implementation);
- There is a potential for cost sharing with the landowner and / or developer during the preparation of the LDO especially where specific site studies are required; and
- The longer term benefits of delivering the right development in the right places and achieving sustainable development. This is likely to help meet local needs, stimulate economic growth, secure developer contributions for infrastructure and other policy requirements like affordable housing, and deliver an increased council tax base and business rates.

The long term benefits outlined above are likely to far outweigh the upfront costs and loss of planning application fees.

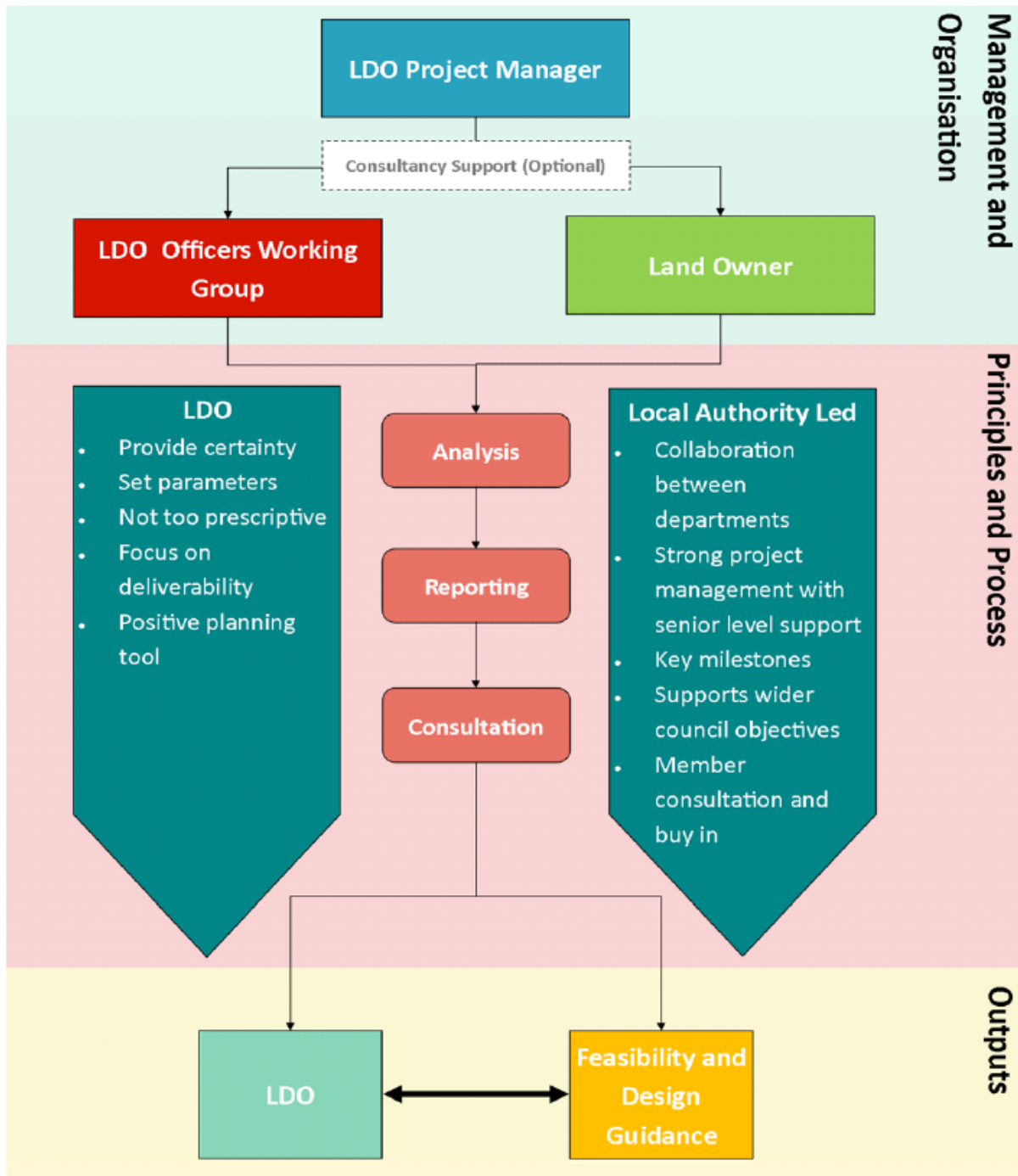
3.5 Project management

Strong leadership is critical, ensuring that senior officers and Members understand the LDO process and are committed to the outcomes will help to encourage engagement more widely and ensure that the necessary resources to deliver a LDO are in place. Ideally LPAs should assign a senior officer from their authority's leadership team to the role of Project Director to ensure that it has the exposure, and the buy in, of the wider authority.

It is recommended that a clear management structure and project plan is put in place for the development and making of a LDO. This includes setting up a multi-disciplined officer working group that can oversee its design and development. The group should include Planning Policy and Development Management as well as other service areas as deemed relevant. Depending on the nature of the site and type of LDO it may also be appropriate to invite external statutory consultees and upper-tier authorities to the group.

Figure 3.(i) provides an example of a management structure for the making of a LDO. Put in place at the outset of the project, it shows how this can help oversee the development of LDO objectives; stakeholder engagement; the production of evidence and the outputs. The structure has been informed through discussions over time with authorities who have brought forward LDOs.

Figure 3.(i) Example LPA management structure for making of a LDO



4. The LDO Process - Design and development

4.1 Preparing the LDO template and statement of reasons

LPAs proposing to make a LDO must first prepare:

- (a) a draft of the order; and
- (b) a statement of the reasons for making the order.

The statement of reasons must contain:

- (a) a description of the development which the order would permit; and
- (b) a plan or statement identifying the land to which the order would relate.

In practice LDOs and the statement of reasons are often combined by including them together in an overarching report that covers all of the relevant matters required by legislation (see section 2 and appendix 1). These reports usually go beyond the minimum level of information that is required by legislation to guide in more detail the conditions of the LDO development. In addition they can be used to set out the background to bringing forward the LDO as well detail the progress that has been made through the various stages towards adoption.

The statement of reasons should be key in explaining the justification for bringing forward a LDO. This should therefore be written clearly and expressed in language that will be meaningful to the local community. This includes setting the context of development on the LDO land to any wider policy framework or aspirations for the area that would also

help in the understanding of why the LDO is being brought forward.

Preparing a template of what information is required to inform the draft LDO and statement of reasons at the start of the process will help guide their development. Having considered the LDOs that have been brought forward to date, figure 4.(i) sets out a typical template for a report that incorporates both the LDO and the statement of reasons. This is illustrative and for guidance only. LPAs are not bound by this format and must develop LDOs and their statement of reasons as best fits the particular local circumstances, whilst also ensuring that all legislative requirements are met.

Figure 4.(i) – Example template LDO

Section of the LDO	Detail to be included
Introduction	Purpose of the LDO LDO principles Other consents Development and consultation process
Background of the site	Description of the LDO site and surroundings History of the site Development Considerations <ul style="list-style-type: none"> - Access - Urban design considerations - Highways - Flood Risk - Ecology - Archaeology - Ground Conditions and Contamination - Environmental mitigation
Statement of reasons	Plan or statement identifying the site General description of development permitted Overall objective for the LDO and justification Relevant policy considerations Environmental context Environmental impact assessment (if applicable) informing development options
The Local development order	LDO site boundary Detailed description of development permitted by the LDO Lifetime of the LDO Conditions including any design codes Developer contributions (including heads of terms / CIL) Conformity processes (process and costs of submission)
Supporting materials	As appropriate to guide prospective developers using evidence and site studies that may already exist or which have been undertaken during the preparation of the LDO. For example: <ul style="list-style-type: none"> - Design options - Site investigation - Highways access - Groundworks - Landscaping - Public realm

Below is further advice aimed at helping LPAs understand more about what matters should be included in the LDO and statement of reasons and what work might be required to inform them.

4.2 Identifying the geographical area

The LDO must specify the land that will be affected. The geographical area over which a LDO can apply to includes:

- All land in the relevant area of the LPA;
- Any part of that land; or
- A site specified in the LDO

While a LDO cannot cross a LPAs administrative boundary, it is possible for neighbouring sites to be covered provided that each LPA affected makes a LDO on the part of the land that is in their control.

The geographical scale of proposed LDOs should be carefully considered, as this will have a direct relationship with the level of detail and specificity which should be included in the LDO. This includes considering the relationship of the scale of the LDO with the quantum of development which might be permitted through it, its type and the significance of potential impacts and whether an EIA and / or an appropriate assessment is required (see section 2 and appendix 1).

4.3 Specifying the development(s) to be permitted

LDOs can operate at a variety of scales and can be made to achieve a variety of objectives. They must specify the type of development(s) that will be granted permission.

Legislation is not prescriptive in relation to the way LDO development is described,

or how restrictions are expressed. Notwithstanding, to provide clarity a LDO should include what the planning use class of the permitted development(s) are, as defined by [The Town and Country Planning \(Use Classes\) Order 1987](#) (as amended), and a description of what operational development(s) would be permitted.

In setting out the description of development some LPAs have also chosen to reference the constraints on development. For example by stipulating that development will only be permitted through the LDO where it demonstrates compliance with specific conditions that form part of the order.

The flexibility of how development is described enables the council to set out clearly what it is seeking to achieve in response to the circumstances of a particular site. This in turn helps to promote specific behaviour by developers that will help to drive the delivery of the right development for the site and the desired outcomes.

It is important to imagine what the area will be like following the implementation of the LDO. This will help in ensuring that the specification of permitted development is clear and that any potential unintended consequences are considered. For example:

- What might have been inadvertently excluded but should be allowed?
- What might be included that was not expected or intended?
- Changes in activity levels that may arise from the permitted development; and.
- Will the LDO result in subsequent unintended impacts?

4.4 Deliverability

Understanding why development has not already come forward on a site is important. To address this it may be necessary to develop information similar to what would be necessary to support a planning application. For example, if there are particular site condition issues like land contamination it may be prudent for LPAs to carry out a site investigation before designing the form of the permitted development(s).

Such studies can help to shape the form of development as well as determine whether there are any absolute constraints to development on the site. This will also help inform whether there are any factors that would have a bearing on the viability of bringing the site forward.

LPAs should have confidence that the development for which permission will be given is deliverable in the timeframe specified by the order. It is important that there is an understanding of the market conditions and development economics for bringing forward the permitted development. This is especially important where the LDO is of such a scale that it has required significant resources to set it up.

Where necessary viability assessments should be used at an early stage in the making of a LDO to ensure that the development permitted is realistic and deliverable. Such assessments should take in to account any conditions or contributions that are likely to be required as part of future developments.

The approach to viability assessment should be in line with the standard approach set out in the Government's [National Planning Policy Guidance on viability](#) and it should be used to help inform the development and design of the

LDO. The outcomes of an assessment should not compromise sustainable development but should be used to ensure that the development being sought is realistic, and that the total cumulative cost of all relevant conditions will not undermine deliverability.

4.5 Lifetime of the LDO

LDOs can grant permission for development indefinitely or for a time limited period. It should be specified within the LDO which applies and where it is time limited the LDO should include the date on which it will be reviewed, or cease to have effect.

Where a LDO is made indefinitely LPAs are required to formally withdraw the order for it to no longer apply. It may therefore be worth making the LDO time limited to allow for a review of its operation over time. This may also be a way to achieve flexibility. It is important that LDOs do not constrain opportunities to respond to future development demands or to keep up to date with changes in technology or new standards.

4.6 Dealing with Design

Setting out requirements in a LDO related to the design of development can be the most sensitive and potentially controversial aspect of the LDO process.

Assuring council Members and the community that the resultant development will create high quality buildings and places will be key to gaining their support for the making of the LDO as well as helping them to understand the benefits of this planning tool. Good design is a fundamental aspect of sustainable development, by helping to create better places in which people want to live and work.

Being clear about the design expectations, and how they will be tested through the LDO process, is likely to be a fundamental element of the development of the LDO. Ideally a coherent design vision should be developed in collaboration with key stakeholders, including the local community to reflect local aspirations for the site. The level of detail and degree of prescription would need to be tailored to the type and scale of development that would be permitted through the LDO as well as to the local character of the area.

Many LDOs brought forward to date have made use of design codes and design frameworks to set out what the LDO will permit. This approach is helpful to potential developers as they are clear in the LPAs expectations for the site and also provides assurances to council Members and the local community that the LDO will provide a framework for an acceptable form of development.

Design codes and frameworks are a way of attaching a set of design 'rules' for the development as proposals will be required to comply with them in order to benefit from the permission granted by the LDO. They can be attached to the LDO by condition (see below) and LPAs can require prior approval of proposals to ensure that they comply.

Design codes can be used to guide the layout and form of development as well as details of materials. Caution should be had to not define a code so tightly that it prevents flexibility within the LDO and thereby removes one of their main benefits. With most development sites, the council and communities are likely to be satisfied with a number of approaches to layout and design. The design code should set therefore out the relevant parameters but be flexible enough to respond to this. As a general principle,

there should be a number of acceptable design solutions that can be developed under a LDO.

A good example of where LDO development is required to adhere to a masterplan for the site and design code whilst providing appropriate flexibility is the [self-build housing at Graven Hill, Bicester](#). Here the LDO has enabled the developer to encourage bespoke design for self-build plots through a 'plot passports' concept, which set out the parameters of the LDO design code for specific plots whilst not inhibiting individual design.

Developing a design code and framework will require upfront investment by LPAs in relation to time and resource. As set out above, this should be balanced against the benefits of the LDO including increased speed and certainty of delivery on the site. LPAs should also have regard to any pre-existing design guidance, or earlier studies / planning applications for the site which may have established principles or design ideas that remain relevant. For example, the [Graven Hill LDO](#) was established against a masterplan that was approved as part of an outline planning permission for the site in 2014.

4.7 Other development considerations

Design codes, frameworks and technical reports can also be used to guide other development considerations including, but not limited to:

- Site access and highways;
- Flood risk and drainage;
- Landscape;
- Green-blue infrastructure;
- Telecommunications infrastructure;
- Ecology;
- Archaeology;

The above are all examples of where additional information might be developed by LPAs, or landowner / developer, to help support the requirements of the LDO and guide the appropriate form of development.

4.8 Managing conditions

Conditions can be imposed on development permitted through a LDO in much the same way as the Secretary of State can impose conditions on permitted development rights in the general Permitted Development Order. The conditions should be considered again the requirements of [paragraph 55 of the NPPF](#) in that they should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Conditions attached to LDOs may set out the parameters for acceptable forms of development. For example, they may set time limits for the completion or commencement of development or maximum heights in relation to buildings.

Conditions can also be used to set out the process by which specific details of the development are to be considered. This might include for example, proposals being required to be approved by LPAs prior to development, or for them to certify compliance with the LDO. For example, matters of detailed design may be reserved by condition including the form of development and landscaping.

In practice, most LPAs have imposed conditions that require developers to submit details to them to provide a formal certificate of compliance or prior approval that the development complies with the terms of the LDO. LPAs have mostly

developed their own approach to follow on approvals and some have included an obligation on themselves to ensure that they deal with submissions in a specified time period. This has helped to provide further assurances of their commitment to bringing forward development on the site.

When considering the imposition of conditions LPAs must be alive to the fact that LDOs are used to help simplify the process and speed up delivery. Conditions that require details to be approved prior to development commencing should only therefore be imposed where there is clear justification. They should also be supported by clear guidance on what the appropriate forms of development are to help guide developers, for example through design codes and other types of supporting information as outlined above.

4.9 Developer contributions

Section 106 planning obligations - As set out in the [NPPG](#) Section 106 planning obligations cannot be required under a Local Development Order. This does not however prevent section 106 agreements being offered by a developer. For example, if a condition attached to a Local Development Order requires mitigation of an impact from development then a section 106 agreement could be used to secure this.

LDOs should set out where section 106 obligations may be used to address the impacts of the permitted development. This should take into consideration onsite and offsite impacts to be mitigated.

Community Infrastructure Levy (CIL) – Development carried out pursuant to a LDO might be liable to pay CIL where the LPA has an adopted charging schedule. It would be helpful in the making of the LDO to set out the position of the authority on

the date that the LDO is adopted with an informative that this position could change. Any CIL liable will be payable when the development is commenced and developers will be required to submit to the LPA the necessary CIL forms prior to commencement. The duty is on the developer in the first instance to make sure that all of the necessary CIL procedures are met and that LPAs are notified of development prior to commencement.

The clearer and more certain the requirements for developer contributions are set out in the LDO, the easier it will be to ensure that they are considered in the viability of the LDO development. More certainty will also be afforded to future developers to factor them in as development costs and for the price of land to accurately reflect the cost of bringing development forward on the site.

4.10 Environmental considerations

LDOs have the effect of granting planning permission for potentially all specified types of development within the defined area. Depending on the type of developments permitted by the LDO, they may individually or cumulatively trigger consideration of an Environmental Impact Assessment (EIA).

Section 2 and appendix 1 of this guidance document clarifies that in making a LDO compliance with the [Town and Country Planning \(Environmental Impact Assessment\) Regulations 2017](#) (as amended) will need to be considered in relation to developments that fall under Schedule 2 of those regulations.

Section 2 also clarifies that that the assessment provisions set out in regulation 63 of [The Conservation of Habitats and Species Regulations 2017](#)

and as amended by [The Conservation of Habitats and Species and Planning \(Various Amendments\) \(England and Wales\) Regulations 2018](#) must be applied to the making of all LDOs.

The outcome of these assessment processes should be taken in to consideration before deciding whether to progress with the LDO. Where relevant their findings should help to shape the development of LDOs, inform the conditions that will be attached to them and ultimately guide the appropriate form of development(s).

5. The LDO Process - Implementation

5.1 Consultation and publicity

Having prepared the draft LDO and statement of reasons LPAs are required to make copies of the draft LDO, statement of reasons and other supplementary information available on the Planning Register. The documents must also be published on the LPAs website and publish the intention to make the order in a local newspaper and display site notices in visible locations near to the site. Paper copies must also be made available for inspection at the LPAs principal offices.

At this stage LPAs must consult on the draft LDO and statement of reasons with a range of bodies and people whose interests would be affected by the order if made. The relevant legislation for determining how this should be undertaken is set out in section 2 and appendix 1 of this guidance document.

These are the formal legislative requirements and should supplement, not replace, the engagement that is needed with key stakeholders throughout the process. Experience from the making of LDOs to date has demonstrated the benefits of early engagement with key stakeholders, including the community, on helping to inform the development of the LDO. This should also ensure that no unexpected issues arise at the formal consultation stage that could prejudice the delivery of the LDO.

Table A2 in appendix 1, sets out in more detail the relevant parties that should be sent copies of the draft LDO and statement of reasons and invited to make comments. This includes any person who would be consulted in regard to a planning

application for the same development. In practice this has caused some issues for LPAs where the LDOs have been proposed to cover large areas. In these circumstances LPAs should be guided by their statement of community involvement (SCI) in the first instance and this may need to be supplemented by further area specific stakeholder mapping to capture key stakeholders in the area.

The consultation period should be a minimum of 28 days and the relevant dates must be stated in the consultation notifications. Following consideration of any representations made LPAs must in considering what modifications should be made to the draft LDO, or whether such an order should be adopted, take into account any representations made in relation to that order.

5.2 Adoption and notification to the Secretary of State

LPAs must make a resolution to adopt LDOs in order for them to take effect. How this is determined will be dependent upon the constitution of individual LPAs and schemes of delegation. It is recommended that the requirements for obtaining this resolution are factored in to the planning of the LDO to ensure that any relevant committee cycles are taken account of.

When the decision to adopt has been made a copy of the LDO, the statement of reasons relating to the making of that order, and any Environmental Statement (if applicable) should be sent to the Secretary of State as soon as reasonably practicable, and no later than 28 days, after the adoption of the order.

5.3 Planning Register

A copy of made LDOs and their statement of reasons must be placed on the

Planning Register within 14 days of the date of adoption.

LPAs must ensure that they supplement their existing Planning Register of applications, with a 'Part 3' for LDOs. Part 3 of the register must consist of 2 sections.

Section 1 must contain the copies of draft LDOs which have been prepared but not adopted by the authority, and their statement of reasons.

Section 2 must contain:

- copies of LDOs which have been adopted, their statement of reasons and (if applicable) Environmental Statement, screening opinion and any directions from the Secretary of State;
- particulars of the revocation of any LDO made by the LPA including the date on which the revocation took effect; and
- particulars of the revision of any LDO, including the date on which the revision took effect.

5.4 Promotion

It is important when the LDO has been drafted and adopted that the investment by councils making the order does not stop there. The very premise of a LDO is to encourage in a proactive and positive manner the bringing forward of appropriate development in the right places. It is therefore critical on adoption to have an ongoing communications strategy in place to ensure that the LDO and its benefits are assuredly promoted.

A communications strategy should:

- Ensure that the provisions of the LDO are understood internally by staff from relevant departments;
- Publish an easy to understand guide to the LDO that would be useful for the

public, council Members and staff; and interested developers and landowners;

- Develop and promote content on the LDO in the same way an LPA might promote a mini area action plan; and
- The making of a LDO is a good news story. Be up front - be proud – and prepare press releases. Encourage the affected community to discuss the project.

A communications strategy could also be used to scope and support communication in the project planning phases of the development of the LDO.

6. The LDO Process - Delivery

6.1 Monitoring

Effective monitoring is at the heart of the planning system and is integral to the understanding of whether policy objectives are being met and if appropriate development is being delivered in the right places. It is critical in providing the relevant evidence to shape the form of policies and strategies as well as support the requirements of specific planning applications. It drives the direction of planning and is a function that should not be overlooked.

Whilst there is no longer a formal requirement to prepare an annual report on the implementation of a LDO it is still strongly recommended that its progress is closely monitored. Monitoring and evaluating the status of implementation of the LDO is as important as identifying and developing the initial objectives that it is seeking to address.

Monitoring should provide a mechanism for reporting on the impact that the LDO is having on the area affected and where relevant on the implementation of development plan policies that the LPA are seeking to deliver through the LDO. This could also include referencing the benefits that have been derived as well as any challenges or obstacles that may have been encountered. Ideally LDOs should be accompanied by clear performance objectives that can be used to monitor progress.

By continuing to reflect on the experience of the LDO LPAs will learn how they should be managed to assist in delivery. This will also help inform the ongoing communications strategy.

Monitoring and evaluating LDOs may lead to decisions to review, modify or revoke them. It is a legitimate process to deviate from the original form of the LDO providing that the reasons for change are understood and that the LDO is updated to reflect any new objectives.

6.2 Review, modify or revoke

Adopted LDOs may be reviewed, modified or revoked at any time. The Secretary of State may also direct LPAs to prepare a revision of an adopted LDO or revoke a LDO if it thinks it is expedient to do so, stating its reasons for doing so.

Reviews of LDOs should be informed by the monitoring evidence and consideration should be given on whether they are meeting their original policy objectives and / or whether those objective have become out of date.

It is helpful to remember that development will remain in place beyond the timescale of the LDO and that it is good practice to make clear the period of time for which the LDO will be effective along with any future review dates. These should be far enough forward that they advance a commitment by the LPA to the bringing forward development on the site, and thereby facilitating investor confidence, but flexible enough that they can positively respond to change.

LPAs may revoke a LDO at any time. Where a LPA revokes a LDO they must publish a statement on their website to this effect and give notice of the revocation by local advertisement. Written notice of the revocation must also be given to every person whom the LPA consulted before adopting the LDO.

As a further reminder to the information set out in section 2, LPAs must reconsider

a LDO where the site to which it effects later becomes designated as a European site or a European offshore marine site. In such instances LPAs must consider whether an appropriate assessment is required and as soon as practical review the decision to make the order and either affirm, modify or revoke it.

6.3 Enforcement

Failure to comply with conditions attached to a LDO are enforceable by LPAs in the normal way. It is important therefore to ensure that the specification of development permitted through the LDO is clear and sufficient for developers to understand what the parameters for development are.

Any design codes or guidance that forms part of the LDO and its conditions must therefore be sufficiently detailed so as to allow for the clear interpretation of what is allowed under the LDO. Care does however need to be taken to maintain a degree of flexibility and to not over specify the form of development. An appropriate balance therefore needs to be struck. The level of guidance will be dependent on the particular circumstances of a LDO and they scale and type of development involved.

7. Conclusions

7.1 Key messages

This guidance document and associated [case study research](#) have highlighted and evidenced the significant opportunities and benefits of LDOs. They allow LPAs to positively plan for their areas by granting permission in advance of development for specific classes, types or individual development on the appropriate sites in their area and at different scales.

They provide a flexible tool that can help LPAs to bring forward more land in the right places to meet local needs and to contribute to the government's target of 300,000 net additional homes a year by the mid 2020's and beyond. They are consistent with the drive to make the planning system more efficient and speed up delivery and whilst they may require a varying level of resource to set them up, the long term benefits are likely to outweigh any upfront costs.

As well as guiding major developments they can be used by LPAs to free up resource by granting permission for uncontentious minor development. They might also be used to drive reinvestment in struggling town centres by facilitating the diversification of uses.

The process for developing and adopting LDOs is set out in this document and there is notably some flexibility on the approach that can be taken, whilst also ensuring that the relevant legislative requirements are met. In considering this guidance document, the [case study research](#) and previous studies by the Planning Advisory Services there are some core principles that should be followed for the development of LDOs. These include:

- Making sure that the LDO is informed by clear objectives;
- Early engagement with all key stakeholders;
- Ensuring that sites are deliverable;
- Developing a clear project plan and having the appropriate project management in place;
- Keeping it simple – do not put the delivery of the LDO at risk by making the terms of it overly complicated;
- Consider potential unintended consequences of the development and address the impacts of these;
- Ensure that supporting information is developed and used to inform the LDO including where appropriate the use of environmental impact assessment and appropriate assessment;
- Encourage investor confidence by having a clear commitment to timely discharge of conditions or the granting of prior approval;
- Consider how costs can be recovered through partnership working and imposition of a reasonable fee on compliance / condition applications;
- Have a clear communications strategy both internally for officers and council Members, as well as for external stakeholders;
- Ensure that the impact of the LDO is effectively monitored to inform its review; and
- Integrate LDO preparation and delivery with other plan related activities and policy development.

LDOs provide LPAs with the opportunity to shape the development of appropriate sites / areas in much more detail that might be facilitated through a local plan, site allocation or planning brief. Government are keen to encourage this freedom to be exercised by LPAs, allowing them to creatively plan for development in their area that meets local social, economic and environmental

priorities whilst also addressing critically important national objectives. This is an advantage that LPAs have afforded to them and one that should be embraced.

Appendix 1 – The legal procedures for making a LDO

Appendix 1 sets out the legal responsibilities and timeframes for a LPAs work on bringing forward a LDO for adoption. It aims to consolidate the relevant legal requirements into one place and signposts to the relevant acts and regulations to assist LPAs in producing compliant LDOs.

Interpretation for the purposes of understanding Appendix 1:

- The Town and Country Planning Act 1990 (as amended) is referred to as the '1990 Act'.
- The Town and Country Planning (Development Management Procedure) (England) Order 2015 is referred to as the 'DMPO 2015'.
- This guide relates to England only.
- Text in italics is taken directly from the relevant legislation and regulations.

Abbreviations used in Appendix 1:

- LDO Local Development Order
- LPA Local Planning Authority
- EIA Environmental Impact Assessment pursuant to the [Town and Country Planning \(Environmental Impact Assessment\) Regulations, 2017](#) as amended.

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- Table A2: LDO Consultation
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- Table A7: Maintaining a Register of LDOs
- Table A8: Intervention by the Secretary of State
- Table A9: LDOs and Environmental Impact Assessment

Table A1 – LDO Preparation

Stage – LDO Preparation	Description	Relevant Legislation and Regulations
Draft the LDO	Where a local planning authority proposes to make a LDO they must first prepare a draft of the order.	DMPO 2015 Article 38 (1)
Define the development and/or use class	A LDO may grant planning permission for development specified in the order or for development of any use class specified. The LDO will need to be specific regarding what is covered and what the Council’s intentions are for the area.	1990 Act Section 61A (2)
Define the geographic scope	<p>A LDO may relate to all land in the area of the local planning authority; any specific part of the local planning authority’s area; or any specific site. A LDO cannot cross LPA boundaries. Where this is desirable, LPAs would need to adopt separate but adjoining LDOs within their respective boundaries.</p> <p>A LDO may also make different provision for different areas of land. This could include land bounded by a geographical area or a series of defined sites which may be identified by their address and shown on a plan. The LDO will need to state clearly and map where different uses/developments would be granted planning permission.</p>	<p>1990 Act Section 61A (3)</p> <p>1990 Act Section 61A (4)</p>
Ensure no Listed Buildings are affected	A LDO must not be made so as to grant planning permission for development affecting a listed building.	DMPO 2015 Article 38 (12)
Screen against EIA Regulations	<p>A LDO must not be made so as to grant planning permission for development which is Schedule 1 development within the meaning of regulation 2(1) and Schedule 1 of the 2017 Regulations.</p> <p>If the LDO comprises Schedule 2 development see Table A.9 for details of the relevant procedures.</p>	<p>DMPO 2015 Article 38 (12)</p> <p>The Town and Country Planning (Environmental Impact Assessment)</p>

Stage – LDO Preparation	Description	Relevant Legislation and Regulations
		Regulations 2017 (as amended) Schedule 1 and 2
<p>Determine whether there are likely to be significant effects on a European site or a European offshore marine site and if so carry out an appropriate assessment</p>	<p>If the development is:</p> <p>(a) likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and</p> <p>(b) is not directly connected with or necessary to the management of that site,</p> <p>The authority must make an appropriate assessment of the implications of the development for that site in view of that site’s conservation objectives. The making of the LDO should only proceed where, taking account of the assessment, it can be concluded that the development would not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).</p> <p>Regulation 80 must be applied to the making of all LDOs. This states that the assessment provisions at regulation 63 apply to the making of a local development order, but that regulation 64 does not apply to the making of a local development order. Regard should be had to the manner in which the development is proposed to be carried out and to any conditions or restrictions subject to which the LDO will be made.</p> <p>“European sites” are defined in regulation 8.</p> <p>A “European offshore marine site” is defined in regulation 18.</p>	<p>The Conservation of Habitats and Species Regulations 2017 Regulation 80, amended by the Conservation of Habitats and Species and Planning (Various Amendments) Regulations 2018</p> <p>The Conservation of Habitats and Species Regulations 2017 (as amended) Regulation 8</p> <p>The Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) Regulation 18</p>

Stage – LDO Preparation	Description	Relevant Legislation and Regulations
Specify any procedural information	<p>A LDO can also include information regarding the process of consideration, adoption, revision, revocation and withdrawal of the LDO.</p> <p>The LDO may therefore be time-limited which may be useful for fast developing areas. (see Table A.6 for details).</p>	1990 Act Schedule 4A (1)
Specify the conditions (if any) of planning permission	<p>Planning permission granted by a LDO may be granted either unconditionally or subject to conditions or limitations as specified in the order. The order can direct that the permission does not apply in particular areas or for particular types of development within the LDO area.</p> <p>In practice this can also be interpreted to include procedural conditions that define the process which a developer is required to take in order to avail him/herself of the permission granted in the LDO; for example to submit a notice or to submit an application for prior approval. The conditions can also set out further criteria such as design parameters to define the external appearance, bulk and massing and access arrangements of the development granted permission by the LDO.</p> <p>Conditions imposed on a LDO are not subject to the deemed consent provisions if the LPA fails to discharge an application for discharge or approval of details within the specified period.</p>	<p>1990 Act Section 61C (1) and (2)</p> <p>DMPO 2015 Schedule 6 (10) (c)</p>
Statement of Reasons	Where a local planning authority proposes to make a LDO they must first prepare a statement of their reasons for making the order. This must contain a description of the development which the order would permit; and a plan or statement identifying the land to which the order would relate.	DMPO 2015 Article 38 (1)

Stage – LDO Preparation	Description	Relevant Legislation and Regulations
	<p>The LDO does not need to implement adopted policy in the Development Plan.</p> <p>N.B. Whilst it is not specified in the regulations as a requirement, it may be prudent to specify the envisaged duration of the LDO, if it is permanent, or any ‘sunset period’ (when it ceases to apply). This could be linked to a review period (see Table A.6 for details).</p>	<p>1990 Act Section 61A (1) as amended by the Planning Act 2008 Section 188</p>
<p>Screen Schedule 2 development for likely significant effects</p>	<p>Where the LDO seeks to grant permission for development that falls within the thresholds specified in Schedule 2 of the EIA Regulations 2017, the LPA shall not make a LDO unless they have adopted a screening opinion or the Secretary of State has made a screening direction (see Table A.9 for details).</p>	<p>The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) Regulation 32</p>

Table A2 – LDO Consultation

Stage – LDO Consultation	Description	Relevant Legislation and Regulations
<p>Consultation with the prescribed bodies</p>	<p>Where a local planning authority has prepared a draft LDO, they must consult the following persons whose interests the authority consider would be affected by the order if made:</p> <p><i>(a) the Mayor of London (if the local planning authority is a London borough council);</i> <i>(b) a local planning authority, county council or parish council any part of whose area is in or adjoins the area of the local planning authority;</i> <i>(c) Natural England;</i> <i>(d) the Environment Agency;</i> <i>(e) Historic England;</i> <i>(f) where the Secretary of State is the highway authority for any highway in the area of the local planning authority, the Secretary of State for Transport;</i> <i>(g) a strategic highways company any part of whose area is in or adjoins the area of the local planning authority;</i> <i>(h) any person—</i> <i>(i) to whom the electronic communications code applies by virtue of a direction given under section 106(3)(a) of the Communications Act 2003 (application of the electronic communications code)(5);</i> <i>and</i> <i>(ii) who owns or controls electronic communications apparatus situated in any part of the area of the local planning authority;</i> <i>(i) any of the following persons who exercise functions in any part of the area of the local planning authority—</i> <i>(i) a clinical commissioning group;</i> <i>(ii) the National Health Service Commissioning Board;</i> <i>(iii) a person to whom a licence has been granted under section 6(1)(b) and (c) of the Electricity Act 1989 (licences authorising supply, etc);</i></p>	<p>DMPO 2015 Article 38 (3)</p>

Stage – LDO Consultation	Description	Relevant Legislation and Regulations
	<p>(iv) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986 (licensing of gas transporters);</p> <p>(v) a sewerage undertaker;</p> <p>(vi) a water undertaker;</p> <p>(j) voluntary bodies some or all of whose activities benefit any part of the local planning authority's area;</p> <p>(k) bodies which represent the interests of persons who share a protected characteristic in the local planning authority's area;</p> <p>(l) bodies which represent the interests of persons carrying on business in the local planning authority's area.</p>	
<p>Consult any person affected by the LDO as per a conventional planning application</p>	<p>The LPA must also consult any person with whom they would have been required to consult on an application for planning permission for the development proposed to be permitted by the order. This would be the entire authority if promoting an authority-wide LDO.</p> <p>Councils should have consideration for the requirements of the Statement of Community Involvement both in the preparation of a LDO and in undertaking formal consultation. The Statement of Community Involvement is a statement of the authority's policy as to the involvement of "<i>persons who appear to the authority to have an interest in matters relating to development in their area</i>" in the exercise of the authority's functions for the production of Development Plan Documents and the control of development under Part 3 of the 1990 Act. Development Orders and planning permissions both fall under Part 3.</p>	<p>DMPO 2015 Article 38 (4)</p> <p>Planning and Compulsory Purchase Act 2004 s18 (2)</p>
<p>Place the draft LDO and Statement of Reasons on the planning register</p>	<p>A copy of each draft LDO and the Statement of Reasons must be placed on the planning register when the draft is sent for consultation (see Table A.7)</p>	<p>DMPO 2015 Article 41 (4) and (5)</p>

Stage – LDO Consultation	Description	Relevant Legislation and Regulations
Consultation requirements	In undertaking the consultation, the local planning authority must: <ul style="list-style-type: none"> • send a copy of the draft order and the Statement of Reasons to the consultees; • specify a consultation period of not less than 28 days; and • take account of all representations received by them during the period specified. 	DMPO 2015 Article 38 (5)
Make the LDO, Statement of Reasons and Environmental Statement available.	During consultation the local planning authority must make a copy of the draft LDO, the Environmental Statement (if required) and Statement of Reasons available for inspection at their principal office during normal working hours; and at such other places within their area as they consider appropriate.	DMPO 2015 Article 38 (6)

Table A3: LDO Publicity

Stage – LDO Publicity	Description	Relevant Legislation and Regulations
<p>Publish on the website</p>	<p>LPAs are required to publish on their website:</p> <ul style="list-style-type: none"> • the draft LDO, • the Environmental Statement (if applicable) • the Statement of Reasons; • a statement that those documents are available for inspection and the places where and times when they can be inspected; and • the date by which representations on the draft LDO must be received, which must be at least 28 days after publication on the website. 	<p>DMPO 2015 Article 38 (6)</p>
<p>Publish in the local newspaper</p>	<p>Publish in as many newspapers as will ensure that the press coverage (taken as a whole) extends to the whole of the area to which the LDO relates:</p> <ul style="list-style-type: none"> • the draft LDO • the Environmental Statement (if applicable) • the Statement of Reasons • the availability of those documents for inspection, and the places where and times when they can be inspected; and • the date by which representations on the draft LDO must be received, which must be at least 28 days after the notification was first published. 	<p>DMPO 2015 Article 38 (6) and (14)</p>
<p>Site display, serve notice on landowners and tenants, and take reasonable steps to protect the notice.</p>	<p>The LPA must give notice of their proposal to make the order by site display in at least one place on or near to the site to which the order relates a notice in the appropriate form set out in Schedule 7 (or in a form substantially to the same effect), and, leaving the notice in position for a period of not less than 28 days beginning with the date on which it is first displayed by site display.</p>	<p>DMPO 2015 Article 38 (7) (8) and Schedule 7</p>

Stage – LDO Publicity	Description	Relevant Legislation and Regulations
	<p>Where the notice is removed, obscured or defaced before the period referred to in that paragraph has elapsed, the authority is treated as having complied with the requirements of that paragraph if they have taken reasonable steps for the protection of the notice, and, if necessary, its replacement.</p> <p>The LPA is to serve a copy of that notice on every person whom the authority knows to be the owner or tenant of any part of the site whose name and address is known to the authority, and specifying in the notice a date by which representations on the draft LDO must be received, which must be not less than 28 days from the date on which the notice was displayed by site display or served, as the case may be.</p>	

Table A4: Consideration of LDO Representations

Stage – Consideration of LDO Representations	Description	Relevant Legislation and Regulations
Consider representations	Following publication on the website, display of site notice(s) and service notice on owners or tenants; an LPA must, in considering what modifications should be made to the draft LDO or whether such an order should be adopted, take into account any representations made in relation to that order.	DMPO 2015 Article 38 (9) and (10)

Table A5: LDO Adoption

Stage – LDO Adoption	Description	Relevant Legislation and Regulations
Adoption procedure	A LDO is of no effect unless it is adopted by resolution of the LPA. In adopting the LDO a LPA must send a copy of the LDO, the Statement of Reasons relating to the making of that order, and any Environmental Statement (if applicable) to the Secretary of State as soon as reasonably practicable, and no later than 28 days, after the local planning authority has adopted the order.	1990 Act Schedule 4A (3) DMPO 2015 Article 38 (11)
Place adopted order on the planning register	A copy of each LDO and its Statement of Reasons must be placed on the register within 14 days of the date of its adoption.	DMPO 2015 Article 41 (4) and (5)
Monitoring	N.B. following amendments to the Town and Country Planning Act 1990 in the Growth and Infrastructure Act 2013, monitoring is no longer required as part of the Annual Monitoring Report process. It is still recommended to inform revocation/revision of adopted LDOs though (see Table A.6).	1990 Act Schedule 4A (1) and (4) As amended by Growth and Infrastructure Act 2013

Table A6: LDO Revocation and Revision

Stage – LDO Revocation and Revision	Description	Relevant Legislation and Regulations
Revision	<p>The LPA may at any time prepare a revision of a LDO.</p> <p>Revision to a LDO may also be directed by the Secretary of State in accordance with such timetable as he/she directs.</p>	1990 Act Schedule 4A (2)
Set the timetable for any revision	<p>Whilst it is not specified in the regulations as a requirement, it may be prudent for the LPA to specify the envisaged duration of the LDO, if it is permanent, or any ‘sunset period’ (i.e. when it ceases to apply).</p>	1990 Act Schedule 4A (2)
Revocation procedure	<p>A LPA may revoke a LDO at any time. Where a LPA revokes a LDO they must publish a statement on their website that the LDO has been revoked; give notice of the revocation by local advertisement; and give written notice of the revocation to every person whom the local planning authority consulted before making the order.</p>	1990 Act Section 61A (6) DMPO 2015 Article 38

Table A7: Maintaining a Register of LDOs

Stage – Maintaining a Register of LDOs	Description	Relevant Legislation and Regulations
<p>Add all LDOs to the Planning Register</p>	<p>LPA's must supplement their existing register of applications (under article 40 – Register of Applications), with a 'Part 3' for LDOs. Part 3 of the register must consist of 2 sections:</p> <p>Section 1 must contain copies of draft LDOs which have been prepared but not adopted by the authority, and its Statement of Reasons; and</p> <p>Section 2 must contain:</p> <ul style="list-style-type: none"> • copies of LDOs which have been adopted by the authority, its Statement of Reasons and (if applicable) Environmental Statement, screening opinion and any directions from the Secretary of State; • particulars of the revocation of any LDO made by the LPA including the date on which the revocation took effect; and • particulars of the revision of any LDO, including the date on which the revision took effect. 	<p>DMPO 2015 Article 41</p>

Table A8: Intervention by the Secretary of State

Stage – Intervention by the Secretary of State	Description	Relevant Legislation and Regulations
Revision of an adopted LDO	A LPA must prepare a revision of an adopted LDO if the Secretary of State directs them to do so.	1990 Act Schedule 4A (2)
Revocation of an adopted LDO	The Secretary of State may at any time by order revoke a LDO if it thinks it is expedient to do so; but must state its reasons for doing so.	1990 Act Section 61B (8)
Call-in of a draft LDO	The Secretary of State is no longer able to call-in a draft LDO. This power has now been removed by the Growth and Infrastructure Act 2013.	1990 Act Section 61B (1) to (7) as amended by the Growth and Infrastructure Act 2013 Section 5 (2)

Table A9: LDOs and Environmental Impact Assessment

Stage – LDOs and EIA	Description	Relevant Legislation and Regulations
State why the LDO was screened in and what information is required in the Environmental Statement (ES).	Where a proposed LDO is screened in as EIA development, the local planning authority may state in writing its opinion as to the information to be provided in the Environmental Statement, known as a “scoping opinion”.	The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) Regulation 15 as amended by regulation 32
State how the ES has been taken into account in deciding to adopt the LDO	<p>The local planning authority shall not make a LDO which would grant planning permission for EIA development unless an Environmental Statement has been prepared in relation to that development; and the authority has first taken the environmental information into consideration. The LPA must state that they have taken the Environmental Statement into account in their decision to adopt the LDO.</p> <p>The Environmental Statement must contain the prescribed information in Schedule 4 of the EIA Regulations.</p>	The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) Regulation 32
Procedure where an Environmental Statement is prepared in relation to a LDO	<p>Where an Environmental Statement has been prepared for proposed EIA development through a LDO the local planning authority is required to:</p> <ul style="list-style-type: none"> • send a copy of the statement to the consultation bodies and inform them that they may make representations; and • notify any particular person of whom the authority are aware, who is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, of an address in the locality in which the land is situated where a copy of the statement may be obtained and the address to which representations may be sent. 	The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) Regulation 32

Stage – LDOs and EIA	Description	Relevant Legislation and Regulations
	<p>The local planning authority shall not adopt the LDO until the expiry of 30 days from the last date on which a copy of the statement was served.</p>	
<p>Publicity</p>	<p>The requirements for publicity of a LDO Environmental Statement are different compared to that for a planning application. Publicity and consultation for the LDO Environmental Statement should run concurrently with the LDO to inform consultation responses.</p> <p>The LPA is required to publish in a local newspaper circulating in the locality in which the land is situated a notice stating the following information:</p> <p><i>(a) the name and address of the local planning authority;</i> <i>(b) the address or location and the nature of the development referred to in the proposed local development order;</i> <i>(c) that further information is available in relation to an environmental statement which has already been provided;</i> <i>(d) that a copy of the further information may be inspected by members of the public at all reasonable hours;</i> <i>(e) an address in the locality in which the land is situated at which the further information may be inspected, and the latest date on which it will be available for inspection (being a date not less than 30 days later than the date on which the notice is published);</i> <i>(f) details of a website maintained by or on behalf of the authority on which the further information or any other information may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);</i> <i>(g) an address (whether or not the same as that given under subparagraph (e)) in the locality in which the land is situated at which copies of the further information may be obtained;</i></p>	<p>The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) Regulation 32</p>

Stage – LDOs and EIA	Description	Relevant Legislation and Regulations
	<p><i>(h) that copies of the further information may be obtained there so long as stocks last;</i></p> <p><i>(i) if a charge is to be made for a copy of the further information, the amount of the charge;</i></p> <p><i>(j) that any person wishing to make representations about the further information should make them in writing, before the latest date specified in accordance with sub-paragraph (e) or (f), to the local planning authority; and</i></p> <p><i>(k) the address to which representations should be sent.</i></p>	
Availability of copies of Environmental Statements	<p>The LPA must ensure that a reasonable number of copies of the Environmental Statement for the LDO are available at their principal office during normal office hours; and at such other places within their area as they consider appropriate, for the duration of the consultation period (not less than 30 days).</p>	<p>The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) Regulation 32</p>
Availability of opinions, directions etc. for inspection	<p>Where particulars of a draft LDO are placed on Part 3 of the local planning authority's register of applications (see Table A.7), the LPA shall take steps to secure that there is also placed on that Part a copy of any relevant:</p> <p><i>(a) scoping opinion;</i></p> <p><i>(b) screening opinion;</i></p> <p><i>(c) screening direction;</i></p> <p><i>(d) direction under regulation 63;</i></p> <p><i>(e) the statement referred to as the Environmental Statement including any further information;</i></p> <p><i>(f) Statement of Reasons accompanying any of the above.</i></p>	<p>The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) Regulation 32</p>



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