

2. Basic process requirements

Local Planning Authorities have been able to produce a Local Development Order (LDO) since the 1990 Town and Country Planning Act. The 1990 Act has been amended by new legislation in order to increase the use of LDOs and also to respond to changes in separate (but complementary) legislation. The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) also have sections that discuss the content of LDOs. Appendix A gives you a checklist of all the legislative requirements relating to the preparation, adoption and monitoring of LDOs. This will be useful to you in ensuring that you comply with the small details of the process. But to appreciate the general scope of the requirements, we have set out the basic legal requirements below.

They are deliberately minimal in order to allow councils flexibility to reflect local solutions.

Prepare Draft Local Development Order

Where a DMPO (LPA) proposes to make a LDO, they must first prepare a draft of the order for consultation. The order needs to specify the nature of the development that will be granted permission – including what use classes as well as what operational development will be permitted. There are some restrictions regarding development that would be subject to EIA regulations. Schedule 1 development cannot be permitted through an LDO and schedule 2 development will require screening. (EIA is specifically dealt with in Appendix 1).

The LDO needs to specify the land that will be affected. This can be a single site, several properties, a large block made up of several parcels of land or an area wide LDO. While it cannot cross local authority administrative boundaries, it is possible for a larger site to be covered provided that each of the LPAs affected goes through the process and adopts the provisions as they affect the land in their control. LDOs are specifically not permitted to grant planning permission for development affecting a listed building and there are restrictions in regard to European sites or European offshore marine sites.

Prepare a Statement of Reasons

This document accompanies the draft of the formal order. It is a key document in explaining the LDO as it goes through the formal process of consultation. Therefore it needs to be clear and expressed in terms that are meaningful for the local community.

The statement of reasons **must** set out clearly the proposals including a description of the land that will be affected by the LDO. It **must** also describe the kinds of development that will be permitted by the LDO.

Because of its role in community consultation, it should also be clear about what conditions are required to be met for development to be permitted under the LDO, what the process for gaining approval for specific development will be and what other guidance there will be to shape development coming forward e.g. design codes. Clearly the local community will appreciate some explanation of what the LPA intends to achieve by granting permission through the LDO, how long the LDO will remain in force (it can be temporary or permanent) and whether there will be some formal review period.

Undertake Formal Consultation and Publicity

Councils must consult a range of bodies and people whose interests it considers would be affected by the order if made. The list of consultees is set out in the Development Management Procedure Order (DMPO)O which also sets out a requirement to consult any person who would be consulted in regard to a planning application for the development proposed to be permitted. In practice this requirement has caused issues for some authorities where LDOs have been proposed for large areas or large parts of a local authority area. In this respect the council will be guided by their statement of community involvement (SCI) in the first instance, but it will also be necessary to conduct further area-specific stakeholder mapping (e.g. business rate database search) since a Local Plan/SCI list will not always capture the key stakeholders in an area.

There are also requirements for the councils to make copies of the draft LDO, statement of reasons and other supplementary information and reports (as applicable) available on the Planning Register, to publish the documents on their website and to publicise the intention to make the order in the press and display site notices near the site. These are all similar to the publicity requirements for a planning application of similar character.

Whilst these are the formal process requirements, our evidence from the pilots is that it is engagement conversations with the community and with bodies who will have an interest in the proposed development – such as statutory consultees - should be taking place right through and informing the development of the draft LDO.

Consider representations

The minimum period for consultation is 28 days. Following consideration of any representations made during the consultation and publicity, the LPA may make modifications to the draft LDO and should take representations into account when deciding to adopt the LDO.

Make a decision to adopt

Who will make the decision to adopt the LDO will depend on the constitution of individual Councils. However, the LDO can only come into force once it has been formally adopted. Once adopted, the LDO and the statement of reasons needs to be placed on the planning register.

Notify the Secretary of State

Once the decision to adopt has been made, the council must notify the Secretary of State (SoS) of its decision. The SoS does have various powers to direct or revoke in regard to LDOs, however the decision to amend earlier legislation to remove the requirement for all LDOs to be approved by the SoS could be taken as an indication that he/she is generally content to let LPAs take these decisions locally.