**PROPOSED LONDON GATEWAY LOGISTICS PARK: CONSULTATION ON DRAFT LOCAL DEVELOPMENT ORDER**

**Report of:** Portfolio Holder for Regeneration, Highways and Transportation

**Wards and communities affected:**
Corringham and Fobbing, Stanford East and Corringham Town, The Homesteads and Stanford le Hope West

**Key Decision:** No

**Accountable Head of Service:** N/A

**Accountable Director:** Director of Planning and Transportation

**This report is** public

**Purpose of Report:** To agree that the draft London Gateway Logistics Park Local Development Order be issued for consultation with statutory bodies and the community.

### EXECUTIVE SUMMARY

At a meeting of the Full Council held on 21\textsuperscript{st} December 2011 it was resolved that the Council agree in principle that a Local Development Order (LDO) to permit development of the proposed Logistics Park at London Gateway be made. Since then the Council has been working with the developer (DP World) to negotiate and draft the terms of the order and prepare the necessary supporting documentation. A draft LDO has now been prepared together with a supporting Environmental Statement and it is recommended that this now be the subject of formal consultation with statutory bodies and the community.

### 1.0 RECOMMENDATIONS:

1.1 The Council is recommended to agree that:

(i) The draft London Gateway Logistics Park Local Development Order, the Environmental Impact Assessment and other supporting documentation be published and subject to public consultation with statutory bodies, the local community and other interested bodies.
(ii) Authority be delegated to the Director of Planning and Transportation to make the necessary arrangements for the public consultation on the documentation referred to in (i) above and that the period for consultation shall extend to no less than 6 weeks.

(iii) That the results of the public consultation be the subject of a further report to Full Council and consideration be given as to whether a Local Development Order be made in the light of that consultation and having regard to all material considerations at that time.

(iv) That the proposed heads of terms for the planning obligation to be entered into under section 106 of the Town and Country Planning Act 1990 as detailed in the report are agreed. Authority is delegated to the Director of Planning and Transportation to negotiate detailed wording in consultation with the Head of Legal Services.

(v) Officers be authorised to make minor amendments or drafting changes to the Draft Local development Order and supporting documentation.

2.0 INTRODUCTION AND BACKGROUND:

2.1 In May 2007 the relevant Secretaries of State approved a Harbour Empowerment Order (HEO) for the construction of a new container port at the former Shell Haven (now known as London Gateway) and an Outline Planning Consent (OPC) for the related logistics park. Since then the construction of the port has progressed apace. The first quayside cranes have been delivered, the container handling equipment is in place and the first berth will become operational before the end of the year. In addition construction has commenced on the new access road that will serve the port and the park via the Sorrells roundabout and the Stanford Interchange on the A13 is being upgraded. These works are being carried out in advance of the development thresholds that would have otherwise triggered them.

2.2 In terms of the park, certain reserved matters relating to the park infrastructure have been approved and there have been various applications to vary some of the conditions of the OPC. However, as reported to the Full Council in December 2011, the OPC is subject to 96 conditions some of which have been amended by the approval of variations. This makes the implementation of the individual components of the development complex and unwieldy which is why the LDO approach is being promoted. Accordingly in December 2011 it was decided that the Council would pursue the making of a LDO in order to facilitate and expedite the development of this important project.

2.3 Local Development Orders were introduced under Section 40 of the Planning and Compulsory Purchase Act 2004 which has the effect of amending the Town and Country Planning Act 1990. This measure was promoted by the Government of the day as a means of simplifying the planning permission
process and providing certainty for prospective developers thereby promoting economic growth; it is felt that LDO’s will be particularly appropriate for employment generating projects. The London Gateway development is strongly supported by the Local Development Framework as one of the key economic drivers for the Borough. Growth and economic development forms an important part of the National Planning Policy Framework which also promotes the use of LDO’s is also promoted

2.4 **Habitat Regulations** Notwithstanding the above, Regulation 78 of the Conservation of Habitats and Species Regulations 2010 provides that a Local Development Order (LDO) may not grant planning permission for a development which is “likely to have a significant impact on a European Site or a European Offshore Marine Site.” This issue is considered in a separate report which appears elsewhere on the agenda.

**Preparation of Documentation**

2.5 Much of the background documentation has been initiated by DP World. However, throughout the process the Council has been advised by independent specialist technical and legal advisors who have scrutinised the content and suggested changes when appropriate in order that the Council’s interests are protected. The Council has also informally consulted statutory bodies when necessary. Whilst there has been cooperation between the parties the council is wholly responsible for the making of a LDO if that is the outcome.

**3.0 ISSUES, OPTIONS AND ANALYSIS OF OPTIONS:**

3.1 A LDO is similar to a planning permission. The Order specifies the development that is permitted in the description of development and certain conditions are imposed. These conditions may refer to supporting documentation (on e.g. design, construction practice etc). Any proposal that falls within the parameters of the LDO and complies with the conditions and supporting documentation is permitted development. That is to say it is not necessary to make a specific application for each development within the park. Instead a developer submits a “prior notification” to the Council advising what development is proposed. The Council as local planning authority will simply confirm within 28 days whether or not the development conforms to the terms of the LDO. If it is in conformity then the development may proceed without further reference to the Council.

**Draft LDO**

3.2 The draft LDO is attached to this report as Annex 1. At the beginning of the document there is important explanatory text which sets the context of and justification for the LDO. There are also certain statutory elements that need to be included.

- **Policy Context:** explains how the proposed LDO will conform with national and local planning policies including the LDF.
- **Statement of Reasons:** explains the genesis of the LDO and how the planning process will be simplified.
• **Duration:** The life of the LDO will be 10 years; thereafter the usual planning permission regime will resume.

• **Prior Notification of Development:** explains the process for prior approval.

• **Monitoring:** the Council will monitor development to ensure that it complies with the terms of the LDO. The performance of the LDO (numbers of jobs created etc) will also will monitored and reported via the Annual Monitoring Report.

• **Revocation:** The Council may revoke, amend or revise the LDO.

• **Conditions and Controls:** The LDO is subject to various conditions; in addition there are compliance documents which are detailed below.

• **Site Plan** this defines the area covered by the LDO. It matches the developable area where development was approved by the OPC with the exception of the site of the Gateway Energy Centre.

**Development Permitted by the LDO**

3.3 The development that would be permitted by the LDO is substantially the same as that approved by the secretary of state in 2007. The development would comprise buildings containing B2 (general industry), B8 (storage and distribution) and B1(b) (research and development) and B1(c) (light industry). Once built there could be changes of use subject to certain controls to ensure a mix of development. The LDO also approves the land raising (which has already been the subject of reserved matters) and ancillary development. The OPC approved certain other uses such as a hotel and unspecified leisure development. This has not been included in the LDO as the developer has no intention of pursuing these proposals.

3.4 The location and extent of the site to be developed is the same as the OPC. The maximum amount of floorspace to be permitted is less (829,700 sq m), however the maximum heights of the buildings would be higher than previously permitted. The original OPC limit was 36 metres above ground level but this was amended to 41.5 metres in 2008. It is now proposed that the maximum height be 42 metres on part of the site.

3.5 The conditions of the LDO generally replicate those of the OPC. There is now however a condition which ensures a mix of B1, B2 and B8 development which was not previously in place. The conditions also refer to compliance documents which give additional detailed controls. These are:-

- **Design Code:** This document includes a masterplan which demonstrates in general terms how the site will be developed. There is also a building height zoning plan with the higher buildings to the south and the lower ones adjacent to the Manor Way. The code specifies design standards for buildings on plot servicing and parking, landscaping, service roads, lighting drainage etc.

- **Code of Construction Practice:** this seeks to address and control all issues arising from the construction of the development including traffic management haul routes, site remediation and groundworks, waste materials and management of noise and dust.
**Environmental Mitigation and Management Plan:** Since the granting of the OPC there has been considerable ecological work done to clear and relocate protected species and manage habitats adjacent to and within the site to the benefit of nature conservation interests. This plan ensures continuity of this work.

**Impact on the Highway Network**

3.6 One of the major potential impacts of the proposed development and of the port is additional traffic on both the local and strategic highway network. When the OPC was granted conditions were imposed and obligations made under a Section 106 agreement requiring that certain works be undertaking to mitigate potential congestion on the network. These were to be triggered when certain levels of floorspace in the park were occupied. There were also separate and in combination triggers related to the number of operational berths in the port. Some highway improvements have already been triggered most notably the interim improvements to Junction 30 of the M25 and a major upgrade to the Stanford interchange on the A13. In addition certain measures to manage the level of traffic placed on the highway network.

3.7 Over the last few years DP World has reviewed its port and park operations and revised the projected traffic flows. The overall traffic flows have been reduced due to factors such as increased use of rail, increased transhipment of containers and Advanced Booking System which controls the rate that Heavy Goods Vehicles arrive and depart from the site together with on site lorry parking facilities.

3.8 In discussion with the Highways Agency and the Council as local highway authority it is proposed that potential impacts on the highway network be expressed in terms of actual vehicle flows arising from the park and port that are actually placed on the strategic and local highway network. This would replace the floorspace triggers that currently exist. A system will be established to measure traffic that directly arises from the port and park. Thresholds of vehicle movements will be established below which there is considered to be no unacceptable adverse impact on the highway network. This will incentivise the developer to manage traffic flows such that the threshold is not exceeded. The developer will be required to mitigate any adverse impact prior to exceeding these thresholds. This mechanism will be a requirement of the proposed section 106 Agreement (see below), although it is acknowledged that should the mitigation works required under the HEA be implemented there would be no need to implement the mitigation requirements of the LDO/s.106 obligations.

**Environmental Impact Assessment**

3.9 The original planning application for the logistics park was accompanied by an Environmental Impact Assessment. This information dates from 2002 and is clearly out of date. The Council has screened the proposed development as being Environmental Impact Assessment development under the terms of the Town and Country Planning (Environmental Impact Assessment) (England)
Report

Regulations 2011. This means that the proposed scheme needs to be accompanied by an Environmental Statement which considers the potential impacts that may arise from the development and if necessary the measures that are proposed to mitigate these impacts. A new Environmental Statement (ES) has been prepared. The ES covers the following topics and needs to be read alongside the LDO.

1. Introduction
2. Site & Surroundings
3. Need & Alternatives
4. Proposals & Construction
5. Policy Context
6. Environmental Issues & EIA Process
7. water Resources
8. Ground Conditions
9. Cultural Heritage
10. Landscape & Visual
11. Ecology
12. Traffic & Transport
13. Air Quality
14. Noise & Vibration
15. Light
16. Socio-Economics

Planning Obligation under Section 106 of the Town and Country Planning Act 1990

3.10 The existing OPC is subject to a planning obligation made under Section 106 in 2007 when OPC was granted by the secretary of state. This was amended in 2012 following variations to the conditions of the OPC. If the LDO is to be made, the existing Section 106 Agreement will need to be replaced with a new obligation. The new section 106 Agreement will restate or update the outstanding requirements of the existing s.106 Agreement in light of the environmental impact assessment that has been carried out. The proposed heads of terms are as follows:-

1 HISTORIC PLANNING POSITION

1.1 Agreement that the Logistics Park is not to be developed under the Outline Planning Consent (OPC) if the LDO is successfully made and brought into force.

1.2 Cancellation of the s.106 agreement relating to the OPC (original and deeds of variation).

1.3 Acknowledgement of payments made under the s.106 agreement relating to the OPC (as varied):
(a) Payment of £15,000 for a traffic regulation order in relation to speed limits
(b) Travel Plan Committee (TPC) established and constitution agreed;
(c) Sum of £115,000 bus service funding received July 2012 under Travel Plan.

1.4 **Acknowledgement that those payments attributable to the development under the LDO**

2 **PLANNING OBLIGATION**

2.1 **Agreement is an obligation under s.106 of the Town and Country Planning Act 1990.**

2.2 **Obligations relate to the Logistics Park as defined.**

2.3 **Obligations on LG Freehold Limited and LG Leasehold Limited jointly and severally.**

2.4 **Obligations in so far as owner of land / interests within Logistics Park – no liability after disposal (except for antecedent breach).**

3 **COMMENCEMENT**

3.1 **Contemporaneous with the coming into force of LDO in so far as the s.106 agreement relating to the OPC is cancelled.**

3.2 **Otherwise, with Implementation Date (of Development).**

4 **LONDON GATEWAY COVENANTS**

4.1 **Payments as set out in Table 1 attached.**

4.2 **Highways Improvements:**

(a) the scheme of mitigation for Junction 30 of the M25 as identified in the Transport Assessment to be implemented before traffic movements exceed stated threshold if the final scheme for Junction 30 as required under the HEO is not implemented or required;

(b) improvements to The Sorrells / A1014 junction to the extent improvements required under the HEO not implemented.

4.3 **Implementation of Travel Plan measures (with associated mechanisms for monitoring and approval).**

4.4 **Provision of Land for Permanent Training Facility.**
4.5 **Provision by London Gateway of Travel Plan Co-ordinator.**

4.6 **Performance of s.278 Agreement obligations.**

4.7 **Apprenticeships and Local Employment measures together with other related local community measures as agreed between the parties.**

5 **TBC COVENANTS**

5.1 **Training Facility**

5.2 **TBC to use reasonable endeavours to ensure mitigation measures, particularly highways improvements, are delivered as promptly as possible once any payments by London Gateway under the s.106 agreement are received.**

5.3 **Obligation to repay monies unused with interest.**

6 **BOILER PLATE**

6.1 **Notices**

6.2 **Local Land Charge**

6.3 **Arbitration**

(a) London Court of International Arbitration

6.4 **Costs**

(a) LGPL to pay TBC’s costs in connection with agreement.

6.5 **Indexation of Payment Amounts**

(a) RPI

6.6 **VAT**
Table 1 (Payments)

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Consultation

3.11 If the Council agrees the recommendation it is proposed that the draft LDO and all the supporting documentation will be the subject of a public consultation as possible after the resolution is made. The intention is to complete the 6 week consultation period before the summer holidays. The statutory minimum period is 4 weeks. The Council will consult all the statutory bodies and will publicise the documentation by advertisement and site notice. Local community for a will be notified and it is intended that there be a "drop in" session held locally in the early evening to answer any queries that residents might have. The documents will be available at the Council offices and on the website.

Next Steps

3.12 If the Council agrees the recommendation there will be a 6 week period for consultation. It is proposed that the results of the consultation and any proposed amendments to the LDO be reported back to the Council (most likely in September). Before the Council can consider formally making the LDO however, it must first conclude that the proposed development will not have a significant impact on any European sites of nature conservation interest in order to comply with the Conservation of Species and Habitats Regulations 2010. This matter will be the subject of a separate report and subject to the Council concluding that there will be no significant impacts it may then proceed whether or not to make the LDO.
4.0 REASONS FOR RECOMMENDATION:

4.1 The development of the London Gateway port and logistics park development is a key proposal in the Council’s Local Development Framework – Core Strategy and is an important driver for economic growth in the Borough. The Local Development Order will provide a fast track planning process and certainty for developers whilst ensuring that the development is of high quality with no adverse impacts.

5.0 CONSULTATION (including Overview and Scrutiny, if applicable)

5.1 It is proposed that the draft LDO be the subject of public consultation.

6.0 IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT

6.1 Complies with the Council’s planning and other strategies.

7.0 IMPLICATIONS

7.1 Financial

Implications verified by: Michael Jones
Telephone and email: 01375 652772
mxjones@thurrock.gov.uk

There is a commitment from DP World to cover the Council’s cost in respect of the making of the LDO. If the LDO is made costs of the prior notification procedure will be covered by fee income

7.2 Legal

Implications verified by: Alison Stuart – Principal Solicitor
Telephone and email: 01375 652040
alison.stuart@bdtlegal.org.uk

This report is seeking authority to consult on a draft and will be subject to a further report to Council. The project will be kept under review and any implications will be identified and addressed accordingly

7.3 Diversity and Equality

Implications verified by: Samson DeAlyn
Telephone and email: 01375 652472
sdealyn@thurrock.gov.uk

There are no direct diversity implications noted in this report.
7.4 **Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental Impact**

The LDO is supported by an Environmental Impact Assessment.

**BACKGROUND PAPERS USED IN PREPARING THIS REPORT** (include their location and identify whether any are exempt or protected by copyright):

- Design Code
- Code of Construction Practice
- Environmental Mitigation and Management Plan
- Monitoring Strategy
- Environmental Impact Assessment (EIA)
- EIA Non-Technical Summary
- Transport Assessment
- Travel Plan

The above documents may be viewed in the Member’s Room or on the Council’s website within the Major Projects section.

**APPENDICES TO THIS REPORT:**

- Draft LDO document and Appendices

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