

15 July 2020		ITEM: 7
Planning Committee		
London Gateway Logistics Park Local Development Order		
Wards and communities affected: Corringham and Fobbing Stanford-le-Hope west Stanford East and Corringham Town The Homesteads	Key Decision: Not Applicable	
Report of: Matthew Gallagher, Major Applications Manager		
Accountable Assistant Director: Leigh Nicholson, Assistant Director of Planning, Transport and Public Protection		
Accountable Director: Andy Millard, Director of Place		

Executive Summary

This report is concerned with the planning consenting regime for securing the delivery of the approved strategic development at London Gateway logistics park, to ensure that the economic growth, jobs and investment at the park continue to be delivered in a sustainable manner.

The report explains that development of the logistics park has been subject to the provisions of a Local Development Order (LDO) since 2013. As this order is time-limited, the report explains that the preparation and making (adoption) of a new order is required in good time before the existing order expires in November 2023.

1. Recommendation

1.1 To note the report

2. Background

2.1 The original planning application for the redevelopment of the former Shell Haven oil refinery site was submitted to the Council in January 2002 (application reference 02/00084/OUT). The application was subsequently “called-in” by the Secretary of State in June 2002 and a public inquiry was

held during 2003. This inquiry also considered an application for a Transport and Works Act Order for works to various railways adjoining the site and a proposed Harbour Empowerment Order, for a new port adjacent to the River Thames. Outline planning permission was granted by the Secretary of State on 30th May 2007

- 2.2 The London Gateway Logistics and Commercial Centre Order 2007, issued pursuant to the Transport and Works Act, came into force on 28th September 2007. The London Gateway Port Harbour Empowerment Order 2008 (HEO) came into force on 16th May 2008 and the dredging operations necessary to create the new port commenced in March 2010. The first berth at London Gateway Port came into operational use in November 2013.
- 2.3 The development consented by the outline planning permission in May 2007 comprised the construction of a road and rail linked logistics and commercial centre, comprising up to approximately 938,600sq.m of commercial floorspace. The planning permission was subject to a s106 legal agreement and a large number of planning conditions. Following the grant of outline planning permission, the former Development Corporation (TTGDC) determined a number of applications from the owners of the site DP World (DPW) for the discharge of planning conditions, variation or non-compliance with planning conditions (under s73 of the Town and Country Planning Act 1990) and a reserved matters application. A commencement of the development approved under the 2007 permission was undertaken by DPW in the form of the construction of a section of internal estate road.
- 2.4 However, between 2008 and 2010 it became clear to DPW, the former TTGDC and the Council that development pursuant to the outline planning permission would be complex. This conclusion was reached principally because the legal effect of the s73 planning consents was to create a number of new, stand-alone planning consents, in addition to the original outline planning permission (ref. 02/00084/OUT). This had the potential to create uncertainty with regard to what had been permitted on the site of the commercial and logistics park and which consent had been implemented. The original planning permission was also subject to a large number of planning conditions (96 in total). This factor, alongside the multiple consents, resulted in a complex layers of conditions which could have led to confusion concerning the status and monitoring of conditions.
- 2.5 In light of these complexities in the planning consents process, in 2011 DPW liaised with both the former TTGDC and the Council to assess the options for achieving greater certainty in the planning process, whilst still

maintaining the nature of the consented development and its associated safeguards. After consideration of the various options available, it was concluded that a Local Development Order (LDO) was the best method of delivering the development consented by the outline planning permission.

3 Nature and Status of LDOs

- 3.1 The provisions covering LDO's are contained within the Town and Country Planning Act 1990, as amended. Primary legislative provisions relating to LDO's were introduced by the Planning and Compulsory Purchase Act 2004, which commenced in 2006. These powers were amended by commencement of Sections 188 and 189 of the Planning Act 2008 in June 2009.
- 3.2 An LDO grants planning permission for the type of development specified in the Order, and by doing so, removes the need for a planning application to be made by a developer / landowner. The power to make an LDO rests with the local planning authority (LPA). LDO's are flexible in that they can apply to a specific site, or to a wider geographical area and can grant planning permission for a specified type or types of development. Conditions may be attached to an LDO or an LDO may grant planning permission unconditionally. The adoption of an LDO can offer benefits to developers in exempting specified developments from the need to apply for a specific planning permission. Thereby, developers will save the time and cost of submitting a planning application. LDO's can also provide certainty to developers and investors by defining what development is acceptable on a site and thereby the development which can be undertaken without the need for planning permission.
- 3.3 An LDO does not remove the need to comply with any environmental legislation. Therefore, the LPA is responsible for ensuring that any requirements under the Environmental Impact Assessment Regulations or Habitats Regulations are met.
- 3.4 As noted above, legislation enables an LDO to be granted unconditionally, or subject to conditions as a means of ensuring that a development will be acceptable in planning terms. Potential conditions on an LDO, therefore, could limit the types and scales of development permitted, require development to comply with design criteria (such as a design code or masterplan) and could require actions to be undertaken prior to development (such as highway improvements). Any conditions attached to an LDO have to pass the same

tests as conditions attached to a normal grant of planning permission. These tests require a condition(s) to be:

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects.

- 3.5 Provisions allow for the monitoring and enforcement of LDO's and it is possible to use a planning condition to require a developer to notify the LPA when development under an LDO is undertaken. An LDO does not influence existing permissions or permitted development rights within the area covered by the Order.
- 3.6 A s106 obligation cannot be required under an LDO, as the LDO constitutes the grant of planning permission. However, this does not prevent a s106 obligation being offered by the developer and negotiated with the LPA.
- 3.7 Where any proposed development within the site of the LDO falls outside the scope of the Order, or the accompanying conditions, a planning application would need to be submitted for consideration and determination in the normal manner. LDO's are normally time limited.
- 3.8 A simplified summary of the key stages in the LDO process is presented below.

LDO Preparation

1. LPA prepares a draft LDO and statement of reasons with accompanying documentation (EIA etc.)



Consultation / Publicity

2. LPA consult persons whose interests would be affected by the LDO and those persons they would have been required to consult on an application for planning permission for development proposed by the LDO
3. LPA sends copies of the draft LDO and Statement of Reasons to consultees. Draft LDO and Statement of Reasons made available for inspection, on-line and advertised
4. LPA displays site notices and serves site notices on owners / tenants of the site
5. The consultation period shall last for at least 28 days



Consideration of LDO Representations

6. Taking into account representations, LPA considers whether modifications to the draft LDO are necessary and whether re-consultation is required



LDO Adoption

7. LDO must be adopted by resolution of the LPA for it to take effect.
8. LDO and accompanying documentation sent to the Secretary of State

4 The Existing LDO

4.1 As noted at paragraph 2.5 above, both the Council and the former TTGDC resolved to progress an LDO for the commercial and logistics park site at the end of 2011 / early 2012. This decision was taken following resolutions of the Full Council and Planning Committee of the former TTGDC. Unlike a conventional planning application where some details can be submitted after the grant of permission via planning conditions or the submission of applications for the approval of reserved matters, the full details, justification and evidence for the development to be permitted by an LDO must be provided 'upfront'. Work on the preparation of documentation for the current LDO commenced in 2012. In June 2013 the draft LDO was completed and Full Council resolved to proceed with formal consultation and publicity.

4.2 Following a 6-week consultation period, followed by a limited re-consultation (to address changes to the Travel Plan and LDO drafting), Full Council resolved to make the LDO in November 2013. The matter was referred to the Secretary of State, who did not intervene, and the LDO was made on 7th November 2013.

4.3 In summary, the LDO grants permission for:

- 829,700sq.m of commercial floorspace within Use Classes B1(b), B1(c), B2 and B8,
- changes of use between the Use Classes listed above;
- associated infrastructure; and
- site preparation works.

The LDO is subject to a number of planning conditions which apply both to the four components of development described above and generally across the LDO site. Development permitted by the LDO is also subject to adherence with 'compliance' documents, comprising a Design Code, Code of Construction Practice and an Ecological Mitigation and Management Plan. A s106 agreement accompanied the LDO which principally addresses reducing the impacts of the development on transport networks. The existing LDO is time-limited and will expire in November 2023.

4.4 One of the general planning conditions applying to the LDO site requires that, prior to commencement of development, details and plans of development are submitted to the LPA using a prior notification form (LDOPND). Since the making of the LDO in November 2013 a number of LDOPND submissions have been made for elements of infrastructure and buildings on development plots. At the time of writing 11no. buildings have been subject to the LDOPND process totalling c.259,000sq.m of commercial floorspace. Existing occupiers on the LDO site include Dixons Carphone, UPS, Lidl, Made.com and DHL.

5 The need for a new LDO ('LDO2')

5.1 As noted at paragraph 4.2 above, the existing LDO will expire in November 2023. The LDO has been successful in simplifying the planning consenting regime for development at the logistics park and offers commercial benefits to DPW as potential occupiers can proceed with development on-site in a relatively short space of time. Members of the Committee may be aware of the emerging proposals for the 'Thames Freeport' which includes London Gateway. It is considered that the benefits of a simplified planning regime conferred by an LDO have synergies with Freeport status.

5.2 Therefore, both Officers and DPW see the benefits of preparing a new LDO or LDO2 before the existing LDO expires. As before, preparation of LDO2 will require the preparation of significant documentation before a formal consultation and publicity exercise. Although the existing LDO does not expire until November 2023, it is expedient to commence preparation of LDO2 now. It is likely that LDO2 will be broadly similar to the existing LDO. However, the opportunity will be taken to review the existing Order and incorporate necessary revisions in light of the period of time which has elapsed since the preparation of the LDO and to ensure that LDO2 is fit for purpose.

5.3 Officers are currently preparing a Planning Performance Agreement (PPA) with DPW as a means of establishing a project management tool for the LDO process. The preparation of LDO2 will include a significant amount of documentation, requiring the appointment of consultants and advisors to draft, inter-alia, the Environmental Statement required by the Environmental Impact Assessment Regulations, a report to enable screening pursuant to the Habitats Regulations and legal documents. The PPA will include provisions ensuring that the Council's costs associated with the appointment of consultants are covered by DPW – as it is DPW as landowner who shares in the benefits conferred by the Order. The PPA will also seek to ensure that there is sufficient Officer resource to progress LDO2.

- 5.4 The decision firstly on whether to firstly engage in consultation on the draft LDO2 and secondly make LDO2 will be matters for Full Council to determine. However, in the interests of transparency this report is presented to Planning Committee so that Members are updated and aware of the situation. Relevant portfolio holders will also be briefed on this matter.

6 Conclusion

- 6.1 Development on the site of the London Gateway logistics park has been undertaken pursuant to an LDO since November 2013. To date, c.30% of the total of 829,700sq.m floorspace consented by the LDO has been subject to the LDOPND. According to the most recent annual monitoring report produced by DPW for the LDO site, five of the operational buildings employ c.830 people (employment figures for the remaining buildings are unknown). Officers consider that the existing LDO has been successful in simplifying planning procedures for the site and thereby delivering new commercial floorspace and employment.
- 6.2 As the current LDO expires in November 2023, both Officers and DPW consider that the benefits of the Order should continue to be realised through a new LDO. In order to ensure a seamless transition between the existing LDO and LDO2, work to prepare the new Order has been initiated and will continue throughout 2021 and into 2022.

7. Consultation (including overview and scrutiny, if applicable)

N/A

8. Impact on corporate policies, priorities, performance and community impact

- 8.1 The London Gateway site, comprising both London Gateway port and London Gateway logistics park, is one of the Council's regeneration and growth hubs. Indeed due to the scale of the site, the port and logistics park have a wider sub-regional importance. The ongoing development of the logistics park site, via the LDO, will make a significant contribution to the delivery of the Council's growth and regeneration ambitions.

9. Implications

9.1 Financial

Discussions are ongoing between Officers and DPW to secure a commitment from DPW, via a Planning Performance Agreement (PPA), to meet the Council's costs in respect of the development and adoption of Local Development Order (LDO2). There are no expected additional costs for the Council

Implications verified by: **Laura Last**
Management Accountant

9.2 Legal

Given the nature of this report and the recommendation there are not considered to be any legal implications directly arising from it. The following is by way of background information on the relevant legal context.

Sections 40 and 41 of the Planning and Compulsory Purchase Act 2004 inserted sections 61A and D into the Town and Country Planning Act 1990. It is at the discretion of the local planning authority as to whether to make an LDO and a local planning authority can choose to restrict the scope of an LDO. Schedule 4A of the Town and Country Planning Act 1990 and articles 38 and 41 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 will be relevant to the progression of LDO2.

The procedures for the preparation, consultation / publicity and making on an LDO are set out in primary and secondary legislation. The provisions of both the Environmental Impact Assessment and Habitats Regulations will apply to LDO2.

The existing LDO is accompanied by a s106 legal agreement and it is likely that a new s106 will be negotiated in parallel with LDO2.

Implications verified by: **Tim Hallam**
Deputy Head of Law (Regeneration) and Deputy Monitoring Officer

9.3 Diversity and Equality

The Environmental Statement supporting LDO2 will include an assessment of the socio-economic effects of the development. Prior to any Council decision to make LDO2 a formal consultation and engagement process, described in section 3.8 above, will be undertaken.

Implications verified by: **Roxanne Scanlon**

**Community Engagement and Project
Monitoring Officer**

9.4 **Other implications** (where significant – i.e. Staff, Health Sustainability, Crime and Disorder)

None.

10. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- All background planning documents including the existing LDO and other supporting documentation can be viewed online: www.thurrock.gov.uk/growth.

11. **Appendices to the report**

- None

Report Author:

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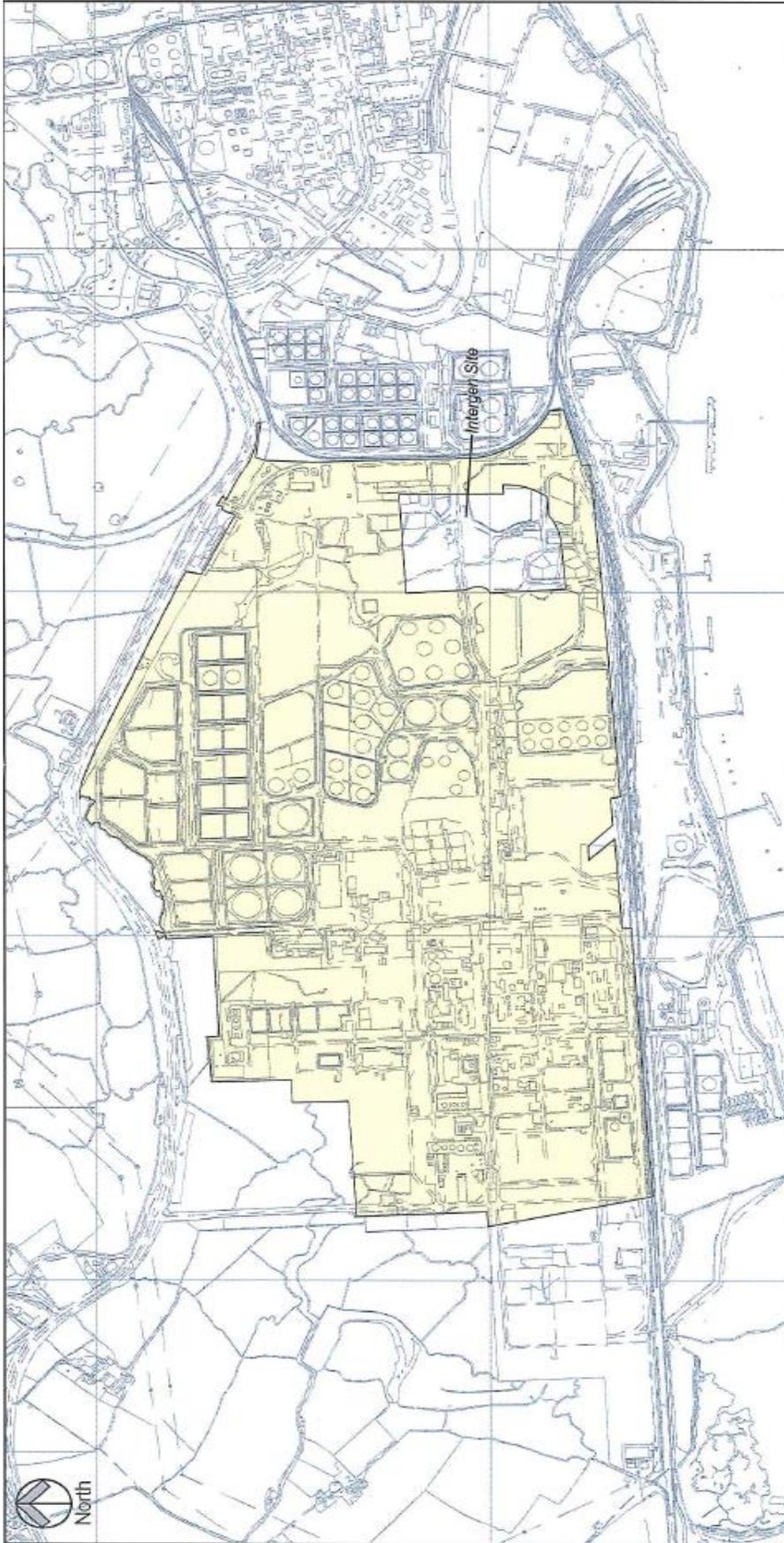


FIGURE D : Proposed LDO Boundary

 Proposed LDO Boundary

Source: LGFL

Drawing No.: ? Revision: A

Drawn by: MS Date: 24/04/12

Scale 1: 12 000 @ A3



Based upon the Ordnance Survey 1:1250 scale map with the permission of The Controller of Her Majesty's Stationery Office
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