

CABINET

24 September 2013

Title: Barking and Dagenham Employment Areas Local Development Order	
Report of the Cabinet Member for Regeneration	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
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Accountable Divisional Director: Jeremy Grint, Divisional Director of Regeneration	
Accountable Director: Graham Farrant, Chief Executive	
Summary	
<p>Across the country local authorities have prepared Local Development Orders for Enterprise Zones to allow businesses to do more things without the need for planning permission. This has prompted officers in the Council's Regeneration Service to explore whether there is benefit in preparing a Local Development Order to benefit businesses in Barking and Dagenham and promote the borough as a business friendly place.</p>	
<p>The Council's Local Plan protects the borough's designated employment areas for, research and development (R&D), light industrial, general industrial and warehousing uses. This includes the industrial areas south of the A13, and the industrial areas along Hertford Road, Freshwater Road, Selina's Lane and Wantz Road. This is subject to certain caveats. Firstly warehousing of 1000 square metres or more is not allowed north of the A13 and warehousing is not allowed in Dagenham Dock where environmental industries are encouraged. Separately the Joint Waste Plan clearly sets out the appropriate site allocations for Barking and Dagenham's apportionment of waste; which are directed to Dagenham Dock.</p>	
<p>Therefore officers are recommending that Cabinet agree a draft Local Development Order which introduces permitted development rights allowing a change of use between R&D, light industrial, general industrial and warehousing uses provided the caveats in the Local Plan are adhered to. It is also proposed that the LDO allows a change of use from non-residential institutional uses within designated employment areas, such as places of worship to R&D, light industrial, general industrial and warehousing uses but not the reverse.</p>	
<p>It is proposed that the LDO does not extend to the Ford Stamping Plant or the Sanofi site given the current status of these sites. It is also important to note that the LDO will not introduce any additional permitted development rights for waste management uses.</p>	
<p>Staff have explored whether the LDO could go further and allow modest extensions. Due to the patchwork quilt of land ownership in the borough's employment areas and the variation in building sizes, types and quality this is not considered practicable. However</p>	

officers have included in the draft LDO permitted development rights for new or replacement windows and external cladding for R&D, light industrial, general industrial and warehousing uses.

To ensure the amenities of residents are protected the LDO does not allow change of use or new windows within 20 metres, and new cladding and replacement windows with 5 metres of the boundaries of existing housing or housing with the benefit of planning permission whether built or not. In these cases a planning permission would still be necessary. To assess the impact on the highway of permitted changes of use the LDO requires a transport statement for changes of use 2500 square metres and above and a transport assessment for changes of use over 4000 square metres.

A copy of the draft Barking and Dagenham Employment Areas Local Development Order is provided in Appendix 1.

Recommendation(s)

The Cabinet is recommended to approve the draft Barking and Dagenham Employment Areas Local Development Order, as attached at Appendix 1 to the report, for public consultation.

Reason(s)

The Employment Areas Local Development Order will help the Council to deliver the overall vision to 'Encourage growth and unlock the potential of Barking and Dagenham and its residents'.

This approach also supports the delivery of the Council's priority to 'Maximise growth opportunities and increase household income of borough residents' by helping businesses come to the borough which bring employment opportunities for local people.

1. Introduction and Background

What is a Local Development Order (LDO)?

- 1.1 The Town and Country Planning Act 1990 as amended enables a local planning authority to make a Local Development Order (LDO) to grant planning permission for developments specified in the Order for any part of the land in the authority's area. LDOs were introduced by the Planning and Compulsory Purchase Act in 2004 which added the provision to the Town and Country Planning Act 1990. Once an Order is made it removes the need to obtain planning permission for certain kinds of development in a specified area. They are part of a move to remove bureaucracy and are a means for the planning system to incentivise development. For example LDOs have or are being introduced for Enterprise Zones across the country.
- 1.2 The LDO being proposed will apply to the borough's designated employment areas and directly responds to the Government's desire to support economic growth through the planning system. The Town and Country Planning (General Permitted Development) (Amendment) (England) Orders 2010, 2012 and 2013 sets out existing permitted development rights for industrial and warehouse development but the proposed LDO will extend these further.

2. Proposal and Issues

The Barking and Dagenham Employment Areas Local Development Order 2013

- 2.1 A draft Local Development Order has been prepared, in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2010, for all designated Employment Areas excluding the Sanofi site and the Ford Stamping Plant (i.e. Strategic Industrial Locations and Locally Significant Industrial Sites as shown on the Local Plan Proposals Map) in the borough and as illustrated in Appendix A of the proposed LDO.
- 2.2 The Barking and Dagenham Employment Areas LDO will grant planning permission for changes of use between R&D, light industrial, general industrial and warehousing uses. It is also proposed that the LDO allows a change of use from non-residential institutional uses within designated employment areas, such as places of worship to R&D, light industrial, general industrial and warehousing uses but not the reverse. Planning permission will continue to be needed for new or changes of use to warehousing of 1000 square metres or more north of the A13 and in Dagenham Dock where environmental industries are encouraged.
- 2.3 The LDO will allow the installation of new or replacement windows and recladding of building exteriors of buildings used for R&D, light industrial, general industrial and warehousing uses.
- 2.4 To ensure the amenities of residents are protected the LDO does not allow changes of use or new windows within 20 metres, and new cladding and replacement windows with 5 metres of the boundaries of housing. In these cases a planning permission would still be necessary. To assess the impact on the highway of permitted changes of use the LDO requires a transport statement for changes of use of 2500 square metres and above, and a transport assessment for changes of use of 4000 square metres and above.
- 2.5 Full details of the permitted development, and a plan showing the areas to which this applies, are provided in Appendix 1.

Policy context

- 2.6 The proposal implements the Council's Local Plan Core Strategy policy CE4: "Mix and balance of uses within designated employment areas" and the borough's emerging Economic Development Strategy.
- 2.7 The proposal is also in line with the aims of the National Planning Policy Framework (NPPF) which states, in paragraph 199, that, Local planning authorities '...should consider using Local Development Orders to relax planning controls 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, such as boosting enterprise'.

Advantages of an LDO

- 2.8 Apart from simplifying the planning process for new businesses the establishment of the proposed LDO will send out a message that Barking and Dagenham welcomes and encourages new and growing businesses. It will make it easier for

businesses within the borough's employment areas to make changes of use and improvements to their properties. This will save those wishing to invest in Barking and Dagenham time and money and will give them certainty of the outcome if their development conforms to the requirements of the LDO. It is also hoped that the LDO will help to attract new business investment to the area and retain existing businesses that wish to develop in established employment locations.

Disadvantages of an LDO

- 2.9 The main disadvantage to the Council is that development allowed under the LDO will not pay a planning fee. However this will only affect a handful of applications so will not have a significant effect on income from fees. Another disadvantage is that the Council will not be able to secure Section 106 contributions for affected developments. However since the change of use of an existing building from one commercial use to another rarely has a significant impact a S106 would not normally be justified. A nominal fee of £50 will be charged for development allowed through the LDO. The LDO does not waive the requirement for developments to pay the Community Infrastructure Levy.

Impact of the LDO on residents and the local environment

- 2.10 Conditions have been imposed so that development involving change of use or new windows is not permitted within 20 metres of residential properties and development involving replacement windows or re-cladding within 5 metres.

- 2.9 It is important to note that the Order does not remove the requirements of other statutory regulation and consent regimes, such as the Building Regulations, Listed Building Consent, Advertisement Consent and Hazardous Substances Consent. These will all need to be obtained where appropriate through the existing regimes. In addition it is important to note that the Order does not remove other forms of statutory regulation including the Habitat Regulations, Environmental Impact Assessment and protected species legislation.

- 2.10 The Council have already undertaken a Habitats Regulations Assessment Screening Report for the Core Strategy and Borough Wide Development Policies DPD. The results of this Screening Report, which were agreed by Natural England, were that the suite of documents would not result in likely significant effects upon a Natura 2000 site. Given that the LDO implements policy CE4 of the Core Strategy it is not considered necessary to do a separate screening for this LDO. The LDO includes maps of the two Health and Safety Executive (HSE) consultation zones which affect existing buildings with designated employment areas. The LDO makes clear that it does not remove the need for applicants to notify the HSE where the proposed change of use increases the number of people likely to be working at the premises.

Timescale of LDO

- 2.11 It is advisable for the LDO to be time limited initially. Officers propose the LDO to be introduced for three years, so that its operation can be reviewed. It is better to renew the order than withdraw it, as compensation could be payable. The review should consider whether the LDO is meeting the original policy objectives and whether the objectives are out of date. It is important to remember that the development allowed by the LDO will remain in place beyond the timescale of the LDO.

Notification and Monitoring

- 2.12 Notification of proposed development under the Barking and Dagenham Employment Area LDO must be made to the Local Planning Authority prior to commencement of development using a pre-development notification (see Appendix 1).
- 2.13 Any proposal which fits into the categories permitted by the LDO can take place without planning permission (subject to conditions).
- 2.14 The Council will acknowledge receipt of submissions by email and within 10 working days of this date the Council will:
- Confirm in writing if development is permitted by the LDO and, if not, why.
 - Ask for further information and a further 10 working days to consider the proposal on receipt of that information
 - Confirm the existing planning conditions which will continue to apply to the new use permitted by the LDO.
- 2.15 The LDO will be formally monitored within the Local Plan Authorities Monitoring Report which is published annually. This will highlight how many developments have been allowed under the LDO and the impact this has had on the Employment Areas. This will be done using information submitted in the pre-development notification forms.
- 2.16 It is also recommended that the LDO should be reviewed annually by the Delegated Decisions Review Panel

Procedure and Timescales

- 2.17 The Town and Country Planning (Development Management Procedure) (England) Order 2010 Part 6, states that in order to make a local development order, the following must be prepared first:
- (a) A draft of the order; and
 - (b) A statement of the reasons for making the order, which shall 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.
- 2.18 These are attached as appendix 1. This should be followed by consultation in accordance with paragraph 5 of the above legislation for a period of at least 28 days.
- 2.19 The draft Order should then be modified where appropriate and Officers will address the comments received and bring a final copy of the LDO to the Assembly for approval.

Timetable for adopting the Employment Areas LDO

- 2.20 The table below sets out the timetable for implementing the Barking and Dagenham Employment Areas Local Development Order.

Task	Progress
Report to Cabinet	24 September 2013
Consultation (minimum 28 days)	September/October 2013
Modifications (if necessary)	November 2013
Assembly	January 2014
Adoption of LDO	January 2014

3. Options Appraisal

Two options have been considered:

3.1 Option 1: Maintain the status quo

Officers have conducted an assessment of planning consents issued in employment areas in recent years. This indicates that there have only been a handful of planning applications in the last two years which would have not been necessary with this LDO. These are shown in the table below.

Planning App. Ref.	Location	Description	Approved	S106	Fee
12/00424/FUL	WTS Media, 40B River Road	Change of use from B1(a) to B1(b) and (c), B2 and B8	Yes	No	£335.00
10/01118/FUL	43 Thames Road	Application for mixed use of building to allow use for purposes within B1 and B8	Yes	No	£502.50
10/00172/FUL	Emperor House, Freshwater Road	Use of warehouse (B8) for industrial purposes (B2)	Yes	No	£335.00
11/00049/FUL	Unit 2, Beaver Centre, Selinas Lane	Retrospective application for change of use to general industry (B2)	Yes	No	£335.00
Total					£1507.5

However it is not known how much latent demand there is for the freedoms introduced by the LDO, this depends to what extent planning really is a barrier to growth. Moreover although new buildings will still require planning permission, businesses can do this with the knowledge that once they receive permission that they can then change between the uses permitted by the LDO without the need for planning permission. It is important that Barking and Dagenham is seen as being business friendly. LDOs are a requirement for Enterprise Zone status and therefore across the country LDOs have been adopted for Enterprise Zones. However LDOs do not need to be confined to Enterprise Zones and a LDO for Barking and Dagenham will not only have practical benefits but is also a clear demonstration

that irrespective of Enterprise Zone status Barking and Dagenham means business. Therefore adoption of the LDO is an important component of the Council's emerging Economic Growth Strategy.

3.2 Option 2: Implement a Local Development Order

In deciding what permitted development rights to include in the LDO the Council has to balance the benefits to business with the impact of development on existing homes and businesses. Moreover the LDO cannot conflict with the policies in the Council's Local Plan. The Council's Local Plan protects the borough's designated employment areas for, research and development (R&D), light industrial, general industrial and warehousing uses. Therefore planning applications for changes of use between these uses in these locations can normally expect to receive consent provided they do not have an unacceptable impact on the road network. Consequently officers consider that the LDO should allow these uses provided that in line with the Core Strategy a transport statement is provided for uses of 2500 square metres and above and a transport assessment is submitted for uses 4000 square metres and above so the impacts on the road network can be assessed. Staff have explored whether the LDO could go further and allow modest extensions. Due to the patchwork quilt of land ownership in the borough's employment areas and the variation in building sizes, types and quality this is not considered practicable or desirable. However officers have included in the draft LDO permitted development rights for new or replacement windows and external cladding. To protect residential amenity the LDO does not allow change of use or new windows within 20 metres, and new cladding and replacement windows with 5 metres of the boundaries of housing. In these cases a planning permission would still be necessary.

3.3 The LDO will not have a significant effect on reducing the number of planning applications and therefore will not impact significantly on planning income. However by introducing the LDO, the Council will be sending out a strong message to businesses and potential investors that Barking and Dagenham is a 'can do' Council which works with developers to encourage growth and unlock potential. It may therefore increase the attractiveness of Barking and Dagenham as a place to do business and may generate more commercial planning applications.

4. Consultation

4.1 Consultation will be undertaken in compliance with the publicity and consultation requirements of Article 34 of the town and Country Planning (Development Management Procedure)(England) Order 2010, which relates specifically to publicity requirements for LDOs. This will include consultation with the Barking and Dagenham Chamber of Commerce and other local business forums.

4.3 Following consultation, all responses will be recorded, analysed and assessed in a Statement of Community Involvement report. This will inform and accompany the final draft version of the LDO. This version will be reported to Cabinet and Assembly seeking approval for adoption.

5. Financial Implications

Implications completed by: Carl Tomlinson, Group Finance Manager

- 5.1 The introduction of the LDO is not expected to have a significant impact on the level of income received from planning fees or S106 payments. The annual income received by the Authority in respect of planning application fees is in excess of £500,000. However, the amount of income that would have been lost in the last two years as a result of the proposed change would have been £1,507. This loss of income would also be partly offset by the £50 fee to be charged for a development allowed through the LDO. In respect of S106, as the change of use of an existing building from one commercial use to another rarely has a significant impact, the level of S106 income is not anticipated to be significantly affected.
- 5.2 The cost of preparing the LDO, consulting on it, and then adoption will be met from the existing Development Planning budget. The LDO should not have a significant impact on the cost of planning enforcement because it is increasing permitted development rights.
- 5.3 Potential income to be received through the new Community Infrastructure Levy is not expected to be affected as any permitted development will still be liable to paying it in the same way as development which requires planning permission.

6. Legal Implications

Implications completed by: Paul Feild Senior Governance Lawyer

- 6.1 As observed in the body of this report The Town and Country Planning Act 1990 as amended enables a local planning authority to make a Local Development Order (LDO) to grant planning permission for developments specified in the Order for any part of the land in the authority's area. It establishes local permitted development for such development as specified in the Order. The Order will apply to certain changes of use and minor modifications to buildings focussed on creating and encouraging employment opportunities within the areas of the borough earmarked as to be specific employment areas. The proposals are compliant with the National Planning Policy Framework as they will further the presumption in favour of sustainable development and in particular that sustainable development commences without delay.
- 6.2 Development is permitted by this Order where it is within the defined range of the permitted uses and development parameters. The LDO does not supersede the requirement for development to comply with all other relevant UK and international legislation, for example building control or environmental permits. The proposal is to be time limited and will be subject to annual and periodic monitoring so as to ensure it is effective and fit for purpose.

7. Other Implications

7.1 Risk Management

Risk	Probability	Impact	Priority	Action
LDO allows development which causes a nuisance to neighbours	Low	High	High	Conditions are imposed to mitigate impacts.
LDO allows development which affects visual appearance of areas	Low	High	High	Conditions are imposed to mitigate impacts.
Increased activity within Employment Areas may have an impact on traffic	Low	Medium	Medium	Department of Transport thresholds have been applied for submission of transport statements and transport assessments.
LDO may allow too many B8 developments at the expense of B1 and B2 uses which tend to generate higher levels of employment	Medium	Medium	High	Restrictions on the LDO prevent changes to B8 use in Dagenham Dock, and prevent changes of use to B8 if the premises have a floor area of 1,000sqm or larger in Employment Areas north of the A13.
The Council will lose income from planning application fees	Low	Low	Low	Only a handful of planning applications in the last two years would have been affected by this LDO. So it will not have a significant affect on planning income.
The Council will not be able to secure S106 agreements since planning permission will not be required	Low	Low	Low	Since the change of use of an existing building from one commercial use to another rarely has a significant impact a S106 would not normally be justified

7.2 **Staffing Issues** - The proposals will not necessitate the need for additional staff.

7.3 **Customer Impact** - The proposals are likely to have a positive effect on the local community by attracting new investment and allowing existing businesses to adapt to change. This in turn may increase employment opportunities in the borough.

7.4 **Crime and Disorder Issues.** It is not anticipated that the proposed LDO will have a negative impact in terms of crime and disorder. Indeed the proposal will make it easier for business to invest in the borough and bring employment opportunities. At the same time there will be less vacant buildings and less opportunity for criminal

damage. It will be important, with the removal of the need for planning permission around change of use and minor redevelopment that applicants are reminded at the outset of the need to keep buildings and building materials secure during redevelopment.

Background Papers Used in the Preparation of the Report:

- LDOs and Localism: Can local development orders contribute to the new planning agenda? Planning Advisory Service (April 2011).

List of appendices:

- Appendix 1: London Borough of Barking and Dagenham Employment Areas Local Development Order and Statement of Reasons.