

ASSEMBLY

17 September 2014

Title: Adoption of 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: Steve Cox, Director of Growth	
Summary <p>Across the country local authorities have prepared Local Development Orders (LDO) for Enterprise Zones to allow businesses to do more things without the need for planning permission. This prompted officers in the Council's Regeneration Service to explore whether there was benefit in preparing a Local Development Order to benefit businesses in Barking and Dagenham and promote the borough as a business friendly place. Consequently a draft Barking and Dagenham Employment Areas Local Development Order (LDO) was approved by Cabinet on 24 September 2013 for public consultation, (Minute 37 refers).</p> <p>Public consultation took place from 8 November 2013 to 20 December 2013.</p> <p>In response to an objection from the Port of London Authority, the LDO has been amended to ensure that no changes are allowed to the safeguarded wharves which are contrary to London Plan policy. In response to comments from the Environment Agency the condition relating to notification has been amended.</p> <p>The Employment Areas Local Development Order is attached as Appendix 1 and the consultation statement is attached as Appendix 2.</p>	
Recommendation(s) <p>The Assembly is recommended to adopt the Barking and Dagenham Employment Areas Local Development Order attached at Appendix 1 to the report.</p>	
Reason(s) <p>The Employment Areas Local Development Order will help deliver the Council's priority to "Encourage growth and unlock the potential of Barking and Dagenham and its residents".</p>	

1. Introduction and Background

- 1.1 A report went to Cabinet on 24 September 2013 requesting approval of the draft Barking and Dagenham Employment Areas Local Development Order (LDO) for public consultation. This was agreed and consultation subsequently took place, (Minute 37 refers).
- 1.2 This will allow a change of use between research and development, light industrial, general industrial and warehousing uses without planning permission within the borough's designated employment areas provided the caveats in the Local Plan are adhered to. It will also allow 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. The LDO also introduces permitted development rights for new or replacement windows and external cladding for R&D, light industrial, general industrial and warehousing uses.
- 1.3 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 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 transport assessment for changes of use over 4000 square metres.
- 1.4 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.

2. Proposal and Issues

- 2.1 Consultation on the LDO took place for a period of six weeks from 8 November 2013 to 20 December 2013. Eight responses were received and, of these, one objected to the LDO and one suggested a change of wording. Responses are attached as **Appendix 2** (see Section 4 for further details). This has resulted in minor changes to the LDO and therefore officers recommend that Assembly approve its adoption. Due to recent legislative changes the Council is no longer required to submit the LDO to the SoS prior to adoption.

3. Options Appraisal

- 3.1 See Barking and Dagenham Employment Areas Local Development Order Cabinet Report of 24 September 2013 for options appraisal.

4. Consultation

- 4.1 Consultation was undertaken for a period of six weeks from 8 November 2013 to 20 December 2013, 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 included consultation with all businesses covered by the LDO, all contacts on the planning policy (Local Plan) database (including the

Barking and Dagenham Chamber of Commerce and other local business forums) and all residents adjacent to the LDO area. In addition, site notices were placed at all Employment Areas affected by the LDO, information was published on the Borough's website and information was made available at Barking Town Hall, the Civic Centre and all public libraries.

- 4.2 Following consultation, all responses were recorded, analysed and assessed in a consultation report, attached as **Appendix 2**.
- 4.3 The Port of London Authority objected to the LDO if it could result in changes being made to the use of a safeguarded wharf and such changes would for example, result in the loss of existing waterborne cargo handling uses or restrict the potential for non operational wharves to be reactivated for waterborne cargo handling uses in line with London Plan policy 7.26. In response to this objection, the LDO has been amended to ensure that no changes are allowed to the safeguarded wharves which are contrary to London Plan policy.
- 4.4 The Environment Agency recommended a change of wording to informative IN5 which advised applicants to gain 'Land Drainage Consent' from the Environment Agency for sites within flood zone 3. This is not entirely correct as Flood Zone 3 is not the trigger point for issuing consent. Applicants should instead consult the Environment Agency on works that are in close proximity to a watercourse and/or its defences. This 'Flood Defence Consent' is a requirement of the Water Resources Act 1991 and the Thames Land Drainage Byelaws 1981. Suggested wording for IN5 is, 'Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws 1981, the prior written consent of the Environment Agency may be required for any proposed works or structures in, under, over or within 8 metres of a watercourse (16m for the tidal sections of the river Thames) and flood defence structures.' This has been incorporated in the revised LDO.

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. As LDO's grant planning permission; the adoption of the LDO is not an Executive function and so must be agreed by adoption by the Assembly.
- 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	In line with Local Plan policy 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 **Corporate Policy and 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 on 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.

Public Background Papers Used in the Preparation of the Report:

- Barking and Dagenham Employment Areas Local Development Order, LBBD Cabinet Report, 24 September 2013.

List of appendices:

- **Appendix 1:** London Borough of Barking and Dagenham Employment Areas Local Development Order and Statement of Reasons.
- **Appendix 2:** London Borough of Barking and Dagenham Draft Employment Areas Local Development Order: Summary of Comments and Responses, January 2014