

Report to: Planning Committee



Date of Meeting 25th October 2022

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Exemption applied: None

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Local Development Order for Land off Long Lane

Report summary:

The report seeks approval to Adopt a Local Development Order (LDO) for employment generating uses on the site referred to as Power Park. This site is one of the four that comprise the Exeter and East Devon Enterprise Zone designation with a simplified planning regime being a key part of the offer to accelerate the delivery of new commercial development and employment.

The LDO sets out the permitted development and defines the restrictive terms which limit the scope of the development and the conditions which need to be met. The draft Order is attached at Appendix 1. The order is accompanied by a Planning Parameters Design Code (DC) document. The LDO and the DC set out parameters for which all development must adhere to, ensuring high quality design and minimising adverse impacts from the development. A Statement of Reasons sets out the background and the justification for the LDO and is attached at Appendix 2.

Formal consultation on the LDO has taken place in accordance with the regulations set out in Article 38 of the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO). The responses to the formal consultation are attached as Appendix A to the Statement of Reasons. Following the consultation the LDO and the Planning Parameters Design Code have been amended where appropriate and the revised draft has been prepared for Committee to consider for Adoption.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

It is recommended that Committee approve the Adoption of the LDO on the Power Park site.

Reason for recommendation:

Through the adoption of a LDO the Council can encourage appropriate delivery of the site in accordance with the aims and objectives set out in East Devon Local Plan 2013 - 2031 and East Devon Council Plan 2021 - 2023.

The LDO will reduce the regulatory processes and delays associated with the submission of planning applications, encouraging investment into the area and the creation of jobs. The LDO will provide a framework for co-ordinating sustainable development of the site to achieve a mixed use scheme with good place making whilst minimising the impact upon the local environment and wildlife.

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Medium Impact

Risk: Low Risk; The delivery of the Order will comply with the Town & Country Planning (Development Management Procedure Order) (England) 2015.

Links to background information [Planning Parameters Design Code East Devon Local Plan 2013-2031](#) [National Planning Policy Framework](#) [The Town & Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Report in full

1. Introduction

- 1.1. The implementation of a simplified planning regime in Exeter and East Devon Enterprise Zone has been included in the Enterprise Zone work programme from the commencement of the designation in April 2017.
- 1.2. A Local Development Order (LDO) is an Order made by the Local Planning Authority (LPA) that grants planning permission for a specific development proposal or classes of development in defined locations. LDO's are a flexible tool for the LPA to use to accelerate the planning process by providing permitted development rights for appropriate development on a site.
- 1.3. The LPA has undertaken a formal consultation process on the LDO and has been working in partnership with the site promoters and other key stakeholders to create a final draft of the LDO and the Planning Parameters Design Code (DC).

2. Background

- 2.1. The Town and Country Planning Act 1990, Section 61, permits Local Planning Authorities (LPA's) to make Local Development Orders granting planning permission for development in their area. The Town & Country Planning (Development Management Procedure Order) (England) 2015 sets out the procedure that must be undertaken for the preparation and adoption of an LDO.
- 2.2. LPA's can make an LDO to extend permitted development rights or grant planning permission, for specific development proposals or classes of development within a particular area.
- 2.3. The site in question forms part of Exeter and East Devon Enterprise Zone (EEDez), which was designated in 2017. The Government introduced Enterprise Zones to stimulate private sector investment and support business development. Enterprise Zones include the provision of financial incentives, including business rates discounts, to support business growth together with simplification of the planning system such as through the adoption of Local Development Orders.
- 2.4. The principal objective of the LDO is to encourage and facilitate the development of the site by providing a simplified approach to planning which reduces the regulatory processes and delays associated with the submission of planning applications. The LDO seeks to encourage investment and create a sustainable high quality business park enabling flexibility for the site to provide for changing demands within the business/industrial sectors.

3. Planning Committee

- 3.1. A report was put to Planning Committee on the 13th April 2022 seeking the Committee's endorsement to undertake the formal consultation process on the Adoption of a Local Development Order for Land off Long Lane (now referred to as Power Park). Committee approved the undertaking of the formal consultation process, with delegated authority given to the Development Manager to finalise and agree the consultation draft of the LDO.

4. Details of the LDO

- 4.1. In accordance with the provisions set out in The Town & Country Planning (Development Management Procedure Order) 2015 the Local Planning Authority must prepare a draft Order and a Statement of Reasons. These are attached to the report in Appendix 1 & 2 respectively.
- 4.2. The LDO would remove the need for developers to apply for planning permission for development of the site for employment generating uses, as defined in the order.
- 4.3. The maximum development permitted by the order would be 26,000 sqm. The permitted uses shown in the draft order are as follows;
 - B2 General industrial - max 10,400 sqm
 - B8 Storage & distribution – max 18,200 sqm
 - E (g) i) Office – max 2,600 sqm
 - E (g) ii) Research & development – max 2,600 sqm
 - E (g) iii) Any industrial process max 2,600 sqm

- E (b) Food & drink – max 100 sqm
- E (d) Indoor sport & recreation – max 160sqm
- F1 (a) Learning and non-residential institutions for the provision of education – max 500sqm

- 4.4. The development rights permitted under the LDO would allow for future changes of use as long as it is within the limitations of the LDO.
- 4.5. The order also specifies a list of conditions which must be met. Any development outside of these limitations or which does not comply with the list of conditions would not be deemed as permitted development by the Order.
- 4.6. The DC provides an indication of how the site may come forward, with various plans showing different unit sizes and layout. The site will be split into two zones which will be separated by landscaping. The LDO is accompanied by a map which defines the developable areas of the site, clearly setting out areas which will not be built upon, including landscaped areas, SuDs and the access road.
- 4.7. To ensure that the development is acceptable in planning terms parameters are set within the LDO and DC to restrict the development. The parameters will ensure that an appropriate mix of uses and unit sizes are provided on the site. The Local Plan allocates the site for business/employment generating uses under Strategy 18 and does not restrict any particular business/employment use on the site. The proposals under the LDO will enable a greater level of control over what can currently be achieved through the Local Plan and will ensure the development of the site comes forward as a mixed use scheme with various unit sizes to accommodate a variety of business/employment uses.
- 4.8. Informal and formal consultation has taken place with relevant stakeholders to address issues such as transport, drainage, flooding, landscape, ecology and aerodrome safeguarding.
- 4.9. To ensure development takes place in accordance with the LDO there will be a requirement to submit an Application for Compliance. There will also be some instances where written approval is required from the LPA to comply with a condition. For both of these matters the developer will need to submit all the relevant information and appropriate fee.
- 4.10. The duration of the LDO is defined within the draft Order as 10 years from the date of adoption. The Council can revoke, amend or extend the Order at any time.

5. Key Planning Considerations

5.1. Permitted uses

The majority of the site is allocated for employment generating uses within EDDC Local Plan 2013-2031. The LDO supports the delivery of employment generating uses on the site. A key deliverable is to ensure the site comes forward as a mixed use scheme to benefit employment provision in the locality. Although class B8 use is likely to generate less traffic than class B2 or class E use; Class B2 and class E is likely to have higher (and more skilled) employment provision than B8. The quantum of permitted uses have been determined following an assessment of impacts verses benefits with the aim of achieving a mixed use site. A limited amount of ancillary uses, such as food and drink and indoor

recreation, are permitted which are considered may be of benefit to the overall operation of the employment site.

5.2. Scale and massing

Due to the nature of the LDO the finished floor levels (FFL) are not established. The site will be split into plateaux with cut and fill across the site. As the FFL are unknown the height of the permitted development is restricted by AOD levels and shall be no higher than 52.0 AOD. The scale is also restricted by the airports Instrument Flight procedure and Obstacle Limitation Surface Line. It is anticipated that the larger scale buildings will be positioned to the south of the site. The development may result in some very tall buildings sited close to Long Lane. To provide some context of how the proposals may relate to their surroundings the height of the surrounding buildings is as follows;

- The airport hanger to the east is estimated to have a maximum ridge height just below 50.0 AOD.
- The Future Skills Centre has a maximum roof height of 41.25 AOD.
- The hotel has a maximum roof height of 46.6 AOD.
- The plans for the permitted FAB link building show a maximum height of 59.35 AOD.

Whilst the Power Park site may accommodate buildings of significant height, the scale of the buildings will not be inappropriate when considered against the surrounding built form. The lack of nearby dwellings or other small scale buildings, which could otherwise be dwarfed by the proposals, means the site is more suitable for large scale buildings compared to other employment sites which are closer to residential areas. The siting of the hotel set back from Long Lane reduces the potential impact from the scale of the buildings on the amenities of the hotel.

5.3. Visual amenity

In respect to the visual amenity of Long lane there is a landscape buffer between the highway and the developable boundary of the site which ranges from over 20m to a minimum of 9m. The landscaping to the southern boundary will be maintained at a minimum of 3m in height to provide some screening to users of Long Lane. The DC requires the southern elevation of buildings fronting Long Lane to incorporate appropriate use of glazing and façade to ensure the buildings make a positive contribution to the appearance of the site, reducing the visual impact on the surrounding area.

5.4. Landscape & Ecology

There will be a landscape buffer around the site, as well as a strip running east to west through the middle of the site. The development parameters ensure that adequate mitigation takes place to minimise adverse impacts upon the landscape and natural environment and support an increase in bio-diversity whilst posing no increase risk to aerodrome safeguarding.

5.5. Transport

The proposals will result in an increase in traffic on the highway network in the area and especially along Long Lane. Through the Enterprise Zone programme the Council has invested £4.51m into road improvements along Long Lane to provide adequate access for heavy goods vehicles to the Power Park site. The proposed amount of traffic to the site may vary depending on the amount of development and types of uses that take place. As such, the Traffic Assessments have been undertaken in agreement with the Local Highway Authority (LHA) and National Highways (NH). The proposed traffic impacts are considered acceptable subject to appropriate conditions. Condition 5 (CEMP) of the LDO requires a Construction and Environment Management Plan to be submitted and approved prior to

any works commencing on site. Condition 7 (Travel Plan) of the LDO requires a Travel Plan to be submitted and approved prior to any initial or subsequent occupation of any premises. The LDO will permit one or more access's to be formed onto Long Lane. All access will need consent from the LHA through a S278 agreement to ensure highway safety is maintained. Parking will be provided in accordance with the parking ratios defined in the DC.

5.6. Sustainability

Sustainability is a key aspect of the development; The development will be required to meet BREEAM standards of "Excellent" on all buildings over 500sqm and "Very good" on all other buildings; The buildings will be fitted with solar panels; Travel Plans will be required to be submitted and approved to support low carbon development; Electric vehicle points will be provided for all units.

5.7. Aerodrome safeguarding

The LDO contains an appropriate condition to ensure aerodrome safeguarding is maintained as the site gets built out.

5.8. Other matters

The DC is backed up by a group of technical documents providing additional information on specific matters, including drainage, flooding, air quality, noise and archaeology. Where required appropriate conditions and parameters are included in the LDO and DC to control the impacts from the development.

6. Formal Consultation

6.1. Appendix A to the Statement of Reasons contains the representations received during the formal consultation and also provides a response to the issues raised where appropriate. The most significant issues raised were transport, aerodrome safeguarding, landscape and drainage (please refer to the Statement of Reasons for the full consultation responses).

6.2. Transport

Many issues have been raised in respect to transport, including generation of traffic, parking provision and travel plans. These are addressed in Appendix A of the Statement of Reasons. Both the LHA and NH have been consulted at length through both the informal and formal consultation process. There will be an increase in traffic down Long Lane and an increase in queuing on the junction with the B3184. Whilst the road improvement to Long Lane will widen the road and make it suitable for heavy good vehicles the junction with the B3184 will be over capacity. This junction is predicted to be over capacity by 2030 even without the LDO site coming forward for development. This has been confirmed by LHA and junction improvements will be required in the future whether or not the site is developed. Following the provision of adequate information to enable their assessments of the proposals LHA and NH have confirmed no objection to the proposals subject to various conditions which the LDO ensures. The LHA and NH will be consulted on the CEMP and Travel Plans when they are submitted under the condition requirements.

6.3. Aerodrome safeguarding

Following consultation with the Airport an extra restriction has been added to the maximum height parameters (Table 1 of the LDO) to ensure development does not go above either

the airports Obstacle Limitation Surface Line or the Instrument Flight Procedure. Condition 9 (Aerodrome Safeguarding) of the LDO has also been re-worded to ensure it adequately meets the safeguarding requirements of the airport.

6.4. Landscape & ecology

The informal and formal consultation process enabled detailed discussions with the Council's Landscape Architect and Green Infrastructure Officer and the District Ecologist to take place. As such, the Strategic Landscape Plan and the Green Infrastructure Strategy have been refined and are now considered acceptable. A Landscape Environmental Management Plan (LEMP) is required by the DC to ensure the long term landscape and ecological management of the site.

6.5. Drainage

The drainage strategy is contained within the DC associated reports. Infiltration testing has taken place and the Local Lead Flood Authority has been consulted on all the documents. It is considered that the proposals provide adequate drainage facilities for the development with the appropriate use of SuDS that will not increase the risk of bird strike to the airport.

6.6. Exeter Airport

Aside from the aerodrome safeguarding matters Exeter Airport raised a number of concerns with the proposed LDO. These are summarised and addressed below:

- A number of drafting /continuity points were raised with regard to the content of the DC. Each of these has been addressed in the amended version of the DC.
- Clarity was sought with regard to the development parameters and the guidelines set out in the DC. It is confirmed that Tables 1 & 2 of the LDO set the scale parameters of the development and the DC has been amended to include Technical Parameters in relation to technical matters which must be fulfilled for the development to be compliant with the LDO (see Design Code Section 05). The LDO has been updated to indicate the fact development must be built in complete accordance with the LDO and DC .
- It was suggested that as the attenuation pond is principally intended to be dry, as required to meet airport safety requirements Plan 2 of the LDO should be amended to reflect this. The plan has been updated accordingly.
- Drafting amendments were suggested to condition 5 (CEMP) and 10 (Aerodrome Safeguarding) set out at Appendix B to the LDO. These have been updated where appropriate.
- It was identified that the Noise assessment submitted did not address the potential impact of noise from the airport on future occupiers of the site. Particular reference was made to occupation of the buildings as offices or education facilities. In response to these comments a design parameter has been added to the DC which requires *"The external building fabric throughout the development will be designed and constructed so that external noise generated from the adjacent airport do not have an adverse effect on noise levels in office spaces. The maximum values as set out in the acoustic report by Hilson Moran represent a min. sound reduction of 34db in office areas if the maximum surveyed noise on site is subtracted from the acceptable maximum office noise limit."*
- The approach to car parking on the site was considered as inappropriate. Whilst the concerns in this regard are noted the range of parking provision has been agreed through consultation with EDDC and DCC highways and is considered appropriate to the development proposed. The actual ratio of parking will be determined by the occupiers needs and therefore gives flexibility between the ranges noted.
- The surface water drainage strategy put forward was questioned, in particular the ability to utilise the wider culvert network beneath the operational airport. It has been clarified that the development will not transmit additional flows into the culvert and indeed, the development will actually reduce the existing greenfield run off rate as highlighted within

the drainage strategy and has been agreed with the Lead Local Flood Authority. There is no existing record of flooding in the current arrangement, and as such a reduction from existing flows is considered to provide a betterment. Furthermore, a condition survey of the culvert has been undertaken and no defects have been identified within the site boundary.

- Fundamental concerns were raised with regard to potential traffic generation from the site and the impact upon the operation of the airport, particularly with regard to queuing at the junction of Long Lane with the B3184. The LHA and NH have both been consulted on the LDO. With regard to the local highway network, it has been accepted by LHA that the proposed development will lead to some additional highway pressure. However, it has been acknowledged that the local network is already operating over capacity (including queuing at the junction of Long Lane with the B3184) and that improvement of the wider local network is already under consideration as a County level priority. As such, it is accepted that the additional traffic generated from this allocated site would not be sufficient to warrant not adopting the LDO. At a wider strategic highway network level, following the submission of additional traffic modelling, NH have confirmed they have no objection to the proposed development.
- It was highlighted that although the draft LDO limited the amount of B2 activity allowable to 10,400 sq m the amount of E(g)(iii) activity would be unlimited (up to the overall cap of 26,000 sq m) and that trip rates for E(g)(iii) activity are typically assumed to be the same as those for B2. To address the potential issues arising from unrestricted E(g)(iii) activity on the site a restriction to a maximum of 2,600 sqm of class E(g)(iii) has been added.
- It is noted that if all the permitted quantities of E uses are implemented there may be an increase in traffic to the site. However the Council is keen to ensure the site comes forward as a mixed use scheme and there is a need to support mixed employment uses coming forward in the area and as such the flexible approach to allowing a mix of uses on the site is considered appropriate. By limiting the B2 and all other uses (excluding B8) to 40% the site would have to deliver 60% as B8 use. Ideally the Council would like to see a higher level of skilled employment which may be provided by accommodating other uses on the site, as such 60% is the maximum provision of B8 use that the Council considers appropriate for the site. In light of the Local Highways Authority and National Highways both raising no objections to the scheme, it is considered that the benefits of the potential employment that may be created from enabling a mix of uses on the site, combined with the improvements being implemented under the Long Lane Road Improvement Scheme, outweigh the highways impact of additional trip generation and queuing on the Long Lane/B3184 junction that may arise from having less than 60% of the site in B8 use. Given the lack of objection from the Highways Authority and National Highways it is not considered appropriate to further restrict the permitted uses on the site.
- A second representation, dated 31 May 2022, provided comments in relation to the consultation response from DCC highways. The points raised have all been addressed in the above responses.

6.7. The LDO and the Planning Parameters Design Code (including associated documents) have been amended following the formal consultation.

7. Benefits of implementing an LDO

7.1. The LDO is seen as an effective tool for simplifying and speeding up the planning process. It is a proactive approach to planning which provides certainty and clarity to developers and landowners and supports the objectives of the Enterprise Zone.

- 7.2. The LDO accords with and assists the implementation of East Devon District Council Local Plan 2013-2031. Relevant policies in the consideration of the LDO are listed in the Statement of Reasons (Appendix 2)
- 7.3. The LDO will assist the delivery of East Devon Council Plan 2021-23;
1. Council Priority 2 - A greener East Devon
 2. Council Priority 3 – A resilient economy

8. Alternative options

- 8.1. The alternative is to not adopt a LDO for the site. Developers would then be required to gain planning consent for development. This approach would in delay the site coming forward for development while planning applications are prepared and may not achieve delivery of a mixed use scheme.

9. Conclusion

- 9.1. The LDO will facilitate development, supporting the local economy and creating jobs. It will provide a framework for co-ordinating sustainable development of the site to achieve a mixed use scheme with good place making whilst minimising the impact upon the local environment and wildlife.
- 9.2. The LDO controls the permitted development though its limitations and conditions. Development being built under the LDO will have to accord to the parameters set within the LDO and Planning Parameters Design Code.
- 9.3. The regulations allow the LDO to be revoked or amended at any time should the Council change its policies or views on how the site should be developed.
- 9.4. If agreed by Planning Committee the LDO will be adopted and the Secretary of State notified accordingly.

Financial implications:

The Enterprise Zone policy is designed to stimulate the pace of economic development on the zone and the local economy of which it is a part. The primary financial implication is that business rates growth within the zone, for a significant period, is retained by the local area to support the Council's and Local Enterprise Partnership's economic priorities.

Legal implications:

The power to make an LDO is discretionary and the LDO must be adopted for it to take effect. The power to adopt an LDO has been delegated to the planning committee. There are no other legal implications other than as set out within this report for consultation