

Taunton Deane Borough Council

Executive - 3 December 2015

The use of Local Development Orders for development sites in the Taunton area as an alternative to a review of the Town Centre Area Action Plan and a Development Plan Document for the Strategic Employment site adjacent to Junction 25 of the M5

Report of the Assistant Director Planning and Environment

(This matter is the responsibility of Executive Councillor Roger Habgood)

1. Executive Summary

The Executive is being asked to recommend to Full Council that the Council uses Local Development Orders (LDOs) as a means by which the Deane House and Strategic Employment site adjacent to Junction 25 for development may be brought forward without the need for an individual planning permission to be issued. Members are also asked to support the principle of the use of LDOs for sites identified in the Taunton Town Centre Area Action Plan (TTCAAP) as an alternative to reviewing the Plan.

2. Background

- 2.1 LDOs were introduced as a planning tool by the Labour Government as part of the suite of planning reforms outlined in the Planning and Compulsory Purchase Order Act of 2004. Up until fairly recently however, take up of LDOs has been quite limited across the Country.
- 2.2 An LDO is a means by which of bringing forward land for development without the need for an individual planning permission to be issued. Instead, development which meets the criteria set out in the Order (which would cover matters such as location, development type and design) would automatically be allowed. LDOs therefore represent an important planning tool which can act as a catalyst to bring forward development and investment by providing certainty: particularly useful in the redevelopment of complex brownfield opportunities.
- 2.3 The process for preparing a Local Development Order is rather complex. The Local Planning Authority must undertake informal consultation outlining the policies it proposes to implement, the development permitted

- and the area to which the Order would relate. It must also set out a 'statement of reasons' that establishes the reasons for making an Order.
- 2.4 As with any planning policy document, in order that the LDO can be justified, and perhaps most importantly deliverable there is a clear need for the document to be based upon sound evidence. To this end it may be necessary for technical work to be prepared to support the LDO which may include detailed design work or masterplanning, an analysis of site constraints and some form of financial viability assessment.
- 2.5 LDOs cannot be required to provide Section 106 obligations which means that sites covered cannot be obliged to provide affordable housing or other financial contributions in order to make development acceptable in planning terms. That said, Community Infrastructure Levy is still applied (although it should be noted that the Taunton town centre sites are zero rated). It appears that some LPAs have required certain improvements or indeed affordable housing by way of planning condition rather than obligation.
- 2.6 There is no definitive process for putting an LDO in-place once preparatory work on the Order and public consultation has been carried out. Many Councils have however, resolved to adopt LDOs at Full Council Meetings since the Orders are effectively Council policy. This should certainly be the case in this instance where the preparation of LDOs used as an alternative to plan preparation. Similarly, there is no established mechanism outlined in Regulations or Guidance outlining the procedure for bringing forward development in-line with any order, although again, it appears that many Councils have required eligible developments to apply for a Certificate of Lawfulness. Further work will need to be done on this once the principle is agreed.
- 2.7 In January 2015 the Government published a consultation: *Building More Homes on Brownfield Land*. It proposed the introduction of measures to ensure the LDO target is met, either by 'designating' Local Planning Authorities as 'underperforming' and therefore giving applicants the ability to apply directly to the Secretary of State for planning permission; or, automatically ruling that where the target is not met, a five year deliverable supply of housing land does not exist.

3. Application of LDOs in Taunton Deane

- 3.1 It would appear that LDOs are a tool which the Government will increasingly expect Local Planning Authorities to use, particularly in relation to brownfield opportunities. With this in mind, this report proposes the preparation of LDOs for some of the brownfield redevelopment sites currently identified in the adopted Taunton Town Centre Area Action Plan (TTCAAP) as well as an alternative to the single issue plan proposed for the Strategic Employment site.

- 3.2 The TTCAAP allocates a number of sites for redevelopment but is now several years old and there is a need to review the assumptions made regarding key sites, and in some cases, this may have a bearing on the mix of uses proposed. By preparing LDOs for sites the Council can reduce the amount of work involved when compared to a review of the Plan, whilst at the same time accelerating the redevelopment of key sites.
- 3.3 Since the Council is also landowner on several of the TTCAAP sites there should be greater assurance that when proposals are formulated for LDO sites they will fit closely with the principles and parameters set out to underpin the Orders themselves as well as other local planning policy and guidance. This should help reduce the tension between the need for flexibility but at the same time ensuring a quality outcome for the Town on critical sites within the Town Centre.
- 3.4 In addition to those sites already allocated for redevelopment in the TTCAAP the Council's own premises and land holdings at Deane House is also considered to be a good candidate site for an LDO should it become available for redevelopment. The site represents previously developed land in close proximity to the town centre and occupies a key location. It is also in a single ownership which makes preparation of an Order simpler and increases certainty of delivery. Further, in the Council's capacity as landowner there would be a desire to see the site brought forward for redevelopment as expediently as possible should it become available and therefore preparation of an LDO seems a logical option for consideration.
- 3.5 In terms of the Strategic Employment site, the preparation of an LDO would not only accelerate the process when compared with the formal development plan route, but would also have the advantage of being a marketing tool for potential occupiers who will have greater certainty over the appropriateness of their use and a quicker and easier process for resolution. The LDO route will still enable the local communities to be involved through consultation and to influence the outcome as would be the case if this site were to be brought forward through the preparation of a development plan as had previously been envisaged.

4. Next Steps

- 4.1 It is proposed to progress LDOs for the Strategic Employment site and potentially the Deane House site as a matter of first priority. In addition there may be further scoping carried out at the same time associated with the preparation of Orders for other key town centre sites.
- 4.2 It is proposed to use the HCA Procurement Framework to procure consultants to carry out this work. This will enable the in house resource to concentrate on a review of the Core Strategy, although there will be clearly still be some work involved for the team who will need to client the projects, be involved in consultation and taking them through Council for adoption.

4.3 It is proposed to allocate £100,000 of New Homes Bonus towards the cost of preparing a series of Orders.

4.4 As has been stated earlier in this report, prior to any draft LDOs being issued for public consultation, further consideration will need to be given as to how Taunton Deane as the Local Planning Authority will determine conformity with Orders.

5. Finance Comments

5.1 The preparation of Local Development Orders would potentially create additional expense for the Council where it is not the landowner since the Orders themselves will need to be underpinned by technical work. In instances where the Council is the landowner the additional expense may be off-set against the sale price of land since much of the technical work required to support a scheme will have already been completed. It is proposed to set aside New Homes Bonus to fund this process.

5.2 Where LDOs are prepared and new development proposals come forward there will be a loss of planning application fee income. The Council can however require a Certificate of Lawfulness to be in-place in order to confirm that the development proposed complies with the Order. Other Local Planning Authorities including Aylesbury and Swindon Borough Councils have introduced charges for this process, which can offset any loss of income.

6. Legal Comments

6.1 The process for preparing an LDO is set out in the Planning and Compulsory Purchase Order Act of 2004 and updated Regulations.

7. Links to Corporate Aims

7.1 Local Development Orders can make a contribution towards achieving the Council's Corporate Aims for 'Quality and Sustainable Growth and Development', 'A Vibrant Economic Environment' and 'A Vibrant Social, Cultural and Leisure Environment.'

8. Environmental Implications

8.1 Where LDOs are prepared for specific sites there may particular environmental implications that will need to be taken into account in the drawing up of the Order.

9. Community Safety Implications

- 9.1 No specific implications identified although it is possible such issues will need to be taken into account in the drawing up of some Orders.

10. Equalities Impact

- 10.1 Individual LDOs may be subject to Equalities Impact Assessment.

11. Risk Management

- 11.1 Since LDOs are designed as a means of enabling and speeding up new / redevelopment it will be important that in preparing any Orders the Council can be satisfied that what is proposed is deliverable. As the Council is the landowner of a number of key candidate sites, it is essential that it acts in a consistent, open and transparent manner in putting in place any LDO.

12. Partnership Implications

- 12.1 LDOs may be delivered in partnership with a range of key stakeholders, these may include but need not be limited to; local communities, developers and landowners, and infrastructure providers.

13. Recommendations

- 13.1 That the Executive recommends to Full Council that a series of Local Development Orders be prepared for a number of town centre sites as an alternative to reviewing the Taunton Town Centre Area Action Plan and to seek specific authority to prepare an LDO for the Strategic Employment site and The Deane House site (should it become available for redevelopment).
- 13.2 That £100,000 of New Homes Bonus be allocated to support the preparation of Local Development Orders.
- 13.3 That the Portfolio Holder for Planning Policy and Transportation be authorised to approve the programme for the preparation of further Orders for Taunton Town Centre sites.

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