

**Report of Director of City Development**

**Report to: Executive Board**

**Date: 9th March 2016**

**Subject: Leeds District Heating Network Local Development Order (LDO 3)**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Armley, Temple Newsam, Kirkstall, City & Hunslet, Farnley & Wortley, Beeston & Holbeck, Burmantofts & Richmond Hill, Hyde Park & Woodhouse, Chapel Allerton, Gipton & Harehills, Headingley, Garforth & Swillington		
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

**Summary of main issues**

1. The Leeds Climate Change Strategy Making the Change 2012 to 2015 set out the long-term ambition to reduce the city's carbon emissions by 80% by 2050, with an interim target of 40% by 2020. This is a challenging target. The Best Council Plan 2015 to 2020 update contains seven breakthrough projects, including 'cutting carbon in Leeds'. Making the switch to low carbon energy is fundamental to achieving this target. Provision of a District Heating Network (DHN) offers the opportunity to heat homes and buildings from existing waste heat sources such as the new Recycling and Energy Recovery Facility (RERF) in East Leeds; making a major contribution towards meeting this reduction target.
2. Against this background it is important that the Planning system is able to respond positively to help facilitate Leeds' low carbon ambitions. Accordingly, the proposed, final draft of the Leeds District Heating Network Local Development Order ("LDO 3") is attached with this report (Appendix 1). This document is the third LDO the council have prepared. The proposed LDO would grant planning permission (see page 7 of the draft LDO) to install a district heating network without the need to make a planning application. The granted approval is subject to restrictions and conditions. The LDO would only apply to the land specifically identified on the plan associated with the LDO. The area affected by the LDO is a broad area around Leeds City Centre stretching from the M1 to the east, Bramley & Kirkstall to the west, the M621 to the south, and

Chapelton to the north. The LDO has an initial proposed timescale of 5 years whereupon a review will occur to assess effectiveness.

3. Local ward members were consulted on a draft version of the LDO prior to public consultation and invited to two drop-in sessions to discuss the proposals. The statutory public consultation period took place between 16th November and 16th December 2015. As a result of the consultation, minor changes are now proposed to the LDO.
4. The LDO procedure is considered to strike an appropriate balance between genuinely simplifying planning procedures to facilitate implementation of a district heating network and ensuring that the resulting development will be appropriate in planning terms. Other permissions and licenses to carry out works in the highway will continue to be required as normal.
5. Should Executive Board approve adoption of the LDO, a copy will be sent to the Secretary of State for Communities and Local Government.

### **Recommendations**

6. Executive Board is recommended to:
  - i) approve adoption of the Leeds District Heating Network Local Development Order (3): set out in Appendix 1 of this report; and
  - ii) agree that the Chief Planning Officer submits a copy, together with the statement of reasons, to the Secretary of State for Communities and Local Government.

## **1 Purpose of this report**

- 1.1 The Local Development Order (LDO) has been written to facilitate implementation of a Leeds District Heating Network (DHN). Local Planning Authorities have been able to produce a LDO since the introduction of the Town and Country Planning Act (1990). LDOs grant planning permission for specified development in defined areas and can reduce bureaucracy, improve the speed of decision-making and improve certainty for landowners, communities and developers.
- 1.2 LDOs are flexible and can be used for different uses and developments in different areas and are gaining increasing importance as the government encourages local authorities to streamline planning in order to increase certainty and reduce both delay and cost in delivering sustainable development.
- 1.3 The proposed LDO specifically relates to development including pipes, cables and wires, heat exchange equipment, street furniture, informational signage and ancillary engineering works associated with installation of a district heating network.
- 1.4 Consultation on the draft LDO was undertaken with local ward members at the beginning of the public consultation period. The statutory public consultation period ran from 16th November to the 16th December 2015. The responses to this consultation are summarised in this report. The council has carefully considered the responses that have been received and now propose minor amendments to the LDO.

## **2 Background information**

- 2.1 The Leeds Climate Change Strategy Making the Change 2012 to 2015 set out the long-term ambition to reduce the city's carbon emissions by 80% by 2050, with an interim target of 40% by 2020. This is a challenging target. The council regards the DHN as the key to unlocking long-term decarbonisation of heat in the city. DHN pipes can last up to 80 years, offering long term potential for future expansion to connect low carbon heat sources to dense city centre heat loads, principally by means of underground pipes.
- 2.2 The LDO will offer certainty for those persons or businesses seeking to create their own district heating system or connect to the spine DHN by eliminating the requirement to obtain planning permission. Furthermore, it will ensure that the planning system will assist in delivery of the aspirations of the council and wider community to deliver green energy facilities within the area, whilst retaining important planning safeguards over the appearance of installations through the use of conditions or important exclusions. Due to exclusions within the LDO, planning permission would still be required for large structures and development within the curtilage of listed buildings. These exclusions ensure that the LDO does not have a negative impact on listed heritage assets.

### **Local Development Orders (LDOs)**

- 2.3 LDOs grant planning permission for the type of development specified in the LDO, removing the need to apply for planning permission. If a type of development is not specified in the LDO, planning permission should be sought in the normal way. The LDO contains three parts; the order itself including conditions, a statement of reasons

providing justification for the development to be permitted and a plan showing the area covered by the LDO. Development falling under Schedule 1 of the EIA regulations (such as a large Energy from Waste facility) or development affecting listed buildings cannot be included in an LDO.

2.4 The draft LDO 3 (Leeds District Heating Network) is set out in detail in this report.

### **3 Main issues**

3.1 An amended draft of the Leeds District Heating Network Local Development Order: Development of a district heating network, including pipes, cables and wires, heat exchange equipment, street furniture, informational signage and ancillary engineering works is attached at Appendix 1. The proposed LDO would grant planning permission for the aforementioned works within the specific land identified. For the avoidance of doubt, this LDO would not grant permission for any type of development other than that stated in section 5 of the draft LDO and would not apply outside the identified areas shown on the plan in Appendix A of the LDO.

#### Content, boundary and exclusions

3.2 The LDO is set out in a number of sections, providing the detail and information required by the relevant procedures. It includes:

- Section 1: the statement of reasons which includes a justification and a statement of key policies the LDO will implement; and
- Section 2: the order specifying the type of development permitted, the conditions attached and the timescales and other procedural requirements;
- Appendix A: Plan showing the affected areas covered by the LDO.

3.3 The development set out above is subject to a range of restrictions, exclusions and conditions as set out in the order. These limitations are needed to cover a range of issues. Overall there is an important balance to be struck between simplifying planning and giving sufficient flexibility and encouragement to create the network and ensuring that the resulting development is acceptable in planning terms.

3.4 The LDO excludes specific development which might otherwise fall within the scope of the order. The exclusions have been revised as a direct result of the public and statutory consultation responses. The revised wording of 'development not permitted by the order' is as follows:

- above ground cabinets, buildings or structures of greater than 1.5 cubic metres in volume or greater than 1.4m in height,
- any sign of greater than 500 square centimetres in area;
- works within a designated conservation area where:
  - above ground cabinets, buildings or structures of greater than 1.0 cubic metres in volume or greater than 1m in height;
  - any sign of greater than 250 square centimetres in area.
- any thermal energy generating plant or equipment;
- EIA development as defined by Regulation 2 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011;

- any works within the curtilage of a Listed Building or Scheduled Ancient Monument, and their settings;
- any above-ground development on land within 50 meters to the curtilage of a Listed Building or Scheduled Ancient Monument;
- within areas to which a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 is in force, development of a type described in that Direction.

3.5 The land affected by the LDO has been carefully selected to provide optimum opportunities for implementing a district heating network, whilst avoiding unnecessary inclusion of private land and the need to serve notice on multiple land owners and their tenants.

#### Justification

- 3.6 The aim of the LDO is to offer a genuinely simplified approach to planning. The LDO offers certainty of outcome for the specified development by defining in advance, acceptable works that can be undertaken without the need for planning permission, removing unnecessary costs and time delays to implement these changes and providing certainty that development is permitted.
- 3.7 The LDO boundary ensures that the areas around the city centre would also benefit from planning simplification for future extensions. The LDO promotes flexibility within a range of works associated with implementing a district heating network.
- 3.8 It is proposed that the LDO have an initial timeframe of five years. If the LDO were revoked before this time, there may be a requirement for the council to pay compensation to an owner/developer who was intending to carry out development using the provisions of the LDO. The Secretary of State for Communities and Local Government may at any time seek reviews against a timetable as he so directs.
- 3.9 Nearing the end of five years the council would have the opportunity to allow the LDO to lapse, make modifications and consult or extend the life of the LDO for a further specified period. The review after five years affords the council the opportunity to reflect on effectiveness of the LDO in practice. If required changes are identified to improve effectiveness, they can be incorporated into a revised draft. There could be the minor risk of legal action by those who were planning to utilise the LDO if it is cancelled before the identified expiration period. For this reason, an initial five year period has been selected even though the strategic project has a far longer implementation timeframe.

#### Early consultation on the LDO

- 3.10 Prior to the formal public consultation, internal officers and the Executive Member for Regeneration, Transport & Planning were consulted on the draft LDO and the potential area for coverage. An early draft of the LDO was sent to ward members, whose wards would be affected by the LDO.

## Public Consultation (November – December 2015)

- 3.11 The council was required to undertake public consultation on the draft document consistent with procedures in accordance with the Town and Country Planning (Development Management Procedures) (England) Order 2015 (SI 595). This requires a minimum consultation period of 28 days, for the council to serve written notice on any affected landowners/tenants, to consult with statutory consultees and other relevant bodies, to place an advert in the local newspaper and to display at least one site notice in the area covered by the LDO.
- 3.12 The consultation began on the 16<sup>th</sup> November and concluded on 16<sup>th</sup> December 2015, providing 30 days; slightly in excess of the minimum statutory 28 day requirement referenced above. This included notification of all landowners/tenants whose land/properties were potentially affected by the order (less than 20 land owners and tenants). The council also consulted with listed statutory bodies and individuals who would normally be consulted on a similar planning application; a public notice was advertised in the Yorkshire Post and Yorkshire Evening Post; approximately one hundred site notices were displayed in prominent locations in the LDO area; and consultation material published on the council's website.
- 3.13 Ward members and panel chairs representing the wards falling within the LDO area were invited to drop in sessions to discuss the proposals and supplied with an early draft of the LDO and associated plan. The two drop in sessions, hosted jointly by planning and PPPU at rooms in civic on:
- Thursday 12<sup>th</sup> November 10-12, Civic Hall, Committee Room 2
  - Wednesday 18<sup>th</sup> November 10.30-12.30, Civic Hall, Committee Room 1
- 3.14 18 written responses were received to the consultation exercise. Of these, 11 contain detailed comments on the proposed LDO. A more detailed summary of the comments is set out in Appendix 2 of this report. In summary, the comments received were as follows:

### **Historic England**

- Gotts Park is a Grade II registered historic park and the impact of proposals for this area on the significance of the park requires assessment.
- The LDO map does not correctly reflect Scheduled Ancient Monuments within the area.
- How will the setting of the heritage assets be defined and how will the impact on locally important, non-designated heritage assets be assessed? This should be undertaken in consultation with your authority's Conservation Officer.
- The list of national legislation should include the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Ancient Monuments and Archaeological Areas Act 1979.
- Queries how unexpected archaeological discoveries made during the course of ground works associated with the district heating network are considered.

- **Yorkshire Water** are concerned that existing water and waste water infrastructure and easements are protected and have sought the addition of an appropriate condition.
- The **Environment Agency** has no objections.
- The **Coal Authority** are concerned by the risk posed by mining legacy issues and seek a condition requiring submission of a coal mining risk assessment and approval and implementation of remedial measures.
- **Highways England** highlight that the motorway network is classified as a 'protected street' and additional permissions are required. They advise early consultation. They also identify that the M621 is included within the Road Investment Strategy (RIS) to begin in 2020 and lasting several years.
- **Yorkshire Wildlife Trust** request reference to other protected species legislation and additional conditions to take account of protected species.
- **Canal River Trust** - crossing of our navigations and land will require our consent and all works affecting our navigations and canals need to comply with our Third Party Works Code of Practice. As such, any works affecting our navigations and land should be submitted to the Trust for review in advance of any works taking place.
- **Wades Charity** - owns most of the open space (leased to LCC) included within the LDO area. The registered historic park of Gotts Park should be removed from the LDO area. Wades' owned open space could become available for sale and development during the period of the LDO, such as land adjacent to Copperfields College. Wayleave agreements will be needed where the pipes are routed through open space, including compensation, restoration and avoid the felling of trees.
- **Veolia** - The LDO should recognize and accommodate anticipated dimensions of potential protective structures where work is located above ground such as rail bridges. It is anticipated that above ground structures would be significantly greater than 1.0 cubic metres in volume, as stated in the LDO. The draft LDO should be amended to permit outer protective covers/housings which may enclose the district heating pipework. Veolia would like to see the life of the LDO extended beyond 5 years.
- **Leeds Civic Trust** – Highlight an inconsistency between page 3 in the justification and page 7 of the order in relation to the treatment of development in relation to conservation areas. Seeking an additional bullet point in the list of LDO exclusions to refer to any above ground development affecting the special character and historic interest of a conservation area, notably positive buildings and structures, but also distinctive places and spaces within the conservation area.

3.15 Officers have considered the representations made to the draft order through the public consultation and the officer responses are set out in detail in the table in Appendix 2. As a result, a number of amendments are proposed to the draft LDO, which are summarised as follows:

- New condition relating to protection of sewers and water mains during works.
- New condition in relation to protected species and inclusion of relevant acts in the legislation list.

- New condition in relation to ground stability and former coal workings requiring approval and implementation of appropriate mitigation measures.
- Revised justification wording in relation to conservation areas and added new condition requiring colour treatments of structures within designated conservation areas. Revision to the development not permitted list to add additional information in relation to the setting of listed buildings and restricting the scale and type of development within designated conservation areas. Inclusion of additional heritage related acts within the legislation list.
- Removal of scheduled ancient monuments from the LDO map and inclusion of conservation area and Coal Authority Development High Risk areas.
- Removal of Gotts Park (a registered historic park) from the LDO area.

3.16 Additional minor changes in relation to conservation areas and listed buildings have been made to the Statement of Reasons to add clarity and aid understanding of the order.

3.17 In some cases, after careful consideration of the issues raised by consultation respondents, officers have recommended that no changes are made to the LDO. The officer response is set out in the table in Appendix 2.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 Prior to the formal public consultation, council officers, ward members and key stakeholders were consulted on an early draft version of the document and the potential area subject to the LDO.

4.1.2 The statutory public consultation period took place between 16th November and 16th December 2015. The results of the consultation and minor changes proposed to the LDO are discussed in detail in section 3 of this report.

4.1.3 Should Executive Board approve adoption of the LDO, the regulations require that a copy be sent to the Secretary of State for Communities & Local Government within 28 days.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 An Equality Impact Screening assessment (attached as an appendix) has been undertaken and concluded that no negative equality, diversity, cohesion or integration issues are foreseen as a result of the draft LDO. The draft LDO has also been subject to both internal and public consultation and no negative equality issues were highlighted within these processes. The LDO only applies to land located within certain areas. Use of the LDO is based entirely on the type of development proposed and geographical location, rather than any personal or group characteristics.

4.2.2 The LDO is likely to have a direct positive impact on equality, diversity, cohesion and/or integration. The LDO promotes an efficient and green form of heat energy



which is cheaper than traditional grid supplied gas or electricity. It will be particularly beneficial to those in high density, high rise residential developments and contributes towards narrowing the gap.

### **4.3 Council Policies and Best Council Plan**

4.3.1 Preparation of the LDO is consistent with the council's decision to promote a district heating network in the city, reduce carbon emissions and reduce energy bills for vulnerable residents. This supports the Best Council Plan 2015-2020 objectives:

- Supporting communities and tackling poverty;
- Delivering the better lives programme;
- Dealing effectively with the city's waste;
- Becoming a more efficient and enterprising council.

4.3.2 The implementation of a Leeds District Heating Network is a key component to unlock the long term decarbonisation of heat in the city, consistent with the Commission on the Future of Local Government proposition on Establishing a 21st Century Infrastructure.

4.3.3 The Best Council Plan sets out a vision for Leeds to be a compassionate, caring city that helps all its residents benefit from the effects of the city's economic growth. Creating the right conditions for the economy in Leeds to prosper and ensuring that a consequence of growth is a reduction in inequalities is a key focus. District heating can ensure those vulnerable residents in high density housing on low incomes can access cheaper low carbon energy generated from waste and share in the benefits of successful city.

### **4.4 Resources and Value for Money**

4.4.1 The preparation of this LDO has had resource implications in terms of officer time and the cost of public advertising and sending notification and consultation letters. This cost of advertising and notification will be met through the existing Neighbourhoods and Housing budget. Once LDO 3 is adopted, the council cease to receive planning application fees for the development covered by the order. Taking into account the associated cost that would have been incurred in processing these types of application which would attract a minimal engineering works application fee, overall resource implications to the council are considered to be neutral.

4.4.2 Discharge of the conditions within the LDO will require payment of the usual condition discharge fee to the council.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The LDO has been prepared in accordance with the Local Development Order procedures and statutory requirements as set out in the Town and Country Planning Act 1990 (as amended) and The Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 4.5.2 The advice of Legal Services has been sought during the preparation and consultation on the draft LDO.
- 4.5.3 The report is eligible for call-in.
- 4.5.4 In accordance with Regulation 29(2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (“the Regulations”), the Local Planning Authority is required to issue a Screening Opinion in respect of a proposed local development order. This screening opinion is available to view from the Planning Department or on-line using the council’s [public access portal](#) application reference: 15/06934/FU.

## **4.6 Risk Management**

- 4.6.1 There is considered to be a small risk associated with allowing the implementation of a district heating network without requiring developers to apply for planning permission. However, it is considered that the restrictions, exclusions and conditions specified in the order and the opportunity for review within the identified timescale should not result in lawful development which has an unacceptable impact on amenity or the quality of the local environment.

## **5 Conclusions**

- 5.1 The draft LDO has been prepared with the intention of simplifying the planning system and encouraging implementation of a district heating network and realising all the potential benefits for the city.
- 5.2 A number of revisions have been made to the draft LDO in direct response to comments submitted during the public consultation period.
- 5.3 The draft LDO, as revised, is considered to strike the appropriate balance between genuinely simplifying planning procedures to encourage implementation of a district heating network and ensuring the resulting development will be appropriate in planning terms.

## **6 Recommendations**

- 6.1 Executive Board is recommended to:
- i) approve adoption of the Leeds District Heating Network Local Development Order (LDO3): set out in Appendix 1 of this report; and
  - ii) agree that the Chief Planning Officer submits a copy, together with the statement of reasons, to the Secretary of State.

## **7 Background documents<sup>1</sup>**

- 7.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council’s website, unless they contain confidential or exempt information. The list of background documents does not include published works.

## **8 Appendices**

- 8.1 Appendix 1: Draft Local Development Order (LDO3): Leeds District Heating Network
- 8.2 Appendix 2: Summary representations from public consultation with officer response, November – December 2015.



Appendix 1

## **Local Development Order (LDO 3)**

## **Leeds District Heating Network**

**March 2016**

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**Plan showing affected Land by LDO 3 District Heating Network**

# **Leeds City Council**

## **Leeds District Heating Network Local Development Order (LDO 3)**

### **Town and Country Planning Act 1990 (as amended)**

#### **Statement of Reasons**

##### **Description of Development Permitted by this Local Development Order**

The Local Development Order (“LDO”) grants planning permission for the development of a District Heating Network (DHN) comprising of pipes, cables and wires, heat exchange equipment, street furniture, informational signage and ancillary engineering works within defined areas of land in the City of Leeds and shown on the attached map (MAP LDO 3), subject to conditions.

##### **Justification for creating this Local Development Order**

The principal aim of the LDO is to encourage the uptake and implementation of a DHN in accordance with Leeds Core Strategy policy EN4 District Heating.

Leeds City Council (“Council”) is determined to promote and support the development of an ambitious, city-wide DHN. By distributing heat to multiple users through a underground pipe network, several thousand homes and businesses can be connected to remote sustainable heat sources. The Recycling and Energy Recovery Facility (RERF), less than two miles to the east of the city centre, creates an opportunity for the creation of large volumes of heat, close to the densely developed urban area.

The Energy Masterplan identifies a realistic strategic network that could be developed over the long-term to supply circa 120MW of connected load with circa 40MW of heat capacity from low carbon generation sources, articulating how a critical piece of infrastructure could help deliver the Council’s carbon reduction ambitions. In summary, the primary aims are:

- To reduce vulnerable residents’ fuel bills by circa 10% to tackle fuel poverty;
- To maximise CO2 emissions reduction opportunities associated with the Recycling and Energy Recovery Facility developed as part of the Waste PFI (the “RERF”) to contribute to our citywide target of 40% CO2 reductions between 2005 and 2020;
- To establish the first phase of a city-wide district heating network to stimulate additional investment in heat networks as a way to provide low carbon heat from the perimeter to the city centre.

Ramboll have identified a range of heat sources for this long-term project, including other Energy Recovery Facilities, data centres and industrial processes and hundreds of development sites and existing buildings that could connect to make use of the heat. In simple terms, 40MW of low carbon generation would provide enough heat for approximately 48,000 average homes; equivalent to all the houses in a city the size of Exeter.

The short-term priority for the Council is to build an initial network to supply heat from the RERF in order to generate confidence in heat networks and create an oversized spine heat network that can be developed over future phases.

In addition to the benefits implicit in the aims, the principal anticipated benefits are:

- Creation of construction and maintenance jobs;
- Greater retention of wealth within the local economy;
- Demonstration of the benefits of district heating with a view to persuading public and private sector partners to connect;
- Initiation of a strategic network to allow the Council to implement Core Strategy Policy EN4, requiring new developments to connect and providing an outlet for heat from proposed waste/energy activities in Aire Valley Leeds;
- Improved comfort levels in flats and more controllable heating;
- Further enhancement of the environmental performance of the RERF, and benefits of using the heat locally.

The Council regards the DHN as the key to unlocking long-term decarbonisation of heat in the city. DHN pipes can last up to 80 years, offering long term potential for future expansion to connect low carbon heat sources to dense city centre heat loads, principally by means of underground pipes.

The LDO will offer certainty for those persons or businesses seeking to create or connect to the DHN by eliminating the requirement to obtain planning permission. Furthermore, it ensures the planning system further facilitates delivery of the aspirations of the Council and wider community to deliver green energy facilities within the area, whilst retaining important safeguards over the appearance of installations. Planning permission is still required for large structures and development affecting listed buildings and development within the curtilage of listed buildings which are excluded from the scope of the LDO. These measures will ensure that the LDO does not have a detrimental impact on the most valuable heritage assets.

Heritage assets within a conservation area will be protected by an additional restriction on the cubic volume and signage size of above ground structures. A more relaxed limit will apply in those areas not designated as a conservation area.

The LDO areas shown on MAP LDO 3 principally concern those areas of the public adopted highway, Council controlled land and other large Leeds' institutions of the hospitals and universities, which heat density mapping has identified to be the most suitable and likely location for creation or extension of a DHN.

### **Statement of Policies that this Local Development Order will implement**

The LDO is consistent with and will help deliver a number of national and local planning policies and guidance.

The National Planning Policy Framework (NPPF) advises 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 and promoting low carbon technologies to reduce the impacts

and mitigate the effects of climate change. In particular, the framework states that local planning authorities should actively support energy efficiency improvements and have a positive strategy to promote renewables.

One of the 12 core principals of the NPPF states that planning should: “support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy).” At paragraph 93, the NPPF states “Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.”

At paragraph 97, the framework provides more detail on how local planning authorities may support use and supply of low carbon energy. “To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should have a positive strategy to promote energy from renewable and low carbon sources;

- design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts;
- consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;<sup>2</sup>
- support community-led initiatives for renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning; and
- identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers. The framework also advises that opportunities should also be identified where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems.”

The LDO accords and assists with implementation of local plan policies as follows:

## **Leeds Core Strategy**

### **POLICY EN1: CLIMATE CHANGE – CARBON DIOXIDE REDUCTION**

All developments of 10 dwellings or more, or over 1,000 square metres of floorspace, (including conversion) where feasible), will be required to:

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<sup>2</sup> In assessing the likely impacts of potential wind energy development when identifying suitable areas, and in determining planning applications for such development, planning authorities should follow the approach set out in the National Policy Statement for Renewable Energy Infrastructure (read with the relevant sections of the Overarching National Policy Statement for Energy Infrastructure, including that on aviation impacts). Where plans identify areas as suitable for renewable and low-carbon energy development, they should make clear what criteria have determined their selection, including for what size of development the areas are considered suitable. Achieving sustainable development



- (i) Reduce total predicted carbon dioxide emissions to achieve 20% less than the Building Regulations Target Emission Rate until 2016 when all development should be zero carbon, and
- (ii) Provide a minimum of 10% of the predicted energy needs of the development from low carbon energy.

Carbon dioxide reductions achieved through criteria (ii) will contribute to meeting criteria (i).

Criteria (ii) will be calculated against the emissions rate predicted by criteria (i) so reducing overall energy demand by taking a fabric first approach will reduce the amount of renewable capacity required.

If it can be demonstrated that decentralised renewable or low carbon energy generation is not practical on or near the proposed development, it may be acceptable to provide a contribution equivalent to the cost of providing the 10%, which the council will use towards an off-site low carbon scheme. The opportunity to aggregate contributions to deliver larger scale low carbon projects would be implemented independent of the development. Wherever possible, the low carbon projects would be linked with local projects that would bring local benefits.

The general approach of pooling off-site contributions through planning obligations was replaced by the council's adoption of CIL in November 2014 (effective from April 2015). District heating appears on the CIL 123 list.

Applicants will be required to submit an Energy Assessment with their application based on expected end user requirements to demonstrate compliance with this Policy. Where end user requirements change significantly, an updated EA should be submitted prior to construction.

### **POLICY EN3: LOW CARBON ENERGY**

The Council supports appropriate opportunities to improve energy efficiency and increase the large scale (above 0.5 MW) commercial renewable energy capacity, as a basis to reduce greenhouse gas emissions. This includes wind energy, hydro power, biomass treatment, solar energy, landfill gas, and energy from waste.

Protection of internationally designated nature conservation sites will be a key consideration, including relevant Policies contained as part of the Natural Resources and Waste Local Plan. Proposals for biomass power generation are required to supply an assessment of the potential biomass resource available (including location) and the transport implications of using that resource. Any development that may lead to an adverse effect on the integrity of a European site will not be supported.

### **POLICY EN4: DISTRICT HEATING**

Where technically viable, appropriate for the development, and in areas with sufficient existing or potential heat density, developments of 1,000 sqm or more or 10 dwellings or more (including conversions where feasible) should propose heating systems according to the following hierarchy:

- (i) Connection to existing District heating networks,

- (ii) Construction of a site wide District heating network served by a new low carbon heat source,
- (iii) Collaboration with neighbouring development sites or existing heat loads/sources to develop a viable shared District heating network,
- (iv) In areas where District heating is currently not viable, but there is potential for future District heating networks, all development proposals will need to demonstrate how sites have been designed to allow for connection to a future District heating network.

Carbon savings and renewable energy generation achieved under this policy will contribute to EN1(i) and EN1(ii).

## **Natural Resources and Waste Local Plan**

### **ENERGY 3: HEAT AND POWER ENERGY RECOVERY**

Proposals for low carbon energy recovery methods, including Combined Heat and Power applications, and supporting infrastructure will be supported in principle. The proposals must demonstrate that:

- The facility has the potential to connect to an outlet for any energy produced;
- The development has addressed as a minimum the potential environmental impacts listed in WASTE 9; and

New proposals for Energy Recovery from Waste should demonstrate the potential to contribute towards CHP.

### **ENERGY 4: HEAT DISTRIBUTION INFRASTRUCTURE**

The promotion of heat distribution infrastructure will be supported providing that the following are undertaken and are satisfactory:

- An assessment of environmental effects;
- An assessment of heat source(s) and heat use.

## **Legal advice**

The LDO has been reviewed by the Council's legal department who confirm that it complies with the statutory requirements as set out in the Town and Country Planning Act 1990 (as amended) and Planning and Compulsory Purchase Act 2004 and requirements of current Government guidance.

# Leeds City Council

## Leeds District Heating Network Local Development Order

### *Town and Country Planning Act 1990 (as amended)*

#### **Part I - Area covered by the Local Development Order (LDO)**

Within the Leeds Metropolitan District, planning permission is hereby granted for the installation of district heating apparatus as specified in Part II - Description of Development, within the areas shown on MAP LDO 3.

#### **Part II - Description of Development**

In pursuance of the powers under the above Act, Leeds City Council hereby gives notice that planning permission has been approved for the carrying out of the development referred to below, subject to the conditions listed under Part III:

#### **Permitted Development**

Development of a district heating network, including pipes, cables and wires, heat exchange equipment, street furniture, informational signage and ancillary engineering works, subject to conditions.

#### **Development not permitted**

Development is not permitted by this Order if it constitutes, consists of or comprises:

- above ground cabinets, buildings or structures of greater than 1.5 cubic metres in volume or greater than 1.4m in height,
- any sign of greater than 500 square centimetres in area;
- works within a designated conservation area where:
  - above ground cabinets, buildings or structures of greater than 1.0 cubic metres in volume or greater than 1m in height;
  - any sign of greater than 250 square centimetres in area.
- any thermal energy generating plant or equipment;
- EIA development as defined by Regulation 2 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011;
- any works within the curtilage of a Listed Building or Scheduled Ancient Monument, and their settings;
- any above-ground development on land within 50 meters to the curtilage of a Listed Building or Scheduled Ancient Monument;
- within areas to which a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 is in force, development of a type described in that Direction.

## Part III – Conditions

### *Preamble*

In these conditions:

“**the council**” means Leeds City Council

“**the development**” means the works authorised by the Order;

“**the Local Planning Authority**” means Leeds City Council;

“**the Order**” means the Leeds District Heating Network Local Development Order.

### *Other Statutory Requirements*

Whilst the LDO grants planning permission for certain types of development as described in Part I and Part II, it does not grant other consents that may be required under other legislation. It will remain the responsibility of the developers to ensure that all other statutory requirements beyond the scope of the planning system are adhered to. Although not an exhaustive list, particular attention is drawn to the following relevant legislation:

#### *European*

- Directive 92/43/EEC (Habitats);
- Directive 85/337/EEC (amended by Directive 97/11/EC) (Environmental Impact Assessment).

#### *National*

- The Highways Act 1980;
- New Roads and Street Works Act 1991
- Wildlife and Countryside Act 1981;
- Planning (Listed Buildings and Conservation Areas) Act 1990;
- Ancient Monuments and Archaeological Areas Act 1979;
- Hedgerow Regulations 1997;
- Town and Country Planning Act (Trees) Regulations 1999;
- Conservation of Habitats and Species Regulations 2010 (as amended);
- The Environmental Permitting (England and Wales) Regulations 2010;
- Health and Safety Executive;
- Building Regulations;
- The Town and Country Planning Act 2007 (Control of Adverts)(England);
- The Planning Act 1990 (Hazardous Substances);
- The Planning Regulations 1992 (Hazardous Substances).

Failure to comply with the relevant statutory requirements could result in any development being unlawful and may result in appropriate enforcement action being taken by the council and/or other agencies. It is the responsibility of the developer / development to be in accordance with all relevant legislation.

## **Expiry**

Subject to any subsequent decision by the Local Planning Authority relating to its withdrawal, modification or extension, this Order will expire upon the fifth anniversary of the date of adoption.

Reason: To ensure that the development is commenced and completed within a reasonable period of time.

### **1. Reinstatement**

Prior to the expiry of sixty days from date of completion of temporary works, the site of the temporary works shall be reinstated to the condition which existed prior to such works taking place.

Reason: To ensure that all land over the heating networks is reinstated promptly and to an appropriate standard.

### **2. Trees & Hedgerows**

No development affecting trees or hedgerows shall commence until:

- (a) where any trees having a stem diameter of 100mm or greater are intended to be lopped, pruned or felled in connection with the carrying out of development in relation to that phase, a scheme identifying those trees and setting out how the works are to be carried out in conformity with BS5837:2012 has been submitted to and approved in writing by the Local Planning Authority;
- (b) where trees having a stem diameter of 100mm or greater are to be felled in relation to that phase, a scheme for their replacement has been submitted to and approved in writing by the Local Planning Authority, including provision for the replanting of any trees (ratio 3 for 1) which require replacement in consequence of accidental damage during the construction period; and
- (c) a scheme for the protection, during the period of construction, of all retained mature trees in the vicinity of the development in relation to that phase identifying their location and species and conforming with BS5837:2012, and a method statement including particulars relating to working methods, temporary protective fencing, location of hoardings and areas prohibited for use by contractors, has been submitted to and approved in writing by the Local Planning Authority.
- (d) any hedgerows to be removed have been assessed against the Hedgerow Regulations (1997) to assess their ecological and historical importance prior to removal. Where a hedgerow is identified as "Important" measures will need to be agreed with the LPA to avoid or minimise adverse impacts, in which case consideration should be given to tunnelling under the hedgerow. Any sections of hedgerow to be removed will need to be replanted with appropriate native shrubs and trees together with appropriate protection measures.

- (e) a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before (within 24 hours) any vegetation is removed between March and August inclusive, and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the LPA within 3 days of works being carried out.

The developer shall subsequently comply with the schemes approved under the requirements of this condition.

Reason: To ensure adequate protection of existing trees and the replacement of trees to be lost.

### **3. Tree & Hedgerow Maintenance**

If within a period of five years from the date of the planting of any tree, hedge or shrub that tree, hedge or shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree, hedge or shrub of the same species and size as that originally planted shall be planted in the same location no later than the first available planting season, unless the Local Planning Authority agrees in writing that a different species, size and / or location may be substituted.

Reason: To ensure maintenance of a healthy landscape scheme, in accordance with policies GP5 and LD1 of the Leeds Unitary Development Plan Review 2006.

### **4. Biodiversity and Protected Species**

a) Prior to commencement of development, a Preliminary Ecological Appraisal (carried out as per the Guidelines for PEA by CIEEM) will be carried out and submitted to the LPA. Where protected species may be affected, any relevant surveys should be carried out and submitted as part of the PEA. Any recommended mitigation to avoid adverse impacts on protected species or other sensitive ecological receptors (as identified in the PEA) shall be carried out in full.

b) Prior to approval for removal of any tree or built structure, a Bat Roosting Potential Survey will be carried out by an appropriately qualified bat consultant. Where bat roosting potential is identified, a bat survey as per the "Minimum Standards for Bat Surveys in West Yorkshire" <http://www.ecology.wyjs.org.uk/documents/ecology/Bat-Surveys-Approved.pdf> will be carried out and submitted to the LPA. Any recommended mitigation to avoid adverse impacts on bats shall be carried out in full.

Reason: to avoid impacts on protected species and ensure no net loss of biodiversity as per the NPPF para. 109 and to confirm presence or likely absence of a protected species (bats) and ensure works are carried out to avoid adverse harm to a protected species.

## **5 Importation of Soils**

Any soil or soil forming materials brought to site for use in soft landscaping, public open space or for filling and level raising shall be tested for contamination and suitability for use. A methodology for testing these soils shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto site. The methodology shall include information on the source of the materials, sampling frequency, testing schedules and criteria against which the analytical results will be assessed (as determined by risk assessment). Testing shall then be carried out in accordance with the approved methodology. Relevant evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the Local Planning Authority prior to these materials being imported onto the site.

Reason: To ensure that contaminated soils are not imported to the site and that the development shall be suitable for use with respect to land contamination in accordance with policies Land 1 of the Natural Resources and Waste Local Plan 2013 and GP5 of the Unitary Development Plan Review 2006.

## **6 Development within Designated Conservation Areas**

Within designated conservation areas, above ground development must reflect the guidance set out in the relevant conservation area appraisal for that area. A new structure (excluding signs) shall be coloured black.

Reason: To minimise visual impact of new development within designated conservation areas.

## **7 High Risk Coal Mining Areas**

Within the defined Development High Risk Area prescribed by The Coal Authority, prior to works commencing on that phase of the development, the following details shall be submitted to and approved in writing by the Local Planning Authority:

- (a) a risk assessment highlighting the risk to the development, neighbouring occupiers, public safety, highway users and contractors from the coal mining legacy features present within the defined Development High Risk Area; and
- (b) details of any mitigation measures necessary to allow development to proceed.

The works shall be carried out in accordance with the approved details.

Reason: In the interests of public safety.

## **8 Unexpected Land Contamination**

The Local Planning Authority shall be notified in writing immediately where unexpected significant contamination is encountered during any development works and operations in the affected part of the site shall cease.

Where remediation of unexpected significant contamination is considered by the Local Planning Authority to be necessary, a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority prior to the recommencement of development on the affected part of the site. The Remediation Statement shall include a programme for all remediation works and for the provision of verification information.

Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works, the Verification Report(s) shall be submitted to the Local Planning Authority in accordance with the approved programme. The site or phase of a site shall not be brought into use until such time as all necessary verification information has been approved in writing by the Local Planning Authority.

Reason: To enable the local planning authority to ensure that unexpected contamination at the site will be addressed appropriately and that the development will be suitable for use in accordance with policies Land 1 of the Natural Resources and Waste Local Plan 2013 and GP5 of the Unitary Development Plan Review 2006.

## **9 Construction management details**

Prior to works commencing on phase of the development, the following details shall be submitted to and approved in writing by the Local Planning Authority:

- (a) the proposed hours of works taking into account the proximity of potential sensitive receptors;
- (b) details of the methods to be employed for the prevention of mud, grit, dust and dirt being carried onto the public highway from the development; and
- (c) details of the methods to be employed to minimise the potential for the creation of dust from the development and
- (d) details of the means of protecting water and waste water infrastructure.

The works shall be carried out in accordance with the approved details.

Reason: In the interests of public amenity, public health and highway safety.



## Appendix 2

### Summary of Responses

Respondent	Summary of Response	Officer Comment
Leeds Civic Trust	<p>On page 3 of 12, the Order states that 'Planning permission will still be required for large structures and development affecting listed buildings, buildings within the curtilage of listed buildings and buildings within conservation areas which are excluded from the scope of the LDO'. This statement is supported by the Civic Trust, although the phrase 'special character' could be added to the reference to Conservation Areas.</p> <p>However, on page 7 of 12, under the heading of 'Development not permitted', while reference is made to listed buildings and scheduled monuments, no mention is made of Conservation Areas. An additional bullet point should be added to refer to any above ground development affecting the special character and historic interest of a Conservation Area, notably positive buildings and structures, but also distinctive places and spaces within the Conservation Area.</p> <p>Without the addition of this exclusion from permitted development in Conservation Areas the Civic Trust could not fully support the proposed LDO.</p>	<p>Revised statement of reasons wording in relation to conservation areas and added new condition requiring colour treatments of structures within designated conservation areas. Revision to the 'development not permitted list' restricting the scale and type of development within designated conservation areas.</p>
Veolia ES UK Ltd	<p>... Veolia have been investigating potential routes for a future DHN as well as identifying potential users. The majority of any proposed DHN will be located beneath the ground however where local situations dictate alternative solutions are required. For example any potential route from the RERF to the City Centre will need to cross railway lines and associated structures owned and maintained by relevant authorities. In these situations it may be necessary to construct a section of the DNH above ground and surrounded by a suitable protective cover. It is important that the LDO recognizes the likely dimensions of such a protective structure and accommodates it accordingly without the requirement for a separate planning permission. Currently it is anticipated that such an above ground structure although minor in scale would be significantly greater than 1.0 cubic metres in volume stated in the LDO which seems low. Although detailed design has yet to take place such protective structures are likely to be less than the 1.4 metres height also stated in the LDO. As with any pipework it is important that the DHN is adequately protected and the LDO should recognize this need. We suggest the relevant exclusion detailed in the draft LDO be amended to permit outer protective covers/housings which may enclose district heating pipework. This will deliver further confidence that an appropriately designed DHN can be constructed with limited delay and minimal planning risk.</p> <p>Veolia would like to see the life of the LDO extended to beyond the 5 years currently stated in the draft LDO. This should be extended significantly or reflect the life of the DHN thus providing ongoing confidence to help deliver additional infrastructure and extensions to the proposed geographical coverage over the longer</p>	<p>The size and type of development permissible by the LDO has been amended to reflect sensitivities within and outside designated conservation areas. The revisions include a suitable buffer for the setting of a listed building.</p> <p>It has never been the intention for the LDO to allow for large above ground pipe conduits, which have the potential for negative impacts on amenity if not carefully designed.</p> <p>The 5 year timeframe has been deliberately chosen to allow for review if necessary. The LDO can be extended for a further specified timeframe if</p>

	term.	appropriate.
Environment Agency	<p>welcome the inclusion of the following text:</p> <p><b>Other Statutory Requirements</b></p> <p>Whilst the LDO grants planning permission for certain types of development as described in Part I and Part II, it does not grant other consents that may be required under other legislation. It will remain the responsibility of the developers to ensure that all other statutory requirements beyond the scope of the planning system are adhered to.</p>	Noted
Canal & Rivers Trust	<p>In our recent response to the consultation on the Aire Valley Leeds Area Action Plan, we noted that the indicative route of the DHN crossed our canals and waterways. We also noted that the DHN would encroach on to several plots of land owned by the Trust.</p> <p>In relation to the route of the DHN as proposed on Map LDO3, we note that the network will still make a number of crossings of our canals and waterways and that these would be at existing bridge crossing points. We also note that it would now appear that the network does not encroach onto our land holdings as per the initial indicative route plan.</p> <p>However, please note that any crossing of our navigations and land will require our consent and all works affecting our navigations and canals need to comply with our Third Party Works Code of Practice. As such, any works affecting our navigations and land should be submitted to the Trust for review in advance of any works taking place.</p> <p>Therefore, we recommend that the Council fully engage with the Trust as the details of the DHN develops. For example, we would wish to be consulted and comment on the details of the DHN where it crosses our navigations and land.</p>	Noted.
Historic England	<p><b>Part II- Description of Development</b></p> <p><b>Development not permitted</b></p> <p>This section indicates that the following types of development are not permitted:</p> <ul style="list-style-type: none"> <li>• “any works within the curtilage of a Listed Building or Scheduled Ancient Monument, and their settings;”</li> <li>• “any above-ground development on land adjacent to the curtilage of a Listed Building or Scheduled Ancient Monument, and their settings;”</li> </ul> <p>We have the following comments to make with regard this section-</p> <ol style="list-style-type: none"> <li>1. Page 3 of the document states that “planning permission would still be required for large structures and development affecting listed buildings, buildings within the curtilage of listed buildings and buildings within conservation areas which are excluded from the scope of the LDO.” The requirement for planning permission for development within conservation areas should be reflected in Part II of the LDO.</li> <li>2. The map included with the draft order shows a large area of ‘LDO Affected Land’ at Gotts Park in Armley. Gotts Park is a Grade II registered historic park and the impact of</li> </ol>	<p>Revised justification wording in relation to conservation areas and added new condition requiring colour treatments of structures within designated conservation areas. Revision to the development not permitted list to add additional information in relation to the setting of listed buildings and restricting the scale and type of development within designated conservation areas.</p>

	<p>proposals for this area on the significance of the park should be thoroughly assessed.</p> <ol style="list-style-type: none"> <li>3. The map highlights Scheduled Ancient Monuments with a green dot. Having checked our records, none of the green dots shown on the map correspond with a Scheduled Ancient Monument. This should be checked and the correct location of any monuments within the LDO area should be identified on the map.</li> <li>4. How will the setting of the heritage assets be defined? This should be undertaken in consultation with your authority's Conservation Officer.</li> <li>5. How will the impact on locally important, non-designated heritage assets be assessed? Again, will there be consultation with your authority's Conservation Officer?</li> </ol> <p><b>Part III- Conditions</b>  <b>Other Statutory Requirements</b>  The 'National' list should include the <i>Planning (Listed Buildings and Conservation Areas) Act 1990</i> and the <i>Ancient Monuments and Archaeological Areas Act 1979</i> for completeness.</p> <p><b>General Comments</b>  Is there provision within the LDO for handling any unexpected archaeological discoveries made during the course of groundworks associated with the district heating network? If you have not already done so we recommend you contact the West Yorkshire Archaeology Advisory Service to see whether they have any comments to make on the LDO.</p>	<p>Inclusion of additional heritage related acts within the national legislation list.</p> <p>Removal of scheduled ancient monuments from the LDO map and inclusion of conservation area and Coal Authority Development High Risk areas.</p> <p>Removal of Gotts Park from the LDO area.</p>
Wades Trust	<p>Gott's Park in Armley is a Registered Historic Park &amp; Garden (Ref: English Heritage List Entry Number: 1001216). To protect the heritage value of designed landscapes, we ask that Registered Parks &amp; Gardens are treated in the same way as Listed Buildings and Scheduled Ancient Monuments, and that Gott's Park is excluded from the LDO.</p> <p>Whilst plots of land such as Merrion Street Garden and Woodhouse Square are likely to remain as public open space in the very long term, other plots could be the subject of sales for development schemes. Historically over the last 50 years that has happened with several Wades sites. A specific example of such a possibility is the Snake Lane Recreation Ground which immediately adjoins Copperfields College.</p> <p>The covering letter announcing the Consultation and the background paper states that the use of the Order would be subject to specific conditions regulating its implementation, but these are not set out.</p> <p>We do not object in principle to district heating infrastructure being routed through public open space on condition that wayleave agreements are negotiated, that the land is properly reinstated to the satisfaction of the Parks &amp; Countryside Service and that appropriate compensation is paid to enhance the open space.</p> <p>We would welcome working together on the use of Wade's land to assist the project subject to conditions. For example we would expect that at the termination of the LCC tenancy the apparatus is removed and the land made good. Additionally we would wish to see installation restricted to the perimeter of the sites. We would</p>	<p>Revised justification wording in relation to conservation areas and added new condition requiring colour treatments of structures within designated conservation areas.</p> <p>Revision to the development not permitted list to add additional information in relation to the setting of listed buildings and restricting the scale and type of development within designated conservation areas.</p> <p>Inclusion of additional heritage related acts within the legislation list.</p> <p>Removal of Gotts</p>

	<p>expect all Wade's legal costs with respect to applications on Wade's land covered by the developer/Council.</p>	<p>Park from the LDO area.</p>
<p>The Coal Authority</p>	<p>I have reviewed the proposals and confirm that the much of the proposed LDO area site falls within The Coal Authority defined Development High Risk Area; therefore within the LDO boundary and surrounding area there are significant concentrations of coal mining features and hazards which need to be considered.</p> <p>I note that the LDO is predominantly covering existing public highway where the Council as Highway Authority and utility companies have various permitted development rights to install apparatus. The installation of a District Heating Network however falls within the scope of requiring planning permission and the scale of this scheme is substantial.</p> <p>Mining legacy features exist across the proposed LDO area, in particular there are very significant concentrations of mining legacy within the north-east, east, south-east, south and south-west parts of the LDO area.</p> <p>Within the LDO area there are 374 recorded mine entries which pose a significant risk to public safety, highway users and to contractors. Approximately 83 of these have some potential treatment details recorded, however these are to various standards including unknown and do not necessarily eliminate the risk to public safety.</p> <p>In addition across the LDO area there are recorded shallow coal workings in 9 seams at a depth from surface to 30m. These have been worked between 1847 and 1983 and the 9 seams have 57 different records of working noted on our records. Within the LDO area there has also been 22 reported coal mining hazards which have been addressed by The Coal Authority.</p> <p>There has also been 10 reported subsidence claims lodged within the proposed LDO area. 178 Permits have been granted by The Coal Authority to enter or disturb our property.</p> <p>The Coal Authority supports the principle of the District Heating Network, capturing unused heat from the Recycling and Energy Recovery Facility. We are keen to try and facilitate this scheme whilst having regard to our overriding duty to ensure public safety.</p> <p>We consider that it will be possible to address our concerns through imposition of a conditional requirement within the LDO in a similar manner as to how the issue of contamination is addressed by the LDO.</p> <p>To date the LDOs we have seen that contain areas of The Coal Authority defined Development High Risk Area, they have included some conditional requirement requiring submission of a coal mining risk assessment and approval and implementation of remedial measures.</p> <p><u>The Coal Authority Recommendation to the LPA</u></p>	<p>New condition in relation to ground stability and former coal workings requiring approval and implementation of appropriate mitigation measures.</p>

	<p>The Coal Authority considers that the proposed Local Development Order as presently worded is deficient and has the potential to expose parties to unacceptable public safety risks. Our objection to the Local Development Order could be overcome with the addition of the following conditional requirement:  <i>"Within the defined Development High Risk Area prescribed by The Coal Authority, prior to works commencing on that phase of the development, the following details shall be submitted to and approved in writing by the Local Planning Authority:</i>  <i>(a) a risk assessment highlighting the risk to the development, neighbouring occupiers, public safety, highway users and contractors from the coal mining legacy features present within the defined Development High Risk Area; and</i>  <i>(b) details of any mitigation measures necessary to allow development to proceed.</i>  <i>The works shall be carried out in accordance with the approved details.</i></p> <p><i>Reason: In the interests of public safety."</i></p>	
Yorkshire Water	<p>The LDO is within a heavily urbanised area and as such we have a substantial amount of primarily underground water and waste infrastructure laid within the area that will be subject to the LDO. Much of the infrastructure is laid within highway but some will be subject to protective easements. It is clearly essential that the pipes and associated street furniture are protected during any works associated with the district heating scheme.</p> <p>Given the above, I suggest that an additional clause with reasoning (both underlined below) is added to proposed Condition 6 (Construction management details) of the Local Development Order so that it reads:-</p> <p>6. Construction management details  Prior to works commencing on phase of the development, the following details shall be submitted to and approved in writing by the Local Planning Authority:  (a) the proposed hours of works taking into account the proximity of potential sensitive receptors;  (b) details of the methods to be employed for the prevention of mud, grit, dust and dirt being carried onto the public highway from the development;  (c) details of the methods to be employed to minimise the potential for the creation of dust from the development; and  <u>(d) details of the means of protecting water and waste water infrastructure.</u></p> <p>The works shall be carried out in accordance with the approved details.</p> <p><u>Reason: In the interests of public amenity, highway safety and public health.</u></p>	New condition relating to protection of sewers and water mains during works.
Highways England	We have considered the draft order and plans and note that the network includes the potential for equipment to be placed within Highways England's roads and land. We also note that the order explicitly states that other statutory consents including those	Noted

	<p>required as part of the Highways Act 1980 and the New Roads &amp; Street Works Act 1991 (NRSWA) will still be required.</p> <p>Under the above mentioned acts, undertakers have statutory powers to install and maintain their apparatus in public highway except where a highway is a Special Road (motorway) as defined in the Highways Act 1980. Under Section 61 of NRSWA, Highways England may grant consent for the placing of apparatus by an undertaker in a 'protected' street.</p> <p>The effect of this is that statutory undertakers are unable to exercise their statutory powers to install apparatus in a Highways England public highway without our consent. This consent is not guaranteed and may include conditions over and above those specified in the draft LDO.</p> <p>Highways England also have a Road Investment Strategy scheme for the M621, this is planned for construction start by 2020 which is within the time period proposed for the LDO. The scheme will involve extensive works and traffic management over a significant period of time, which any potential developer may need to consider in terms of the timescale for proposed works related to the district heating network.</p> <p>To minimise any potential issues with obtaining consent we would encourage developers to contact us at the earliest opportunity to discuss their proposals.</p>	
<p>Yorkshire Wildlife Trust</p>	<p>The proposed LDO will grant planning permission for the development of a District Heating Network (DHN) comprising of pipes, cables and wires, heat exchange equipment, street furniture, informational signage and ancillary engineering works within defined areas of land in the City of Leeds. Such works have the potential to impact on protected species, most notably bats and breeding birds.</p> <p>Yorkshire Wildlife Trust welcome the reference to environmental legislation Part III – Conditions of the draft LDO (Wildlife and Countryside Act 1981 (as amended) and Hedgerow Regulations). We note that the Conservation (Natural Habitats, &amp;c.) Regulations 1994 has since been updated to the Conservation of Habitats and Species Regulations 2010 (as amended) therefore we advise that this is changed to reflect current legislation.</p> <p>We welcome the proposed conditions regarding trees and hedgerows and pre-start checks for breeding birds. We are however concerned that trees to be felled may support roosting bats. All bat roosts are fully protected under the Conservation of Habitats and Species Regulations 2010 (as amended) making it an offence to recklessly or intentionally destroy/ damage a bat roost. It is also an offence to injure or kill a bat.</p> <p>We therefore advise that wording is included within condition 2 to ensure that trees to be felled are assessed for the potential to support roosting bats by a suitably qualified ecologist and that appropriate surveys are undertaken where required in order to</p>	<p>New condition in relation to protected species and inclusion of the quoted acts in the legislation list.</p>

	<p>determine a tree's status as a bat roost prior to felling. Additional information on the scope of surveys to be undertaken on trees to be felled can be found on the Bat Conservation Trust's website: <a href="http://www.bats.org.uk/pages/batsurveyguide.html">http://www.bats.org.uk/pages/batsurveyguide.html</a> In addition to this impacts on all protected species and habitats should be assessed prior to the conduction of works, as in accordance with Paragraph 118 of the NPPF, the Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010, which we advise is included within a suitably worded condition.</p>	
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Those responses seeking clarification on aspects of the LDO are not included above.