

Report of City Development

Report to Executive Board

Date: 7 March 2012

Subject: Aire Valley Leeds Enterprise Zone Draft Local Development Order 1: Solar Panels

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Burmantofts & Richmond Hill; City & Hunslet; Garforth & Swillington; Middleton Park; Temple Newsam		
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 type="checkbox"/> Yes	<input checked="" 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. Four major sites in the Aire Valley Leeds regeneration area have been given Enterprise Zone status by the Government. The Enterprise Zone is proposed to start on 1st April 2012 for a period of 3 years. A mandatory requirement of having an Enterprise Zone is that the planning process is genuinely simplified to encourage business growth. The Government's preferred approach is the use of Local Development Orders (LDOs). The Executive Board meeting of 22nd June 2011 agreed that the details of LDO(s) be prepared by officers and submitted to Executive Board for approval.
2. A draft of the Aire Valley Enterprise Zone Local Development Order 1: Solar Panels is attached with this report (Appendix 1). The proposed LDO would give planning permission to the installation of solar panels on the roofs of non-domestic buildings within the Aire Valley Leeds Area Action Plan and Urban Eco Settlement area, subject to conditions. The LDO specifically excludes installation of solar panels on listed buildings and in conservation areas and has a proposed timescale of 5 years from 1st April 2012.
3. The LDO is considered to support the Enterprise Zone and associated Urban Eco Settlement ambitions to promote sustainable design, green energy production and low carbon economic development.
4. Subject to approval by Executive Board, the LDO will need to be referred to the Secretary of State for Communities & Local Government who has the authority to

approve, modify or reject the orders. Unless the Secretary of State rejects the LDO it can then be adopted by the Council as approved or in the modified form.

Recommendations

5. Executive Board is recommended to:

- i) Approve the draft of the Aire Valley Leeds Enterprise Zone – Local Development Order 1: Solar Panels set out in Appendix 1 of this report and agree that the Chief Planning Officer submits this together with the statement of reasons to the Secretary of State; and
- ii) Subject to the Secretary of State not making a direction under section 61B(1) of the Town and Country Planning Act 1990 as amended, to adopt the Aire Valley Leeds Local Development Order (1): Solar Panels with effect from 1 April 2012.

1 Purpose of this report

- 1.1 This report sets out a draft of a Local Development Order (LDO) proposed to support the Aire Valley Enterprise Zone and Urban Eco Settlement concept by simplifying the planning process in the area. The proposed LDO specifically relates to allowing the installation of solar panels on non-domestic buildings without the need to apply for planning permission.
- 1.2 A draft version of the LDO was subject to consultation with local ward members and a period of formal public consultation in December 2011 and January 2012. The responses to this consultation are summarised in this report. Minor amendments are proposed as a result of the consultation exercise.

2 Background information

Enterprise Zones

- 2.1 The Government announced in the March 2011 Budget, plans for new Enterprise Zones (EZs), and that a number of Local Enterprise Partnerships (LEPs) including Leeds City Region LEP would be invited to nominate a site and come forward with proposals.
- 2.2 Shortly after the Budget, the Department for Communities and Local Government (DCLG) published the Enterprise Zone prospectus which set out the Government's ambitions for the programme in the context of its wider plans for economic growth. Enterprise Zones are designed to stimulate business growth and investment and create new jobs through the provision of lower tax levels, reduced planning controls and a lighter regulatory and administrative burden.
- 2.3 All Enterprise Zones will benefit from:
 - a business rate discount worth up to £275,000 per business over a five year period;
 - all business rates growth within the zone for a period of at least 25 years will be retained by the local area to support the Local Enterprise Partnership's economic priorities;
 - Government help to develop radically simplified planning approaches for the zone using, for example, existing local development order powers; and
 - Government support to ensure that superfast broadband is rolled out throughout the zone.
- 2.4 The LEP Board meeting on 15th June 2011 determined that the Leeds proposal for the Aire Valley be submitted to Government as the City Region's Enterprise Zone. This was further endorsed by the ministerial announcement regarding the Aire Valley EZ on 23rd July 2011. The Enterprise Zone is due to commence on 1st April 2012 for a period of 3 years.
- 2.5 The prospect of an Enterprise Zone in Leeds presents a significant opportunity to deliver economic growth that will have a major impact on the city's and the city region's economy. A Enterprise Zone not only affords economic growth opportunities in the zone itself but also the potential for a catalytic effect in adjacent areas.

- 2.6 The above position was reported to the 22nd June Executive Board where it was agreed that the details of the LDOs would be prepared and presented to Executive Board for approval; prior to referring to the Secretary of State who has the authority to approve, modify or reject the order.

Aire Valley Leeds Enterprise Zone

- 2.7 The proposed Aire Valley Leeds Enterprise Zone covers an area of 142 hectares split over four major development sites and located on either side of the East Leeds Link Road (A63). The four sites are shown on the plan in Appendix A of the LDO. The sites are presently undeveloped except for three existing businesses located on the Thornes Farm site (marked as Site 2 on the plan)

Local Development Orders (LDOs)

- 2.8 DCLG has indicated in the guidance that Enterprise Zone status is conditional on putting in place a simplified approach to planning and recommends the use of LDOs. Local authorities are required to identify opportunities where deregulation can be adopted. This is to be developed with consideration for what will genuinely benefit growth, attract private sector investment and support sustainable economic development. Simplified planning is a mandatory requirement for Enterprise Zone status
- 2.9 LDOs are an existing part of the planning system which grant 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 conditions; and a plan showing the area covered by the LDO. Development falling under Schedule 1 of the EIA regulations (such as an Energy from Waste facility) or development affecting listed buildings cannot be included in an LDO.
- 2.10 The Government has produced a guidance note for local authorities to support the preparation of LDOs. This shows that the Enterprise Zones should not result in displacement of existing businesses from nearby areas onto the EZ sites. They recommend that local planning authorities look at opportunities to extend simplified planning into wider areas in order that those areas can benefit from the perceived opportunities as well as the EZ sites. The boundary of the LDO and EZ sites do not have to coincide.
- 2.11 The LEP agreed the initial scope of simplified planning for the Aire Valley Enterprise Zone in August 2011. This scoped out the potential for a number of LDOs across a range of themes initially covering the following type of development:
- Solar Panels on non-domestic buildings (LDO 1)
 - Extensions, alterations and changes of use of industrial properties (LDO 2)
 - Transport & site preparation works
 - New buildings

- 2.12 LDO 1 is set out in detail in this report. Officers are currently preparing a draft of LDO2 (Extensions, alteration and changes of use) which has been distributed to and discussed with local ward members and members of Plans Panel East and the Aire Valley Regeneration Board. As a result some amendments are being made to the document and it is anticipated that a draft will go out to formal consultation in February 2012. Following the consultation period the draft LDO would be reported to Executive Board.
- 2.13 The scope of simplified planning in the Aire Valley Enterprise Zone is somewhat complicated because all the sites already benefit from some form of planning permission (mainly in outline form) allowing development of a range of business uses including offices, industrial units and distribution warehouses. In early discussions relating to planning simplification for transport and site preparation works and new buildings some developers have expressed a preference for undertaking development through their existing outline permission rather than through an LDO. Officers are therefore considering whether a form of simplified procedure for determination of reserved matters of those outline approvals (potentially using a Planning Performance Agreement) would be better way of simplifying planning in these cases rather than the use of an LDO. In considering these issues it needs to be borne in mind that simplified planning is a mandatory condition of EZ status.

3 Main issues

- 3.1 A draft of Aire Valley Enterprise Zone – Local Development Order (1): Solar Panels is attached in Appendix 1. The proposed LDO would give planning permission to the installation of solar panels (either solar photovoltaic or solar thermal panels) on the roofs of non-domestic buildings within the Aire Valley Leeds AAP & Urban Eco Settlement Area without the need for the installer to apply for planning permission and subject to the proposal meeting the specific conditions set out in the LDO. For the avoidance of doubt, this LDO would not grant permission for any type of development other than solar panels and would not apply outside the boundaries of the areas shown in the plan in Appendix A of the LDO.
- 3.2 Solar panels can be installed on domestic properties (subject to restrictions) without the need to apply for planning permission using permitted development rights granted through the General Permitted Development Order.

Content, boundary and exclusions

- 3.3 The draft LDO is set out in a number of sections providing the detail and information required by the relevant procedures. It includes:
- Section 1-3: introduction and background;
 - Section 4: the order specifying the type of development permitted, the conditions attached to this and the timescales and other procedural requirements;
 - Section 5: the statement of reasons which includes a justification and a statement of key policies the LDO will implement; and
 - Appendix A: A plan showing the boundary of the area covered by the LDO

- 3.4 The LDO permits development of roof-mounted solar panels only. Separate conditions apply to pitched roofs (panels can protrude above the roof plane up to 200mm) and flat roofs (panels can be raised at an angle up to 1.5 metres above the roof).
- 3.5 The LDO specifically excludes installation of solar panels on listed buildings and buildings within the curtilage of a listed building and on buildings within conservation areas or within the boundaries of Registered Historic Parks & Gardens.
- 3.6 The LDO will be active for a period of five years following the date of adoption which is proposed to be 1st April 2012 to coincide with the start of the Aire Valley Leeds Enterprise Zone. The selection of a five year period allows sufficient time for building owners to implement development allowed by the LDO, if they wish, and for the Council to monitor its effectiveness and impact. This date could be extended in due course but revoking an LDO within the timescale set out may result in the Council having to pay compensation to businesses.
- 3.7 The boundary of the LDO will exactly align with the proposed boundary of the Aire Valley Leeds AAP and Urban Eco Settlement (see Appendix A of the LDO).

Justification

- 3.8 A justification for the LDO is set out in Section 5 of the order (page 6). The aim of the LDO is to encourage take up of micro-renewable energy systems. The LDO has potential benefits that extend beyond the Enterprise Zone sites themselves and it is therefore proposed that the boundary extends over a wider area. The Urban Eco Settlement / Aire Valley Area Action Plan is an appropriate boundary because the Council has high aspirations in the area to promote sustainable design, green energy production and low carbon economic development and life styles. The Aire Valley Urban Eco Settlement concept and boundary was agreed at Executive Board in July 2010. Government guidance on LDOs in EZs actively encourages local authorities to apply planning simplifications to a wider area than the EZ sites, if appropriate.
- 3.9 LDOs cannot be applied to development affecting a listed building or its setting. In this case it is proposed that the LDO will also not apply within designated conservation areas and registered historic parks and gardens. Existing listed buildings, conservation area and registered historic parks and gardens are shown in the plan accompanying the LDO but the exclusion would apply if any further designations are made in the area during the timeframe of the LDO. This exclusion will allow for proper consideration of the visual impact of solar panels on listed buildings and in conservation areas and registered historic parks and gardens through the normal planning process i.e. through submission of a planning application.
- 3.10 There is no requirement for LDOs to comply with existing policy but in this case the LDO is fully aligned with national, regional and local policies to encourage take up of low carbon sources of energy.

Internal & Public Consultation

- 3.11 The draft LDO has been subject to a formal public consultation process which took place between 16th December 2011 and 18th January 2012.
- 3.12 Prior to the public consultation, a letter was sent to local ward members and the Plans Panel East & Central Chairs accompanied by a draft of the LDO asking if they had any objection to the public consultation going ahead and for comments on the draft document. The following response was received:
- Cllr Nash (City & Hunslet): Supported the inclusion of solar panels and exclusion of wind turbines from the LDO. Had further queries regarding the location of listed buildings and whether money was available to support water turbines.
- 3.13 The Council was required to undertake public consultation on the draft document consistent with procedures set out in the Town and Country Planning (Development Management Procedure) (England) Order 2010. This requires a minimum consultation period of 28 days, for the Council to serve written notice on any affected landowner/tenants, to consult with statutory consultees and other relevant bodies, to place an advert in the local newspaper and to put up site notices in the area covered by the LDO.
- 3.14 The details of the public consultation are set out below:
- The consultation went live on the Council's website on 16th December 2011. A response form could be downloaded from the website.
 - Letters serving notice on over 900 landowners/tenants of non-domestic properties (addresses were extracted from the Council's non-domestic rates data) were sent out on 16th December.
 - Letters were sent to other relevant consultees (mainly by email) on 19th December.
 - 9 site notices were posted in prominent locations in the LDO area on 19th December.
 - A public notice advertisement was placed in the Yorkshire Evening post on 21st December.
 - The last date for comment on the draft document was 18th January 2012. This ensured that a 28 day period was given from the date the last notice was served (newspaper advert) satisfying the minimum requirement but gave a few additional days to respond for those notified earlier.
- 3.15 7 written responses were received to the consultation, 2 from businesses located in the Aire Valley area and 5 from statutory consultees and other organisations. A detailed summary of the comments and officer's responses is set out in Appendix 2 of this report. In summary the comments received were as follows:
- 5 of the comments either supported or had no specific objections to the proposals including an Aire Valley based business who stated they intended to use the order to install solar panels in 2012.

- One comment saw this as an initiative for the Council to install solar panels and gave it support. For clarification the LDO only removes the requirement to apply for planning permission it is not an initiative to install solar panels.
- English Heritage supported the exclusion of listed buildings and conservation areas from the LDO but requested that the LDO also took account, by way of an additional condition, of the setting of listed buildings which can be adversely affected by development taking place outside the curtilage of the listed building. They also noted that two Grade II Registered Historic Park and Gardens Hunslet Cemetery and Temple Newsam exist within the immediate vicinity of the LDO and suggested an additional condition to restrict development where it would have an adverse effect upon the significance either of the Registered Parks and Gardens (e.g. through the impact on key views).

3.16 Officers have carefully considered the comments made by English Heritage, but are of the view that given the scope and nature of the development permitted by the LDO, such development would not adversely affect the setting of a listed building. The conditions proposed limit the height solar panels can project from the roof of a building which, in turn, will limit visual impact sufficiently whilst encouraging the uptake of low carbon energy production.

3.17 As the LDO is presently drafted development either complies with the order or does not comply by virtue of the type of development proposed, its positioning on a building and the use and location of that building. This will allow the installer of solar panels to notify the Council that development has been carried out in accordance with the LDO by completing the form provided. This procedure is relatively straightforward and meets the requirement to simplify planning in the Enterprise Zone. If a further condition was added to be added as proposed by English Heritage, this would introduce an element of subjectivity which could only be assessed by requiring the installer to submit details of the scheme to the local planning authority. This would introduce a time delay and additional costs in terms of the officer time required to make an assessment. These costs would have to be borne by either the installer through an administrative charge or the Council. It is considered that this additional procedure is disproportionate and unnecessary because the proposed conditions and exclusions will ensure that development permitted through the LDO has no significant adverse impact on listed buildings, conservation areas or their setting.

3.18 In terms of English Heritage's comments concerning the two Registered Historic Parks & Gardens, it is accepted that these areas should be excluded from the provisions of the LDO in the same way as listed buildings and conservation areas and, accordingly, an amendment to the LDO has been proposed. There is a small overlap between the Temple Newsam designation and the LDO boundary. However, for the same reasons as set out for listed buildings, officers do not consider that there should be an additional condition inserted in relation to an adverse impact upon the significance of a Registered Historic Park and Garden for development which takes place outside its boundaries. Given the scale and nature of development permitted by the LDO, officers do not consider that the impact that of such development would be significantly adverse.

3.19 Therefore, the following changes have been made in the attached version of the LDO from the draft that was subject to public consultation (these are underlined in red in the attached LDO):

- Amend Part A2 of the Order (section 4) to include a further exclusion (iii) Registered Historic Parks and Gardens
- Show the boundaries of Registered Historic Parks and Gardens on the plan set out in Appendix A of the LDO.
- Amend the Statement of reasons (Para 5.3) to make reference to Registered Historic Parks and Gardens.

3.20 Subject to approval of the document by Executive Board, the draft LDO has to be submitted to the Secretary of State for Communities and Local Government. He then has 21 days to make a determination to approve, reject or modify the order. If no response is received by the Council within 21 days the order is deemed to be approved. Subject to the Secretary of State's decision the LDO can then be adopted by the Council. The intention is for the LDO to be adopted to start on 1st April 2012 at the same time as the Enterprise Zone. The LDO and statement of reasons would then need to be placed on Part III of the planning register within 14 days of the adoption date.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Prior to the formal public consultation internal officers, local ward members and the chairs of the Central and East Plans Panels were consulted on a draft version of the document. The draft was discussed at Enterprise Zone Project Board, Planning Board, Aire Valley Programme Board and at Chairs Brief for Plans Panel East. The formal period of public consultation of 28 days was undertaken in accordance with the statutory procedures covering the making of Local Development Orders. The details of consultation undertaken, responses to the consultation and amendments made as a result of consultation are set out in detail in paragraphs 3.11 to 3.20 above.

4.1.2 The Council will be required to refer the LDO to the Secretary of State for Communities and Local Government before it can be adopted. The Secretary of State has the authority to approve, modify or reject the order within a 21 day period.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An Equality Impact Screening Assessment has been undertaken and concluded that no negative equality, diversity, cohesion or integration issues are foreseen as a result of the LDO. The draft LDO has also been subject to both internal and public consultation. No negative equality issues were highlighted within these processes. The LDO applies to only non-domestic premises and the eligibility of a business/organisation to utilize the order is based entirely on property characteristics and geographical location rather than any personal or group characteristics.

4.2.2 The LDO is likely to have a positive impact on regeneration within the Aire Valley Leeds area. In particular benefiting the business community through encouraging the uptake in micro renewable technology which will help to lower business running costs, reduce the reliance on the national grid for energy needs and lower greenhouse gas emissions into the atmosphere. These businesses/organisations are key to success of the surrounding residential communities through providing jobs and key social infrastructure facilities which are integral to the creation of sustainable communities.

4.3 Council Policies and City Priorities

4.3.1 The preparation of the LDO is consistent with the Council's decision to bid for and support an Enterprise Zone in the Aire Valley and the local planning authority's agreement to prepare an LDO with the purpose of simplifying planning. This supports the City Priority Plan 2011-2015 objective to make Leeds the 'Best City for business' and in particular the priorities to create more jobs, support the sustainable growth of the Leeds' economy and raise the profile of Leeds nationally and internationally.

4.3.2 The adoption of the LDO will help to reduce the cost of businesses taking up low carbon energy by removing the need to apply for planning permission which is consistent with the City Priority to improve the environment through reduced carbon emissions.

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 notice advertising and sending notification and consultation letters. This cost has been met through the existing Aire Valley regeneration budget. On adoption of the LDO, the Council will not receive planning application fees for the types of development which would be approved through the order but after taking into account the associated cost that would have been incurred in processing the application the net resource implications to the Council will be minimal. The typical planning application fee for solar panels on a commercial building is £170. The use of a notification approach to determine compliance with the LDO should result in minimal future administration costs 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. The advice of Legal Services has been taken into account during the preparation and consultation on the draft LDO.

4.5.2 Under the City Council's Constitution, a decision may be declared as being exempt from Call In if it is considered that any delay would seriously affect the Council's or the public interest. Given the Enterprise Zone will commence on 1st April 2012 the timescales for preparing and consulting on LDOs have been very tight. A delay in referring the LDO to the Secretary of State would not allow it to be adopted in time for the start of the Enterprise Zone.

4.6 Risk Management

- 4.6.1 There is considered to be a small risk associated with allowing the installation of solar panels on non-domestic buildings without the need for the installer to apply for planning permission. However, it is considered that the conditions specified in the order and the timescales attached to it should not result in lawful development which has an unacceptable visual impact.

5 Conclusions

- 5.1 The draft LDO has been prepared with the intention of making it simpler for businesses and other organisations to install solar panels on non-domestic buildings in support of the Aire Valley Enterprise Zone and Urban Eco Settlement Initiatives. The adoption of this LDO by the Council in time for the start of the Enterprise Zone will help to demonstrate the Council's commitment to genuinely simplifying planning in the EZ in response to the mandatory requirement.
- 5.2 Public consultation on the LDO identified a number of supports and one objection from English Heritage which has resulted in some minor proposed amendments to the document. However, officers did not consider it was appropriate to fully accept English Heritage's proposed amendment as this was considered to be unnecessary given the type of development permitted and conditions already included in the LDO.

6 Recommendations

- 6.1 Executive Board is recommended to:

- i) Approve the draft of the Aire Valley Leeds Enterprise Zone – Local Development Order 1: Solar Panels set out in Appendix 1 of this report and agree that the Chief Planning Officer submits this together with the statement of reasons to the Secretary of State; and
- ii) Subject to the Secretary of State not making a direction under section 61B(1) of the Town and Country Planning Act 1990 as amended, to adopt the Aire Valley Leeds Local Development Order (1): Solar Panels with effect from 1 April 2012.

7 Background documents¹

- 7.1 Equality, Diversity, Cohesion and Integration Screening Report.
- 7.2 Enterprise Zone Prospectus, DCLG, March 2011.

8 Appendices

- 8.1 Appendix 1: Aire Valley Leeds Enterprise Zone – Draft Local Development Order (1): Solar Panels.

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

8.2 Appendix 2: Summary of representations from public consultation December 2011 – January 2012.