

Report of City Development

Report to: Executive Board

Date: 16 May 2012

**Subject: Aire Valley Leeds Enterprise Zone Local Development Order 2 -
Extensions, Alterations & Change of Use: Draft for Public Consultation.**

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, 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

- Four major sites in the Aire Valley Leeds regeneration area have been given Enterprise Zone status by the Government. The Enterprise Zone, which started on 1 April 2012 for a period of 3 years, is a landmark opportunity made up of 142 hectares of employment land. In the first three years the zone should deliver 3,000 new jobs and over time this could rise to 7,000. 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.
- A draft of the Aire Valley Enterprise Zone Local Development Order 2: Extensions, Alterations and Changes of Use is attached with this report (Appendix 1). The proposed LDO would grant planning permission (see section 5 of the draft LDO) to existing businesses which fall within specified land use classes (research & development, industry and storage & distribution) to undertake certain development within the curtilage of their existing premises without the need to make a planning application and subject to restrictions and conditions. The LDO would apply across the four Enterprise Zone sites and in three wider industrial areas in the Aire Valley at Cross Green Industrial Estate, Stourton and Hunslet. The LDO has a proposed timescale of 5 years.

3. Consultation was undertaken with local members, Plans Panel East members and Aire Valley Programme Board members prior to a formal public consultation which took place between 28th February and 27th March 2012. As a result of consultation, minor changes are proposed to the LDO.
4. The LDO is considered to strike an appropriate balance between genuinely simplifying planning procedures for businesses in the Enterprise Zone to meet the requirements set out by the Government; applying these simplifications to a wider area to benefit existing business to help address displacement issues; helping to provide new jobs and investment to the benefit of local communities close to the Aire Valley; and ensuring that the resulting development will be appropriate in planning terms.
5. 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 not intervene, or to 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

6. Executive Board is recommended to:
 - i) Approve the draft of the 'Aire Valley Leeds Enterprise Zone – Local Development Order (2): Extensions, Alterations and Changes of use' 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 (2): Extensions, Alterations and Changes of use.

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 Leeds Enterprise Zone by simplifying the planning process in the area. The proposed LDO specifically relates to allowing certain extensions, alterations and change of use of industrial and warehouse units on the Enterprise Zone sites and in the wider industrial areas of the Aire Valley (Cross Green, Stourton and Hunslet).
- 1.2 A draft version of the LDO was subject to consultation with local ward members and a period of formal public consultation in February and March 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 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 commenced on 1st April 2012 for a period of 3 years.
- 2.5 The prospect of an Enterprise Zone in Leeds presents a landmark opportunity to deliver economic growth and create thousands of new jobs that will have a major positive impact on the city's and the city region's economy and job opportunities in

the local area. An 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 not intervene, or to 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 1 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). In the first three years the Zone should deliver up to 3,000 new jobs and over time this could rise to 7,000.

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 have produced a guidance note for local authorities to support the preparation of LDOs. This indicates that 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 (Solar Panels) was approved by Executive Board at the meeting of 7th March 2012. The document was submitted to the Secretary of State for Communities and Local Government on 14th March 2012 and a letter was received from the Secretary of State on 3rd April 2012 indicating that he did not wish to intervene. LDO 1 has now been adopted on this basis.
- 2.13 The draft of LDO 2 (Extensions, alteration and changes of use) is set out in detail in this report.
- 2.14 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 simplifications for transport and site preparation works and new buildings some developers have expressed a preference for undertaking development through their existing permission rather than through an LDO. Consideration is being given to a form of simplified procedure for determination of reserved matters of those outline approvals (potentially using a Planning Performance Agreement) as a 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 (2): Extensions, Alterations and Changes of Use is attached in Appendix 1. The proposed LDO would grant planning permission (see section 5 of the draft LDO) to existing businesses which fall within specified land use classes (research & development, industry and storage & distribution) to undertake certain development within the curtilage of their existing premises without the need to make a planning application. For the avoidance of doubt, this LDO would not grant permission for any type of development other than that specific in section 5 of the draft LDO and would not apply outside the boundaries of the areas shown in the plan in Appendix A of the LDO.
- 3.2 Existing industrial and warehouse businesses already benefit from some permitted development rights to extend, alter and change the use of their premises without the need to apply for planning permission, granted through the General Permitted Development Order which applies nationally. For example, an industrial building can extend up to 1,000 square metres, subject to some restrictions such as on height of the extension and proximity to the boundary of the site. The intention of the proposed LDO is to further extend these permitted development rights to offer greater flexibility for business located in the Enterprise Zone and surrounding areas of the Aire Valley.

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: Site description and current planning status;
 - Section 5: the order specifying the type of development permitted, the conditions attached to this and the timescales and other procedural requirements;
 - Section 6: the statement of reasons which includes a justification and a statement of key policies the LDO will implement; and
 - Appendix A: Plans 1-5 showing the boundary of the area covered by the LDO, excluded sites and restricted zones.
- 3.4 The development permitted includes the following:
- change of use of buildings between the specified uses (research & development; industrial and storage & distribution);
 - construction of front entrances / canopy / reception areas;
 - construction of extensions to the side and rear of buildings;
 - roof structures to allow creation of green/brown roofs;
 - bicycle storage facilities;
 - erection or construction of a gate, fence or wall or other means of enclosure;
 - installation of new windows or door openings.
- 3.5 All the development set out above is subject to a range of restrictions, exclusions and conditions which are set out in the order. These limitations are needed to cover a range of issues such as limiting the scale of extensions and the height of fences and walls; ensuring that visual and residential amenity is not prejudiced by development and that existing car parking or servicing areas are not lost; and reducing the risk of flooding to new development. Overall there is an important balance to be struck between simplifying planning and giving sufficient flexibility to businesses to support the Enterprise Zone and ensuring that the resulting development is acceptable in planning terms.
- 3.6 The LDO excludes specific development which might otherwise fall within the scope of the order. Development excluded from the order includes:
- open storage except where this is ancillary to the use of a building and does not exceed 5 metres in height;
 - change of use to or extension of B2 (general industry) uses within 100m of residential areas (see plans 2, 3, 4 & 5);
 - extensions within higher risk Flood Zones 2 or 3
 - development that would involve a listed building and land within and surrounding the curtilage of a listed building;
 - on sites identified in Leeds City Council's draft Natural Resources & Waste Development Plan Document as safeguarded waste sites (see plans 2, 3, 4 & 5);
 - Development which would trigger the requirement to undertake an Environmental Impact Assessment according to the EIA regulations.

- 3.7 The boundary of the LDO includes the four Enterprise Zone sites and the wider industrial areas of Cross Green (Area A), Stourton (Area B) and Hunslet (Area C), as shown in Plan 1 of the order. Hunslet (Area C) includes one listed building (Hunslet Baptist Church on Low Road).

Justification

- 3.8 The aim of the LDO is to offer a genuinely simplified approach to planning allowing new and existing business premises greater flexibility to grow. The LDO offers businesses within the area certainty of outcome for the specified developments by defining up front what changes are acceptable and 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.
- 3.9 The LDO boundary, which includes, but is significantly larger than the Enterprise Zone will ensure that the areas around the Enterprise Zone would also benefit from planning simplification. The LDO promotes flexibility within a range of specified uses within the general business/industry use classes through allowing buildings to change from one use to another without the need for planning permission. These uses are typical of the existing businesses found within the area and consequently the LDO will help to retain the strong industrial core of the Aire Valley area which is locally and regionally significant in terms of employment and the economy. Of particular importance are links between jobs created in the Aire Valley and residential neighbourhoods to the north and south of the area such as Richmond Hill, Osmondthorpe, Halton Moor, Hunslet, Belle Isle and Middleton. These areas have higher than average levels of unemployment and businesses located in the Aire Valley are an important source of local jobs. If nationally recognised densities for new jobs created in new employment floorspace are applied, it is estimated that each extension of 1,500 square metres could provide an additional 30 jobs in the area. It is difficult at this stage to estimate potential uptake of the LDO but there is considerable potential given there are over 400 businesses located in the area covered by the LDO.
- 3.10 Extending the boundaries of the LDO beyond the Enterprise Zone boundary will also help to reduce the incentive for border-hopping for those businesses located nearby. Furthermore, given that the chosen areas have the same sectoral focus it provides a more level playing field and spreads the benefits of the Enterprise Zone across the business/industrial sectors as a whole.
- 3.11 It is intended that the LDO would have a limited lifetime of 5 years. If the LDO were revoked before this time there may be a requirement for the Council to pay compensation to an owner who was intending to carry out development through the LDO.
- 3.12 When the LDO is in place there would be a requirement (see Section 5.6 of the draft LDO) for the developer to submit sufficient information to the Council to allow officers to check whether a proposed development complies with the LDO. Council officers would have up to 28 days to provide a written response to the applicant. A fee of £50 would be required to cover administrative costs reflecting the charge the

Council makes for a permitted development enquiry for minor development. If the Council failed to make a decision within 28 days the fee would be refunded to the applicant.

Early consultation on the LDO

- 3.13 Prior to the formal public consultation on the LDO a draft of the document was discussed and consulted on internally at an officer level and discussions took place with the Highways Agency, Environment Agency and English Heritage who were sent drafts of the document for comment.
- 3.14 The Highways Agency raised concerns about the cumulative impact on the capacity of the strategic road network of allowing extensions and changes of use across a wide area which already faces constraints in terms of highway capacity. In response Transport Policy undertook a brief assessment of the likely impact of the LDO on the highway network. This concludes that the impact of the development of 40 extensions (considered to be a high estimate) for a mix of industrial and warehouse uses undertaken through the LDO would be an increase in traffic of well under 1% on any part of the M1 motorway. This takes into account the maximum limit of 1,500 sq m for an extension permitted through the LDO. This impact is not considered to be significant.
- 3.15 The Environment Agency have requirements in respect to submission of Flood Risk Assessments and when they need to be consulted on development and raised concerns that flood risk was not being addressed adequately by earlier draft of the LDO. As a result additional requirements in relation to flood risk were inserted into the LDO which are set out in more detail in paragraph 3.20 below.
- 3.16 A briefing was held for local ward members on 13th December 2011. This was attended by Cllrs Grahame, Khan and Pryke (all Burmantofts & Richmond Hill ward members). Members raised the following issues at the briefing of relevance to LDO 2:
- Issues relating to the governance and focus of the Enterprise Zone;
 - How the LDO will operate in respect to the proposed Energy Recovery Facility on Site 1 of the Enterprise Zone (Newmarket Lane);
 - Will there be filters in place to prevent displacement of existing business to the Enterprise Zone sites;
 - That the specified uses included light and general industry with concerns about the definition of 'industry' and the need to ensure environmentally hazardous or inappropriate research industries were not allowed under B1(b), B1(c) or B2 classes.
- 3.17 A draft of the LDO was presented to Plans Panel East meeting of 5 January 2012. Members commented on the following matters relating specifically to the LDO:
- The extension of the LDO boundary to cover the wider area should be agreed with members
 - Whether there were any exclusions to developments permitted under the LDO such as the former Wholesale Market site at Cross Green

- Members required much more information in order to provide informed comments;
- The status of the Council in the LDO and whether it was a statutory consultee;
- Whether applications for housing fall within the scope of the LDO;
- Concerns that people would not be aware of the proposed extensions and alterations until work commenced with concerns that people would not be protected against noise, dust etc.
- That the specified uses included light and general industry with concerns about the definition of 'industry' and the need to ensure environmentally hazardous or inappropriate research industries were not allowed under B1(b), B1(c) or B2 classes.
- The possibility of the LDO resulting in displacement rather than creating new businesses.
- That the projected number of jobs to be achieved from the LDO (30,000 - 40,000) was ambitious.
- Whether all of the outline permissions granted on sites within the EZ has been to Panel and that Members would not necessarily know all of the details associated with these schemes so could not easily accept what was being proposed in the draft LDO for the area.

3.18 Officers presented an item on the LDO to the Aire Valley Programme Board of 20th January 2012. The Board has member representation. The concerns relating to procedures raised at Plans Panel East were discussed with the members present and the Board raised no objection to the draft LDO going out to public consultation.

3.19 In response to the request of Plans Panel East for further discussions to take place with members, an additional briefing session was held for local ward members on 16th February 2012 which was attended by Cllrs Grahame and Khan (Burmantofts & Richmond Hill). Those members who were unable to attend the briefing were sent a copy of the proposed consultation draft document for comment. Members commented on the following issues in relation to LDO 2:

- Need to provide new jobs for local residents is imperative;
- Would support a condition to limit noise levels at sensitive locations such as residential areas;
- Reference should be made in the LDO to Community Infrastructure Levy requirements;
- Travel plans should help ensure that people can get to work in the area safely.

3.20 In response to the issues raised above the following amendments were made for the final consultation draft version of the LDO:

- The waste site boundaries have been checked for accuracy and the strategic waste sites on the Enterprise Zone sites have been shown as excluded sites for consistency. This includes the strategic waste site at Newmarket Lane (Site 1 as shown on Plan 5 of the order). The LDO cannot be used to construct or extend waste facilities on these sites without the need for a planning application to be submitted;

- A B2 (General Industry) Restriction Zone was applied to premises and the curtilage of premises within 100 metres of existing residential areas or sites with planning permission for residential use. The restriction zones covered the northern part of EZ Sites 2 & 3 and parts of wider areas A & C which are closest to residential areas. No change of use to B2 or extension of existing B2 premises would be permitted by the LDO within these zones. This requirement was inserted to provide additional safeguards in respect to the potential impact of new or expanding industrial uses on the amenity of local residents;
- A standard unexpected land contamination condition was added (see Table 1 of Section 5 of the order);
- A noise condition was included in order to protect the amenity of local residents (see Table 1);
- The order was clarified to ensure that it does not permit development that requires an Environmental Impact Assessment (EIA) to be undertaken. Schedule 1 EIA development (which would include an Energy Recovery Facility) is legally excluded from inclusion in an LDO. Development falling under Schedule 2 of the EIA regulations (including many industrial processes where the additional floorspace is greater than 1,000 square metres) will be required to submit a screening opinion. Development will not be permitted by the LDO unless the screening opinion concludes that the development is unlikely to have significant effects on the environment by virtue of factors such as its nature, size and location.
- The limit in the scale of extensions was simplified. It is now expressed in percentage and floorspace terms in the same way as the General Permitted Development Order. The cumulative limit is expressed as either 35% of the original building or 1,500 sq m whichever is lesser. The floorspace limit is set at the point where the development could have a significant travel impact which would normally trigger the submission of a travel plan.
- Development requiring submission of a Flood Risk Assessment according to the Environment Agency's guidelines is no longer permitted. This affects extensions with over 250 sq m of floorspace in Flood Zones 2 or 3. A flood risk exclusion zone has been identified on plans 2-5 of the order and extensions are not permitted in these zones. The smaller front extensions permitted by Part A1(c) of the order are subject to floor level being set no lower than the existing building.
- Reference was made to the Community Infrastructure Levy (CIL) requirements at paragraphs 5.7 and 5.8 of the order in the event that a CIL is adopted by the City Council.

3.21 In response to other issues and concerns raised by members:

- The Council as the Local Planning Authority is the body responsible for preparing the LDO. Those services of the Council normally consulted on planning applications of this type have been notified as part of the formal consultation in addition to informal discussions which took place as part of the preparation of the draft order;

- The LDO only applies to the extension, alteration and change of use of existing research & development, industrial and storage and distribution uses subject to restrictions and conditions. It cannot be applied to new housing development or to permit the construction of any new stand alone buildings;
- The number of jobs is an estimate of the potential capacity of sites to provide new employment across the wider Aire Valley area, including the Enterprise Zone sites;
- The issues of displacement of existing businesses from nearby areas into the Enterprise Zone has been fully considered in drawing up the scope of this LDO. The area of the boundary has been extended to include the nearby industrial areas of Cross Green, Stourton and Hunslet in order that businesses in this area can benefit from the planning simplification benefits offered by this order.

Public Consultation (February – March 2012)

- 3.22 The draft LDO has been subject to a formal public consultation process which took place between 28th February and 27th March 2012.
- 3.23 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 Procedures) (England) Order 2010. 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 put up site notices in the area covered by the LDO.
- 3.24 The details of the public consultation are set out below:
- The consultation went live on the Council's website on 28th February 2012. A response form could be downloaded from the website.
 - Letters serving notice on over 400 landowners/tenants of non-domestic properties (addresses were extracted from the Council's non-domestic rates data) were sent out on 27th February 2012.
 - Letters were sent to other relevant consultees (mainly by email) on 28th February 2012.
 - 19 site notices were posted in prominent locations in the LDO area on 28th February 2012.
 - A public notice advertising was placed in the Yorkshire Evening Post on 27th February 2012.
 - The last date for comment on the draft document was 27th March 2012. This ensuring that a 28 day period was given from the date the last notice was served.
- 3.25 As a result of the consultation the following issues were raised by internal consultees:
- **Transport Development Services:** Part A1 (d) covering extensions to the side and rear of buildings does not include a clause stating that there should be no reduction in the space available for the parking, adequate turning of

vehicles and/or functional use of servicing / delivery vehicles, similar to that provided under section (c) and (f). This clause should be included.

- **Environmental Protection:** The buffer zone (B2 use restriction zone) of 100m from residential properties should also apply to B8 uses because as many complaints about vehicle movements from sites than about noise from plant and machinery. The single noise boundary condition may be difficult to apply over the wide area covered by the LDO. The night time noise limit should use a 5 minute assessment period rather than one hour. Normal noise assessment normally uses a comparison between the industrial noise produced and the background noise in the absence of industrial noise and use of a standard noise condition would be a better approach.
- **Transport Policy:** Suggested Part A1 (f) include motorcycle as well as cycle parking. Suggested minor amendments to add clarity to the wording of paragraph 6.14 of the statement of reasons covering transport.
- **Sustainability officer:** Requested amendments to paragraph 6.9 of the statement of reasons regarding sustainability for clarity. (It is noted that a short section of text at the top of page x of the draft LDO at the end of paragraph 6.9 had not printed on the pdf version of the document available on the website. This was rectified and the correct version of the document was made available from 9 March 2012).

3.26 14 written responses were received to the consultation from external organisations; 2 from developers/landowners with interests in the area covered by the LDO and 12 from statutory consultees and other organisations. A more detailed summary of the comments is set out in Appendix 2 of this report. In summary, the comments received were as follows:

- **English Heritage** welcome the exclusion of listed buildings from the provisions of the order and agree with the assessment made by officers that the potential impact of the LDO upon Listed Buildings is low.
- **English Heritage** asked for further thought to be given to how the LDO addresses development which could, potentially, harm the significance of the Historic Park and Garden at Temple Newsam particularly with regard to development that could be permitted at Sites 3 and 4.
- **Yorkshire Water** are concerned that water and waste water infrastructure are protected and that it is imperative that buildings are not permitted to be constructed over sewers and water mains. Area A (Cross Green Industrial Estate) has several large diameter water mains connect to Knostrop Waste Water Treatment Works.
- The **Homes and Communities Agency** had no comment.
- The **Environment Agency** has no objections but request a minor change to the wording of introductory paragraph 2.3 to refer to compliance with the requirements of other (non-planning) legislation.
- The **Coal Authority** make reference to the Coal Mining Development Referral Area Plans which shows records of mine entries and shallow coal resources across the four Enterprise Zone sites and in the three wider LDO 2 areas.

Extensions and alterations would normally require the carrying out of Coal Mining Risk Assessments to ensure the safety and stability of the development. They request the addition of a condition relating to land instability to enable unexpected instability to be assessed and approved by the Council in consultation with the Coal Authority. They also refer to mine gas being recorded in Area B and that it would be prudent for the developer to incorporate gas impermeable membranes within new buildings. They also request inclusion of an informative making reference to written permission required from the Coal Authority.

- The **Health & Safety Executive** identify one hazardous substances installation in Area A and one major hazard pipeline (high pressure gas main) running through Areas A and C and Site 3. These are related to consultation zones where the HSE may advise against development depending on circumstances (particularly the end use). Note that the development on Site 3 includes a hotel and a creche which are sensitive end uses.
- **Airebank Developments** who own a number of sites and properties within Hunslet, including Hunslet and Victoria Mills and two industrial units on Fox Way query the rationale behind the identification of the boundary for Area C. They request that the boundary of Area C is extended northwards (plan provided) to include the land north of Goodan Street and south of the Inner Ring Road flyover to reflect the industrial character of the area and to include their two industrial units on Fox Way. They suggest that the Hunslet Mills complex is then identified as an “excluded site” to exclude them from the remit of the LDO and argue that its setting would not be harmed by further development permitted by the LDO.
- **Muse Developments** (developers of the Logic Leeds site – Site 3 in the Enterprise Zone) have a number of concerns about the LDO and requests for amendments which are summarised as follows:
 - § The LDO is not the most effective way to deliver simplified planning on sites which already benefit from planning permission, such as Logic Leeds. They suggest that the introduction is amended to reflect that other mechanisms to deliver simplified planning are available as in some cases restrictions of the LDO are more onerous than existing planning permissions.
 - § Part A1 of the LDO only refers to B1 (b), B1 (c), B2 and B8 development and should be amended to include the full range of uses permitted on the key sites in the Enterprise Zone.
 - § Part A1 does not state which change of uses are allowed but does not state what developers can change from.
 - § Part (a) (ii) includes a restriction zone [for change of use to B2 general industry] but providing there is no impact on residential amenity there should be no reason why unrestricted changes of use cannot occur.
 - § Not had sight of the self-certification form that concludes whether the LDO can be used so do not know whether there is an opportunity to provide information would allow a case to be made to support change of use. Clarification required.

- § Part (c) (i) only allows for a 20 sq m canopy / lobby / reception area to be constructed without permission. This is very small and at odds with the scale of development being promoted in the Enterprise Zone.
- § No justification for a 20m stand-off from the nearest bank of the River Aire / Wyke Beck (Part (c) (vi))
- § No justification for the restriction on extensions to B2 use class buildings (Part (d) (ii))
- § No justification provided for the requirement that any gate, fence, wall or means of enclosure allowing for 50% through visibility (Part (g) (ii))
- The **Health Protection Agency** (Centre for Radiation, Chemicals & Environmental Hazards) have no significant concerns regarding the risk to the health of the local population from the proposals given the Environmental Permitting Regulations will still apply for specified installations.
- The **Highways Agency** are concerned that the relaxation of restrictions on changes of use which could, if uncontrolled, create a significant increase in trip generation from EZ sites which have existing planning permissions onto the Strategic Road Network. This would apply particularly if the LDO were used to change use from B8 (storage & distribution) to B1 (b), (c) and B2 uses (research & development and industrial uses). Require further clarification on Part A2 (e) of the LDO which would prevent development which would be contrary to any condition imposed by any planning permission and how this will be monitored. The HA believe the conditions in the EZ consents should form part of the conditions for LDO 2.
- **Natural England** do not consider that a Regulation 78 Habitats Regulation screening report is necessary and therefore have no objections.
- **Yorkshire Wildlife Trust** request that links to best practice guidance on creating green roofs and bicycle storage facilities should be included and encourage the LDO to include reference to positive features for enhancement of wildlife, such as the inclusion of bat and bird boxes. They also seek the inclusion of an informative to include a warning about protected species referencing other legislation.
- **British Waterways** object to the LDO as it fails to protect the structural integrity of the Aire and Calder Navigation. They request that the Aire and Calder Navigation is included alongside the River Aire and Wyke Beck in the area excluded under Part A1 (c), (d) or (f) and to note this is measured from the furthest extremity of the waterway infrastructure and not the nearest bank.
- **Towngate** (a developer with interests in two Aire Valley sites at Stourton and Cross Green) is supportive of the principle of simplified planning and provide a case study of delays to a previous application for an expansion of industrial premises in Stourton. With regard to the LDO they make the following comments:
 - § Do not consider that there is justification for the exclusion of sites designated for waste purposes through the Natural Resources & Waste DPD on land in their ownership (Sites 14, 20, 91 and 113) from the remit of the LDO. They have objected to these designations;

- § Should not be a limit of 20% of total floorspace on ancillary office floorspace;
- § The limit of 1,500 sq m on side and rear extensions is too limiting;
- § No justification for excluding “palisade style fencing” from the means of enclosure permitted. This can be installed up to a height of 2m under national permitted development rights;
- § The LDO should allow the construction of temporary buildings with limits on heights and total percentage of site area covered;
- § The LDO could potentially include the following development without harm:
 - Demolition;
 - Ground preparation including plot levelling / plateau works;
 - Access and spine roads
 - Hardstandings and car parking;
 - Flood mitigation works

3.27 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:

- Included an additional criteria under Section 5 Part A1 (d) [side and rear extensions] to state “*the development resulting in no reduction in the space available for the parking, adequate turning of vehicles and/or functional use of servicing/delivery area*”.

Reason: In the interest of highway safety. This criteria appeared in earlier drafts of the document and its exclusion from the final draft was an oversight.

- Amend Condition 2 (Noise) in Table 1 (Section 5) to refer to noise level of 5dBA below the existing background noise level background rather than a specific noise level.

Reason: to protect residential amenity and consistent with British Standard assessment methods and standard conditions applied to planning permissions.

- Minor amendments to the text of Paragraph 6.14 (Transport) to add clarity.
- Revisions to the text of Paragraph 6.9 (Sustainability) to add clarity including reference to best practice guidance on green roofs and bicycle parking facilities.
- Additional informative in Section 5 referring to the need obtain consent from Yorkshire Water where development is proposed to be carried out over or close to sewers and main water mains.
- Amended sentence in paragraph 2.3 on page 2 to add clarity and to state: “*If development complies with the requirements of the LDO it can be assumed that it can be started straight away (subject to compliance with the requirements of other legislation).*”

- Additional informative inserted in Section 5 including reference to land instability and the requirement for written permission to be obtained from the Coal Authority for any activity which intersects the ground and disturbs coal or coal mine entries.
- Inserted additional condition into Table 1 of Section 5 to state: *“In so far as development permitted by this Order takes place on land which has the benefit of an extant planning permission, then such development shall be subject to any conditions attached to those extant planning permissions”*.

Reason: To ensure that development undertaken through the LDO does not override the need to comply with conditions attached to existing conditions, for example, highway trips limits, travel plan requirements, landscape schemes etc.

- Additional informative in Section 5 confirming that a number of the sites are subject to Section 106 agreements which relate to the carrying out of any development for clarity.
- Additional informative in Section 5 referring to the requirement to comply with Wildlife legislation.
- Amended Section 5 Part A1 (c) (vi) and (d) (viii) to state: *“No part of the development to be located within 20 metres of the nearest bank of the River Aire or Wyke Beck or within 20 metres of the Aire and Calder Navigation measured from the furthest extremity of waterway infrastructure”* and add the same criteria under Part A1 (f).

3.28 Additional minor changes have been made to the Statement of Reasons to add clarity and the aid understanding of the Order as a result of issues raised in response to the consultation.

3.29 In some cases, after careful consideration of the issues raised by respondents on the LDO arising from the consultation, officers have recommended that no changes are made to LDO. The reasons for rejecting suggested amendments are set out in full in the table in Appendix 2 with key issues highlighted below.

3.30 In response to English Heritage’s concern about the potential impact of the LDO on the setting of the Registered Park and Garden at Temple Newsam, officers consider that there would be very limited impact which would not affect the significance of the Registered Park and Garden. It is important to note that the LDO only permits development where a building already exists and is used for R & D, industrial or storage/distribution purposes. Currently sites 3 and 4, which adjoin the Temple Newsam Estate, are undeveloped and have existing outline planning permissions. Any development on these sites will require approval of reserved matters (including design and layout issues) and approval of a landscape scheme etc. Consideration of these issues can fully consider any impact on the Registered Park and Garden. Following construction of the building, the LDO could be applied but the additional impact of development permitted through the LDO would be of much less significance than the original building, given the restrictions on size, siting, design etc which would apply.

- 3.31 It is not proposed to redraw the boundary of the LDO in response to Airebank Developments request to extend the boundary of Area C of LDO. The boundaries of the wider areas of the LDO (outside the Enterprise Zone) were drawn to broadly reflect the industrial areas of the Aire Valley (Cross Green Industrial Estate, Stourton and parts of Hunslet) but also had regard to the need to minimise the potential impact of the LDO on current and future residential communities and heritage assets such as listed buildings. In drawing the boundary for Area C, officers recognised that the industrial character of the area extended as far north as the Inner Ring Road but were concerned about the potential impact on the LDO on the setting of the adjacent listed Hunslet Mills complex, bearing in mind that an LDO cannot allow development which would adversely affect a listed building. It was agreed with the Council's Conservation Team that stopping the boundary at Goodman Street would not result in any likelihood of development that would impact on the setting of the Hunslet Mills complex being brought forward under the LDO.
- 3.32 Officers have discussed hazardous installation and pipeline issues with the Health & Safety Executive and reviewed the HSE's guidance. Whilst the LDO would allow extensions and changes of use within HSE consultation zones, the restriction on uses allowed to be developed through the LDO (R & D, industrial and storage & distribution) and the scale of additional development permitted in extensions (up to 1,500 sq m) would put the development in the lowest (Level 1) of the HSEs four level of sensitivities. In such cases the HSE would not normally advise against development in any of the three consultation zones around either hazardous installations or pipelines. Office and hotel uses on Enterprise Zone Site 3 are not permitted through the LDO, reference to these uses only refers to what can be built through existing planning permission. It is therefore not proposed to amend the LDO in response to the issues raised by the HSE.
- 3.33 It is proposed that the exclusion of safeguarded Natural Resources and Waste DPD sites from the remit of the LDO should remain. This exclusion was made to avoid a situation where the NRWDPD safeguards a site for waste purposes and the LDO permits a change of use to another non-waste use without the need for a planning application to be made. Whilst it is possible that the inspector's report into the NRWDPD may recommend that one or more of the safeguarded site designations are removed, at the point at which the LDO is being written it is the Council's position that the sites should be safeguarded and the LDO should not undermine this agreed policy position.
- 3.34 In response to the issues raised by Muse Development about the lack of flexibility of the proposed LDO it is recognised that the developer can undertake development through their existing planning permission that is not covered by the LDO. The intention of drafting the LDO was not to replicate existing planning permissions but to offer more flexibility to businesses to expand operations on site and to offer building owner more flexibility about the use of their properties. The LDO has been drawn up in such a manner that developers wanting to use the LDO will only be required to submit the information required to allow the Council to assess whether the proposal is compliant with the LDO. There is no requirement to submit further assessments such as transport and flood risk assessments which helps to speed up the planning process.

- 3.35 In taking this approach it has been necessary to restrict or place limitations on the type of development permitted in certain locations to ensure that it is otherwise acceptable in planning terms. Such restrictions are fully justified, for example, to protect residential amenity, promote appropriate design, reduce flood risk and in the interests of highway safety etc. These issues have been discussed with statutory consultees and local ward members and officers consider that the correct balance has been struck between genuinely simplifying planning in the area and ensuring that development permitted through the LDO is acceptable in planning terms.
- 3.36 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 not intervene, or to reject or modify the order. If no response is received 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.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Prior to the formal public consultation internal officers, local ward members and key statutory consultees were consulted on a draft version of the document. The draft has been discussed at Enterprise Zone Project Board, Planning Board, Plans Panel East, Aire Valley Programme Board and in two local member briefing sessions.
- 4.1.2 Subject to approval of the final document by Executive Board; 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 not intervene, or to 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 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 properties falling within certain industrial and warehouse use classes and the eligibility of a business 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 an impact directly on equality, diversity, cohesion and/or integration. The LDO does have an impact of improving and supporting local enterprise for businesses and as such has a direct positive impact on the whole of the LDO area. It also provides a consistent approach for the whole area which has the effect of creating an equal status for all.

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.

4.4 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 of advertising and notification will be 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.
- 4.4.2 The LDO has been devised in such a way that determining compliance with the LDO will in the main be a checklist procedure which should result in minimal future administration costs to the Council. An administrative fee is proposed to cover these costs.

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 prejudice the Council's or the public interest. Given the Enterprise Zone commenced on 1st April 2012 the timescales for preparing and consulting on LDOs have been very tight. Although the 1st April deadline for adoption of the LDO cannot be achieved it is important that the LDO is in place as soon as possible after the start of the Enterprise Zone therefore the report has been declared as not eligible for call-in.

4.6 Risk Management

- 4.6.1 There is considered to be a small risk associated with allowing the extension, alteration and changes permitted by the order without requiring developers to apply for planning permission. However, it is considered that the restrictions, requirements and conditions specified in the order and the timescales attached to it should not result in lawful development which has an unacceptable impact on residential amenity or the quality of the local environment.

5 Conclusions

- 5.1 The draft LDO has been prepared with the intention of making it simpler for businesses to extend, alter or change the use of existing industrial units and warehouses in the Enterprise Zone and the other main industrial areas of the Aire Valley. The adoption of this LDO by the Council shortly after the Enterprise Zone

starts will help to demonstrate the Council's commitment to genuinely simplifying planning in the EZ in response to the mandatory requirement and to extend the benefits of simplified planning beyond the Enterprise Zone itself.

- 5.2 A number of revisions have been made to the draft LDO as a result of internal officer discussions; consultation of local ward members, the Environment Agency and the Highways Agency; attendance at Plan Panel East and the Aire Valley Regeneration Board and as a result of submissions made to the formal public consultation.
- 5.3 The draft LDO, as revised, is considered to strike an appropriate balance between genuinely simplifying planning procedures for businesses in the Enterprise Zone to meet the requirements set out by the Government; applying these simplifications to a wider area to benefit existing business to help address displacement issues; and ensuring that the resulting development will be appropriate in planning terms.

6 Recommendations

6.1 Executive Board is recommended to:

- i) Approve the draft of the 'Aire Valley Leeds Enterprise Zone – Local Development Order (2): Extensions, Alterations and Changes of use' 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 (2): Extensions, Alterations and Changes of use.

7 Background documents¹

- 7.1 Equality, Diversity, Cohesion and Integration Screening Report.
- 7.2 Enterprise Zone Prospectus, DCLG, March 2011.
- 7.3 DCLG – Enterprise Zone: Simplified Planning Guidance, Version 4, March 2012.
- 7.4 LDO2 consultation draft

8 Appendices

- 8.1 Appendix 1: Aire Valley Leeds Enterprise Zone – Draft Local Development Order (2): Extensions, Alterations and Changes of Use.
- 8.2 Appendix 2: Summary of representations from public consultation, February – March 2012.

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.