

## Report of the Director of City Development

### Report to Executive Board

**Date:** 8<sup>th</sup> February 2017

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

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|--|---|
| Are specific electoral wards affected?   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| If yes, name(s) of ward(s):<br>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:<br>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. Executive Board has supported a District Heat Network (DHN) as key to unlocking long-term decarbonisation of heat in the city. A DHN 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 Town and Country Planning Act 1990 (as amended) enables Local Planning Authorities to introduce a Local Development Order ("LDO"). 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.
2. The LDO offers certainty for those persons or businesses seeking to create their own district heating system or connect to the Council's planned spine DHN by eliminating the requirement to obtain planning permission. Furthermore, it ensures that the planning system will assist in the 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 exclusionary requirements.

3. Leeds City Council's Executive Board resolved to adopt the Leeds District Heating Network Local Development Order 3 (LDO 3) on the 9<sup>th</sup> March 2016. The LDO grants planning permission for the development of district heating (DH) networks, including pipes, cables and wires, heat exchange equipment, street furniture, informational signage and ancillary engineering works without the need to apply for planning permission.
4. LDO 3 covers all Council Adopted Highways, landholdings of some key partners and a small amount of Council owned green space. On further detailed review of the Adopted LDO plan, it has become apparent that an extension to the land covered by LDO 3 is required in order to include some larger green spaces and other land in Council ownership, including land and premises leased out to third parties. This is deemed necessary so as to ensure that District Heating developers can create a contiguous District Heating route entirely within the identified land covered by the permitted development rights of LDO 3. LDO 3 originally covered 990Ha of land, much of which was highways, and revised LDO 3A proposes to extend this by 1,642Ha.
5. The Council has therefore carried out further consultation on a revised LDO 3A, which continues to maintain the primary boundary area of LDO 3 as already agreed by Executive Board but to now include additional parcels of land exclusively in the Council's ownership in the LDO area. The period of validity remains the same. Accordingly the extension to the boundary overall is considered to be a minor revision to the adopted LDO 3.
6. Subject to Executive Board approval for adoption of the revised LDO 3A (**Appendix 1 & 2**), a copy will be sent to the Secretary of State for Communities & Local Government within 28 days.

## **Recommendations**

7. Executive Board is recommended to approve adoption of the Revised Leeds District Heating Network Local Development Order (Revised LDO 3A): set out in **Appendix 1 & 2** of this report and agree that the Chief Planning Officer submits a copy, together with the updated statement of reasons to the Secretary of State for Communities and Local Government.

## **1. Purpose of this report**

- 1.1 To seek Executive Board approval to adopt a revised LDO 3A to support the development of district heating in the city.

## **2. Background information**

- 2.1 The Leeds District Heating Network Local Development Order (LDO 3) was written and adopted to facilitate implementation of district heating networks (DHNs) across Leeds. The Town and Country Planning Act 1990 (as amended) enables Local Planning Authorities to introduce a Local Development Order ("LDO"). 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.
- 2.2 DHNs can provide significant local benefits including:
- Reduced CO<sub>2</sub> emissions
  - Lower heating and hot water costs
  - Reduced instances of fuel poverty
  - Improved energy resilience
  - Job creation and enhanced attractiveness of the city as a place to live in and do business in
- 2.3 The Executive Board paper of March 2016 (can be accessed via the following link: <http://democracy.leeds.gov.uk/documents/s142660/District%20Heating%20cover%20report%20and%20appendices%20250216.pdf>)
- 2.4 The paper of March 2016 provides full details on the rationale for adoption of the original LDO 3, its extent and powers, details of the development and consultation process and all legal and financial information. As the only change proposed is to amend the accompanying map to include additional parcels of land exclusively in the Council's ownership within the existing LDO 3 area, all of the information in the March 2016 Executive Board paper remains relevant to the decision being asked of Executive Board now. This report focuses on the change of coverage itself but is to be read together with the report at the above link.

## **3. Main issues**

- 3.1 Prior to consultation on the original LDO 3 in late 2015 the council worked with a number of primarily public sector organisations in the city who hold significant landholdings (for example both Universities and the Leeds Teaching Hospital Trust) to include their land in the LDO 3.
- 3.2 However, at the time, the council limited its own land assets to highways and a small number of larger parcels of land.
- 3.3 This has proven problematic for district heating developers.
- 3.4 It has become apparent, on further review of the plan for LDO 3, it is very hard for DH developers to create a contiguous route within land covered by the permitted development rights conferred by the LDO 3. This means that an optimised route will almost always require a planning application to be submitted and thereby reduce the benefit of the LDO 3 significantly.

- 3.5 Alternatively, the DH developer can choose to develop a route entirely within highways as these are covered by the LDO 3 and thereby avoid the need for a planning application. However, not only does this cost more and hence reduce the financial benefits of DHNs, it will cause much greater disruption to the people of Leeds as the impact on highways and traffic flows will be much greater.
- 3.6 Two examples of the unintended consequence of this are provided below:
- Many grass verges are currently not covered by the LDO 3 and therefore a DH developer either has to submit a planning application to use the verge or install the pipes within the highway at a higher cost and with greater disruption to all road users. A good example of this is Burmantofts/Beckett Street, leading from the A64 to St James' hospital where there are generous verges/green spaces either side of the road but these are not covered by the original LDO 3.
  - Much of the green space around Housing Leeds multi-storey flats is not covered by the LDO 3. Therefore, currently, to connect these multi-storey flats to a DHN requires a planning application to cross the council owned green space or to instead dig up access roads and car parks at a higher cost and with greater disruption to tenants.
- 3.7 Therefore the council's asset management team has reviewed landholdings and created a revised LDO 3A map that contains all the land that the Council owns and/or leases out to tenants. This revised map has been subject of public consultation ending 23<sup>rd</sup> January 2017. The consultation received 10 written responses, with substantive issues outlined in **Appendix 3**. Key issues are summarised below:

#### ***Highways England***

- *Queried land holdings around junction 3 which have now been resolved.*

#### ***Leeds Beckett University***

- *Requested that an additional parcel of land be included to facilitate DH development. As this was not included in the revised map, any further amendments would require formal consultation.*
- *It is considered appropriate to continue with the revised map (**Appendix 2**) and keep the request under review for any future LDO3 revision where this parcel of land can further be considered or invite the land owners to submit a planning application for the land if it is required.*

#### ***Middleton Railway***

- *Objected to land that they lease from the council being included due to safety issues around the railway. This land has therefore been removed.*

#### ***Natural England***

- *Identified potential biodiversity issues, particularly around the canal SSSI and River Aire. Noted the comments provided and that any DH developer should address any biodiversity or ecological issues in their discharge of conditions.*

#### ***Wade's Charity***

- *Identified concerns with inclusion of some of their open space. On further discussion with Wade's Charity, it has been agreed to remove Gott's Park*

*from the LDO and treat it as listed buildings with a 50m standoff surrounding it. The other open spaces remain in the LDO.*

- *Any developer seeking to use the provision of the LDO would have to first seek the permission of Wade's as landowners prior to commencing any DH development, regardless of the planning status of the land.*

3.8 The consultation responses have been carefully reviewed and appropriately addressed through further discussions with the various bodies mentioned above. The proposed boundary area for the revised LDO3A, has been developed and presented as **Appendix 2**. This map shows the land covered by the existing LDO 3 as red and new land that Executive Board are recommended to include within a revised LDO 3A is coloured green.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 The original LDO 3 had extensive public consultation as detailed in the Executive Board report linked in ¶2.3 above. As the proposed changes are so limited and do not directly affect anybody except the council or tenants of our land, The consultation has therefore had a targeted scope.
- 4.1.2 The statutory public consultation period took place between 23<sup>rd</sup> December 2016 and 23<sup>rd</sup> January 2017. This consultation took the form of posting a notice on our website advertising the proposed amendments, and directly writing to all tenants of our land as well as statutory consultees.
- 4.1.3 The results of the consultation and minor changes proposed to the LDO 3 are discussed in detail in section 3 of this report.
- 4.1.4 Should Executive Board approve adoption of the revised LDO 3A, 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 was undertaken for the original LDO 3 and as the proposed amendments are so limited, it remains valid. This EIS concluded that no negative equality, diversity, cohesion or integration issues are foreseen as a result of the LDO 3. The LDO 3 has also been subject to both internal and public consultation and no negative equality issues were highlighted within these processes. The LDO 3 only applies to land located within certain areas. Use of the LDO 3 is based entirely on the type of development proposed and geographical location, rather than any personal or group characteristics.
- 4.2.2 The LDO 3 is likely to have a direct positive impact on equality, diversity, cohesion and/or integration. The LDO 3 promotes an efficient and green form of heat energy which is cheaper than traditional grid supplied gas or electricity.
- 4.2.3 The revised LDO 3A makes it easier for those residents in high density, high rise residential developments to benefit from DH and therefore contributes towards narrowing the gap.

- 4.2.4 The revised LDO 3A will also reduce the impact on traffic from DH construction which helps community cohesion as the direct impact on people who will not directly benefit from district heating (i.e. commuters, bus passengers, essential car users) will be significantly reduced.

### **4.3 Council policies and best council plan**

- 4.3.1 Preparation of the LDO 3 was 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.

### **4.4 Resources and value for money**

- 4.4.1 The March 2016 Executive Board report concluded that the LDO 3 would be broadly cost neutral to the council.
- 4.4.2 This position will not change with a revised LDO 3A.

### **4.5 Legal implications, access to information, and call-in**

- 4.5.1 As previously the LDO 3A 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 Schedule 4A The Town and Country Planning Act 1990 (as amended) permits the local planning authority to prepare at any time, a revision of a Local Development Order.
- 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. The original 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. The Council has undertaken a further screening opinion in relation to the revisions outlined in LDO3A, which reaches the same conclusions and this is available to view on the Council's web-site at:  
<http://www.leeds.gov.uk/ldo>

### **4.6 Risk management**

- 4.6.1 The revised LDO 3A does not change the risk position presented in March 2016 which was considered to be minimal.

## **5. Conclusions**

- 5.1 The original LDO 3 was prepared with the intention of simplifying the planning

system and encouraging implementation of district heating networks in Leeds to help realise all the potential benefits for the city.

- 5.2 It was intended to last for 5 years prior to review. However, it has become clear that by limiting council land included within the LDO 3 the potential benefit of the LDO 3 to DH developers and the city has been reduced.
- 5.3 The council has therefore consulted on a revised LDO 3A which increases the land covered by the LDO 3 without changing the extent of the area or the wording of the LDO 3.
- 5.4 This is considered to be a minor amendment, supported by the consultation responses, which allows the LDO 3A to deliver its intended aim of encouraging DH development.

## **6. Recommendations**

- 6.1 Executive Board is recommended to approve adoption of the Revised Leeds District Heating Network Local Development Order (Revised LDO 3A): set out in **Appendix 1 and 2** of this report and agree that the Chief Planning Officer submits a copy, together with the updated statement of reasons to the Secretary of State for Communities and Local Government.

## **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.

## **Appendix 1 Leeds District Heating Network Local Development Order (LDO 3A)**

### **Leeds City Council**

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

### **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 3A), 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 an 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 3A 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.”

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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

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:

- (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.

It is likely that the approach of pooling off-site contributions through planning obligations will be replaced by CIL in April 2014.

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 The Town and Country Planning (Development Management Procedure) (England) Order 2015 and requirements of current Government guidance.**

## **Update January 2017**

**An expanded area, within the original boundaries, to which the LDO 3A relates was subsequently defined and was subject of further public consultation in January 2017.**

# **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 (revised LDO 3A)**

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 3A.

#### **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.

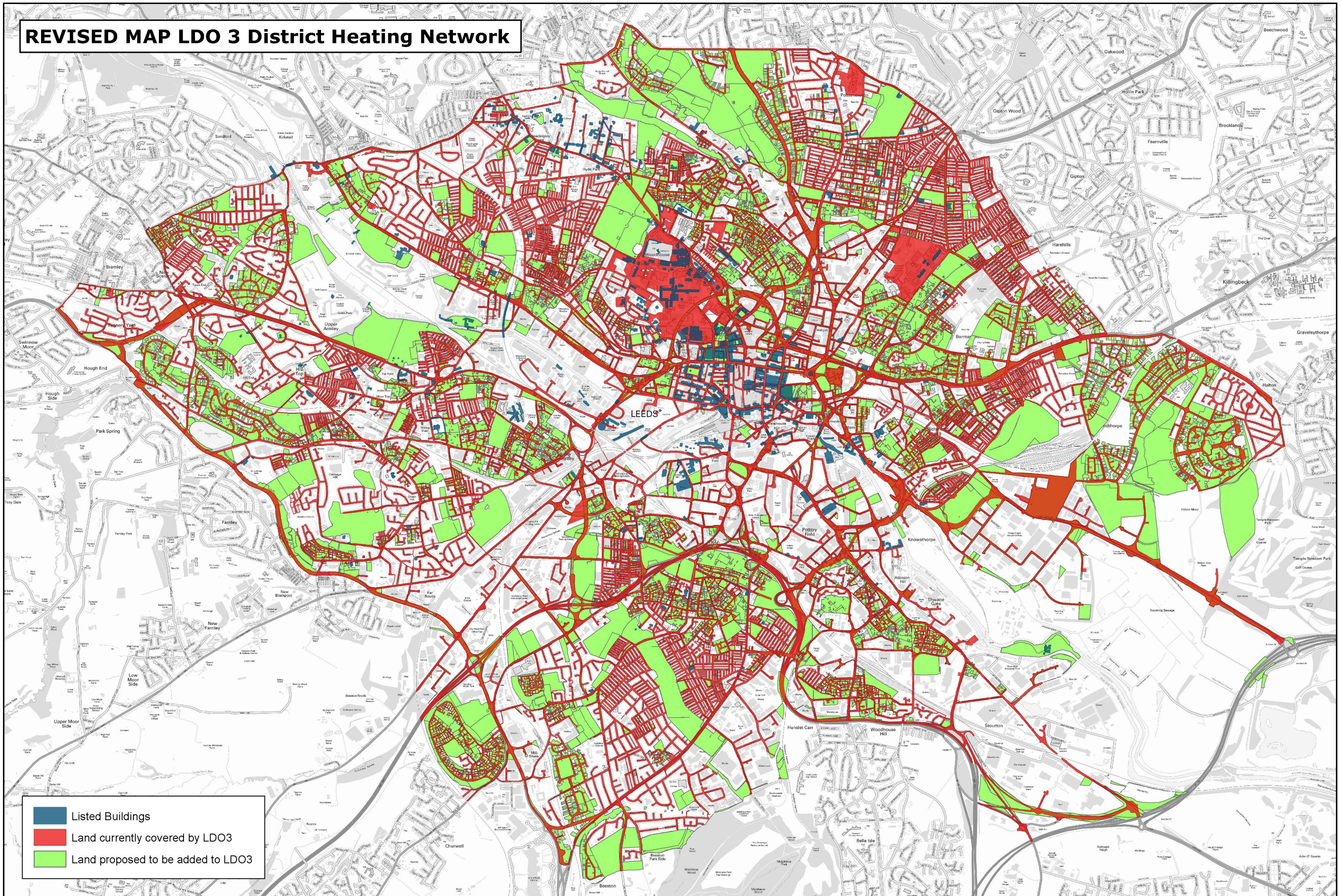
The works shall be carried out in accordance with the approved details.

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

**Appendix 2: Revised LDO 3A map**



# REVISED MAP LDO 3 District Heating Network





## Appendix 3 Summary of Responses

| Respondent                  | Summary of Response  | Officer Comment  |
|-----------------------------|--|--|
| Environment Agency          | From your email we note 'The only change is to include additional parcels of land in the Council's ownership in the LDO area'. As this is the only change we have no further comments to that we made in our email of 16 December 2015   | No action required   |
| Health and Safety Executive | We have concluded that we have no representation to make at this stage of your local planning process. This is because there is insufficient information in the consultation document on the location and use class of sites that could be developed. In the absence of this information, HSE is unable to give advice regarding the compatibility of future developments within the consultation zones of major hazard establishments and MAHPs located in the area of your local plan. | Health and safety will be dealt with through specific applications for DH development.   |
| Highways England            | Referred us to their comments in December 2015. Also pointed out "The green council owned land appears to respect the Highways England boundary although there a couple of small areas around J3 which we think may not be entirely accurate. I suggest that we could supply a GIS layer which could be overlaid to check for any interaction?"  | The 2015 comments were considered prior to adoption of LDO3. The GIS layer has been provided and checked and minor discrepancies have been addressed.  |
| Historic England            | I can confirm that Historic England does not have any further comments to make on the order.   | No action required   |
| Leeds Beckett University    | Request to add a small parcel of land currently owned by a third party to the map of LDO affected land in order to facilitate future DH development.   | To add more land to the map requires a further consultation so at this time we do not plan to add this land. Instead, permission could be applied for at the same as any application to develop the site. Any future revision to the LDO will seek to include this land. |

| Respondent        | Summary of Response  | Officer Comment   |
|-------------------|--|---|
| Middleton Railway | <p>The MRT's objection is specifically to the inclusion of any of this parcel of land that is within 5 metres of the railway track (as measured from the running edge of the nearest rail). The significance of this distance is that it is needed in order to meet the requirements of the Railway Safety Principles and Guidance that are issued by the Office of Road and Rail, and that govern any kind of construction work within the vicinity of a railway track. The reasons for objecting to the inclusion in the revised map of these parts of this parcel of land are as follows.</p> <p>The MRT is, however, clear that it objects to any attempt to include the stretch of land through this tunnel within the scope of the proposed revision to Local Development Order LDO3.</p>  | Withdrawn affected land from LDO.   |
| Natural England   | <p>SSSI<br/>Part of this application is in close proximity to Leeds-Liverpool Canal Site of Special Scientific Interest (SSSI). From the information provided it is not clear specifically what works might take place adjacent to the SSSI. We advise that development must take into account all impacts on SSSI features, including:</p> <ul style="list-style-type: none"> <li>- Biosecurity i.e. spreading invasive, non-native, species and plant/animal diseases on the site;</li> <li>- Hydrology i.e. where inputs are affected or the canal water levels may need to be altered to allow works to be carried out;</li> <li>- Pollution i.e. related to fuel use, sediment and pollutants entering the site from run-off from the worked area;</li> <li>- Shading;</li> <li>- Removal of vegetation.</li> </ul> <p>Mitigation measures should be put in place to negate these impacts where appropriate.</p> <p>Lamprey<br/>The site is also in close proximity to the River Aire. River and sea lamprey may migrate from the Humber Estuary up the river to their spawning grounds between December and March. Both these species are qualifying features of the Humber Estuary Special Protection Area (SPA) which is protected under the Conservation of Habitats and Species Regulations. UK populations of lamprey are important for the conservation of the species at an EU level, therefore Natural England advises that removal of riverbank vegetation should be avoided during the period December to March. If works do take place during this period, potential impacts on migrating lamprey should be considered and mitigation measures may need to be put in place.</p> <p>Other advice<br/>We would expect the Local Planning Authority (LPA) to</p> | Although the LDO provides permitted development rights, all developments seeking to make use of the provisions within the LDO are required to discharge conditions with the LPA. We would expect any applicant to fully address any significant biodiversity or ecological impacts. |

| Respondent         | Summary of Response  | Officer Comment   |
|--------------------|--|---|
|                    | <p>assess and consider the other possible impacts resulting from this proposal on the following when determining this application:</p> <ul style="list-style-type: none"> <li>• local sites (biodiversity and geodiversity);</li> <li>• local landscape character; and</li> <li>• local or national biodiversity priority habitats and species.</li> </ul>   |   |
| The Coal Authority | <p>It is noted that the revision proposed maintains the extent of the area covered by the LDO, retains the wording of the adopted LDO and the area of validity with the only change being to include additional parcels of land in the Council's ownership in the LDO area.</p> <p>The Coal Authority is pleased to see that Condition 7 of the adopted LDO identifies that within the defined Development High Risk Area a Coal Mining Risk Assessment will be required to be submitted to the LPA for approval prior to works commencing.</p> <p>On the basis that the wording of the LDO is to remain as adopted the Coal Authority has no specific comments to make on the revisions to the map for the LDO area as proposed.</p>  | No action required.   |
| Wade's Charity     | <p>Wade's Charity applaud and support the LCC initiative to use the heat generated from the disposal of waste for the wider benefit.</p> <p>Wade's Charity holds the freehold of various plots, leased to Leeds City Council for use as public open space. A substantial number of Wade's open spaces are potentially affected by the LDO:</p> <ul style="list-style-type: none"> <li>• Osmondthorpe Playing Fields</li> <li>• Rainhill Recreation Ground</li> <li>• Snakes Lane Recreation Ground</li> <li>• Smithies Garth (Bow St Recreation Ground)</li> <li>• Merrion Street Garden</li> <li>• Woodhouse Square</li> <li>• Gott's Park.</li> </ul> <p>Listed Buildings and Scheduled Ancient Buildings are specifically excluded from the Order. 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</p> | <p>On further discussion with Wade's Charity, it has been agreed to remove Gott's Park from the LDO and treat it as listed buildings with a 50m standoff surrounding it.</p> <p>The other open spaces remain in the LDO.</p> <p>Any developer seeking to use the provision of the LDO would have to first seek the permission of Wade's as landowners prior to commencing any DH development, regardless of the</p> |

| Respondent   | Summary of Response   | Officer Comment   |
|--|---|---|
|  | <p>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>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 expect all Wade's legal costs with respect to applications on Wade's land covered by the developer/Council.</p>  | <p>planning status of the land.</p>   |
| <p>West Yorkshire Archaeology Advisory Service</p> | <p>"...urge that prior to the carrying out of engineering works in association with the installation of the heating network that a system of routine prior checking involving supplying details of the proposals to ourselves (WYAAS) is established. This will allow us to check against the details of the Historic Environment Record to establish whether there are potential impacts on significant but non-scheduled archaeological remains on a case by case basis 7 give bespoke advice with regard to both the potential impact of the proposed works 7 what is known about the significance of the potential archaeological remains."</p> <p>The mitigation of the impact of the installation on archaeological remains will need to be funded by Leeds CC and though this will probably involve an archaeological watching brief during excavation of groundworks for the scheme, it is conceivable that in certain areas open area excavation may be warranted or that alternative routes for the installation of pipework etc should be considered, to minimise damage to important remains.</p> <p>Consideration should also be given to the potential impact the construction of the heating network has on the settings of conservation areas, listed buildings, registered historic parks, gardens &amp; cemeteries, scheduled monuments etc. Care should be taken to avoid damaging the setting of such designated heritage assets in terms of avoiding installation in certain areas, design, location of signage, colour schemes adopted etc.</p> | <p>The council will require that DH developers consult with WYAAS.</p> <p>The developer, rather than the council, would be required to pay any WYAAS costs.</p> <p>The LDO already includes a standoff of 50m around listed buildings which the council believes addresses the final point.</p> |