
CENTRAL PARK ENTERPRISE ZONE – SIMPLIFIED PLANNING

Purpose of the Report

1. To enable Planning Applications Committee to consider the representations received during the consultation period, and the resulting changes required to the Local Development Order.
2. To seek Members endorsement to submit the Local Development Order to Secretary of State for consideration.

Introduction

3. The Tees Valley Enterprise Zone was announced as part of the 2011 Budget, with its format agreed between the Government and Tees Valley Unlimited in August 2011. It includes 12 sites throughout the Tees Valley, with developers on these sites benefitting from financial incentives, simplified planning rules and high speed broadband.
4. Central Park has been identified as Darlington’s contribution towards the Tees Valley Enterprise Zone; it will offer Business Rate Relief to businesses operating within the ‘Digital Sector’ and simplified planning rules, by way of a Local Development Order, to all businesses falling within the B1 (business) land use classification¹. The Business Rate Relief offered to eligible businesses will equate to up to £55,000 per annum for a 5 year period.
5. A Local Development Order (LDO) is a grant of planning permission for a specified type and scale of development subject to conditions where appropriate. It essentially sets out the types of development which will no longer need to be subject to individual planning applications. If the proposed development satisfies the requirements of the LDO, it can be assumed that it has planning consent and development can commence straight away. Any development proposal beyond the scope of this LDO will need to be considered through the normal planning application process.
6. A Local Development Order must undergo stakeholder consultation in its draft form. This consultation must be of a minimum of 28 days, and include all parties who would have been consulted through the planning application process. Cabinet considered the draft LDO for the purposes of consultation at their meeting on 01/11/2011. The Local Planning Authority must consider all representations received in connection with the Local Development Order and amend where considered appropriate.
7. Following the finalisation of the Local Development Order after stakeholder consultation, the Local Planning Authority must submit the Local Development Order to Secretary of State for consideration before they can formally adopt the Local Development Order.

¹ B1 Business - Offices (excluding those land uses in A2 financial and professional services) including research and development of products and laboratories, as set out in the Use Class Order 1987 (as amended). B1c (light industry) is excluded.

8. The Government has placed a stringent deadline on the Tees Valley for the submission and approval of the simplified planning regime. The Enterprise Zones come in to force on 1st April 2012; the simplified planning rules need to be in place on or before this date in order for the site/s to benefit from Enterprise Zone status. For this to be possible, Government have asked that all Tees Valley simplified planning rules are submitted to the Secretary of State in January 2012. As previously stated, a stakeholder consultation period is a statutory requirement prior to submission; this took place from 23rd November 2011 until 23rd December 2011. Given the deadlines involved, Full Council delegated authority to Planning Applications Committee for the making of the LDO. This includes the finalisation of the LDO for its submission to Secretary of State and the adoption of the LDO following the Secretary of State's consideration.
9. This report will inform Planning Applications Committee of the extent of the Local Development Order, summarise the representations received and identify the recommended changes to the LDO prior to its submission. It will also recommend that, subject to the changes identified the LDO be submitted to SofS for consideration.
10. A further report will be brought to Planning Applications Committee to inform of the Secretary of States decision and, if appropriate adopt the LDO.
11. Reports in relation to the Enterprise Zone and its simplified planning requirements have been considered by both Cabinet (1st November 2011) and Full Council (24th November 2011).

Why a Local Development Order?

12. As mentioned above, in order to gain Enterprise Zone designation, each site must offer simplified planning rules. This is because Government believes this will help to incentivise economic growth and development. They intend that simplifying the planning rules (by way of Local Development Order) will help facilitate the much needed economic growth. Unless simplified planning rules are in place by 1st April 2012, Central Park will not gain Enterprise Zone status and financial incentives will not be made available to encourage companies to locate at Central Park.
13. A Local Development Order consists of the 'Order' and is accompanied by a Statement of Reasons which justifies the making of the Order, its scope and requirements. Both are required to make a Local Development Order.
14. A Local Development Order (LDO) effectively grants planning permission for a specified type and scale of development subject to conditions where appropriate. They essentially set out the types of development which will no longer need to be subject to a planning application. If the proposed development satisfies the requirements of the LDO, it can be assumed that it has planning consent and development can commence straight away. Any development proposal beyond the scope of this LDO will need to be considered through the normal planning application process.
15. As with any planning permission, conditions can be attached to a Local Development Order, which must be satisfied by the development in order for it to be considered lawfully permitted. The conditions must meet the tests as set out in the Circular², as is the case for all conditions attached to a planning permission.

² Circular 11/95: The Use of Conditions in Planning Permission

16. If development occurs under the LDO, but it is not considered it meets all the requirements of the LDO or its conditions, the Local Planning Authority can take enforcement action under the same means by which all planning enforcement is usually undertaken³. Whilst the LDO would represent a simplified approach to planning it would be necessary for developers to go through a process of prior notification as described in para. 18 below. In addition to this the Council would be able to exercise further control over the development in its role as landowner.
17. Achieving a high quality urban design has always been an aspiration for Central Park; it is important that the granting of planning permission through the LDO contributes towards the achievement of this. To this means the LDO will require that all development achieves a BREEAM 'very good' standard as a minimum. In addition, the LDO will encourage all development to conform to the Borough wide 'Design of New Development' SPD, with key issues, such as scale, mass, form and plot usage being the subject of additional conditions attached to the LDO. For other issues, such as habitat creation and biodiversity contribution, developers will be encouraged to incorporate these into the design solution for their plot. This will help maximise their contribution to the benefits of wider Central Park scheme. It is expected that development within the Enterprise Zone, will be served by the sustainable drainage solution which serves the wider Central Park scheme.
18. The LDO will require developers to undertake a 'Prior Notification to Development' procedure, similar to that required for agricultural buildings. This prior notification will involve some (limited) details and information to be submitted to enable the LPA to determine whether the proposal complies with the LDO. Where development is considered not in conformity with the LDO the Council will either identify any changes required to bring the proposal in line with the LDO or where this is not possible, recommend that the developer submits a planning application. This procedure has the scope to enable the LPA to consider, to a certain extent, the conformity of the proposal to the design criteria conditioned through the LDO. The LDO will encourage developers to have discussions with the LPA early in the formulation of their proposals. This Prior Notification procedure will also consider whether the proposal is deemed EIA development (that is it should be accompanied by an Environmental Impact Assessment) or if there is likely to be an unacceptable impact on the local highways network. If on the evidence submitted it is anticipated that there is such an adverse impact which cannot be mitigated on site/through scheme amendments, or that the proposal is deemed to be EIA development, the Local Planning Authority will confirm that the proposal does not satisfy the requirements of the LDO and as such it is not permitted under the LDO. In these instances a separate planning application will be required for it to gain planning approval.
19. In addition, there is a requirement to monitor the Local Development Order on at least an annual basis. The LDO therefore contains a monitoring framework which will monitor its success as well as identifying any unintended outcomes. This information can then be used to identify if there is a need to review, help identify whether any enforcement action is required or even revoke the Local Development Order. It is important to note however that if the Local Planning Authority decides to revoke the Local Development Order at anytime, compensation may be payable to any developer/landowner which is disadvantaged by the action. This is the case for any planning permission revoked by the Local Planning Authority. In order to minimise the risks associated with and of revoking the Local Development Order, a time limit can be placed upon the Local Development Order, after which the Order expires or can be reviewed. It is recommended that the Central Park LDO

³ Circular 10/97: Enforcing Planning Control – Legislative provisions and procedural requirements.

expire on 31 March 2015, the date by which all development qualifying for the financial incentives through the Enterprise Zone must be complete.

20. The LDO does not remove the requirements of other statutory regulation and consent regimes. Listed Building Consent, Conservation Area Consent and Hazardous Substances Consent for example will all need to be acquired where appropriate through the existing regimes. In addition it is important to note that the LDO does not remove other forms of statutory regulation including the Habitat Regulations, Environmental Impact Assessment and protected species legislation.

Content of the Local Development Order

21. The specific wording of the Local Development Order is presented in **Box 1** below. The justification for its content is set out in this report, and will be set out in full within the Statement of Reasons which will support the Local Development Order. It is intended that this Local Development Order will relate to the commercial quarter as identified in the refreshed Central Park Masterplan. The Draft Local Development Order and its Statement of Reasons are attached in **Annex 1** and **Annex 2** of this report.
22. The Order identifies that office development is permitted, along with limited retail and café uses. It was considered that by permitting these limited retail and café type uses, within the ground floor of larger office buildings, there would be increased activity at ground floor level. This in turn will help ensure the commercial development elements of Central Park do not become a sterile business park. Although these uses will not benefit from the financial incentives which accompany the Enterprise Zone status, they will help ensure the Enterprise Zone contributes towards achievement of the Central Park vision.

Central Park Enterprise Zone Local Development Order
<p>Development for uses falling within use classes A or B1 of the Town and Country Planning (Uses Classes) Order 1987 (the UCO) together with Associated Development.</p> <p><u>Where:</u> 'Associated Development' is car parking, hard standing, landscaping and storage areas only, to the effect that all development beyond this which is coincidental to or associated with the main development must be notified to the Council for consideration through the 'Pre Notification' procedure.</p> <p>Limitations</p> <p>[As to Class A, B1 and associated development permitted above]</p> <ul style="list-style-type: none">• No Development within Class B1(c) (light industrial) of the UCO is permitted;• No Development within Class A2 (Financial and Professional Services) or Class A5 (Hot Food Takeaways) of the UCO is permitted;• No building authorised to be built by this Order shall when completed be of fewer than 3 storeys and more than 5 storeys;• Any development within Classes A1 (Shops), A3 (Restaurants and Cafes) or A4 (Drinking Establishments) shall be located in a building whose principal use is within class B1 of the UCO;• No development within Classes A1 (Shops), A3 (Restaurants and Cafes) or A4 (Drinking Establishments) shall be otherwise than at ground floor level;

- No more than 100sqm of the ground floor space per building hereby permitted for B1 use shall be occupied by an A1 (Shops), A3 (Restaurants and Cafes) or A4 (Drinking Establishments) use;
- The cumulative total of A1 (Shops), A3 (Restaurants and Cafes) or A4 (Drinking Establishments) uses permitted under this Order shall not exceed 500 sqm in aggregate;
- No development is authorised under this Order until full details of all external plant, ventilation, extraction and any associated outside storage have been agreed in writing by the Council prior to the construction of the development commencing; and
- No building authorised to be built or extended by this Order shall be more than 15 metres above ground level at its highest point. This includes any external plant or ventilation which may be accommodated on the roof.

Development permitted by this Local Development Order must commence no later than **31st March 2015**.

Box 1: Central Park Enterprise Zone Local Development Order

Results of Consultation and Publicity

23. An extensive neighbour consultation exercise (covering 187 properties) was undertaken. In addition, 3 site notices were placed close to the site and a press notice was placed in the Northern Echo. No letters have been received as a result of these measures.
24. Letters were also sent to 38 statutory consultees or business groups within the LDF consultation database. From these 12 responses were received, as summarised below:
25. **Highways Agency** – Raises no objection to the proposal
26. **Sport England** – Raises no objections to the proposal.
27. **Homes and Communities Agency** – Supports the proposal but makes no specific comments in relation to the LDO.
28. **Northumbrian Water** – Raise no objection to the proposal but comment that the public sewers to the south have no capacity and that additional flow needs to be drained through the north of the site. Surface water drainage is available but should be restricted to match capacity of the existing storage.
29. **Local Highways Authority** – Raises no highways objection to the proposal.
30. **Environment Agency** – Raises no objection to the proposal. Welcomes the inclusion of conditions relation to surface water drainage, green infrastructure and land contamination.
31. **English Heritage** – Raise no objection to the LDO but make a number of comments and clarifications in relation to the Order and its Statement of Reasons. This includes extending the Listed Building consideration to Bank Top Station and all other heritage assets in the area, includes reference to additional Acts, Circulars and Policies to be listed within the Statement of Reasons and clarification that development which commences before, but is not completed until after the LDO expires, is developed in line with the LDO. The main point they raise relates to the need for an archaeological desk top study and watching brief to be included as a condition within the Local Development Order. Further information on the resulting changes can be found in **Annex 3**.

32. **Planning Policy** – Raise no planning objection to the Local Development Order.
33. **Northern Gas Networks** – Raise no objections to the LDO.
34. **Durham County Council Archaeology Team** – Consider the mitigation strategy for archaeology contained within the LDO is insufficient. Request that a ‘prior-notification to development’ requirement is included to secure the submission of a desk top survey before development commences on site. Also make suggested additions to the archaeology paragraph and list of policies contained in the Statement of Reasons. *A copy of the Desk Top Study has since been forwarded, together with a suggested condition which requires a watching brief, as suggested by English Heritage. Any response from DCC will be reported verbally if received.*
35. **Ministry of Defence** – makes no comments in relation to the proposal.
36. **Natural England** – Raises no objections to the LDO. Does not consider that the development will have a likely significant effect on European Sites. Natural England do however consider that the LPA should carry out all ecological survey works prior to adopting the Order and ensure that the appropriate mitigation is conditioned appropriately through the LDO. This would be in place of the ‘prior-notification’ procedure currently proposed. *All survey works have now been undertaken and in liaison with Natural England and the Borough Ecologist, appropriate conditions are being worked up. These are included within Annex 3; any changes will be reported verbally if available.*

Other changes

37. A Pre-Notification requirement relating to the need for a Flood Risk Assessment on developments in excess of 1Ha in size was included within the draft. Through the consultation documents, it was made clear that the Council was working with the developers to obtain the full FRA for the wider Central Park Scheme. This has now been received which has identified that the site is considered to be of low risk of flooding from all sources. It also concluded that the site should be subject to surface water run off at existing rates. This will be achieved via the use of a Sustainable Urban Drainage solution for the wider scheme and will be provided by the developers outside the remit of this LDO.
38. **Appendix 1** of the Statement of Reasons (contained in **Annex 2** of this report) identifies the draft masterplan principles for the wider Central Park Scheme. It was made clear within the consultation exercise that the masterplan was being prepared by the development partners, in conjunction with the Council and that the details contained would be updated as the masterplan progresses. The masterplan brief will be agreed by the Central Park Partners before the LDO is submitted to Secretary of State for consideration. It is intended that this masterplan brief will form a new **Appendix 1** of the Statement of Reasons. **It is important to note that the masterplan for the wider Central Park development is not a matter for the Planning Applications Committee to consider through this process as this falls beyond the scope of the LDO.** The LDO however contains a condition which requires development to be in conformity with the masterplan; this will provide additional control over the layout and design of the development, as well as identifying the appropriate mitigation measures for the wider scheme for and enhancements which will be delivered through the wider scheme.

Conclusion

39. To gain Enterprise Zone status on 1st April 2012, Central Park must offer simplified planning rules. Darlington Borough Council has decided to satisfy this requirement through the making of a Local Development Order.
40. Following a full consultation exercise, the representations have been considered, and the resulting changes to the Local Development Order, and its Statement of Reasons, have been identified in this report for Members consideration.
41. The next stage in making the Local Development Order is submitting it to Secretary of State for consideration, Members approval of submitting the finalised Order is also sought through this report.

Recommendation

42. It is recommended that the Planning Applications Committee endorse the submission of the Local Development Order and its Statement of Reasons to the Secretary of State for consideration, subject to the changes outlined in this report.

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