

## **Cabinet**

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**Date of Meeting:** 05 February 2019

**Report Title:** Macclesfield Local Development Order

**Portfolio Holder:** Cllr Ainsley Arnold - Housing, Planning and Regeneration

**Senior Officer:** Frank Jordan, Executive Director Place

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### **1. Report Summary**

- 1.1. Cheshire East Council is committed to ensuring that the redevelopment of brownfield sites is encouraged wherever possible.
- 1.2. A Local Development Order (LDO) provides a mechanism by which a local planning authority can grant permitted development rights for a specified use or development within a defined area. They streamline the planning process by removing the need for developers to make a planning application to a local planning authority.
- 1.3. The procedures for making a LDO are set in sections 61A to 61D and Schedule 4A of the Town and Country Planning Act 1990, as amended, and articles 38 and 41 of the Town and Country Planning (Development Management) (Procedure) Order 2015. The notification and consultation steps taken are summarised in Section 8 and Appendix D.
- 1.4. This report recommends that Cabinet adopt the Macclesfield LDO in order to support regeneration and the delivery of housing in Macclesfield.

### **2. Recommendations**

- 2.1. That Cabinet resolve to adopt the Macclesfield Local Development Order attached at Appendix A for a period of 5 years (with effect from the 13<sup>th</sup> February 2019) and publishes the Statement of Reasons at Appendix B.

### **3. Reasons for Recommendations**

- 3.1. An adoption of this LDO would facilitate the delivery of housing in Macclesfield by establishing a simplified and certain planning system for the area. This will support the improvement and regeneration of this area in line with the Local Plan Strategy - Strategic Location LPS12 (Central Macclesfield).

### **4. Other Options Considered**

- 4.1. An option is not to approve the adoption of the Macclesfield LDO. This would not encourage the proactive development of brownfield sites in the town.

### **5. Background**

- 5.1. In April 2015 the Council was successful in their application to the Department for Communities and Local Government and was designated a national pilot to facilitate the development of an LDO in Macclesfield. Two neighbourhoods were identified, Northside and Whalley Hayes. These neighbourhoods were chosen as they contain a cluster of brownfield sites within a specified geographical area and are seen to have the potential to be brought forward for residential and commercial/retail/leisure uses.
- 5.2. The Council has engaged with and sought the views of those parties which were likely to be affected by the areas covered by the proposed LDO.
- 5.3. The LDO for Northside and Whalley Hayes has also drawn on a range of surveys and studies that have de-risked a large part of the development process for landowners and developers with an interest in the LDO areas.
- 5.4. The background supporting evidence is set out in the following documents (available on on the Council's [website](#)):
  - 5.4.1. Traffic Impact Assessment
  - 5.4.2. Air Quality and Noise Impact Assessment
  - 5.4.3. Heritage Impact Assessments
  - 5.4.4. Strategic Design Statements
  - 5.4.5. Preliminary Risk Assessment prepared by Cheshire East Council.
- 5.5. Details of the Macclesfield LDO is contained within the Consent Order which is included in Appendix A of this report. The Statement of Reasons (Appendix B), which is required by the LDO regulations, sets out the justification for preparing an LDO and the policy basis on which it sits.

- 5.6. The Macclesfield LDO Consent Order is divided into 3 separate parts known as Schedules. Schedule 1 provides maps of the LDO development parcels within Northside and Whalley Hayes. Schedule 2 details the specifics of what development will be permitted and not permitted, in terms of size and use. Schedule 3 comprises the general conditions and informatives of development. These are similar to those used in a normal planning application.
- 5.7. The uses permitted for each development parcel, as defined in the Use Class Order 1987 (as amended), are shown in the table below. Further details of what is permitted within each of the development parcels can be seen in Schedule 2 of the LDO Consent Order.

<b>Development Parcel ref.</b>	<b>Function</b>	<b>Maximum Units / Floorspace</b>	<b>Use Class</b>
A	Residential	18	C3
B	Residential	11	C3
C	Residential	4	C3
D	Residential	10	C3
E	Residential	7	C3
F	Residential	13	C3
G	Residential and commercial/retail/ leisure	27/382m <sup>2</sup>	A1, A2, A3, A4 C3,
H	Residential	9	C3
I	Residential	22	C3

- 5.8. It is important to note that development proposals that do not fall within the prescribed criteria of the Macclesfield LDO Consent Order may still be acceptable in planning terms. In such circumstances, proposals that do not conform to the LDO would need to secure planning permission through the normal planning application process. Accordingly such proposals would be considered in the context of local and national planning policies.
- 5.9. The Macclesfield LDO has regard to the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

The proposed LDOs at Northside and Whalley Hayes do not fall within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 ('The EIA Regulations'). However, the Whalley Hayes and Northside LDO do fall under Schedule 2, as defined in Part 10(b) '*Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas*'.

- 5.10. Given the characteristics of the proposed LDOs, it was considered appropriate for an EIA screening request to be prepared and submitted to the Local Planning Authority, and for a Screening Opinion to be given in response. The Local Planning Authority subsequently confirmed (16/4254S and 16/4251S) that the LDOs were screened out of requiring an EIA.
- 5.11. As required by Article 38(12) of the Town and Country Planning (Development Management) (Procedure) Order 2015, the LDO does not grant planning permission for development affecting a Listed Building. There are no Listed Buildings within the LDO area and Condition ACH4 precludes any development which is considered to have a detrimental impact on designated and non-designated heritage assets or their setting.
- 5.12. Listed buildings are however located in close proximity to the LDO boundaries and part of the Macclesfield Town Centre Conservation area overlaps the Whalley Hayes site. Consequently consideration has to be given to the Planning (Listed Buildings and Conservation Areas) Act 1990. This includes s.66 which states that a local planning authority must pay special regard to the desirability of preserving the setting of a listed building, and s.72 which seeks special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
- 5.13. The LDO has been informed by Heritage Impact Assessments for both Northside and Whalley Hayes. These take account the existence of heritage assets within and surrounding the two areas and suggest actions to be taken to mitigate any potential negative impacts, which will need to be adhered to at the detailed design stages. Conditions have therefore been attached to the LDO Consent Order to ensure that the designated and non-designated heritage assets are taken into consideration, including Condition AHC4 which seeks a Heritage Statement to be submitted and approved by the Local Planning Authority. Historic England were also consulted upon the Macclesfield LDO to which their initial objection raised on the Whalley Hayes site has been removed. No objection was raised with the Northside site.

- 5.14. From the date of adoption, the Macclesfield LDO will be 'live' for a period of 5 years. The LDO would be reviewed after two years to assess its progress and ascertain if it should continue in its current form, be amended, or revoked.
- 5.15. As with any planning permission, if development lawfully commences but remains incomplete by the time the LDO expires then it may be completed, provided it still complies with the established conditions and criteria for development.

## **6. Implications of the Recommendations**

### **6.1 Legal Implications**

- 6.1.1 The preparation of the LDO is governed by Sections 61A to 61D and Schedule 4A of the Town and Country Planning Act 1990, as amended, and articles 38 and 41 of the Town and Country Planning (Development Management) (Procedure) Order 2015. Key provisions are set out below.
- 6.1.2 Article 38 paragraph (1) of the (Development Management) (Procedure) Order 2015 outlines that where a Local Planning Authority proposes to make a LDO they shall first prepare:
- A draft of the order; and
  - A statement of their reasons for making the order.
- 6.1.3 Article 38 paragraph (2) of the order stipulates that the statement of reasons shall contain:
- A description of the development that the order would permit; and
  - A plan or statement identifying the land to which the order would relate.
- 6.1.4 The Macclesfield LDO, satisfies the requirement of Article 38(1) and 38(2) of the Town and Country Planning (Development Management) (Procedure) Order 2015 as set out in Appendix A and B to this report.
- 6.1.5 For the LDO to take effect it must be adopted by resolution of a local planning authority. There is a statutory requirement to notify (for information, rather than approval) the Secretary of State as soon as practicable after adoption. Once adopted it will appear on the Planning Register.

## **6.2 Finance Implications**

- 6.2.1 The Council has been supported in developing the LDO as part of the Government pilot project on streamlining the planning system. Officers within the Housing and planning teams have been used to assist with public consultation and the production of technical background documents.
- 6.2.2 A fee is payable to the Council for each proposed development of £116 (set nationally), which will go towards the Development Management budget, to consider whether a development proposal complies with the LDO. This is a lower fee that might otherwise be received for conventional planning applications, but the LDO is designed to stimulate growth and development which of itself will have wider financial benefits.
- 6.2.3 Once adopted the LDO will be 'live' for 5 years. Its effectiveness will be monitored. After adoption it can be revoked prior to the day on which it is identified to expire however, compensation may be claimed by someone who suffers loss from their subsequent planning application being refused which would have been granted by the Order.

## **6.3 Policy Implications**

- 6.3.1 The National Planning Policy Framework (July 2018) encourages Local Planning Authorities to use LDOs to set the planning framework 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.
- 6.3.2 The areas included within the boundary of the LDO are identified as part of Strategic Location LPS12 (Central Macclesfield) which seeks to maximise opportunities for improvement and regeneration, incorporating the introduction of new and the improvement of existing green infrastructure. The regeneration and development of Central Macclesfield over the plan period will be achieved through a number of provisions, including: the delivery of new dwellings; supporting new and improved retail and leisure developments that are in-centre; and maximising opportunities to bring disused and underused buildings back into use.
- 6.3.3 The delivery of new residential development and retail and leisure use within this central area will help to support and enhance the town centre, improving natural surveillance in the area and supporting the night time economy. It will also help to maintain a balance of uses

within the area that will help to create and support sustainable communities. The LDO are a means of delivering this strategy.

#### **6.4 Equality Implications**

6.4.1 An Equality Impact Assessment has been completed (**Appendix C**) which concludes that there will be no adverse impact on those with protected characteristics.

#### **6.5 Human Resources Implications**

5.5.1 There are no HR implications for Cheshire East Council.

#### **6.6 Risk Management Implications**

6.6.1 There is a risk that developers might interpret the Order incorrectly and seek to undertake development outside its remit. The description of the development to be permitted by the LDO has therefore been carefully and clearly worded to avoid such circumstances.

6.6.2 The use of conditions and restrictions to ensure development is appropriate helps to minimise any risks that might arise through the implementation of the Order.

6.6.3 There will be ongoing monitoring and review of the effectiveness of the LDO. The Council has the power to revoke the Order if it so wishes before the expiry date and this also helps to manage the risk associated with its implementation.

6.6.4 Landowners/developers have the ability to bring forward an alternative scheme, through the normal planning application route, should they wish to.

#### **6.7 Rural Communities Implications**

6.7.1 There are no direct implications for rural communities; the site is located within the urban area of Macclesfield.

#### **6.8 Implications for Children & Young People**

6.8.1 The Macclesfield LDO will play a role in making sure that children and young people have access to homes and jobs.

#### **6.9 Public Health Implications**

6.9.1 There are no known adverse health implications. The Macclesfield LDO would support positive health and wellbeing outcomes through the opportunity to deliver residential and retail/commercial/leisure development and regenerate underutilised or vacant sites. The

delivery of new development within this central area will help to support and enhance the town centre, improving natural surveillance in the area and supporting the night time economy. It will also help to maintain a balance of uses within the area that will help to create and support sustainable communities. By improving the range of housing within the heart of Macclesfield there will be potential benefits for public health.

## **7 Ward Members Affected**

- 7.1 Macclesfield Central and Macclesfield Tytherington.
- 7.2 Members of the Wards which adjoin or lie within the proposed neighbourhoods have also been suitably briefed on the LDO process.

## **8 Consultation & Engagement**

- 8.1 It is a statutory requirement that LDOs are the subject of local consultation before they can be adopted and brought into effect. The LDO consultation procedures are set out in article 38(1) and 38(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Consultation must include any person with whom the local planning authority would have been required to consult on an application for planning permission for the development proposed to be permitted by the LDO. Following the close of the consultation period the Council must take account of all representations received and consider what modifications should be made to the draft LDO before it is adopted.
- 8.2 The LDO has been prepared by Cheshire East Council in consultation with statutory consultees, including members of the general public. The Macclesfield LDO has been promoted by the Council's Strategic Housing, Spatial Planning and Economic Development teams (and supported by consultants AECOM, e\*Scape Urbanists, Hinchcliffe Heritage and Jacobs). The proposals have been appropriately consulted on through a formal public consultation exercise and numerous informal direct engagement stages with Statutory Consultees and the community. The result of these consultations have helped inform the Macclesfield LDO.
- 8.3 An initial period of Public Consultation on the two LDO areas took place over a 6 week period, which ran from August 2016 until September 2016, and was intended to ensure that the correct boundaries were being used for the LDOs and inviting comments on the proposed LDOs. As a result of this consultation the boundaries were amended to reflect feedback from some landowners who did not wish their properties to fall within the LDO area. A large amount of technical work was conducted following the initial

Public Consultation. The comments and new evidence fed into the changes made to the next iteration of the LDO that was subject to formal consultation between April to May 2017. Details of these consultation stages and feedback received on previous drafts of the LDO were collated in a Statement of Consultation at Appendix D.

- 8.4 During this period of Public Consultation a 'drop in' session was also organised to allow people to hear the full details of the proposals and ask questions as well as make comments as appropriate.
- 8.5 Throughout the process of preparing the LDO, ongoing discussions have taken place with internal colleagues who have provided advice and guidance relating to Trees, Landscape, Design, Highways, Ecology and Development Management. They have subsequently signed off the proposed LDO as being appropriate and have suggested conditions which have all been incorporated.
- 8.6 As a result of the consultation undertaken in 2017 a number of changes were made, namely: a reduction in the LDO area and residential unit numbers; amendments to the LDO consent order parameters and conditions; and refinements made to the LDO Strategic Design Statements and Heritage Impact Assessments.
- 8.7 Due to the changes made and having liaised with the Legal Services section, it was considered that a final period of consultation should be undertaken. The final consultation exercise on the amended documents ran from 15 November until 14 December 2018. Comments received during the final consultation period are summarised in Appendix D and have been taken into account before finalising the LDO.

## **9 Access to Information**

- 9.1 Further information on the Macclesfield LDO can be viewed using the following website link:  
[https://www.cheshireeast.gov.uk/planning/spatial\\_planning/local-development-orders-ldos.aspx](https://www.cheshireeast.gov.uk/planning/spatial_planning/local-development-orders-ldos.aspx)

### **Appendix**

- 9.2 Appendix A – Macclesfield Local Development Consent Order  
Appendix B - Statement of Reasons  
Appendix C – Equality Impact Assessment  
Appendix D – [Statement of Consultation](#)

## 10 Contact Information

10.1 Any questions relating to this report should be directed to the following officer:

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