

Reference: 17/00723/DVOB	Site: DP World Development London Gateway Stanford Le Hope
Ward: Corringham and Fobbing	Proposal: Application for a Deed of Variation to the s106 legal agreement relating to the London Gateway Logistics Park Local Development Order (dated 5th November 2013).

Plan Number(s):		
Reference	Name	Received
LG-CGR-LND-OTA-C2003-DRA-PLN-0341 Rev. 3.0	London Gateway Property Plan	01.06.2017

<p>The application is also accompanied by:</p> <ul style="list-style-type: none"> Covering letter date 31.05.2017 Proposed Amendments Folder 	
Applicant: LG Park Freehold & LG Park Leasehold Ltd.	Validated: 1 June 2017 Date of expiry: 31 October 2017
Recommendation: That the existing s106 agreement be varied in accordance with the table set out at Appendix 1 below.	

1.0 DESCRIPTION OF PROPOSAL

- 1.1 This application is made under s106A of the Town and Country Planning Act 1990 (and in accordance with the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992)) and seeks to modify an existing s106 planning obligation associated with the London Gateway Logistics Park development and in particular the association with the London Gateway Logistics Park Local Development Order (the Order).
- 1.2 By way of background, in November 2013 the Council made the Order which effectively granted permitted development rights for commercial development at the Logistics Park site. For information, a LDO grants planning permission for specified classes of development within a defined area. The Order specifies the development that is permitted in the description of development and certain conditions are

imposed. Any proposal that falls within the parameters of the LDO and complies with the conditions and supporting documentation is permitted development. That is to say, it is not necessary to make a specific application for each development within the Logistics Park. Instead, under the terms of the LDO, a developer submits a "prior notification form" to the Council advising what development is proposed. The Council as local planning authority will then confirm within 28 days whether or not the development set out within the prior notification form conforms to the terms of the LDO. If it is found to be in conformity then the development may proceed without further reference to the Council.

- 1.3 The development permitted by the LDO comprises buildings within the B2 (general industry), B8 (storage and distribution), B1(b) (research and development) and B1(c) (light industry) use classes with ancillary uses. Once built, the LDO permits changes of use subject to certain controls to ensure a mix of development. The LDO also permits the land-raising and the remediation of any remaining contamination. A summary of the description of the development permitted by the proposed LDO is as follows:
- (a) the erection, extension, demolition or alteration of industrial buildings or warehouses within Use Classes B1(b) (research and development), B1(c) (light industry), B2 (general industry), B8 (storage and distribution) and associated ancillary uses;
 - (b) the change of use of a building within Class B8 to Classes B1(b), B1(c) or B2. The change of use of a building within Classes B1(b) or B1(c) to Classes B2 or B8. The change of use of a building within Class B2 to Classes B1(b), B1(c) or B8;
 - (c) associated infrastructure including internal roads, landscaping, drainage, vehicle refuelling facilities and utilities infrastructure;
 - (d) site preparation works comprising remediation and land raising.
- 1.4 The LDO permits 829,700 sq.m. of commercial floorspace, with maximum building heights between 16 metres and 42 metres above finished floor levels, with the tallest buildings permitted on that part of the LDO site closest to the adjacent Port. The LDO also permits associated ancillary development including and the provision of supporting infrastructure.
- 1.5 The development permitted by the Order is subject to compliance with a number of general conditions and more specific conditions associated with the built floorspace and supporting infrastructure. Development is also subject to compliance with a Design Code, a Code of Construction Practice and an Ecological Mitigation and Management Plan. Finally, a s106 agreement accompanies the Order.. In summary, the LDO s106 agreement places the following obligations on the landowner:

- Training Facility - provision of land for a permanent training facility;
- Travel Plan & Public Transport Measures - Implementation of and compliance with the Travel Plan, (with associated mechanisms for payments - including a contribution to a bus turnaround at Stanford-le-Hope railway station, local highway or highway-related improvement if not already paid under the Port S.106 and funding of the Travel Plan Coordinator) monitoring and approval);
- Highway Improvements – payments or completion of works (if specified traffic flow figures are breached) comprising –
 - Sorrells / A1014 junction scheme
 - installation of a signalised pedestrian phased Toucan crossing across the A1014 at its junction with Gifford Cross Road
 - financial contribution(s) towards A13 link 5 widening
 - a scheme for mitigation at jct. 30 (M25)
 - refurbishment of pedestrian subways under the A1014
 - provision of a sologuard barrier system on the A1014
 - provision of a low-noise road surface on part of the A1014
 - completion of acoustic noise barriers in specified locations
 - provision of landscaping at specified locations along the A1014
 - financial contribution towards highway amenity improvements.
- Apprenticeships and Local Employment;
- Monitoring.

1.6 Since the making of the LDO in November 2013 a number of developments have been submitted via the prior notification and / or implemented on-site comprising:

- London Gateway Logistics Centre building (c. 36,000 sq.m. floorspace);
- DP World / Prologis building (c. 29,000 sq.m. floorspace);
- UPS building (c. 37,000 sq.m. floorspace);
- phase 1 infrastructure (roads, drainage, landscaping etc.)
- site-wide land raising.

1.7 In submitting the current application for modifications to the s106 agreement accompanying the LDO the applicant states that:

“through the process of establishing Prior Notification and subsequently implementing the scheme pursuant to the LDO a number of matters have come to light which make the fulfilment of obligations within the LDO s106 agreement unviable or, as written, undesirable to parties, offering what are now recognised as

sub-optimal outcomes. In some cases changes in circumstances now allow more effective interventions to be identified. In one case it is now evident that the original obligation was simply worded incorrectly due to a transposition error”.

- 1.8 The proposed modifications to the s106 agreement comprise 9 issues which are set out in full in the table at Appendix 1.

2.0 SITE DESCRIPTION

- 2.1 The London Gateway Port and Logistics Park site comprises the site of the former Shell Haven oil refinery, which is generally located to the south-east of Corringham and south of The Manorway (A1014).
- 2.2 London Gateway Port, located south of the Thameshaven branch railway line, commenced operations in late 2013 and there are currently 3 operational berths (with potential for a further 3 shipping berths). London Gateway Logistics Park is adjacent to the Port on the northern side of the branch railway line and south of the A1014. The Park site covers an area of c.220 hectares which has been cleared of all former refinery buildings and structures and has also been subject to an extensive ecological clearance and relocation programme. Road, drainage and landscaping infrastructure to serve the first phase of Park development has been completed. A number of warehouse buildings have either been constructed, or are under construction, pursuant to the LDO.

3.0 RELEVANT HISTORY

- 3.1 As noted in paragraph 1.2 above, the Council made the Order in November 2013. Since this date the following pre-notifications of development have been submitted:

Reference	Description of Proposal	Decision
14/00368/LDOPND	London Gateway Logistics Park Local Development Order (LGLPLDO) Prior-notification of Development - Proposed common infrastructure corridors within the London Gateway Logistics Park comprising roads, shared use footways/cycleways, landscaping, drainage and service ducts.	Permitted development
14/00441/LDOPND	London Gateway Logistics Park Local Development Order (LGLPLD) Prior-notification of Development: Proposed erection of a Class B8 warehouse and ancillary office accommodation with associated plot parking, loading and	Permitted development

	unloading areas, site access and circulation roads and footways, refuelling and vehicle wash facilities, plant rooms incorporating substations, drainage, landscaping and land raising.	
14/00937/LDOPND	London Gateway Logistics Park Local Development Order (LGLPLDO) Prior Notification of Development: Erection of a B8 Warehouse and ancillary office accommodation, plot parking, loading and unloading areas, site access and circulation roads and footpaths, plant deck, electrical infrastructure, drainage, landscaping and landraising.	Permitted development
14/01262/LDOPND	London Gateway Logistics Park Local Development Order (LGLPLDO) Prior-notification of Development: Electrical infrastructure comprising 2x primary substations (A&B), 3x street lighting substations and 10x ring main units. Associated land-raising and access and service infrastructure.	Permitted development
15/00393/LDOPND	Proposed non or minor material amendment to development permitted by the London Gateway Logistics Park Local Development Order (reference 14/00937/LDOPND - Erection of a Class B8 warehouse and ancillary office accommodation, plot parking, loading and unloading areas, site access and circulation roads and footpaths, plant deck, electrical infrastructure, drainage, landscaping and landraising).	Permitted development
15/00395/LDOPND	London Gateway Logistics Park Local Development Order (LGLPLDO) Prior Notification of Development: additional surface water discharge outfall (incorporating headwall) to park infrastructure swale serving Plot 3010 (Prologis).	Permitted development
15/00665/LDOPND	London Gateway Logistics Park Local Development Order (LGLPLDO) Prior Notification of Development: Ground raising and levelling across the remaining area of	Permitted development

	the logistics park site not previously the subject of prior notifications.	
15/00931/LDOPND	London Gateway Logistics Park Local Development Order (LGLPLDO) - Prior Notification of Development: Erection of a Class B8 warehouse and ancillary office accommodation (Class B1a), automotive servicing and repair facility (B2), plot parking, loading and unloading areas, site access and circulation roads and footpaths, electrical infrastructure, drainage, landscaping and land raising, including the introduction of storm water ponds.	Permitted development
15/01019/LDOPND	Proposed non or minor material amendment to development permitted by the London Gateway Logistics Park Local Development Order (reference 14/00937/LDOPND, as amended by 15/00393/LDOPND - Erection of a Class B8 warehouse and ancillary office accommodation, plot parking, loading and unloading areas, site access and circulation roads and footpaths, plant deck, electrical infrastructure, drainage, landscaping and landraising).	Permitted development

4.0 CONSULTATIONS AND REPRESENTATIONS

4.1 Detailed below is a summary of the consultation responses received. The full version of each consultation response can be viewed on the Council’s website via public access at the following link: www.thurrock.gov.uk/planning

4.2 PUBLICITY:

This application has been advertised by way of a newspaper advertisement. No replies have been received.

4.3 HIGHWAYS ENGLAND:

No response received.

4.4 LANDSCAPE & ECOLOGY ADVISOR:

No objections.

4.5 HIGHWAYS:

No objections.

4.6 TRAVEL PLAN CO-ORDINATOR:

No objections.

4.7 REGENERATION:

No response received.

5.0 POLICY CONTEXT

National Planning Guidance

5.1 National Planning Policy Framework (NPPF)

The NPPF was published on 27th March 2012. Paragraph 13 of the Framework sets out a presumption in favour of sustainable development. Paragraph 196 of the Framework confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

5.2 The following headings and content of the NPPF are relevant to the consideration of the current proposals:

- Building a strong, competitive economy
- Promoting sustainable transport

5.3 Planning Practice Guidance

In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. PPG contains 48 subject areas, with each area containing several subtopics. Those of particular relevance to the determination of this planning application comprise:

- Planning obligations

Local Planning Policy

5.4 Thurrock LDF Core Strategy and Policies for the Management of Development (as amended) (2015)

The Council adopted the Core Strategy and Policies for the Management of Development (as amended) in January 2015. The following Core Strategy policies apply to the proposals:

Spatial Policies:

- CSSP2 (Sustainable Employment Growth);
- CSSP3: Sustainable Infrastructure; and
- OSDP1: (Promotion of Sustainable Growth and Regeneration in Thurrock).

Thematic Policies:

- CSTP6: Strategic Employment Provision;
- CSTP15: (Transport in Greater Thurrock);
- CSTP16: National and Regional Transport Networks; and
- CSTP17: Strategic Freight Movement and Access to Ports.

Policies for the Management of Development:

- PMD7 (Biodiversity, Geological Conservation and Development);
- PMD10 (Transport Assessment and Travel Plans);
- PMD11 (Freight Movement); and
- PMD16 (Developer Contributions).

5.5 Focused Review of the LDF Core Strategy (2014)

This Review was commenced in late 2012 with the purpose to ensure that the Core Strategy and the process by which it was arrived at are not fundamentally at odds with the NPPF. There are instances where policies and supporting text are recommended for revision to ensure consistency with the NPPF. The Review was submitted to the Planning Inspectorate for independent examination in August 2013. An Examination in Public took place in April 2014. The Inspector concluded that the amendments were sound subject to recommended changes. The Core Strategy and Policies for Management of Development Focused Review: Consistency with National Planning Policy Framework Focused Review was

adopted by Council on the 28th February 2015.

5.6 Draft Site Specific Allocations and Policies DPD

This Consultation Draft “Issues and Options” DPD was subject to consultation commencing during 2012. The Draft Site Specific Allocations DPD ‘Further Issues and Options’ was the subject of a further round of consultation during 2013. The Planning Inspectorate is advising local authorities not to continue to progress their Site Allocation Plans towards examination whether their previously adopted Core Strategy is no longer in compliance with the NPPF. This is the situation for the Borough.

5.7 Thurrock Core Strategy Position Statement and Approval for the Preparation of a New Local Plan for Thurrock

The above report was considered at the February 2014 meeting of the Cabinet. The report highlighted issues arising from growth targets, contextual changes, impacts of recent economic change on the delivery of new housing to meet the Borough’s Housing Needs and ensuring consistency with Government Policy. The report questioned the ability of the Core Strategy Focused Review and the Core Strategy ‘Broad Locations & Strategic Sites’ to ensure that the Core Strategy is up-to-date and consistent with Government Policy and recommended the ‘parking’ of these processes in favour of a more wholesale review. Members resolved that the Council undertake a full review of Core Strategy and prepare a new Local Plan

5.8 Thurrock Local Plan

In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an Issues and Options (Stage 1) document and simultaneously undertook a ‘Call for Sites’ exercise. It is currently anticipated that consultation on an Issues and Options (Stage 2 Spatial Options and Sites) document will be undertaken later this year.

6.0 **ASSESSMENT**

6.1 The background to this case is set out above. In summary, the existing s106 agreement associated with the Order places obligations on both London Gateway and the Council under the headings of:

- a training facility;
- Travel Plan and public transport measures;
- highways improvements;

- contributions towards A13 widening works;
- apprenticeships and local employment; and
- monitoring.

The s106 obligations are therefore focused on measures to mitigate the impacts of the development permitted by the LDO on the transportation network and to maximise opportunities for local employment and training. An assessment of the implications associated with the proposed amendments to the existing s106 (using the references at the table at Appendix 1 of this report is set out below.

1. Schedule 2, Clause 4.2 – A1014 Landscaping:

- 6.2 The current obligation requires London Gateway to carry out a specified scheme of landscaping if defined traffic flow triggers are breached during peak hours. The specified scheme is set out in a number of drawings forming an appendix to the s106 agreement.
- 6.3 The current proposal is to substitute an alternative landscaping scheme as London Gateway considers the approved scheme to be unsuitable given the ground conditions in the locality. Prior to the submission of this application for a deed of variation the applicant liaised with the Council’s Landscape and Ecology consultant who noted that the area subject to this obligation is very wet and the approved scheme would be unsuitable because the size of the proposed planting stock required machinery unsuited to such ground conditions.
- 6.4 The current application is supported by an amended landscaping scheme which is considered to be acceptable and suitable for ground conditions. Consequently, there are no objections to this proposed variation.

2. Schedule 2, Clause 4.2 – Traffic Flow Triggers Table:

- 6.5 Clause 4.2 of the current agreement refers generally to highway improvements (either physical works or financial contributions) which are linked to a table of traffic flow figures, expressed as passenger car units or commercial vehicles during peak hours. If the traffic flow figures are breached the obligation requires London Gateway to make the financial contributions or procure the carrying out of the works.
- 6.6 The current proposal is to replace the approved traffic flow table with a new table in order to correct errors in the original table. The proposed changes to the table are set out below, with deletions struck-through and new wording in italics.

<i>Item</i>	Work or Payment	Period	Flow Trigger
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			PCUs	OGV2s
1	Sorrells / A1014 Junction Scheme	Development Peak	1458	
2	Installation of a signalised pedestrian phased Toucan crossing across The Manorway dual carriageway at its junction with Gifford Cross Road	AM Peak	204	
		PM Peak	176216	-
		PM Peak	486	
3	A13 Second Contribution (subject to the provisions of paragraph 5)	AM Peak	1482	
		PM Peak	1533	
4	M25 Junction 30 Works	AM Peak		189
		PM Peak		189
		PM Peak	164	
5	The Subway Improvements	AM Peak	204	
		PM Peak	216	
6	The Sologuard Barrier System	AM Peak	204	
		PM Peak	216	
7	The Low-Noise Surfacing	AM Peak	612	
		PM Peak	668	
8	The Acoustic Fencing	AM Peak	216	
		PM Peak	228	
9	The A1014 Landscaping	AM Peak	216	
		PM Peak	228	

6.7 The substantive changes which are proposed are to change the PM Peak trigger for Item 2 (as the original Table shows two PM Peak triggers for passenger car units) and the introduction of a PM Peak trigger for Item 9. There are no objections from the Highways Officer to the proposed changes and it is relevant that a number of the works have already been completed. Consequently, there are no objections to this proposed variation.

3. Schedule 2, Clause 4.2 – Highway Improvements:

6.8 Clause 4.2 currently states –

“The LG Companies will make the following payments or procure the carrying out of the following works for highways improvements so that the payment is made or the work Completed before any of the Flow Triggers set out in relation to that work or payment in the following Table are breached:”

6.9 The Table accompanying Clause 4.2 refers to the works or payments detailed by paragraph 6.6 of this report. Therefore, Clause 4.2 requires the payments or the

carrying out of the works if the Flow Triggers are breached. The proposed amendment would keep the Clause intact, but would add the following wording at the end of the Clause:

“unless otherwise agreed by the Local Highways Authority (or Highways England with regard to the M25 Junction 30 Works)”

- 6.10 In support of the proposed additional wording, the applicant states that there may be circumstances beyond their control which could delay completion of highways improvement works. For example, London Gateway consider that during the proposed A13 widening works the installation of Low-Noise Surfacing to the A1014 (Item 7 with the accompanying Table). The proposed additional wording would allow some flexibility for London Gateway to request, for example, a delay to the installation of Low-Noise Surfacing if the relevant Flow Trigger is breached during the scheduled A13 widening works. However, the proposed wording still requires the agreement of the Council as Highways Authority, or Highways England in respect of works affecting the strategic network. Consequently, there are no objections to this proposed variation.

4. Schedule 2, Clause 8.1 – Traffic Monitoring Strategy:

- 6.11 Clause 8.1 requires London Gateway to implement a ‘Traffic Monitoring Strategy’ on first occupation of the development and for 15 years thereafter. The Strategy itself appears as an appendix to the a106 agreement. Clause 5.0 of the Strategy (as appended to the s106) states:

“If, in verifying the data the LGTPC (London Gateway Travel Plan Committee) identify issues with the accuracy or quality of the data, the LGTPC will agree a revised methodology with the LG Companies which will be implemented within a 4 week period”.

- 6.12 In support of the proposal the applicant refers to a meeting of the LGTPC in January 2016 during which the Chair proposed an amendment to the Strategy. The subsequent minutes of this meeting confirm that all parties, including Highways England and Thurrock Highways) agreed the revised strategy.

- 6.13 Consequently there is no objection to this element of the proposals, which is intended in order to ensure consistency between the s106 agreement and the already agreed revisions.

5. Schedule 2, Clause 3.1 – Travel Plan:

6.14 Clause 3.1 generally requires London Gateway to procure the implementation of a Travel Plan. This Plan (dated October 2013) is set out as an appendix to the s106 agreement. Paragraphs 5.25 and 5.26 of the Travel Plan refer to measures and initiatives for occupiers of the logistics park as follows:

“5.25 At least 2 months prior to the first operational use of each commercial building the Occupier shall submit their Occupier Travel Plan, which demonstrates how the related building and plot shall satisfy the requirements of this Travel Plan, to the member parties of the LGTPC. ...”

“5.26 The TLO (Transport Liaison Officer) in respect of each commercial building within the Logistics Park shall be appointed at least one month prior to the first operational use of the building ... “

6.15 The applicant states that with speculative building projects end occupiers are not known until close to occupation. Furthermore with multi-occupancy buildings end users may not be known until after first occupancy. Therefore the following amendments to clauses 5.25 and 5.26 of the Travel Plan are sought with deletions struck-through and new wording in italics:

“5.25 The occupier shall submit their Occupier Travel Plan, which demonstrates how the related building and plot shall satisfy the requirements of the Travel Plan ~~At least 2 months prior to the first operational use of each commercial building the Occupier shall submit their Occupier Travel Plan, which demonstrates how the related building and plot shall satisfy the requirements of this Travel Plan, to the member parties of the LGTPC:~~

- a) for speculative buildings, within 2 months of the completion of the freehold / leasehold occupation agreement; or*
- b) for non-speculative buildings, at least 2 months prior to the first operation use of each commercial building*

The Occupier Travel Plan shall include details of the..... ”

“5.26 The TLO in respect of each commercial building within the Logistics Park shall be appointed ~~at least one month prior to first operational use of the building (or alternatively ...:~~

- a) for speculative buildings within 2 months of the completion of the freehold / leasehold occupation agreement; or*
- b) for non speculative buildings at least one month prior to the first operational use of the building*

(or alternatively ...

- 6.16 The effect of the proposed changes would be to differentiate between speculative and non speculative buildings in respect of the requirements to submit an Occupier Travel Plan and appoint a Transport Liaison Officer. The Travel Plan Co-Ordinator has no objection to the proposals and consequently there are no objections to this proposed variation.

6. Schedule 2, Clauses 2.1 and 2.2 – Training Facility:

- 6.17 The Training Facility is defined in the legal agreement as a building up to c. 8,300 sq.m. floorspace which will offer training assistance and guidance to persons working in and wishing to work in the development. In summary, London Gateway is required to make land for the Facility available and the Council are required to provide the facility.

- 6.18 Clauses 2.1 and 2.2 currently state:

“2.1 LG Park Freehold and LG Park Leasehold shall prior to Occupation (or such other time as may be agreed between TBC, LG Park Freehold and LG Park Leasehold) identify the Training Facility Land”.

“2.2 LG Park Freehold or LG Park Leasehold shall not cause or permit Occupation without having granted to TBC in consideration of £1 an option for 5 years (“Option Period”) to acquire the freehold of the land for £1, such option (“the Option”) to be in the form reasonably required by LG Park Freehold and LG Park Leasehold and to incorporate the Special Conditions of Sale set out in Schedule 4”.

- 6.19 In support of the application London Gateway suggest that the Council are not yet in a position to implement the Training Facility and so it is proposed to defer identification of the Training Facility Land. The applicant states that this will give the Council more time to obtain funds and take the steps necessary to implement the Training Facility. The proposed amendments to these clauses are (deletions struck-through and new wording in italics):

“2.1 LG Park Freehold and LG Park Leasehold shall, before the expiration of 7 years from the date that the LDO was made, ~~prior to Occupation~~ (or such other time as may be agreed between TBC, LG Park Freehold and LG Park Leasehold) identify the Training Facility Land”.

“2.2 LG Park Freehold or LG Park Leasehold shall ~~not cause or permit Occupation~~ before the expiration of 7 years from the date that the LDO was made”.

~~without having granted~~ to TBC in consideration of £1 an option for 5 years (“Option Period”) to acquire the freehold of the land for £1, such option (“the Option”) to be in the form reasonably required by LG Park Freehold and LG Park Leasehold and to incorporate the Special Conditions of Sale set out in Schedule 4”

- 6.20 The proposed amendment is beneficial to the Council in affording more time to arrange for implementation of the Training Facility. Consequently there are no objections to this proposed variation.

7. Schedule 2, Clause 3.1 – Travel Plan:

- 6.21 Clause 3.1 requires London Gateway to procure the implementation of Travel Plan which forms Appendix 4 to the s106 agreement. The applicant refers to paragraph 5.24 of the Travel Plan which concerns occupiers and states:

“All commercial buildings and associated plots shall provide the following facilities prior to first occupation of each respective building:

- *Footway / Cycleway facilities in accordance with of the LDO Design Code*
- *Secure and covered cycle parking in accordance with the LDO Design Code*
- *Showers and lockers in accordance with the Design Code*
- *Display panels capable of receiving and displaying real time passenger transport information. The Occupier shall use reasonable endeavours to procure the supply of real time passenger transport information to the panels which shall be located in a prominent position within each building*
- *Dedicated and conveniently located parking spaces for electric vehicles, along with adjacent charging points and facilities, in accordance with the Design Code*

The above facilities shall be maintained for the duration that the related building is in operational use for use by staff employed within the building plot.”

- 6.22 The applicant refers to a typographical error within the first bullet-point above (“in accordance with of the LDO Design Code”). With regard to the fourth bullet-point above (display panels), the applicant considers that advances in internet and mobile phone technology has made the requirement for display panels obsolete. The applicant considers that staff would be more likely to access real time transport information via desktop computer or mobile phone, furthermore such information could be used for inbound as well as outbound journeys. The applicant therefore proposes amendment to paragraph 5.24 as follows (deletions struck-through and new wording in italics):

“5.24 All commercial buildings and associated plots shall provide the following facilities prior to first occupation of each respective building:

- Footway / Cycleway facilities in accordance with *Section B* of the LDO Design Code
- Secure and covered cycle parking in accordance with the LDO Design Code
- Showers and lockers in accordance with the Design Code
- ~~Display panels capable of receiving and displaying real time passenger transport information. The Occupier shall use reasonable endeavours to procure the supply of real time passenger transport information to the panels which shall be located in a prominent position within each building~~
- Dedicated and conveniently located parking spaces for electric vehicles, along with adjacent charging points and facilities, in accordance with the Design Code

The above facilities shall be maintained for the duration that the related building is in operational use for use by staff employed within the building plot.

The TLO for each building shall investigate the availability of a mobile phone app or website which is capable of providing real time information regarding public transport facilities in the vicinity. Where such information is available the relevant app or website shall be advertised to staff based within the building.”

- 6.23 The Travel Plan Co-Ordinator raises no objection to the proposed amendment to the Travel Plan and there are no objections to this proposed variation.

8. Schedule 2, Clauses 5.1 to 5.4 – A13 Contribution:

- 6.24 This element of the s106 agreement refers generally to a financial contribution to the Council towards the widening of the A13 (“the Contribution”). Clauses 5.1 to 5.4 define the value of the Contribution, timescales for payment and the timeframe for delivery of the widening works. In support of this application London Gateway refer to the previous consent of the A13 Project Team that the Contribution can be made in two equal instalments, with the first payment as per the existing agreement and a second payment one year after. The applicant has provided e-mail correspondence confirming agreement to the two-stage contribution.
- 6.25 The proposed amendments to Clauses 5.1 to 5.4 are set out below, with proposed deletions struck-through and proposed additions in italics:
- 5.1 Subject to the following provisions of this paragraph 5, LG Park Freehold or LG Park Leasehold will pay, upon written demand by TBC, a *two*

contributions (“the Contribution *First Contribution*” and “the *Second Contribution*”) to the 3 lane widening of the A13 Link 5 or alternative measures to improve capacity or enhance safety on A13 Link 5 in recognition of the proportional benefit that the widening or alternative measures will bring to the Development.

5.2 TBC may only issue a written demand for the *First Contribution* once TBC has obtained all necessary consents for the 3 lane widening of the A13 Link 5 (or the alternative measures) and is in a position to let a construction contract for the 3 lane widening of the A13 Link 5 (or the alternative measures). *The Second Contribution shall be paid on the first anniversary of the First Contribution.*

5.3 The amount of the *First Contribution and the Second Contribution* will each be an amount equal to £3,164,000. *The First Contribution shall incorporate the sum of £750,000 specified in Clause 7(b) of Schedule 1 of the Deed of Variation dated 25th January 2016 between London Gateway Port Limited and Thurrock Borough Council. The Second Contribution shall incorporate two sums of £347,000 specified in Clauses 2.2 and 2.3 of schedule 3 of the agreement pursuant to Section 106 of the Town and Country Planning Act dated 18th May 2007 relating to the London Gateway Port Harbour Empowerment Order. 11.4% of the cost of the 3 lane widening of the A13 Link 5 (or the alternative measures) minus £1,900,000 (“the Total Cost”) but in any event will not exceed the amount of £6,939,000.*

5.4 TBC shall Complete the 3 lane widening of the A13 Link 5 works or alternative measures within 36 months of the receipt of the *First Contribution*, unless otherwise agreed by LG Park Freehold or LG Park Leasehold.

6.26 The Council’s Highway Officer has no objection to the proposals and consequently there are no objections to this proposed variation.

9. Schedule 2, Clauses 7.1 to 7.3 – Apprenticeships and Local Employment:

6.27 These clauses generally require the submission to the Council for approval of an Apprenticeships and Local Employment Plan (ALEP) for each plot. A template for the production of an ALEP appears as an appendix to the s106 agreement. In support of this application, London Gateway refers to conversations with the Council’s Economic Development Officers which confirm that the above clauses and appendix do not reflect the current climate regarding local employment and skills. E-mail correspondence provided by the applicant confirms a dialogue between London Gateway and Economic Development Officers regarding the potential content and targets for an amended ALEP. The applicant’s proposal is

therefore to negotiate and agree with the Council amendments to both Clauses 7.1 to 7.3 and the ALEP appearing at Appendix 10 of the agreement. There are no objections to this proposal.

7.0 CONCLUSIONS AND REASONS FOR RECOMMENDATION

7.1 This application for a deed of variation seeks amendments to the s106 agreement accompanying the LDO in respect of landscaping, traffic flow triggers, traffic monitoring, travel planning, the training facility, the A13 widening contribution and local employment. The proposed amendments are generally matters of detail and do not alter the general thrust of what the s106 sets out to deliver. Therefore no objections are raised.

8.0 RECOMMENDATION

8.1 **A** – that the existing s106 agreement be varied in accordance with the table at paragraph 1.9 above; and

B – that authority is delegated to the Assistant Director - Planning and Growth to negotiate and complete any consequential changes to the s106 agreement resulting from the proposed deed of variation.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

www.thurrock.gov.uk/planning

Appendix 1

No.	LDO S106 Reference	Current Obligation	Issue	Proposed Modified Obligation
1	Schedule 2, Clause 4.2	To procure the A1014 Landscaping (in accordance with the 7 drawings appended at Appendix 6 of the LDO S106 Agreement) prior to the stated traffic triggers being breached	Landscaping proposals set out on the 7 drawings at Appendix 6 of the LDO S106 Agreement) are not suitable for ground conditions	<p>To procure the A1014 Landscaping (in accordance with the following documents:</p> <ul style="list-style-type: none"> - CS062418-LS-001 Rev.P05 - CS062418-LS-002 Rev.P05 - CS062418-LS-004 Rev.P05 - CS062418-LS-005 Rev.P06 - CS062418-LS-010 Rev.P01 - CS062418-LS-011 Rev.P01 - CS062418-LS-015 Rev.P03 - CS062418-MAN-PRI Rev.P02 - CS062418-MAN-SPEC Rev.P03 - CS062418-MAN-SPEC Rev.PO3 - Inspection Record - Pesticides Record <p>prior to the stated traffic triggers being breached</p>
2	Schedule 2, Clause 4.2	London Gateway will make the following payments or procure the carrying out of the following works for highways improvements so that the payment is made or the work Completed before any of the Flow	Some of the triggers are incorrectly represented as a result of what appears to have been a transposition error, which was not picked up at the time the Agreement was completed	Replace Flow Trigger table with an amended table

		Triggers set out in relation to that work or payment in the following table are breached		
3	Schedule 2, Clause 4.2	London Gateway will make the following payments or procure the carrying out of the following works for highways improvements so that the payment is made or the work Completed before any of the Flow Triggers set out in relation to that work or payment in the following table are breached	Circumstances may occur whereby matters beyond London Gateway's control delay the time by which London Gateway are able to complete works packages set out in the Table. Such circumstances may include where the relevant highway authority is carrying out other works in the same locality. An example is the A13 widening works programmes to be carried out between September 2017 and September 2019. The Low Noise Surfacing works (Item 7 in the Table) could not be completed whilst the A13 widening works are underway	Amend Clause 4.2 to state: <i>"The LG Companies will make the following payments or procure the carrying out of the following works for highways improvements so that the payment is made or the work Completed before any of the Flow Triggers set out in relation to that work or payment in the following table are breached, unless otherwise agreed by the Local Highways Authority (or Highways England with regard to the M25 Junction 30 Works)"</i>
4	Schedule 2, Clause 8.1	From the first occupation of the development until the fifteenth anniversary of the coming into force of the LDO, the LG Companies must implement the Traffic Monitoring Strategy	The Traffic Monitoring Strategy is provided at Appendix 3 of the LDO S106. Clause 5.0 of the Strategy states "If, in verifying the data the LGTPC identify issues with the accuracy or quality of the data, the LGTPC will agree a revised methodology with the LG Companies which shall be	From the first occupation of the development until the fifteenth anniversary of the coming into force of the LDO, the LG Companies must implement the Revised Traffic Monitoring Strategy.

			<p>implemented within a 4 week period". In December 2015 the chairman of the London Gateway Travel Plan Committee (LGTPC) proposed amendment to the Traffic Monitoring Strategy. This was unanimously agreed by members. The decision to amend the Traffic Monitoring Strategy was recorded in the minutes of the 26/01/16 LGTPC meeting</p>	
<p>5</p>	<p>Schedule 2, Clause 3.1</p>	<p>The LG Companies will procure the implementation of the Travel Plan, including as to payments to the Council according to its terms.</p> <p>Clause 5.25 of Travel Plan states <i>"At least 2 months prior to the first operational use of each commercial building the Occupier shall submit their Occupier Travel Plan, which demonstrates how the related building and plot shall satisfy the requirements of this Travel Plan, to the member parties of the LGTPC. The Occupier Travel Plan shall include details of the....."</i></p> <p>Clause 5.26 of the Travel Plan states</p>	<p>Very difficult to achieve regarding speculative builds because end users are not known until very close to first occupation or in some cases after first occupation (where building is to be under multi occupancy)</p>	<p>Amend Clause 5.25 of Travel Plan to state:</p> <p><i>"The occupier shall submit their Occupier Travel Plan, which demonstrates how the related building and plot shall satisfy the requirements of this Travel Plan, to the member parties of the LGTPC:</i></p> <p><i>a) for speculative buildings, within 2 months of the completion of the freehold/leasehold occupation agreement; or</i></p> <p><i>b) for non speculative buildings, at least 2 months prior to the first operational use of each commercial building</i></p> <p><i>The occupier Travel Plan shall include details of the....."</i></p>

		<p><i>"The TLO (Transport Liaison Officers) in respect of each commercial building within the Logistics Park shall be appointed at least one month prior to the first operational use of the building (or alternatively..... "</i></p>		<p>Amend Clause 5.26 of the Travel Plan to state:</p> <p><i>"The TLO in respect of each commercial building within the Logistics Park shall be appointed:</i></p> <p><i>a) for speculative buildings within 2 months of the completion of the freehold/leasehold occupation agreement; or</i></p> <p><i>b) for non speculative buildings at least one month prior to the first operational use of the building (or alternatively..... "</i></p>
<p>6</p>	<p>Schedule 2, Clauses 2.1 and 2.2</p>	<p>Clause 2.1 states <i>"LG Park Freehold and LG Park Leasehold shall prior to Occupation (or such other time as may be agreed between TBC, LG Park Freehold and LG Park Leasehold) identify the Training Facility Land"</i></p> <p>Clause 2.2 states <i>"LG Park Freehold or LG Park Leasehold shall not cause or permit Occupation without having granted to TBC in consideration of £1 an option for 5 years ("Option Period") to acquire the freehold of the land for £1, such option ("the Option")</i></p>	<p>The Council are not in a position to implement the Training Facility. As such it has been proposed to defer identification of land for 7 years so the Council have more time to obtain funds and take the necessary steps towards implementation of the Training Facility</p>	<p>Amend Clause 2.1 to state:</p> <p><i>"LG Park Freehold and LG Park Leasehold shall, before the expiration of 7 years from the date that the LDO was made, (or such other time as may be agreed between TBC, LG Park Freehold and LG Park Leasehold) identify the Training Facility Land "</i></p> <p>Amend Clause 2.2 to state:</p> <p><i>"LG Park Freehold or LG Park Leasehold shall, before the expiration of 7 years from the date that the LDO was made, grant to</i></p>

		<i>to be in the form reasonably required by LG Park Freehold and LG Park Leasehold and to incorporate the Special Conditions of Sale set out in Schedule 4"</i>		<i>TBC in consideration of £1 an option for 5 years ("Option Period") to acquire the freehold of the land for £1, such option ("the Option") to be in the form reasonably required by LG Park Freehold and LG Park Leasehold and to incorporate the Special Conditions of Sale set out in Schedule 4"</i>
7	Schedule 2, Clause 3.1	<p>The LG Companies will procure the implementation of the Travel Plan, including as to payments to the Council according to its terms. Clause 5.24 of the Travel Plan states:</p> <p><i>"All commercial buildings and associated plots shall provide the following facilities prior to first occupation of each respective building:</i></p> <ul style="list-style-type: none"> <i>- Footway/cycleway facilities in accordance with of the LDO Design Code</i> <i>- Secure and covered cycle parking in accordance with the LDO Design Code</i> <i>- Showers and lockers in accordance with the Design Code</i> <i>- Display panels capable of receiving and displaying real time passenger transport information. The Occupier</i> 	<p>Typo in first bullet point of Travel Plan Clause 5.24.</p> <p>With regard to 4th bullet point of Travel Plan Clause 5.24, advances in the internet and mobile phone technology has made the requirement for centrally located display panels obsolete. Where real time information is available staff would be able to access such information via their mobile phone or desktop. This would also allow the information to be utilised for inbound, in addition to outbound journeys and would not require staff to muster in a central location to view the information.</p>	<p>The LG Companies will procure the implementation of the Travel Plan, including as to payments to the Council according to its terms.</p> <p>Clause 5.24 of the Travel Plan to state:</p> <p><i>"All commercial buildings and associated plots shall provide the following facilities prior to first occupation of each respective building:</i></p> <ul style="list-style-type: none"> <i>- Footway/cycleway facilities in accordance with Section B of the LDO Design Code</i> <i>- Secure and covered cycle parking in accordance with the LDO Design Code</i> <i>- Showers and lockers in accordance with the Design Code</i> <i>- Dedicated and conveniently located parking spaces for electric vehicles, along with adjacent charging points and facilities, in accordance with the Design Code</i> <p><i>The above facilities shall be maintained for</i></p>

		<p><i>shall use reasonable endeavours to procure the supply of real time passenger transport information to the panels which shall be located in a prominent position within each building</i></p> <p><i>- Dedicated and conveniently located parking spaces for electric vehicles, along with adjacent charging points and facilities, in accordance with the Design Code</i></p> <p><i>The above facilities shall be maintained for the duration that the related building is in operational use for use by staff employed within the building plot"</i></p>		<p><i>the duration that the related building is in operational use for use by staff employed within the building plot.</i></p> <p><i>The TLO for each building shall investigate the availability of a mobile phone app or website which is capable of providing real time information regarding public transport facilities in the vicinity. Where such information is available the relevant app or website shall be advertised to staff based within the building."</i></p>
8	Schedule 2, Clause 5.1 to 5.4	<p><i>Clause 5.1: "Subject to the following provisions of this paragraph 5, LG Park Freehold or LG Park Leasehold will pay, upon written demand by TBC, a contribution ("the Contribution") to the 3 lane widening of the A13 Link 5 or alternative measures to improve capacity or enhance safety on A13 Link 5 in recognition of the proportional benefit that the widening or alternative measures will bring to the Development."</i></p>	<p>It has been agreed with the A13 Project Team that the payment can be made in two equal instalments, the first as stated in the agreement with the second on the first anniversary of the first payment</p>	<p>Amend Clauses 5.1 to 5.4 to state:</p> <p><i>"Subject to the following provisions of this paragraph 5, LG Park Freehold or LG Park Leasehold will pay, upon written demand by TBC, two contributions ("the First Contribution" and "the Second Contribution") to the 3 lane widening of the A13 Link 5 or alternative measures to improve capacity or enhance safety on A13 Link 5 in recognition of the proportional benefit that the widening or alternative measures will bring to the Development ."</i></p>

Clause 5.2: *"TBC may only issue a written demand for the Contribution once TBC has obtained all necessary consents for the 3 lane widening of the A13 Link 5 (or the alternative measures) and is in a position to let a construction contract for the 3 lane widening of the A13 Link 5 (or alternative measures)."*

Clause 5.3: *"The amount of the Contribution will be an amount equal to 11.4% of the cost of the 3 lane widening of the A13 Link 5 (or alternative measures) minus £1,900,000 ("the Total Cost") but in any event will not exceed the amount of £6,939,000."*

Clause 5.4: *"TBC shall Complete the 3 lane widening of the A13 Link 5 works or alternative measures within 36 months of receipt of the Contribution unless otherwise agreed LG Park Freehold or LG Park Leasehold."*

"TBC may only issue a written demand for the First Contribution once TBC has obtained all necessary consents for the 3 lane widening of the A13 Link 5 (or the alternative measures) and is in a position to let a construction contract for the 3 lane widening of the A13 Link 5 (or alternative measures). The Second Contribution shall be paid on the first anniversary of the First Contribution "

"The amount of the First Contribution and the Second Contribution will each be an amount equal to £3,164,000. The first contribution shall incorporate the sum of £750,000 specified in Clause 7(b) of Schedule 1 of the Deed of Variation dated 25th January 2016 between London Gateway Port Limited and Thurrock Borough Council. The Second Contribution shall incorporate two sums of £347,000 specified in Clauses 2.2 and 2.3 of Schedule 3 of the agreement pursuant to Section 106 of the Town and Country Planning Act dated 18th May 2007 relating to the London Gateway Port Harbour Empowerment Order "

				<p><i>"TBC shall Complete the 3 lane widening of the A13 Link 5 works or alternative measures within 36 months of receipt of the First Contribution unless otherwise agreed LG Park Freehold or LG Park Leasehold."</i></p>
<p>9</p>	<p>Schedule 2, Clauses 7.1 to 7.3</p>	<p>Clause 7.1: <i>"In respect of each plot or element of common infrastructure of the Development, no later than:</i> <i>- 7.1.1 one month prior to the commencement of construction (in relation to the construction of that plot or element); and</i> <i>- 7.1.2 one month prior to first occupation or beneficial use (in relation to the operational use of the plot or element), the LG Companies, or their contractors or the plot occupiers on the LG Companies' behalf (as applicable), must submit at TBC an Apprenticeship and Local Employment Plan (an "ALEP")"</i></p> <p>Clause 7.2: <i>"An ALEP is a plan in the form attached at Appendix 10 setting out how the LG Companies, plot occupiers and their contractors will work directly with local employment or training agencies as part of an</i></p>	<p>Discussion with Thurrock Council's Economic Development Manager has confirmed that the provisions of Clause 7.1 to 7.3 and the form of ALEP set out at Appendix 10 of the LDO S106 agreement does not reflect the current climate with regard to local employment and skills and is therefore not fit for purpose.</p>	<p>Thurrock Council to propose amended wording for Clauses 7.1 to 7.3 and a substitute template for Appendix 10</p>

		<p><i>employment and training consortium, such agencies to include (but not be limited to):</i></p> <ul style="list-style-type: none"> - 7.2.1 Jobcentre Plus and the Learning & Skills Council - 7.2.2 voluntary and private sector providers: and - 7.2.3 sixth form colleges; colleges of further education; and universities." <p>Clause 7.3 "An ALEP must specify the provision for training opportunities and other initiatives in respect of the vocational and employability skills required by the LG companies, plot occupiers and the contractors for any new jobs and business opportunities created by the construction and operation (as the case may be) of the relevant plot or element of the Development."</p>		
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17/00723/DVOB DP World Development London Gateway, S.L.H



