

8 February 2024		ITEM: 9
Planning Committee		
London Gateway Logistics Park: Consideration of Habitat Regulation Assessment (HRA) for Local Development Order 1.5		
Wards and communities affected: Corringham and Fobbing Stanford-le-Hope West Stanford East and Corringham Town The Homesteads		Key Decision: Not applicable
Report of: Rachel Murrell (Consultant Planning Officer)		
Accountable Assistant Director: Tracey Coleman – Chief Planning Officer		
Accountable Director: Mark Bradbury – Interim Director of Place		
This report is public		
Version: Final		

Executive Summary

A report was presented to Planning Committee on 21 September 2023 to delegate authority to the Local Planning Authority (LPA) to progress with the preparation of London Gateway Logistics Park Local Development Order 1.5 (hereafter referred to as ‘LDO1.5’). Reports were subsequently presented to Cabinet on 8 November 2023 and Full Council on 29 November 2023 where the recommendation to delegate authority on the decision of whether or not to adopt LDO1.5 to the Planning Committee was agreed.

Regulation 80 of the Conservation of Habitats and Species Regulations 2017, as amended, (“the 2017 Regulations”) must be applied to the making of a Local Development Order (LDO). This states that the provisions under Regulation 63 apply which require that:

‘A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site,

must make an appropriate assessment of the implications of the plan or project for that site in view of that site’s conservation objectives’.

Regulation 63 of the 2017 Regulations further states that:

'In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).'

The 2017 Regulations include measures to establish and maintain a network of sites protecting habitats which in themselves are valuable as well as for the species they support. These sites form a network that across Europe is known as Natura 2000, and within the UK is now known as the National Site Network (NSN).

The application of the 2017 Regulations involves the precautionary principle; that plans and projects can only be permitted once it has been determined there will be no adverse effect on the integrity of a NSN site. Plans and projects may still, however, be permitted if there are no alternatives, and there are imperative reasons of overriding public interest as to why they should go ahead. However, when making LDOs, Regulation 80(2) states that 'Regulation 64 (*considerations of overriding public interest*) does not apply to the making of a local development order'.

The HRA process for LDOs consists of three stages, each stage being informed by the one preceding, to ensure an iterative and objective assessment. The 'Report to Inform a Habitats Regulations Assessment: London Gateway Logistics Park Local Development Order 1.5' dated November 2023 concluded that:

- Stage 1 (Screening Assessment): potential impacts have been identified resulting from construction and operational phase activities proposed under LDO1.5.
- Stage 2 (Appropriate Assessment): risks related to noise and water pollution have the potential to affect the qualifying features and contravene the conservation objectives of the relevant sites, if no mitigation measures are implemented. Avoidance and mitigation measures identified would reduce the effect of the development on the qualifying features of the relevant sites to a negligible impact.

There is no requirement to carry out an Assessment of Alternative Solutions (Stage 3) as, with appropriate mitigation, LDO1.5 would not be likely to adversely affect the integrity of a Habitat Site.

As the "competent authority" the Council has consulted Natural England who are the statutory nature conservation body. Natural England have confirmed that works undertaken in strict accordance with the submitted details are not likely to have a significant effect on the interest features for which Thames Estuary & Marshes SPA/Ramsar site and Benfleet & Southend Marshes SPA/Ramsar site have been classified.

It is recommended that, on the basis of the assessment carried out in the 'Report to Inform a Habitats Regulations Assessment: London Gateway Logistics Park Local Development Order 1.5' dated November 2023 and the consultation replies, the Council formally determine that the development proposed by LDO1.5 will not have a likely significant effect on a European Protected Site.

Commissioner Comment:

None received.

1. Recommendation(s)

That Council:

- (i) **Note the content of the “Report to Inform a Habitats Regulations Assessment London Gateway Logistics Park Local Development Order 1.5” dated November 2023 and the consultation responses received;**
- (ii) **Formally determine, on the basis of the information available, that the development proposed by the LDO will not adversely affect the integrity of a European site or a European offshore marine site either alone or in combination with other plans or projects.**

2. Introduction and Background

- 2.1 The London Gateway Logistic Park is a 220-hectare site located on the north bank of the Thames estuary. The site is approximately 4 km east of the town of Stanford-le-Hope and 3 km south/south-east of the town of Corringham. It is bounded to the north by a dual carriageway, The Manorway (A1014), and to the south by the Thameshaven Branch Line adjacent to the London Gateway deep-sea container port.
- 2.2 The site has direct access to The Manorway (A1014) which connects to the A13 approximately 3 km to the west. The A13 westbound provides access to London, connecting to the motorway network via Junction 30 of the M25. Eastbound, the A13 provides a connection to Southend.
- 2.3 On the site of the former Shell Haven oil refinery, the Logistics Park has become a world leading logistics centre sitting alongside the London Gateway Port (‘the Port’), the UK’s fastest growing deep-sea container terminal, located on the north bank of the River Thames just 25 miles from central London. The Port was approved under a Harbour Empowerment Order while the provision of altered rail facilities was approved under the Harbour Empowerment Order and also a further Order under the Transport and Works Act 1992. The first three berths of the Port are operational and berth four is currently under construction. The Port development is unaffected by the Local Development Order (LDO).
- 2.4 The Council made the London Gateway Logistics Park Local Development Order in November 2013 (LDO1). It permitted up to 829,700 sqm of commercial floorspace on the site, of which almost 340,000 sqm of floorspace is either complete and operational or under construction. LDO1 expired in November 2023 and therefore another consent is required to enable delivery of the remainder of the Logistics Park. LDO2 is currently being prepared but is not due to be considered by the Council until summer 2024. LDO1.5 is therefore intended as an interim measure (valid for 1 year or until LDO2 is adopted, whichever is earlier) to enable the delivery of up to a further 85,000sqm of B8 floorspace pending consideration of LDO2.

3. Issues, Options and Analysis of Options

- 3.1 LDOs provide permitted development rights for specified types of development in defined locations. They are flexible and locally determined tools that local planning authorities can use to help accelerate the delivery of appropriate development in the right places.
- 3.2 LDO1.5 is proposed to establish permitted development allowances for specified categories of employment-generating development, associated floorspace and supporting / ancillary development, reflecting what already exists on site as well as making provision for up to a further 85,000 sqm of B8 floorspace.

- 3.4 Under the 2017 Regulations, an HRA is required to identify if a plan or project is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects).
- 3.5 Four relevant sites are identified within 10km of the proposed development:
- Thames Estuary and Marshes Special Protection Area (SPA) lies approximately 0.25km south west of the proposed development, at its closest point, and is designated for the Annex I bird species: avocet (*Recurvirostra avosetta*) and hen harrier (*Circus cyaneus*). The site also qualifies for migratory species ringed plover (*Charadrius hiaticula*), grey plover (*Pluvialis squatarola*), dunlin (*Calidris alpina alpina*), knot (*Calidris canutus islandica*), black-tailed godwit (*Limosa limosa islandica*) and redshank (*Tringa tetanus tetanus*).
 - Thames Estuary and Marshes Ramsar Site covers a similar area as the SPA and is a complex of brackish, floodplain grazing marsh ditches, saline lagoons and intertidal saltmarsh and mudflat. These habitats together support internationally important numbers of wintering waterfowl. The saltmarsh and grazing marsh are of international importance for their diverse assemblages of wetland plants and invertebrates.
 - Benfleet and Southend Marshes SPA lies approximately 6.9km north of the proposed development and qualifies as a wetland of International importance by supporting wintering waterfowl of species such as dark-bellied brent geese (*Branta bernicla bernicla*), grey plover, knot, ringed plover and dunlin.
 - Benfleet and Southend Marshes Ramsar Site covers the same areas as the SPA and comprises an area of intertidal mudflats, saltmarsh, scrub and grassland. The site supports internationally important wintering populations of migratory waterfowl species.
- 3.6 Natural England are satisfied that the HRA has considered all relevant protected sites.

Stage 1: Screening Assessment

- 3.6 The following potential impact pathways resulting from construction and operational phase activities proposed under LDO1.5 have been identified:
- Noise and visual disturbance of qualifying bird species/populations;
 - Loss of individual wetland plant and invertebrate species during site clearance;
 - Changes in species distribution caused by loss of suitable habitat;
 - Accidental introduction of invasive species;
 - Pollution of habitats as a result of atmospheric nitrogen deposition and air-borne dust;
 - Pollution of habitats as a result of run-off of chemicals or sediment; and
 - Changes in the turbidity of water as a result of sediment run-off.
- 3.7 Noise, dust, water pollution and changes in the turbidity of water are potential impact pathways that are considered to have likely significant effects.

3.8 The possibility of in combination effects with other developments has also been investigated. Six developments were screened in for further investigation at the Appropriate Assessment Stage. These are:

- Construction of Berths 5 & 6 at the Port (adjacent to the site).
- Construction of a 2nd railway terminal at the Port (adjacent to the site).
- Construction of gas-fuelled standby electricity generation plant to supply the National Grid at Stanhope Industrial Park (0.66km west of the site).
- Commercial development at site of former Coryton Oil Refinery (2.17km east of site) – *awaiting planning decision*.
- Installation of renewable-led energy generation station at Land South of Marsh Lane, Fobbing (2.6km northeast of site) – *awaiting planning decision*.

Stage 2: Appropriate Assessment

3.7 The Appropriate Assessment process in the 'Report to Inform a Habitats Regulations Assessment: London Gateway Logistics Park Local Development Order 1.5' dated November 2023 concluded that, the risk of noise and water pollution have the potential to affect the qualifying features and contravene the conservation objectives of the relevant sites, if no mitigation measures are implemented.

3.8 Avoidance and mitigation measures have been identified that would reduce the effect of the development on the qualifying features of the relevant sites to a negligible impact.

3.9 The Code of Construction Practice (CoCP), which has been in place for the last ten years as part of LDO1, will continue to be implemented in relation to development permitted by LDO1.5. A severe winter weather restriction on impact piling will be included in the CoCP to satisfy Natural England. Measures relating to control of water quality, dust, and noise detailed within the CoCP are considered sufficient to mitigate against any likely significant effects on the relevant sites.

3.10 Subject to the appropriate mitigation, it is concluded that there will be no alone or in-combination significant effects on any of the relevant designated sites.

3.11 Natural England have confirmed that works undertaken in strict accordance with the submitted details are not likely to have a significant effect on the interest features for which Thames Estuary & Marshes SPA/Ramsar site and Benfleet & Southend Marshes SPA/Ramsar site have been classified.

4. Reasons for Recommendation

4.1 As the "competent authority" the Council under the Conservation of Habitats and Species Regulations 2017 (as amended) is required to determine if a plan or project may have an adverse impact on a site designated under the same (or preceding Regulations) prior to any consent or permission being determined. The process of undertaking this assessment is known as an HRA.

4.2 The 'Report to Inform a Habitats Regulations Assessment: London Gateway Logistics Park Local Development Order 1.5' dated November 2023 has been prepared to provide

information to the competent authority and has been scrutinised by Natural England as the statutory nature conservation body. Its conclusions have been found to be sound. In these circumstances Officers recommend that, on the basis of the information available, the Council formally determines that the proposed development to be permitted by LDO1.5 will not adversely affect the integrity of a European site or a European offshore marine site either alone or in combination with other plans or projects.

5. Consultation (including Overview and Scrutiny, if applicable)

The Council has consulted with the statutory nature conservation body, Natural England, and their response is reported above. In addition, the 'Report to Inform a Habitats Regulations Assessment: London Gateway Logistics Park Local Development Order 1.5' dated November 2023 was subject to public consultation as part of the preparation of LDO1.5. This consultation exercise comprised a local newspaper advertisement, the posting of site notices and letters sent to nearby owner/occupiers.

The full version of each consultation response can be viewed on the Council's website via public access at the following link <https://www.thurrock.gov.uk/london-gateway-development/local-development-order-2024>

6. Impact on corporate policies, priorities, performance and community impact

People

- 6.1 The London Gateway Logistics Park will continue to provide employment during construction and operation.

Place

- 6.2 The London Gateway Logistics Park is a world leading logistics centre sitting alongside the London Gateway Port, the UK's fastest growing deep-sea container terminal, located on the north bank of the River Thames just 25 miles from central London.

Prosperity

- 6.3 LDO1.5 will continue to help accelerate the delivery of appropriate development on the remainder of the Logistics Park, promoting economic, social or environmental gains for the area.

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
Finance Manager
29/01/2024

There is a commitment from DP World to cover the Council's costs in respect of the making of the LDO. If the LDO is made the costs associated with the prior notification procedure will be covered by fee income.

LDO1.5 will continue to help accelerate the delivery of appropriate development on the remainder of the Logistics Park, promoting economic, social and environmental gains for Thurrock and the wider sub-region.

7.2 Legal

Implications verified by: **Caroline Robins**
Locum Principal Planning Solicitor
29/01/2024

The making of the Local Development Order LDO1.5 requires a 'Habitats Regulation Assessment' and 'Appropriate Assessment' to be undertaken by the Council as the 'competent authority'. A Habitats Regulation Assessment and Appropriate Assessment have been undertaken. Whilst there is potential for negative impacts to be caused by the development the Council as competent authority has been advised by Natural England that these impacts can be mitigated sufficiently so that the proposed development to be permitted by LDO1.5 will not likely have a significant adverse effect on the integrity of a European site or a European offshore marine site either alone or in combination with other plans or projects.

The development must be undertaken strictly in accordance with the submitted details. The terms of the Local Development Order 1.5 will secure the necessary and recommended mitigation.

7.3 Diversity and Equality

Implications verified by: **Roxanne Scanlon**
Community Engagement & Project Monitoring Officer
26/01/2024

There are no direct diversity implications noted in this report. Local residents were notified directly of the opportunity to take part in consultation, no negative impacts were identified through this consultation.

7.4 Risks

The key risk is that if the interim LDO1.5 is not made it will delay the continuing delivery of appropriate development on the remainder of the Logistics Park, which will promote economic, social and environmental gains for Thurrock and the wider sub-region.

7.5 Other implications (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, or Impact on Looked After Children

None identified.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Report to Inform a Habitats Regulations Assessment: London Gateway Logistics Park Local Development Order 1.5 (November 2023).
- Letter from Natural England dated 12 December 2023.

The background papers can be viewed on the Council's website via public access at the following link <https://www.thurrock.gov.uk/london-gateway-development/local-development-order-2024>

9. Appendices to the report

None.

Report Author:

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