

Record of Operational Decision

Decision title:	Amend the Hereford (Rotherwas) Enterprise Zone Local Development Order 2019
Date of decision:	10 October 2024
Decision maker:	Service Director Economy and Growth
Authority for delegated decision:	Section 73, Table A, Directorate: Economy and Environment - scheme of delegation: updated 18/07/2024
Ward:	Countywide
Consultation:	None, this decision implements operationally a decision of the Executive.
Decision made:	<p>That:</p> <p>The expiry date of the Hereford (Rotherwas) Enterprise Zone Local Development Order 2019 be extended for an additional period , by amending Part F 'Period of Operation of the LDO' of the Order as follows:</p> <p><i>This LDO and the terms within it will be active until midnight on the 10th April 2025. and will expire at the end this period unless prior to that date the LDO is further extended for a period of no more than three months. It will therefore cease to apply on 10th April 2025 or such later period unless it is readopted and/or further amended on or prior to that day. Development which has commenced under the provisions of the LDO can be completed in the event that the LDO is revoked or revised or expires.</i></p>
Reasons for decision:	<p>A Local Development Order (LDO) has been in place for the Hereford (Rotherwas) Enterprise Zone (HEZ) since 2013 acting as a highly effective mechanism through which to incentivise and de-risk investment by making the area highly attractive to businesses, whereby they have certainty of outcome around being able to develop premises that meet the criteria of the LDO.</p> <p>The LDO was first reviewed in 2014, and then again in 2019 which lead to it being readopted with modifications, notable to also accommodate educational facilities such as NMITE, and to add a small extra parcel of land.</p> <p>The 2019 LDO it subject to a number of provisions and conditions, one of those was part 'F' which acts to set a time limit of the life of the LDO. This means that the LDO shall cease to have effect 5 years after it was adopted (the 18th October 2024),</p> <p>Prior to its expiry as defined by part 'F' the Local Planning Authority (LPA) can determine to take one of three courses of action</p> <ol style="list-style-type: none"> a) Retain the LDO b) Retain the LDO with new terms and conditions, or c) Revoke the LDO <p>At the time of adopting the modified LDO in 2019, the LDO had, since its inception, been successfully generating a steady flow of development (circa 5-7 per annum) and it was anticipated at the time of adopting the revised 2019 LDO that this trajectory would continue, whereby the 5 year time period was considered to have been sufficient to see the available plots brought forward and developed. That time frame also dovetailed with LPA's then timetable to adopt a new Local Plan</p> <p>The timetable for the emerging Local Plan is currently being revised to consider and reflect very significant changes in government policy arising from the change of Government in the summer of 2024.</p> <p>Consequently it is considered inappropriate to unilaterally look at reviewing the LDO as the emerging Local Plan should have supremacy in setting special policy.</p> <p>Pending the emerging Local Plan and to ensure that economic growth,</p>

	<p>specifically the objectives of the HEZ are supported immediately beyond October 2024 the LDO should be retained by extending it for a short period to give certainty and confidence to the market</p> <p>During which time the need for a new or modified LDO can be properly considered against the wider strategic review of the scale and location(s) of employment land required to serve Hereford and its wider environs as part of the emerging Local Plan.</p> <p>Furthermore at the beginning of 2020 the global COVID pandemic resulted in some 2 years of highly unpredictable and unprecedented turbulence to financial markets leaving businesses struggling to simply survive, resulting in there being very few enquiries or actionable proposals under the LDO.</p> <p>Then towards the end of 2022 when businesses were starting to emerge from the effect of COVID the economy of the UK suffered a massive shock resulting in the availability and terms on which development finance could be obtained being dramatically impacted, causing businesses to again draw back from making investments. This meant that the HEZ saw a further prolonged period over which actionable interest was significantly subdued or businesses were unable to access the required capital despite a very strong desire to invest in the HEZ.</p> <p>This has meant since the 2019 LDO was adopted the take up rate of deliverable investments has fallen from an average of 5-7 per annum to 2-3, although interest remains very strong with business actively looking for development opportunities afforded by the LDO.</p> <p>More specifically the extra ordinary conditions the market has experienced means that there is still capacity within the gross development envelope and quantum's envisaged by the 2019 LDO, and current inquiry's and actionable interest comfortably sit within the acceptable typology and overarching framework of the LDO, so it is still fit for purpose in its current form as a mechanism to incentivise economic growth.</p> <p>Therefore the life span of the existing LDO should be extended for a short period in its current form for the reasons outlined above.</p>
<p>Legal</p>	<p>Herefordshire Council Constitution dated 20th May 2022 allows functions relating to Town and Country Planning as listed in Schedule 1 Section A to be delegated to officers. Details of the powers that can be delegated to officers are contained in Part 3 Section Appendix titled Planning Functions.</p> <p>The making or amendment of a Local Development Order (LDO) does not fall within any of these functions listed in Schedule 1 Section A of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853 ("the Regulations")</p> <p>A LDO is not a planning application made pursuant to s.70 of the Town and Country Planning Act 1990 nor are they 'development plan documents' under Part II of that Act. The power to amend an LDO is not mentioned in the Regulations as a Council function or Local Choice function.</p> <p>As a result this is an executive function which is non key, which is expressly delegated to the Service Director Economy and Growth in accordance with section 73 of Table A, Directorate: Economy and Environment - Scheme of Delegation.</p> <p>The authority to revise or withdraw a LDO at any time is given under Section 2, Schedule 4A of The Town and Country Planning Act 1990 (as amended). The short extension proposed will allow time for the need for a new or revised LDO to be properly considered against the wider strategic review of the scale and location(s) of employment land required to serve Hereford and its wider environs as part of the emerging Local Plan..</p> <p>As confirmed above, the LDO is not a planning policy document but a grant of planning permission subject to conditions, which allows a developer to gain</p>

	<p>approval to construct new build as long as it sits within the confines of those conditions. It would not prejudice any other application required for existing buildings on the LDO area which require the benefit of listed building consent or planning permission for other uses within one or more parts of the LDO area</p> <p>There are no other legal considerations</p>
Resource implications	<p>Amending the life of the LDO does not result in a fresh requirement for capital expenditure.</p> <p>The benefits of the LDO clearly outweigh the loss of any planning fee income and the simplified and speedy process has helped to deliver strong investor confidence as evidenced by £61m having been invested and the Council seeing receipts to date from sales totalling over £7m. Additionally those developments built or underway generating £37m of business rates over the lifetime of the HEZ which are retained in full by the Council.</p> <p>Extending the life of the LDO will give businesses strong confidence to continue see the HEZ as a preferential location within which to invest, and will see both capital receipts from land sales continue as well as a growing business rates income which is fully retained the Council until the end of 2037/8 financial year</p> <p>In terms of internal resource, because the LDO provides for executive decision making, it negates the need for consideration by, and preparation of Committee reports and so resulted in significant savings in officers time</p>
Risk	<p>A short extension to the expiry date of the LDO does not present any new and/or enhanced risks. The LDO is a major contributing element of the success and to the purposes of Hereford (Rotherwas) Enterprise Zone.</p> <p>All the existing provisions and controls included in the LDO will remain whilst a thorough review is undertaken thereby ensuring continuing appropriate levels of management and regulation of new development and its impact are applied and achieved at a service level via the Development Management team over the extended time period</p>
Equality Considerations	<p>Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:</p> <p>A public authority must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none"> a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. <p>Herefordshire Council are not aware of any negative or disproportionate impact to those who share a relevant protected characteristic and the support for the enterprise zone is seen by the council as proactively supporting the council in discharging its equality duty in particular by advancing equality of opportunity between persons who share a protected characteristic by providing high quality employment opportunities</p>
Details of any alternative options considered and rejected:	<p>The alternative would be not to extend the duration the LDO, and allow it to terminate on the 18th October 2024 in which case businesses will be required to apply for planning permission, removing certainty for investors and involving increased costs and greater time delays. This would unnecessarily limit the flexibility and extent to which development might take place within the HEZ, as well as hampering the economic growth of the County</p>
Details of any declarations of interest made:	<p>None known or declared.</p>

Signed.....  Date: 9 October 2024