

## Cabinet – 4 April 2012

### Black Country Enterprise Zone – Local Development Order

<b>Portfolio:</b>	Councillor Adrian Andrew Deputy Leader Regeneration
<b>Service:</b>	Regeneration
<b>Wards:</b>	Bentley and Darlaston North; Pleck.
<b>Key decision:</b>	Yes
<b>Forward plan:</b>	No – the report is urgently required following the publication of the National Planning Policy Framework on 27 March 2012.

#### 1. Summary

- 1.1 At its meeting on 9 November 2011 Cabinet supported the establishment of a Local Development Order (LDO) covering the Black Country Enterprise Zone sites in Darlaston together with a surrounding area. Cabinet also authorised the Executive Director (Regeneration) to appoint consultants to prepare the LDO, report the draft LDO to Planning Committee and following consultation, to make any minor changes to the draft LDO in consultation with the Portfolio Holder for Regeneration.
- 1.2 At a meeting on 16 February 2012 Planning Committee approved a draft Local Development Order as a basis for statutory consultation with interested parties. The consultation period ended on 22 March 2012 and a process of reviewing responses was then undertaken prior to the intended submission of the Order to the Secretary of State.
- 1.3 On 27 March 2012 the Department for Communities & Local Government published the National Planning Policy Framework (NPPF) which sets out the Government's planning policies for England and how these will be applied.
- 1.4 Given that the planning policy basis current at the time that Cabinet supported the preparation of an LDO has changed with publication of the NPPF this report seeks continued Cabinet support for the establishment of an LDO. The report also seeks Cabinet support for amendments to the draft LDO that have been made following comments received from the statutory consultation exercise.

#### 2. Recommendations

- 2.1 That Cabinet note the publication of the National Planning Policy Framework and continue to support the preparation of a Local Development Order for the Black Country Enterprise Zone sites in Darlaston together with a surrounding area.

2.2 That Cabinet considers that the draft Local Development Order is consistent with the National Planning Policy Framework and supports its submission to the Secretary of State, subject to the following revision:

- Deletion of the Bentley Road South Sports Field from the Local Development Order on the basis that its inclusion is contrary to the National Planning Policy Framework.

2.3 That Cabinet notes the amendments made to the draft Local Development Order following the statutory consultation period.

### **3. Report detail**

3.1 Cabinet will be aware that the Department for Communities & Local Government (DCLG) has announced the creation of the Black Country Enterprise Zone, which includes several sites in Darlaston. A requirement of Enterprise Zone status is that a simplified planning regime is established as part of a suite of incentives to support growth, attract new businesses and create jobs

3.2 On 9 November 2012 Cabinet supported the preparation of a Local Development Order (LDO) for the Black Country Enterprise Zone sites in Darlaston and a surrounding area and authorised the Executive Director (Regeneration) to take the following action:

(a) Appointment of consultants to progress the preparation of the Local Development Order, including public consultation.

(b) Reporting the draft Local Development Order to the Planning Committee to seek their views.

(c) To make any minor changes to the draft Local Development Order in consultation with the Portfolio Holder for Regeneration.

3.4 In December 2011 Brooke-Smith Planning were appointed to prepare the LDO and the Statement of Reasons that is required to justify why it should be made. The draft LDO was subsequently presented to Planning Committee on 16 February 2012 and approved as a basis for statutory consultation with interested parties. Planning Committee also authorised officers to make any minor changes (as necessary) and send the final draft Local Development Order to the DCLG on behalf of the Council.

3.5 The statutory period of consultation ended on 22 March 2012 and following this an assessment of the responses received commenced ahead of the agreed date of submission to the Secretary of State on 30 March 2012. The submission date was based on a timeline set out by DCLG requiring the LDO to be in place by April 2012. Subject to the Secretary of State confirming that there is no requirement to submit the document for formal approval it is intended that Council will be asked to adopt the LDO at its meeting on 16 April 2012.

3.6 On 27 March 2012 DCLG published the National Planning Policy Framework (NPPF) which sets out the Government's planning policies for England and how these will be applied. It replaces pre-existing national policy in all of the previous

Planning Policy Guidance and Planning Policy Statements (except for PPS10 on Waste Management). As far as local policies are concerned the legal position remains that determinations should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF says that:

*“For the purposes of decision-taking, the policies in the Local Plan [i.e the Black Country Core Strategy (BCCS) and Walsall’s saved Unitary Development Plan (UDP) policies in this case] should not be considered out of date simply because they were adopted prior to the publication of this Framework”.*

- 3.7 However, the NPPF policies are material considerations and the framework sets out how the Government considers how it should relate to development plans:
- *“For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*  
[This applies to the Black Country Core Strategy, which was prepared under the Planning and Compulsory Purchase Act 2004 and adopted in February 2011.]
  - *“In other cases ... due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”*  
[This applies to the saved policies of Walsall’s UDP which, although adopted in March 2005, was prepared under the Town and Country Planning Act 1990.]
- 3.8 In this context there is a need to consider whether the decision to proceed with an LDO is consistent with the policies set out in the NPPF. Officers have reviewed the policy basis for the draft LDO and concluded that it is consistent with the NPPF. The draft LDO is intended to simplify the planning process for employment uses with the aim of encouraging investment and job creation. This is in line with the NPPF which states that to help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. The Council’s consultants have pointed out that the NPPF states (at paragraph 199):
- “Local planning authorities should consider using Local Development Orders to relax planning controls 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, such as boosting enterprise.”*
- 3.9 On this basis it is recommended that Cabinet continues to support the establishment of an LDO.
- 3.10 Notwithstanding the above, it is considered that there is a need to amend the LDO boundary following the publication of the NPPF. Members will recall that the Bentley Road South Sports Field is allocated for employment use in Walsall’s UDP, but this was carried forward from an initial designation made by the Black Country Development Corporation without any consultation or examination.

Having considered the guidance in the NPPF officers have come to the view that this UDP allocation is not consistent with paragraph 74 of the NPPF which states that existing open space, sports and recreational buildings and land, including playing fields should not be built on without clear justification and / or compensatory provision. It should also be noted that as part of the statutory consultation exercise Sport England objected to the inclusion of the site. On this basis it is recommended that this site is removed from the LDO.

- 3.11 In proposing the removal of the sports field site there is a need to consider whether additional consultation should be undertaken in respect of this change. However, on balance this is not considered necessary for the following reasons:
- Removing the site would reduce the size of the LDO area
  - Removing the site would not preclude a planning application coming forward for its development for employment uses; and
  - Removing the site would address the existing objection from Sport England
- 3.12 The draft LDO that formed the basis of the statutory consultation exercise has also been subject to a number of minor amendments in response to comments received, and which do not require additional consultation. A copy of the final version of the LDO and Statement of Reasons and a table setting out the response to representations are attached as Appendix A.

#### **4. Council priorities**

- 4.1 The Council has committed to focus on three priorities in the Corporate Plan and one of these is the economy. Establishing a Local Development Order will support the delivery of the Black Country Enterprise Zone which will lead to economic growth and job creation.

#### **5. Risk management**

- 5.1 There is a risk of legal challenge if it cannot be demonstrated that the LDO is compliant with current planning policy and if the drawing up of the LDO does not comply with the legal requirements including a requirement for consultation.

#### **6. Financial implications**

- 6.1 The Council will experience a net income reduction as planning applications will no longer be required for proposals within the LDO area. In the last 5 years the Council has received approximately £165,000 in planning application fees within the LDO boundary. However, simplifying the planning process can contribute to greater investment by businesses which can generate higher business rate returns, strengthen the local economy and reduce reliance on the public sector for employment.

#### **7. Legal implications**

- 7.1 The draft Local Development Order (LDO) has been prepared in accordance with Schedule 4A of the Town and Country Planning Act 1990 (as amended) and Section 34 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

## 8. Property implications

8.1 There are no property implications associated with this matter, although part of the Phoenix 10 site is owned by the Council.

## 9. Staffing implications

9.1 Officers in Development Management will be responsible for the day to day management of the LDO.

## 10. Equality implications

10.1 An Equalities Impact Assessment has been undertaken for this report. The Council is seeking to achieve the highest possible level in the Equality Standard for Local Government. As part of this we are seeking to ensure that wherever possible our activities ensure a positive impact is made on people / communities using the 6 equality themes / strands:

- Gender
- Ethnicity
- Age (i.e. young and old)
- Sexuality / sexual orientation
- Religion and or belief
- Disability

## 11. Consultation

11.1 The draft LDO has been the subject of a statutory consultation period.

### Background papers

None

### Author

Simon Tranter  
Head of Delivery and Development  
☎ 652543  
✉ [tranters@walsall.gov.uk](mailto:tranters@walsall.gov.uk)

Joel Maybury  
Principal Regeneration Officer  
☎ 653221  
✉ [mayburyj@walsall.gov.uk](mailto:mayburyj@walsall.gov.uk)



Tim Johnson  
Executive Director  
2 April 2012



Councillor Adrian Andrew  
Portfolio holder  
2 April 2012

## **Appendix A**

Local Development Order

Statement of Reasons

Stage 2 Consultation Responses Table



# Walsall Council

## Darlaston Area Local Development Order 2012

1. This Order is made by Walsall Metropolitan Borough Council (the 'Council') under the powers conferred on the Council as local planning authority by sections 61A-61D and schedule 4A of the Town and Country Planning Act 1990 (as amended) and pursuant to The Town and Country Planning (Development Management Procedure) (England) Order 2010/2184, and shall be known as the Darlaston Area Local Development Order 2012 (the 'Order').
2. The Order relates to land (the 'Area') in the Council's administrative area which comprises part of the Black Country Enterprise Zone sites together with additional land in the immediate vicinity, as edged in red and depicted on the plan attached at Schedule 1 (the 'Plan').
3. The key and additional depictions on the Plan shall have effect for the interpretation of this Order but where there is any inconsistency between the wording of the Order and the Plan the wording of this Order shall take precedence.
4. This Order authorises development of the type set out in Schedule 2 subject to:
  - (a) the definitions, limitations and restrictions in that Schedule;
  - (b) compliance with Schedule 3; and
  - (c) compliance with the preamble to, and conditions set out in, Schedule 4.
5. Definitions in the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO) apply in the interpretation of Schedule 2 unless expressly stated otherwise.
6. This Order was adopted by the Council on [ ] 2012 and shall be in force until [ ] April 2015 when it shall expire.
7. On expiry the Order may be renewed in the same or a different form when it will be subject to re-consultation.
8. The Council has made this Order for the reasons set out in the Statement of Reasons that appears with this Order.
9. The Schedules form part of this Order and the words in the Schedules have the same meanings as provided in the body of this Order unless expressly stated otherwise.
10. The address for submission of all communications in relation to operation of this Order is: Head of Planning and Building Control, Regeneration Services, Walsall MBC, Civic Centre, Darwall Street, Walsall, WS1 1TP but this Order authorises the Council to substitute another address by 28 days prior notice of the change on its web-site [www.walsall.gov.uk](http://www.walsall.gov.uk)

Date:

Authorisation



# Schedule 1

The Darlaston Area Local Development Order 2012 (The 'Plan')





## Schedule 2

Subject to the restrictions and limitations in this Schedule; compliance with the Pre Information process; the directions in Schedule 3 and the preamble to, and conditions in Schedule 4, the following development is authorised within the Area:

***Development for uses falling within use classes B1(b), B1(c), B2 and B8 of the Town and Country Planning (Uses Classes) Order 1987 (as amended) (the UCO).***

***and in addition, within Sub Zone A, the Order allows for;***

***Development for waste management and waste treatment use deemed to be Sui Generis under the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO).***

The Simplified Planning regime applicable to the LDO Area will be subject to the following general limitations;

- (a) Change of use of existing buildings to provide for B1(b), B1(c), B2 or B8, or for waste management or waste treatment use within Sub Zone A, to a maximum gross external floorspace of 5000 sq.m.
- (b) Erection of new buildings to be used for B1(b), B1(c), B2 or B8 purposes, providing individual buildings do not exceed 15m in height, except within Sub Zone B where within 10m of a boundary with residential or education land uses, no building or part of a building shall exceed 5m in height.
- (c) Erection of new buildings to be used for B1(b), B1(c), B2 or B8 purposes providing individual buildings do not comprise a gross external floorspace greater than 5000 sq.m.
- (d) Enlargement of existing buildings to accommodate B1(b), B1(c), B2 or B8 land uses within the Area to a maximum additional 1000 sq.m. gross external floorspace (as at the commencement of the Order) and not exceeding 15m in height, except in Sub Zone B where within 10m of a boundary with residential or education land uses, the height shall not exceed 5m.
- (e) Erection of new buildings for waste management or waste treatment use, within Sub Zone A providing this does not exceed 15m in height nor comprise a gross external floorspace greater than 5000sq.m.
- (f) Enlargement of existing buildings accommodating existing waste treatment and waste management use within Sub Zone A to a maximum total additional 1000 sq.m gross external floorspace (as at the commencement of the Order) and not exceeding 15m in height.
- (g) Demolition of buildings and replacement with new buildings for B1(b), B1(c), B2, B8 purposes or for waste management and/or waste treatment use, subject to (b) (c) and (e) above and the directions within Schedule 3.

- (h) Minor works associated with new or established B1(b), B1(c), B2 or B8 uses within the Area and associated with buildings for waste management and waste treatment use within Sub Zone A, comprising car parking, hard standing, landscaping and storage areas only, subject to the preamble and conditions specified in Schedule 4.

**Development not permitted under this Order;**

1. Any development in relation to which the requirements for the Pre-Information and/or supply of statements, assessments and surveys as required by Schedule 3 are not complied with;
2. Any development in relation to which following the supply of Pre-Information as required by paragraph 1 of Schedule 3, the local planning authority has informed the developer in writing that the development proposed is not development authorised by this Order;
3. Any development in relation to which, following the supply of Pre-Information as required by Schedule 3, the local planning authority has informed the developer in a screening opinion pursuant to The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 that the development proposed is development requiring environmental impact assessment;
4. Any development that comprises Schedule 1 or Schedule 2 development of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011;
5.
  - a) Any development affecting the fabric of a listed building or scheduled ancient monument or lying within the curtilage of a listed building or scheduled ancient monument, unless the local planning authority has determined that the development proposed would not require listed building or schedule ancient monument consent;
  - b) Any development would break a condition or limitation of an existing and implemented planning permission for development in classes B1b, B1c, B2, B8, or in Sub Zone A sui generic waste processing, or would breach the provisions of any related planning obligation made pursuant to Section 106 of the Town and Country Planning Act 1990.
6. Any development in relation to which, following the supply of Pre-Information and/or assessments as required by Schedule 3, the local planning authority informs the developer that the proposed development would entail effects that cannot be adequately mitigated in accordance with the relevant condition as to mitigation in Schedule 4 to this Order;
7. Any development in relation to which following the supply of prior information, as required by Schedule 3, the local planning authority has informed the developer in writing that the development proposed is not development authorised by this Order for either of the following reasons:
  - (a) The inclusion in the proposal of associated development falling outside that permitted under the LDO, which has not been specifically agreed in writing with the local planning authority;

- (b) The development is considered, individually or cumulatively, to give rise to significant or substantial impacts on human health, protected species, flood risk or highway network which cannot be appropriately mitigated in accordance with the preamble and conditions as set out in Schedule 4;
- 8. Ground reclamation works, including mineral extraction, landfilling and the deposition of waste onto land;
- 9. The incineration of waste, the composting of organic waste (unless in an enclosed vessel) and the management of hazardous waste;
- 10. Any development that would otherwise affect a Highway Improvement Line, as confirmed under the Darlaston Strategic Development Area Access Project;
- 11. Change of use of land alone for the purposes of open storage;
- 12. Change of use of land alone for waste management or waste treatment works.

### Schedule 3

#### The Darlaston Area Local Development Order 2012 - Pre Information Schedule

Where an applicant has addressed the necessary transport, environmental and ecological surveys for any proposed scheme, the respective elements of the Pre-Information Schedule, as indicated in the following table, will be satisfied;

Pre-Information Schedule		
	Requirement	Reason
1	<p><b>Pre Information Form:</b></p> <p>Prior to the commencement of development, a completed 'Local Development Order Pre- Information' form shall be completed and submitted to the local planning authority.</p> <p>Within 28 days of submission of this form, the local planning authority shall confirm in writing whether the proposed development is permitted under this Order.</p> <p>Prior to the local planning authority confirming whether the propose development is permitted under the Order, the local planning authority shall consult with the relevant stakeholders.</p> <p>If the proposal is not considered permitted under this Order a planning application will be required if the development is to proceed unchanged.</p> <p>The Pre-Information process includes an EIA Screening Request.</p> <p>Accordingly, a request for an Environmental Impact Assessment Screening Opinion under the Town and Country Planning</p>	<p>To ensure that the proposed development complied with this order.</p> <p>See Guidance Note 1</p> <p>To ensure that any new development is not an EIA development</p> <p>EIA development is not permitted</p>

	<p>(Environmental Impact Assessment) Regulations 2011 (or any subsequent amended legislation) shall be submitted to and assessed by the Council.</p> <p>This request must identify the kind, location, scale, height and operation proposed and shall be provided as part of the above 'Pre Information' process.</p> <p>The local planning authority will provide the developer with a formal Screening Opinion with 28 days of receipt of the EIA Screening Request and information.</p>	<p>through this Order</p> <p>See Guidance Note 2</p>
<p><b>2</b></p>	<p><b>Details:</b></p> <p>As part of the 'Pre-Information' process and before commencing any development, full details (including location plans, site layout, boundary treatment and elevation drawings shall be provided to the local planning authority)</p> <p>In addition, specifications where appropriate shall be provided to the local planning authority for all of the following where relevant to the Development:</p> <ul style="list-style-type: none"> <li>• A scheme specifying any associated external storage and any means of enclosure;</li> <li>• External plant and machinery details where appropriate;</li> <li>• The appropriate assessments and surveys in relation to air quality and noise;</li> <li>• Adequate assessment of land and groundwater contamination to demonstrate that the site is suitable for the proposed development without remediation, other than minor mitigation works;</li> <li>• Relationship of any buildings or works to any boundary with: <ul style="list-style-type: none"> <li>- a canal</li> <li>- a river or stream</li> <li>- the M6 Motorway</li> <li>- a strategic highway</li> <li>- a railway, and/or</li> <li>- a proposed Rapid Transit route</li> <li>- Sites or features identified on Walsall's Historic Environment Record.</li> </ul> </li> <li>• External lighting;</li> </ul>	<p>In the interests of local amenity</p> <p>See Condition 1</p> <p>See Condition 2</p> <p>See Condition 9</p> <p>See Condition 10</p> <p>See Guidance Notes 4 and 8</p>
<p><b>3</b></p>	<p><b>Drainage and Fluvial Flood Risk:</b></p> <p>As part of the 'Pre Information' process, any development on sites exceeding 1Ha (gross) shall require the submission of a Flood Risk Assessment, in accordance with PPS25; Development and Flood Risk. Within areas identified as falling within Flood Zones 2 or 3 a FRA will be required for all development.</p> <p>Where the FRA recommends mitigation measure to reduce the flood risk or water management issues, the Council will confirm</p>	<p>To ensure that the proposal does not have an adverse impact upon flood risk</p> <p>Development that has an adverse impact on flood risk which cannot be appropriately</p>

	<p>that the proposal is permitted under this Order subject to the recommended mitigation measures set out in the FRA being incorporated and/or implemented within the development.</p> <p>Development that gives rise to significant flood risk or water management issues which cannot be mitigated appropriately as part of the development the proposal will not be permitted under this Order. If this is the case, the Council will clearly identify that procedure.</p>	<p>mitigated through on site works is not permitted under this Order.</p> <p>See Condition 7</p> <p>See Condition 12</p> <p>See Guidance Note 3</p>
<p><b>4</b></p>	<p><b>Traffic Generation and Air Quality:</b></p> <p>As part of the 'Pre Information' process, a Transport Statement or a Transport Assessment in accordance with 'Guidance on Transport Assessment' (DfT, 2007) will be required for any development that exceeds 3000 sq.m., gross external floorspace in total, including a change of use.</p> <p>Transport Statements/Assessments must be submitted to the Council and agreed in writing with the Council, prior to the commencement of development.</p> <p>Where the Transport Statement/Assessment recommends mitigation measures to reduce the impact on the road network, the Council will confirm that the proposal is permitted under this Order subject to the recommended mitigation measures set out in the Transport Statement/Assessment being incorporated and/or implemented within the development. In accordance with conditions as set out in Schedule 4 of this Order.</p> <p>Proposals which have a detrimental impact upon the highway network and/or surrounding residential areas and/or significant negative air quality impact are not permitted under this Order unless appropriate mitigation to moderate any such impacts to an acceptable level can be identified and agreed in writing with the Council.</p>	<p>To ensure that traffic generated by the new development can be accommodated on the road network in the interests of highway safety.</p> <p>Proposals which have a detrimental impact upon the highway network and/or a significant negative air quality impact are not permitted under this Order.</p> <p>See Condition 4</p> <p>See Condition 10</p> <p>See Condition 11</p> <p>See Guidance Notes 4 and 6</p>
<p><b>5</b></p>	<p><b>Ecological Surveys:</b></p> <p>As part of the 'Pre Information' process an Extended Phase 1 Habitats Survey will be required on sites with the characteristics below to assess the ecological value of the site, identify the impacts from the proposed development and to advise on appropriate mitigation/ compensation:</p> <ul style="list-style-type: none"> <li>• Within or adjacent to a canal corridor;</li> <li>• Within or adjacent to the River Tame corridor;</li> <li>• Within or adjacent to any Site of Local Importance for Nature Conservation (SLINC) site.</li> <li>• Or other areas as appropriate.</li> </ul> <p>Bat surveys may be required prior to the demolition or alteration of any buildings or structures within or adjacent to the above sites.</p> <p>In those instances where the survey identifies no significant impact or makes recommendations as to how the impact can be</p>	<p>In the interests of protecting and enhancing protected species and their habitats.</p> <p>Proposals that have adverse impacts upon protected species and habitats are not permitted under this Order.</p> <p>See Condition 10</p> <p>See Guidance Note 7</p>

	<p>mitigated through on site works and/or scheme amendments, the Council will confirm that the development complies with this Order on the basis that the proposal is carried out in accordance with the recommendations of the survey.</p> <p>In those instances where the surveys identify that there are significant impacts to the protected species which cannot be mitigated on site and require off-site works, the Council will not be able to confirm that the proposal is in line with this Order on the basis that there is adverse impact on protected habitats or species. This will form part of the Council's response to the Pre-Information process.</p>	
--	---	--



## Schedule 4

The Darlaston Area Local Development Order 2012;

Development shall only take place in accordance with the conditions as specified within the following table which should be complied with in perpetuity. Where details need to be agreed with the Council, these need to be fully implemented prior to occupation (unless otherwise stated within the following table) unless otherwise agreed in writing by the local planning authority.

Conditions Table		
<b>1</b>	<p><b>Design:</b></p> <ul style="list-style-type: none"> <li>a) Plot usages, external materials, servicing and car parking shall be designed implemented and built in accordance with the guidelines set out in the Council's 'Designing Walsall SPD.</li> <li>b) Open storage of any goods, including waste material, shall be appropriately contained and/or screened and shall not exceed a height of 5m and shall not take place within Sub Zone B within 8m of a boundary with residential or education land uses.</li> <li>c) External waste storage within Sub Zone A shall not exceed 8m in height and shall be appropriately contained. Areas to be used for waste storage shall be surfaced and drained in accordance with details agreed in writing with the Council and implemented.</li> <li>d) Built plot ratios for new development shall not exceed 60% of site area.</li> <li>e) New buildings must have regard to existing building lines.</li> <li>f) The distance between new buildings / enlargements of existing buildings and primary roads shall not fall below 8m and between new buildings and secondary highways should not fall below 3m, unless agreed in writing by the local planning authority.</li> <li>g) Means of enclosure and landscaping of sites to be agreed in writing with the Council. Landscaping shall provide effective visual and ecological enhancement.</li> <li>h) Details of all external lighting need to be agreed in writing with the Council</li> </ul>	<p>In the interests of achieving high quality sustainable design and efficient use of land and to ensure the development is of an appropriate mass, scale and form for its location.</p> <p>Reflecting Core Strategy Policies ENV3 'Design Quality', CSM4 'Place Making', GSP3 'Environmental Infrastructure', ENV1 'Nature Conservation' and ENV4 'Canals' and UDP Policies ENV11, ENV23, ENV32 and ENV33 on 'design and landscaping', GP2 'Environmental Protection'; Designing Walsall SPD; Natural Environment SPD; Manual for Streets.</p> <p>See Guidance Notes 3, 4 and 8</p>

2	<p><b>Environmental Quality:</b></p> <p>The siting of external plant and machinery needs to be agreed in writing with the Council</p> <p>Within Sub Zone B development shall be designed, managed and operated to ensure that noise does not exceed critical health effect criteria to prevent sleep interference during night-time hours and moderate annoyance during daytime hours.</p> <p>Within Sub Zone B development shall be designed, managed and operated to ensure that noise does not give rise to external noise levels at educational establishments exceeding criteria stipulated in Building Bulletin BB93.</p>	<p>To satisfy the quality standards as set out in Core Strategy Policy ENV3 Design Quality and in order to reduce the developments contribution to climate change and in the interests of residential amenity in accordance with UDP Policies ENV10 and ENV12.</p> <p>See Guidance Notes 4 and 8</p>
3	<p><b>Design – Renewable Energy :</b></p> <p>Development of more than 1000 sq.m. must incorporate generation of energy from renewable sources sufficient to offset at least 10% of the estimated residual energy demand of the development on completion. The use of on site and or off site sources should be considered, unless it is demonstrated to and agreed by the Council that it is unfeasible or not viable to do so.</p>	<p>In accordance with Core Strategy Policy ENV7 Renewable Energy, in the interests of reducing the developments carbon emissions.</p> <p>See Guidance Note 9</p>
4	<p><b>Highways:</b></p> <p>Prior to commencement details of servicing arrangements and the overall layout, detailing the proposed arrangement of access points onto the highway and visibility splays are submitted to and agreed in writing by the local planning authority.</p> <p>Prior to commencement full details of any off-site highway works, shall be submitted to, and agreed in writing by, the local planning authority.</p> <p>For any new buildings of 3000 sqm or more, a Travel Plan Statement/Travel Plan is to be submitted to and agreed with the Council and implemented.</p>	<p>To promote sustainable development and sustainable transport choices, in line with Core Strategy Policy TRAN2 Managing Transport Impacts and New Development and with reference to UDP Policies T1 and T10 to T13.</p> <p>See Guidance Note 7</p>
5	<p><b>Parking:</b></p> <p>Turning areas and parking facilities are to be provided in accordance with the parking standards set out in saved policies within the UDP and are to be properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and retained therein after.</p>	<p>To ensure new development is completed in accordance with the Council's adopted standards in UDP Policies T7 and T13 on car parking.</p> <p>See Guidance Note 7</p>
6	<p><b>Drainage:</b></p> <p>Prior to the commencement of any development under this Order, details shall be submitted and approved of the means of disposal of foul and surface water drainage from the</p>	<p>To ensure adequate provision is made in respect of foul and surface water disposal from the</p>

	<p>development.</p> <p>The approved scheme shall be implemented to the satisfaction of the Council before the development is brought into use.</p>	<p>site and to promote the use of SUDS Strategies.</p> <p>Core Strategy Policy ENV5 Flood Risk, Sustainable Drainage Systems and Urban Heat islands, UDP Policy ENV40 and the Natural Environment SPD</p> <p>Guidance Note 3</p>
7	<p><b>Deliveries:</b></p> <p>Within Sub Zone B there shall be no deliveries dispatched or received and no unloading or loading or external stacking or arranging materials or packaging between 2100 hours and 0700 hours or at any time on Sundays and Bank/Public Holidays, unless otherwise agreed in writing by the Council.</p>	<p>In the interests of residential amenity and UDP Policy ENV10 Pollution.</p> <p>See Guidance Note 4</p>
8	<p><b>Hours of Operation:</b></p> <p>Within Sub Zone B there shall be no process or operations taking place between the hours of 2100 and 0700 hours or at any time on Sundays and Bank/Public Holidays, unless otherwise agreed in writing by the Council.</p>	<p>In the interests of residential amenity and UDP Policy ENV10 Pollution and UDP JP8 Bad Neighbour Industrial Uses.</p> <p>See Guidance Note 4</p>
9	<p><b>Contamination:</b></p> <p>Prior to the commencement of any development under this Order there shall be submitted to the Council in respect of the land to be developed a scheme to deal with contamination of land and/or groundwater, including soil contamination, ground/surface water contamination, landfill gas, leachates and stability.</p>	<p>Land may be contaminated as a result of past or current activity. The Council wishes to ensure that the proposed development can be implemented and occupied with adequate regard to public health, environmental public protection.</p> <p>UDP Policies GP2 Environmental Protection and ENV14 Development of Derelict and Previously Developed Sites.</p> <p>See Guidance Note 10</p>
10	<p><b>Survey Recommendation – Mitigation:</b></p> <p>Where the Council has confirmed in its formal response to the Pre Information Process, that the proposal conforms with this Order subject amongst other things to the recommendations set out in the FRA, Transport Statement and/or ecological/environmental surveys/assessment, as appropriate, the development shall be carried out and/or implemented in accordance with the specified recommendations in the FRA, Transport Statement and/or environmental surveys including any mitigation measures that may be identified.</p>	<p>In the interests of minimizing the impact upon the highway network, controlled flood risk and waters and the local ecology and for the protection of human health and safety.</p> <p>Core Strategy Policy TRANS2 Managing Transport Impacts of New Development</p>

		<p>Core Strategy Policy ENV5 Flood Risk, Sustainable Drainage Systems and Urban Head Islands</p> <p>Core Strategy Policy ENV1, UDP Policy ENV23, Natural Environment SPD.</p> <p>Saved UDP Policy ENV10</p> <p>See Guidance Notes 3, 4 and 7</p>
11	<p><b>Roads – Provided to adoptable standard</b></p> <p>Any roads and/or footpaths, that are to be adopted, within any development permitted under the Order, shall be constructed in accordance with details to be submitted and approved in writing by the local planning authority.</p>	<p>In the interests of highway safety</p> <p>See Guidance Note 6</p>



**Walsall Council**

**DARLASTON AREA LOCAL DEVELOPMENT ORDER**

**STATEMENT OF REASONS**

## **CONTENTS**

- 1.0 INTRODUCTION**
- 2.0 RELEVANT CONTEXT**
- 3.0 SIMPLIFIED PLANNING REQUIREMENT FOR ENTERPRISE ZONES**
- 4.0 POLICY BACKGROUND AND JUSTIFICATION FOR CREATING A LOCAL DEVELOPMENT ORDER IN DARLASTON**
- 5.0 LOCAL DEVELOPMENT ORDER AREA CONTEXT**
- 6.0 DESCRIPTION OF DEVELOPMENT PERMITTED BY THE LOCAL DEVELOPMENT ORDER**
- 7.0 HOW THE LOCAL DEVELOPMENT ORDER WILL WORK**
- 8.0 LIFETIME OF THE LOCAL DEVELOPMENT ORDER**
- 9.0 CONCLUDING REMARKS**

## **APPENDICES**

- (i) Location Plan – indicating Enterprise Zone Sites**
- (ii) The Local Development Order Plan – indicating Sub Zones A and B**
- (iii) Table providing further Guidance Notes**



## 1.0 INTRODUCTION

- 1.1 The Department of Communities and Local Government (DCLG) has announced the creation of the Black Country Enterprise Zone which includes a cluster of sites in Darlaston on either side of the M6 motorway and linked to the M54 motorway via one junction. These sites comprise some 45 hectares (net) developable land and provide an important strategic opportunity and a signal of change for private sector growth. The Darlaston sites provide the opportunity for “a custom and practice supply chain locality” for just-in-time delivery of critical engineering intensive components for the advanced engineering sector such as the new Jaguar Land Rover engine plant at the site known as ‘i54’.
- 1.2 A requirement of Enterprise Zone status is that a simplified planning regime is established as part of a suite of incentives to support growth, attract new businesses and create jobs. The Council believes there is considerable benefit in supporting business activity across the identified Enterprise Zone sites. It wishes to enable the business sector to be able to bring these sites forward for development easily and quickly with simplified fast track procedures to attract investment and hence to support the Black Country Joint Core Strategy.
- 1.3 Various mechanisms can be adopted by a local planning authority to achieve a simplified approach to planning but the method preferred by Walsall MBC is the adoption of a Local Development Order. The preparation of A Local Development Order was therefore agreed by the Council at its Cabinet meeting on the 9<sup>th</sup> November 2011.
- 1.4 Local Development Orders (LDO’s) can allow certain types of development to be undertaken without the need for a specific planning consent to be obtained, provided that the development complies with the requirements and conditions set out in the Order.
- 1.5 Although 15 specific sites are included across the Darlaston area (14 of which are included within the LDO Area), the Council believes that there are benefits for other nearby land – although not qualifying for the financial incentives provided by the Enterprise Zone – to be included within the simplified planning regime provided by the LDO. Consequently the Darlaston Area LDO relates to an area of 144.23 hectares, as indicated on the location plan, attached at Appendix (i). i.e. the LDO area contains not only the designated Enterprise Zone sites but also additional land.
- 1.6 The Order specifically allows certain development falling within Class B1(b) – research and development of products or processes; Class B1(c) – light industry; Class B2 - general industry; use for the carrying out of an industrial process other than one falling in Class B1 and Class B8 – warehousing and distribution, as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended), together with uses associated with waste management and or waste treatment which are deemed to be ‘sui generis’ under the Use Classes Order. All proposed uses are subject to limitations and conditions as explained within this Statement.

## **2.0 RELEVANT CONTEXT**

- 2.1 The purpose of the Black Country Enterprise Zone is to create sustainable private sector-led, economic growth. Development within the Zone will be expected to be in line with the Black Country Joint Core Strategy (BCJCS) and Unitary Development Plan (UDP) employment policies and proposals. It will also be expected to help address the local employment issues identified in the Walsall Local Economic Assessment (2011) and the Walsall Employment Land Review (2010).
- 2.2 The Enterprise Zone forms part of a wider package of measures designed to regenerate the Darlaston area. This includes the £26M Darlaston Strategic Development Area Access Project for which funding was confirmed by Government in December 2011. This is a major infrastructure project which will improve existing roads, junctions and bridges boosting the viability of existing businesses and making the Darlaston area more attractive to new inward investment.
- 2.3 The Enterprise Zone will offer; business rate discounts; enhanced capital allowances on selected sites; access to superfast broadband and a genuinely simplified approach to planning. It is proposed that these benefits will be available from April 2012.
- 2.4 The traditional planning system has been perceived to be a barrier to economic growth due to the costs and time associated with preparing and submitting a planning application, with little certainty of the outcome. In being proactive and identifying what development is acceptable within the Black Country and specifically the Darlaston Area LDO area, the Council is seeking to complement the financial incentives offered through the Enterprise Zone and stimulate economic growth. In removing the need for individual businesses to apply for some planning consents, it is considered that the LDO will assist in the creation of an environment within which businesses can start-up and grow.

## **3.0 SIMPLIFIED PLANNING REQUIREMENT FOR ENTERPRISE ZONES**

- 3.1 One of the conditions attached to the designation of Enterprise Zone sites is that they offer simplified planning rules. The Government is promoting the use of Local Development Orders (LDO) as a means to simplify the process. LDOs are an existing part of the planning system having been introduced through by the Planning and Compulsory Purchase Act (2004).
- 3.2 An LDO grants planning permission for a specified type and/or scale of development, subject to conditions where appropriate. It essentially sets out the type of development that will no longer need to be subject to a planning application. If the requirements of an LDO are met, the development can proceed without a specific grant of planning permission by the Council.
- 3.3 The LDO which is subject to this Statement of Reasons (hereinafter referred to as the 'Order') applies to the Darlaston part of the Black Country Enterprise Zone and a number of other adjoining sites. The Order sets out the type of development that will be permitted to support the aims of the Enterprise Zone. Any development proposal

beyond the scope of the Order will need to be considered through the normal planning application process.

- 3.4 It is important to note that the Order does not remove the requirements of other statutory regulation and consent regimes, such as the Building Regulations, Listed Building Consent, Advertisement Consent and Hazardous Substances Consent. These will all need to be obtained where appropriate through the existing regimes. In addition it is important to note that the Order does not remove other forms of statutory regulation including the Habitat Regulations, Environmental Impact Assessment and protected species legislation.
- 3.5 If any highway or public rights of way are affected by development permitted by this Order, then the necessary statutory procedures through either the Highway Act or Town and Country Planning Acts will still apply.

#### **4.0 POLICY BACKGROUND AND JUSTIFICATION FOR CREATING A LOCAL DEVELOPMENT ORDER IN DARLASTON**

- 4.1 The Black Country Joint Core Strategy (BCJCS) was adopted on 3<sup>rd</sup> February 2011 and now forms the basis of the Black Country Authorities' Local Development Framework. The BCJCS defines a number of Regeneration Corridors which are key to the delivery of economic growth within the area (Policy CSP1 'Growth Network').
- 4.2 The Darlaston LDO area and the EZ sites are located within Regeneration Corridor 6: Darlaston, Willenhall, Wednesfield. As such the LDO area will be a key contributor to the Growth Network of the Black Country and the delivery of its aims.
- 4.3 The Walsall Unitary Development Plan is also of relevance, as 'saved' Policy JP1 'New Employment Sites' defines a series of sites allocated for employment use within the Walsall area. Five of the allocated sites have since been defined as EZ sites. Additionally, Policy JP5 'Core Employment Areas' defines a number of core employment areas. Within these areas land will be safeguarded for core employment uses, permissions for which may be subject to conditions to prohibit change to other uses. The Core Employment Area includes a significant amount of the LDO area.
- 4.4 A detailed strategy for the Regeneration Corridors is set out in Appendix 2 of the BCJCS. Regeneration Corridor 6 is recognised as one of the main gateways to the Black Country, leading from Junction 10 of the M6. It is seen as having the potential to provide first class quality employment land for knowledge-led manufacturing and logistics businesses serving the regional economy.
- 4.5 The Corridor contains a number of large existing industrial areas, one being the Darlaston Strategic Development Area (SDA). The Darlaston SDA is listed as a key opportunity in relation to high quality industry.
- 4.6 The Corridor also includes a number of strategic waste management facilities, all of which fall within the LDO area. These are to be retained in waste management use, and uses which are unlikely to be compatible should avoid locating near them (BCJCS Policy WM2). New waste management facilities will also be permitted

elsewhere within the retained employment areas of Darlaston (SDA), Longacres and Neachells.

4.7 These BCJCS policies, along with the saved employment land allocations from Walsall's Unitary Development Plan, form the policy basis for the designation of the Darlaston LDO. The LDO will assist in realising the economic growth aims of the BCJCS, while also according with other adopted policies and guidance relating to the protection of the environment and local amenity.

4.8 While the LDO was drafted and consulted on prior to the publication of the National Planning Policy Framework (NPPF), it is considered that the final draft of the LDO accords with the aims and guidance of the NPPF. Paragraph 199 of the NPPF states that:

*'Local planning authorities should consider using Local Development Orders to relax planning controls 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, such as boosting enterprise.'*

4.9 In accordance with the NPPF, the LDO will contribute to building a strong, responsive and competitive economy, while supporting strong, vibrant and healthy communities and protecting and enhancing our natural, built and historic environment.

## 5.0 LOCAL DEVELOPMENT AREA CONTEXT

### - Development Context

5.1 Unlike other LDO areas across the Country, the proposed area in Darlaston comprises a broad area and contains land specifically identified as individual Enterprise Zone sites, together with additional adjacent land. The Location Plan attached at Appendix (i) shows the location of the Enterprise Zones and the boundary of the LDO.

5.2 Particular regard has been paid to the 'Bentley Road South Pitches' Enterprise Zone Site. This site was given Enterprise Zone status based on the existing employment allocation of the site, firstly allocated by the Black Country Development Corporation, and subsequently through the UDP. It was therefore originally considered appropriate to extend the powers of the LDO to include this site. However, in light of:

- How the site has been brought forward through the UDP process;
- Sport England's objection to its inclusion in the LDO; and
- The fact that the removal of the site from the LDO would represent only a minor reduction in the size of the LDO Area and would not result in any negative impacts on residential amenity.

It has been considered appropriate to remove the 'Bentley Road South Pitches' site from the LDO boundary. As such the LDO Area now includes 14 of the 15 Enterprise Zones within the Darlaston Area.

5.3 A number of extant planning consents affect the area. These provide for a wide range of land uses, including retail, residential, employment, open space, office, research and development accommodation, general employment, heavy industrial, storage

and distribution land uses, together with 'sui generis' uses associated with waste management and waste treatment activity.

- 5.4 The area contains some specific consents which have yet to be implemented. If these currently comply, or could be adapted to comply with the LDO limitations then they could proceed under the LDO process. Otherwise they would proceed further to the discharge of all salient conditions under the normal planning application process. Permissions in the area, yet to be implemented, include the following;

1. *The Opal site (shown as site 2a on the Location Plan at Appendix (i)) has Reserved Matters Consent for the erection of a distribution and storage building (B8 purposes) ref: 07/1281/RM, approved October 2010).*

2. *The Onyx site (shown as 2b on the Location Plan at Appendix (i)) has full permission for three stand alone gateway office units of 3 and 4 storeys with related landscaping, balancing pond, car parking and infrastructure (B1(a) purposes) plus B8 (ref: 09/0605/FL)*

3. *The Central Point site (shown as 2k on the Location Plan at Appendix (i)) has full permission for warehouse and distribution units with 2 storey office accommodation (note: this is subject to S106 and discharge of conditions, connected with remediation, which does not appear to have been completed) 07/1798 (with a time extension 10/1346).*

4. *Blakemore's, Steelman's Road Darlaston, ref:11/0170, April 2011, small B8 extension.*

5. *Box Pool Site (2D): permission for expansion/relocation of Darlaston Builders Merchants, ref:11/0005, April 2011.*

6. *Hartshorne, Bentley Mill Close, permission for new storage unit, ref:11/0486, June 2011.*

7. *Crescent Works, Willenhall Rd – permission for new starter units, October 2010, ref:10/1055.*

8. *Heath Rd, FMR Hammond Heat Treatment – permission for refurbishment/redevelopment of existing works for starter units, ref: 11/0184, June 2011.*

9. *Heath Rd, Timber Recovery Centre, August 2011, ref:11/0856.*

10. *Central Point (2K) – permission for storage and distribution 10/1346/TE.*

- 5.5 The known potential constraints affecting the LDO area are set out below, and represent the information available to the planning authority at the time of preparing the Order. It is strongly recommended that any potential developers seek clarification regarding these issues prior to formulating their development proposals. As previously stated, the Order simply permits development under the planning regulations, it does not remove the need to acquire other appropriate consents or comply with other regulations (see paragraph 3.4 above).

- **Utilities**

- 5.6 The area is currently serviced by gas, water and electricity. Western Power Distribution has commented on the current capacity of the electricity network in the area and has confirmed that infrastructure improvements may be required to serve significant new development in the area. This matter is referred to in the limitations / conditions section below.

- **Transport and Access**

- 5.7 Initial consultations have been undertaken with the Highways Agency. As a consequence of these, some parts of the LDO are considered particularly sensitive and are identified as lying within a specifically designated area, where development will be subject to specific limitation and condition. This is discussed in Section 6 of the Statement.
- 5.8 In addition it is important to note the current transport initiatives within the LDO area. This comprises the Dalaston Strategic Development Area Access Project, which entails:
- Bentley Road South - including improvements to the Bentley Road South / Heath Road / Richard's Street junction and the widening of the existing bridges over the canal and railway line to the south of the Marshland Way roundabout.
  - Bentley Mill Way - involving the widening and general improvement of the Darlaston Road / Cemetery Road / Bentley Mill Way junction, and signalisation of Bentley Mill Way as it passes under the James Bridge Aqueduct.
- 5.9 Outside of the LDO area, improvements are proposed at the A4038 Darlaston Road / A4148 Old Pleck Road junction and at the A461 Bescot Road / A4148 Wallows Lane junction. These works will improve access south to Junction 9 of the M6.
- 5.10 The general location of the proposed improved junction and infrastructure related works have been confirmed. Development in these locations is specifically excluded from the Order, so that the provision of the highway works is not prejudiced by the grant of inappropriate planning permissions.

- **Flood Risk**

- 5.11 As a consequence of consultations already undertaken with the Environment Agency, some parts of the LDO are defined as lying within a specifically identified area where development will be subject to specific limitation and condition. This is discussed below in Section 6 of this Statement.
- 5.12 It is expected that the new development should make provision for appropriate surface water drainage and this is addressed in the limitations / conditions section below.
- 5.13 As per the requirements of Planning Policy Statement 25: Development and Flood Risk, any development over 1 Ha in size, or within Flood Zones 2 or 3, will need to submit a Flood Risk Assessment (FRA) for approval by the Council as part of the 'Pre



Information' process. The process of 'approving' the FRA means that the development is acceptable on the understanding and agreement that the proposal must conform to and implement the recommendations set out in the approved FRA.

- 5.14 In those instances where the Council is unable to approve the FRA due to insufficient detail or because of the nature and/or severity of the impacts which it identifies, the Council will be unable to confirm that the proposal is in accordance with the Order. Unless the scheme can be amended to reduce the flood risk resulting from the development (principally through drainage and water management), a separate planning application will be required in order for the Council to fully consider the impacts of the development and where necessary secure the appropriate level of off-site mitigation required.

- **Hazardous Sites**

- 5.15 Sections of the LDO area fall within Health and Safety Executive Consultation Zones and some sites are particularly compromised. The extent of these Consultation Zones has been confirmed as part of initial consultation discussions with the Health and Safety Executive (HSE). As a consequence of discussions with the HSE, some parts of the LDO are defined as lying within a specifically identified area where development will be subject to specific limitation and condition. This is discussed below in Section 6 of this Statement.

- 5.16 It is important to note that the Order does not remove the need for Hazardous Substance Consent. Therefore should a developer wish to bring forward a use in accordance with the Order, which did include the use of hazardous substances, the developer/operator would need to apply for Hazardous Substance Consent in the usual manner.

- **Contamination**

- 5.17 The area has been subject to a number of previous historical land uses. Many of these relate to historic industrial and commercial processes, that by reason of less strict regulation, enabled substances to either be leaked or dumped, resulting in contamination of the ground. Depending on the particular activities undertaken at each site there will be a need to identify likely contaminants and confirm intrusive investigation.

- 5.18 As a consequence of consultations undertaken with the Environment Agency, some parts of the LDO are defined as lying within a specifically identified area where development will be subject to specific limitation and condition. This is discussed below in Section 6 of this Statement.

- 5.19 Given the nature of contamination of some sites in the area, further site investigations and possible remediation will be required to ensure that the land comprising the LDO area is suitable for its end use. Should these details be available, agreed and accepted, the conditions attached to the Order will be addressed and the provisions of the Order will be applicable.

- 5.20 The Council accept that should these details for any individual site come forward early in the lifetime of the Order, this will provide increased certainty for potential developers and make compliance with the Order considerably easier.

- **Environmental Health – Noise and Air Pollution**

- 5.21 Whilst the definition of B1 uses identifies that they must be capable of being undertaken in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. The plant often associated with these uses, including air conditioning units, extraction or ventilation as well as external operations and deliveries and dispatches together can sometimes create disturbance to the amenity of the local area.
- 5.22 In addition, the B2, B8 and waste treatment and management activities proposed, also have potential to give rise to noise, fumes and smells which may also give rise to disturbance.
- 5.23 The area includes or is adjacent to a number of residential properties, education establishments and public spaces. As such it is important to consider the impact of the proposed uses on these properties and spaces.
- 5.24 The aspirations for the wider area are to seek to create a high quality environment which can be used by residents, employees and visitors alike. This makes it essential that noise, fumes and smells in particular are appropriately controlled in an effort to safeguard this aspiration.
- 5.25 Noise, vibration, smells, fumes and air pollutants in general resulting from plant and processes associated with an industrial and commercial activity can in many cases be managed appropriately to limit the impact on sensitive development and local amenity. To ensure that these are designed and located in a manner to minimise the impact upon the surrounding area, the Council's Pollution Control Team can discuss and provide advice on the design, installation and technical requirements prior to a proposal being finalised. In order to ensure that any plant, process or operational proposal is not detrimental to the local and residential amenity or unduly impacting upon sensitive development. Any proposal which requires evening, night time and weekend working and which involves external operations and emissions to air and or noise or vibration beyond site boundaries, must submit details for approval by the Council and implement accordingly.
- 5.26 Noise sources have the potential to create disturbance to the users of buildings within the LDO Area. It is important that appropriate measures are put in place to minimise the disturbance which external noise has on the use and operation of both new and existing buildings and neighbouring users, to ensure the high quality working environment aspirations are achieved.
- 5.27 As a consequence of consultations already undertaken with the Environment Agency with respect to this issue, some parts of the LDO are defined as lying with a specifically identified area where development will be subject to specific limitation and condition. These include a restriction of the hours of operation and delivery (and associated activities), as these can cause particular disturbance to residential properties.

- **Habitats, Protected Species and Green Infrastructure**

- 5.28 As a consequence of consultations undertaken with Natural England, some parts of the LDO are defined as lying within a specifically identified area where development

will be subject to specific limitation and condition. These are discussed below in Section 6 of this Statement.

- 5.29 Parts of the LDO area are designated as a local wildlife site in the Walsall UDP and Black Country Joint Core Strategy. There is a presumption against development of these areas unless the loss of habitat can be adequately compensated for elsewhere. In addition, the site contains habitats which suggest that protected species may be present. The Council has therefore to ensure that the Order allows for the assessment of protected species and shows how they could be affected as result of any new development.
- 5.30 To minimise the potential harm to protected species, the Council will require appropriate survey work to be submitted as part of a 'Pre-Information' process to enable it to determine whether it is appropriate to incorporate any mitigation measures into the proposal. This is explained in Section 7 of this Statement. Natural England has published standing advice in relation to protected species, which sets out further information on the species in question and advice on the content of surveys required.
- 5.31 If surveys are completed and agreed with the Council, that element of the Pre-Information process will therefore be addressed and hence compliance with the Order will be less onerous.
- 5.32 Landscaping will form an important component of any proposal within the LDO area, to ensure the wider design and environmental aspirations are achieved.
- 5.33 The LDO area contains a number of canals and initial consultations have been undertaken with British Waterways. Its statutory position is addressed in the 'Pre-Information' process and will be taken into account by the Council in its assessment of proposals under the Order.

- **Historic Environment**

- 5.34 Consultation with English Heritage has confirmed that there is one statutorily listed structure within the LDO Area (the James Bridge Aqueduct) and one immediately adjacent to the LDO Area (The Globe Inn Public House).
- 5.35 Although it is considered unlikely that development under the Order will significantly affect the setting of these structures, the Council will consider this issue as part of the 'Pre-Information' process.
- 5.36 Where it is determined by the Council's Conservation Officer that the development will have an adverse impact upon the setting of the listed property, the Council will open negotiations with the developer to identify how this impact could be mitigated through scheme amendments.
- 5.37 Additionally, the relationship of any buildings or works to a Site or Feature identified on Walsall's Historic Environment Record will require consideration as part of the Pre-Information stage.
- 5.38 Article 34 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and Circular 01/2006, states that a Council cannot make an LDO which permits development affecting a Listed Building. In those instances where

the Council consider that the proposal will adversely affect the Listed Building and no scheme amendments can be agreed, the Council will be unable to confirm that the proposal complies with the Order. The proposal will therefore have to be the subject of a planning application to gain the appropriate planning and listed building consents.

- 5.39 There are no currently 'Scheduled Ancient Monuments' or features of archaeological importance on site. However due care and attention should be paid when developing the site. Should artefacts of interest be located, these should be reported to the Council's Archaeological / Conservation Officers.

## **6.0 DESCRIPTION OF DEVELOPMENT PERMITTED BY THE LOCAL DEVELOPMENT ORDER**

- 6.1 Reflecting the policy context for the area, as set out above and the aspirations of the Council further to designation of the Enterprise Zones, it is proposed that development falling within the B1(b), B1 (c), B2, B8 land use classifications, further to the Town and Country Planning (Use Classes) Order 1987 (As Amended) and subject to conditions, will be permitted throughout the Area, under the Order:

- Class B1(b) – research and development of products or processes
- Class B1(c) – light industry
- Class B2 - general industry; use for the carrying out of an industrial process other than one falling in Class B1
- Class B8 – use for storage and/or distribution

- 6.2 It is also proposed that, reflecting an existing cluster of waste treatment operations, the Order will also permit, within a defined area known as a sub zone, and discussed below, sui generis development related to waste management and waste treatment activity will be permitted.

- 6.3 Given the nature of the area, the spread of the Enterprise Zone sites, the proximity of sensitive land uses, comments raised by Statutory Consultees and environmental and technical constraints which have been identified through an analysis of the area and summarised above in Section 5, it is considered that specific information is required by the Council. This 'Pre Information' approach is explained in Section 8 below.

- 6.4 Reflecting the encouragement for waste related activity in certain parts of the LDO area and the need to ensure environmental protection in other parts of the LDO area, two sub zones, falling within the larger LDO area, have been identified. Within these sub zones, particular limitations will apply (these are discussed below in 6.11).

***Sub Zone A** comprises a defined area, as indicated on the plan attached at Appendix (ii) and referred to as the 'Plan', where – in addition to the positive provision for B1(b), B1(c), B2 and B8 uses – appropriate waste management activity will be encouraged, including the introduction of new waste technologies where such activities (including the storage and transfer of waste) is undertaken within buildings. Appropriate activities would include re-use, recycling and material recovery (including the treatment and recovery of*

*metals) and the sorting and transfer of waste. Operations involving mechanical, chemical or thermal processes (including anaerobic digestion and in-vessel composting but excluding incineration) would also be acceptable.*

*Outdoor storage and management of waste is presently an important activity in the area and it may be appropriate for such activities to expand or for new operations to be introduced but it is considered most appropriate for this to be considered through conventional planning applications.*

**Sub Zone B** *comprises a defined area, as indicated on the plan attached at Appendix (ii) and referred to as the 'Plan'. It is considered to be of increased environmental sensitivity or close to areas which contain sensitive land use receptors, such as housing and schools where particular conditions will need to be addressed.*

- 6.5 Whilst the aspirations for the area are to deliver a high quality urban design throughout the entire scheme, the Council has tried to ensure only the essential design components and features are conditioned.
- 6.6 It is considered that the conditions set out in the Order are the minimum required to achieve the necessary built quality and environment. High quality urban design across the LDO area is a priority for the Council. As such, the Council strongly urges developers to consider the 'Designing Walsall SPD' during the formulation of design and to strive for development beyond the standard required by conditions in order to deliver the high quality design and environment which is envisaged for the area. Developers are encouraged to make early contact with the Council for further advice and guidance in relation to this matter to ensure that proposals are of a high quality, locally distinctive design and as such will contribute towards the aspirations for the area, as set out above.
- 6.7 It is hoped that, in simplifying the planning rules for development within the LDO area, it will be an additional incentive for those businesses wishing to relocate to the area, or for those local businesses already in the area, wishing to expand. In drafting the Order the Council has endeavoured to ensure that a limited number of details are required for approval; where details are required, it is because site conditions suggest there may be an environmental or amenity issue which needs extra consideration and controls placed upon them to minimise the harm to these features.
- 6.8 In addition, there is a requirement to submit details for consideration by the Council before it can confirm that the development complies with the Order in relation to other areas of regulation and statutory duty for example the Environmental Impact Assessment, protected species, national planning policy and the Council's role as Local Highway Authority.
- 6.9 The Order is not the mechanism which will determine whether a development or business would be applicable for any financial incentives associated with the Enterprise Zone designation as this will be assessed through separate procedures.
- 6.10 Subject to the restriction and limitations in Schedule 2 of the Order; compliance with the Pre-Information process; compliance with the directions attached to Schedule 3 of the Order and the preamble and conditions in Schedule 4 attached to the Order, the following development is authorised within the Area:

***Development for uses falling within use classes B1(b) B1(c) B2 and B8 of the Town and Country Planning (Uses Classes) Order 1987 (as amended) (the UCO),***

***and in addition, within Sub Zone A, the Order will allow for;***

***Development for waste management and waste treatment use deemed to be Sui Generis under the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO).***

- (a) Change of use of existing buildings to provide for B1(b), B1(c), B2 or B8, or for waste management or waste treatment use within Sub Zone A, to a maximum gross external floorspace of 5000 sq.m.
- (b) Erection of new buildings to be used for B1(b), B1(c), B2 or B8 purposes, providing individual buildings do not exceed 15m in height, except within Sub Zone B where within 10m of a boundary with residential or education land uses, no building or part of a building shall exceed 5m in height.
- (c) Erection of new buildings to be used for B1(b), B1(c), B2 or B8 purposes providing individual buildings do not comprise a gross external floorspace greater than 5000 sq.m.
- (d) Enlargement of existing buildings to accommodate B1(b), B1(c), B2 or B8 land uses within the Area to a maximum additional 1000 sq.m. gross external floorspace (as at the commencement of the Order) and not exceeding 15m in height, except in Sub Zone B where within 10m of a boundary with residential or education land uses, the height shall not exceed 5m.
- (e) Erection of new buildings for waste management or waste treatment use, within Sub Zone A providing this does not exceed 15m in height nor comprise a gross external floorspace greater than 5000sq.m.
- (f) Enlargement of existing buildings accommodating existing waste treatment and waste management use within Sub Zone A to a maximum total additional 1000 sq.m gross external floorspace (as at the commencement of the Order) and not exceeding 15m in height.
- (g) Demolition of buildings and replacement with new buildings for B1(b), B1(c), B2, B8 purposes or for waste management and/or waste treatment use, subject to (b) (c) and (e) above and the directions within Schedule 3.
- (h) Minor works associated with new or established B1(b), B1(c), B2 or B8 uses within the Area and associated with buildings for waste management and waste treatment use within Sub Zone A, comprising car parking, hard standing, landscaping and storage areas only, subject to the preamble and conditions specified in Schedule 4.

#### **Development not permitted under this Order**

- 6.11 The following development will not be permitted by the simplified planning regime applicable to the LDO Area;



1. Any development in relation to which the requirements for the Pre-Information and/or supply of statements, assessments and surveys as required by Schedule 3 are not complied with;
2. Any development in relation to which following the supply of Pre-Information as required by paragraph 1 of Schedule 3, the local planning authority has informed the developer in writing that the development proposed is not development authorised by this Order;
3. Any development in relation to which, following the supply of Pre-Information as required by Schedule 3, the local planning authority has informed the developer in a screening opinion pursuant to The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 that the development proposed is development requiring environmental impact assessment;
4. Any development that comprises Schedule 1 or Schedule 2 development of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011;
5.
  - a) Any development affecting the fabric of a listed building or scheduled ancient monument or lying within the curtilage of a listed building or scheduled ancient monument, unless the local planning authority has determined that the development proposed would not require listed building or schedule ancient monument consent;
  - b) Any development would break a condition or limitation of an existing and implemented planning permission for development in classes B1b, B1c, B2 , B8, or in Sub Zone A sui generic waste processing, or would breach the provisions of any related planning obligation made pursuant to Section 106 of the Town and Country Planning Act 1990.
6. Any development in relation to which, following the supply of Pre-Information and/or assessments as required by Schedule 3, the local planning authority informs the developer that the proposed development would entail effects that cannot be adequately mitigated in accordance with the relevant condition as to mitigation in Schedule 4 to this Order;
7. Any development in relation to which following the supply of prior information, as required by Schedule 3, the local planning authority has informed the developer in writing that the development proposed is not development authorised by this Order for either of the following reasons:
  - (a) The inclusion in the proposal of associated development falling outside that permitted under the LDO, which has not been specifically agreed in writing with the local planning authority;
  - (b) The development is considered, individually or cumulatively, to give rise to significant or substantial impacts on human health, protected species, flood risk or highway network which cannot be appropriately mitigated in accordance with the preamble and conditions as set out in Schedule 4;

8. Ground reclamation works, including mineral extraction, landfilling and the deposition of waste onto land;
9. The incineration of waste, the composting of organic waste (unless in an enclosed vessel) and the management of hazardous waste;
10. Any development that would otherwise affect a Highway Improvement Line, as confirmed under the Darlaston Strategic Development Area Access Project;
11. Change of use of land alone for the purposes of open storage;
12. Change of use of land alone for waste management or waste treatment works.

## **7.0 HOW THE LOCAL DEVELOPMENT ORDER WILL WORK**

- 7.1 A Pre-Information Schedule, which supports a Pre-Information process, is set out at Schedule 3, attached to the Order and clarifies the information which the Council will require before it can confirm that development can comply with the Order.
- 7.2 The 'Pre-Information' process must be followed for every proposed development coming forward under the Order. Development cannot be considered lawful development until amongst other things (including other provisions of Schedule 3) the Pre-Information process has been undertaken and the Council has confirmed in writing that the proposal complies with the Order.
- 7.3 Where an applicant has addressed the necessary transport, environmental and environmental surveys for any proposed scheme, the respective elements of the Pre-Information Schedule, as indicated in Schedule 3 will be satisfied.
- 7.4 It is considered that there is a need for the Council to formally confirm, under a simplified approach that development is compliant and that this would provide a number of benefits:
  - allow funding bodies to receive confirmation of the legality of the development;
  - allow for an EIA screening to take place;
  - replace the prior notification process required when property is to be demolished; and
  - can be considered as a grant of planning permission for the purposes of ss. 247 and 248 of the Town and Country Planning Act 1990, allowing, where appropriate, an application to be made for the stopping-up or diversion of public highways or rights of way.
- 7.5 The Council will respond to the Pre-Information submission within 28 days, providing the appropriate information is presented by an applicant. This would allow the LDO system to still comply with Primary legislation, Environmental and European regulations.

7.6 Fundamentally, it would allow compliant development to take place quickly and yet still provide for appropriate environmental safeguards to be in place.

7.7 All development brought forward under the Order must comply with the conditions set out in Schedule 4 of the Order.

- **Pre-Information Process**

7.8 The Pre-information process requires the submission of some information to the Council, including the completion of the Pre-information form. This form will ask for a number of details to be provided by the developer to enable the Council to determine whether the proposal satisfies the requirements of the Order.

7.9 As part of the Pre-Information stage the Council will consult with the relevant Stakeholders with respect to development proposals in the area. The Stakeholders will include (though not exclusively):

- Highways Agency;
- Health and Safety Executive;
- Natural England;
- English Heritage;
- British Waterways;
- Network Rail; and
- Environment Agency.

7.10 Where no significant issues are raised by Stakeholders and the Council concludes that the proposal satisfies the requirements of the Order, it will write to the developer to confirm that the proposal is permitted under the Order; this will occur within 28 days of the receipt of the complete Pre-information form and associated documentation.

7.11 The Pre-information process comprises an EIA Screening Request to be submitted to the Council to enable the Council to determine whether the proposal is deemed to be EIA development. This will require an overview of the development, its location and proposed use; it should also include a deposit copy of the plans and elevations, together with a specification where necessary, to enable the Council to make an informed judgement. If the Screening Opinion provided by the Council identifies that the development constitutes EIA development, development will not be permitted under the Order. Instead, a specific planning application will be required.

7.12 To re-iterate, the Order will not permit any development which is "Schedule 1 development" or "Schedule 2 development" as defined by The Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

7.13 To allow the Council to confirm whether the proposed development falls within either Schedule 1 or Schedule 2 of the EIA Regulations, the 'Pre Information' form requires the developer to submit details of the size, type and use of the proposed development. This information will also include:

- Flood Risk Assessment – for proposals in excess of 1ha gross area;
- Transport Statement or Assessment; and
- An Extended Phase 1 Habitat Survey.

- 7.14 Where the details submitted indicate that there are likely adverse or substantial impacts which cannot be appropriately mitigated through on-site works or via minor scheme amendments, the Council will be unable to confirm that the proposal is in line with the Order. This is because the Order does not permit development which has substantial impacts on the local highway network, protected species or flood risk.
- 7.15 Where the details submitted identify that there are smaller impacts which can be mitigated through on site works and/or scheme amendments, the Council will work with the developer to incorporate these into the proposal. The Council will then confirm that the proposal conforms to the Order on the basis that the findings and recommendations are reflected within the scheme as agreed. It is anticipated that this will reduce the number of separate planning applications required.
- 7.16 Additional guidance notes explaining the Pre-Information process are attached at the end of this Statement.

- **Conditions**

- 7.17 In addition to the Pre-Information process, there are conditions attached to the Order reflecting the Council's policies and design aspirations and to ensure the impacts of the development are minimised and appropriately managed and/or mitigated. In some instances and where some conditions, specified in Schedule 4, require details to be submitted for approval under the Order. It is strongly recommended that these are submitted at the same time as the Pre-Information, to enable the Council to agree in writing, all the details in one stage; speeding up the process and removing barriers to delay.
- 7.18 These additional details, set out in full in Schedule 4 of the Order, include the following matters but may not be required for every proposal:
- A scheme identifying any associated development falling outside that permitted under the Order;
  - Plant, machinery and process details, where appropriate;
  - External waste and refuse storage;
  - Ambient and background noise assessment;
  - Air quality impact appraisal;
  - Surveys and assessments relating to land contamination.
- 7.19 The Council will be unable to agree these scheme details if they are considered to be detrimental to the local environment or residential amenity. Again, where amendments to these details can be made to minimise these impacts, the Council will enter into negotiations with the developer to achieve a scheme which is appropriate.
- 7.20 The Council has endeavoured to keep the conditions attached to this Order to the minimum required to ensure the development meets the needs of the simplified planning process, satisfies the aspirations for the area and ensures there is no adverse impact upon the local highway network, environment or amenity.

- **Policy Implementation, Monitoring and Other Statutory Requirements**

**(i) Statement of policies implemented by the LDO**

7.21 The Order supports the implementation of existing strategies, plans and policies at national, regional and local level. The relevant strategies, plans and policies are listed below:

**National Planning Policy Framework (2012)**

**Regional Policy;**

- Regional Spatial Strategy for the West Midlands

**Local Policy;**

- Black Country Joint Core Strategy - Regeneration Corridor 6, CSP1, WM2, WM4, EMP1, CSP3, CSP4, CSP5, CSM4, ENV1, ENV3, ENV4, ENV5, ENV7, TRAN2, GSP3,
- Walsall UDP Policies – JP1, JP5, JP8, GP2, GP3, T1, T7, T10, T13, ENV10, ENV12, ENV22, ENV11, ENV14, ENV32, ENV33, ENV40,
- Designing Walsall SPD
- Natural Environment SPD
- Urban Open Space SPD

**Supporting Strategies / Reports**

- Walsall Statement of Community Involvement (Consultation Draft 2011)
- Walsall Employment Land Review (Roger Tym & Partners Nov 2010)
- Walsall Local Economic Assessment (2011)
- Sustainability Appraisal of the Black Country Core Strategy (2011)
- Habitats Regulations Assessment of the Black Country Joint Core Strategy (Nov 2008)
- Black Country Strategic Flood Risk Assessment (2009)
- Local Transport Plan (2011)
- Darlaston Strategic Development Area (SDA) Access Project

**(ii) Monitoring Framework**

7.22 The Order will be subject of on-going monitoring to assess its effectiveness in delivering the simplified planning rules which support the Enterprise Zone as well as a means by which any unintended impacts or outcomes of the Order can be identified.

7.23 In addition this monitoring framework will also contribute to assessing the impact and success of the Black Country Enterprise Zone, and in turn the Government's policy of Enterprise Zones. It is important to note that this LDO Monitoring Framework is only a single element of this monitoring activity and will only be able to provide information relating to the establishment of the simplified planning rules as opposed to the impact and success of the financial incentives for example.

- 7.24 The outcomes of the monitoring process in relation to the Order will be reported in the Darlaston Local Development Framework Annual Monitoring Report (AMR).

### **(iii) Other Statutory Requirements**

- 7.25 Whilst the Order grants planning permission for certain types of development within the LDO Area, it will remain the responsibility of the developers to ensure that all other statutory requirements beyond the scope of the planning system are adhered to.

- 7.26 Particular attention is drawn to the following legislation:

#### **European;**

- Habitats Directive (92/43/EEC)
- Environmental Impact Assessment (85/337/EEC as amended by Directive 97/11/EC)

#### **National;**

- Wildlife and Countryside Act 1981(as amended)
- Conservation of Habitats and Species Regulations 2010
- The Town and Country Planning (Environmental Impact Assessment) Regulations 2011
- Pollution Prevention and Control Act 1999 and the Environmental Permitting Regulations 2010 and 2011

- 7.27 In addition to above, the Local Development Order does not remove the need to obtain consent under other regimes as appropriate, including:

- Listed Building Consent;
- Conservation Area Consent;
- Hazardous Substance Consent; and
- Advertisement Consent
- Building Regulations
- Site Waste Management Plans
- Waste Management Licensing

## **8.0 LIFETIME OF THE LOCAL DEVELOPMENT ORDER**

- 8.1 Any revision or modification of the Order whereby it becomes more restrictive may open up the liability for compensation for loss /damage directly attributable to the revocation or modification under Section 107 and 108 of the Town and Country Planning Act 1990. The Council therefore wishes to confirm a 3 year life span of the Order, as it is currently proposed.

- 8.2 The expected adoption of the Order by the Council will be in April 2012, with expiry of the Order in April 2015.

- 8.3 The Council has three options available, following the expiry of the Order. They are:

- Revise and re-adopt the Order with the similar conditions and criteria, brought up to date to reflect the latest policy and legislation. This will
- Prepare a new LDO for the area as it has been defined or an amended area. This will also require a period of re-consultation; or
- Return to the established planning regime.

8.4 Any development which has commenced under the provisions of the Order, before expiry will be able to be completed and operated in accordance with the requirements and conditions of the Order.

8.5 The uses which have been developed and implemented under the Order will be allowed to continue to operate following expiry in accordance with the conditions under which they were permitted – i.e. those set out in the Order.

8.6 Following the expiry of the Order, any new development, changes to existing development or changes to the restrictions imposed upon them by the Order's conditions must not take place until the Council has considered whether these changes can be agreed in writing under this conditions of Order by which they were permitted, or whether a planning application is required under the statutory planning regime

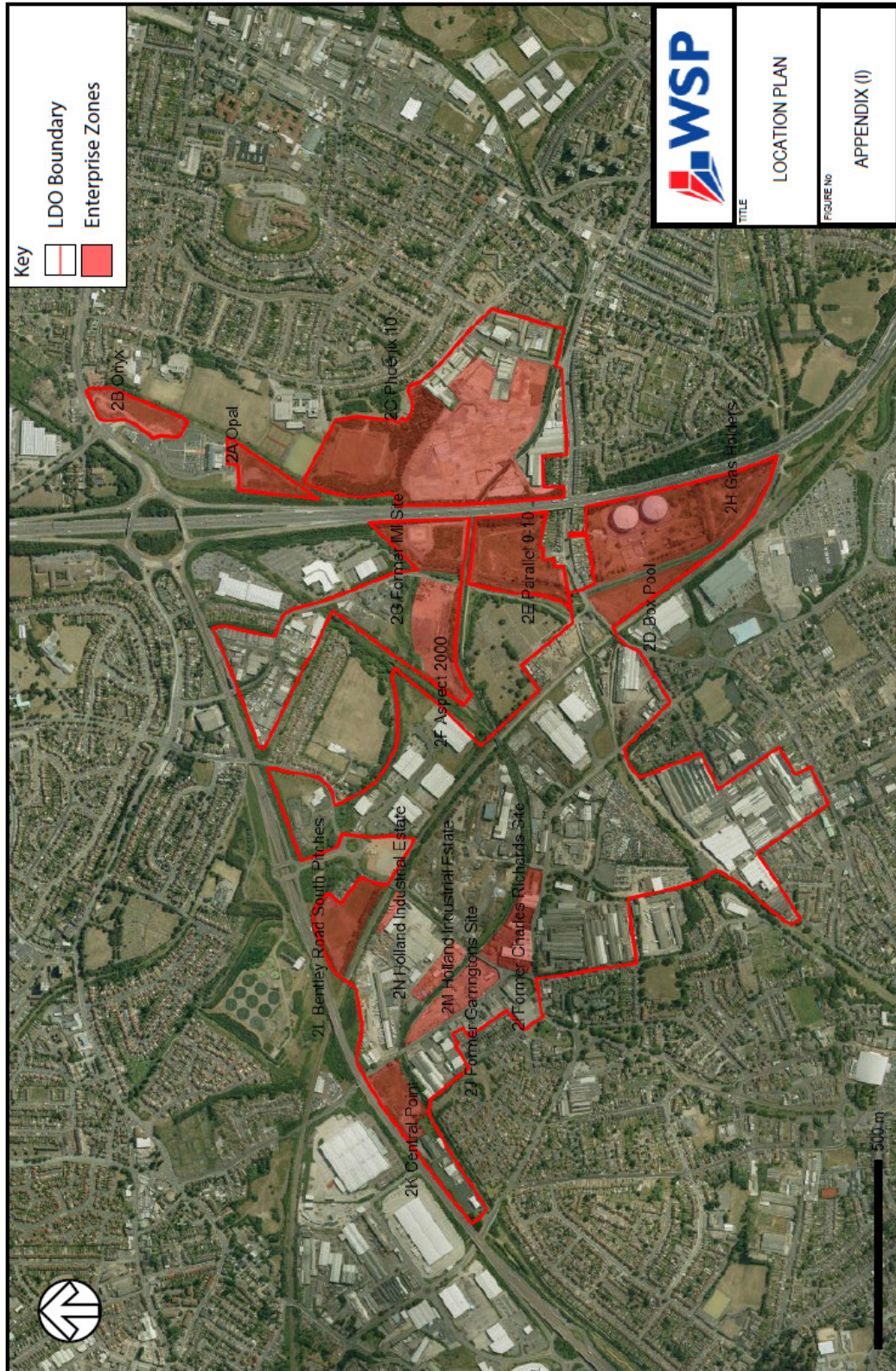
## **9.0 CONCLUDING REMARKS**

9.1 It is considered that the Order will provide for a simplified approach to planning that will encourage the introduction of new employment activity to the area and the expansion of existing operations, in full accordance with the Council's adopted planning policies which encourage employment activity across Darlaston, subject to all necessary environmental checks.

9.2 The use of the Pre-Information process will allow developers to pursue appropriate development quickly and effectively with the minimum of delay and with the support of the Council.

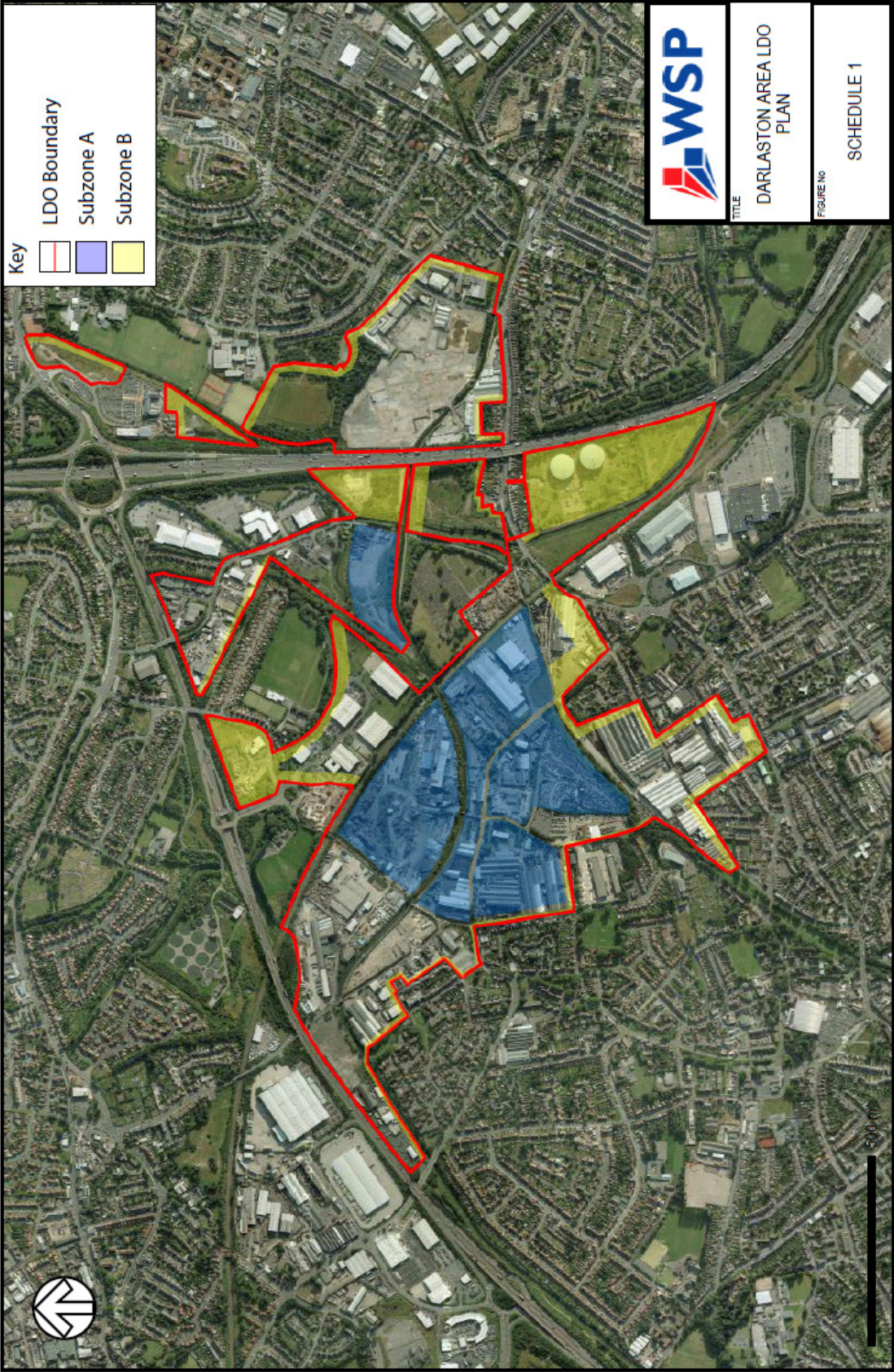


Appendix (i) Location Plan – indicating Enterprise Zone Sites





Appendix (ii) The Local Development Order Plan – indicating Sub Zones A and B



## Appendix (iii)

### Table of Additional Guidance Notes

Ref	Matter	Informative
1	Pre-Information Form	<p>In some instances the Council may be able to recommend changes to the scheme to enable its construction under the Order. Where these changes are material changes amended plans may be required before the Council can confirm that the proposal complies with the Order.</p> <p>This will also assist with the monitoring procedures to demonstrate the effectiveness of the LDO</p> <p>The Pre-Information process will enable the Council to undertake an EIA screening opinion and assess the proposed development under the EU Habitat Regulations</p> <p>As part of the Pre-Information process the Council will consult with the relevant stakeholders, these will include (though not exclusively):</p> <ul style="list-style-type: none"> <li>- Highways Agency;</li> <li>- Health and Safety Executive;</li> <li>- Natural England;</li> <li>- English Heritage;</li> <li>- British Waterways;</li> <li>- Network Rail;</li> <li>- Environment Agency</li> </ul>
2	EIA Screening Request	Should the screening opinion find the proposed development is EIA development, it will not be permitted under this Local Development Order, and as such will require a planning application.
3	Flood Risk Assessment (FRA)	Further to the Environmental Legislation reflecting European Directives, there will remain a need for development which concerns an individual site in excess of 1ha in size, or within Flood Zones 2 or 3, to be supported by a Flood Risk Assessment.
4	Air Quality & Noise	The Council will seek to avoid significant adverse impacts on air quality and/or noise and where appropriate will require the implementation of appropriate mitigation measures. Where significant impacts arise that cannot be acceptably mitigated, leading to breaches of national objectives at relevant receptors, or a significant worsening of existing conditions occurs in areas where such breaches occur at relevant receptors, development will not be permitted under this Order. Any development must also accord with the Walsall Air Quality Action Plan.
5	Waste Management	Appropriate activities would include re-use, recycling and material recovery (including for metals) and the sorting and transfer of waste. Operations involving mechanical, chemical or thermal processes (including anaerobic digestion and in-vessel composting but excluding incineration) would also

		<p>be acceptable.</p> <p>In regard to waste management activity, in order to reflect the EIA Regulations, the Council will require submission of details of the size of the proposal; an explanation of the technology to be employed; the capacity of the proposed facilities (tonnes pa); proximity to controlled waters</p>
6	Traffic Generation	<p>In those circumstances where the information provided indicates that there is a substantial impact upon the Local Highway network which cannot be appropriately mitigated through on site works, a separate planning application will be required if the development is to proceed, this is to enable the Council to fully consider the acceptability of the development.</p> <p>Where the Council, on the evidence included within the Transport Assessment/Statement identifies that the impact upon the Local Highway Network can be mitigated through on site works, the Council will confirm that the proposal complies with the Order subject to Condition 4 as set out in Schedule 4.</p> <p>Works within 25m of the Strategic Road Network (SRN) must consider implications on road safety and structural integrity of the SRN. Development and/or demolition within the 25m must comply with HD22/08 Managing Geotechnical Risk and BD2/05 technical approval processes.</p>
7	Protected Species and Habitats	<p>In those instances where the information provided indicates that there is a substantial impact on protected species which cannot be appropriately mitigated through on site works, a separate planning application will be required if the development is to proceed. This is to enable the Council to fully consider the acceptability of the development.</p> <p>It is the developer's responsibility to ensure that the development complies with the legislation in avoiding damage to habitat or individuals that are covered by European and UK legislation. Applicants will need to follow the appropriate procedure with regards to such matters including obtaining the appropriate licenses to work within the confines of an approved method statement.</p> <p>Regard will need to be given to the requirements of Natural England's Standing Advice; national legislation and guidance; Core Strategy Policy ENV1 and the Council's Natural Environmental SPD.</p> <p>Natural England's Standing Advice in relation to Protected Species and background information can be found at <a href="http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/advice.aspx">http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/advice.aspx</a>.</p> <p>In general, any development proposed within or adjacent to the River Tame or other water course or canal, any designated wildlife sites or any site which has been largely undisturbed and where wetland, grassland, woodland and scrub have established will require an Extended Phase 1 Habitat Survey.</p>
8	Design	<p>Good design is a priority for all development The Council encourages the developers to strive beyond the requirements of this LDO to deliver</p>

		<p>development which exceeds the aspirations for the Area.</p> <p>The Council encourages all developers to contact the Council and discuss their proposals early in the design formulation process so we can provide guidance on the design process and end product.</p> <p>In the interest of crime prevention, all development will be encouraged to meet the principles of 'Secured by Design'. All new buildings constructed under the Order shall be encouraged to meet the minimum of BREEAM 'Very Good' rating or equivalent.</p>
9	Renewable Energy	If Applicants can demonstrate that development is not viable with the imposition of this condition, the Council will be flexible in its application.
10	Contamination	<p>The Council will aim to prevent the deterioration of land, surface and groundwater quality within the LDO Area and the surrounding areas as a consequence of development on contaminated or potentially contaminated land.</p> <p>Sufficient information must be provided by the Applicant to establish the existing contamination levels, potential pathways and sensitive receptors which might be impacted by developments permitted under this Order, and to establish the adequacy of any mitigation measures where these are proposed.</p>



Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
Health and Safety Executive	<p>The requirement for consultation with HSE is a function of the consultation distances around the installations, these, in turn, are generated by the Hazardous Substances Consent (HSC) inventory, so if the HSC can be revoked, the consultation distances no longer apply and HSE will no longer be involved in the land use planning issues associated with the site. It is understood that the James Bridge Holder Station is no longer active, so the Hazardous Substances Consent for that could possibly be revoked. The Hazardous Substances inventory associated with Anochrome Ltd. has been reduced such that it is no longer subject to the Control of Major Accident Hazards Regulations 1999 (as amended), this suggests that the consultation distances could be much reduced or, possibly, removed completely, depending upon circumstances. Revocation of HSC, which requires a submission to the Secretary of State, is the responsibility of the Hazardous Substances Authority which is a function of the LPA.</p> <p>There is mention of potential constraints arising from major hazard installations or pipelines in section 5 of the <i>Statement of Reasons</i>, paras 5.14 &amp; 5.15. However, there is no detail in this section. It is suggested that this is discussed in section 6 of the statement; however, I can find no such discussion within that section. There is a general comment in para 6.3 where it refers to comments made by statutory consultees and the need for specific information required by the council. There is another forward reference to section 8 and a "pre-</p>	<p>Walsall Council has confirmed that it is investigating the revocation of the HSC areas around deactivated sites within the LDO (including the James Bridge Holder Station).</p> <p>During the 28 days within which the Council considers whether the proposed development is permitted under the LDO and what conditions require further information, all relevant stakeholders (e.g. statutory consultees) will be consulted. Should a consultee consider it likely that a proposed development would result in a significant environmental impact then it will not be permitted by the LDO.</p> <p>In light of this, the HSE will continue to be consulted on all proposed development falling within the consultation zones relating to Hazardous Substance Consents, including the pipelines within the area.</p>	<p><b>SOR revised text:</b></p> <p>Paragraph 6.3, final sentence:</p> <p><i>'This 'Pre Information' approach is explained in Section <del>8</del> 7 below'</i></p> <p>Appendix (iii) Table of Additional Guidance, Ref 1:</p> <p><u>As part of the Pre-Information process the Council will consult with the relevant stakeholders, these will include (though not exclusively):</u></p> <ul style="list-style-type: none"> <li>- <u>Highways Agency;</u></li> <li>- <u>Health and Safety Executive;</u></li> <li>- <u>Natural England;</u></li> <li>- <u>English Heritage;</u></li> <li>- <u>British Waterways;</u></li> <li>- <u>Network Rail;</u></li> <li>- <u>Environment Agency</u></li> </ul>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes <b>(deleted text shown as <del>text</del> additional text shown as <u>text</u>)</b>
	information" approach. The reference should actually be to section 7 but I cannot see anything in section 7 that refers to major hazard installations or pipelines. There does not appear to be any reference in the schedules attached to the LDO either.		<p><b>LDO revised text:</b></p> <p>Schedule 3 Section1: Additional requirement, <i><u>Prior to the Council confirming whether the propose development is permitted under the Order, the Council shall consult with the relevant stakeholders.</u></i></p> <p>Schedule 4 Section 10: <i>Reasons: In the interests of minimizing the impact upon the local highway network, controlled flood risk and waters and the local ecology and for the protection of human health <u>and safety.</u></i></p>
Veolia Environmental Services (UK) Plc	'In the section Development not permitted under this order: point 3 and paraphrasing what is said it indicates that subject to a screening opinion being undertaken and it is development not requiring an EIA the development would be permitted. However point 4 in my opinion contradicts this by saying if it is schedule 1 or 2 project it would not be	The order was drafted in this way to take account of the particular requirements of the 2011 EIA Regs.  Reg 29 of the 2011 EIA Regulations provides that if a LPA propose to grant planning permission by local development order in relation to Schedule 2 development then it must have first adopted a	No action proposed

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>permitted. My understanding is that Schedule 1 projects are automatic EIA. Schedule 2 projects are screened to determine whether an EIA is required in terms of the guidance on thresholds etc and whether they would be likely to have significant effects. So it could be a Schedule 2 project but following screening it was determined that EIA was not required. I assume that the intention was to only catch those developments in Schedule 2 that would require EIA but my reading of the conditions would not allow this.'</p>	<p>screening opinion and if then required, prepare an environmental statement.</p> <p>For the purposes of reg 29, "Schedule 2 development" means <i>development, other than exempt development, of a description mentioned in Column 1 of the table in Schedule 2 where</i></p> <p><i>(a) any part of the development is to be carried out in a sensitive area; or</i></p> <p><i>(b) any applicable threshold or criterion in the corresponding part of column 2 of that table is respectively exceeded or met in relation to the development</i></p> <p>Given the additional work that would have been required to include Schedule 2 development within the LDO and the timescales imposed by the LDO making process a strategic decision was taken by the Council not to include Schedule 2 development (as defined) within the LDO. That is the reason for point 4. It does of course remain open to any developer wishing to carry out Schedule 2 development to make an application for planning permission for the development.</p> <p>The possibility was recognised however that a proposal described in column 1 but falling below the thresholds in column 2 could nonetheless have significant environmental effects. Development of</p>	

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
		this nature should not be permitted by the LDO without being subjected to the full EIA process-. Hence point 3 was included.	
Veolia (Additional Comments)	<ul style="list-style-type: none"> <li>• Veolia currently operate a Materials Recovery and Recycling facility for paper and card at a site within the Darlaston area located on Bentley Road South, highlighted as part of the 2N Holland Industrial Estate on the Location Plan. Therefore the LDO boundary for the area includes Veolia's site, however the 'Location Plan – Indicating the EZ Sites' shows our site is outside the EZ. Please see attached our plans 'Veolia site in Darlaston LDO_EZ area' attached with this response.</li> <li>• 'Schedule 1 – The Darlaston Area Local Development order 2012 (The Plan)' shows which sites are highlighted for Subzone A and Subzone B uses. As we understand, Subzone A will permit developments of sui generis waste uses subject to pre-information and conditions.</li> <li>• Veolia leases other properties on the site and considering this, we would like to seek clarity on how the LDO would impact Veolia's application process if we may need to apply for these properties to be used for waste uses such as contained Material Recovery Facility/Waste Transfer Station for bulking operations in the future. We seek further clarity on this because from past experience, some</li> </ul>	<p>The Enterprise Zone (EZ) sites were announced by the Department for Communities and Local Government (CLG). It is not possible for the Council to identify additional EZ sites.</p> <p>The Government expects Walsall Council, as local planning authority, to provide a simplified planning regime, and the council is proposing that this should be by means of a Local Development Order (LDO). It is proposed that the LDO should cover a broader area embracing the EZ sites but also allowing other sites to benefit. Within the overall LDO area it is proposed to permit Class B1(b&amp;c), B2 and B8 uses subject to pre-information requirements and conditions. The two EZ sites referred to are subject to this approach.</p> <p>As noted, the LDO area also includes two sub-zones:</p> <ul style="list-style-type: none"> <li>- Zone A, where it is proposed to also permit <i>sui generis</i> waste management uses (subject to limitations, pre-information requirements and conditions); and</li> <li>- Zone B, where further limitations, requirements and conditions are proposed to reflect sensitive</li> </ul>	No action proposed



Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>Local Planning Authorities have held the view that these facilities are considered as B2 use or have decided they require an application for sui generis waste use.</p> <ul style="list-style-type: none"> <li>Given the above comments, we are keen to know if the EZ Subzone A area can be extended to include our site. The concern we have is that our site will be excluded from the benefits of being in the Subzone A area if we were to apply for sui generis waste use in the future.</li> <li>We have also noticed that the two sites located either side of our operating site have been highlighted as part of the EZ, but are not identified as a Subzone area.</li> </ul>	<p>locations and/ or boundaries.</p> <p>Zone A has been defined on the basis of a clearly-delineated area. An extension to this zone on the basis suggested (to include a particular site or premises) would raise issues about why other adjoining premises should not also be included. It considered this would mean the approach of Zone A would have to be applied over a wider area and this could have the effect of limiting the potential for B1(b&amp;c), B2 and B8 uses.</p> <p>The retention of the site outside of Zone A (as well as outside of Zone B) would mean that (subject to pre-information requirements and conditions) B2 uses would be permitted by the LDO. <i>Sui generis</i> uses on the site would have to be considered through the planning application process. Whether or not a waste management development is a B2 or a <i>sui generis</i> use will depend on the nature of the operation, and at this stage there is insufficient information to decide the status of any possible future proposals.</p>	
City Archaeologist Wolverhampton City Council	'I have serious concerns about the lack of consideration of the impact on archaeological remains. It is not true to say that 'There are no...features of archaeological importance on the site' (5.37). A quick glance at the Walsall Historic Environment Record data reveals that the area includes the	Consideration has been given to the comments raised with regards to archaeology. The number and scale of HER recorded sites in the LDO has been assessed and in light of the comments and the presence of such sites, a minor amendment to the	<b>LDO revised text:</b>  Schedule 3 Section 2:  Amendment to 5 <sup>th</sup> bullet point to read:

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>site of Bentley Mill. There has been a series of mills on this site from the medieval period onwards. A similar site at Wednesbury recently required a long term archaeological excavation before the site could be released for development. There are in addition other archaeological sites within the area. Hence The potential for the recovery of archaeological remains needs to be assessed through a programme of archaeological works commencing with a desk-based assessment with a possible need for subsequent evaluation by trial trenching. I can provide a brief for such work.</p> <p>There is, by the way, a Sites and Monuments Record layer on the Walsall Council intranet which can be checked to assess whether there is likely to be the need for archaeological advice on a particular planning application. In addition the Walsall Historic Environment Record is available on the internet through Heritage Gateway (<a href="http://www.heritagegateway.org.uk/gateway/">http://www.heritagegateway.org.uk/gateway/</a>).</p>	<p>Order has been considered appropriate. This amendment will ensure that HER sites are given appropriate consideration during the Pre-Information stage.</p>	<p>Relationship of any buildings or works to any boundary with:</p> <ul style="list-style-type: none"> <li>- a canal</li> <li>- a river or stream</li> <li>- the M6 Motorway</li> <li>- a strategic highway</li> <li>- a railway, and/or</li> <li>- a proposed Rapid Transit route</li> <li>- <u>Sites or features identified on Walsall's Historic Environment Record.</u></li> </ul>
<p>Colliers International (on behalf of National Amusements Ltd LLC)</p>	<p>Representations made in relation to land to the east of Bentley Mill Way and Carriers Close, currently occupied by Showcase Cinema and Grosvenor Casino.</p> <p>Page 4 'Commentary' states 'there are no objections to the principles set out in the draft LDO.'</p> <p>However, the representations go on to request that the</p>	<p>These comments are noted. The exclusion of the National Amusements Ltd LLC's land was given careful consideration during the drafting of the LDO.</p> <p>As the land currently has an established Class D2 Assembly and Leisure use and it was not considered appropriate to include it within the LDO area at this</p>	<p>No action proposed.</p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	National Amusement Ltd site be included within the LDO area. The rationale for this is that the <i>'land would be an appropriate inclusion in the emerging Darlaston LDO as suitable for alternative Use Classes B1 Business, B2 General Industry, B8 Storage and Distribution and D2 Assembly and Leisure, plus associated types of uses such as car showrooms. Such an inclusion would accord with the objectives of national and local planning policies, and the background and Statement of Reasons for the emerging LDO (page 1)</i>	time.  It is noted that in the future the site, or part of the site, may become surplus to requirements. This situation can be reviewed in three years time, when there will be an opportunity to make alterations to the boundary of the LDO.  In any case, should the site become available for redevelopment prior to the review of the LDO, then planning permission can still be sought through the planning application process.	
Jones Lang LaSalle (on behalf of ZF Lemforder)	<p>'ZF Lemforder UK Ltd is concerned that the draft LDO will not make it any easier for them to process their plans than the existing planning regime. This is due to the limitation in Schedule 2, the pre-information requirements set out in Schedule 3, and the conditions set out in Schedule 4. The limitation set out in Schedule 2 are not clearly worded, ambiguous and, in places, overly rigorous'.</p> <p>Specific comments are made about the restrictions imposed by Schedules 2, 3 and 4.</p> <p>Schedule 2 – reference is made to:</p> <ol style="list-style-type: none"> <li>1. the restriction of building heights to 5m within 8m of a residential / education use boundary;</li> <li>2. The need for the 1000 sqm limit in clause (f);</li> <li>3. The net increase in floor space (taking into account</li> </ol>	<p>The comments made in relation to the scope of the LDO are noted. While a LDO that included less rigid conditions and restrictions on the types and scale of development which could be permitted within the LDO area, would enable industry to develop more freely, this needs to be balanced against the potential impacts on the residential amenity of those living nearby.</p> <p>It is considered that the LDO as drafted reaches an appropriate balance between enabling industrial development and protecting the amenity of adjacent residential and educational facilities.</p> <p>The following respond to the specific comments are made about the restrictions imposed by Schedules 2, 3 and 4</p>	<p><b>LDO revised text:</b></p> <p>Schedule 4 Section 1f)</p> <p><i>'The distance between new buildings / <u>enlargements of existing buildings</u> and principle roads should not fall below 8m and between new buildings and secondary highways should not fall below 3m'.</i></p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>building to be demolished) should be used in relation to the 5000 sqm permitted for new buildings.</p> <p>Schedule 3 – reference is made to:</p> <ol style="list-style-type: none"> <li>4. The LDO requires an applicant to address the necessary transport, environment and ecological surveys for any proposed scheme, is this necessary given that B2 uses are permissible?</li> <li>5. A flood risk assessment (FRA) should only be required where the site is in a know flood risk area</li> <li>6. Who determines whether an Extended Phase 1 Habitat Survey is required?</li> </ol> <p>Schedule 4 – reference is made to:</p> <ol style="list-style-type: none"> <li>7. Why is the 60% plot ratio for development required and how was it reached.</li> <li>8. Does condition 1f) relate to replacement of existing buildings or extensions?</li> <li>9. Are the noise limits within Sub Zone B necessary?</li> <li>10. Conditions 7 and 8 seeks to restrict the delivery and dispatch of goods and hours of operation. Such a condition, if enforced, would prevent 24/7 operations as required by ZF Lemforder and necessitate a change to current operating practices in terms and dispatch of goods.</li> </ol>	<ol style="list-style-type: none"> <li>1. A height of 5m is considered to be appropriate as it represents the height of a typical two storey residential property. A type of development that would usually be considered appropriate adjacent to other residential properties.</li> <li>2. The 1000sqm is considered necessary to enable a level of control the overall amount of development on site.</li> <li>3. The Council does not agree with this view. The 5000 sqm limit is considered appropriate as a control on the overall level of development which can occur as a result of the LDO.</li> <li>4. The appropriate consideration of the environmental impacts of any development proposal is an essential part of the LDO process. The scope of the surveys required will be agreed with the Council, to ensure that unnecessary survey work is not carried out.</li> <li>5. The requirement for a FRA for the development of sites exceeding 1 hectare is in accordance with the requirements of PPG25.</li> <li>6. The Council's ecology team will advise whether an Extended Phase 1 Habitat Survey is required.</li> <li>7. The 60% ratio is considered necessary to maintain a level of control over the amount of</li> </ol>	

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
		<p>overall developed permitted on each site within the LDO. The 60% was reached through the Council's knowledge of the area and permitted schemes for industrial development.</p> <p>8. Yes, condition 1f) does relate to both replacement of existing buildings (this is classed as a new building) and enlargements of existing buildings. The wording of condition 1f) has been amended to clarify this.</p> <p>9. The noise controls are considered necessary to protect the amenity of adjacent residential properties.</p> <p>10. The conditions on delivery hours and hours of operation relate to new development and will not be retrospective in relation to existing operations in the area. As set out in conditions 7 and 8, longer hours can be agreed in writing with the Council if considered appropriate.</p> <p>None of these restrictions / conditions preclude the submission of a planning application for development which falls outside of the powers of the LDO (eg. a building of more than 5m high adjacent to residential use). Such an application would be considered on its own merits.</p>	

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
Sport England	<p>Representations made by Sport England conclude that:</p> <p><i>'There is no apparent justification for the inclusion of the Bentley Road Playing Field Site within the LDO boundary. As would be the case if this site was subject to a planning application, the prejudicial impact on the use of the land as a playing field needs to be explored in detail and justified in the context of local, national and Sport England planning policy.</i></p> <p><i>Whilst there is no detail within the statement of reasons regarding this site, including any proposed measures to mitigate it's potential loss, we are aware that that site has been used for junior football and seemingly plays an important role in providing sporting opportunities for local residents.</i></p> <p><i>Given these observations and due to the LDO proposals not being consistent with any of the exceptions set out above, Sport England wish to register a Statutory Objection to the proposals. We consider that delivering the aims of the Black Country Enterprise Zone should not be at the expense of local sporting provision and would want to work with the Council to achieve a more appropriate LDO for Darlaston.'</i></p>	<p>The Site referred to as 'Bentley Road South Pitches' has been allocated for industrial development within the last two iterations of the Walsall UDP and prior to that was identified for employment use by the Black Country Development Corporation. UDP Policy JP1 'New Employment Sites', includes the site under reference E10. However, the appropriateness of the loss of playing pitches was never specifically assessed during any of these stages.</p> <p>Based on this employment allocation the site has been included as an Enterprise Zone site within the Black Country Enterprise Zone area. It was therefore originally considered appropriate to extend the powers of the LDO to include this site. However, in light of:</p> <ul style="list-style-type: none"> <li>- How the site has been brought forward through the UDP process;</li> <li>- Sport England's objection to its inclusion in the LDO; and</li> <li>- He fact that the removal of the site from the LDO would make the area smaller and would not result in any negative impacts on residential amenity.</li> </ul> <p>It is considered appropriate to remove the 'Bentley Road South Pitches' site from the LDO boundary.</p>	<p><b>LDO revision:</b></p> <p>A revision has been made to the boundary of the LDO to remove the 'Bentley Road South Pitches' site from the LDO Area.</p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
Roger Tym & Partners (on behalf of Abacus Developments)	<p>Extracts from representations:</p> <p><i>We are concerned that as drafted the LDO is not sufficiently flexible, and should be widened to permit the development of other complimentary uses which are required to support the delivery and/or operation of the B use class development envisaged'.....'Planning Policy Statement 4 confirms that main town centre uses (which include restaurants, pubs and bars) are defined as economic development, and so we consider that our client's proposals (a restaurant/public house on part of the Onyx site) remain consistent with the aspirations for the Enterprise Zone'.....'We therefore request that the need for complimentary uses within the Enterprise Zone is recognised in the emerging LDO, specifically the explicit inclusion of the restaurant/public house (Class A3/A4) at the onyx Site which is required to bring forward the B use class development'.</i></p>	<p>The LDO specifically addresses the promotion of Class B1 (b&amp;c), B2 and B8 uses, along with waste operations. It is considered that the inclusion of other uses, which fall outside of B1 (b&amp;c), B2, B8 and waste operations, would overly complicate the Order and result in the need for even more complex conditions and provisos to be attached to the Order.</p> <p>Roger Tym &amp; Partners indicate that a series of planning applications are proposed for a restaurant / public house and associated works. The merits of the proposed uses can then be fully assessed.</p>	No action proposed.
Sophie Alam (Local Resident)	<p>Resident of a property bordering 2E Parallel 9 - 10</p> <p>'If a LDO goes ahead in 2E Parallel 9 -10 my concern is that our property is protected from noise, pollution, buildings up to 15 metres only by a band (subzone B) of what appears to be 8 metres and even within this band you may allow structures up to 5 metres high. This to mind is no protection at all as the 8 metres is negligible when you think that just after this that we could be seeing structures of potentially 3 storeys high!!</p>	<p>The concerns of residents in close proximity to Parallel 9-10 and any other sites within the LDO are taken very seriously by the Council. It is recognised that a careful balance must be reached between facilitating the growth of industrial development within the Darlaston Area and protecting the amenity of those living nearby.</p> <p>In light of this, consideration has been given to the 8m distance between the boundary of residential or education land uses and development which is</p>	<p>LDO revised Text:</p> <p>Schedule 2 part B)</p> <p><i>'Erection of new buildings to be used for B1(b), B1(c), B2 or B8 purposes, providing individual buildings do not exceed 15m in height, except within Sub Zone B where within <del>8m</del> 10m of a</i></p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>Therefore as you can appreciate my main concern is the height of the buildings and the potential resulting noise.'</p> <p>'I would like you to be aware of my concerns above and also of the following points;</p> <ul style="list-style-type: none"> <li>- Why have you draughted that the whole of the area 2H Gas boilers be subzone B which is subject to stricter noise control and buildings of no more than 5 metres when you have not afforded the same courtesy to the properties across the road where I reside in relation to the land at the back of my property? I would have thought the same applies especially as both have residential properties at the border. Please would you explain the councils reasoning?</li> <li>- 8 metres is a very small area to be considered for buildings of no more than 5 metres; from the garden of my property and my bedroom window the buildings of up to 15 metres none too far from my property border will be very visible (higher than our house in fact!) and then theres the subsequent noise which will be overly intrusive to say the least; after all I can hear the waste management site which is quite easily 250 metres away! Why can't you fill in the whole of the area as subzone B as you have with 2H Gas boilers? 8 metres is nothing in comparison to the whole area which is vast!!</li> <li>- I have enough noise, artificial light, and having to look at overly tall structures from the M6 without additional on</li> </ul>	<p>between 8m and 15m in height. It has been resolved to revise this distance to 10m (the clause has also been slightly reworded for clarity).</p> <p>With regards to the concerns over noise levels, it should be noted that, in accordance with Schedule 4 Condition 2, within Sub Zone B, development shall be designed, managed and operated to ensure that noise does not exceed critical health effect criteria to prevent sleep interference during night-time hours and moderate annoyance during daytime hours (please note, this is a slightly amended condition from what was included in the Consultation Draft). This condition gives the Council controls over noise levels experienced by those living adjacent to new or extended industrial premises.</p> <p>With regards to 'Site 2H – Gas Holders', this has been included in the more sensitive Zone B area due to its environmental issues relating to its historic use and the associated environmental concerns.</p> <p>With regards to any additional external lighting, condition 1 of Schedule 4 requires that details of any external lighting proposed shall be agreed in writing with the Council, implemented as agreed prior to occupation and thereafter retained as such. This will ensure that any impact on adjacent residents is minimised.</p>	<p><del>boundary with residential or education land uses</del> <u>boundary, no building or part of a building shall exceed 5m in height.'</u></p>



Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>the land at the rear of my property.</p> <ul style="list-style-type: none"> <li>- Basically I feel we have enough to contend with; If we have buildings of up to 15 metres we will be losing the only natural aspect from our property which is currently this area of Green land; you will be effectively hemming us in with structure, noise and light which isn't acceptable and will thus reduce the the value of our property further (I feel that some impact has already been made with the hard shoulder of the M6).</li> </ul> <p>To summarise I would at the very least like to see 2E parallel 9 - 10 be made fully a subzone B. If this isn't possible (and even if it is) the border beyond the 8 metres boundary (the actual 8 metres area itself would be better!) should be heavily landscaped to block out the view of the industry and also the noise. At the moment when I look out of my bedroom window I see to the right the blot on the landscape that is the M6 gantry complete with flashing lights and to the left a tranquil Green expanse that I would like to remain not be hemmed in with more structures, especially ones higher than my house! We have had a couple of years of peace please don't make it that we have noise from every direction, please be more sympathetic to our homes.</p>	<p>The loss of green land to the rear of the residential properties is noted. However, the Parallel 9-10 site is allocated within the UDP for industrial development and has previously had planning permission for B1 Business, B2 Industry and B8 Storage and Distribution.</p> <p>Comments with regards to designating the whole of the Parallel 9-10 site as Zone B are noted. However, it is considered that doing so would be overly restrictive, particularly in light of the UDP allocation for the site.</p> <p>However, the Conditions attached to the LDO require that any proposed development on the site must give full consideration to potential impacts on the adjacent residential properties. The conditions require details of, amongst other things, plot usage, external materials, location of car parking / servicing areas, means of enclosure and landscaping to all be agreed with the Council. The Council will have full regard to the potential impacts on adjacent residential properties when considering these details.</p> <p>It should also be noted that the LDO does not permit development which, by virtue of its potential significant impacts on the environment, would require an Environmental Impact Assessment. Where the Council considers there is the potential</p>	

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
		for significant environmental impacts, including impacts on the amenity of those living nearby, a full planning application would be required.	
Tracey Urwin (Local Resident)	<p>Resident of a property bordering 2E Parallel 9 - 10</p> <p>'If a LDO goes ahead in 2E Parallel 9 -10 my concern is that our property is protected from noise, pollution, buildings up to 15 metres only by a band (subzone B) of what appears to be 8 metres and even within this band you may allow structures up to 5 metres high. This to mind is no protection at all as the 8 metres is negligible when you think that just after this that we could be seeing structures of potentially 3 storys high!!</p> <p>Therefore as you can appreciate my main concern is the height of the buildings and the potential resulting noise.'</p> <p>'I would like you to be aware of my concerns above and also of the following points;</p> <ul style="list-style-type: none"> <li>- Why have you draughted that the whole of the area 2H Gas boilers be subzone B which is subject to stricter noise control and buildings of no more than 5 metres when you have not afforded the same courtesy to the properties across the road where I reside in relation to the land at the back of my property? I would have thought the same applies especially as both have residential properties at the border. Please would you explain the councils</li> </ul>	<p>The concerns of residents in close proximity to Parallel 9-10 and any other sites within the LDO are taken very seriously by the Council. It is recognised that a careful balance must be reached between facilitating the growth of industrial development within the Darlaston Area and protecting the amenity of those living nearby.</p> <p>In light of this, consideration has been given to the 8m distance between the boundary of residential or education land uses and development which is between 8m and 15m in height. It has been resolved to revise this distance to 10m (the clause has also been slightly reworded for clarity).</p> <p>With regards to the concerns over noise levels, it should be noted that, in accordance with Schedule 4 Condition 2, within Sub Zone B, development shall be designed, managed and operated to ensure that noise does not exceed critical health effect criteria to prevent sleep interference during night-time hours and moderate annoyance during daytime hours (please note, this is a slightly amended condition from what was included in the Consultation Draft).</p>	<p>LDO revised Text:</p> <p>Schedule 2 part B)</p> <p><i>'Erection of new buildings to be used for B1(b), B1(c), B2 or B8 purposes, providing individual buildings do not exceed 15m in height, except within Sub Zone B where within <del>8m</del> <u>10m</u> of a <del>boundary with residential or education land uses</del> <u>boundary</u>, no building or part of a building shall exceed 5m in height.'</i></p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>reasoning?</p> <ul style="list-style-type: none"> <li>- 8 metres is a very small area to be considered for buildings of no more than 5 metres; from the garden of my property and my bedroom window the buildings of up to 15 metres none too far from my property border will be very visible (higher than our house in fact!) and then theres the subsequent noise which will be overly intrusive to say the least; after all I can hear the waste management site which is quite easily 250 metres away! Why can't you fill in the whole of the area as subzone B as you have with 2H Gas boilers? 8 metres is nothing in comparison to the whole area which is vast!!</li> <li>- I have enough noise, artificial light, and having to look at overly tall structures from the M6 without additional on the land at the rear of my property.</li> <li>- Basically I feel we have enough to contend with; If we have buildings of up to 15 metres we will be losing the only natural aspect from our property which is currently this area of Green land; you will be effectively hemming us in with structure, noise and light which isn't acceptable and will thus reduce the the value of our property further (I feel that some impact has already been made with the hard shoulder of the M6).</li> </ul> <p>To summarise I would at the very least like to see 2E parallel 9 - 10 be made fully a subzone B. If this isn't possible (and even if it is) the border beyond the 8 metres boundary (the</p>	<p>This condition gives the Council controls over noise levels experienced by those living adjacent to new or extended industrial premises.</p> <p>With regards to 'Site 2H – Gas Holders', this has been included in the more sensitive Zone B area due to its environmental issues relating to its historic use and the associated environmental concerns.</p> <p>With regards to any additional external lighting, condition 1 of Schedule 4 requires that details of any external lighting proposed shall be agreed in writing with the Council, implemented as agreed prior to occupation and thereafter retained as such. This will ensure that any impact on adjacent residents is minimised.</p> <p>The loss of green land to the rear of the residential properties is noted. However, the Parallel 9-10 site is allocated within the UDP for industrial development and has previously had planning permission for B1 Business, B2 Industry and B8 Storage and Distribution.</p> <p>Comments with regards to designating the whole of the Parallel 9-10 site as Zone B are noted. However, it is considered that doing so would be overly restrictive, particularly in light of the UDP allocation for the site.</p> <p>However, the Conditions attached to the LDO</p>	

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>actual 8 metres area itself would be better!) should be heavily landscaped to block out the view of the industry and also the noise. At the moment when I look out of my bedroom window I see to the right the blot on the landscape that is the M6 gantry complete with flashing lights and to the left a tranquil Green expanse that I would like to remain not be hemmed in with more structures, especially ones higher than my house! We have had a couple of years of peace please don't make it that we have noise from every direction, please be more sympathetic to our homes.</p>	<p>require that any proposed development on the site must give full consideration to potential impacts on the adjacent residential properties. The conditions require details of, amongst other things, plot usage, external materials, location of car parking / servicing areas, means of enclosure and landscaping to all be agreed with the Council. The Council will have full regard to the potential impacts on adjacent residential properties when considering these details.</p> <p>It should also be noted that the LDO does not permit development which, by virtue of its potential significant impacts on the environment, would require an Environmental Impact Assessment. Where the Council considers there is the potential for significant environmental impacts, including impacts on the amenity of those living nearby, a full planning application would be required.</p>	
Highways Agency	<p>The Highways Agency (HA) identifies the following areas of concern:</p> <p>i.) Traffic impacts and mitigation – it is considered that the requisite impacts assessment should be required for all potential development sites within the LDO boundary. A</p>	<p>i.) It is the view of Walsall's Highways Officers that a revision to the threshold for transport assessments to 3,000 sqm would be appropriate.</p> <p>ii.) With regards to non-traffic impacts, the comments of the HA are noted. A revision to the</p>	<p><b>SOR revised text:</b></p> <p>Appendix (iii) Table of Additional Guidance, Ref 1:</p> <p><u>As part of the Pre-Information process the</u></p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>clear evidence base justification for the 5,000 sqm trip envelope threshold needs to be fully embodied, as should clarity in terms of the scope, detail and determination process for any related submissions.</p> <p>ii.) Non-traffic impacts – The potential risks to the M6 arising from new development which has geotechnical, structures, noise and drainage implications, has not been acknowledged. The normal planning application consultation process, and through the imposition of conditions the HA can ensure that appropriate assessments are undertaken and that, where necessary, appropriate level of protection is in place.</p> <p>iii.) Drainage – The M6 in this area discharges into the Sneyd Brook. There is an outstanding concern that any development on the plots fronting the M6 which may also discharge into this watercourse may impact on the motorway drainage and discharge outlet points.</p> <p>iv.) Air quality – The Council should take into account the impacts of air quality arising from development within the LDO.</p> <p>v.) The HA seeks clarity with regards to their role in the pre-information process.</p>	<p>Order is proposed to ensure that the relationship with any proposed development and the M6 Motorway / Strategic Highway are considered during the Pre-Information process.</p> <p>iii.) It is considered that drainage impacts with regard to the M6 will need to be addressed under the requirements of the revised Schedule 3 Part 2.</p> <p>iv.) The assessment of potential air quality impacts is required under Schedule 3 Part 2.</p> <p>v.) During the 28 days within which the Council considers whether the proposed development is permitted under the LDO and what conditions require further information, all relevant stakeholders (e.g. statutory consultees) will be consulted. Should a consultee consider it likely that a proposed development would result in a significant environmental impact then it will not be permitted by the LDO.</p> <p>In light of this, the HA will continue to be consulted on all proposed development which has the potential to impact on the M6, be it through increases in traffic levels, impacts on the M6 structure or drainage.</p>	<p><u>Council will consult with the relevant stakeholders, these will include (though not exclusively):</u></p> <ul style="list-style-type: none"> <li>- <u>Highways Agency;</u></li> <li>- <u>Health and Safety Executive;</u></li> <li>- <u>Natural England;</u></li> <li>- <u>English Heritage;</u></li> <li>- <u>British Waterways;</u></li> <li>- <u>Network Rail;</u></li> <li>- <u>Environment Agency</u></li> </ul> <p><b>LDO revised text:</b></p> <p>Schedule 3 Section 1:</p> <p>Additional requirement,</p> <p><u>Prior to the Council confirming whether the propose development is permitted under the Order, the Council shall consult with the relevant stakeholders.</u></p> <p>Schedule 3 Section 2:</p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes <b>(deleted text shown as <del>text</del> additional text shown as <u>text</u>)</b>
			Additional bullet point <ul style="list-style-type: none"> <li>• <i>Relationship to the M6.</i></li> </ul>
Network Rail	<ul style="list-style-type: none"> <li>· Any future development work within the area must not introduce additional bridge strike risk to the Network Rail under bridges. Where HGVs present bridge strike risks, the applicant will be liable for all costs incurred in installing bridge strike mitigation measures. All works to be undertaken with the approval of Network Rail.</li> <li>· There are a number of railway arches in this policy area. Any development in these arches must not give rise to any operational risk to the railway above. All developments in railway arches must be approved by Network Rail.</li> <li>· All developments in the area of the LDO should be flagged up to Network Rail for consultation.</li> <li>· Any developments that may impact upon Network Rail land and the operational railway will need internal consultations by Network Rail and as such as reduction of the 21 days notice period may restrict Network Rail's ability to deliver a thorough response. Therefore we request that the notifications process remains at 21 days.</li> </ul>	<p>The concerns of Network Rail with regards to the protection of the rail infrastructure are noted.</p> <p>During the 28 days within which the Council considers whether the proposed development is permitted under the LDO and what conditions require further information, all relevant stakeholders (e.g. statutory consultees) will be consulted. Should a consultee consider it likely that a proposed development would result in a significant environmental impact then it will not be permitted by the LDO.</p> <p>In light of this, Network Rail will continue to be consulted on all proposed development which has the potential to impact on the railway network and associated infrastructure.</p> <p>It is, however, considered, overly restrictive for all development within the LDO area to be flagged up to Network Rail.</p> <p>The Council will work with Network Rail and all other stakeholders to introduce a protocol to ensure that the consultation process can proceed as quickly as possible.</p>	<p><b>SOR revised text:</b></p> <p>Appendix (iii) Table of Additional Guidance, Ref 1:</p> <p><u>As part of the Pre-Information process the Council will consult with the relevant stakeholders, these will include (though not exclusively):</u></p> <ul style="list-style-type: none"> <li>- <u>Highways Agency;</u></li> <li>- <u>Health and Safety Executive;</u></li> <li>- <u>Natural England;</u></li> <li>- <u>English Heritage;</u></li> <li>- <u>British Waterways;</u></li> <li>- <u>Network Rail;</u></li> <li>- <u>Environment Agency</u></li> </ul>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
Centro	<p>While Centro supports the approach being promoted by the Council, it would like to see the thresholds which trigger the need for the preparation of a TS or a TA, to more closely accord with the advice set out in the 'Guidance On Transport Assessment' (GTA) which proposes a range of different size thresholds for specified use class categories. Thus instead of adopting a 'one size fits all' approach, as proposed in the draft LDO, consideration should be given to adopting the gross floor area thresholds set out in the GTA</p> <p>The draft LDO establishes the need for the preparation of Travel plans and the identification of appropriate measures to mitigate the transport impacts of future development. Currently, the EZ is relatively poorly served by public transport and will therefore be important that the process of planning for improved provision is undertaken in a proactive and comprehensive manner, rather than as direct response to the piecemeal submission of individual proposals for development.</p>	<p>Centro's comments with regards to the requirements are noted.</p> <p>With regards to the threshold for TS or TA, it is the view of Walsall's Highways Officers that a revision to the threshold to 3,000 sqm would be appropriate.</p> <p>The threshold for Travel Plans has also been amended to 3,000 sqm.</p>	<p><b>LDO revised text:</b></p> <p>Schedule 3 Part 4.</p> <p>First paragraph:</p> <p>As part of the 'Pre Information' process, a Transport Statement or a Transport Assessment in accordance with 'Guidance on Transport Assessment' (DfT, 2007) will be required for any development that exceeds <del>5000</del> <u>3000</u> sq.m., gross external floorspace in total, including a change of use.</p> <p>Schedule 4 Section 4:Final paragraph,</p> <p>For any new buildings of 3000 sqm or more <del>development employing 50 people or more,</del> a Travel Plan is to be submitted to and agreed with the Council</p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
			<p>and implemented.</p> <p>Schedule 3 Part 4. First paragraph:</p> <p>As part of the 'Pre Information' process, a Transport Statement or a Transport Assessment in accordance with 'Guidance on Transport Assessment' (DfT, 2007) will be required for any development that exceeds <del>5000</del> <u>3000</u> sq.m., gross external floorspace in total, including a change of use.</p>
Environmental Agency	<p><b>Drainage and Fluvial Flood Risk</b> Section 3 of Schedule 3 makes reference to a Flood Risk Assessment being required with sites over 1 Ha in size which is correct; however, there are plots that fall within Flood Zones 2 &amp; 3 within the area and these will require FRA's too which should be specified in this section.</p>	<p>The issue of the requirement for an FRAs within Zones 2 &amp; 3 issues is noted and amended text has been suggested.</p> <p>With regards to the requirements of any FRA, the comments of the EA with regards to restricting surface water outflows back to Greenfield runoff rates and provide appropriate SUDS are noted. This requirement is set out in Core Strategy Policy ENV5</p>	<p><b>LDO revised text:</b> Schedule 3 Section 3: First paragraph <i>'As part of the 'Pre Information' process, any development on sites exceeding 1Ha (gross) shall</i></p>



Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>This section does not explicitly state that sites requiring a Flood Risk Assessment should restrict surface water outflows back to Greenfield runoff rates and provide appropriate SUDS. We understand that it is important to keep the order as concise and short as possible but a lack of awareness on the applicant's part of these requirements will have an effect on the design of the site with respect to scale and layout as the Black Country is one of the first areas to adopt such a policy.</p> <p>We therefore recommend the following sentence is added: 'For sites requiring a FRA surface water outflows should be restricted to equivalent Greenfield rates of runoff and adequate SUDS features should be provided.'</p> <p>We also recommend that the heading is entitled Drainage and Fluvial Flood Risk to reflect the scope of FRA's.</p> <p>We note that in Schedule 2 part 7b of the Order it is specified that development shall not be permitted if the development is considered to give rise to significant and substantial impacts on flood risk which we welcome. As mentioned, there are several sites located within Flood Zone 3 of our flood map. For one of these sites in particular, Flood Zone 3 comprises a significant portion and may fall under part 7b of the schedule- Site "2F Aspect 2000" contains a large portion of Flood Zone 3 (i.e. high probability of flooding) and therefore future users may be at significant flood risk. Moreover, any intention to increase the footprint of</p>	<p>'Flood Risk, Sustainable Drainage Systems and Urban Head Islands'. As such a reference has been included in the Reasons for condition 10 'Survey recommendations' to highlight this requirement. He Pre-Information Form to be completed by developers will also include further guidance on the scope of survey required.</p> <p>Comments in relation to Site 2F 'Aspect 2000' and Flood Zone 3 are noted.</p> <p>It is confirmed that, activities not permitted by virtue of the Order will still be subject to the regular controls under the Town and Country Planning Act 1990.</p> <p>Comments with regards to Schedules 3 and 4 are note.</p> <p>Comments with regards to the Environmental Permitting Regulations are noted.</p> <p>The EA's comments with regards to the River Tame are noted. However, it is considered that the creation of a 20m for wildlife and habitat improvements along the River Tame would be overly onerous.</p> <p>It is stressed that any development proposals either directly adjacent to or close to the River Tame would require the completion of an Extended Phase 1</p>	<p><i>require the submission of a Flood Risk Assessment, in accordance with PPS25; Development and Flood Risk. <u>Within areas identified as falling within Flood Zones 2 or 3 a FRA will be required for all development.</u></i></p> <p>Schedule 3 Section 3:</p> <p>Alteration of title to '<u>Drainage and Fluvial Flood Risk</u>'</p> <p>Schedule 4 Section 10:</p> <p>Additional reference added to Reasons:</p> <p><u>'Core Strategy Policy ENV5 Flood Risk, Sustainable Drainage Systems and Urban Head Islands'</u></p> <p><b>SOR revised text:</b></p> <p>Appendix (iii) Table of Additional Guidance, Ref 1:</p> <p><u>As part of the Pre-</u></p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>developments is likely to increase flood risk to any third party without sufficient floodplain compensation.</p> <p>Schedule 4 of the Order, Condition 1, part e) states that the development should have due regard to existing building lines, but this is loosely defined and in some areas buildings have been demolished. Moreover, any new built development should ensure that the site is safe and take due regard for any increased vulnerability receptor.</p> <p><b>Groundwater and Contaminated Land</b></p> <p>We can agree with the draft text of this proposed LDO and have no requirements for further amendments here. Particularly, we note that under Schedule 2 (item 8) it states that ground reclamation works including mineral extraction, landfilling and waste deposition are not permitted under the Order. We assume this means these activities are still subject to the regular planning controls under the 1990 Town and Country planning Act. This is especially valid for the works we are involved with for the land now known as Phoenix 10 (the former IMI site).</p> <p>Furthermore, under Schedule 3 (which sets out the pre-information requirements to any proposed redevelopment within the Enterprise Zone that does qualify under the LDO) and Schedule 4 (which sets general conditions for any such</p>	<p>Habitat Survey (and any necessary follow on survey considered necessary). Then, in accordance with Schedule 3 Section 5, should it be identified that there would be significant impacts to protected species which can not be mitigated, the proposed development would not be permitted by virtue of the LDO. Section 5 also includes scope for the Council to request amendments to schemes, where it is considered that the ecological impacts could be mitigated.</p> <p>It should also be noted that during the 28 days within which the Council considers whether the proposed development is permitted under the LDO and what conditions require further information, all relevant stakeholders (e.g. statutory consultees) will be consulted. Should a consultee consider it likely that a proposed development would result in a significant environmental impact then it will not be permitted by the LDO.</p> <p>In light of this, the EA will continue to be consulted on all proposed development.</p>	<p><u>Information process the Council will consult with the relevant stakeholders, these will include (though not exclusively):</u></p> <ul style="list-style-type: none"> <li>- <u>Highways Agency;</u></li> <li>- <u>Health and Safety Executive;</u></li> <li>- <u>Natural England;</u></li> <li>- <u>English Heritage;</u></li> <li>- <u>British Waterways;</u></li> <li>- <u>Network Rail;</u></li> <li>- <u>Environment Agency</u></li> </ul> <p><b>LDO revised text:</b></p> <p>Schedule 3 Section 1:</p> <p>Additional requirement,</p> <p><u>Prior to the Council confirming whether the propose development is permitted under the Order, the Council shall consult with the relevant stakeholders.</u></p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>development), it still identifies the need to supply upfront all details and evidence regarding soil and groundwater contamination assessments for those sites that do not appear to need further land remediation. This ensures such sites will still need to be investigated and have their simplified planning regime and absence of any proposed site clean-up justified, or otherwise do have to undertake further investigation and remediation as per usual controls if the data suggest significant contamination is present.</p> <p><b>Waste</b> Waste management facilities will still be required to meet requirements of the Environmental Permitting Regulations, this is reflected in para 3.4 although not mentioned by name, further specific reference is made to the Environmental Permitting Regulations in 7.24.</p> <p>Please be aware that conditions relating to control of pollution including noise, vibration and other amenity issues and site drainage may be the subject of permit conditions under the Environmental Permitting Regime, however the level of mitigation required will depend on the proximity to sensitive receptors, some activities may prove unsustainable where there are conflicting land uses. Paragraph 4.6 recognises this as a potential risk &amp; advises incompatible uses should avoid locating near to strategic waste facilities, however it does not appear to be robust enough to prevent</p>		

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>incompatible land-uses from occurring.</p> <p><b>Biodiversity</b> We would ask that it was specifically stated that all developments bordering the River Tame (about 7 or 8) was subject to a Phase 1 Habitat survey initially. We would also request a 20 metre corridor for wildlife and habitat improvement along the River Tame. Development encroachment close to the River Tame must be avoided and the river allowed to develop a natural wildlife rich corridor in line with the principles of Policy ENV1.</p>		
Natural England	<p><b>Local development orders</b></p> <p>Any LDO which will result in a likely significant effect will not be compliant with the Habitat Regulations. This requirement is also outlined in Circular 1/06 (Guidance on changes to the Development Control System).</p> <p>Therefore is it vital to understand how the LDO may affect European sites <b>before</b> it is progressed further in order to ensure that the LDO only contains development that is appropriate in the context of the relevant legislation. Development listed in Schedule 1 of the Environmental Impact Assessment Regulations 2011 is not permitted through an LDO and Schedule 2 development can only be permitted subject to compliance with the EIA regulations.</p> <p><b>Protected Species</b></p>	<p>Comments with regards to development listed in Schedule 1 of the EIA Regulations 2011 are noted. Such development is not permitted by the LDO.</p> <p>With regards to the completion of further protected species survey work prior to the adoption of the LDO, this is not considered practical or necessary. As set out in the Pre-information Schedule 3, where appropriate, an Extended Phase 1 Habitats Survey will be required, along with any further survey work considered necessary.</p> <p>It should be noted that during the 28 days within which the Council considers whether the proposed development is permitted under the LDO and what conditions require further information, all relevant stakeholders (e.g. statutory consultees) will be consulted. Should a consultee consider it likely that a</p>	<p><b>SOR revised text:</b></p> <p>Appendix (iii) Table of Additional Guidance, Ref 1:</p> <p><u>As part of the Pre-Information process the Council will consult with the relevant stakeholders, these will include (though not exclusively):</u></p> <ul style="list-style-type: none"> <li>- <u>Highways Agency;</u></li> <li>- <u>Health and Safety Executive;</u></li> <li>- <u>Natural England;</u></li> </ul>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>If the site of the proposed LDO contains habitats that suggests protected species may be present or there is existing information that suggests particular protected species may be present on site; then Natural England recommends that further survey work should be undertaken, <b>before</b> formal adoption of the LDO, with respect to the protected species identified. This would ensure that appropriate mitigation can be incorporated into the LDO and where necessary conditions can be applied to ensure no detrimental harm to protected species.</p> <p><b>The LPA should ensure they are compliant with the requirements of the Habitats Directive and Regulations before adopting a LDO.</b> Natural England expects a screening process to be carried if a Local Authority intend to submit an LDO, in order to accord with the EIA regulations and Habitats Regulations. Some LPAs have carried an "Integrated Impact Assessment" to accompany a draft LDO using existing evidence covering not only our requirements but those from other statutory bodies such as the Environment Agency and English Heritage.</p>	<p>proposed development would result in a significant environmental impact then it will not be permitted by the LDO.</p> <p>In light of this, Natural England will continue to be consulted on all proposed development which has the potential to impact on the protected species and habitats.</p> <p>With regards to the Habitats Directive and Regulations and the proposed LDO area, initial consultation with Natural England identified the requirement for the LDO to have due regard to the Habitats &amp; Species Regulations 2010 ('the Habitats Regulations'). Specifically Regulation 78 of the Habitat Regulations confirms that the LDO cannot be applied to grant permission for development/s which is likely to have a significant impact on a European site or a European offshore site (either alone or in combination with other plans of projects) and is not directly connected with or necessary to the management of the site.</p> <p>Furthermore Circular 1/06 <i>Guidance on Changes to the Development Control System</i>, confirms that an LDO is restricted from permitting development that is likely to have a significant effect on a European site, whether the development is on, or in the vicinity of a European site.</p>	<ul style="list-style-type: none"> <li>- <u>English Heritage</u>;</li> <li>- <u>British Waterways</u>;</li> <li>- <u>Network Rail</u>;</li> <li>- <u>Environment Agency</u></li> </ul> <p><b>LDO revised text:</b></p> <p>Schedule 3 Section 1:</p> <p>Additional requirement,</p> <p><u>Prior to the Council confirming whether the propose development is permitted under the Order, the Council shall consult with the relevant stakeholders.</u></p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
		<p>A review of publicly available metadatabases (<a href="http://www.magic.gov.uk">www.magic.gov.uk</a>) and WSP's internal iGIS system confirmed that there are no Natura2000 European sites within or adjacent to the LDO, and no sites have been identified within 5km from the LDO boundary. The nearest European sites are located 6.17km northeast and 9.8km southwest (Cannock Extension Canal SAC and Fens Pools SAC respectively).</p> <p>In recognition of the significant distances between the LDO and European sites, and the absence of a pathway between these sites and the restrictions placed upon the available development options within the LDO, it is considered highly unlikely that the development of the LDO would represent a measurable impact on these sites. No further screening under the Habitat Regulations is considered necessary to determine whether the proposed development of the LDO would represent an impact on Natura2000 sites.</p>	
English Heritage	<p>Pre-Information Schedule</p> <p>As set out in our comments on the Statement of Reasons we recommend that Pre-Information Schedule includes additional information on requirements for the historic environment and heritage assets. This would include provisions relating to designated heritage assets, as for</p>	<p>Consideration has been given to the comments raised with regards to archaeology. The number and scale of HER recorded sites in the LDO has been assessed and in light of the comments and the presence of such sites, a minor amendment to the Order has been considered appropriate. This</p>	<p><b>LDO revised text:</b></p> <p>Schedule 3 Section 2:</p> <p>Amendment to 5<sup>th</sup> bullet point to read:</p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes <b>(deleted text shown as <del>text</del> additional text shown as <u>text</u>)</b>
	<p>example identified at 5.34 in the Statement of Reasons. It would also extend to undesignated heritage assets, and in particular the archaeological sensitivity and archaeological potential of the area. Options for this might include:</p> <p>i) the Council leading on the prior undertaking of an archaeological assessment and evaluation of areas identified as of archaeological sensitivity and potential sensitivity, in order to inform any future development and any required conditions on development;</p> <p>ii) the developer taking the lead in providing the identified information as set out in the Schedule and Conditions.</p> <p>In both cases the Council's archaeological adviser could advise on a suitable programme of works and or conditions for development.</p> <p>With regard to the requirement on Design, we suggest that the criterion on the relationship of development to a canal boundary could be usefully expanded on. For example, this could set out particular matters for consideration such as height, landscaping, boundary features etc.</p> <p>Conditions</p> <p>As currently proposed the conditions of the LDO provide no coverage for appropriate archaeological assessment and</p>	<p>amendment will ensure that HER sites are given appropriate consideration during the Pre-Information stage.</p>	<p>Relationship of any buildings or works to any boundary with:</p> <ul style="list-style-type: none"> <li>- a canal</li> <li>- a river or stream</li> <li>- the M6 Motorway</li> <li>- a strategic highway</li> <li>- a railway, and/or</li> <li>- a proposed Rapid Transit route</li> <li>- <u>Sites or features identified on Walsall's Historic Environment Record.</u></li> </ul>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>evaluation. We regard this as a serious omission given the identified archaeological sensitivity and potential of the area. As already indicated there is the possibility that for targeted areas the Council could undertake such work as a frontloaded exercise, with any required conditions on development informed by the findings.</p> <p>Alternatively the provisions for archaeological assessment and evaluation will be the responsibility of prospective developers and hence need to be built into the draft LDO conditions in the first instance. Additionally under Design, there is no specific mention to Canals and relevant design considerations, as for example covered by the Joint Core Strategy Policy on Canals ENV4.</p> <p>We suggest that the criteria could be extended to positively inform development proposals likely to affect the canal boundary.</p>		
Mark Colwell (Local Resident)	<p>The document appears to have been written in a style that is deliberately long and confusing to baffle residents. Whilst some aspects appear to home in to specifics such as Maximum heights of boundary fences, other and most areas appear to be lacking in detail and simply use suggestive wording and description that is totally ambiguous. To suggest that an area spanning some 2miles in length can potentially house an incinerator and that this can be any magnitude in size as long as it is 8m away from a residential plot is mind blowing! Simply put there needs to be far</p>	<p>Comments with regards to the drafting style of the LDO are noted. Care has been taken to make the LDO as concise and understandable as possible. However, due to the complex nature of the issues being dealt with by the LDO there needs to be sufficient conditions and caveats to ensure that development proposals are adequately assessed and that the Council can ensure that impacts on nearby residents are controlled. This unfortunately necessitates some rather wordy clauses within the</p>	<p>LDO revised Text: Schedule 2 part B) <i>'Erection of new buildings to be used for B1(b), B1(c), B2 or B8 purposes, providing individual buildings do not exceed 15m in height, except within Sub Zone B where within <del>8m</del> 10m of a</i></p>



Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes  (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<p>greater detail and sub-zones than the two proposed. Only then when there really is a clearly defined series of zones that can adequately blend and segregate residential housing and residential traffic away from industry can this document progress in our eyes. Surely this type of proposal can only be set out and approval processes be developed once all environmental studies have concluded.</p> <p>The general idea of the regeneration of many of the disused factory and derelict plots is welcoming however the area identified is vast and in our opinion should segregate further boundaries between residential, commercial and industrial areas. It is stated at the outset that the objective is to encourage economic growth, attract new business to the area and create jobs however it is clear that this is at the detriment of health, safety the environment and living standards to local residents.</p> <p>There are commentaries relating to but wavering on detail regarding the following:</p> <ul style="list-style-type: none"> <li>• Planning law</li> <li>• Environmental factors – traffic in the future, traffic during construction, air quality, toxins (unproven) as a by product of whatever waste or development, noise, sight visual size of buildings, smoke – waste, odour and smell, discharge of materials toxic or not</li> <li>• Highways – traffic increased, safety for kids, dirt of road, road sweeping, noise, parked vehicles</li> </ul>	<p>document.</p> <p>With regards to the construction of an incinerator on site under the powers of the LDO, clause 9 of Schedule 2 states that development not permitted under the Order includes the incineration of waste, the composting of organic waste (unless in an enclosed vessel) and the management of hazardous waste.</p> <p>It is suggested that the LDO should only go ahead once all of the environmental studies have been concluded. This is not considered to be a practical way forward for an area as complex as Darlaston. The strategy set out in the LDO requires environmental studies, where necessary, for each individual proposed development. This will ensure that the most up to date environmental information is being considered in relation to individual schemes.</p> <p>With regards to the separation between development of 5m – 15m and residential boundaries, further consideration has been given to the 8m distance between the boundary of residential or education land uses and development which is between 8m and 15m in height. It has been resolved to revise this distance to 10m (the clause has also been slightly reworded for clarity).</p>	<p><del>boundary with residential or education land uses</del> <u>boundary, no building or part of a building shall exceed 5m in height.</u></p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
	<ul style="list-style-type: none"> <li>• Drainage surcharge – already flooding issues, stated not to make worse but how about make better</li> <li>• Housing value will decrease massively during and after construction</li> <li>• Lighting</li> <li>• Views and scenery</li> <li>• Construction – delivery of material and noise pollution</li> </ul> <p>None of the above are dealt with in any kind of detail and should be considered on a site by site basis not as a global project spanning miles in length. Surely consideration within a carriageway width of residential properties should be totally different from next door to a factory? It is totally unreasonable to expect any resident to agree to your suggestions that are lacking in detail. The suggestion that surveys need to be undertaken is welcome but these need to be concluded prior to approval of development and not during, after or never.</p>		
British Waterways	<p>In respect of this and the draft Order we comment as follows:</p> <ol style="list-style-type: none"> <li>1. BW statutory position is not addressed as BW would no longer be a Statutory Consultee on development proposals within its notified area. In reviewing planning applications BW is able to call upon its own engineers, other specialists and our records relating to the</li> </ol>	<p>BW's concerns with regards to its status as a Statutory Consultee are understood. The Council recognises the important role BW has in maintaining and enhancing the canal network and providing technical advice with regards to development proposals which may impact on the canal network.</p>	<p><b>SOR revised text:</b></p> <p>Appendix (iii) Table of Additional Guidance, Ref 1: <u>As part of the Pre-Information process the</u></p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes <b>(deleted text shown as <del>text</del> additional text shown as <u>text</u>)</b>
	<p>particular asset affected. It is unclear how the Council intend to assess the acceptability of the relationship in engineering/land stability terms particularly within a 28 day timeframe without the input of BW.</p> <p>2. Although the order requires that the 'relationship of any buildings or works to a canal boundary' has to be submitted as part of the pre-information process, the impacts of the development on the waterway are not included as one of the effects that need to be adequately mitigated in accordance with the relevant condition in Schedule 4 to the Order. We do not see that Walsall Council could lawfully determine that any proposed development was not permitted under the Order on these grounds. Therefore, the Order effectively grants planning permission for all prescribed development, regardless of its impact on the structural integrity and wider impacts on the waterway (unless these impacts are covered by one of the other general conditions relating to design or drainage) and without any lawful mechanism for imposing conditions to mitigate this impact.</p> <p>3. In addition to this Paragraph 7.19 of the Statements of Reasons for the Order refers to relevant policies. In our pre-consultation response we specifically referred to the relevance of PPG14, although this does not appear under National Policy. Furthermore whilst the document recognises that there are canals in the area</p>	<p>For clarity, during the 28 days within which the Council considers whether the proposed development is permitted under the LDO and what conditions require further information, all relevant stakeholders (e.g. statutory consultees) will be consulted. Should a consultee consider it likely that a proposed development would result in a significant environmental impact then it will not be permitted by the LDO.</p> <p>In light of this, BW will continue to be consulted on all proposed development falling within the canal infrastructure corridor.</p> <p>Reference to Core Strategy Policy ENV4 'Canals' is noted and will be included in the LDO.</p>	<p><u>Council will consult with the relevant stakeholders, these will include (though not exclusively):</u></p> <ul style="list-style-type: none"> <li>- <u>Highways Agency;</u></li> <li>- <u>Health and Safety Executive;</u></li> <li>- <u>Natural England;</u></li> <li>- <u>English Heritage;</u></li> <li>- <u>British Waterways;</u></li> <li>- <u>Network Rail;</u></li> <li>- <u>Environment Agency</u></li> </ul> <p><b>LDO revised text:</b></p> <p>Schedule 3 Section 1:</p> <p>Additional requirement,</p> <p><u>Prior to the Council confirming whether the propose development is permitted under the Order, the Council shall consult with the relevant stakeholders.</u></p> <p>Schedule 4 Section 1:</p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes <b>(deleted text shown as <del>text</del> additional text shown as <u>text</u>)</b>
	<p>there is no reference to Policy ENV 4 of the Black Country Core Strategy which relates to Canals in the Local Policy section. This policy specifically requires that development safeguards the operation of the navigable and functional waterway and requires that development proposals must be fully supported by evidence that this, along with other factors, has been fully considered and properly incorporated into their design.</p> <p>We note the requirement under Part 34(5)(c) of the Development Management Order 2010 for BW's representations to be taken into account and we will be closely monitoring the passage of the draft order and modifications made to it to assess how these representations have, in fact, been taken into account by Walsall Council.</p>		Inclusion of <u>ENV4 'Canals'</u> in policy list.
<b>Additional Amendments</b>			
Walsall Council	There needs to be reference in the LDO conditions to the agreed requirements of development not only being implemented prior to occupation but also to be retained as such.	A drafting change is proposed.	<b>LDO revised text:</b> Schedule 4 first paragraph <del>'Development shall only take place in accordance with the conditions as specified within the following table. Where</del>

<p><b>Consultation Respondent</b></p>	<p><b>Summary of Comments Made</b></p>	<p><b>Walsall Council’s Response to Comments</b></p>	<p><b>Actions to be taken and Minor Changes</b> <b>(deleted text shown as <del>text</del> additional text shown as <u>text</u>)</b></p>
			<p><del>details need to be agreed with the Council, these need to be fully implemented prior to occupation.</del> <u>Development shall only take place in accordance with the conditions as specified within the following table which should be complied with in perpetuity. Where details need to be agreed with the Council, these need to be fully implemented prior to occupation (unless otherwise stated within the following table) unless otherwise agreed in writing by the local planning authority.</u></p>
<p>Walsall Council</p>	<p>Reference to Council within the Order Should be changed to Local Planning Authority</p>	<p>A drafting change is proposed.</p>	<p><b>LDO revised text:</b> Schedules 3 and 4 All references to <del>Council</del> are deleted and replaced with <u>local planning authority</u></p>

Consultation Respondent	Summary of Comments Made	Walsall Council's Response to Comments	Actions to be taken and Minor Changes (deleted text shown as <del>text</del> additional text shown as <u>text</u> )
Walsall Council	In light of the publication of the NPPF and revocation of PPG /PPS guidance, the Statement of Reasons should be amended accordingly.	A drafting change is proposed.	<b>Statement of Reasons revisions:</b> Inclusion of reference to the NPPF within paragraph 4.8, 4.9 and 7.21.
Walsall Council	In light of the removal of the 'Bentley Road South Pitches' minor amendments are required within the Statement of Reasons.	A drafting change is proposed.	<b>Statement of Reasons revisions:</b> Inclusion of reference to the removal of the Bentley Road South Pitches within paragraphs 1.5, 5.2 and 5.3.