

A1. Local Development Orders

A1.1 The following should be read in conjunction with the content of the main report. It sets out further detail in relation to the legislative framework underpinning an LDO and some specific limitations in their use. In addition in preparing an LDO consideration will be given to any potential implications arising from its designation. The following identifies some specific examples drawn from Welsh Government Good Practice.

Legislative and Policy Framework

A1.2 A Local Development Order (LDO) may be issued by an LPA may under section 61 (A, B, and C) of the Town and Country Planning Act 1990, as inserted by section 40(1) of the Planning and Compulsory Purchase Act 2004 and amended by sections 188 and 238 and Schedule 13 of the Planning Act 2008. This power became effective in Wales on 30 April 2012. Reference is also made to the Development Management Manual 2016 whilst the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO), sets out the procedural requirements for making LDOs.

A1.3 The Community Infrastructure Levy (CIL) Regulations 2010 state that permission granted by a LDO will constitute “planning permission” (regulation 5(3)(a)ii). As a consequence, an LDO may obviate the need to submit a planning application for a certain type of development, but it will not prevent a levy through CIL from being charged, when appropriate and where a CIL charge applies.

A1.4 It should be noted however that Section 106 planning obligations cannot be required under an LDO; however, this does not prevent section 106 agreements being offered by a developer. For example, if a condition attached to a Local Development Order requires mitigation of an impact from development then a section 106 agreement could be used to secure this.

Considerations associated with LDO's

A1.7 Welsh Government Good Practice prepared in relation LDO's identified a number of areas for Welsh local authorities to consider. Specific examples are as follows:

- Would an LDO lead to a loss of democratic control over development, undermining the role of elected members and local communities? In response WG Good Practice points to case studies undertaken which indicate that where an LDO is in place, Local Planning Authorities and communities still exercise democratic control over development. In this respect clear rules are required in advance as part of the LDO, as opposed to any case-by-case discretion.
- Is there a potential for an increase in workloads and would additional layers of complexity be added to the planning process? – WG Good Practice suggests that it may ultimately reduce workload in development management, cutting out routine work within the defined LDO area.

A1.8 Any LDOs will result in a reduced income from planning applications fees, as developers only need to submit a pre-notification, for which they pay the Council a token sum. However, will only be quantifiable once the LDO and its geographical extent is defined. Subject to its scope and extent the impact may be potentially minor in income terms (based on the potential number of applications likely to be received), however it should be recognised that there will none the less be an impact.

Revision and revocation

A1.9 An LDO may be revoked or revised at any time by the LPA on its own initiative. The Welsh Government also has reserve powers to direct an LPA to revoke an LDO or prepare a revision of it. Where an LPA revokes an LDO the authority must :-

- Publish on their website a statement that the LDO has been revoked
- Give notice of the revocation by local advertisement. This is a requirement to publish the notice in as many newspapers as necessary to secure that the press coverage (taken as a whole) extends to the whole of the area to which the LDO relates, and
- Give written notice of the revocation to every person whom the authority consulted before the making of the order.

Compensation where local development order is withdrawn

A1.10 Section 189 of the Planning Act 2008 amends Sections 107 and 108 of Town and Country Planning Act 1990, which provide for compensation where a development order or local development order is withdrawn. In summary, where planning permission granted by a LDO is withdrawn, there will be no entitlement to compensation where notice of the withdrawal is published not less than 12 months or more than the prescribed period (24 months) before the withdrawal takes effect.

A1.11 If development is started before the notice is published, compensation will be available unless the order in question contains provision permitting the completion of development. The reform may therefore offer LPAs reassurance, through providing additional flexibility when considering the revision or withdrawal of LDO permissions, although the Welsh Government considers that an LPA would only rarely need to do this where the merits and effect of an LDO have been properly considered during its preparation.

Link to Welsh Government Circular 003/2012:

<http://gov.wales/docs/desh/publications/120427ldoguidanceen.pdf>