

A3. Local Development Orders

A3.1 The following report 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

A3.2 A Local Development Order (LDO) may be issued by an LPA may under section 61 (A, B, C and D) 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.

A3.3 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.

A3.4 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.

A3.5 It should be noted that there are a number of limitations in implementing an LDO. In this respect Welsh Government Circular 003/2012 states that an LDO may not grant planning permission for development that would:

- a) Have a significant effect on a European Site or a European Offshore Marine Site (either alone or in combination with other projects) unless the development is connected to, or necessary for, the management of the site;
- b) Constitute “Schedule 1 development” or “Schedule 2 development” within the Town and Country Planning (Environmental Impact Assessment) Regulations 1999; or
- c) Affect a listed building.

A3.6 In respect of the above an LDO cannot consequently grant planning permission for development which is likely to have a significant effect on a European Site or European Offshore Marine Site (either alone or in combination with other plans and projects), and is not directly connected with or necessary to the management of the site.

Considerations associated with LDO's

A3.7 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.

A3.8 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.

Link to Welsh Government Circular 003/2012:

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