

 <b>Havering</b> LONDON BOROUGH	<b>Strategic Planning Committee</b> <b>23 May 2024</b>
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<b>Location:</b>	<b>Land north of Fen Lane, North Ockendon</b>
<b>Ward:</b>	<b>Upminster</b>
<b>Description:</b>	<b>Data Centre Campus and associated development</b>

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## **1 BACKGROUND**

- 1.1 Members will recall that an initial developer presentation by the project sponsor, Digital Reef London Ltd (Digital Reef), was made to Strategic Planning Committee (SPC) on 20th April 2023 to introduce the proposal. Within the report, it was stated that the exact planning vehicle or process to bring the proposal forward had not been decided. A number of ‘considerations’/questions were raised at that meeting by Members, responses to those are contained in the appended document from Digital Reef.
- 1.2 A second briefing was made to SPC on 8th June 2023 to explain the three routes through which this proposal could be considered and to advise that a decision had been reached by officers to explore the proposal through the lens of a Local Development Order (LDO). The briefing explained a LDO and set out the process for making a LDO. The report clarified that this is not to say that a LDO will be made, because that decision can only be reached at the end of a detailed process which fully considers all of the material planning issues. Rather, the decision which has been taken results in efforts now being channelled into a particular process.
- 1.3 A third report was presented to SPC on the 28th September 2023, which provided an update by the Local Planning Authority (LPA) on channelling efforts into the LDO process. In summary, this provided an update on the Environmental Impact Assessment (EIA) process, the appointment of specialist advisers and the seeking of a project manager, and the production of a Statement of Reasons to support the planning case for a LDO. On informal

consultation, the report outlined that the conclusion had been reached that is that it is more appropriate to concentrate efforts on analysis and document production ahead of any formal consultation rather than consult prematurely, with limited information, on an informal basis. This also would mean that SPC would have more detail available at the point at which the decision to begin formal consultation is sought.

1.4 SPC Members attended a site visit on 25th March 2024, accompanied by officers from the LPA. Members raised a number of questions during the visit, the responses to those questions are within the appended document from Digital Reef.

1.5 The purpose of this report is to update SPC on -

- the proposed development and any updates from the last presentation to the Committee in April 2023 (presentation being provided by the Development 'Sponsor' Digital Reef, and appended document providing details of the development)
- recap on the Committee the LDO process, and update on progress on taking that forward
- the progress on the Environmental Impact Assessment
- outline the suite of documents that SPC can expect to receive in the report package at such point officers seek SPC approval to formally consult on the LDO (a presentation on this and the above will be provided by officers)
- answer any clarifications to questions and considerations raised by SPC at the meeting on 20th April 2023 and the site visit on 25th March 2024
- set out next steps
- it is not the purpose of this report to provide a detailed planning assessment of the proposal and provide any recommendations, this would be done at such point that officers seek SPC approval to consult on the LDO

## **2 PROPOSAL AND LOCATION DETAILS**

2.1 To recap, details of the site and its surroundings are set out below, and the most recent description of the proposals.

### **Site and Surroundings**

- The site is located to the eastern side of the Borough, beyond the M25 and adjoins the boundary with Thurrock. It is approximately 215.6 hectares in area consisting mainly of open farmland.
- The site is located to the north of Fen Lane and east of Ockendon Road and Clay Tye Road. It is mainly surrounded by similar open farmland, although opposite Fen Lane is Top Meadow Golf Course and there are sporadic residential/commercial uses including a care home and sewerage treatment works close to the site. Approximately 450m north to the closest part of the site is the Warley Electricity Substation/Grid Supply Point, adjacent to that to the west is a battery storage facility.

- The site is in an area designated as Green Belt. Other on-site designations on parts of the site include Mineral Safeguarding (to the west of the site), Flood Zones (2, 3a and 3b in the east of the site), Site of Importance for Nature Conservation, Archaeological Priority Zones, Countryside Conservation Area, Thames Chase Community Forest, and Land Suitable for Small and Medium Wind Energy Developments
- A public footpath with a public right of way runs through the site, as do a high pressure gas pipeline and electricity pylons
- The North Ockendon Conservation Area and associated listed buildings are to the west of the site.

## **Proposal**

The proposal is for a data centre campus comprising a number of buildings containing information technology infrastructure, supporting infrastructure and energy plant, heated indoor horticultural buildings, an ecology park and a visitors' centre. The proposal description set out in the EIA Scoping Report is as follows –

- Maximum developable area floorspace of 400,000 m<sup>2</sup> (Gross External Area, GEA) (with a minimum committed delivery of 279,400 sq.m (GEA))
- Up to a maximum of 340,000 m<sup>2</sup> of data centre floorspace (GEA) (with a minimum committed delivery of 250,000 sq.m GEA) and associated external plant and security;
- Up to a maximum of 60,000 m<sup>2</sup> (with a minimum committed delivery of 26,000 m<sup>2</sup>) GEA of indoor floorspace for heated horticulture facilities;
- Green energy initiatives comprising:
  - up to a maximum of 6,000 m<sup>2</sup> of hydrogen fuel cell energy generation floorspace;
  - up to a maximum of 10 hectares (ha) (minimum of 2ha) of battery storage floorspace;
  - up to a maximum of 2,800 m<sup>2</sup> (minimum of 200 m<sup>2</sup>) of district heating energy centre floorspace;
- Up to a maximum of 600 m<sup>2</sup> (minimum of 200 m<sup>2</sup>) visitor centre floor space, including ecology park management and maintenance facilities;
- Up to a maximum of 20,000 m<sup>2</sup> (minimum of 3,000 m<sup>2</sup>) electrical substation and distribution infrastructure floorspace; and
- A minimum of 113 hectares (280 acres) of new ecology park, accessible to the public. Other areas of proposed extensive landscaping are to the north and west of the site.
- Flexibility is required in the LDO to allow for a range of floorspace areas for uses, to accommodate the needs of future developers and occupiers of the site
- The proposed maximum proposed building roof height would be 21 m above the finished floor level excluding roof top plant and exhaust flues which will extend no more than 5 m above the 21 m maximum building height.
- The main site entrance would be a new access point from Fen Lane.
- The Data Centre requires power from the adjacent Warley Sub-station to the north-west of the site, this can provide the initial power requirements for the

development, and will need to be upgraded to provide the full power requirements. The sponsor, Digital Reef, has a power reservation agreement with UKPN to provide this power. Power would be connected from Warley to new sub-stations on the development site via underground cables.

2.2 The presentation by Digital Reef and the appended document responds to queries to date on the project proposals.

### **3. THE PLANNING PROCESS**

#### **Local Development Orders**

3.1 To recap, a summary of the LDO process is set out below.

- A LDO is a legally binding document which provides permitted development rights for specified types of development. The power to make an LDO rests with the Council in its capacity as Local Planning Authority (LPA), under the provisions contained in the Town and Country Planning Act 1990, as amended.
- Making an LDO removes the need for a planning application to be made by a developer or landowner. In effect, the 'permission' is granted upfront by the making of the Order.
- The process for making on LDO is;

Stage 1 - LDO Preparation: the LPA prepares a draft of the Order and a statement of reasons and other supporting documents

Stage 2 - LDO Consultation and Publicity: the LPA consult on the Order. Consultation includes local residents and statutory consultees.

Stage 3 - Consideration of Representations: The LPA considers whether any revision is needed to the draft LDO and as a consequence, any reconsultation is needed.

Stage 4 - LDO Adoption: The LDO is formally made by the LPA through a resolution to do so. The LDO (and all of its documentation) is sent to the Secretary of State and placed on the Planning Register.

3.2 The Secretary of State cannot 'call in' a LDO, but can direct revisions, or revoke a LDO.

3.3 Development of the scale proposed needs an Environmental Impact Assessment (EIA), which would identify significant environmental impacts, and measures to mitigate those impacts. The LPA is responsible for making sure that requirements under the Environment Impact Assessment Regulations are satisfied.

- 3.4 Conditions can be applied in same way as a planning application. S106 Obligations cannot be required under a LDO, but there is nothing to prevent an obligation being offered by the developer/promoter and negotiated with the LPA. The development as proposed is liable for Mayoral (of London) Community Infrastructure Levy (CIL).
- 3.5 The Committee has an important role in the consideration and ultimate making of any LDO for this particular project. If an LDO were to be progressed SPC would be required to approve the statutory consultation on the draft LDO and approve the final making of the LDO.
- 3.6 It is important to re-iterate that this report does not propose that a LDO be made for the proposed development on this site. As reported previously, that decision can only be reached at the end of a detailed process which fully considers all of the material planning issues, and is subject to approval by Strategic Planning Committee as set out above. A summary of the progress on taking forward the LDO process is set out below.

#### **4. UPDATE ON PROGRESS**

- 4.1 Significant progress has been made in taking forward the LDO process as follows.

##### **Environmental Impact Assessment (EIA)**

- 4.2 In June 2023, screening and scoping requests were submitted to the LPA on behalf of Digital Reef on the basis of whether a planning application, if submitted for the development, would need an EIA (reference numbers Z0003.23 and Z0002.23 respectively)
- 4.3 In August 2023 the LPA responded to the request for a screening opinion by issuing an opinion that the proposed development would constitute EIA development in light of the likely possible impacts which the development would have on environmental resources in the locality and on a wider scale, mitigation of which should be set out in an Environmental Statement (the product of the EIA process) accompanying any planning application. The LPA also consulted statutory consultees on the scope of the potential content of an Environment Statement, with the aim of adopting a scoping opinion.
- 4.4 The LPA has since considered that both screening and scoping opinions for the Local Development Order need to be produced by the LPA itself and not the promoter. As such, the LPA has re-screened the proposed development, and re-scoped the potential content of the ES, and consulted statutory consultees in March and April 2024. The scoping opinion request from Digital Reef was withdrawn in February. The LPA has considered the consultation responses to the scoping report and at the time of writing is preparing to re-issue both screening and scoping opinions.
- 4.5 The baseline evidence base for the EIA is in place, and technical impact assessments are underway covering those elements set out in the scoping

opinion, including ecology, archaeology and cultural heritage, socio-economic impacts, noise, air quality, transport and accessibility, ground contamination, water resources and flood risk, climate change, soil and agriculture, and landscape and visual impacts.

### **Appointment of Project Manager**

- 4.5 As set out in the previous report to Committee, the LPA reported that it had commissioned planning consultants (Adams Hendry) and EIA consultants (Ramboll) to support it on the project, and would be seeking a project manager/case officer to take forward the LDO. This has been achieved and the project manager has been in post since late November 2023.

### **Production of Key Documents for the LDO**

- 4.6 Alongside the EIA, work is in progress on a number of key documents that form part of the suite of documents to enable the making of a LDO for the site, and which will form part of the report package to SPC at such point that officers seek the Committee's approval to consult. A significant amount of the evidence base behind the LDO documents is being produced by Digital Reef, which officers review and scrutinise. The LPA will be producing significant evidence base itself. Using this combined evidence base, the LPA will be progressing those documents needed to take forward the LDO.

- 4.7 The key documents in progress are as follows;

#### *Planning Case*

- Statement of Reasons - setting out the planning assessment, and the 'planning balance', particularly with regard to the impact on the Green Belt and consideration of 'Very Special Circumstances' for development in the Green Belt. This document is important in supporting the making of a LDO, and as such officers will need to be confident that all technical assessments have been completed satisfactorily in order to set out the planning assessment
- Power Report – setting out the electrical power requirements for the proposed data centre, and why Warley Sub-Station is important in providing that power. This is a key locational factor for the proposed development on this site
- Needs Assessment – setting out the need for data centres nationally and regionally, and how that need is driving the proposed development on this site
- Alternative Sites Assessment – an assessment of other sites that the promoter has considered for the proposed development
- Economic Benefits – a report setting out the estimated project benefits of the proposed development resulting from both construction and operational phases to influence the Statement of Reasons

#### *Compliance Documents*

- The LDO document itself - setting out the development that is to be permitted, any conditions and pre-notification requirements, and the duration of the LDO

- Design Code – this will be a key compliance documents, setting out a number of matters (eg building heights, use of materials, layout of parking areas, phasing) that any development must be in compliance with in order to be covered by the LDO
- Code of Construction Practice – how the construction phase of the development, including construction traffic, must be managed
- Travel Plan – setting out measures to be in place to ensure sustainable transport choices, and to avoid the need to travel, probably secured through a S106 agreement between the LPA and the promoter
- S106 agreement – to secure the measures needed to mitigate the impacts of development, and provisions such as the Travel Plan, and Employment and Skills Plan

#### *Other technical assessments*

A number of other technical assessments are being produced and assessed to inform on the impact of the proposals and mitigation, including but not limited to:

- Flood Risk Assessment
- Drainage
- Health Impact Assessment
- Security Strategy
- Landscape Strategy
- Trees Survey
- Circular Economy Statement
- Design Statement

## **5.0 CONSULTATION**

- 5.1 As advised at the SPC meeting in September 2023, the LPA is not undertaking informal consultation on the LDO, and is focussing efforts on production of all key and supporting documents for formal, statutory consultation that will provide detailed information on the proposed development, the assessment of the potential impact of that development, and the permitted development and compliance matters that the LPA will propose in the LDO. Some initial consultation has taken place with statutory consultees though consultation on the EIA scoping report.
- 5.2 Consultation requirements for a LDO, and an EIA, are set out in the Town and Country Planning (Development Management Procedure) Order 2015 and the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 respectively, and consultation needs to follow the Council's adopted Statement of Community Involvement (SCI) 2021. Essentially, consultation on the LDO needs to be similar to that that would be undertaken for a planning application for the proposed development on the site, and there are specific requirements for consultation on a EIA when accompanying a LDO.

- 5.3 The specific consultation plan and arrangements will be set out in a future report to SPC seeking approval to consult, however, in summary this would include –
- Site, press and website notices
  - Notification by letter to occupiers adjoining/adjacent to the site
  - Consultation notification to prescribed consultees (including the Mayor of London, the Environment Agency, Natural England, Historic England, adjoining boroughs, Health and Safety Executive)
  - Consultation notification to other consultee to be identified, such as amenity, environment and business groups operating across the Borough or the area of the development site
- 5.4 The LPA will need to consider consultation responses and decide if they should lead to any changes to the LDO, the EIA and supporting documents. A consultation report will be prepared and submitted alongside any report seeking SPC's approval to adopt the LDO.
- 5.5 Digital Reef commenced an engagement process with the local community on the proposed development in early May in the same way a developer would at pre-application stage.

## **6.0 Next Steps**

- 6.1 The LPA will continue to progress the completion of evidence base documents and the production of the key documents set out above. If officers consider that there is a planning case to be made for the development, particularly in relation to development in the Green Belt and whether any harm caused could be outweighed by the benefits of the development, and that any significant impacts have been identified and can be mitigated for the most part, it will revert back to SPC seeking approval to consult on the LDO later in 2024.

## **7.0 CONCLUSION**

- 7.1 This report seeks to update Members on the current development proposal for the site, work undertaken since the last briefing in September 2023 and in progress, to outline the suite of documents the Committee can expect at such point that officers seek approval to consult on the LDO, and to answer previous questions raised on the development proposal.
- 7.2 The Committee is asked to note the content of this report.