



**Cabinet**

**Tuesday, 12 July 2022**

**Ratcliffe on Soar Local Development Order**

## **Report of the Director – Development and Economic Growth**

### **Cabinet Portfolio Holder for Planning and Housing, Councillor R Upton**

#### **1. Purpose of report**

- 1.1. The decision was taken by Cabinet on 23 November 2021 that the Council should prepare a Local Development Order (LDO) for the Ratcliffe on Soar Power Station site, working with the site owner. An LDO would grant planning permission for the site's redevelopment, subject to any conditions applied to the Order. In accordance with East Midlands Freeport and East Midlands Development Corporation aspirations for the site, the LDO would allow for the creation of an industrial park focused on advanced manufacturing, including technology needed to transition to net-zero, green and low-carbon energy generation, and energy storage.
- 1.2. In the period since November 2021, work has been ongoing to prepare the LDO in draft. This included non-statutory public consultation on initial proposals for the site, which was undertaken between 29 November 2021 and 10 January 2022, and consideration by the Local Development Framework (LDF) Group of draft proposals for the site and the various documents that would make up the draft LDO. Following which, the LDF Group has recommended to Cabinet that the LDO is approved in draft and published for consultation.
- 1.3. This report therefore seeks approval for the LDO to be approved in draft and published for consultation. The statutory consultation would commence as soon as practicable and cover a period of six weeks.

#### **2. Recommendation**

It is RECOMMENDED that Cabinet:

- a) approves in draft the Ratcliffe on Soar Local Development Order and Statement of Reasons (Appendix 1), the LDO Design Guide (Appendix 2) and the LDO Parameter Plans (Appendix 3);
- b) approves the draft LDO Statement of Consultation (Appendix 4) and the publication of all supporting documents for the LDO;
- c) agrees that the draft Ratcliffe on Soar Local Development Order (LDO) and LDO supporting documents are published for consultation;

- d) agrees that, in conjunction with the consultation on the Ratcliffe on Soar LDO, views are sought on the decision-making and delegation arrangements for determining LDO Certificate of Compliance applications; and
- e) delegates authority to the Director for Development and Economic Growth, in consultation with the Cabinet Portfolio Holder for Planning and Housing, to make any necessary final minor textual, graphical, and presentational changes required to the draft Ratcliffe on Soar LDO prior to publication for consultation.

### **3. Reasons for Recommendation**

- 3.1. The Cabinet in November 2021 agreed that a Local Development Order (LDO) for the Ratcliffe on Soar Power Station site should be prepared. It was also agreed that any decision to approve the draft LDO should be taken by Cabinet.
- 3.2. It is considered that the development proposals for the Ratcliffe on Soar Power Station site, as set out in the draft LDO, are justified and the LDO is in a suitable position to be approved in draft and published for consultation.

### **4. Supporting Information**

- 4.1. The Cabinet in November 2021 agreed that a Local Development Order (LDO) for the Ratcliffe on Soar Power Station site should be prepared. The justification for and benefits of preparing an LDO were set out in the report considered by the Cabinet in taking that decision. It was also decided by Cabinet that the Council should work with the site owner in preparing a draft of the LDO. The LDO would grant planning permission for the site's development, subject to any conditions applied to the Order. In accordance with East Midlands Freeport and East Midlands Development Corporation aspirations for the site, the LDO would allow for the creation of an industrial park focused on advanced manufacturing, including technology needed to transition to net-zero, green and low-carbon energy generation, and energy storage.
- 4.2. The recently submitted full business case (FBC) for the Freeport identifies that it is expected that economic activity on the site will primarily be focussed within the advanced manufacturing and logistics sectors with a particular focus on decarbonised technology and on developing related low carbon energy infrastructure on site. The FBC also identifies that it is expected that build out of the site would need to begin during 2023. This is to allow sufficient time to enable relevant new businesses to be up and running by 30 September 2026, which is the final date to be operational in order to qualify for full Freeport benefits. It is anticipated that the Freeport will come into force during autumn 2022.
- 4.3. In terms of the approval process for the LDO, the key decision making points are to agree the draft LDO and to adopt the final LDO, with legislation requiring that an LDO is adopted by resolution of the Local Planning Authority. It was decided by Cabinet in November 2021 that it would take the decision to approve the draft LDO and the decision to adopt the LDO would be taken by Full Council.

The Cabinet also agreed that, in the lead up to decision-making, the Local Development Framework (LDF) Group would consider and make recommendations in respect of the draft LDO.

- 4.4. In the period since November 2021, work has been ongoing to prepare the LDO in draft. This included non-statutory public consultation on initial proposals for the site undertaken between 29 November 2021 and 10 January 2022 and consideration by the Local Development Framework (LDF) Group of draft proposals for the site and the various documents that would make up the draft LDO. The LDF Group most recently considered the draft LDO documents at a meeting on 28 June 2022. At which, the Group supported the draft LDO documents, subject to a small number of final amendments which have subsequently been incorporated within the various documents where appropriate and recommended to Cabinet that the LDO is approved in draft and published for consultation.
- 4.5. The documents that would form and support the LDO are set out in Table 1 below.

**Table 1: LDO and supporting documents**

<b>Document/plan</b>	<b>Summary of purpose</b>
Local Development Order and Statement of Reasons	It establishes the development permitted by the LDO, the conditions attached to the permitted development, the procedure to approve detailed development schemes and then sets out the reasons for the LDO.
Parameter Plans and Design Guide	They together establish the spatial arrangement for development within the site and set design criteria which development proposals will need to follow.
Illustrative Masterplan and other illustrative plans	The plans show a potential development scenario which complies with the parameters, and illustratively identify development quantum and site phasing.
Environmental Statement (ES) - Assessment chapters - Technical appendices - Non-technical summary	The ES reports on the Environmental Impact Assessment outcomes and mitigation measures. The environmental matters assessed include: agricultural land and soils; air quality; archaeology and built heritage; climate change and greenhouse gases; ecology; ground conditions; human health; landscape; materials and waste; noise and vibration; socio-economics; traffic and transport; water environment and in-combination and cumulative effects.
Transport Assessment (TA)	The TA reports on the transport impacts of the proposed development and identifies potential mitigation measures.

Document/plan	Summary of purpose
Site Wide Travel Plan Framework (SWTPF)	The SWTPF identifies site-wide measures that will be implemented to promote sustainable travel for the proposals.
Technical Reports (Flood Risk Assessment, Surface Water Drainage Strategy; Utilities Strategy Report; Energy Strategy; and Arboriculture Survey)	The technical report covers flood risk matters, a review of existing drainage infrastructure and managing surface water, an assessment of existing utilities supplies, how development can satisfy sustainable energy policy, and an assessment of impact on the existing tree stock and outline mitigation measures.
Statement of Community Involvement	It reports on the consultation undertaken related to preparation of the LDO with the general public and stakeholders and identifies proposed responses to the various points raised by consultees.

- 4.6. A proposed draft LDO and Statement of Reasons document is attached as Appendix 1. As set out in the preface to the document, it is written as a final version of the LDO and Statement of Reasons, but it would be subject to revisions to take into account any feedback received following the period of statutory consultation (which will be undertaken subject to the decision to approve the LDO in draft) and also following further review prior to its final adoption. In addition, there are sections that will need to be added to the document and also certain matters that may need supplementing. This includes, for example, the outcome of statutory consultation, the conditions and mitigation measures that will be informed by feedback and any newly identified requirements arising from the consultation.
- 4.7. The draft document is split in to two main parts: the first part (chapters 2, 3 and 4) establishes what development would be permitted by the LDO, the conditions attached to the LDO, what migration would be required to address any potential adverse effects of the proposed development and the procedure which would need to be followed in order for it to be confirmed that a development proposal would be in conformity with the LDO.
- 4.8. The first section of chapter 2 (section 2.1) establishes the proposed extent of the LDO boundary (as set out at Figure 1 of the document). At section 2.2, there is a description of the proposed development. It is proposed that the LDO allows for new development comprising the erection of buildings up to a maximum gross floor area (GFA) of 810,000m<sup>2</sup> to accommodate those uses described and also those set out in section 2.4 (see below).
- 4.9. Section 2.3 then explains that the proposed development is defined by this description, the LDO Design Guide and the Parameter Plans, which together set out the acceptable location and distribution of development across the site.

At section 2.4, it is established which specific uses would be permitted by the LDO, with the main uses being those listed within Table 1 of the document. This includes energy generation and storage, advanced manufacturing and industrial development, logistics (up to a maximum of 180,000m<sup>2</sup> GFA) and research and development. It is also proposed as part of Section 2.4 that the LDO and its provisions will remain in force for 25 years subject to the Secretary of State or the Council's power to revoke or modify the LDO.

- 4.10. Section 2.4 also establishes that the LDO Design Guide includes design principles and a set of characteristics that proposed development must accord with in order to be acceptable under the terms of the LDO. This includes a requirement that development should meet at least one of seven defined characteristics. As an example, one of the listed criteria is that development would produce, store, and manage low carbon and green energy.
- 4.11. At section 3.1, there are a number of planning conditions which are intended to ensure that any development permitted by the LDO is acceptable in planning and procedural terms. Included in these proposed conditions is the requirement for the Council to review the LDO progress on the third anniversary of the LDO's adoption and at five yearly intervals thereafter, in order to be able to fully assess the suitability of the LDO in the light of any changes to planning policy and market conditions. In completing the review process, the Council would determine whether to: retain the LDO as it stands for the remaining years of its life; to retain the LDO but revise some elements/provisions of the LDO; or to revoke and cancel the LDO. It should, however, be noted that the Council would still retain the power to review, revise or revoke the LDO at any time.
- 4.12. The conditions complement and sit alongside a 'Schedule of Mitigation Requirements' which would be integral to the process for confirming that a development proposal complies with the LDO, and which has been informed by the findings of the Environmental Statement and the Transport Assessment. This schedule and the identified mitigation requirements are included at Appendix C of the LDO and Statement of Reasons document. The schedule would potentially need to be refined and/or added to following feedback received at the subsequent statutory consultation stage.
- 4.13. The alignment of the Environmental Statement (ES), Transport Assessment (TA) and Schedule of Mitigation Requirements is described at section 3.2. The ES identifies the potential environmental effects arising from the proposed development that should be mitigated as part of any development permitted by the LDO and, similarly, the TA identifies mitigation measures necessary to address potential transport effects arising from the development. Section 3.2 also identifies how procedurally these mitigation measures would be secured (e.g. through relevant conditions applied to approved Certificates of Compliance).
- 4.14. The provision of Biodiversity Net Gain (BNG) is one aspect of the mitigation measures, and it is proposed that development permitted by the LDO achieves BNG of 10%. Section 3.3 sets out details of how much BNG is required to achieve this 10% target and the broad approach as to how BNG will be delivered through on-site and, potentially, off-site provision.

- 4.15. Within section 3.4, the LDO and Statement of Reasons identifies how measures to fully mitigate the impacts of development may be delivered. It is proposed that mitigation requirements can be delivered in a number of ways and the LDO is not prescriptive in this regard; with examples of potential different delivery mechanisms being set out within section 3.4 of the document.
- 4.16. There are, at sections 4.1 to 4.4, proposed procedures that potential occupiers and developers wishing to undertake LDO permitted development on the site would have to follow in order to confirm that their proposed development meets the requirements of the LDO. This includes the need to complete an application form for a 'Certificate of Compliance'. A flow chart setting out the proposed indicative process for the preparation and submission of a Certificate of Compliance Application is provided at section 4.4.
- 4.17. The draft LDO identifies, at section 4.3, that the determination and delegation procedure for confirming compliance will follow the process as set out in the Council's constitution. However, the details of this process have still to be determined and included within the constitution. It is the LDF Group's recommendation that this should happen by the time the LDO is finalised and that, in conjunction with the consultation to be undertaken on the draft LDO, views should also be sought on the decision-making and delegation arrangements for the compliance process.
- 4.18. The second part of the draft document (chapters 5, 6 and 7) sets out the context for the LDO and the reasons for establishing the LDO, including to support delivery of the East Midlands Freeport. At section 7.5 of the LDO and Statement of Reasons, the planning context for the proposed development is outlined. Importantly, because all of the site is located within the Nottingham-Derby Green Belt, included within section 7.5 is a Green Belt assessment which includes consideration as to whether 'very special circumstances' exist to justify the proposed development. The reason that 'very special circumstances' need to be demonstrated is explained at section 7.5 under the sub-section titled 'Green Belt Policy Overview'. There then follows within section 7.5 a detailed assessment of the factors that have been taken into account in considering whether 'very special circumstances' exist and then, ultimately, coming to the conclusion that they do exist to justify the proposed development as set out within the draft LDO. In summary, it is considered that the considerable benefits of the proposed development, as identified within the Statement of Reasons, would clearly outweigh both the definitional harm and the other harms that would arise from the impact of the proposed development on the Green Belt.
- 4.19. At sections 7.6 and 7.7, there is a summary of the outcomes of the Environmental Impact Assessment (EIA) and Transport Assessment (TA) work that has been undertaken in order to assess the effects of the proposed development and to identify the likely mitigation measures required to make the development acceptable. The Environmental Statement (ES) describes in detail the technical findings of the EIA, and the likely significant environmental effects, both beneficial and adverse, and the means to avoid or reduce any adverse effects. The TA identifies the general approach to mitigate for transport impacts, which is to build on the existing public transport infrastructure and services

provided by East Midlands Parkway railway station, local bus routes and the Nottingham Express Transit (NET). In addition, key highway constraints would be improved, where practicable, to accommodate the traffic generated by the proposed development and to reduce the amount of future baseline traffic displaced by development traffic, thus reducing impacts on the wider road network.

- 4.20. It is on the basis of those reasons set out in Part 2 of the LDO and Statement of Reasons document in particular that it is considered that the development proposals for the Ratcliffe on Soar power station site, as specified by the draft LDO, are justified and that the LDO is in a suitable position to be agreed in draft and published for consultation.
- 4.21. The draft LDO and Statement of Reasons document includes three appendices. At Appendix A is a full list of all the documents that have been prepared as part of or in support of the LDO. Appendix B includes further details in respect of the Application for a Certificate of Compliance process and a draft of the application form that would need to be submitted as part of a compliance submission; and Appendix C provides the schedule of mitigation requirements necessary to address the effects of development, as well as guidance to produce the Transport and Biodiversity Mitigation Strategy. This strategy is required in order to set out how the transport and BNG mitigation requirements for the whole site will be delivered.
- 4.22. At Appendix 2 to this report is the draft LDO Design Guide and at Appendix 3 is a full set of the draft parameter plans. The Design Guide and parameter plans work together to establish the spatial arrangement of permitted development across the site and, within the Design Guide, set broad “design” criteria which developers would need to follow and satisfy when submitting a Certificate of Compliance application. This includes the proposed identification of 10 different zones where development may take place and, within which, different land use types are allowed (not all zones are the same in terms of proposed permitted uses). The other matters covered by the relevant parameter plans and sections within the draft Design Guide include: transport; infrastructure and services; building heights and design (including matters related to architecture); and landscape. The Design Guide also includes two illustrative masterplans for the site in order to demonstrate how developments could come forward as a series of plots in accordance with the parameters and design principles set out in the Design Guide and the accompanying LDO plans and documents.
- 4.23. The first of the two illustrative masterplans has also been made available as a separate illustrative plan, along with a second plan which shows, for this illustrative layout, the indicative land use types, and gross floor area data, and a third plan showing the likely phasing of development for broad areas of the site (all three plans are available as background documents). Also available as background documents are supporting plans showing the location of the site, the proposed LDO boundary, the extent of the Freeport boundary, an existing site layout plan and a plan showing the existing site’s topography.
- 4.24. At Appendix 4 is a Statement of Community Involvement (SCI) for the LDO. It provides a summary of the consultation undertaken earlier on in the preparation

process and the comments received at that stage from statutory consultees, non-statutory consultees, landowners, and members of the public. Alongside the summary of these comments, the SCI includes proposed responses to the various points raised by consultees.

- 4.25. The ES and TA which have both been prepared to support preparation of the LDO (as referred to above), plus a Site Wide Travel Plan Framework (SWTPF), are available as background documents. The SWTPF sets out site-wide measures that will be implemented to promote sustainable travel for the proposals.
- 4.26. The various other technical studies and assessments which have been prepared to support the LDO are also available as background documents. This includes a Flood Risk Assessment which demonstrates that the site is safe to develop in terms of flood risk and development would not increase flood risk elsewhere; a Surface Water Drainage Strategy which provides a review of the existing surface water drainage infrastructure on the site, and a proposed outline strategy for managing surface water on the proposed development; a Utilities Strategy Report which presents an assessment of the existing utility supplies available at the site; an Energy Strategy which identifies how the energy requirements for the proposed development can satisfy sustainable energy policy; and an Arboriculture Survey which assesses the impact of the proposed development on the existing tree stock and outlines mitigation actions, where appropriate, to minimise any potential damage to retained trees.
- 4.27. Subject to the draft LDO being approved, consultation on the various documents would commence as soon as practicable and cover a period of six weeks; longer than the statutory minimum period of four weeks. Following which, it will then need to be determined whether modifications to the draft LDO are required, taking into account any representations received. It is currently anticipated that a final LDO will be taken to the Full Council meeting on 1 December 2022, for it to decide whether or not the LDO is adopted.

## **5. Alternative options considered and reasons for rejection**

The Council could choose to take a more reactive approach to the redevelopment/regeneration of the Ratcliffe on Soar site and not prepare a LDO. However, as set out, the site is significant in size and location and there are time factors to consider such as the potential impact of the Freeport over the next five years, and the timing of the end of coal-powered electricity production. The Council could choose to leave consideration of the site's suitability for new development to the Local Plan process, however, this is not likely to be timely enough for the Freeport process. The LDO route would provide the Council with more control over shaping the future use of the site. It should also help to ensure the delivery of relevant development by the end of September 2026, which is the final date for businesses to be operational in order to qualify for the full benefits of being part of the East Midlands Freeport.



## **6. Risks and Uncertainties**

- 6.1. There is a risk that the Ratcliffe on Soar Power Station site remains undeveloped following its decommissioning; however, preparation of an LDO should help to mitigate this risk.
- 6.2. There is also a risk that the Freeport does not get formal status following the completion of the Full Business Case (FBC). However, a commitment to prepare an LDO, and for this to be outlined in the FBC, should help in part to ensure that this does not happen. If the Freeport does not get formal status this would have a bearing on the justification for preparing the LDO and therefore how to proceed would need to be reviewed.

## **7. Implications**

### **7.1. Financial Implications**

- 7.1.1 There are financial costs associated with the work required to prepare the LDO and also a loss of potential planning application fee income by granting planning permission on the site through this alternative route.
- 7.1.2 The final costs of preparing the LDO are likely to be relatively high given the complexity of the development proposal, but most of this is associated with the preparation of supporting technical evidence, which the site owners, Uniper, have appointed consultants and are paying them to undertake. Council officer time has been and will continue to be required to support the various stages of preparation, which is currently contained within existing resources. The Council is, however, negotiating with Uniper for it to reasonably cover all or some of these financial costs to offset the loss of the planning application fee.
- 7.1.3 Any upfront costs that will need to be borne by the Council and any associated loss of potential planning fee income should, however, be considered and balanced against the longer term benefits of facilitating significant and sustainable economic growth. There is also scope to mitigate the costs of LDO preparation and implementation, at least in part, by charging a fee for submissions seeking conformity with the LDO and its conditions. It is proposed that there is a fee for such compliance applications, and it should be based on the equivalent nationally set fees for Approval of Reserved Matters applications.

### **7.2 Legal Implications**

Local Planning Authorities (LPA) can grant planning permission for development specified in an LDO. The legislative procedures that must be followed in order to bring forward and adopt an LDO are set out in sections 61A to 61D and Schedule 4A of the Town and Country Planning Act 1990, as amended, and Articles 38 and 41 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. Schedule 4A(3) of the 1990 Act specifies that an LDO is of no effect unless it is adopted by resolution of the LPA.

### 7.3 Equalities Implications

A key reason for preparing an LDO is to deliver new development to help achieve the aims of the East Midlands Freeport. Inclusive growth is a key theme for the Freeport and the Government's intentions for its Freeport Policy, ensuring that, as far as possible, the Freeport brings benefits for all; levelling up the national economy and, as well as creating jobs, the focus is on the quality as well as the accessibility of those jobs.

### 7.4 Section 17 of the Crime and Disorder Act 1998 Implications

There are no crime and disorder implications associated with this report.

## 8. Link to Corporate Priorities

Quality of Life	The development of the Ratcliffe on Soar Power station site has the potential to benefit local residents' quality of life through the provision of new jobs and improved infrastructure, including blue and green infrastructure.
Efficient Services	-
Sustainable Growth	The development of the Ratcliffe site through an LDO could attract a significant number of new businesses and jobs. The order would need to set appropriate parameters and conditions to ensure that development is acceptable in planning and sustainability terms.
The Environment	The vision for the Ratcliffe site is to move towards becoming a zero-carbon technology and energy hub for the East Midlands. The emerging plans for the site have the potential to create jobs based around modern industrial and manufacturing uses, with sustainable onsite energy generation providing a local source of low carbon heat and power.

## 9. Recommendation

It is RECOMMENDED that Cabinet:

- a) approves in draft the Ratcliffe on Soar Local Development Order and Statement of Reasons (Appendix 1), the LDO Design Guide (Appendix 2) and the LDO Parameter Plans (Appendix 3);
- b) approves the draft LDO Statement of Consultation (Appendix 4) and the publication of all supporting documents for the LDO;
- c) agrees that the draft Ratcliffe on Soar Local Development Order (LDO) and LDO supporting documents are published for consultation;

- d) agrees that, in conjunction with the consultation on the Ratcliffe on Soar LDO, views are sought on the decision-making and delegation arrangements for determining LDO Certificate of Compliance applications; and
- e) delegates authority to the Director for Development and Economic Growth, in consultation with the Cabinet Portfolio Holder for Planning and Housing, to make any necessary final minor textual, graphical, and presentational changes required to the draft Ratcliffe on Soar LDO prior to publication for consultation.

<b>For more information contact:</b>	Richard Mapletoft Planning Policy Manager 0115 914 8457 <a href="mailto:rmapletoft@rushcliffe.gov.uk">rmapletoft@rushcliffe.gov.uk</a>
<b>Background papers available for Inspection:</b>	Available at: <a href="https://www.rushcliffe.gov.uk/planningpolicy/ratcliffelocaldevelopmentorder">https://www.rushcliffe.gov.uk/planningpolicy/ratcliffelocaldevelopmentorder</a> <ol style="list-style-type: none"> <li>1. Draft Ratcliffe on Soar Local Development Order Illustrative Plans</li> <li>2. Draft Ratcliffe on Soar Local Development Order Existing Plans</li> <li>3. Draft Ratcliffe on Soar Local Development Order Environmental Statement</li> <li>4. Draft Ratcliffe on Soar Local Development Order Transport Assessment</li> <li>5. Draft Ratcliffe on Soar Local Development Order Site Wide Travel Plan Framework</li> <li>6. Draft Ratcliffe on Soar Local Development Order Flood Risk Assessment</li> <li>7. Draft Ratcliffe on Soar Local Development Order Assessment Surface Water Drainage Strategy</li> <li>8. Draft Ratcliffe on Soar Local Development Order Utilities Strategy Report</li> <li>9. Draft Ratcliffe on Soar Local Development Order Energy Strategy</li> <li>10. Draft Ratcliffe on Soar Local Development Order Arboriculture Survey and Impact Assessment</li> </ol>
<b>List of appendices:</b>	Appendix 1: Draft Ratcliffe-on-Soar Local Development Order and Statement of Reasons

	<p>Appendix 2: Draft Ratcliffe on Soar Local Development Order Design Guide</p>
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Appendix 3: Draft Ratcliffe on Soar Local Development Order Parameter Plans

Appendix 4: Draft Ratcliffe on Soar Local Development Order Statement of Community Involvement