



Cabinet

Tuesday, 23 November 2021

Ratcliffe on Soar Power Station Local Development Order

Report of the Director – Development and Economic Growth

Cabinet Portfolio Holder for Business and Growth, Councillor A Edyvean

1. Purpose of report

- 1.1. This report seeks approval to progress 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 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 a multi-use employment complex with a low-carbon energy focus.
- 1.2. Ratcliffe on Soar Power Station is a strategically significant site of around 265 hectares alongside the A453 at the western edge of Rushcliffe. The power station is due to close in line with government policy, which is to end coal-fired power generation by October 2024. The preparation of an LDO is presently seen as the best route to secure the reuse of those parts of the site that will be redundant after decommissioning and, at the same time, to provide planning consent in time to enable new businesses to be up and running by 30 September 2026. This is the final date by which businesses have to be operational in order to qualify for full Freeport benefits.
- 1.3. This report also seeks approval for a decision-making route for the LDO. It is proposed that a decision to approve the draft LDO is taken by Cabinet and a decision to adopt the LDO is taken by Full Council; and in the lead up to decision-making, the Local Development Framework Group considers and makes recommendations in respect of the draft LDO to Cabinet.

2. Recommendation

It is RECOMMENDED that Cabinet:

- a) approves the preparation of a Local Development Order for the Ratcliffe on Soar Power Station site;
- b) agrees that the Council enters into a Memorandum of Understanding with the site owner and works with them to prepare a draft Local Development Order to be brought back to Cabinet for approval;
- c) approves the draft timetable at Appendix A;

- d) approves the following additions to the terms of reference for the Local Development Framework Group in the Council's Constitution: "The Local Development Framework Group shall consider and make recommendations to Cabinet or Council on all draft Local Development Orders and any other relevant documents"; and
- e) agrees that the Director for Development and Economic Growth should act as Project Director for the Local Development Order and oversee its preparation and all associated consultations.

3. Reasons for Recommendation

- 3.1. The Ratcliffe-on-Soar Power Station is due to cease operations by October 2024, which presents a significant redevelopment opportunity for major new business activity and associated job creation on the site. This potential is recognised and supported by the proposals to establish both the East Midlands Development Corporation (EMDC) and the East Midlands Freeport. The recently submitted outline business case for the Freeport identifies that it is expected that the 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 for businesses to be operational in order to qualify for full Freeport benefits.
- 3.2. The case for allocating the site for new development and removing it from the Green Belt is being considered as part of preparing for the Greater Nottingham Strategic Plan (GNSP). However, it is currently expected that the GNSP will be adopted midway through 2023, which is not timely enough for the Freeport process. The Cabinet in May 2021 decided to endorse working with the site owner and the Freeport and EMDC to explore developing a Local Development Order or other suitable Order, to deliver greater planning certainty for the site. To enable work to proceed further and potentially give planning consent for development of the site ahead of the Local Plan process, it now needs to be decided which specific route to take. For the reasons identified within this report, it is considered that the most appropriate course of action is for the Council to work with the site owners to prepare a LDO. The LDO would give planning permission to develop the site, subject to any conditions applied to the order.
- 3.3. In preparing an LDO for the Ratcliffe site, consideration must be given to the decision making process. It is proposed that any decision to approve the draft LDO is taken by Cabinet and any decision to adopt the LDO is taken by Full Council. It is also proposed that, in the lead up to decisions being taken, the Local Development Framework Group considers and makes recommendations in respect of the draft LDO. This, however, will require an amendment to the group's terms of reference within the Council's Constitution.

4. Supporting Information

- 4.1. The Ratcliffe-on-Soar Power Station within the Borough is a major energy generator and supplier to the National Grid and is owned and operated by

Uniper UK Limited. The site covers approximately 265 hectares (extending to the north and south of the A453) and is already a significant employment centre within the region. It is a strategically significant site given its size, its location alongside the A453 and next to the East Midlands Parkway Station on the Midland Main Line and its close proximity to the M1 and East Midlands Airport. The northern site forms the operational premises of the existing power station. The southern site is a permitted waste disposal facility for inert fly ash – a by-product of coal combustion.

- 4.2. As a consequence of the Government's strategy to phase out power generation from coal, the Ratcliffe-on-Soar Power Station is set to cease operations by October 2024. This presents a significant redevelopment opportunity for new business activity and associated job creation on a site which benefits in particular from good road and rail accessibility and also from the site's significant electricity distribution infrastructure.
- 4.3. This potential is recognised and supported by the proposals to establish both the East Midlands Development Corporation (EMDC) and the East Midlands Freeport. The aim of the EMDC would be to facilitate the delivery of significant economic development on this site, as well as at Toton and Chetwynd Barracks (in Broxtowe), and East Midlands Airport (in North West Leicestershire). The vision is that the Ratcliffe site specifically should be a focus for low-carbon energy generation technologies. As part of the East Midlands Freeport, which is centred on the East Midlands Airport, new businesses on a large part of the Ratcliffe site would be subject to relaxed custom and regulatory rules, which would apply over a time limited period. This includes relief from duties, import taxes and some administrative requirements, with the aim of attracting major inward investment by creating an enhanced environment for business innovation and competitiveness.
- 4.4. The recently submitted outline business case (OBC) for the Freeport sets out that it is expected the Ratcliffe site would deliver, in particular, low carbon energy, advanced manufacturing, circular economy and other high-tech industrial related developments. The OBC 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. The Freeport is due to come into force during early 2022.
- 4.5. There are sizeable areas of the site which are currently not in active use, with further areas due to come forward following the closure of the coal-fired power station. Some existing uses would remain on site following closure of the power station. These include the gas fired turbine, National Grid substations and cabling. Infrastructure (including a railway siding, water supply and water treatment works) are also likely to remain.
- 4.6. In accordance with the Freeport and EMDC related aspirations, the emerging vision for the site is the creation of a multi-use complex with a low-carbon energy focus to both the north and south sides of the A453, with related uses potentially including:

- Low carbon and green energy generation;
 - Energy storage;
 - Industrial, manufacturing and data operations with high energy demands;
 - Advanced manufacturing and logistics;
 - Research and training facilities; and
 - Complementary and other uses.
- 4.7. In terms of its existing planning status, the site is entirely covered by the designated Nottingham-Derby Green Belt and none of the land is currently allocated for development within the Rushcliffe Local Plan. Within the Green Belt there is a presumption against most types of development; although in the case of the partial or complete redevelopment of previously developed sites, national policy allows for development to take place within the Green Belt provided that it would not have a greater impact on the openness of the Green Belt than the existing development. Otherwise, where development would be inappropriate within the Green Belt, development should not be approved except in very special circumstances.
- 4.8. The case for allocating the site for new development and removing it from the Green Belt is being considered as part of preparing the Greater Nottingham Strategic Plan (GNSP). The Borough Council is working jointly with Broxtowe Borough, Gedling Borough, and Nottingham City Councils to prepare the GNSP which would cover the period to 2038. It would, for Rushcliffe, form the first part of a new Rushcliffe Local Plan and replace the 2014 Rushcliffe Local Plan Part 1: Core Strategy. The Ratcliffe site was identified as having potential for redevelopment as part of the GNSP's Growth Options consultation document (at page 51) which was published in July 2020. The 'Nottingham Core HMA and Nottingham Outer HMA Employment Land Needs Study', which was published in May 2021 as supporting evidence for the GNSP, has recommended the allocation of the site for employment uses. It states: "The site is suitable for research & development uses located adjacent to the East Midlands Parkway Railway Station, science park and advanced manufacturing uses on the site south of the A453 and more energy-intensive low-carbon technology industries on the site north of the A453" (page 126). It is currently expected that the GNSP will be adopted midway through 2023 at the earliest.
- 4.9. The Cabinet, in May 2021, considered a report on the East Midlands Freeport. The report highlighted the importance of the Council, in its capacity as Local Planning Authority, working with the landowner at Ratcliffe on Soar Power Station to explore options to support the early delivery of the site. The report also identified five potential routes that could be pursued to provide consent for development of the site, including allocation via the Local Plan process. However, as the Local Plan is unlikely to be adopted before mid-2023, this is not timely enough for the Freeport process. The other potential routes were preparation of a Special Development Order (SDO), a Development Consent Order (DCO), a Local Development Order (LDO) and a landowner led planning application. The Cabinet, in May 2021, decided to endorse working with the site owner and the Freeport and Development Corporation to explore developing a Local Development Order or other suitable Order, to deliver greater planning certainty for the site.

- 4.10. It was not previously decided which specific consent route should be followed in order to allow the various options to be considered further. As reported to Cabinet in May 2021; however, a decision would be needed at the point where the procedural requirements differ – for example, the procedures to be followed and consultees to be engaged differ under the Town and Country Planning Act (1990) and Planning Act (2008). In addition to provide clarity about proposals, it would be preferable to have the chosen option selected ahead of any community consultation and engagement activities. The point where a decision needs to be made has now been reached.
- 4.11. The potential use of a SDO or DCO would both require the direct involvement of Government and this, at present, is considered unlikely. The preparation of an LDO would; however, be Council led and enable planning permission to be granted for a specific development proposal within a defined geographical area. The LDO route would provide the Council with more control over shaping the future use of the site as it is not a reactive process like receiving and determining a planning application. The Government's Freeport prospectus also encourages the use of LDOs for supporting the delivery of Freeports. It is therefore considered that there is a strong case for preparing an LDO to provide planning consent for development of the Ratcliffe site, subject to the LDO's adoption and any conditions applied to the order. It is important to note; however, that to adopt an LDO for a major site within the Green Belt, the Council will need to be able to demonstrate that 'very special circumstances' exist which outweigh the potential harm to the Green Belt by reason of inappropriateness.
- 4.12. The National Planning Policy Framework (NPPF) encourages Local Planning Authorities (LPAs) to use LDOs to set the planning framework 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. An LDO can simplify the planning process and incentivise development by providing up front planning consent, which would provide investors and developers with more certainty and make investment more attractive. As the stakeholder engagement, public consultation, technical studies, and environmental assessments undertaken as part of preparation are frontloaded, once an LDO is adopted, development can come forward more quickly, provided it is compliant with the parameters, development/design considerations and any conditions imposed through the order.
- 4.13. LDOs provide LPAs with the opportunity to shape development on appropriate sites in more detail than might be achieved through a local plan allocation or a planning brief. They enable flexibility as to the approach that can be taken, including the ability to grant unconditional permission or be subject to conditions. There is also the ability for an LDO to be time limited or permanent. The exact form that the LDO will take will need to be determined as part of its preparation process. Once in place, LDOs can be revoked or modified by the LPA at any point.
- 4.14. Guidance produced by the Planning Advisory Service (part of the Local Government Association), emphasises the merit of collaboration between LPAs and landowners in preparing LDOs, as this provides increased certainty that development on a site will come forward. The guidance also identifies the

opportunity for the LPA and the landowner to share the costs and resources of preparing the LDO. It is proposed that the Council continues to work with the site owner, Uniper, as the LDO is prepared, given Uniper's important role in promoting and releasing the site for development. The Council would lead and oversee the process of LDO preparation, and it would be the Council's decision alone to agree the draft LDO and then, at the end of the process, to adopt and bring it in to force. Uniper has indicated its willingness to support preparation of the LDO, including to provide and pay for consultancy expertise to, in particular, prepare supporting technical evidence (for example, the Environmental Impact Assessment). Uniper has appointed Ove Arup & Partners Ltd to provide this expert support.

4.15. The required process for bringing forward an LDO can be summarised as follows:

- Preparation of a draft LDO;
- Preparation of a 'Statement of Reasons' that includes:
 - i) the description of the permitted development; and
 - ii) a definition of the area that it effects.
- Publication of draft LDO and Statement of Reasons and formal consultation on both;
- Consideration of representations and drafting of any modifications;
- Decision to adopt; and
- Notification to the Secretary of State.

4.16. In terms of governance, the key decision making points within this process are to agree the draft LDO and to adopt the final LDO, with legislation requiring that an LDO is adopted by resolution of the LPA. It is proposed that, in this case, any decision to approve the draft LDO is taken by Cabinet and any decision to adopt the LDO is taken by Full Council. It is also proposed that, in the lead up to decision-making, the Local Development Framework Group considers and makes recommendations in respect of the draft LDO. This will require an amendment to the Group's terms of reference within the Council's Constitution. It is proposed that the following wording is added: "The Local Development Framework Group shall consider and make recommendations to Cabinet or Council on all Local Development Orders and any other relevant documents". It is also proposed that the Director for Development and Economic Growth acts as Project Director for the LDO and oversees its preparation and all associated consultation.

4.17. One of the first key tasks in preparing the LDO would be an early round of public consultation. It is anticipated that this would be between 29 November and 10 January 2022. As the PAS guidance highlights, early engagement with the community and other key stakeholders, both to explain the objectives of the LDO and to ensure that their input on ideas and aspirations are taken account of, is very important.

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. The potential use of a Special Development Order or Development Consent Order has also been considered but would both require the direct involvement of Government and this, at present, is considered unlikely.

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 a 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. However, a commitment to prepare a LDO, and for this to be outlined in the full business case, 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 will be 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 costs of preparing the LDO are likely to be relatively high given the complexity of the development proposal, but most of this will be 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 will be required to support the various stages of preparation, but this will have to be contained within existing resources, unless there is scope to bid for supporting funding as part of the Freeport full business case. This is being explored further.
- 7.1.3 The upfront costs that will need to be borne by the Council and the 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 may also be scope to mitigate the costs of LDO preparation and implementation, at least in part, if a fee for submissions seeking conformity with the LDO and its conditions can reasonably be charged. What scope there is for fees to be charged will need to be considered further as part of the LDO's preparation.

7.2 Legal Implications

7.2.1 LPAs can grant planning permission for development specified in a LDO. The legislative procedures that must be followed in order to bring forward and adopt a 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.

7.2.2 The Council's Constitution does not reference an LDO specifically; however, it does reference planning matters as decisions for Cabinet/Council. The proposed governance route as set out in the recommendations is therefore appropriate.

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. Emerging development plans 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.
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9. Recommendation

It is RECOMMENDED that Cabinet:

- a) approves the preparation of a Local Development Order for the Ratcliffe on Soar Power Station site;
- b) agrees that the Council enters into a Memorandum of Understanding with the site owner and works with them to prepare a draft Local Development Order to be brought back to Cabinet for approval;
- c) approves the draft timetable at Appendix A;
- d) approves the following additions to the terms of reference for the Local Development Framework Group in the Council’s Constitution: “The Local Development Framework Group shall consider and make recommendations to Cabinet or Council on all draft Local Development Orders and any other relevant documents”; and
- e) agrees that the Director for Development and Economic Growth should act as Project Director for the Local Development Order and oversee its preparation and all associated consultations.

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Background papers available for Inspection:	Greater Nottingham Strategic Plan Growth Options Consultation, July 2020: https://gnplan.inconsult.uk/gf2.tif/1243650/90676165.1/PDF/-/Greater Nottingham Strategic Plan Growth Options web version.pdf Nottingham Core HMA and Nottingham Outer HMA Employment Land Needs Study: https://www.gnplan.org.uk/media/3332934/employment-land-needs-study-may-21.pdf
List of appendices:	Appendix 1: Draft Local Development Order preparation timetable

Appendix 1: Draft Local Development Order preparation timetable

Date	Decision/key stage	Meeting
9 November 2021	<ul style="list-style-type: none"> • Approve preparation of a Local Development Order (LDO); • To amend terms of reference for the Local Development Framework Group; • To commence consultation; and • To enter into Memorandum of Understanding with the site owners Uniper. 	Cabinet
29 November 2021 until 10 January 2022	Pre-draft LDO consultation	N/A
December 2021	Update on pre-draft LDO consultation and outline of next steps	Local Development Framework Group
April or May 2022	Consider proposed draft LDO prior to Cabinet	Local Development Framework Group
May or June 2022	Decision to approve draft LDO	Cabinet
Late May or late June 2022 for minimum 4 weeks	Statutory consultation on draft Local Development Order	N/A
August to October 2022	Consider proposed draft modifications to the LDO	Local Development Framework Group
October or November 2022	Decision to adopt Local Development Order	Council