

Wycombe DC

Local Development Order; Statement of Reasons

Summary

- Wycombe District Council (WDC) wishes to create a Local Development Order (LDO) to help regenerate a key historic quarter of High Wycombe town centre. The intention is to take a flexible approach to use classes to help revitalise this small but important pocket of the town which is currently suffering from a high rate of empty shop units.
- The LDO is being proposed as part of a 'Special Retail Policy Area' designated in the draft Delivery and Site Allocations Development Plan Document (DPD). It would have the effect of extending permitted development rights to a range of uses – as such it would apply to changes of use, not operational development.
- This area is located in the core of the old town centre (the area bounded by White Hart Street, Church Street, Oxford Street and Queen Square) which is next to the Grade I-listed Parish Church and which constitutes the historic core of the town.

Description of development permitted

- 1.1 The Local Development Order would extend permitted development rights for changes of use of ground floor premises to the following uses:
 - A1: Shops (includes shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices, dry cleaners, pet shops, sandwich bars, showrooms, domestic hire shops, funeral directors)
 - A2: Financial and professional services (includes banks, building societies, estate and employment agencies, betting shops)
 - A3: Restaurants and cafes (includes snack bars)
 - A4: Drinking establishments (includes public houses, wine bars – but not night clubs)
 - A5: Hot food takeaways
 - C1: Hotels
 - D1: Non-residential institutions (includes art galleries, museums)
 - D2: Assembly and leisure (includes cinemas, bingo halls but not night clubs)
- 1.2 This would apply to the premises within the area bounded by White Hart Street (northern side), Queen Square, Church Street (southern and western sides), Oxford Street (south-western sides between Queen Square and Bull Lane) and Bull Lane (both sides): see Figure 1.
- 1.3 So anyone who wanted to change the use of one of the premises to anything coming under the above list would be able to do so without the need to apply for planning permission.

- 1.4 This would be on condition that the premises retained a window display at all times in the window(s) fronting the street at ground floor level, in order to protect the vitality and viability of the town centre.

Justification for creation of LDO

- 1.5 For many years the proportion of empty shop units in High Wycombe town centre has been consistently - and healthily - low. However between 2006 and 2008 it almost doubled from 8.5% to 14.5%, and the rate has continued this upward movement throughout 2009, for a variety of reasons, most notably the general economic downturn.
- 1.6 The High Street at the eastern end of the town centre continues to be an important attractor of trade, whilst the town's original covered mall, the Octagon Centre (opened in 1970), is now branded as part of the Eden Centre and is a key link between the old town centre and new. However, the area immediately to the east of this and to the west of the High Street, is suffering a particularly high rate of vacancy (over 20% of frontage length in the most recent survey) – causing loss of footfall and a deterioration of the quality of the environment in this quarter of the town centre.
- 1.7 It is this area which the LDO aims to assist, by paving the way for a wide range of appropriate uses (with an active window frontage) without the need for planning permission. WDC hopes this will encourage businesses to relocate in this area in the knowledge that the process for obtaining consent will be removed, thereby cutting costs. Figure 1 shows the extent of the area covered - approx 0.7ha with a frontage length of approx 440m.
- 1.8 Other areas of the town centre have equally high rates of empty shops. However it is considered that a discrete but strategically important area such as the White Hart Street area is an appropriate area for focused action through an LDO. Other areas with high vacancy rates include areas which include shopping centres – not considered appropriate for such action – and areas where it is still desirable to maintain a certain level of control.
- 1.9 The ultimate objective for the LDO is to assist in reducing the proportion of empty shop frontages in this zone. WDC will work with other stakeholders, such as the Town Centre Partnership, to help with other initiatives designed to help achieve this objective – including:
- Tidying-up the Town
 - Pop-up Shops
 - Improving the public realm
 - Promoting tourism in the town

Statement of the policies which the LDO would implement

- 1.10 The LDO would implement Policy HWTC7 (Special Retail Policy Zones) of the draft Delivery and Site Allocations DPD.
- 1.11 More widely, WDC believes the LDO would assist with the regeneration of High Wycombe town centre.
- 1.12 It would accord with government Planning Policy Statement 4 (PPS4) on Planning for Sustainable Economic Growth, and the recent CLG document on Looking After Our Town Centres (CLG, April 2009), which advocates and encourages the use of LDOs to help revive high streets where appropriate.

Lifetime of the LDO

- 1.13 It is intended that the LDO is active for a period of three years following the date of its adoption. This is to help businesses and operators during the current uncertain economic context. Following the end of this three-year period, the LDO would cease to apply. The Council would then have the following options:
- Renew the LDO under the same terms/conditions as previously;
 - Renew the LDO but modify its terms and conditions; or
 - Delete the LDO and return the area to the Primary Shopping Frontage Zone or other policy designation.
- 1.14 Development which has started under the provision of the LDO will be allowed to be completed in the event that the LDO is revoked or revised.
- 1.15 Development which has started under the provision of the LDO can be completed following the expiry of the LDO after the end of the three-year period. The uses that have taken place will therefore be allowed to continue to trade/operate but no new changes of use will be allowed under the terms of the LDO following its expiry without planning permission.

Monitoring the LDO

- 1.16 It is intended that the LDO will be subject to continuous monitoring to assess its effectiveness. This will be carried out via quarterly vacancy surveys to assess how far it is helping to fill empty shop units in the area.
- 1.17 It will also be the subject of a section in the Annual Monitoring Report, which will discuss further the impact of the LDO on the area and the quality of the public realm.

Legal advice

- 1.18 Given that no existing LDOs are known to exist in the country, the Council has sought and received legal advice on key aspects of LDOs. This includes how to set out the LDO; potentially time-limiting the LDO; and conditions necessary to include in the LDO. This advice has been taken on board by the Council in the draft LDO.
- 1.19 The Council has also received legal advice on the issue of whether the LDO can apply to listed buildings, of which there are eight (all Grade II listed) within the proposed LDO area. This issue is addressed below in the Heritage section.

Heritage issues

- 1.20 The regulations on Local Development Orders state that they must not be made so as to grant planning permission for development affecting a listed building.
- 1.21 There are currently eight listed buildings which are located within the LDO area, all of which are Grade II (see Figure 2):
- 20 and 22 White Hart Street
 - 9 and 10 Queen Square
 - 29 Queen Square
 - 8 Church Street
 - 9 and 10 Church Street
 - 11 Church Street
 - 1 Oxford Street
 - 2 Oxford Street.
- 1.22 The area is also entirely within the High Wycombe Conservation Area.
- 1.23 In this context, the Council has sought legal advice on the issue of whether the listed buildings can be included within the ambit of the LDO. The advice received states the following:

“Provided it is clear that none of the changes of use that would be authorised by the proposed White Hart Street Area Local Development Order would affect any listed buildings within or in the vicinity of the LDO area, even if those changes of use were to occur within a listed building, then it would be open to the Council to include the listed buildings which lie within the LDO area within the ambit of the LDO.”

- 1.24 The advice recommends that the Council carries out a full assessment of all the individual listed buildings in and near the LDO, and an analysis of the impact that all the potential changes of use could have on these buildings. The legal advice says that in the absence of such an assessment, the listed buildings would need to be excluded from

- 1.25 The Council considers that such an extensive study would be disproportionate given the minimal risks involved in applying the LDO to changes of use only.
- 1.26 Therefore the Council is departing from legal advice insofar as it considers it disproportionate and unnecessary to carry out such an extensive assessment of individual listed buildings and the impact thereof of all the potential changes of use. However, the Council has undertaken a general appraisal of the impact of the range of uses under LDO on these heritage features. This concludes that:
- The range of uses permitted under the LDO would constitute the range of town centre uses which would be appropriate to this area.
 - The Council notes that alterations to shop fronts on the listed buildings would need listed building consent anyway, so any pressure for physical change as a result of change of use will be appropriately managed through other controls; in any event, the frontages are mostly modern, as noted in the listing entries for these buildings.
 - The LDO would not remove the requirement for listed building consent or advertisement consent where appropriate
 - The 1995 High Wycombe Conservation Area Character Appraisal notes that the area is covered by the Frogmoor and Parish Church sub-areas, both characterised as being medieval market areas. It is therefore considered that the likely mix of uses under the LDO would not affect any defined aspect of character.
 - The LDO would only apply to changes of use of ground floor frontages and not to physical or structural development or alterations. Development permitted under the LDO would therefore not constitute development affecting a listed building.
- 1.27 It is accepted that the LDO would remove controls on use classes – currently the area is part of the Primary Shopping Frontage Zone. Under Local Plan policy (policy S3), this restricts use class changes to A3 (food and drink) use where the unit does not adjoin an existing non-shop unit. Under the Site Allocations Preferred Options Policy (2007) changes to A3 or A4 are permitted where this would not result in more than 1 non-A1 use in 5 consecutive units. The effect of the LDO could therefore further extend this flexibility, both to the overall amount of the frontages changing to non-shop uses, and the range of uses which could potentially replace the A1 shop uses.
- 1.28 In this respect the LDO is a radical change to current policy. However it is considered that the range of uses envisaged in the draft LDO is appropriate for the location, as explained above. Moreover, it is considered that the primary problem and threat to the area is that of vacant units, and it is this that represents the current and ongoing threat to the area.

- 1.29 Given the importance of the block in locational and historical terms, it is considered that this issue seriously undermines the character and quality of environment of the block and the town centre as a whole, over and above any harmful impact which the emergence of other non-A1 uses may have. Attracting and maintaining such businesses which attract footfall to the area is considered to be preferable to allowing the further proliferation of empty units.
- 1.30 Therefore the Council's priority is to make it as easy as possible for new operators to start trading in the area, and in this way to help regenerate the block. This applies to the listed and locally listed buildings as much as any of the other units in the area, and it is therefore considered that there is no requirement to, or benefit to be gained, by excluding these buildings from the scope of the LDO.
- 1.31 The Council will seek further views on this issue during the consultation on the draft order, including from English Heritage. In the meantime, a risk assessment on heritage issues is set out below.

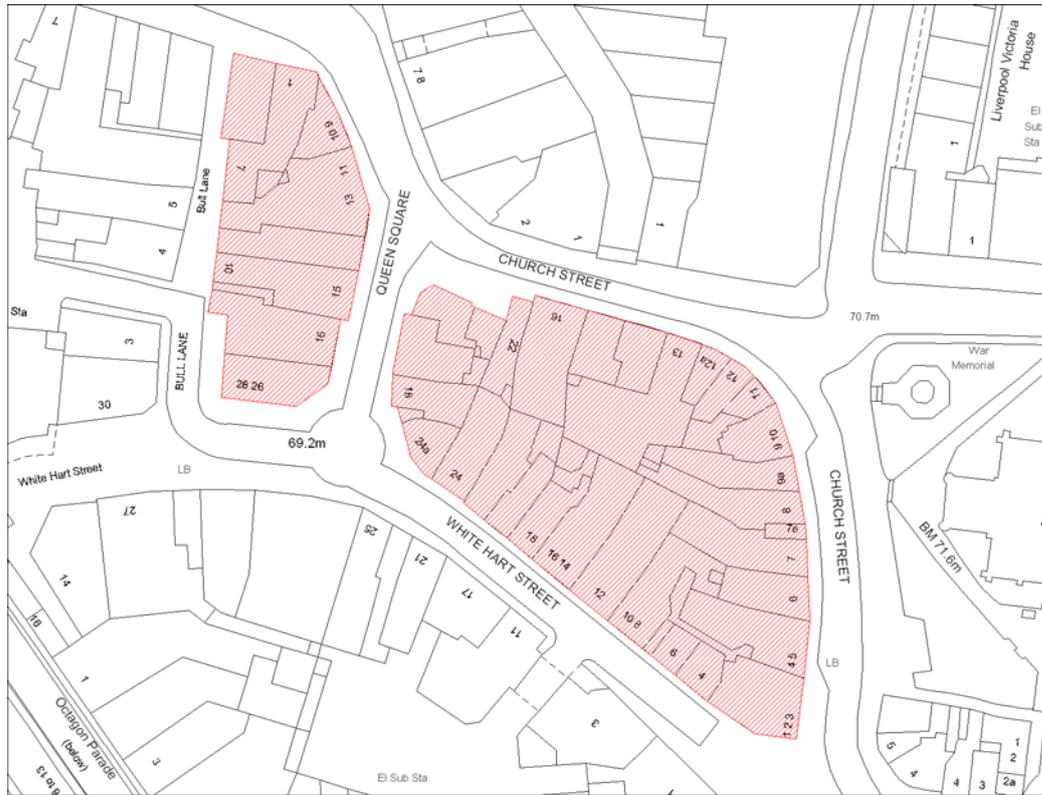
Risk	Likeliness (1=low likelihood; 5=high likelihood)	Importance (1=low impact/importance; 5= high impact/importance)	Mitigation (1= can be mitigated fully; 5= cannot be mitigated)
<i>LDO adopted as envisaged but results in degradation of Conservation Area</i>	1 - the area falls entirely within the High Wycombe Town Centre Conservation Area. However the LDO applies only to changes of use of ground floor premises and not to operational, physical or structural development or alterations. The proposed uses are of an appropriate 'town centre' character.	4 – impact of inappropriate development could be damaging in relation to individual buildings. However the changes of use permitted by the LDO are all for uses appropriate in this town centre location, and would not undermine or fundamentally alter the current character of the area.	1 – mitigation would be possible via other controls (eg Outdoor Advertisement Control).
<i>LDO adopted as currently drafted but results in degradation of Listed Buildings</i>	1 – there are 8 listed buildings in the block. However the LDO applies only to changes of use of ground floor premises and not to physical or structural development or alterations.	4 – impact of inappropriate development could be damaging in relation to individual buildings. These buildings are only a proportion of those in the block, which itself is only a small area (under 1 ha).	1 – the Council would carry out extensive publicity and dissemination of information to relevant stakeholders, eg landowners, traders, highlighting the LDO and its limits

Risk	Likeliness (1=low likelihood; 5=high likelihood)	Importance (1=low impact/importance; 5= high impact/importance)	Mitigation (1= can be mitigated fully; 5= cannot be mitigated)
	Other consent regimes such as listed building consent and advertisement consent would continue to apply.		as to what it can permit.
<i>LDO is opposed by the Secretary of State due to the presence of listed buildings</i>	3 – if the Secretary of State is not in agreement with our assessment on the heritage issue, he/she could decide not to approve the LDO.	3 – the LDO would not be adopted as envisaged. Businesses would not benefit from the LDO regime.	2 – the Council would redraft the LDO accordingly; or wait until the regulations on LDO/listed buildings are amended (currently proposed by DCLG).
<i>LDO is approved by the Secretary of State but is revoked in future due to presence of listed buildings</i>	1 – if the SoS does not object to the LDO on the grounds of presence of listed buildings, it would be difficult for others to substantiate such a case once it is adopted.	5 – the LDO, if revoked, could entail compensation having to be paid.	4 – it would be difficult to mitigate this risk fully.

Residential Amenity Issues

- 1.32 Within the area covered by the draft LDO, there are three residential flats in above-ground floor premises. Residential amenity is therefore a consideration for the framing of the LDO.
- 1.33 Some aspects of residential amenity can be controlled via non-planning regulations. For example, noise and odour resulting from particular uses can be controlled via the statutory nuisance regime. Licensing regulations, meanwhile, can deal with hours of use.
- 1.34 Operations or alterations to premises which may have an impact on residential amenity, such as extractor fans or other such equipment, will continue to require planning permission.
- 1.35 It is considered that this package of safeguards will ensure protection of residential amenity under the LDO.

Figure 1: Map of proposed LDO area



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Figure 2: Map Showing Key Elements of the Historic Environment within the LDO area



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KEY

- Brown: Grade I listed buildings
- Orange: Grade II* listed buildings
- Yellow: Grade II listed buildings
- Red: Locally listed buildings
- Green line: Conservation Area boundary