Appendix 1

Draft Local Development Order
Eden District Local Development Order: Food and Farming

Draft for Consultation

Prepared by LUC July 2017
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1 Statement of Reasons

The Food Sector in Eden

1.1 In 2015 Eden District Council (EDC) successfully bid to be one of 15 Defra Pathfinder Food Enterprise Zones, aiming to facilitate growth in the food and farming sector through the use of Local Development Orders.

1.2 The food sector, particularly where it is linked to accommodation and hospitality, as well as manufacture of products, has been identified as one area of the Eden economy that has significant strength and also forecast growth. EDC is seeking to be proactive in making the most of this sector.

1.3 EDC as the Local Planning Authority is proposing a Local Development Order (LDO) for the food and farming sector within the boundaries of the Borough by reducing the barriers perceived to be created by the planning process.

1.4 The adding of value in the food and drink sector can take place at three levels as follows. The type of processing will influence the location, size and design of the premises required, all of which can be addressed through the Local Development Order.

- Primary processing and packaging where the ‘raw’ agricultural commodity is turned into a form suitable for retail sale. This includes pasteurising and bottling milk, making cheese, slaughtering and butchering meat and packing eggs. Where this takes place at a small scale on-farm premises close to the production are likely to be favoured. However, the financial margins of this primary processing tend to be small and economies of scale tend to favour high throughput plants on relatively large sites. Where products are sourced from many farms, there are advantages to central locations close to major transport routes such as the M6.

- Secondary processing or food manufacturing where further value is added, often by combining the processed farm product with other ingredients. Examples include making condiments and sauces, bakery products, ready meals and fruit yoghurts. The financial margins of this level of processing tend to be higher and markets may be more specialised so that plants may be smaller than for primary processing. Where products are sold directly to the public this is likely to influence the design and location of the premises and the need for parking.

- Thirdly, there is the processing of agricultural by-products which have little initial value to create energy or other products. Examples include the rendering of animal carcasses to recover tallow and bone meal, and the anaerobic digestion of animal waste to produce biogas. These are industrial processes which are generally more suited to locations away from residential areas. Like primary processing, the margins are relatively small giving an advantage to large high throughput plants.
1.5 The objective of the proposed LDO within Eden is to support local businesses to take advantage of the economic opportunities in the food and farming sectors. The shift from employment in primary production to a greater value adding manufacture and processing activity within ‘food and farming’ is key to the further economic prosperity of the area, building on its existing strong base within the sector. The LDO will help the Council underpin and facilitate greater growth in this sector.

1.6 Strategic benefits of business growth are anticipated to include higher skills and paid jobs within the District, increasing visitors through food tourism, and supporting development in locations where there is a strong commercial advantage across the district. Practical benefits should include streamlining the planning process for the food and farming businesses, saving time and money, and helping to draw down investment from the Cumbria Local Enterprise Partnership to support business growth.

1.7 The LDO will also ensure that the outstanding natural environment in Eden District is protected and enhanced by achieving an acceptable balance between facilitating development and maintaining the amenity of the settlements and the countryside. This is in accordance with Policies ENV1-3 of the Eden Local Plan.

1.8 New developments within the LDO areas should be in accordance with the Eden Design Guide and the North Pennines AONB Design Guide where appropriate, and meet the following requirements, as set out in Policy CS18:

- protect the distinctive rural landscape of the district, its natural environment and biodiversity;
- be designed with appropriate scale, mass, form, layout, materials and high quality architectural design where appropriate;
- allow maximum opportunity for the use of sustainable construction techniques, sustainable drainage systems, renewable energy generation on site, water efficiency, recycling and conservation methods and re-use and recycling of waste;
- uses locally sourced materials wherever practically possible;
- not contribute to unacceptable levels of noise and light pollution.

1.9 The Design Code which forms part of this LDO will ensure that a satisfactory standard of design is achieved for new developments within the Eden LDO areas. It sets out the basic requirements of any development coming forward. The aim of the Design Code is to allow for flexibility in delivering new development on the LDO sites which is in keeping with local landscapes and settlements.
Consultation Process

1.10 Farm and food businesses, hospitality businesses (tourism, trade, and conferencing), landowners (of business parks, large estates and other identified sites), and existing food and farming business networks were all identified for consultation.

1.11 The consultation process consisted of an online questionnaire, telephone calls, and meetings. To maximise the response to the consultation, the online survey was distributed and advertised through a number of channels. These included newspaper adverts, the Eden District Council website, the NFU regional newsletter, Cumbria food and drink cluster, direct emails to over 50 food and farming businesses, and meetings business owners.

1.12 Among the respondents, several identified the importance of locating or expanding their businesses on existing industrial and business parks, or on adjacent areas which are allocated for expansion in the Local Plan. Consequently the ‘red lines’ for the LDO are identified on sites allocated for employment use within the Local Plan. The LDO will be a key enabling tool for their delivery. Identifying LDOs on allocated sites is more straightforward as the principle of development is accepted there, and this will help to streamline the planning process.
2 Legislative Framework Governing the LDO Process

2.1 LDOs were introduced through the Planning and Compulsory Purchase Act 2004 and in effect grant planning permission for the specific form and type of development detailed in the order. These primary powers were amended by the commencement of section 188 of the Planning Act 2008 in June 2009 and more detailed legal provisions on LDOs are contained in sections 61A to 61D and Schedule 4A of the Town and Country Planning Act 1990, as amended and articles 34 and 37 of The Town and Country Planning (Development Management Procedure) (England) Order 2010, as amended (the ‘DMPO’). The DMPO came into force in October 2010 as a consolidation of the Town and Country Planning (General Development Procedure) Order 1995 and instruments which have amended that Order.

2.2 The Growth and Infrastructure Act 2013 removed the requirement to formally consult the Secretary of State prior to adoption enabling local authorities to approve an LDO immediately after reviewing the results of local consultations. This was replaced by a requirement to notify the Secretary of State, via the National Planning Casework Unit, as soon as practicable after adoption.

2.3 The Council may exercise its powers to amend or withdraw the LDO (provided by section 61A [6] of Planning and Compulsory Purchase Act 2004) at any time within the five year period if the Order has consistently failed to meet its objectives as set out in the Statement of Reasons, and it is considered that amendments to the Order would not overcome this, or if changes in material considerations require the Order to be revoked, amended or revised.

2.4 Following the end of the five 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 to the standard planning application process.

Monitoring

2.5 The LDO will be subject to on-going monitoring to assess its effectiveness in delivering development in employment allocations.

2.6 The outcomes of the monitoring process will be reported in the Local Plan Annual Monitoring Report, and will inform the Council’s actions upon the expiration of this LDO.
3 The Proposed LDO

Locations

3.1 The proposed LDO encompasses seven sites across the District which are listed below and their locations shown in Figure 1:

- **Gilwilly Extension, Penrith:** The LDO site comprises the allocated extension to the north of Gilwilly Industrial Estate. It lies to the north of Penrith, on the edge of the urban area. The immediate site context is predominantly developed rural fringe, influenced by the M6 adjacent to the west, the existing Gilwilly Business Park immediately adjacent to the south and the settlement of Penrith to the east on the opposite side of the valley. However, the landscape to the north consists of agricultural fields and is rural.

- **Skirsgill, Penrith:** The LDO site is located on the southern edge of Penrith. The immediate site context is characterised by development and infrastructure: the A66 runs parallel and adjacent to the site’s northern boundary and immediately adjacent to the west of the site is the Skirsgill Depot, containing a number of industrial/shed style buildings and hard standing. Also in relative proximity is the M6 to the south and the edge of Penrith marked by the Wetheriggs residential area to the north. East of the site the character is more rural, influenced by the arable field to the east of the site, nearby farms and lanes including Skirsgill Lane.

- **Newton Rigg Campus:** The LDO site is located just outside Penrith, beyond the M6 which marks a perceptual edge to Penrith town. The immediate site context is rural, comprising a patchwork of agricultural fields. However, the M6 is located within half a kilometre to the east and an electricity substation located adjacent to the site to the south. The existing Newton Rigg College is located adjacent to the site to the north, comprising a green campus of learning buildings, student accommodation, car parking and green space. South of the site is Newton Road.

- **Kirkby Stephen Business Park:** The LDO site is an allocated extension to the Kirkby Stephen Business Park. It is located on the north western edge of Kirkby Stephen. There is no distinct edge to the town, but the site lies within a transitional area between the edge-of-town (land uses include industrial estates to the north east of the site and Kirkby Stephen Grammar School and car parking to the south east of the site) and the countryside (agricultural fields and Stobars Hall to the west and south respectively). The site is situated between the two forks of Christian Head, and the two roads form the north and south boundaries of the site.

- **Cross Croft Industrial Estate, Appleby:** The LDO site comprises an allocated extension to the north east of the Cross Croft Industrial Estate. It is located on the south eastern outskirts of Appleby, between the old railway line – which forms a defining edge to the village – and the A66 raised on embankment. The immediate site context is influenced by the existing industrial estate adjacent to the west of the site and the A66 dual carriageway, although the wider context is rural, consisting of agricultural fields, individual farms and Appleby Manor Hotel. Cross Croft road, bordered by a grass verge and low hawthorn hedge runs alongside the north western boundary of the site.
• **Old Creamery, Appleby:** The LDO site is located on the south eastern edge of Appleby, between the Settle-Carlisle railway line to the south, and a disused railway line to the north. The immediate site context is influenced by the existing industrial estate land uses in the surrounding area - to the south and south east of the site. However, the landscape to the east is characteristic of a working rural landscape.

• **Skelgillside Workshops, Alston:** The LDO site is an extension of the Skelgillside Workshops Employment Site. It is located on the eastern edge of the village of Alston. The immediate site context is rural, characterised by the valleys of the River South Tyne and the River Nent. The valley sides are covered by rough and grazing pasture, with fields divided into rectangles by stone walls. The site is situated between the A689 to the north and Potters Loaning, a rural lane, to the south.

3.2 The LDO will relate to these seven sites. Maps identifying the precise areas of land to which the Order relates are included in Appendix 1. The LDO will be implemented for a period of five years from the date of adoption, after which time it will be reviewed to determine its impact and effectiveness and whether an extension to the timescale should be considered, or whether it requires amendment.

**Development permitted by the LDO**

3.3 The LDO simplifies the planning process, and permits either new buildings, extensions to existing buildings or change of use for the following uses, along with associated infrastructure improvements:

• Primary food processing and packaging (B1/B2* depending on site/process)

• Secondary processing or food manufacturing (B1/B2*)

• Processing agricultural by products (B2*)

• Storage and distribution of food and agricultural products (eg to service the distribution of produce from a co-operative of local farms; to store and distribute local produce) (B8*)

• Research and development into food/agricultural products (B1/B2* depending on site/process)

• Ancillary training facilities for the activities permitted in the LDO

• Ancillary associated office premises (B1)

• Ancillary catering premises (eg canteen or café)

• Ancillary retail (eg local produce shop)

• Associated access to the public highway, internal access roads, parking and turning areas

• Cycling and pedestrian routes
• Associated fencing, hard and soft landscaping and signage
• Associated drainage infrastructure (foul and surface water)
• Utilities infrastructure (telecommunications, superfast broadband, electricity, gas and water) if works are not already permitted development
• Lighting and CCTV
• Land remediation works
• Solar panels on building roofs
• *except at Newton Rigg Campus where B2/B8 uses are not permitted by this LDO: at Newton Rigg food processing and R&D activities must fall within B1 use class.

3.4 Definitions of uses are provided below:

• B1 Business - Offices (other than those that fall within A2), research and development of products and processes, light industry appropriate in a residential area.
• B2 General Industrial - Use for industrial process other than one falling within class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste).
• B8 Storage or distribution - excluding open air storage above 10m² and 2m height (open air storage is restricted to odourless material).

3.5 Proposals for other types of development on the LDO sites should be the subject of a planning application in the normal way.

3.6 Developments undertaken under the terms of the proposed LDO will be subject to standard conditions covering highways, contaminated land (if required), noise, design, proximity to neighbouring uses and others. The full proposed standard conditions can be found in Appendix 2 (Part A & B). The specific conditions which relate to individual sites are set out in Appendix 3 (Part C).

**Prior Notification Procedure**

3.7 The LDO will be subject to a prior notification procedure to ensure that proposed developments comply with the LDO. This process will also be used to monitor the take up of the LDO.

3.8 The process will be similar to the prior notification procedure already used by farmers to undertake works under their permitted development rights.
3.9 Developers will need to submit a Self-Certification form including details of:

- location (site and address)
- description of proposed development including proposed use and dimensions of buildings
- proposed buildings/extension (scale drawings)
- access to the public highway, internal access roads, parking and turning areas (scale drawings)
- fencing and signage; lighting etc (scale drawings)
- how the development complies with the requirements of the design code
- flood risk assessment where the development site lies within Flood Zone 2, or is proposed on a site of more than 1ha in Flood Zone 1
- proposed drainage (separate surface/foul systems) including Sustainable Drainage (SUDS) (scale drawings)
- proposed plant, odour control/venting (where plant is proposed)
- site waste management plan

3.10 For the full list of necessary information, see the General Conditions at Appendix 2.

3.11 The Council will acknowledge receipt of submissions by email and within 28 days of this date will:

- Confirm in writing if development is permitted by the LDO and, if not, why; or
- Ask for additional information and a further 10 working days to consider the proposal on receipt of this information.

3.12 If the development is dependent on the discharge of conditions (eg if details were not provided as part of the Prior Notification procedure), the usual charge will apply¹.

3.13 Proposals not falling under the LDO should be the subject of a planning application in the usual way.

¹ See www.planningportal.gov.uk
4 Environmental Impact Assessment - Screening Opinion

4.1 The uses that are to be permitted within the LDO are classed within Schedule 2 of the Environmental Impact Assessment Regulations 2011 comprising food industry development (Category 7) infrastructure and industrial estate development (Category 10a). Furthermore, as the area covered by the LDO is greater than 0.5 Ha, the threshold for screening for EIA has been exceeded.

4.2 The LDO has, therefore, been subject to an independent screening opinion conducted by Eden District Council. This confirms the development is considered “not likely to have significant effects on the environment” and does not, therefore, require an Environmental Impact Assessment. The full screening opinion can be found on Eden District Council's website.

4.3 For the avoidance of doubt, this LDO does not permit development which requires Environmental Impact Assessment.

[Note: this section is subject to Eden DC’s decision on EIA screening.]
5 Habitats Regulations Assessment

5.1 All proposed employment sites were screened out of the Habitats Regulations Assessment (HRA) as having no likely significant adverse effect on any European designated sites. These sites have now been proposed as LDO sites for the food and farming sector (see Appendix 4 for further details).

5.2 The proposed LDO sites have already allocated for business/industrial uses. As they are to be permitted by the LDO to undertake activities that fall within these use classes, it is expected that there will be no additional effects on European protected sites, such as the River Eden Special Area of Conservation, over those already taken into account by the HRA of the Local Plan.

5.3 This assumes that developments will comply with Policy DEV2, which requires major new developments to incorporate, where practicable, Sustainable Urban Drainage Systems (SUDS) and Policy EC3, which requires all employment development to cause no harm to local ecology. Any additional site(s) proposed for inclusion within the LDO which have not previously been allocated in the Local Plan will need to be subject to screening and, as necessary, further assessment.

5.4 The HRA Report is included as Appendix 4.
Appendix 1: LDO Boundary
Land adjacent Kirkby Stephen Business Park
Appendix 2: General Conditions
Part A: General Provisions and Limitations

1. This Local Development Order relates to the area defined as outlined in red on the map contained within Appendix 1.

2. The Order grants planning permission, subject to compliance with certain criteria and standard conditions, for new buildings, the extension or alteration of buildings, changes of use and minor ancillary works. The criteria which proposed development will be permitted under are detailed in Part B is to be read alongside the permitted development provision.

3. The LDO permits either new buildings, extensions to existing buildings or change of use for the following uses, along with associated infrastructure improvements:

   - Primary food processing and packaging (B1/B2* depending on site/process)
   - Secondary processing or food manufacturing (B1/B2*, up to 1,000sqm)
   - Processing agricultural by products (B2*)
   - Storage and distribution of food and agricultural products (eg to service the distribution of produce from a co-operative of local farms; to store and distribute local produce) (B8*)
   - Research and development into food/agricultural products (B1/B2* depending on site/process)
   - Ancillary training facilities for the activities permitted in the LDO
   - Ancillary associated office premises (B1)
   - Ancillary catering premises (eg canteen or café)
   - Ancillary retail (eg local produce shop, opening hours limited to 7.30am to 8pm)
   - Associated parking and turning areas
   - Associated fencing, landscaping and signage

*except at Newton Rigg Campus where B2/B8 uses are not permitted by this LDO; food/agricultural processing and R&D activities must fall within B1 use class.

4. Planning permission is granted for the above development proposals subject to conditions set out in Part B.

5. The Order, and the terms within it, will be active for a period of five years following the day of its adoption, and will expire following this period. The Order will therefore cease to apply following the fifth anniversary of its adoption.
6. Development which has started under the provision of the Order will be allowed to be completed in the event the Order is revoked or revised.

7. Development which has started under the provision of the Order prior to its expiry can be completed following the expiry of the Order.

8. The developments that have taken place under the Order will therefore be allowed to continue to operate but no new developments will be allowed under the terms of the Order following its expiry without planning permission.

Part B: General Conditions

Note: where details or drawings are required to be approved before development commences, these may be provided and approved through the Prior Notification procedure.

1. No development shall take place until details of the proposed use, size and design of the building has been submitted to and approved by the LPA. The development shall be in accordance with the approved details.

2. B2 uses shall not take place within 400m of residential properties.

3. Proposed food processing activities shall not exceed 1,000sqm in floor space.

4. Ancillary retail uses related to the main use (eg local produce shop) shall not exceed 100sqm floor space. Retail opening hours shall be restricted to 7.30am to 8pm.

Prior Notification Process

Developers will need to submit a Self-Certification form including details of:

- location (site and address)
- description of proposed development including proposed use and dimensions of buildings
- proposed buildings/extensions (scale drawings)
- access to the public highway, internal access roads, parking and turning areas (scale drawings)
- fencing and signage; lighting etc (scale drawings)
- how the development complies with the requirements of the design code
- flood risk assessment where the development site lies within Flood Zone 2, or is proposed on a site of more than 1ha in Flood Zone 1
- proposed drainage (separate surface/foul systems) including Sustainable Drainage (SUDS) (scale drawings)
- proposed plant, odour control/venting (where plant is proposed)
- site waste management plan