

Response to NORAagainstEHDC questions by Local Planning Authority October 2024

Local Planning Authority (LPA) staff met with NORAagainstEHDC (NORA) representatives on 27th September 2024 to discuss the Local Development Order process for the East Havering Data Centre Campus Project. Subsequent to that meeting, NORA sent a number of questions to the LPA to respond to. The LPA have responded back to NORA on these questions, and it was agreed that these questions and responses will be placed on the relevant page of the Council's website. These responses are set out below.

Topic – Building on Green Belt	
Question	LPA Response
<p>1. NPPF paras 152-154 - the developers proposal meets none of the required criteria, so please explain on what basis the LPA are permitting such a development on Green Belt and exactly what the 'Very Special Circumstances' are?</p>	<p>The LPA is currently assessing whether there is a case for such development in the Green Belt. No decision has been on whether the LPA considers there is such a case. If the LPA considers that there is a case for such, and decides to move forward with making a LDO, it will draft a Statement of Reasons (SoR) setting out its reasoning for Very Special Circumstances (VSC). The SoR will be subject of formal consultation alongside a number of documents as part of the LDO process which, as you are aware, is set out on the London Borough of Havering (LBH) website. Approval is needed from Strategic Planning Committee (SPC) for consultation on the LDO to be undertaken, and for any adoption of the LDO in due course. Consultees will be able to comment on any planning case contained in a SoR, to which the LPA will respond if it decides to take forward an LDO for the proposed development on this site for adoption, to be decided by SPC</p>
<p>2. If VSC exist, it would be clear and obvious from the outset. Why, after three years, are the LPA still trying to conjure up even one VSC to legitimise this proposal</p>	<p>The LPA decided to consider a potential LDO route for the proposed development in 2023, as set out in the report to SPC that met on 8th June 2023. There is a considerable amount of assessment and evidence work needed to consider if such development is appropriate in the location, this assessment work is currently still underway.</p>
<p>3. The proposed data centre is not the only Green Belt, which the Council intend to destroy in the local area. There have also been planning applications submitted to build;</p> <p>A Voltage Management System on Green Belt near Acacia Gardens in Cranham (REFUSED).</p> <p>A battery storage facility on Green Belt in St. Marys Lane, Upminster.</p> <p>This is in addition to the three solar farms now being built on local Green Belt.</p> <p>Should the Local Planning Authority adopt a consistent approach to development on</p>	<p>The general approach to consideration of development proposals in Green Belt by a LPA is as follows.</p> <p>The LPA must consider proposals for development in the Green Belt based on policy set out in the NPPF. This includes a consideration of the impact of that development on the openness of the Green Belt, one of its defining characteristics. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The LPA should adopt a consistent approach to assessing whether very special circumstances exist, but this does not mean that the very special circumstances relied upon will be the same for every proposal. Each development must be</p>

<p>Green Belt and does it have a responsibility to act as the gatekeeper in preventing overdevelopment?</p>	<p>considered on its merits, and a balancing exercise as required by planning policy undertaken to weigh the potential for harm to the openness of the Green Belt against other considerations. This exercise can take into account the impact from other developments in the vicinity where cumulatively they are capable of undermining the objectives of the Green Belt. The NPPF requires that development is only permitted in the Green Belt where Green Belt and other harms are clearly outweighed by other considerations.</p> <p>The examples cited are assessed on their individual merits and it is not appropriate to make direct comparisons between them. However, some brief commentary is as follows.</p> <p>The proposal at Codham (P0721.24) was refused including grounds that the VSC put forward were not sufficient to outweigh the Green Belt harm. This conclusion was partly on the basis that there was no supporting information with the application as to whether alternative sites, outside the green belt, or on previously developed land in the Green Belt within Havering or the adjoining areas had been considered first.</p> <p>There is no record of a planning application for battery storage on sites on St Marys Lane in Havering, so no commentary can unfortunately be offered.</p> <p>The only solar farm within Havering is located at Cranham Golf Course, St Marys Lane. This was granted planning permission on appeal, with the Inspector considering that very special circumstances outweighed the harm to the open-ness of the Green Belt (P0907.14).</p>
<p>4. The LPA have been very specific and categoric in stating their position on building on Green Belt on other proposed developments (Launders Lane / Acacia Gardens / Kerry Drive P1687.19..... et al). They have also cited “the negative impact on the physical and mental health benefits to the local community” as grounds for Refusal.</p> <p>How can you possibly reconcile this with the current LPA position, (which is polar opposite), on the proposed hyper scale destruction of 200 hectares of virgin Green Belt in North Ockendon?</p>	<p>Please see response to Q3 above on the approach to proposals in the Green Belt by an LPA above.</p> <p>With regard to the planning applications raised, P1687.19 was refused on grounds that there were no very special circumstances to outweigh the inappropriate development. This conclusion included an assessment of the value of the undeveloped land to the community who used the land and surrounding amenity spaces.</p>

Topic – LDO Process	
<p>5. (4/10/23 The Havering Daily- Josh Mellor). “In June Helen Oakerbee said an ‘informal consultation’ would begin later in the year but then at a briefing to the SPC she said that the Council had now opted to skip this stage”.</p> <p>In this case who exactly is ‘the Council’ and whose decision was this and what were the reasons for this U-turn?</p>	<p>In this regard, the Council is the LPA, and as such the decision was made by the LPA. The reasons for the decision are set out in the report to SPC that met on 28th September 2023. The report states the following at paras 3.9 and 3.10 - “The 8th June 2023 report sets out the role of the SPC in the LDO process, indicating that it was the intention to report to SPC at key milestones to seek agreement to progress to the next stage. The next milestone envisaged at that time was a decision to begin informal consultation. Since that report, Officers have carefully considered the level of information that would be needed to be available to ensure that the consultation, despite its informal status, would still be meaningful for stakeholders and residents. The conclusion reached is that it is more appropriate to concentrate efforts on analysis and document production ahead of any formal consultation rather than consult prematurely, with limited information, on an informal basis. This also means that SPC would have more detail available at the point at which the decision to begin formal consultation is sought.” This remains the LPA’s position on informal consultation.</p>
<p>6. LDO – what stage is it at? Has a Statement of Reasons been prepared?</p>	<p>As you are aware, the LDO process is set out on the LBH website. The LDO process is at Stage 1 – Preparation. As per the response to Q1, the LPA is still assessing the case for such development as part of a LDO process, and as such a SoR has not been prepared.</p>
<p>7. If no decision to adopt a LDO has been made yet, what guidelines and governance have the Council been working within for the last 3 years whilst the project has been progressed?</p>	<p>As per the response to Q2, the LPA commenced exploring the LDO process, as set out in the report to SPC at its meeting on 8th June 2023. The LPA is working within the national legislative framework for making Local Development Orders, and guidance contained in the Planning Advisory Services’ Guidance for Councils on preparing local development orders, March 2019</p>
<p>8. At what Stage are VSC identified and decided?</p>	<p>VSC will be assessed through very careful assessment of the evidence base. If the LPA considers that there are VSC, it will set out full consideration in the SoR which be subject of approval for consultation by SPC, and subject of consultation process in which consultees can provide their responses. If, following careful review of consultation responses, the LPA considers there are VSC it may well move forward to progress the adoption of the LDO.</p>
<p>9. PAS GUIDANCE TO COUNCILS ON PREPARING LDOs, Section 3.3, clearly states that <i>‘Early engagement with the community, both to explain the objectives and to ensure that their input on ideas and aspirations are taken</i></p>	<p>Please see response to Q5 above.</p>

<p><i>account of, is also very important'</i> Why has this Guidance not been followed?</p>	
<p>10. According to the PAS GUIDANCE TO COUNCILS ON PREPARING LDOs, Section 3.2, LDOs can be driven by the council leadership rather than a planning committee. Who is the driver in this case?</p>	<p>A Planning Committee would not 'drive a LDO', rather it is a decision-making body. The Council in its corporate role for economic development is supporting the proposal, as set out in reports to Cabinet on 9th November 2022 and 12th April 2023. The LPA is considering if such a proposal is acceptable and if a LDO route is the appropriate mechanism.</p>
<p>11. The only previous adoption of a LDO by Havering Council was to provide outdoor seating for a pavement café in Romford Town Centre 14 years ago (2010). Is it appropriate, or even legal, to try to use such a vague and untested planning vehicle to push through a mega data centre on 200 hectares of prime Green Belt?</p>	<p>LDOs were introduced in the Planning and Compulsory Purchase Act 2004 and since that date a number have been made and successfully implemented. These range from small scale developments such as the outdoor seating in Romford Town Centre to large scale developments such as the London Gateway LDO in Thurrock which permitted over 800,000sqm of industrial and commercial floorspace. There have also been other LDOs which have approved development in the Green Belt including the Ratcliffe-on-Soar LDO which was made earlier this year and permits over 800,000sqm of new buildings (including a data centre) and up to 10 hectares of ground mounted solar power.</p> <p>The NPPF encourages LPAs to use LDOs for development where the impacts would be acceptable and where they would promote economic, social or environmental gains for the area.</p> <p>Development approved via a LDO will be subject to the same levels of scrutiny as it would were it to be consented by a planning application. As set out in previous answers, if very special circumstances cannot be demonstrated, the LPA would not be able to make the LDO.</p>
<p>12. What happens if the use of LDO is rejected or fails Legal challenge?</p>	<p>The LPA is still considering if the proposed development is acceptable, and if a LDO is an appropriate mechanism. If a LDO is pursued and is not approved by SPC or fails legal challenge, then the LPA would need to consider its options, which may include not pursuing the LDO process, going through the LDO process again, or the submission of a planning application</p>
<p>13. What advanced preparation works have already been undertaken with no LDO or Planning Application or Consultation?</p>	<p>The LPA is only considering the potential use of a LDO at present. If it pursues this, it will prepare a consultation plan for approval by SPC.</p>
<p>14. Can you categorically confirm that the extensive HV cabling work and constant road closures in the area are not directly</p>	<p>The London Borough of Havering (LBH) in its corporate role has advised that this question was responded to at meetings between on 23 May at St Mary Magdalen's Church, on 29 July</p>

connected to the colossal power requirements of the proposed data centre.	at Top Meadow Golf Course, as well as in correspondence with the Leader of the Council, and confirms that any works undertaken are completely unrelated to the proposed data centre.
Topic - Strategic Planning Committee	
15. Can you clarify the roles, responsibilities, and process of LPA and SPC and how this works in a project such as this?	The SPC would receive a report prepared by, or on behalf of, officers. The report will make recommendations. Members of the SPC will be able to ask questions of officers and debate the subject matter of the report. After the conclusion of any debate, Members would vote on the recommendation. Members of SPC can suggest amendments to the recommendation. The committee procedure rules are set out on the Council's website at Part 4.10 Planning procedure rules.pdf
16. Can you confirm that the SPC has the final decision?	SPC would have the final decision whether to approve the adoption of a LDO for the proposed development. However, the Secretary of State has the power to revoke or revise a LDO.
17. What qualifications, technical knowledge and experience do the SPC have, collectively and individually, to arbitrate on such a massive and complex project of this nature?	<p>Members of the SPC have experience of consideration of applications of a strategic nature (generally large major development proposals). Recent examples include proposals for the redevelopment of Waterloo Estate; redevelopment of former ice rink site; redevelopment of Seedbed Centre/Rom Valley retail park. Members also receive pre-application submission presentations from developers on forthcoming proposals and are able to offer feedback to the developer.</p> <p>The technical advice is given to Members through the officer reports to committee and Members would be expected to justify coming to any contrary view, with relevant advice being given by officers as necessary.</p> <p>Please note also the response to Q18 below.</p>
18. How will the SPC be enabled to make a judgement if they have not been involved in the planning, nor in discussions with residents?	<p>The SPC are not involved extensively in discussions or assessment of proposals prior to making decisions. For strategic planning applications, in order to provide some familiarity for Members, the SPC would typically be involved prior to application submission through at least two presentations from the developer, with Ward Members invited to address the committee and SPC Members able to ask questions and make comments. As part of the developer presentation to committee, an outline of any public consultation carried out by the developer may be included.</p> <p>As an LDO is not a planning application, the process to be followed will be different. Should</p>

	<p>the LDO proceed, the first decision to be made by SPC will be whether or not to approve the draft LDO for consultation. Following consultation, the final decision to take will be whether to adopt the LDO or not – any report at this stage would include details of the consultation responses. At both stages, there would be speaking rights for objectors, developer and Ward Members.</p> <p>Similar to the developer presentation pre-application process for strategic applications, familiarity with the proposal has been facilitated through the four reports/presentations to SPC and officer- accompanied visits to the site (not involving Digital Reef).</p>
19. Please provide examples of similar applications they have been legislated on in the past?	Please see response to Q17, which relates to major planning applications
Topic – Digital Reef	
20. What proven track record does Digital Reef have in building data centres?	From a LPA perspective, whether Digital Reef have a track record in building data centres is not a material consideration in considering all the information and whether making a LDO is appropriate
21. Google have now scrapped claims to carbon neutrality and conceded that they can never achieve net zero. DR have never built a data centre before and are still making such claims. How are you fact checking their sales pitch?	The LPA is assessing all information and evidence for the proposed development to ensure robustness and accuracy.
22. Do you have any <i>truly independent</i> and suitably qualified technical experts on data centre construction and operation who are advising you (other than those who are being financed by the developer)?	The LPA has a number of specialists assessing all aspects of the proposed development, these specialists provide advice from a neutral position and are suitably qualified.
23. At the DR drop-in session they did not even know the area was a flood plain! When pressed on the problems with water supply in this area and the excessive demands a data centre would have on this scarce local resource, they quickly switched to a claim that coolant would be used. They were ill informed, under prepared and clueless. Does that not worry you? How have you assured yourselves of their ability to deliver and the factual accuracy of their claims?	The LPA is ensuring that all aspects of the proposed development are being considered by qualified technical specialists to ensure a comprehensive assessment of all information.
24. What wider research have the Council / LPA actually undertaken themselves into the multitude of scientific and environmental reports and papers, which confirm the dangers, risks and economic damage (short, medium and long term), that data centres are now proven to cause?	The LPA is assessing and scrutinising all information specifically in relation to the proposed development with the assistance of technical specialists, as necessary.

<p>25. What is your view on the findings and warnings based on research in US / Mexico/ Spain /Netherlands / Ireland/South Africa/Paraguay etc. etc., which confirm the devastating long-term environmental and economic impact and damage caused by data centres?</p>	<p>Please see response to Q24.</p>
<p>26. The DR 'Visualisations' for the area are pure fantasy art. We have asked DR for their visualisations of the land in 50 years' time and received no response. How will the LPA enforce these DR promises and what lessons have the LPA learnt from other case studies, such as, the Google Urban Forest visualisation versus the delivered reality?</p>	<p>Any visualisations issued as part of the assessment of the proposed development will be reviewed by the LPA, such as through the Landscape and Visual Impact Assessment through the EIA process.</p>
<p>27. How does the LPA envisage this 200 hectares of virgin Green Belt will look like in 50 years?</p>	<p>The LPA will review information issued as part of the assessment of the proposed development, including the details of phased landscaping for the site.</p>
<p>28. We know that there have been NDA deals agreed with farmers/landowners to sell their land. We further understand that DR would only purchase if they got the go ahead for the Data Centre. At least one affected landowner has already said that DR have now told them that their sale will be completed by Christmas and works will start in the new year. In addition, contractors are saying it is already a done deal – hence all the road closures and pipe laying in the area and activity at WPS. Furthermore, despite constant remonstrations that this is 'not a Council matter' but a private deal on private land, a Council Official has approached a landowner affected by the potential development enquiring if they would be willing to sell their property.</p> <p>Can the LPA please comment and provide us with an official statement on this and a categoric assurance that no work has already commenced?</p>	<p>Please see response to Q14 above, which confirms that any works being undertaken around the site are completely unrelated to the proposed data centre. The LPA understands that the land within the proposed site is privately-owned.</p>
<p>Topic – Council Mis-Information on Proposed Data Centre</p>	
<p>29. There has been a shameful campaign of influence peddling from the Council, which does not present a fair and balanced view. Who is responsible for the website content and press releases?</p>	<p>The Council in its corporate function for economic development and regeneration is supporting and promoting the proposed development, as such the proposed development is promoted on the Council's economic development and regeneration webpages. In assessing all aspects of the development proposal, the LPA will undertake an independent, fair and balanced consideration of the proposal having regard to all relevant material planning considerations</p>

30. What input does the LPA have to the Council's propaganda articles?	The LPA functions and the Council's corporate functions for economic development and regeneration are separate
31. Why are there no references to the dangers, risks, negatives and downsides of building a Mega Data Centre on prime Green Belt?	Please see response to Q29 above.
32. Should the LPA not be moderating the technical and environmental claims, which are clearly negligent, unsubstantiated and unproven?	All aspects of the development proposal are being fully assessed and considered by the LPA.
Topic – Environmental Impact Assessment (EIA)	
33. Who is ultimately responsible for making and signing off the decision / conclusion on the EIA?	The technical work for the EIA will be signed off by Ramboll through their approval processes. LPA officers will review and sign off the findings of the EIA (including the environmental statement), but ultimately SPC will decide on the LDO having regard to the findings of the assessment in the Environmental Statement.
<p>34. Excerpts from Screening/Scoping –</p> <p>EIA Screening Opinion 17/8/23 –</p> <p>Just a few Extracts on the Significant Impacts taken from this document: -</p> <p>'The benefit of an energy efficient development in the long term does not outweigh the impacts that the construction project would have on natural resources'</p> <p>'Will the project release pollutants or any hazardous, toxic or noxious substances to air?' 'YES'</p> <p>'The increased traffic during the construction period is likely to result in a breach in IEMA guidelines'</p> <p>'The proposals are likely to have a detrimental impact on any nearby protected views'</p> <p>'Is the project in a location where it is likely to be highly visible to many people?'</p> <p>'YES'</p> <p>'The development quantum is significant and would unlikely blend in with the existing rural environment.'</p> <p>'The Flood Zones associated with the Mardyke River (an Environment Agency</p>	<p>To note, Q34 is a statement rather than a question, however the LPA has set out clarification on the screening and scoping processes for an EIA, as follows.</p> <p>It is important to differentiate between 'Screening' and 'Scoping' within the context of EIA.</p> <p>Screening – is a procedure used to determine whether a proposed project is likely to have significant effects on the environment. Where there is the potential for significant effects on the environment the development is 'screened' into the EIA process and an Environmental Statement (ES) is required.</p> <p>The LDO has been screened into requiring an ES.</p> <p>The confirmation in the Screening proforma (the 'YES' affirmations) are indications of the potential for effects and that this topic/area should be subject to further consideration. It is not confirmation that effects would occur.</p> <p>Scoping – takes place once a development is screened into EIA and is a systematic exercise that seeks to establish the technical topics that will be assessed within the ES and the approach to assessing them.</p> <p>The content of the ES has been agreed through the Scoping Opinion issued.</p> <p>It is not possible to present the findings of the EIA process until it is complete. Any attempt to</p>

<p>designated Main River) extend significantly into the site’</p> <p>‘Will the project present a risk to the population and their health?’</p> <p>‘ YES’</p> <p>‘The development would be both permanent and irreversible. The development would have the potential to have significant environmental impacts upon the surrounding area for an extended period of time.’</p> <p>Many of these factors simply cannot be mitigated.</p> <p>We have an opinion from a subject matter expert, who has actually built data centres, including some of the largest in the world, to the effect that an experienced developer would not consider this site suitable, viable or safe and would not have proceeded for a multitude of reasons.</p> <p>They have also advised us that an accurate and honest EIA would make for horrendous reading and torpedo this project immediately</p>	<p>do so would be premature and potentially prejudicial.</p>
<p>35. We are the most Nature depleted Country in the World and we have already had deaths in Central London legally attributed to Air Pollution. The London Borough of Havering is in the top 4 London Boroughs for the highest number of deaths linked to poor Air Quality – there is now a legal precedent for this (Ella Adoo-Kissi-Debrah Court Ruling).</p> <p>It is negligent and recklessly myopic of the Council /LPA to put short term financial gain before the present and future health and safety of residents and the environment. Please explain why the Council / LPA are intent on doing this?</p>	<p>Environmental effects of the development such as on air quality and ecology are being assessed through the EIA process, the findings will be set out in the Environmental Statement which will be subject to consultation, if the LPA considers it appropriate to go forward with a LDO. The LPA will also be undertaking a Health Impact Assessment. Such effects and impacts are relevant considerations for any future possible decision on taking forward a LDO for the proposed development.</p> <p>As set out in other responses, the LPA is currently considering if a LDO is appropriate, which involves weighing up the benefits and impacts of the proposal. Financial gain is not a consideration for the LPA.</p>
<p>36. The LPA should know that data centres are proven to contaminate sites, particularly where coolant is used (it is a toxic contaminate). Who is telling you that they do not?</p>	<p>The LPA is assessing all aspects of the proposed development and has technical specialists to advise on contaminants.</p> <p>Legislative processes are also in place regarding control of contaminants. The use of contaminates is subject to environmental licencing and any contamination or breach of licencing would be subject to the enforcement or prosecution under the appropriate regime.</p>
<p>37. EIA Screening Opinion 14.1 – ‘<i>Could this project together with the existing and/or</i></p>	<p>A cumulative assessment is being undertaken as part of the ES and the LTC (Lower Thames</p>

<p><i>approved development result in cumulation of impacts together during the construction/operation phase? ‘NO’ !!</i></p> <p>What about the proposed LTC? Have you considered the impacts should this also go ahead? The cumulative environmental damage and pollution would exceed all legal limits. All roads in the area will be closed / blocked / diverted for years</p>	<p>Crossing) road scheme is being considered within this assessment.</p>
<p>38. What are the adverse risks, impacts and dangers to the local area and community. Many that are flagged in the Screening Opinion cannot be mitigated, yet the public only hear the cash-register benefits from the Council?</p>	<p>All aspects of the proposal are being assessed through the LDO planning and EIA process, which includes assessing the effects of the development. Any significant effects and potential mitigation will be reported to SPC if the LPA considers it appropriate to go forward with a LDO for the proposed development.</p>
<p>Topic – EIA Tender for LDO and EIA</p>	
<p>39. How can we believe the EIA will be accurate and honest, given that the contract was awarded to Ramboll, a consultant already in the Council’s employ and being financed by the developer?</p>	<p>Prior to the East Havering commission, Ramboll were not working with the Council in another capacity.</p> <p>Ramboll were identified as a potential consultancy with the relevant skills and expertise in light of their work on an EIA for other large scale projects, such as London Gateway in Thurrock.</p> <p>The LPA undertook a competitive procurement process and sought bids from six consultancies who were likely to have the relevant experience to be able to carry out an EIA of the scale needed for the proposed development. The consultancies were:</p> <ul style="list-style-type: none"> • AECOM • Boyer Planning • Ove Arup & Partners • JCTR Ltd • Ramboll Ltd • Turley Associates Ltd <p>Bids were received from JCTR and Ramboll Ltd. Both consultancies were interviewed by the Selection Panel. Both consultancies were scored and Ramboll was appointed based on the results of the scoring.</p> <p>Ramboll are an independent, professional organisation that have the required experience and expertise to be able to undertake an EIA of this scale.</p>

	<p>Ramboll's fees are paid by the LPA. There is a planning performance agreement (PPA) in place between the LPA and the Project Sponsor (Digital Reef), used by the LPA to recover costs associated with the project, including the fees incurred by the LPA to pay for the EIA. PPAs are used very commonly across the country by LPA's to recover costs associated with assessing planning applications and development proposals.</p> <p>For the LDO project, the LPA is the client and the Project team at Ramboll report solely to the LPA.</p>
<p>40. Whose decision to engage Ramboll? Who was on the selection panel and Client Team to evaluate the tenders?</p>	<p>The decision to appoint Ramboll was taken by the selection panel, which consisted of officers from the LPA. The decision to engage Ramboll was solely made by the LPA.</p>
<p>41. What stage is the EIA presently at?</p>	<p>The EIA is at assessment stage, in which all of the technical assessments are being carried out.</p>
<p>42. Why has there been no attempt to gather information from local residents, many of whom have 30-50 years of knowledge of the area?</p>	<p>Baseline information has been obtained from a number of industry standard sources, including but not limited to;</p> <ul style="list-style-type: none"> - Public records and databases; - Site and study area surveys; - Council-held data; and - Biological and historical records checks. - <p>This approach is considered to be robust and appropriate.</p> <p>Any potential consultation process on a LDO would provide an opportunity for any further gathering of information from local residents and other consultees.</p>