

**Report to** Cabinet  
13 June 2012  
**Report of** Head of Planning  
**Subject** Local Development Order for replacement windows and doors in flats

**Item**

**16**

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### **Purpose**

To consider the responses to the consultation exercise on the proposed introduction of a Local Development Order (LDO) to allow replacement windows and doors to be fitted in flats in certain circumstances without the need for planning permission.

### **Recommendation**

1. To approve the submission of the proposed Local Development Order (attached as appendix 1) to the Secretary of State
2. To delegate authority to the Deputy chief executive (operations) to finally adopt it subject to no objection to this being received from the Secretary of State.

### **Corporate and service priorities**

The report helps to meet the corporate priorities of City of character and culture, decent housing for all and value for money services and the service plan priority to seek to introduce a Local Development Order to allow windows in flats to be replaced without the need for planning permission

### **Financial implications**

The possible financial implications were the subject of a detailed report made available in January. In summary this concluded that the LDO would reduce costs for flat owners who are seeking to install new windows and doors. This would be of particular benefit to the Council in the short term and may save around £10,000 from the window replacement programme which is likely to enable more windows to be delivered from the existing budget. Any reduction in planning fee income will be offset by the reduction in the caseload of applications needing to be dealt with.

Ward/s: All wards

Cabinet member: Councillor Bremner – Environment and development

**Contact officers**

Joy Brown

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**Background documents**

- 1) Consultation Statement on proposed introduction of a Local Development Order for replacement windows and doors in flats. May 2012
- 2) Statement of Reasons for introduction of the LDO. May 2012

# Report

## Background

1. The proposal to introduce a Local Development Order for the replacement of windows and door in flats was considered by the Sustainable Development Panel on 25 January 2012 and it was agreed that the matter should be progressed. A report was taken to Cabinet on 15th February 2012 with the following recommendations:
  - (1) Endorse the principle of preparing a Local Development Order to allow windows and doors in flats to be replaced without the need for planning permission (subject to conditions and exclusions); and
  - (2) Approve the publication of the draft Local Development Order and the Statement of Reasons for public consultation.
2. Cabinet supported the recommendations and consultation on the draft Local Development Order took place between the 5th March 2012 and the 10th April 2012.
3. This report sets out the results of the consultation and updates Members on the process of making an order.
4. The LDO would allow for the replacement of windows and doors within flats and communal area of flats without planning permission. It would apply equally to purpose built flats, dwellinghouses which have been subdivided into two or more self contained units and flats above retail and other town centre uses. With regards to flats above town centre uses, all those within the city centre area will not be covered by the LDO as they are situated within the City Centre Conservation Area.
5. The LDO would operate across the whole of the Local Planning Authority area (this excludes the Broads Authority area); however would not apply in Conservation Areas. Conservation Areas have been excluded from the LDO as the loss of control within these areas could have a significantly detrimental impact upon the character and appearance of the conservation areas which are important heritage assets for the city. Furthermore statutory listed buildings are also exempt from the LDO in accordance with the LDO regulations which stipulate that a LDO must not be made so as to grant planning permission for development affecting a listed building. It would also not apply to any locally listed building recognised by the Council.
6. The Local Development Order has been worded in such a way that it only applies to the replacement of windows and doors and would not remove the need to apply for planning permission for the enlargement of existing openings, the provision of new openings or any other alterations.
7. In order to retain some control over the appearance of the building and issues in connection with the living conditions of neighbouring residents, conditions and advisory notes have been included within the LDO. These are set out within the order (appendix 1).

## Work already undertaken

8. The first stage was to consider carefully the scope and area of the potential LDOs, gather an evidence base and produce a draft LDO and statement of reasons which is a concise statement justifying why an LDO should be made. This was considered at Sustainable Development Panel on the 25th January 2012 and at Cabinet on the 15th February 2012.
9. The Council publicised and formally consulted on the proposed LDO between 5th March 2012 and 10th April 2012. Although somewhat shorter than normal practice for consultations it was considered this was justified because of the largely technical nature of the exercise and the prime benefits being in relation to the Council's own window replacement programme. It was also considered justified because of the very extensive consultation that needed to bring this forward. Full details of the consultation are set out in the formal Consultation Statement which needs to be submitted to the Secretary of State alongside the proposed LDO but this involved a full page article in Citizen magazine, letters to identified residents and interest groups considered likely to be affected, and press and site notices being published.
10. Notwithstanding this very extensive level of consultation relatively little comment was received and there was no objection to the LDO being introduced. Only ten letters of representation were received. These are summarised in the table below alongside the proposed response to them.

Name and organisation	Comments	Norwich City Council's Response
David Grech	1) The order does not apply to Listed Buildings, buildings in Conservation Areas and buildings on the Local List. As such the proposed LDO will have relatively little impact on the historic environment, though for the sake of completeness we would recommend that the exclusions also include buildings located within a registered park or garden and Scheduled Monuments.	Comments noted.
English Heritage	2) The situation in respect of flats on the Norwich Society's draft local list is less clear. If the LDO is likely to be implemented before these buildings are	1) LDO to be amended to exclude buildings within a register park or garden and Scheduled Monuments.  2) As the Norwich Society's draft list has not yet been adopted or has no formal status it is not considered appropriate to specifically exclude these from the LDO at this stage.

formally added to the local list, then English Heritage would recommend that they are specifically excluded from the provision of the LDO.

3) There may be situations where an unlisted block of flats located outside a conservation area is also in close proximity to a listed building. In such an instance in order to reduce any potential harm to the setting of the listed building the LDO might include a further requirement for the existing subdivision of windows facing the street or other public rights of way to be replicated in the replacement windows. To make this effective it would also be necessary to define what is meant by 'close proximity'.

3) Excluding buildings adjacent to or in close proximity to listed buildings is likely to make it more difficult for people to understand what is permitted and what is not permitted by the LDO. There will only be a small handful of cases where a listed building is adjacent to a flat outside a conservation area and it is considered that the LDO as currently drafted (i.e. ensuring that a certain percentage of windows within an elevation are of similar appearance) will in most instances ensure that the setting of the listed building is not detrimentally affected.

Chris Smith

Natural England

Natural England agrees with the statement that 'as the LDO would only allow for minor changes to existing buildings it will not affect sites which are protected or designated due to their ecological or landscape value.' Therefore Natural England does not consider that the development included in the LDO will have a likely significant effect on a European site.

Comments noted.

Paul Whitham

South Norfolk

No objection to the proposed LDO.

Comments noted.

Council

Vicky Manthorpe

Norwich Society

The Society does not have an objection to the LDO per se although we shall wait to see whether it has the effect of releasing funds for more specialised work.

Comments noted.

Stuart McLaren

St Augustine's  
Community  
Together  
Residents'  
Association

I would suggest that the LDO also applies to council-owned flats built in conservation areas after 1945 (other than in statutory listed buildings etc).

It is considered that the replacement of windows does materially affect the appearance of a building. The loss of control on any building within a conservation area could have an impact upon the overall character of the conservation area and as such it is considered important to assess each case on its own merit through the submission of a planning application.

Norwich  
Residential  
Management

We support the removal of planning permission in this issue. This would reduce the unnecessary costs involved in maintenance which only improves properties and energy efficiencies.

Comments noted.

Alyson Lowe

Whilst I understand the underlying reasons for wishing to adopt the LDO, I am concerned that there are the following problems with it:

The consultation period of 28 days could be challenged as being illegal. It would be better to use a longer consultation period (8 weeks) to avoid any controversy.

The use of Citizen as the only means of making

1) It is considered that the scale and significance of the LDO justifies a shorter consultation period than that which is carried out for Local Development Documents. The consultation period conforms to the statutory requirements and a longer consultation period will delay the adoption of the LDO which will have significant consequences on the Council's window replacement programme.

2) The Citizen magazine is distributed to all residents

residents aware of the consultation is questionable.

within the Norwich City Council administrative area. It was proposed to use Citizen due to the cost and logistics of writing to all neighbours within 10m of a flat. Letters were also sent to Residents, Tenants and Community Association.

There is potential for individuals to not fully understand what is and is not permitted and for replacement windows to be installed in error.

3) Comment noted. The area which is likely to raise the most questions is condition 3 of the LDO. As such a guidance note has been produced which helps define the meaning of the term elevation and sets out examples of when planning

permission would or would not be required.

Colin Jacobs

Tenants get enough freebies from the Council and extra money should be added to the rent for replacing windows. Landlords have a responsibility to keep the maintenance to a good standard but should also be asked to pay something towards the cost.

The order will save flat owners time and money and will benefit the Council's window replacement programme due to there being no need to apply for planning permission. The LDO will have no impact upon the cost of the actual windows or on who is responsible for replacing them.

Katarzyna Ciszewska

I replaced the windows in my flat in 2011. I had to apply for planning permission which cost £150 and on top the cost of plans and images. Norwich presents itself as 'green' and 'eco friendly' but it penalized me for trying to make my property more energy efficient. I wish the LDO was introduced earlier so

Comments noted.

it didn't hurt me financially.

Simeon Jackson	I welcome the LDO which should make the planning system quicker and more efficient. My concerns have largely been addressed but I trust there are measures in place to ensure that windows coming under the order could not be replaced by those of an inappropriate style for the building or area and that they follow the same aesthetic as before replacement.	Comments noted. The replacement of windows permitted by the LDO would not be subject to control. The order does however not apply to flats in historically important buildings or those in conservation areas and the use of conditions will ensure some level of uniformity is retained.
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11. In accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, a screening opinion was issued as the cumulative effect of all the proposed development within the area specified in the LDO could as a whole constitute EIA development under Schedule 2 (urban development project where the area of the development exceeds 0.5 hectare). The findings from the EIA screening opinion was that the LDO will not affect sites which are protected or designated due to their ecological or landscape value, as the LDO only allows for minor changes to existing buildings. Natural England has confirmed that they agree with this statement.

### **Proposed changes to the LDO**

12. In the light of the consideration of the representations made and further officer considerations of the proposals a number of minor alterations to the wording of the LDO are proposed. These are set out in the table below:

<b>Change no</b>	<b>Proposed change</b>	<b>Reason</b>
1	Scheduled Monuments and buildings located within a registered park or garden will be excluded from the area covered by the LDO in addition to conservation areas, statutory listed building and any locally listed building recognised by the Council.	For clarity in response to the representation from English Heritage.



2	<p>Revise the wording of condition 1 of the LDO and split it into two separate conditions. Condition 1 of the draft version of the LDO stated that 'the proposal will result in at least 80 per cent of all windows in an elevation being of a uniform material, colour and style'. Proposed to replace this with the following two conditions.</p> <p>Where more than 67% of all the windows in an elevation are to be replaced, all replacement windows must be of a uniform material, colour and style</p> <p>Where fewer than 67% of windows in an elevation are to be replaced, replacement windows must match the material, colour and style of the predominant design of windows elsewhere in the elevation.</p>	<p>This change arises from further officer consideration and has two reasons.</p> <p>Firstly it is considered that such a high percentage will unduly restrict the number of windows which can be replaced under the LDO. As such it is proposed to reduce the figure to 67 per cent. This will still retain a certain level of uniformity and in particular will mean that permission is still required to change windows within flatted terrace properties where the upper and lower floor windows will not match.</p> <p>Secondly it is proposed to revise the wording of the condition and split it into two separate conditions. The reason for this is that on review the previous draft the wording of the condition could technically allow a single window in a block of flats to be replaced with one that did not match the rest of the windows within an elevation provided that it still resulted in at least 80 per cent of all other windows being of a uniform material, colour and style.</p>
3	<p>Revise advisory note 2 to clarify that should any unlawful development take place, Norwich City Council may take enforcement action.</p>	<p>This change arises from further officer consideration and is for clarity.</p>

13. It should also be noted that as this matter was considered by Sustainable Development Panel prior to Cabinet agreeing the consultation it would be normal practice for the next steps to be considered by the Panel before the

matter is reported back to Cabinet. However, because of the desirability of introducing the LDO swiftly and because no meetings of the Panel took place in the current civic year prior to cabinet, the matter was not reported to a Panel meeting. Instead Panel members were consulted on a draft version of this report and no adverse comment has been received. Any late comments will be reported verbally.

## **Next Steps**

14. Following consideration by cabinet, the LDO and Statement of Reasons will need to be formally submitted to the Secretary of State alongside the consultation statement and the guidance note. Assuming there is no objection, the LDO is likely to come into force in the summer.
15. If adopted, the council would be required to report as part of the Annual Monitoring Report, the extent to which the LDO is achieving its purpose.

# Appendix 1 - Revised Draft LDO

## Local Development Order for replacement windows and doors in flats



### Background and aims

The replacement windows and doors Local Development Order (LDO) applies to purpose built flats, dwelling houses which have been subdivided into two or more self contained units and flats above town centre uses.

The aim of the LDO is to assist landlords, leaseholders and freeholders by speeding up the process, providing certainty of outcome and reducing the cost of replacing windows and doors in flats. The proposal will also result in financial savings to the council as it seeks to implement the window replacement programme across its housing stock. In addition there would be scope for more time and resources to be spent on replacement window applications within conservation areas and on listed buildings so a higher quality design can be achieved within Norwich's historic environments.

### What does the LDO permit?

The order allows for windows and doors to be replaced within flats and communal areas of flats without the need for planning permission, subject to conditions. It only applies to the replacement of windows and doors and does not remove the need to apply for planning permission for the enlargement of existing openings, the provision of new openings or any other alterations.

### Area covered by the LDO

The order will operate across the whole of the Norwich City Council area, excluding the Broads Authority area. However the order would not apply in conservation areas, on statutory listed buildings, Scheduled Monuments, any locally listed buildings recognised by the council or on buildings located within a registered park or garden.

### Conditions

The full list of conditions attached to the LDO, is set out below.

- 1) Where more than 67 per cent of all the windows in an elevation are to be replaced, all replacement windows must be of a uniform material, colour and style
- 2) Where fewer than 67 per cent of windows in an elevation are to be replaced, replacement windows must match the material, colour and style of the predominant design of windows elsewhere in the elevation.
- 3) Any window at first floor level or above which is currently obscure-glazed, shall be replaced with an obscure-glazed window to an equivalent specification.
- 4) Any window at first floor level or above which is currently non-opening should be replaced with a non-opening window unless the parts of the window which can be

opened are more than 1.7m above the floor of the room in which the window is installed.

### **Advisory notes**

The following should also be noted:

1) No development within a conservation area or affecting a statutory listed building, Scheduled Monument, locally listed building or building located within a registered park or garden is allowed under the order. If there is any doubt regarding this please contact Norwich City Council on 0344 980 3333 or email [planning@norwich.gov.uk](mailto:planning@norwich.gov.uk)

2) If you wish formal confirmation that planning permission is not required an application for a Certificate of Lawfulness should be submitted to the council. This is not compulsory; however, before starting any works you are obliged to ensure that the works are lawful. Should any unlawful development take place, Norwich City Council may take enforcement action.

3) Consent under building regulations is required for replacement windows for which a certificate can be issued by a FENSA registered installer or through an application to CNC Building Control. Further details of this can be obtained from CNC Building Control on 01603 430 100 or email [enquiries@cncbuildingcontrol.gov.uk](mailto:enquiries@cncbuildingcontrol.gov.uk)

4) If you are not the owner of the flat, permission should be sought from the landlord.

### **Compliance and monitoring**

Any proposal which conforms to the criteria and conditions set out above can take place without planning permission. Written confirmation or a Certificate of Lawfulness is not required. The LDO will be subject to regular review and will be reported through the Annual Monitoring Report.

Norwich City Council – May 2012

## Integrated impact assessment



**NORWICH**  
City Council

The IIA should assess **the impact of the recommendation** being made by the report

Detailed guidance to help with completing the assessment can be found [here](#). Delete this row after completion

### Report author to complete

<b>Committee:</b>	Cabinet
<b>Committee date:</b>	13 June 2012
<b>Head of service:</b>	Graham Nelson
<b>Report subject:</b>	Local Development Order for Replacement Windows and Doors in Flats
<b>Date assessed:</b>	21 May 2012
<b>Description:</b>	

	Impact			
<b>Economic (please add an 'x' as appropriate)</b>	<b>Neutral</b>	<b>Positive</b>	<b>Negative</b>	<b>Comments</b>
<b>Finance (value for money)</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	In the long term there may be resource savings through the implementation of the LDO. Currently it is estimated that the planning fees gained from window replacement applications do not cover the cost of determining the application. The LDO would also result in significant financial savings to the Council as they seek to implement the windows replacement programme across the council housing stock.
<b>Other departments and services e.g. office facilities, customer contact</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The LDO would result in significant financial savings to the Council as they seek to implement the windows replacement programme across the council housing stock.
<b>ICT services</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b>Economic development</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b>Financial inclusion</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b>Social (please add an 'x' as appropriate)</b>	<b>Neutral</b>	<b>Positive</b>	<b>Negative</b>	<b>Comments</b>
<b>Safeguarding children and adults</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b><u>S17 crime and disorder act 1998</u></b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b>Human Rights Act 1998</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified

	Impact			
<b>Health and well being</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Many of the existing windows in the council housing stock are in poor state of repair and due to poor insulation will result in higher heating costs and potential health issues often to very vulnerable people.
<b>Equality and diversity (please add an 'x' as appropriate)</b>	<b>Neutral</b>	<b>Positive</b>	<b>Negative</b>	<b>Comments</b>
<b>Relations between groups (cohesion)</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b>Eliminating discrimination &amp; harassment</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b>Advancing equality of opportunity</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b>Environmental (please add an 'x' as appropriate)</b>	<b>Neutral</b>	<b>Positive</b>	<b>Negative</b>	<b>Comments</b>
<b>Transportation</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b>Natural and built environment</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Having less control over the replacement of windows in flats has the potential to result in the loss of uniformity which could have a detrimental visual impact. However as conservation areas, listed buildings, locally listed buildings and other designated heritage assets are to be excluded from the LDO the impact upon Norwich's historic environment will be very minimal. Furthermore it is considered that the conditions are sufficient to ensure that development permitted under the LDO would be of good design and keep loss of uniformity to a minimum.

	Impact			
<b>Waste minimisation &amp; resource use</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b>Pollution</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b>Sustainable procurement</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified
<b>Energy and climate change</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Many of the existing windows in the council housing stock are in poor state of repair and due to poor insulation will result in more energy being used to heat a flat. The replacement of the windows will provide better insulation and improve the overall energy efficiency.
<b>(Please add an 'x' as appropriate)</b>	<b>Neutral</b>	<b>Positive</b>	<b>Negative</b>	<b>Comments</b>
<b>Risk management</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No impact identified

### Recommendations from impact assessment

#### Positive

The LDO will result in financial savings to the planning service and the Council as a whole as they seek to implement the windows replacement programme across the council housing stock. Furthermore the LDO should have social and environmental benefits as many of the existing windows in the council housing stock are in poor state of repair and have poor insulation. The replacement of the windows will provide better insulation and improve the overall energy efficiency.

#### Negative



Having less control over the replacement of windows in flats has the potential to result in the loss of uniformity which could have a detrimental visual impact. However as conservation areas, listed buildings, locally listed buildings and other designated heritage assets are to be excluded from the LDO the impact upon Norwich's historic environment will be very minimal. Furthermore it is considered that the conditions are sufficient to ensure that development permitted under the LDO would be of good design and keep loss of uniformity to a minimum.

### **No impact**

It is considered that the LDO will have not impact upon ICT services, economic development, financial inclusion, safeguarding children and adults, crime and disorder, human rights, equality and diversity, transportation, waste, pollution, sustainable procurement and risk management.

### **Issues**

Only one negative impact has been identified; however it is considered that the conditions attached to the LDO are sufficient to ensure that any impact upon the built environment is minimal. As such no significant issues have been identified.