
STATUTORY INSTRUMENTS

1992 No. 621

URBAN DEVELOPMENT

The Birmingham Heartlands Development Corporation (Planning Functions) Order 1992

<i>Made</i>	- - - -	<i>11th March 1992</i>
<i>Laid before Parliament</i>		<i>11th March 1992</i>
<i>Coming into force</i>	- -	<i>1st July 1992</i>

The Secretary of State for the Environment, in exercise of the powers conferred on him by section 149(1), (3), (11) and (13) of the Local Government, Planning and Land Act 1980(1) and of all other powers enabling him in that behalf, hereby makes the following Order—

Citation and commencement

1.—(1) This Order may be cited as the Birmingham Heartlands Development Corporation (Planning Functions) Order 1992.

(2) This Order shall come into force on 1st July 1992.

Interpretation

2. In this Order—

“the 1980 Act” means the Local Government, Planning and Land Act 1980;

“the 1990 Act” means the Town and Country Planning Act 1990;

“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990(2);

“the development area” means the area designated as an urban development area by the Birmingham Heartlands Development Corporation (Area and Constitution) Order 1992(3); and

“the development corporation” means the Birmingham Heartlands Development Corporation.

(1) 1980 c. 65; section 149 was amended by Schedule 1 to, and paragraph 44(6) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). See also section 7 of the Town and Country Planning Act 1990 (c. 8).
(2) 1990 c. 9.
(3) S.I.1992/584.

Planning functions of the development corporation

3. Subject to the provisions of articles 5 and 6 of this Order—
- (a) the development corporation shall be the local planning authority for the whole of the development area for all the purposes of Part III of the 1990 Act in relation to all kinds of development;
 - (b) the development corporation shall have in the whole of the development area the functions conferred by all the provisions of the 1990 Act and the Listed Buildings Act specified in Part I of Schedule 29 to the 1980 Act(4).

Modifications of provisions of the 1990 Act and the Listed Buildings Act

4. All the provisions of the 1990 Act and the Listed Buildings Act specified in Part II of Schedule 29 to the 1980 Act(5) shall have effect in relation to the development corporation and to the development area with the modifications specified in that Part.

Transitional provision: applications to local planning authorities

5.—(1) This article applies as respects any application for planning permission under the 1990 Act or for a consent, approval or determination under the 1990 Act, or the Listed Buildings Act, or under any order or regulation made or having effect under those Acts which—

- (a) was duly made before this Order came into force to an authority which ceases by virtue of section 7 of the 1990 Act and the preceding provisions of this Order to be the local planning authority responsible for determining the application (“the previous authority”); and
 - (b) has not been determined when this Order comes into force.
- (a) (2) (a) Subject to sub-paragraph (b), except where the previous authority resolves with the agreement of the applicant to transmit the application to the development corporation for determination, that authority shall have in relation to the application the same powers and duties as it would have if this Order had not been made.
- (b) Where an application relates to development or development of a class in respect of which there is in force a direction under article 14 of the Town and Country Planning General Development Order 1988(6) the previous authority shall not determine the application but shall, within 10 days of this Order coming into force, transmit it to the development corporation for determination.

(3) Where the previous authority transmits an application to the development corporation for determination, the application shall be treated as received by the corporation from the applicant on the day on which it is transmitted to the corporation.

(4) Where an appeal is made to the Secretary of State under section 78(7) of the 1990 Act or section 20 of the Listed Buildings Act against a decision or determination made in relation to land within the development area by an authority which ceased by virtue of section 7 of the 1990 Act and the preceding provisions of this Order to be the local planning authority responsible for making such decisions or determinations, that authority shall continue to be the local planning authority for the purposes of the appeal, but shall notify the development corporation of the appeal and transmit to the Secretary of State any representation received from the development corporation.

(4) Part I of Schedule 29 was amended by paragraph 44(12) of Schedule 2 to the Planning (Consequential Provisions) Act 1990, and by paragraph 17 of Schedule 3 to, and paragraph 5 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

(5) Part II of Schedule 29 was amended by paragraph 44(13) of Schedule 2 to the Planning (Consequential Provisions) Act 1990.

(6) S.I. 1988/1813, to which there are amendments not relevant to this Order.

(7) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991.

Transitional provision: compensation

6.—(1) Where a right to compensation arises under sections 107(8), 108, 115, 186(9), 203 and 204 of the 1990 Act or sections 28 or 29 of the Listed Buildings Act in consequence of action taken in relation to land within the development area by an authority which ceases by virtue of section 7 of the 1990 Act and the preceding provisions of this Order to be the local planning authority in relation to that matter, the liability to pay compensation shall lie with that authority.

(2) Where the Secretary of State makes a determination of an appeal against action taken by such authority as is mentioned in paragraph (1), or on a reference made to him by such authority, and that determination gives rise to a right to compensation, that authority shall be liable to pay the compensation.

(3) Where the Secretary of State makes an order or serves a notice, as the case may be, under section 100(10), 104, 185 or 202 of, or paragraph 11 of Schedule 9 to, the 1990 Act in respect of a matter arising before this Order comes into force, which relates to land in the development area, the authority which was the local planning authority in relation to that land when the matter arose shall remain liable to pay any compensation arising from the order or notice.

11th March 1992

Michael Heseltine
Secretary of State for the Environment

(8) Section 107 was amended by paragraph 8 of Schedule 1 to, and paragraph 13 of Schedule 6 to, the Planning and Compensation Act 1991.

(9) Section 186 was amended by section 9(3) of, paragraph 29 of Schedule 7 to, and Part I of Schedule 19 to, the Planning and Compensation Act 1991.

(10) Section 100 was amended by paragraph 5 of Schedule 1 to the Planning and Compensation Act 1991.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

The Birmingham Heartlands Development Corporation is established by the Birmingham Heartlands Development Corporation (Area and Constitution) Order 1992 for the purpose of regenerating the Birmingham Heartlands urban development area.

This Order makes the corporation the local planning authority for that area for all the purposes of Part III (general planning control) of the Town and Country Planning Act 1990 (article 3(a)), and for those purposes of that Act and the Planning (Listed Buildings and Conservation Areas) Act 1990 which are specified in Part I of Schedule 29 to the Local Government, Planning and Land Act 1980 which deal with additional control in special cases, enforcement of control, listed buildings and conservation areas (article 3(b)).

The Order applies other provisions of the 1990 Acts specified in Part II of Schedule 29 to the 1980 Act to the corporation and to the area subject to the modifications set out in that Part (article 4).

Provision is made for the former local planning authority to determine applications received by it prior to the date on which this Order comes into force or with the applicant's agreement to transmit them to the corporation for determination; the former authority cannot, however, determine any such application for development which is subject to a direction under article 14 of the Town and Country Planning General Development Order 1988 (article 5). A second transitional provision (article 6) leaves responsibility for the payment of compensation under sections 107, 108, 115, 186, 203 and 204 of the Town and Country Planning Act 1990 or sections 28 or 29 of the Planning (Listed Buildings and Conservation Areas) Act 1990 with the local planning authority who took the action giving rise to a right to compensation.