

2004 No. 932

URBAN DEVELOPMENT, ENGLAND

**The Milton Keynes (Urban Area and Planning Functions)
Order 2004**

Made - - - - - 25th March 2004

Laid before Parliament 31st March 2004

Coming into force - - 7th June 2004

The First Secretary of State, having consulted every local authority any part of whose area was intended to be included in a proposed designated area, in exercise of the powers conferred upon him by sections 170(1) and (4) and 171 of the Leasehold Reform, Housing and Urban Development Act 1993(a), and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Milton Keynes (Urban Area and Planning Functions) Order 2004, and shall come into force on 7th June 2004.

Interpretation

2. In this Order—
- “the 1990 Act” means the Town and Country Planning Act 1990(b);
 - “the Agency” means the Urban Regeneration Agency;
 - “designated area” means an area designated by article 3.

Designated areas

3.—(1) Each of the areas shown on the maps bounded externally by a black line and edged internally with a stippled band is hereby designated for the purposes of this Order.

(2) In paragraph (1), “the maps” means the “the set of maps numbered 1 to 4 entitled “Maps referred to in the Milton Keynes (Urban Area and Planning Functions) Order 2004”, of which prints, signed by a Director in the Office of the Deputy Prime Minister, are deposited and available for inspection at the offices of the First Secretary of State, the Council of the borough of Milton Keynes and the Milton Keynes offices of the Agency.

Planning functions of the Urban Regeneration Agency

4.—(1) Subject to paragraphs (2) to (6) and articles 6 and 7, the Agency shall be the local planning authority for each designated area for the purposes of Part 3 of the 1990 Act in relation to the following kinds of development—

- (a) development which comprises or includes the provision of 10 or more houses, flats, or houses and flats;

(a) 1993 c. 28.
(b) 1990 c. 8.

- (b) development which comprises or includes 1,000 or more square metres of floorspace for a use falling within any or all of the following Classes in the Town and Country Planning (Use Classes) Order 1987(a)—
 - (i) class A1 (retail);
 - (ii) class A2 (financial and professional);
 - (iii) class A3 (food and drink);
 - (iv) class B1 (business);
 - (v) class B2 (general industrial);
 - (vi) class B8 (storage and distribution);
- (c) development which occupies 1 hectare or more of land; and
- (d) development which is not of a kind specified in sub-paragraph (a), (b) or (c), but which forms part of more substantial proposed development of such a kind on the same land or adjoining land in a designated area.

(2) Paragraph (1) does not apply to—

- (a) development which comprises or includes the winning and working of minerals in, on or under land, whether by surface or underground working; or
- (b) operational development designed to be used wholly or mainly for the purpose of, or a material change of use to, treating, keeping, processing or disposing of refuse or waste materials.

(3) In deciding whether development forms part of more substantial development, there shall be taken into account other development of the same land or adjoining land in a designated area—

- (a) in respect of which an application for planning permission has been made but not finally determined on the date the relevant application is received;
- (b) in respect of which planning permission has been granted within the period of five years immediately preceding that date; or
- (c) which has been substantially completed within the period of five years immediately preceding that date.

(4) Paragraph (1) does not apply to development in respect of which—

- (a) an application under section 73 of the 1990 Act, or
- (b) an application for renewal of planning permission,

has been made and where the previous planning permission was granted pursuant to an application for planning permission which was received on or before 6th June 2004 by an authority which ceases by virtue of the preceding provisions of this Order to be the local planning authority responsible for determining planning applications for the kinds of development specified in paragraph (1).

(5) In paragraph (4), “previous planning permission” means the planning permission in respect of which the application referred to in paragraph (4)(a) or (b) is made.

(6) For the purposes of this article—

- (a) development occupies that area in respect of which the application for planning permission for the development seeks planning permission; and
- (b) “floorspace” shall be calculated by external measurement.

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

5. The provisions of the 1990 Act and the Planning (Listed Buildings and Conservation Areas) Act 1990(b) specified in the Schedule to this Order shall have effect in relation to the Agency and each designated area with the modifications specified in that Schedule.

(a) S.I. 1987/764: relevant amending instruments are the Town and Country Planning (Use Classes) (Amendment) Order 1991 (S.I. 1991/1567); the Town and Country Planning (Use Classes) (Amendment) Order 1992 (S.I. 1992/610); and the Town and Country Planning (Use Classes) (Amendment) Order 1995 (S.I. 1995/297).

(b) 1990 c. 9.

Transitional provision: planning applications

6.—(1) Paragraphs (2) and (3) of this article apply as respects any application for planning permission, or for a consent, approval or determination under the 1990 Act or any order or regulation made or having effect under that Act which—

- (a) is for development of a kind specified in article 4(1);
- (b) was duly made before this Order came into force to an authority which ceases by virtue of the preceding provisions of this Order to be the planning authority responsible for determining the application (“the previous authority”); and
- (c) has not been determined when this Order comes into force.

(2) The previous authority shall transmit any application to which paragraph (1) applies to the Agency for determination.

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

(4) If, after this Order comes into force,—

- (a) an application is made to an authority which has ceased by virtue of the preceding provisions of this Order to be the local planning authority in relation to the kinds of development specified in article 4(1); and
- (b) that authority consider that the application is for development of a kind specified in article 4(1),

that authority shall transmit the application to the Agency for determination.

(5) Where an appeal is made to the Secretary of State under section 78 of the 1990 Act against a decision, determination made or failure to make such decision or determination in relation to land within a designated area by an authority which ceased by virtue of the preceding provisions of this Order to be the local planning authority responsible for making such decisions or determinations, that authority—

- (a) shall continue to be the local planning authority for the purposes of the appeal; but
- (b) shall notify the Agency of the appeal and transmit to the Secretary of State any representations received from the Agency.

Transitional provision: compensation

7.—(1) Where a right to compensation arises under Part 4 of the 1990 Act in consequence of action taken in relation to land within a designated area by an authority which ceases by virtue 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 under sections 100 or 104 of the 1990 Act in respect of a matter arising before this Order comes into force, which relates to land in a designated 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.

Signed by authority of the First Secretary of State

25th March 2004

Jeff Rooker
Minister of State
Office of the Deputy Prime Minister

MODIFICATIONS TO LEGISLATION

PART 1

Provisions of the 1990 Act to have effect as modified

1.—(1) Section 139 of the 1990 Act (action by council on whom purchase notice is served) shall be modified as follows.

(2) Subsection (1)(b) shall have effect as if, after the words “response notice”, there were inserted “or the Urban Regeneration Agency”.

(3) Subsection (1)(c) shall have effect as if for the words “have not found any other local authority or statutory undertakers who will agree” there were substituted “no other local authority or statutory undertakers, nor the Urban Regeneration Agency, have agreed”.

(4) Subsection (3) shall have effect as if after the word “undertakers”, there were inserted “or the Urban Regeneration Agency”.

2. Section 140(2)(d)(a) of that Act (procedure on reference of purchase notice to Secretary of State) shall have effect as if after the word “undertakers” there were inserted “or the Urban Regeneration Agency”.

3. Section 141(4) of that Act (action by Secretary of State in relation to purchase notice) shall have effect as if after the word “undertakers” there were inserted “or the Urban Regeneration Agency”.

4. Section 143(1)(b) of that Act (effect of Secretary of State’s action in relation to purchase notice) shall have effect as if—

- (a) after the word “undertakers” in the first place where it occurs, there were inserted “or the Urban Regeneration Agency”; and
- (b) after that word, in the second place where it occurs, there were inserted “or that Agency”.

5. The definition of “relevant provisions” in section 148 of that Act (interpretation of Chapter 1) shall have effect as if after the word “undertaking” there were added “or, in the case of the Urban Regeneration Agency, section 162 of the Leasehold Reform, Housing and Urban Development Act 1993”.

6. Section 249(b) of that Act (order extinguishing right to use vehicles on highway) shall have effect as if—

- (a) in subsection (1) after the word “applies” there were inserted “subject to subsection (1A)”; and
- (b) the following subsection were inserted after that subsection—

“(1A) Any reference in this section and in section 250 to a local planning authority is to be construed as including a reference to the Urban Regeneration Agency.”.

7. Section 251 of that Act (extinguishment of public rights of way over land held for planning purposes) shall have effect as if after subsection (1), there were inserted the following subsection—

“(1A) Where any land has been acquired by the Urban Regeneration Agency or has vested in that Agency and is for the time being held by it for the purpose of securing the development of it or any other land, the Secretary of State may by order extinguish any public right of way over the land, if he is satisfied that an alternative right of way has been or will be provided or that the provision of an alternative right of way is not required.”.

8. Section 258 of that Act (extinguishment of public rights of way over land held for planning purposes) shall have effect as if after subsection (1), there were inserted the following subsection—

“(1A) Where any land has been acquired by the Urban Regeneration Agency or has vested in that Agency and is for the time being held by it for the purpose of securing the development of it or any other land, then, subject to section 259, the Urban Regeneration Agency may by order extinguish any public right of way over the land being a footpath or bridleway, if it is satisfied that an alternative right of way has been or will be provided or that the provision of an alternative right of way is not required.”.

(a) Section 140 was amended by the Local Government (Wales) Act 1994 (1994 c. 19), section 10(4) and Schedule 6, paragraph 24.

(b) Section 249 was amended by the Greater London Authority Act 1999 (1999 c. 29), Schedule 22, paragraph 5.

9. Section 330(a) of that Act (power to require information as to interests in land) shall have effect as if—

- (a) after the words “local authority”, in the first place where they occur, in subsection (1) there were inserted “or the Urban Regeneration Agency”; and
- (b) after those words, in the second place where they occur in subsection (1), and in subsection (3), there were inserted “or the Agency”.

PART 2

Provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have effect as modified

10.—(1) Section 33 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (action by council on whom listed building purchase notice served) shall be modified as follows.

(2) Subsection (1)(b) shall have effect as if, after the words “this subsection”, there were inserted “or the Urban Regeneration Agency”.

(3) Subsection (1)(c) shall have effect as if for the words “have not found any other local authority or statutory undertakers who will agree” there were substituted “no other local authority or statutory undertakers, nor the Urban Regeneration Agency have agreed”.

(4) Subsection (3) shall have effect as if after the word “undertakers”, there were inserted “or the Urban Regeneration Agency”.

11. Section 34(2)(d)(b) of that Act (procedure on reference of listed building purchase notice to Secretary of State) shall have effect as if after the word “undertakers” there were inserted “or the Urban Regeneration Agency”.

12. Section 35(6) of that Act (action by Secretary of State in relation to listed building purchase notice) shall have effect as if after the word “undertakers” there were inserted “or the Urban Regeneration Agency”.

13. Section 36(4) of that Act (effect of Secretary of State’s action in relation to listed building purchase notice) shall have effect as if after the word “undertakers” in the first place where it occurs there were inserted “or the Urban Regeneration Agency” and in the second place where it occurs there were inserted “or that Agency”.

14. Section 91 of that Act(c) (interpretation) shall have effect as if there were inserted at the end—

“(8) In this Act, “Urban Regeneration Agency” has the same meaning as in Part 3 of the Leasehold Reform, Housing and Urban Development Act 1993.”.

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- (a) Section 330 was amended by the Environment Act 1995 (1995 c. 25), Schedule 10, paragraph 32(11) and the Town and Country Planning (Electronic Communications) (England) Order 2003 (S.I. 2003/956), article 5.
 - (b) Section 34 was amended by the Local Government (Wales) Act 1994 (1994 c. 19), section 20(4) and Schedule 6, paragraph 25.
 - (c) Section 91 was amended by the Planning and Compensation Act 1991 (1991 c. 34), Schedule 6, paragraph 48; the Gas Act 1995 (1995 c. 45) Schedule 4, paragraph 2; the Postal Services Act 2000 (Consequential Modifications No. 1) Order 2001 (S.I. 2001/1149), Schedule 1, paragraph 84; and the Town and Country Planning (Electronic Communications) (England) Order (S.I. 2003/956) article 9.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates a number of areas in Milton Keynes under section 170 of the Leasehold Reform, Housing and Urban Development Act 1993 (article 3) and makes the Urban Regeneration Agency (“the Agency”) (commonly known as English Partnerships) the local planning authority for each designated area for the purposes of Part 3 (control over development) of the Town and Country Planning Act 1990 (“the 1990 Act”) in respect of certain kinds of development specified in article 4. Each designated area is shown hatched black on the map forming part of this note.

Article 4(1) specifies the kinds of development for which the Agency is the local planning authority: development involving the provision of 10 or more houses, flats or houses and flats, development involving 1000 or more square metres of floorspace of certain uses including retail, office and industrial, and development occupying a site of 1 hectare or more, but not any minerals or waste related development (article 4(2)). The Agency is also to be the local planning authority for developments which, while not themselves falling within the above criteria, form part of more substantial proposals which do. Article 4(3) sets out matters to be taken into account when determining whether development forms part of more substantial proposals which fall within article 4(1).

Articles 4(4) and (5) provide that an application to renew a planning permission or to remove conditions subject to which it was imposed shall not be made to the Agency, but to the local planning authority which granted the previous permission.

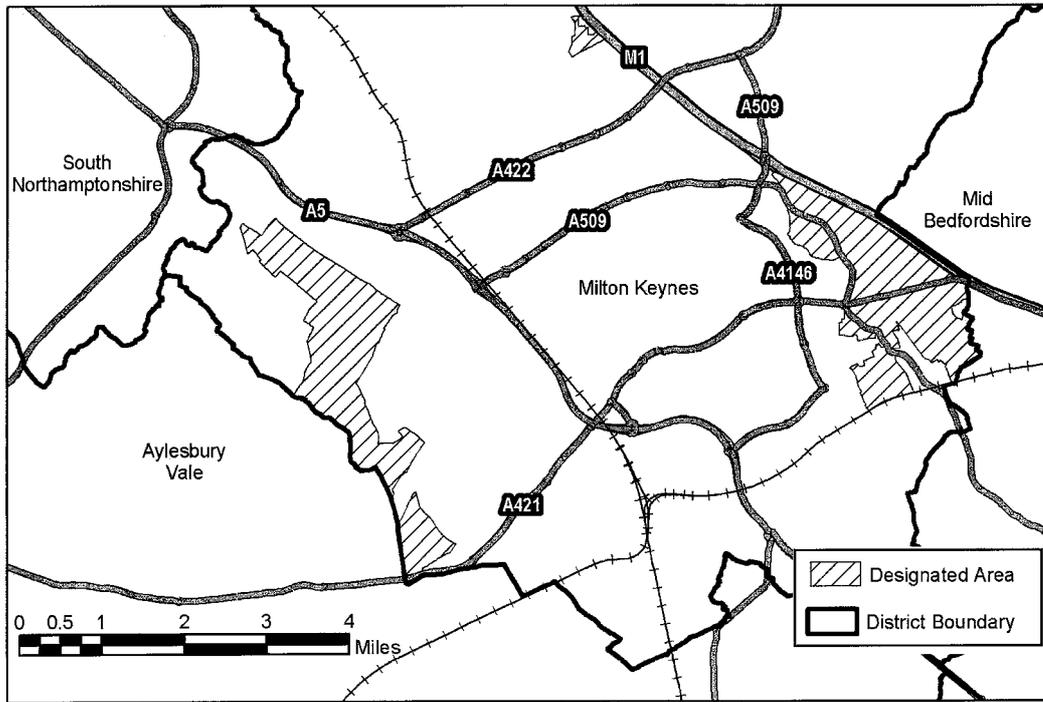
Article 5 and the Schedule to the Order apply provisions of the 1990 Act relating to purchase notices, extinguishment of public rights of way, power to require information as to interests in land, and provisions in the Planning (Listed Buildings and Conservation Areas) Act 1990 relating to purchase notices, to the Agency, subject to the modifications set out in that Schedule.

Provision is made for the former local planning authority to transmit applications received by it for development of a kind for which the Agency has become the local planning authority to the Agency for determination (article 6). The former local planning authority will continue to be treated as local planning authority for the purposes of any appeal against a decision, determination or failure by it to notify the applicant of its decision within the prescribed period (article 6(5)).

Article 7 leaves responsibility for the payment of compensation under Part 4 of the 1990 Act with the local planning authority who took the action giving rise to a right to compensation.

Prints of the maps referred to in article 3 of this Order are available for inspection at all reasonable hours in the Library of the Office of the Deputy Prime Minister, Ashdown House, 123 Victoria Street, London SW1E 6DE, at the offices of Milton Keynes Council, Civic Offices, 1 Saxon Gate East, Central Milton Keynes, MK9 3HQ and at the Milton Keynes offices of the Urban Regeneration Agency (English Partnerships), Central Business Exchange II, 414-428 Midsummer Boulevard, Central Milton Keynes MK9 2EA.

The regulatory impact assessment relating to this Order is available on the internet at www.odpm.gov.uk/urban/consult. Alternatively copies can be obtained by post from the Office of the Deputy Prime Minister, Zone 4/G10, Eland House, Bressenden Place, London SW1E 5DU.



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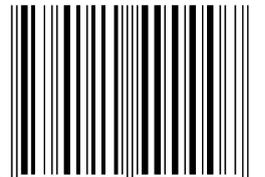
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