

**EXPLANATORY MEMORANDUM TO THE
THURROCK DEVELOPMENT CORPORATION (PLANNING FUNCTIONS)
ORDER 2005**

2005 No. 2572

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This Order makes the Thurrock Development Corporation (“the corporation”) the local planning authority in place of Thurrock Borough Council in the Thurrock urban development area, in relation to the kinds of development specified in the Order.
 - 2.1 The Order also confers certain functions in the Planning (Listed Buildings and Conservation Areas) Act 1990 on the corporation and makes various transitional provision (including provision for the former local planning authority to transmit applications received but not determined by it prior to the date on which this Order comes into force, to the corporation for its determination).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None
4. **Legislative Background**
 - 4.1 The Thurrock Development Corporation was established by the Thurrock Development Corporation (Area and Constitution) Order 2003 (S.I. 2003/2896) for the purpose of regenerating the Thurrock urban development area.
 - 4.2 Section 149 of the Local Government, Planning and Land Act 1980 (“the 1980 Act”) enables the Secretary of State to make provision by order so that an urban development corporation is the local planning authority for the whole or any portion of its area for such purposes of Part 3 of the Town and Country Planning Act 1990 (“the Planning Act”) and in relation to such kinds of development as the order provides. Part 3 of the Planning Act is concerned with control over development - and among other things defines the meaning of “development”, provides for applications for planning permission, and provides for appeals to the Secretary of State. Section 149 also enables the Secretary of State to give the corporation certain other functions under the Planning Act and under the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) - including enforcement functions (see Part 1 of Schedule 29 to the 1980 Act). It also enables the Secretary of State to provide that certain provisions of the Planning Act and

the Listed Buildings Act apply in relation to the urban development corporation subject to the modifications set out in Part 2 of Schedule 29. For example, section 249 of the Planning Act (which gives local planning authorities powers to apply to the Secretary of State to extinguish the right to use vehicles on a highway) can be applied in relation to the development corporation subject to the modification that any reference in section 249 to a local planning authority is to be interpreted as a reference to the corporation.

- 4.3 This Order makes provision so that in relation to what can broadly be described as “strategic development”, and in relation to the whole of the Thurrock urban development area, the corporation is made the local planning authority for the purposes of Part 3 of the Planning Act. Article 3 of the Order specifies the type of development for which the corporation will be the local planning authority. As well as specifying particular types of development, article 3(1)(p) specifies development which, although not of a type specified, forms part of more substantial proposed development of such a type on the same or adjoining land. This provision has been included to ensure that the corporation maintains its role in making decisions that have a direct impact on “strategic development”.
- 4.4 Article 4 of the Order confers on the corporation the functions of a local planning authority under the Listed Buildings Act which are specified in the Schedule and article 5 applies all of the provisions listed in Part 2 of Schedule 29 to the 1980 Act in relation to the corporation. Paragraph 7.8 below explains the policy reason why enforcement powers under the Planning Act are not being conferred on the corporation.
- 4.5 A debate on the 2003 Order took place on Wednesday 15th October 2003 at the First Standing Committee on Delegated Legislation, and is recorded in Hansard, column number 022.

5. Extent

This instrument applies in relation to England.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 In February 2003, the Deputy Prime Minister set out an action programme to deliver sustainable communities for all ("Sustainable communities: building for the future" ODPM). To accommodate the economic success of London and the wider South East, this programme identified four growth areas, including the Thames Gateway. It included a commitment to set up strengthened local delivery agencies in these areas, with the necessary powers to drive forward development. In many locations, local authorities would take the lead with the Regional Development Agency (RDA) and other partners. In a few locations, where the land assembly issues are especially complex, the long term focus and special powers of an urban development corporation (UDC) would be established.

7.2 The statutory objective and powers of an UDC are set out in section 136 of the 1980 Act. An UDC's objective is to secure the regeneration of its area. This is to be achieved by:

- bringing land and buildings into effective use;
- encouraging the development of existing and new industry and commerce;
- creating an attractive environment; and
- ensuring that housing and social facilities are available to encourage people to live and work in the area.

7.3 For the purpose of achieving the regeneration of its area, the 1980 Act states that an UDC may:

- acquire, hold, manage, reclaim and dispose of land and other property;
- carry out building and other operations;
- seek to ensure the provision of water, electricity, gas, sewerage and other services;
- carry on any business or undertaking for the purposes of regenerating its area; and
- generally do anything necessary or expedient for this purpose, or for purposes incidental to those purposes.

7.4 Consultation on the establishment of an UDC in Thurrock took place in April and May of 2003. The consultation included consideration of the planning powers of the UDC. The consultation paper was issued to local authorities, business, voluntary and community groups and the local community. Following the consultation, a detailed "decision-document" was issued taking into consideration the response to the consultation:

http://www.odpm.gov.uk/stellent/groups/odpm_urbanpolicy/documents/page/odpm_urbanpol_022793.hcsp

7.5 Consultees were asked for views on: the scope of an order transferring planning powers to a UDC; the area for which the UDC should be the local planning authority; the development control functions that it ought to undertake; how best the UDC could be supported by the planning departments of local authorities if it became the planning authority; and assuming the powers existed, how a UDC might best identify strategic and significant planning decisions, and whether this approach offered added flexibilities. Some respondents were concerned that the setting up of the UDC with planning powers might exacerbate the shortage of planners in the South East. Other respondents were more concerned that planning powers were unnecessary or undesirable for the UDC. A number of respondents asked for clarification on the position between the UDC and the Council on the Unitary Development Plan. Some felt that the first draft, now on deposit, would need reviewing by the UDC.

7.6 Having carefully considered these representations, Ministers were satisfied that planning powers are of considerable importance to the effectiveness with which an UDC can deliver regeneration. They were equally clear that it would not be appropriate to give the UDC powers over applications not relevant to its purposes. It was therefore decided that the UDC should be made the local planning authority only in relation to applications for planning permission which are relevant to its purposes - but exclude more minor applications, for example for householder development (which remain with Thurrock Borough Council).

7.7 This Order specifies the type of applications for which the corporation will become the local planning authority for development control decisions - being the type of development which is considered to be most relevant to the purposes of the corporation taking into account local considerations. Development plan making powers cannot be transferred to UDCs however the corporation will produce its own development strategy, which will need to take account of the local plan and any local development documents produced under the Planning and Compulsory Purchase Act 2004.

7.8 The Order does not give the corporation enforcement powers under the Planning Act because of the administrative and resource burden involved. The Order does, however, give the corporation enforcement powers under the Listed Buildings Act because these do not pose the same burden. The handling of enforcement decisions of interest to the corporation will be set out in the “Agreement for the Provision of Planning Services” with Thurrock Council. This is consistent with Ministers’ aims for the corporation to work co-operatively with Thurrock Council. Ministers promised, in the “decision-document”, to provide further details of such an agreement, whereby planning advice may be prepared for the corporation by Thurrock Council officers and, once the powers come into force, the agreement will be made available to the public on the website of Thurrock UDC: www.thurrocktgdgc.org.uk.

8. Impact

8.1 A full Regulatory Impact Assessment was produced updating the partial RIA that accompanied the consultation paper, taking account of comments received from consultees:

http://www.odpm.gov.uk/stellent/groups/odpm_urbanpolicy/documents/page/odpm_urbpol_022796.hcsp

8.2 The full RIA concluded that there was support for a body with statutory powers, including planning. An additional Regulatory Impact Assessment has not been prepared for this instrument as it has no additional impact on business, charities or voluntary bodies.

9. Contact

Philip Stables at the Office of the Deputy Prime Minister, tel: 020 7944 2676 or e-mail: philip.stables@odpm.gsi.gov.uk, can answer any queries regarding the instrument.