
STATUTORY INSTRUMENTS

2005 No. 2721

URBAN DEVELOPMENT

The London Thames Gateway Development Corporation (Planning Functions) Order 2005

<i>Made</i>	- - - -	<i>3rd October 2005</i>
<i>Laid before Parliament</i>		<i>10th October 2005</i>
<i>Coming into force</i>	- -	<i>31st October 2005</i>

The First Secretary of State, 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, makes the following Order:

Citation and commencement

1. This Order may be cited as the London Thames Gateway Development Corporation (Planning Functions) Order 2005 and shall come into force on 31st October 2005.

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⁽²⁾;

“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990⁽³⁾;

“GDPO” means the Town and Country Planning (General Development Procedure) Order 1995⁽⁴⁾;

“the development area” means the area designated as an urban development area by the London Thames Gateway Development Corporation (Area and Constitution) Order 2004⁽⁵⁾;

(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). There are other amendments not relevant to this Order. See also section 7 of the Town and Country Planning Act 1990 (c. 8).

(2) 1990 c. 8.

(3) 1990 c. 9.

(4) S.I. 1995/419; a relevant amending instrument is S.I. 1996/1817.

(5) S.I. 2004/1642.

“the development corporation” means the London Thames Gateway Development Corporation⁽⁶⁾; and;

“the planning functions area” means the area described in article 3.

Planning functions area

3.—(1) The planning functions area is the development area excluding the areas shaded grey on the maps.

(2) In paragraph (1), “the maps” means the set of maps numbered 1 and 2 entitled “Maps referred to in the London Thames Gateway Development Corporation (Planning Functions) Order 2005”, 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, of the development corporation and of the London Boroughs of Barking and Dagenham, Hackney, Havering, Newham, and Tower Hamlets.

Planning functions of the development corporation

4.—(1) Subject to article 7, the development corporation shall be the local planning authority for the planning functions 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 50 or more houses, flats or houses and flats;
- (b) development which comprises or includes the provision of 2,500 or more square metres of floorspace where the development is not solely for houses, flats or houses and flats;
- (c) development which occupies 1 hectare or more of land;
- (d) development which comprises or includes the provision of buildings which are 25 metres or more in height;
- (e) development which comprises or includes the winning and working of minerals in, on or under land, whether by surface or underground working;
- (f) development to provide an installation for, or designed to be used wholly or mainly for the purposes of, waste development;
- (g) development which comprises or includes a generating station with an output of 0.5 or more megawatts;
- (h) development for a use, other than residential use, which includes the provision of 50 or more car parking spaces;
- (i) development—
 - (i) on land allocated as Green Belt or Metropolitan Open Land in the development plan, in proposals for such a plan, or in proposals for the alteration or replacement of such a plan; and
 - (ii) which would involve the construction of a building with 500 or more square metres of floorspace, or a material change in the use of such a building;
- (j) development to provide or extend—
 - (i) an aircraft runway, airfield or aerodrome;
 - (ii) a heliport (including a floating heliport and a helipad on a building);
 - (iii) an air passenger terminal at an airport;

(6) See article 3 of S.I. 2004/1642.

- (iv) a railway station;
 - (v) a tramway, an underground, surface or elevated railway, or a cable car;
 - (vi) a bus or coach station;
 - (vii) a crossing over or under the River Thames, the River Lea and associated waterways, or the River Roding; or
 - (viii) a pier on the River Thames;
 - (k) development which is likely to result in the loss of 20 or more houses, flats or houses and flats (irrespective of whether the development would also entail the provision of new houses or flats);
 - (l) development on land with an area of 1 hectare or more which—
 - (i) is likely to prejudice the use, or lead to the loss of use, of land being used as a playing field; or
 - (ii) is on land which has been—
 - (aa) used as a playing field at any time in the five years before the making of the relevant application for planning permission and which remains undeveloped; or
 - (bb) allocated for use as a playing field in a development plan or in proposals for a for such a plan or its alteration or replacement;
 - (m) development which is not of a kind specified in any of the preceding sub-paragraphs but which forms part of more substantial proposed development of such a kind on the same land or adjoining land in the planning functions area.
- (2) 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 the 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; and
 - (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.
- (3) 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;
 - (b) “floorspace” shall be calculated by external measurement;
 - (c) “generating station” has the same meaning as in Part 1 of the Electricity Act 1989(7);
 - (d) “playing field” has the same meaning as in article 10(2)(l) of the GDPO; and
 - (e) “waste development” means any operational development designed to be used wholly or mainly for the purpose of, or a material change of use to, treating, keeping, processing, recovering or disposing of refuse or waste materials.

(7) 1989 c. 29. Relevant amendments were made by the Energy Act 2004 (c. 20), section 89.

Additional functions conferred on the development corporation

5. The development corporation shall have in the planning functions area the functions conferred by the provisions of the Listed Buildings Act specified in Part 1 of Schedule 29 to the 1980 Act⁽⁸⁾ which are specified in the Schedule to this Order.

Modifications of provisions of the 1990 Act and Listed Buildings Act in the planning functions area

6. All the provisions of the 1990 Act and the Listed Buildings Act 1990 specified in Part 2 of Schedule 29 to the 1980 Act⁽⁹⁾ shall have effect in relation to the development corporation and in the planning functions area with the modifications specified in that Part.

Transitional provision: applications to local planning authorities

7.—(1) Paragraphs (2) to (4) apply 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) is for a 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 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
- (c) has not been determined when this Order comes into force.

(2) Subject to paragraph (3), the previous authority may—

- (a) determine any application referred to in paragraph (1); or
- (b) with the written agreement of the applicant, transmit any such application to the development corporation for determination.

(3) If any such application is subject to a direction made under article 14 of the GDPO (directions by the Secretary of State), the previous authority shall transmit it to the development corporation no later than 10 days after the day on which the direction is made.

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

(5) 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 development corporation for determination.

(6) Where an appeal is made to the Secretary of State under section 78⁽¹⁰⁾ of the 1990 Act or section 20 of the Listed Buildings Act against a decision or determination made in relation to land within the planning functions area by an authority which ceased by virtue of section 7 of the 1990

⁽⁸⁾ Part 1 of Schedule 29 was amended by paragraph 44(12) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11), and by paragraph 17 of Schedule 3 to, and paragraph 5 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

⁽⁹⁾ Part 2 of Schedule 29 was amended by paragraph 44(13) of Schedule 2 to the Planning (Consequential Provisions) Act 1990.

⁽¹⁰⁾ Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991.

Act and the preceding provisions of this Order to be the local planning authority responsible for making such decisions or determinations, that authority shall—

- (a) continue to be the local planning authority for the purposes of the appeal; and
- (b) shall notify the development corporation of the appeal and transmit to the First Secretary of State any representation received from the development corporation.

Transitional provision: compensation

8.—(1) Where a right to compensation arises under section 107(11), 108, or 115 of the 1990 Act or section 28 or 29 of the Listed Buildings Act in consequence of action taken in relation to land within the planning functions 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—

- (a) the Secretary of State makes a determination—
 - (i) of an appeal against action taken by such authority as is mentioned in paragraph (1); or
 - (ii) on a reference made to him by such authority; and
- (b) that determination gives rise to a right to compensation,

that authority shall be liable to pay the compensation.

(3) Where the Secretary of State—

- (a) makes an order under section 100(12) or 104 in respect of a matter arising before this Order comes into force which relates to land in the planning functions area; or
- (b) serves a notice under section 185 of that Act in respect of such a matter,

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.

Signed by authority of the First Secretary of State

3rd October 2005

Yvette Cooper
Minister of State
Office of the Deputy Prime Minister

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

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

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SCHEDULE

Article 5

Functions conferred on the development corporation in the planning functions area by provisions of the Listed Buildings Act mentioned in Part 1 of Schedule 29 to the 1980 Act

<i>Section</i>	<i>Description</i>
3	Temporary listing: building preservation notices
4	Temporary listing in urgent cases
8	Authorisation of works: listed building consent
10	Making of applications for listed building consent
11	Certificates as to applicant's status
13	Duty to notify Secretary of State of applications
14	Duty of London borough councils to notify Commission
15	Directions concerning notification of applications etc.
16	Decision on application
20	Right to appeal against decision or failure to take decision
23	Revocation and modification of listed building consent by local planning authority
24	Procedure for s.23 orders: opposed cases
25	Procedure for s. 23 orders: unopposed cases
38	Power to issue listed building enforcement notice
42	Execution of works required by listed building enforcement notice
44A	Injunctions
47	Compulsory acquisition of a listed building in need of repair
48	Repairs notice as preliminary to acquisition under s.47
50	Minimum compensation in case of listed building deliberately left derelict
53	Management of listed buildings acquired under this Act
54	Urgent works to preserve unoccupied listed buildings
60	Exceptions for ecclesiastical buildings and redundant churches

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<i>Section</i>	<i>Description</i>
82	Application of Act to land and works of local planning authorities
88	Rights of entry
88A	Warrants to enter land

EXPLANATORY NOTE

(This note is not part of the Order)

The London Thames Gateway Development Corporation (the corporation) was established by the London Thames Gateway Development Corporation (Area and Constitution) Order 2004 (S.I.2004/1642) for the purpose of regenerating the London Thames Gateway urban development area.

This Order describes, with the use of maps, the portions of the urban development area in which this Order confers planning functions on the development corporation (“the planning functions areas”)(*article 3*).

This Order makes the corporation the local planning authority in the planning functions area in relation specified kinds of development for the purposes of Part 3 of the Town and Country Planning Act 1990 (control over development) (*article 4*). It also confers on the corporation the functions of the Planning (Listed Buildings and Conservation Areas) Act 1990 which are specified in Part 1 of Schedule 29 to the Local Government, Planning and Land Act 1980 as are set out in the table in the Schedule to this Order (*article 5*).

The Order applies other provisions of the 1990 Acts specified in Part 2 of Schedule 29 to the 1980 Act to the corporation and to the area, subject to the modifications set out in that Part (*article 6*).

Provision is made so that the former local planning authority may determine applications received but not determined by it prior to the date on which this Order comes into force but may transmit them to the corporation for determination with the agreement of the applicant, and must transmit them in a case where the Secretary of State has made a direction under article 14 of the Town and Country Planning (General Development Procedure) Order 1995 (*article 7*).

Provision is also made to leave responsibility for the payment of compensation under section 107, 108 or 115 of the Town and Country Planning Act 1990 or section 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 (*article 8*).

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. The maps are also available at the offices of the London Borough of Barking, Planning and Transportation Department, Third Floor, Ripple Municipal Offices, 127 Ripple Road, Barking, IG11 7PB; the London Borough of Hackney, Planning Department, Dorothy Hodgkin House, 12 Reading Lane, London, E8 1HJ; the London Borough of Havering, Planning Department, 7th Floor, Mercury House, Mercury Gardens, Romford, RM1 3SL; the London Borough of Newham, Development Control, Town Hall Annexe, Barking Road, East Ham, London, E6 6EH; the London Borough of Tower Hamlets, Planning Department, Town Hall, Mulberry Place, 5 Clove Crescent,

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London, E14 2BG; and the London Thames Gateway Development Corporation, 9th Floor, South Quay Plaza 3, 189 Marsh Wall, London E14 9SH.

A regulatory impact assessment was prepared in relation to the London Thames Gateway Development Corporation (Area and Constitution) Order 2004 and is available on the internet at www.odpm.gov.uk. 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. An additional regulatory impact assessment has not been prepared for this instrument as it has no additional impact on business, charities or voluntary bodies.

