

2015 No. 748

URBAN DEVELOPMENT

**The Ebbsfleet Development Corporation (Planning Functions)
Order 2015**

<i>Made</i> - - - -	<i>26th March 2015</i>
<i>Laid before Parliament</i>	<i>27th March 2015</i>
<i>Coming into force</i> - -	<i>1st July 2015</i>

The Secretary of State, in exercise of the powers conferred by section 149(1), (3), (11) and (13) of the Local Government, Planning and Land Act 1980(a), makes the following Order:

Citation and commencement

1. This Order may be cited as the Ebbsfleet Development Corporation (Planning Functions) Order 2015 and comes into force on 1st July 2015.

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(b);

“the commencement date” means 1st July 2015;

“the development area” means the area designated as an urban development area by article 2(1) of the Ebbsfleet Development Corporation (Area and Constitution) Order 2015(c);

“the development corporation” means the urban development corporation named the Ebbsfleet Development Corporation established by article 3(1) of the Ebbsfleet Development Corporation (Area and Constitution) Order 2015;

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

“planning document” means any notice, certificate, publicity, consultation or other document relating to the exercise of functions under the 1990 Act, the Listed Buildings Act or any order or regulation having effect under those Acts; and

“previous authority” means a local planning authority which ceases by virtue of section 7 of the 1990 Act and article 3 of this Order to be the local planning authority for the development

(a) 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 1990 Act.
(b) 1990 c. 8.
(c) S.I. 2015/747.
(d) 1990 c. 9.

area (or part of it) for the purposes, and in relation to the kinds of development, specified in article 3.

Planning functions of the development corporation

3. Subject to article 6, the development corporation is the local planning authority for the development area—

- (a) for all purposes, except those of sections 61E to 61Q (neighbourhood planning)(a), of Part 3 of the 1990 Act; and
- (b) in relation to all kinds of development, except development by a previous authority, or of land of a previous authority, of a kind described in regulation 2 of the Town and Country Planning General Regulations 1992(b).

Additional functions conferred on the development corporation

4. In the development area the development corporation has the functions conferred by the provisions of the 1990 Act and the Listed Buildings Act which are specified in Part 1 of Schedule 29 to the 1980 Act(c).

Modification of the 1990 Act and the Listed Buildings Act

5. The provisions of the 1990 Act and the Listed Buildings Act specified in Part 2 of Schedule 29 to the 1980 Act(d) have effect in relation to the development corporation and in the development area with the modifications specified in that Part.

Transitional provisions

6. The Schedule makes transitional provision in relation to functions exercised by previous authorities prior to the commencement date.

Signed by authority of the Secretary of State for Communities and Local Government

26th March 2015

Lord Ahmad
Parliamentary Under Secretary of State
Department for Communities and Local Government

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- (a) Sections 61E to 61Q of the 1990 Act were inserted by section 116 of, and Part 1 of Schedule 9 to, the Localism Act 2011 (c. 20) and make provision to allow planning permission to be granted through neighbourhood development orders. Sections 61E and 61Q respectively provide for new Schedules 4B and 4C to the 1990 Act to have effect. Responsibility for the exercise of these functions remains with the local planning authority and is not transferred to the development corporation by this Order.
 - (b) S.I. 1992/1492; relevant amendments were made by S.I. 1997/3006, 1999/1892 and 2011/1589.
 - (c) 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).
 - (d) Part 2 of Schedule 29 was amended by paragraph 44(13) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11).

Transitional provision in relation to functions exercised by previous authorities prior to the commencement date

Transitional provisions in connection with planning functions

1.—(1) Subject to paragraphs 2 to 6, this paragraph applies as respects any functions which are transferred to the development corporation by virtue of this Order and in respect of which a previous authority ceases to be the local planning authority responsible for exercising those functions.

(2) Anything which was in the process of being done by, to or in relation to the previous authority in connection with any of the functions mentioned in sub-paragraph (1) before the commencement date may be continued after that date by, to or in relation to the development corporation and, if continued, must be treated as having been done by, to or in relation to the development corporation.

(3) Nothing in sub-paragraph (2) requires the development corporation to continue with any step mentioned in that paragraph.

Transitional provision: planning applications

2.—(1) This paragraph applies as respects any application for planning permission 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) relates in whole or in part to any land in the development area;
- (b) was made before the commencement date to a previous authority; and
- (c) has not been determined by the commencement date.

(2) Subject to sub-paragraph (3), the previous authority must transmit any application to which this paragraph applies to the development corporation for determination.

(3) Where an application to which this paragraph applies is the subject of a direction made (whether before or after the commencement date) by the Secretary of State under section 77 of the 1990 Act or section 12 of the Listed Buildings Act requiring that the application be referred to the Secretary of State, the previous authority continues to be the local planning authority in respect of the application—

- (a) for the purposes of section 77 of the 1990 Act or section 12 of the Listed Buildings Act (as the case may be); and
- (b) for the purposes of any Planning Inquiry Commission constituted by the Secretary of State under section 101 of the 1990 Act to inquire into the application.

(4) Where sub-paragraph (3) applies, the previous authority must notify the development corporation of the direction and transmit to the Secretary of State any representations received from the development corporation.

(5) Where the previous authority transmits an application to which this paragraph applies to the development corporation for determination—

- (a) the previous authority must notify the applicant that the development corporation is to be the local planning authority for the application;
- (b) the application must be accompanied by a copy of any representations received concerning the application; and
- (c) the application must be treated as received by the development corporation from the applicant on the day on which it is transmitted to the development corporation.

(6) Where any planning document has been, or is in the process of being, issued by the previous authority in relation to an application to which this paragraph applies before the day on which it is transmitted to the development corporation, no further planning document is required to be issued by the development corporation solely as a result of the transfer of functions to the development corporation by this Order.

Transitional provision: planning appeals

3. Where an appeal is made to the Secretary of State under section 78 of the 1990 Act^(a) or section 20 of the Listed Buildings Act^(b) against a decision or failure to take a decision in relation to any land in the development area by a previous authority, that authority—

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

Transitional provision: compensation in connection with planning functions

4.—(1) Where a right to compensation arises under section 107, 108, 115 or 186 of the 1990 Act^(c), section 28 or 29 of the Listed Buildings Act or regulation 24 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012^(d) in consequence of action taken in relation to any land in the development area by a previous authority, the liability to pay compensation lies with that authority.

(2) Where—

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

that authority is liable to pay the compensation.

(3) Where the Secretary of State makes an order under section 100^(e) of the 1990 Act in respect of any permission to develop any land in the development area granted before the commencement date, the previous authority in relation to that land when the permission was granted is liable to pay any compensation arising from the order.

(4) Where before the commencement date the Secretary of State—

- (a) makes an order under section 104 or 202 of, or paragraph 11 of Schedule 9 to, the 1990 Act in respect of any land in the development area; or
- (b) serves a notice under section 185 of that Act in respect of any land in the development area,

the previous authority in relation to that land when the order was made or notice was served (as the case may be) is liable to pay any compensation arising from the order or notice.

(a) There are amendments to section 78 that are not relevant to this Order.

(b) There are amendments to section 20 that are not relevant to this Order.

(c) Section 107 was amended by sections 21 and 31 of, and paragraph 8 of Schedule 1 to and paragraph 13 of Schedule 6 to, the Planning and Compensation Act 1991 (c. 34); section 108 was amended by section 13(4) of that Act, sections 40 and 118 of the Planning and Compulsory Purchase Act 2004 (c. 5), section 189 of the Planning Act 2008 (c. 29), section 121 of the Localism Act 2011 (c. 20) and section 63 of the Enterprise and Regulatory Reform Act 2013 (c. 24).

(d) S.I. 2012/605.

(e) Section 100 was amended by paragraph 5 of Schedule 1 to the Planning and Compensation Act 1991 (c. 34).

Transitional provision: section 106 agreements

5. Where before the commencement date a planning obligation entered into by agreement or otherwise under section 106 of the 1990 Act^(a)—

- (a) relates to any land in the development area; and
- (b) identifies a previous authority as the local planning authority by whom that obligation is enforceable,

that obligation is enforceable by the development corporation.

Transitional provision: local development orders

6.—(1) Any local development order adopted under section 61A of the 1990 Act^(b) by a previous authority in relation to the development area (or part of it) before the commencement date has effect on or after that date as if it had been made by the development corporation.

(2) Nothing in sub-paragraph (1) affects any power of the Secretary of State or the development corporation to revoke a document to which that paragraph relates.

(3) Where before the commencement date a previous authority has taken or started any step in relation to the preparation of a local development order which relates to the development area (or part of it)—

- (a) that step must be treated on or after the commencement date as a step taken or started by the development corporation; and
- (b) the previous authority must transmit a copy of any representations received concerning that draft order to the development corporation.

(4) Where any planning document has been, or is in the process of being, issued by the planning authority in relation to the draft order referred to in sub-paragraph (3), no further planning document is required to be issued by the development corporation solely as a result of the transfer of functions to the development corporation by this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

The Ebbsfleet Development Corporation (“the development corporation”) was established by article 3(1) of the Ebbsfleet Development Corporation (Area and Constitution) Order 2015 (S.I. 2015/747) for the purpose of regenerating the area designated as an urban development area by article 2(1) of that Order (“the development area”).

This Order makes the development corporation the local planning authority for the whole of the development area for all purposes of Part 3 of the Town and Country Planning Act 1990 (“the 1990 Act”) except for neighbourhood planning purposes, and in relation to all kinds of development except a previous authority’s own development (article 3). This Order confers on the development corporation the functions of the 1990 Act and the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) which are specified in Part 1 of Schedule 29 to the Local Government, Planning and Land Act 1980 (“the 1980 Act”) (article 4).

This Order also applies the provisions of the 1990 Act and the Listed Buildings Act specified in Part 2 of Schedule 29 to the 1980 Act to the development corporation and to the development area, subject to the modifications set out in that Part (article 5).

The Schedule to this Order makes transitional provision in relation to functions exercised prior to the date on which this Order comes into force by local planning authorities which will be

(a) Section 106 was substituted by section 12 of the Planning and Compensation Act 1991 (c. 34), section 33 of the Greater London Authority Act 2007 (c. 24) and section 174 of the Planning Act 2008 (c. 29) and has been amended by paragraphs 3(1) and (2) of Schedule 2 to the Growth and Infrastructure Act 2013 (c. 27).

(b) Section 61A was inserted by section 40 of the Planning and Compulsory Purchase Act 2004 (c. 5), and amended by sections 188 and 238 of, and Schedule 13 to, the Planning Act 2008 (c. 29).

exercised after that date by the development corporation. Provision is made for the transfer of planning functions and planning applications from the previous local planning authority to the development corporation, the payment of compensation, planning appeals, planning obligations and local development orders.

An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or the voluntary sector.

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£6.00

UK2015032696 04/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/748>

ISBN 978-0-11-113575-4



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