

**EXPLANATORY MEMORANDUM TO THE  
LONDON THAMES GATEWAY DEVELOPMENT CORPORATION (PLANNING  
FUNCTIONS) ORDER 2005**

**2005 No. 2721**

**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 London Thames Gateway Development Corporation (“the Corporation”) the local planning authority in part of the London Thames Gateway urban development area in relation to the kinds of development specified in the Order.

2.2 The Corporation will have the planning functions in that part of the urban development area referred to in the Order as the “planning functions area”. This excludes certain areas, including those areas that are in the Olympic Zone or the Stratford City Development.

2.3 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 authorities to transmit applications received but not determined by it prior to the date on which the Order comes into force, to the Corporation for its determination).

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Background**

4.1 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. That Order designated two areas in the London Thames Gateway as an urban development area, and established an urban development corporation to regenerate the area.

4.2 Section 149 of the Local Government, Planning and Land Act 1980 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 1990 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 (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 the 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 be broadly described as “strategic development”, and in relation to the planning functions area, the Corporation is made the local planning authority for the purposes of Part 3 of the Planning Act. The “planning functions area” is defined in article 3. Article 4 specifies the type of development in relation to which the Corporation is the local planning authority. As well as specifying particular types of development, article 4(1)(m) 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 5 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 6 applies all of the provisions listed in Part 2 of Schedule 29 to the Local Government, Planning and Land Act 1980 in relation to the Corporation. An order under section 149 of the 1980 Act can confer the enforcement functions of a local planning authority under the 1990 Act on an urban development corporation. Paragraph 7.8 below explains the policy reason why that has not been done in this case.

4.5 A debate on the London Thames Gateway Development Corporation (Area and Constitution) Order took place on 25th June 2004 in the House of Lords, and is recorded in Hansard, column number 1504.

4.6 A similar order has been made in relation to the Thurrock Development Corporation (see the Thurrock Development Corporation (Planning Functions) Order 2005 - S.I. 2005/2572).

## **5. Extent**

This instrument applies to England.

## **6. European Convention on Human Rights**

As the instrument is subject to 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 a UDC in the London Thames Gateway area took place from November 2003 to February 2004. 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 responses to the consultations:

[http://www.odpm.gov.uk/stellent/groups/odpm\\_urbanpolicy/documents/page/odpm\\_urbpol\\_028634.pdf](http://www.odpm.gov.uk/stellent/groups/odpm_urbanpolicy/documents/page/odpm_urbpol_028634.pdf)

7.5 In the consultation paper, it was proposed that once established, a further order enabling the UDC to become the local planning authority for applications relevant to its purpose – major, strategic applications – would be required. The majority of respondents, including the local authorities from whom powers would transfer, welcomed this approach. Some respondents felt that the UDC should become the local planning authority for all planning applications, while a number felt that all planning powers should remain with the democratically elected local authorities. Some respondents asked how the UDC's powers would interact with the Mayor's.

7.6 Having carefully considered these representations, Ministers were satisfied that planning powers are of considerable importance to the effectiveness with which a

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 strategic 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 the existing local planning authorities).

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. Plan making powers will stay with the local authorities but the Corporation will produce its own regeneration framework which will need to take account of the local plan and the Mayor's London Plan.

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.

7.9 The UDC has discussed with the Boroughs agreements whereby planning advice is prepared for the UDC by officers employed by one or more London boroughs to the Corporation's planning committee and Board. The precise nature of the arrangement has been negotiated by the Corporation and will be put in place by its board.

7.10 The transfer of planning powers to the Corporation will not affect the Mayor's planning powers. Where the Corporation becomes the local planning authority it will be subject to the same relationship with the Mayor as the local authority would have had. This includes the primacy of the London Plan, and the power to issue direction with regard to strategic wharves as set out in Circular 1/200.

7.11 The consultation paper proposed that the Corporation cover the proposed Olympic zone, but not take planning powers as the boroughs had already established a dedicated handling team. Respondents broadly supported this proposal. However, some also noted that this proposal would mean that parts of the Stratford Rail Lands development would fall to the Corporation and parts would not. Having considered these points, Ministers decided that the Corporation will not be given planning powers in either the Olympic zone or in respect of the proposed Stratford City development. A map has been agreed by the relevant agencies designating the areas to be covered by the Corporation's powers, which accompanies the Order.

## **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\\_028714.hcsp](http://www.odpm.gov.uk/stellent/groups/odpm_urbanpolicy/documents/page/odpm_urbpol_028714.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**

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