

2006 No. 616

URBAN DEVELOPMENT

**The West Northamptonshire Development Corporation
(Planning Functions) Order 2006**

<i>Made</i>	- - - -	<i>3rd March 2006</i>
<i>Laid before Parliament</i>		<i>15th March 2006</i>
<i>Coming into force</i>	- -	<i>6th April 2006</i>

The First 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 West Northamptonshire Development Corporation (Planning Functions) Order 2006 and shall come into force on 6th April 2006.

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 GPDO” means Town and Country Planning (General Permitted Development) Order 1995(c);

“the Use Classes Order” means the Town and Country Planning (Use Classes) Order 1987(d);

“the development area” means the area designated as an urban development area by the West Northamptonshire Development Corporation (Area and Constitution) Order 2004(e);

“the development corporation” means the West Northamptonshire Development Corporation(f);

“the central planning functions area” and the “the outer planning functions area” means the areas described as such in article 3;

“dwellinghouse” includes a flat; and

(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 Town and Country Planning Act 1990 (c.8).

(b) 1990 c.8.

(c) S.I. 1995/418.

(d) S.I. 1987/764; relevant amending instruments are S.I. 1991/1567, S.I. 1992/610, S.I. 1992/657, S.I. 1994/724, S.I. 1995/297, S.I. 1999/293, S.I. 2005/84 and S.I. 2006/220.

(e) S.I. 2004/3370.

(f) See article 3 of S.I. 2004/3370.

“flat” means a separate self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally.

The planning functions areas

3.—(1) The central planning functions area is that part of the development area shown on the map numbered 1 bounded externally by a black line and edged internally with a black stippled band.

(2) The outer planning functions area is that part of the development area shown on the maps numbered 2 to 4 bounded externally by a black line and edged internally with a red stippled band, excluding the area shaded grey on map number 2.

(3) In paragraphs (1) and (2), “the map” means the set of maps numbered 1 to 4 entitled “Maps referred to in the West Northamptonshire Development Corporation (Planning Functions) Order 2006” 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 Government Office for the East Midlands, of the development corporation, of Northamptonshire County Council, of Northampton Borough Council, and of Daventry and South Northamptonshire District Councils.

Planning functions of the development corporation in the central planning functions area

4.—(1) Subject to articles 7 and 8, the development corporation shall be the local planning authority for the central planning functions area for the purposes of Part 3 of the 1990 Act in relation to all kinds of development except for—

- (a) development which would be permitted by any Part of Schedule 2 to the GPDO but for a direction given or having effect as given under article 4 (directions restricting permitted development) of the GPDO;
- (b) development which falls within Parts 6, 7, 11, 17, 19, 20, 21, 23, 24, 30 or 31 of Schedule 2 to the GPDO and in relation to which approval or prior approval of the local planning authority is required;
- (c) subject to paragraph (2), operational development—
 - (i) consisting of the enlargement, improvement or other alteration of a dwellinghouse;
or
 - (ii) on land within the curtilage of a dwellinghouse;
- (d) to the extent that it is not specified in sub-paragraph (a) to (c), development by or on behalf of an electronic communications code operator for the purpose of the operator’s electronic communications network; and
- (e) to the extent that it is not otherwise specified in this paragraph, development which is primarily for the installation, alteration or replacement of a microwave antenna or a satellite antenna.

(2) Paragraph (1)(c) does not apply where the development will result in the provision of one or more additional dwellinghouses.

(3) For the purposes of this article—

- (a) “dwellinghouse” includes a building containing one or more flats, and a flat contained within such a building;
- (b) “electronic communications code operator” and “electronic communications network” have the same meaning as in the Communications Act 2003(a); and
- (c) “microwave antenna” and “satellite antenna” have the same meaning as in article 1(2) of the GDPO.

(a) 2003 c. 21.

Planning functions of the development corporation in the outer planning functions area

5.—(1) Subject to articles 7 and 8, the development corporation shall be the local planning authority for the outer 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 dwellinghouses;
- (b) development which comprises or includes the provision of dwellinghouses, where the development occupies one hectare or more of land;
- (c) development which is likely to result in the loss of more than 50 dwellinghouses (irrespective of whether the development would also entail the provision of new dwellinghouses);
- (d) development which is likely to prejudice the residential use of land, where that land exceeds one hectare and is used for residential use;
- (e) development which comprises or includes the provision of, or is likely to result in the loss of, 2,500 or more square metres of floorspace for a mixed use;
- (f) development which comprises or includes a mixed use where the development occupies one hectare or more of land;
- (g) development which comprises or includes the provision of, or is likely to result in the loss of, 2,500 or more square metres of floorspace for a use falling within any or all of the following classes of the Use Classes Order—
 - (i) class A1 (shops);
 - (ii) class A3 (restaurants and cafes)
 - (iii) class A4 (drinking establishments);
 - (iv) class A5 (hot food takeaways);
 - (v) class B1 (business);
 - (vi) class B2 (general industrial);
 - (vii) class B8 (storage or distribution);
- (h) development which comprises or includes the provision for a use falling within class B1, B2 or B8 of the Use Classes Order where the development occupies one hectare or more of land;
- (i) development which comprises or includes the provision of, or is likely to result in the loss of, 1,000 square metres or more of floorspace for a casino or use falling within any or all of the following classes of the Use Classes Order—
 - (i) class C2 (residential institutions);
 - (ii) class D1 (non-residential institutions);
 - (iii) class D2 (assembly and leisure);
- (j) development which comprises or includes the provision of a casino or use falling within class D2 of the Use Classes Order where the development occupies one hectare or more of land;
- (k) development which comprises or includes the provision of a building which is 15 metres or more in height;
- (l) development on two hectares or more of land which comprises or includes the winning and working of minerals in, on, or under the land, whether by surface or underground working;
- (m) waste or recycling development to provide an installation with capacity for a throughput of more than 20,000 tonnes a year of refuse or of waste materials produced outside the land in respect of which planning permission is sought;
- (n) development which includes the provision of 50 or more car parking spaces, whether or not in combination with any other development or use;

- (o) development which comprises, includes the provision of, or extends—
 - (i) an aircraft runway, airfield or aerodrome;
 - (ii) a heliport (including a helipad on a building);
 - (iii) an air passenger terminal;
 - (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 waterway, river or canal crossing or pier;
 - (viii) any highway (other than a bridleway, cycle way or footpath);
- (p) development which occupies one hectare or more of land and 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;
 - (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;
- (q) 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 development area.

(2) In deciding whether development forms part of more substantial proposed development, there shall be taken into account other development of the same land or adjoining land in the development 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.

(3) For the purposes of this article—

- (a) “floorspace” shall be calculated by external measurement;
- (b) “highway”, “bridleway”, “cycle path” and “footpath” have the same meaning as in section 329 of the Highways Act 1980(a);
- (c) “playing field” has the same meaning as in article 10(2)(l) of the Town and Country Planning (General Development Procedure) Order 1995(b);
- (d) land shall be treated as used for a particular use if—
 - (i) it was last used for that use, or
 - (ii) it is allocated for that use in—
 - (aa) the development plan in force in the area in which the application site is situated;
 - (bb) in proposals for such a plan; or
 - (cc) proposals for the alteration or replacement of such a plan;
- (e) development occupies that area in respect of which the application for planning permission for the development seeks planning permission.

(a) 1980 c.66.

(b) S.I. 1995/419; relevant amendments were made by S.I. 1996/1817.

- (f) “recycling development” means any operational development designed to be used wholly or mainly for the purpose of, or a material change of use to, recycling of refuse or waste materials;
- (g) references to recycling waste include re-using it (whether or not the waste is subjected to any process); and
- (h) “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.

Modifications of the provisions of the 1990 Act

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

Transitional provision: applications to local planning authorities

7.—(1) This article applies to any application for planning permission or for a consent, approval or determination under the 1990 Act, or under any order or regulation made or having effect under that Act which—

- (a) is for development—
 - (i) in the central planning functions area not of a kind specified in article 4; or
 - (ii) in the outer planning functions area of a kind specified in article 5; and
- (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) The previous authority must transmit any application referred to in paragraph (1) to the development corporation for determination.

(3) 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.

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

- (a) an application is made to an authority which ceased by virtue of section 7 of the 1990 Act and the preceding provisions of this Order to be the local planning authority—
 - (i) for all development in the central planning functions area except of a kind specified in article 4; or
 - (ii) for development in the outer planning functions area of a kind specified in article 5; and
- (b) the authority consider the application is—
 - (i) in relation to land in the central planning functions area and for development other than for a kind specified in article 4; or
 - (ii) in relation to land in the outer planning functions area and for development of a kind specified in article 5,

that authority must transmit that application to the development corporation for determination.

(5) Where an appeal is made to the Secretary of State under section 78 of the 1990 Act^(a) against a decision or determination made in relation to land within the central or outer planning

^(a) Part 2 of Schedule 29 was amended by paragraph 44(13) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.34).

functions areas by an authority which ceased by virtue of section 7 of the 1990 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(b), 108 or 115 of the 1990 Act in consequence of action taken in relation to land within the central or outer planning functions areas 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(c) or 104 of the 1990 Act in respect of a matter arising before this Order comes into force, which relates to land in the central or outer planning functions areas; 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 March 2006

Kay Andrews
Parliamentary Under Secretary of State
Office of the Deputy Prime Minister

(a) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c.34), and by section 40(2)(e) of the Planning and Compensation Act 2004 (c.5).
(b) Section 107 was amended by paragraph 8 of Schedule 1 to, and paragraph 13 of Schedule 6 to, the Planning and Compensation Act 1991 (c.34).
(c) Section 100 was amended by paragraph 5 of Schedule 1 to the Planning and Compensation Act 1991 (c.34).

EXPLANATORY NOTE

(This note is not part of the Order)

The West Northamptonshire Development Corporation (the corporation) was established by the West Northamptonshire Development Corporation (Area and Constitution) Order 2004 (S.I. 2004/3370) for the purpose of regenerating the West Northamptonshire urban development area.

This Order describes, with the use of maps, the areas of the urban development area in which this Order confers planning functions on the development corporation (“the planning functions areas”)(*article 3*). The planning functions areas comprise a central planning functions area and an outer planning functions area.

This Order makes the corporation the local planning authority in each planning functions area in relation to specified kinds of development for the purposes of Part 3 of the Town and Country Planning Act 1990 (control over development)(*articles 4 and 5*).

The Order applies the provisions of the Town and Country Planning Act 1990 specified in Part 2 of Schedule 29 to the Local Government, Planning and Land Act 1980 to the corporation and to the planning functions areas, subject to the modifications set out in that Part (*article 6*).

The Order makes transitional arrangements, including provision that the corporation will be entitled to determine certain applications made to (but not determined) by the current local planning authority before the date this Order comes into force in relation to development of a kind for which the corporation is the local planning authority on or after that date. The applications concerned are those for planning permission under the 1990 Act or for a consent, approval or determination under the 1990 Act or under any order or regulation made or having effect under that Act.(*article 7*).

A second transitional provision provides that responsibility for the payment of compensation under sections 107, 108, 115 or 185 of the Town and Country Planning Act 1990 remains with the authority that 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, and at the Government Office for the East Midlands, The Belgrave Centre, Stanley Place, Talbot Street, Nottingham NG1 5GG. The maps are also available at the offices of the West Northamptonshire Development Corporation, Franklin’s Gardens, Weedon Road, Northampton, NN5 5BG; Northamptonshire County Council, County Hall, Northampton, NN1 1AX; Northampton Borough Council, Cliftonville House, Bedford Road, Northampton NN4 7NR; Daventry District Council, Lodge Road, Daventry, NN11 5AF; and South Northamptonshire District Council, Springfields, Towcester, Northamptonshire, NN12 6AE.

A regulatory impact assessment has been prepared in relation to this Order, and it 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, Growth Areas Division, Zone 1/C4, Eland House, Bressenden Place, London SW1E 5DU.

£3.00

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E0321 3/2006 160321T 19585