

**EXPLANATORY MEMORANDUM TO**  
**THE MIDDLESBROUGH DEVELOPMENT CORPORATION (FUNCTIONS)**  
**ORDER 2023**

**2023 No. 447**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

**2. Purpose of the instrument**

- 2.1 Under the powers in the Localism Act 2011 (the 2011 Act) the Mayor of Tees Valley Combined Authority designated an area of Middlesbrough as a mayoral development area. On 27 February the Middlesbrough Development Corporation (the Corporation) was established for this area. The mayor also decided that the development corporation should become the local planning authority for its area and be responsible for awarding discretionary relief from business rates.
- 2.2 This Order provides that the Corporation will become the local planning authority for an area in Middlesbrough (“the development area”) encompassing Middlesbrough town centre in the borough of Middlesbrough (“the borough planning authority”), for the purposes specified in the Order. The Order also makes transitional provisions in relation to planning functions exercised by the borough planning authority (the previous authority) prior to the commencement date.
- 2.3 The Order gives the Corporation the power to grant discretionary relief from non-domestic rates for qualifying hereditaments in the Corporation’s area and makes transitional provisions in relation to discretionary relief functions exercised by the previous authority prior to the commencement date.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

**4. Extent and Territorial Application**

- 4.1 The extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

**5. European Convention on Human Rights**

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

## 6. Legislative Context

- 6.1 The Tees Valley Combined Authority (Functions) Order 2017 (“the 2017 Order”)<sup>1</sup> confers on the Tees Valley Combined Authority (“the combined authority”) functions of the Mayor of London related to the designation of areas in which to establish mayoral development corporations. The 2017 Order modifies these functions and provides that these are to be exercised by the mayor of the combined authority (“the Mayor).
- 6.2 Under section 197(1) of the 2011 Act, as modified by the 2017 Order, the Mayor is given the power to designate any area of land in the combined authority’s area as a mayoral development area, provided certain criteria are met.
- 6.3 Section 198 of the 2011 Act requires the Secretary of State, if notified by the Mayor that he has designated a Mayoral development area, to make an order: establishing a Mayoral Development Corporation for the area; giving the Mayoral Development Corporation the name notified to him by the Mayor; and giving effect to any decisions made by the Mayor under section 202 of the 2011 Act regarding the planning functions the Mayoral Development Corporation is to have.
- 6.4 Section 202 enables the Mayor to decide that the Mayoral Development Corporation for the area is to be the local planning authority, for the whole or any portion of the area, for the purposes of any one or more of the following–
- Part 3 (Control over development) of the Town and Country Planning Act 1990 (“the 1990 Act”), and
  - the functions listed in Part 1 of Schedule 29 to the Local Government, Planning and Land Act 1980 (“the 1980 Act”). These cover a range of planning functions listed in the 1990 Act and the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”), including enforcement functions.
- 6.5 Section 202 also enables the Mayor to decide that the provisions listed in Part 2 of Schedule 29 to the 1980 Act are to apply to the Mayoral Development Corporation subject to the modifications listed in that Part. These include other functions listed in the 1990 Act and the Listed Buildings Act, such as the power under section 249 of the 1990 Act to apply to the Secretary of State to extinguish the right to use vehicles on a highway).
- 6.6 Section 214 of the 2011 Act, as modified by the 2017 Order, enables the Mayor to decide that the Mayoral Development Corporation should have the power to grant discretionary relief from non-domestic rates for qualifying hereditaments in the development corporation’s area.
- 6.7 Section 48A of the Local Government Finance Act 1988 (“the 1988 Act”), which was inserted by the 2011 Act, provides powers for the Secretary of State to make transitional provision in connection with the Corporation beginning to exercise discretionary relief functions and to make provision about payments by the Corporation to a previous authority as regards the operation of section 47. This is the first use of those powers.

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2017/250/contents/made>

6.8 The Middlesbrough Development Corporation was established by the Middlesbrough Development Corporation (Establishment) Order 2023 (S.I. 2023/103<sup>2</sup>) (“the Establishment Order”).

## 7. Policy background

### *What is being done and why?*

- 7.1 The Government and local leaders in the combined authority announced a devolution deal for the area in October 2015<sup>3</sup>. The devolution deal included the commitment for the directly elected mayor to hold the powers from the 2011 Act to designate mayoral development areas. The combined authority was established on 1 April 2016<sup>4</sup> and on 19 July 2016 the position of mayor was established for the combined authority.
- 7.2 In May 2022 the combined authority stated that it intended to establish a mayoral development corporation that would cover Middlesbrough town centre. The combined authority said that its establishment would give the region the tools to speed up delivery of what is needed to build strong foundations, attract private investment, people and businesses, while enhancing the town for residents and visitors.
- 7.3 Taking forward this work is of economic importance to the local area, and the Mayor, Ben Houchen, following the procedures set out in the 2011 Act, as modified by the 2017 Order, notified the Secretary of State for Levelling Up, Housing and Communities of his intention to designate an area of Middlesbrough as a mayoral development area for which a mayoral development corporation was to be established and the name of the mayoral development corporation. The establishment order for the Middlesbrough Development Corporation came into force on 27 February 2023.
- 7.4 The Mayor has decided that the Corporation should become the local planning authority for its area for the purposes of Part 3 of the Town and Country Planning Act 1990 and have functions relating to enforcement and special controls and functions in connection with listed building and conservation areas.
- 7.5 Schedule 1 to this Order sets out the transitional provisions in relation to the planning functions exercised by the borough planning authority before 1st June 2023. The default position is that anything which before the commencement date that was in the process of being done by, or in relation to, a borough planning authority under a function or power that will be transferred, may be continued by the Corporation after that date. However, specific provision is made for the borough planning authority to retain responsibility in relation to enforcement action, planning appeals and compensation in connection with planning functions in relation to decisions or actions undertaken before 1st June 2023. Specific transitional provision is also made under the Schedule in respect of planning applications, planning obligations, local development documents and applications for designation of a neighbourhood forum or area.
- 7.6 These transitional provisions are necessary in order to ensure a smooth handover of planning functions on 1<sup>st</sup> June 2023. They provide clarity for both the Corporation and the borough planning authority in respect of the transfer of functions and are beneficial to all parties.

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<sup>2</sup> <https://www.legislation.gov.uk/ukSI/2023/103/contents/made>

<sup>3</sup> <https://www.gov.uk/government/publications/tees-valley-devolution-deal>

<sup>4</sup> <http://www.legislation.gov.uk/ukSI/2016/449/contents/made>

- 7.7 The Mayor has also decided that the Corporation should be able to grant discretionary relief from non-domestic rates for qualifying hereditaments.
- 7.8 Part 4 makes provision about the default requirement for the development corporation to make payment of compensation to the billing authority where the development corporation exercises its functions to grant discretionary relief. The authorities may however collectively agree that different amounts are payable or that payments may be made at different times.
- 7.9 Schedule 2 to this Order sets out the transitional provisions in relation to discretionary relief from non-domestic rates exercised by the previous authority before the commencement date. Where, before the commencement date the previous authority has made a decision or determination in relation to qualifying hereditaments in the Corporation's area then this shall have effect as if it had been made by the Corporation. This will ensure that that Corporation does not have to, on the day the powers are transferred, remake all the decisions and determinations already made by the previous authority in respect of discretionary rate relief for 2023/24.
- 7.10 The transfer of the discretionary relief from non-domestic rates functions will come into effect on 12 May 2023.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 This instrument is not an amending instrument therefore no consolidation is necessary.

## **10. Consultation outcome**

- 10.1 Once the Secretary of State receives a designation letter where the mayor has decided that a development corporation should have the powers that legislation provides for them to have, he must give effect to this through a statutory instrument. Whilst there has been no consultation on this order, it has been discussed with the combined authority and Middlesbrough Council as the current local planning and billing authority.
- 10.2 Before the Corporation was established, the Mayor carried out a consultation that covered the general principles of a development corporation for Middlesbrough, the proposed redline boundaries and the powers that the development corporation would have. The Mayor invited responses from the combined authority, Middlesbrough Council, the Members of Parliament whose constituencies are in the council's area and other interested parties including residents, businesses, and local stakeholders.
- 10.3 A summary of the results of the consultation and the formal response are available on the combined authority's website: <https://teesvalley-ca.gov.uk/mdc-consultations>
- 10.4 Since submitting the designation letters, discussions have taken place between the combined authority and Middlesbrough Council who is the current planning authority, on the operation of the planning powers when these are transferred to the Corporation. These discussions concluded that the Corporation should now not be the local planning authority for the purposes of Parts 2 and 3 of the Planning and Compulsory Purchase Act 2004, nor have functions in respect of consents to planning applications

for overhead lines and a variation to the planning powers originally requested was needed.

- 10.5 Where such variations are identified, the Mayor is required to undertake a further consultation with the combined authority, the local authorities whose area contain any part of the Corporation and the MPs whose parliamentary constituencies contain any part of the Corporation. When the Mayor consulted on the variations, no representations opposing these were received and consent for the Mayor to write to the Secretary of State informing that he now wanted to vary the planning powers to be transferred to the Corporation was given by the combined authority. The variation letters were received on 21 March and this order gives effect to these powers and the transitional arrangements needed to ensure a smooth handover.

## **11. Guidance**

- 11.1 No guidance is required for this Order.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies in respect of the planning functions.
- 12.2 The impact on business, charities or voluntary bodies from the business rates measures is unknown as it will depend upon how the Corporation exercises their functions in relation to discretionary rate relief
- 12.3 In relation to the public sector, this Order makes provision to transfer planning and non-domestic rating functions and powers to a new body that will take over the functions and powers of existing public bodies in respect of its area.
- 12.4 A full Impact Assessment has not been prepared for this instrument because in respect of the planning functions it has no, or no significant impact on the business sector.
- 12.5 As far as the instrument concerns non-domestic rating, an impact assessment has not been produced because it amends an existing local tax regime and publication of a full impact assessment is not necessary for such legislation<sup>5</sup>. A full regulatory impact assessment has not been prepared for the remainder of the instrument as it will have no, or no significant, impact on the costs of business and the voluntary sector.

## **13. Regulating small business**

- 13.1 The legislation does not place any additional regulatory burden upon small businesses.
- 13.2 The legislation, in respect of the business rates functions, applies to activities that are undertaken by small businesses. To minimise the impact of the requirements on small businesses (employing up to 50 people), the government works closely with local authorities responsible for administering business rates to ensure that their discretionary relief schemes are as simple and accessible for small businesses as possible.

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<sup>5</sup> [Section 22\(4\)\(a\) of the Small Business, Enterprise, and Employment Act 2015.](#)

#### **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is as set out in Section 215 of the 2011 Act which requires the mayor to review from time to time whether a development corporation should continue to exist.
- 14.2 The instrument does not include a statutory review clause.
- 14.3 In respect of the business rates functions, the instrument, which is in connection with a local taxation regime, is not subject to the duty to review regulatory provisions in secondary legislation in section 28 of the Small Business, Enterprise, and Employment Act 2015.

#### **15. Contact**

- 15.1 Kathy Billington at the Department for Levelling Up, Housing and Communities, [Kathy.Billington@levellingup.gov.uk](mailto:Kathy.Billington@levellingup.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Paul Rowsell, Deputy Director and Head of the Governance Reform and Democracy Unit, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Dehenna Davison, Minister for Levelling Up at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.