

2005 No. 2572

URBAN DEVELOPMENT

**The Thurrock Development Corporation (Planning Functions)
Order 2005**

<i>Made</i> - - - -	<i>15th September 2005</i>
<i>Laid before Parliament</i>	<i>21st September 2005</i>
<i>Coming into force</i> - -	<i>12th 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(a), 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 Thurrock Development Corporation (Planning Functions) Order 2005 and shall come into force on 12th 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(b);

“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990(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 Thurrock Development Corporation (Area and Constitution) Order 2003(e); and

“the development corporation” means the Thurrock Development Corporation(f).

(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 no other amendments relevant to this Order. *See* also section 7 of the Town and Country Planning Act 1990 (c.8.).

(b) 1990 c.8

(c) 1990 c.9.

(d) 1987/764; relevant amending instruments are S.I.1991/1567, S.I. 1995/297, S.I. 1999/293 and S.I. 2005/84.

(e) S.I. 2003/2896.

(f) *See* article 3 of S.I. 2003/2896.

Planning functions of the development corporation

3.—(1) Subject to articles 5 and 6, the development corporation shall be the local planning authority for the development 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 2500 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 (retail);
 - (ii) class A2 (financial and professional);
 - (iii) class A3 (restaurants and cafes);
 - (iv) class A4 (drinking establishments);
 - (v) class A5 (hot food takeaways)
 - (vi) class B1 (business);
 - (vii) class B2 (general industrial);
 - (viii) class B8 (storage and distribution);
- (c) development which comprises or includes the provision of 1000 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 C2 (residential institutions);
 - (ii) class D1 (non-residential institutions); and
 - (iii) class D2 (assembly and leisure);
- (d) development which occupies 1 hectare or more of land;
- (e) development which comprises or includes the provision of buildings which are 15 metres or more in height;
- (f) development which comprises or includes the winning and working of minerals in, on or under land of 2 hectares or more, whether by surface or underground working;
- (g) any recycling development to provide an installation with capacity for a throughput of more than 5,000 tonnes a year of refuse or waste materials produced outside the land in respect of which planning permission is sought;
- (h) any waste development to provide an installation with capacity for a throughput of more than 20,000 tonnes a year of refuse of waste materials produced outside the land in respect of which planning permission is sought;
- (i) development for a use, other than residential use, which includes the provision of 50 or more car parking spaces;
- (j) any development on land adjoining the River Thames which is—
 - (i) below the level of the River Thames mean high water springs; or
 - (ii) within 250 metres or less of the River Thames mean high water springs; and
 - (iii) which would involve the construction of a building with 100 or more square metres of floorspace or a material change in the use of such a building;
- (k) development—
 - (i) on land allocated as Green Belt in the development plan, in proposals for such a plan, or in proposals for the alteration 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;

- (l) 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;
 - (iv) a railway station;
 - (v) a bus or coach station;
 - (vi) a crossing over or under the River Thames; or
 - (vii) a pier on the River Thames;
- (m) development wholly or mainly for the provision of a highway (other than a bridleway, cycle way or footpath);
- (n) 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);
- (o) 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 such a plan or its alteration or replacement;
- (p) 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 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) 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) “highway”, “bridleway”, “cycle path” and “footpath” have the same meaning as in section 329 of the Highways Act 1980(a);
- (d) “playing field” has the same meaning as in article 10(2)(1) of the Town and Country Planning (General Development Procedure) Order 1995(b);
- (e) “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;

(a) 1980 c.66.

(b) S.I. 1995/419, which was amended by S.I. 1996/817.

- (f) references to recycling waste include re-using it (whether or not the waste is subjected to any process); and
- (g) “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.

Additional functions conferred on the development corporation

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

Modifications of the provisions of the 1990 Act and the Listed Buildings Act

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

Transitional provision: applications to local planning authorities

6.—(1) Paragraphs (2) and (3) of this article apply 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) is for development of a kind specified in article 3(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) 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 in relation to the kinds of development specified in article 3(1); and
- (b) that authority consider that the application is for development of a kind specified in article 3(1),

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

(5) Where an appeal is made to the Secretary of State under section 78(c) of the 1990 Act or section 20 of the Listed Buildings Act against a decision or determination made in relation to land within the development area 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

(a) 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).

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

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

- (b) shall notify the development corporation of the appeal and transmit to the Secretary of State any representation received from the development corporation.

Transitional provision: compensation

7.—(1) Where a right to compensation arises under section 107(a), 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 development 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(b) or 104, or paragraph 11 of Schedule 9 to, the 1990 Act in respect of a matter arising before this Order comes into force which relates to land in the development area; or

(b) serves a notice under section 185 of that Act in respect 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

15th September 2005

Yvette Cooper
Minister of State
Office of the Deputy Prime Minister

(a) Section 107 was amended by paragraph 8 of Schedule 1 to, and paragraph 13 of Schedule 6 to, the Planning and Compensation Act 1991.
(b) Section 100 was amended by paragraph 5 of Schedule 1 to the Planning and Compensation Act 1991.

SCHEDULE

Article 4

Functions conferred on the development corporation in the development 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
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
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 Thurrock Development Corporation (“the corporation”) was established by the Thurrock Development Corporation (Area and Constitution) Order 2003 (S.I. 2003/2896) for the purpose of regenerating the Thurrock urban development area.

This Order makes the corporation the local planning authority in the development 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) (*article 3*). It also confers on the corporation those 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 4*).

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 5*).

Provision is made for the former local planning authority to transmit applications received but not determined by it prior to the date on which this Order comes into force to the corporation for determination (*article 6*).

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.

A regulatory impact assessment was prepared in relation to the Thurrock Development Corporation (Area and Constitution) Order 2003 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.

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