

**EXPLANATORY MEMORANDUM TO
THE LONDON LEGACY DEVELOPMENT CORPORATION (PLANNING
FUNCTIONS) ORDER 2012**

2012 No. 2167

1. This explanatory memorandum has been prepared by Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instruments**
 - 2.1 This Order makes the London Legacy Development Corporation (LLDC) the local planning authority for an area in East London including the Olympic Park, covering parts of the London Boroughs of Hackney, Newham, Tower Hamlets and Waltham Forest (“the development area”), for the purposes specified in the Order. These functions take effect on 1st October 2012.
 - 2.2 The Order also confers certain functions in the Town and Country Planning Act 1990 (“the 1990 Act”), the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) and the Electricity Act 1989 on the London Legacy Development Corporation.
 - 2.3 The Order revokes the following Orders:
 - 2.3.1 the London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I.2005/272) (“the 2005 Order”);
 - 2.3.2 the London Thames Gateway Development Corporation (Planning Functions) (Amendment) Order 2006 (S.I. 2006/2186);
 - 2.3.3 the London Thames Gateway Development Corporation (Planning Functions) (Amendment) Order 2011 (S.I. 2011/549); and
 - 2.3.4 the Olympic Delivery Authority (Planning Functions) Order 2005 (S.I. 2006/2185) (“the 2006 Order”).
 - 2.4 The 2005 Order and the 2006 Order conferred certain planning functions, respectively, on the London Thames Gateway Development Corporation (LTGDC) and the Olympic Delivery Authority (ODA) in their areas in relation to the kinds of development specified in the Orders, in place of the local authorities who previously exercised those functions.
 - 2.5 The effect of the present Order is that the planning functions exercised in the development area by the London Boroughs of Hackney, Newham, Tower Hamlets and Waltham Forest (“the London Boroughs”), the London Thames Gateway Development Corporation and the Olympic Delivery Authority will be exercised by the London Legacy Development Corporation. This will include, *inter alia*, development control (eg. determination of planning applications) and development plan making. For areas outside of the development area, the planning functions of the London Thames Gateway

Development Corporation and the Olympic Delivery Authority will return to the former local planning authorities (ie. the London Boroughs).

2.6 The Order makes transitional provision in relation to matters being carried out at the time it comes into force.

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

3.1 None.

4 Legislative Context

London Legacy Development Corporation

4.1 Section 197 of the Localism Act 2011 (“the 2011 Act”) empowers the Mayor to designate any area of land in Greater London as a Mayoral development area, provided certain criteria are met.

4.2 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 an Mayoral Development Corporation (MDC) for this 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 s.202 of the 2011 Act regarding the planning functions the Mayoral Development Corporation is to have.

4.3 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 –

- 4.3.1 Part 3 of the 1990 Act (relating to development control);
- 4.3.2 Part 2 and Part 3 of the Planning and Compulsory Purchase Act 2004 (relating to the preparation of development plans);
- 4.3.3 the functions listed in Part 1 of Schedule 29 to the Local Government, Planning and Land Act 1980 (“the 1980 Act”) (which cover a range of planning functions listed in the 1990 Act and the Listed Buildings Act, including enforcement functions); and
- 4.3.4 Schedule 8 to the Electricity Act 1989 so far as applying to applications for consent under section 37 of that Act (relating to requests for consent to put up electricity lines).

4.4 Section 202 also enables the Mayor to decide that the functions listed in Part 2 of Schedule 29 to the 1980 Act are to apply to the Mayoral Development Corporation with the modifications listed in that Part (this includes 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).

4.5 The London Legacy Development Corporation was established by the London Legacy Development Corporation (Establishment) Order 2012 (S.I. 2012/310)

to provide the Mayor of London with a single body which possesses powers to achieve the Mayor's aims for the regeneration of the Development Area.

London Thames Gateway Development Corporation

- 4.6 The London Thames Gateway Development Corporation, which is an urban development corporation, was established by the London Thames Gateway Corporation (Area and Constitution) Order 2004 (S.I. 2004/1642) for the purpose of regenerating its area.
- 4.7 Section 149 of the Local Government, Housing and Land Act 1980 ("the 1980 Act") enables the Secretary of State to provide by Order for an urban development corporation to be the local planning authority for the whole or any portion of its area for such purposes of Part 3 of the 1990 Act and in relation to such kinds of development as the Order provides. Section 149 also allows the Secretary of State to confer certain other powers in the 1990 Act and the Listed Buildings Act (as listed in Part 1 of Schedule 29 to the 1980 Act) to an urban development corporation, and to provide that certain provisions of those Acts are to apply in relation to an urban development corporation subject to the modifications set out in Part 2 of Schedule 29 to the 1980 Act.
- 4.8 The 2005 Order was made under section 149 of the Act, and made the London Thames Gateway Development Corporation the local planning authority for its area for the purposes of Part 3 of the 1990 Act in relation to certain kinds of development on 31 October 2005. The 2005 order conferred on the London Thames Gateway Development Corporation the functions of a local planning authority under the Listed Buildings Act specified in Part 1 of Schedule 29 to the 1980 Act, and applied to it all of the provisions listed in Part 2 of Schedule 29 to that Act.
- 4.9 The London Thames Gateway Development Corporation (Planning Functions) (Amendment) Order 2006 (S.I. 2006/2186) subsequently made changes to the areas in which the London Thames Gateway Development Corporation would have planning functions, following the conferring of planning functions on the ODA (see below). The London Thames Gateway Development Corporation (Planning Functions) (Amendment) Order 2011 (S.I. 2011/549) made further changes to the area in which the London Thames Gateway Development Corporation would have planning functions.

Olympic Delivery Authority

- 4.10 The London Olympic Games and Paralympic Games Act 2006, *inter alia*, established the Olympic Delivery Authority to manage the planning and delivery of the Olympic Park, venues and infrastructure. Section 5 of that Act applies the provisions of section 149 of the 1980 Act in relation to the Olympic Delivery Authority as they apply in relation to urban development corporations.

4.11 The 2006 Order made the Olympic Delivery Authority the local planning authority for its area for the purposes of Part 3 of the 1990 Act in relation to all kinds of development on 7 September 2006. The 2006 order conferred on the Olympic Delivery Authority the functions of a local planning authority under the 1990 Act and the Listed Buildings Act specified in Part 1 of Schedule 29 to the 1980 Act, and applied to it all of the provisions listed in Part 2 of Schedule 29 to that Act.

5 Territorial Extent and Application

5.1 This instrument applies to England.

6 European Convention on Human Rights

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

7 Policy background

7.1 The Mayor of London notified the Secretary of State on 6 February 2012 of his intentions to establish a Mayoral development area for the Olympic Park and surrounding areas, and that the Mayoral Development Corporation for that area should be known as the London Legacy Development Corporation (LLDC). He also notified the Secretary of State that the London Legacy Development Corporation was to be the local planning authority for its area for all purposes under the 2011 Act.

7.2 The principal objective of establishing the London Legacy Development Corporation was to bring together in a single body responsibility for co-ordinating regeneration, development and planning within the area for which it has been established. This is to ensure a clear and integrated approach to the ongoing development of the area in a way which is responsive and accountable to local concerns while reflecting the area's strategic significance for London. Accordingly, the London Legacy Development Corporation's aims are:

- to deliver integrated land management and town planning necessary to implement a coherent plan for the Olympic Park and surrounding area (which overlaps four separate local planning authorities);
- to maximise the receipts available from the development of the Olympic Park within a clear regeneration framework;
- to offer clear legacy leadership, accountable management, and a single point of contact for development partners and potential investors; and
- to reflect the Government's localism policy, which aims to ensure that power should be exercised at the lowest practical level, by transferring political control, funding and direction to the elected Mayor of London.

7.3 Prior to the establishment of the London Legacy Development Corporation, regeneration work within the confines of the Olympic Park was the responsibility of the Olympic Park Legacy Company. Investment, regeneration

and planning functions in the wider area were the responsibility of the London Thames Gateway Development Corporation, the Olympic Delivery Authority and the relevant local authorities.

7.4 Accordingly, on 9 March 2012 the London Legacy Development Corporation was established, providing the Mayor with a single body possessing the necessary powers to achieve his aims for the regeneration of this area. The London Legacy Development Corporation did not, initially, possess powers in relation to town and country planning; this Order is therefore being made to make the London Legacy Development Corporation the local planning authority for its area.

7.5 This Order provides that the London Legacy Development Corporation will gain its planning functions on 1 October, and that on the same date the Olympic Delivery Authority and the London Thames Gateway Development Corporation will have theirs revoked. Planning functions for the majority of the area for which the London Legacy Development Corporation is to be the local planning authority were formerly divided between the Olympic Delivery Authority and London Thames Gateway Development Corporation. However, some areas for which the London Legacy Development Corporation will become the local planning authority are currently the responsibility of the London Boroughs of Hackney, Newham, Tower Hamlets and Waltham Forest. Responsibility for planning functions in relation to some areas outside the London Legacy Development Corporation boundary for which the Olympic Delivery Authority and the London Thames Gateway Development Corporation were the local planning authorities will be returned to the London Boroughs listed above.

7.6 The Mayor has decided that the London Legacy Development Corporation shall have all the planning powers that it is possible for it to have under the 2011 Act (see paragraphs 4.3 and 4.4 above). This means that the London Legacy Development Corporation will be responsible for planning functions including, but not limited to: determination of applications for planning permission; plan-making (including responsibility for neighbourhood planning); determination of applications affecting listed buildings and conservation areas; the making of Tree Preservation Orders; and enforcement actions in its area.

7.7 The reason for the establishment of the London Legacy Development Corporation ahead of the planning functions coming into force is to enable the new organisation to build capacity in advance of taking up those functions. Furthermore, it was intended that the Olympic Delivery Authority would exercise planning functions in relation to the Olympic Park until the conclusion of the Olympic and Paralympic Games.

8 Consultation outcome

8.1 The Mayor of London consulted on his proposals for a Mayoral Development Corporation (as required by section 197 of the 2011 Act), including those relating to planning functions, between February and April 2011. The statutory

consultees in relation to these proposals included the London Assembly, members of the London Assembly and Members of Parliament whose constituencies contain a part of the London Legacy Development Corporation area, and the four London Borough Councils whose areas contain a part of the proposed Mayoral Development Corporation area. The Mayor also invited responses to his proposals from others whom he considered it appropriate to consult, and invited responses from any person that wished to submit one. The proposals were published online, and publicised via a press release from the Greater London Authority.

8.2 The Mayor received 56 submissions in response to the consultation. These included responses from:

- seven of the statutory consultees;
- most of the other key public bodies and agencies currently working on regeneration and related activities in the area;
- a number of landowners and developers with interests in and around the London Legacy Development Corporation's proposed boundary and umbrella bodies representing the private sector;
- a number of voluntary sector bodies and partnerships active in the area or with other specific interests in the legacy of the London 2012 Games; and
- a number of residents and small business owners from areas in and around the London Legacy Development Corporation's proposed boundary.

8.3 Of these 56 responses, 32% were from private sector bodies, 28.5% from public sector bodies or elected representatives, 28.5% from not-for-profit bodies (including housing associations and higher education institutions) and 11% from private individuals.

8.4 The responses to the questions relating to the proposed planning functions of the LLDC were as follows:

- Two private individuals and one local business objected to the Corporation being established, and by extension to the proposal that the Corporation should have development control powers; all other respondents who expressed an opinion on this proposal supported it.
- Three of the four affected local authorities (all but Newham) disagreed with the proposal that the Corporation should have plan-making powers, as did the London Assembly member for Islington, Hackney and Waltham Forest and the two private individuals and one local business mentioned above. Of those respondents that expressed an opinion on plan-making powers, all others supported this proposal. These respondents included private sector bodies, landowners and developers, the Olympic Delivery Authority and London Thames Gateway Development Corporation (the two non-borough local planning authorities currently operating in the area) and the London Assembly Member for City of London, Tower Hamlets, Newham and Barking & Dagenham.

8.5 After considering these responses, the Mayor concluded on balance that the Mayoral Development Corporation could not meet its responsibilities without

having both development control and plan-making powers, and that none of the responses had changed his mind on this point.

8.6 Full details of the Mayor's consultation and his response to submissions are available on the Greater London Authority website at:
<http://www.london.gov.uk/mdcconsultation>.

8.7 On 16 January 2012, the Mayor laid before the London Assembly a document stating that he was proposing to designate a Mayoral development area. On 18 January 2012, the London Assembly considered and unanimously supported the Mayor's proposals for this designation. On 6 February 2012 the Mayor formally designated the Mayoral development area, and wrote to the Secretary of State notifying him of this designation and the matters set out at paragraph 7 above.

9 Guidance

9.1 There are no plans to issue guidance in relation to this instrument.

10 Impact

10.1 There will be no impact on business, charities or voluntary bodies.

10.2 With regard to the public sector, the Order gives the already established London Legacy Development Corporation planning functions in relation to its area. The London Thames Gateway Development Corporation and the Olympic Delivery Authority will have their planning functions revoked. Planning functions in the London Legacy Development Corporation area were previously exercised by the London Thames Gateway Development Corporation, Olympic Delivery Authority or the London Boroughs. For certain parts of the area in which the Olympic Delivery Authority and the London Thames Gateway Development Corporation previously exercised planning functions, the London Boroughs will regain their planning powers.

10.3 An Impact Assessment has not been prepared for this instrument.

11 Regulating small business

11.1 The legislation does not place any additional burdens on small business.

12 Monitoring & review

12.1 Section 215 of the Act requires the Mayor to review from time to time whether or not a Mayoral Development Corporation should continue in existence.

13. Contact

13.1 Alan Cornock at the Department for Communities and Local Government Tel: 0303 444 1646 or email: alan.cornock@communities.gsi.gov.uk can answer any queries regarding the instrument.