

**EXPLANATORY MEMORANDUM TO  
THE URBAN DEVELOPMENT CORPORATIONS (PLANNING  
FUNCTIONS) ORDER 2012**

**2012 No. 535**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 This Order revokes the West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I.2006/616) (“the 2006 Order”), the West Northamptonshire Development Corporation (Planning Functions) (Amendment) Order 2011 (S.I.2011/560) (“the 2011 Order”) and the Thurrock Development Corporation (Planning Functions) Order 2005 (S.I. 2005/2572) (“the 2005 Order”). The 2005 and 2006 Orders conferred certain planning functions on the development corporations 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.
  - 2.2 The effect of the present Order is to revoke the planning functions Orders so that planning functions in the areas are returned to the former local planning authorities.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
4. **Legislative Context**
  - 4.1 The West Northamptonshire Development Corporation and the Thurrock Development Corporation were established by the West Northamptonshire Development Corporation (Area and Constitution) Order 2004 (S.I. 2004/3370) and the Thurrock Development Corporation (Area and Constitution) Order 2003 (S.I. 2003/2896) respectively for the purpose of regenerating their areas, which were designated as urban development areas.
  - 4.2 Section 149 of the Local Government, Planning and Land Act 1980 (“the 1980 Act”) enables the Secretary of State to make provision by order so that an urban development corporation (UDC) 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 Planning 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 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”). It also enables the Secretary of State to provide that certain provisions of these Acts apply in relation to the Corporation subject to the modifications set out in Part 2 of Schedule 29.

- 4.3 The 2006 Order provided for the West Northamptonshire development corporation to be the local planning authority, in the central planning functions area and outer planning functions area (as defined in the Order) in relation to specified kinds of developments. The 2006 Order applied all of the provisions of the Planning Act listed in Part 2 of Schedule 29 in relation to the Corporation, subject to the modifications set out in that Part .
- 4.4 The 2006 Order was amended by the 2011 Order. The definitions of the “central planning functions area” and “outer planning functions area” were omitted. The order also revised the kinds of development for which the Corporation was the local planning authority, in the whole of their development area. As a result, planning functions relating to certain kinds of development were returned to the former local planning authorities, within the meaning of section 336(1) of the Planning Act.
- 4.5 Similarly, the 2005 Order provided for the Thurrock Development Corporation to be the local planning authority for the Thurrock development area, for specified kinds of development. It also gave the Corporation certain other functions under the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 4.6 This Order revokes the above planning functions orders. As a result, the planning functions will revert to the local authorities which were, previously, the local planning authorities.
- 4.7 The Order makes transitional provision in relation to planning functions and planning applications. It also makes transitional provision for compensation.

## **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 2003 Sustainable Communities Plan (“Sustainable communities: building for the future” ODPM<sup>1</sup>) identified four growth areas to accommodate the economic success of London and the wider South East, and included a commitment to set up strengthened local delivery vehicles in these areas with the necessary powers to drive forward development. The statutory objective and powers of an UDC are set out in section 136 of the 1980 Act.
- 7.2 West Northamptonshire Development Corporation (WNDC) was established in 2004. In 2006 it became the local planning authority for strategic planning applications in the ‘outer planning functions area’ as defined by the 2006 Order and almost all planning applications except householder development in the ‘central planning functions area’. Since the coming into force of the 2011 Order and the return of some functions to the former local planning authorities, the Corporation has been the local planning authority in relation to specified kinds of development in the whole of their area.
- 7.3 Thurrock Development Corporation was established in 2003 and in 2005 it became the local planning authority for strategic planning applications in its area.
- 7.4 The purpose of each Development Corporations was to secure the regeneration of its area. This was 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.
- 7.5 Both Corporations were intended to be time-limited bodies. Thurrock Development Corporation was intended to have an initial lifespan of 7 years, which was later extended to 10 years and WNDC was intended to have a lifespan of 10 years.
- 7.6 In June 2009, the Department for Communities and Local Government (DCLG) undertook a Quinquennial Review of the three UDCs in England. The review looked at the performance and future of the UDCs and included a 12 week consultation. The review concluded that:
- WNDC should become a more strategic delivery focussed organisation and that planning functions should be returned to the local authorities in a staged and managed process; and

---

<sup>1</sup> <http://www.communities.gov.uk/publications/communities/sustainablecommunitiesbuilding>

- the Homes and Communities Agency should take over the functions of Thurrock Development Corporation from April 2011.

7.7 In 2010 the new Government conducted a review of this decision as part of a review of all arms length bodies. The review confirmed the approach for the future of the WNDC and on 27 September Andrew Stunell, Minister of State for the Department of Communities and Local Government announced that the changes would start to take effect from April 2011. The 2011 Order completed phase 1 of the transfer of planning powers to the local authorities, this Order will complete the return of all planning functions to the local authorities.

7.8 However for Thurrock the review concluded that the decision should not be implemented as it would be a centralising measure that would have further distanced local people from decisions about the future of their area. In addition, the consultation undertaken as part of the review showed clearly that there was no local support in favour of centralisation.

7.9 In September 2010 the Government announced that, subject to parliamentary approval, Thurrock Development Corporation would cease operation and its functions would be transferred to Thurrock Council. This will lead to a number of benefits including:

- maintaining the momentum of private sector investment;
- enabling efficiency savings to be made through shared services;
- achieving value for money by limiting public sector investment necessary to enable maximum private investment;
- strengthening local control over regeneration and the operation of planning responsibilities; and
- strengthening the council's capacity to drive regeneration.

## **8. Consultation outcome**

8.1 A 12 week consultation took place between 22 June and 18 September 2009 as part of the Quinquennial Review the consultation sought views on the future and performance of the UDCs and included questions on whether the Corporations' planning functions should be modified and, if so, in what way.

8.2 With regard to WNDC, 291 responses were received including from all the local authorities, public sector bodies, businesses, developers, members of the public and 237 responses from an organised campaign. There was widespread agreement in favour of modifying the Corporation's planning powers. A number of respondents felt that planning powers should be returned to the local authorities immediately others felt that the powers should return in a phased way starting with raising the threshold of applications dealt with by the Corporation. The Government's response recognised the significant role that the Corporation had played in planning decisions since 2006 but decided

that the function should be returned to the local authorities in a phased process.

- 8.3 Subsequent consultation has taken place with all the local authorities and WDC on the detail and timing of the Order. This has taken place in the form of regular meetings of the Transition Board set-up to oversee the process. The Department has also formally sought the views of the LAs on the detail and timing of the transfer to which all the local authorities have agreed.
- 8.4 With regard to Thurrock Development Corporation, 55 responses were received including from local authorities, public sector bodies, businesses, the voluntary and community sector and members of the public. At the time of the review, the majority of respondents felt there continued to be a unique role for a UDC in Thurrock. In its response, the previous administration decided that the Thurrock Development Corporation should be transferred to the Homes and Communities Agency. Ministers have reviewed this decision and have concluded that this should not be implemented, believing that it was a centralising measure that would have further distanced local people from decisions about the future of their area. In addition, the consultation did not demonstrate local support for this decision. The Government decided in 2010 that the Corporation would cease operation and its functions would be transferred to Thurrock Council as part of the Government's wider plans to decentralise strategic oversight of the Thames Gateway.
- 8.5 Thurrock Council has been fully consulted regarding the transfer of planning functions from the Corporation to them and the legal steps required. The consultation has taken the form of regular meetings in which they have participated in discussions and plan-making as members of a working group set up by DCLG in 2010. The Council's views have been sought on the transfer of planning functions to them under this order and they have welcomed the return of these planning functions. A wider public consultation has not been undertaken in this case because of the limited scope of change.
- 8.6 All relevant local authorities and both Corporations have been given an opportunity to comment on the provisions made in this instrument prior to making and no substantive comments have been received.
- 8.7 A more detailed analysis of the consultation outcome can be found at: <http://www.communities.gov.uk/documents/regeneration/pdf/1509023>

## **9. Guidance**

- 9.1 No guidance on this Order will be issued, the local planning authorities to whom responsibilities will be returned already have planning powers and handle planning applications. The local authorities will also be issuing their own guidance to developers and applicants to ensure there is a smooth transition of powers and service standards are maintained.

## **10. Impact**

- 10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 10.2 There is a minimal impact on the public sector – the planning functions of the Corporation will now be carried out by the relevant local authorities. Arrangements have been put in place to ensure the smooth transition between the UDCs and the local authorities in order to maintain service delivery.

## **11. Regulating small business**

- 11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

- 12.1 There will be no formal monitoring or review of the effect of this Order. We currently publish information on local planning authority performance on planning applications as part of the set of National Indicators. We will therefore use this information to track the performance of the authorities concerned.

## **13. Contact**

Alan Cornock  
Resources Skills and Capacity - Development Plans  
Communities and Local Government  
Zone 1/H2 Eland House, Bressenden Place, London SW1E 5DU

Tel 030344 41646