

**EXPLANATORY MEMORANDUM TO  
THE EBBSFLEET DEVELOPMENT CORPORATION (PLANNING  
FUNCTIONS) ORDER 2015**

**2015 No. 748**

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 makes the Ebbsfleet Development Corporation (“the Development Corporation”) the local planning authority for an area in Ebbsfleet (the “Development Area”) which comprises parts of the areas of Dartford Borough Council, Gravesham Borough Council and Kent County Council (collectively the “Local Planning Authorities”) for specified purposes of Part 3 of the Town and Country Planning Act 1990 (“the 1990 Act”) in relation to the kinds of development specified in the Order.
  - 2.2 The Order also confers certain functions in the 1990 Act and the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) on the Development Corporation and makes transitional provision.
  - 2.3 These functions take effect when the Order comes into force on 1 July 2015.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.
4. **Legislative Context**
  - 4.1 The Development Corporation will be established by the Ebbsfleet Development Corporation (Area and Constitution) Order 2015 (S.I. 2015/747) for the purpose of regenerating the Development Area.
  - 4.2 Section 149 of the Local Government, Planning and Land Act 1980 (“the 1980 Act”) enables the Secretary of State by Order to:
    - provide 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 the development as the Order provides;

- 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) on an urban development corporation; and
  - provide that certain provisions of the 1990 Act and the Listed Buildings Act listed in Part 2 of Schedule 29 to the 1980 Act are to apply in relation to an urban development corporation subject to the modifications set out in that Part of that Schedule.
- 4.3 This Order provides for the Development Corporation to become the local planning authority for the Development Area, in place of the Local Planning Authorities, for all purposes of Part 3 of the Planning Act (except those relating to neighbourhood planning) and in relation to all kinds of development (except for the Local Planning Authorities' own development). Within the Development Area, neighbourhood planning functions will continue to be exercised by each of the Local Planning Authorities and planning applications relating to each of the Local Planning Authorities' own land or development by them will continue to be exercisable by each of the Local Planning Authorities in accordance with section 316 of the 1990 Act and the Town and Country Planning General Regulations 1992.
- 4.4 This Order confers on the Development Corporation all 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 applies to it all of the provisions listed in Part 2 of Schedule 29 to the 1980 Act subject to the modifications set out in that Part of that Schedule.
- 4.5 This Order also makes transitional provision in relation to matters being carried out at the time it comes into force.

## **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 idea of major development at Ebbsfleet is not new and proposals for the area have been in existence for some years. The last Government's 2003 Sustainable Communities Plan (Sustainable communities: building for the future, Office of the Deputy Prime Minister, 2003) identified Ebbsfleet and in particular the land at Eastern Quarry as the location for 10,000 new homes, 5.5 million square feet of commercial space and two million square feet of retail, leisure, community and supporting space. Despite this designation, slow progress was made in developing the sites.

7.2 That is why, as part of Budget Statement in March 2014, the Government announced ambitious plans to establish a new urban development corporation to drive forward plans for a new garden city at Ebbsfleet, capable of providing up to 15,000 new homes based predominantly on brownfield land or former quarries.

7.3 As a statutory body reporting to the Secretary of State for the Department for Communities and Local Government, an urban development corporation at Ebbsfleet will be able to respond to the unique challenges and opportunities of the area. It could provide the direction, focus and expertise necessary to coordinate investment and deliver new development which meets the needs of both residents and businesses.

## **8. Consultation outcome**

8.1 Consultation on the establishment of an urban development corporation at Ebbsfleet to drive forward the delivery of a new garden city took place from 11 August to 6 October 2014. The consultation, which ran for eight weeks, was supported by an engagement campaign which aimed to promote the consultation as widely as possible, particularly in the local area.

8.2 The public consultation was an important step in the process of establishing the Development Corporation. It invited views on a series of questions which focused specifically on: the proposal to create an urban development corporation; the area in which it would operate; the planning powers it would be granted; and the composition of the Board of Members who would be responsible for the Development Corporation.

8.3 Full details of the consultation on the creation of the Development Corporation and the Government's response are available at <https://www.gov.uk/government/consultations/ebbsfleet-development>.

8.4 The specific responses in relation to the planning functions demonstrated overall support for the proposal to provide the Development Corporation with planning powers, with 60% of the 129 respondents in agreement.

8.5 The majority of respondents did not comment in detail on the proposed transfer of planning powers. Those who did comment said:

- i. the Development Corporation should be accountable;
- ii. there is a need for cooperation and consultation with neighbouring authorities and parish and town councils;
- iii. decisions of the Development Corporation need to be consistent with the adopted Local Plans; and
- iv. important that the Development Corporation has the planning resources necessary to undertake its role effectively.

8.6 The Government recognises the importance of ensuring that the Development Corporation is accountable to local people and the wider public. To achieve this the Development Corporation will be required to develop an effective

engagement strategy with all key partners, including local communities and businesses. In terms of the exercise of the Development Corporation's planning powers, it is also important to note:

- The decision making process on planning applications determined by the Development Corporation will be fundamentally the same as it would be if the Local Planning Authorities were still determining planning applications in the Development Area;
- The Development Corporation will have to consult with local residents, businesses and statutory consultees on planning applications in substantially the same way as the Local Planning Authorities would do;
- In addition, the Development Corporation will be expected to hold its planning committee meetings in public, following the same practice as the Local Planning Authorities;
- Local Plans, which have already been subject to comprehensive public consultation, have been adopted by the Local Planning Authorities and form part of the development plan for their areas. There is a statutory requirement that planning decisions must be taken in accordance with the development plan, unless material considerations indicate otherwise (section 38(6) of the Planning and Compulsory Purchase Act 2004); and
- In addition, a Memorandum of Understanding will be agreed between the Development Corporation and the Local Planning Authorities to ensure effective processes are put in place for the bodies to work together on a range of planning matters of common interest. The Memorandum of Understanding will be published on the Development Corporation's website.

8.7 The Government recognises the importance of ensuring the Development Corporation has sufficient planning resources to undertake its role effectively, including at the point of transfer of planning powers and functions.

8.8 The Government is working closely with each of the Local Planning Authorities to ensure that the planning systems, staffing and facilities are in place to enable the smooth transition of planning responsibilities from the Local Planning Authorities to the Development Corporation. The Memorandum of Understanding will include an agreed approach between the Development Corporation and the Local Planning Authorities on the transfer of planning powers.

8.9 Having reviewed the consultation responses and considered the comments and suggestions put forward by all those who took part, including the informal views expressed as part of the wider engagement campaign, the Government remained convinced that the creation of a dedicated delivery vehicle in the form of an urban development corporation for Ebbsfleet was the most effective and appropriate method to deliver a new garden city. The Government concluded that it should take forward the proposal that the

Development Corporation should be the local planning authority for the Development Area for the purposes of Part 3 of the 1990 Act (except those relating to neighbourhood planning) and in relation to all kinds of development (except for the Local Planning Authorities' own development).

**9. Guidance**

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

**10. Impact**

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

10.2 In relation to the impact on the public sector, this Order makes provision to transfer planning powers to a new body that will take over the functions and powers of existing public bodies, primarily the Local Planning Authorities.

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

**11. Regulating small business**

11.1 This Order does not place any additional regulatory burden upon small business.

**12. Monitoring & review**

12.1 The Development Corporation will be created with the expectation that Government will review from time to time both the powers and responsibilities exercised by the Development Corporation and whether or not an urban development corporation should continue in existence in the Development Area. The intention is that a review would be undertaken within five years of the establishment of the Development Corporation.

**13. Contact**

Alan Cornock at the Department for Communities and Local Government Tel: 030344 41646 or email: Alan.Cornock@communities.gsi.gov.uk can answer any queries regarding the instrument.