EXPLANATORY MEMORANDUM TO

THE LEVELLING-UP AND REGENERATION ACT 2023 (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) (NO. 3) (ENGLAND) REGULATIONS 2026

2026 No. 206

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government (MHCLG) and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Matthew Pennycook, Minister of State at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Lucy Wilkins, Deputy Director for the New Towns Unit, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Caroline Geary at the Ministry of Housing, Communities and Local Government can be contacted by phone: 0303 4440000 or at the following email address with any queries regarding the instrument: Caroline.Geary@communities.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These regulations make consequential amendments to secondary legislation and provide transitional arrangements on commencement of provisions in the Levelling-up and Regeneration Act 2023 ("LURA"). The regulations provide additional planning functions contained in the LURA to Ebbsfleet Development Corporation ("EDC") and Old Oak and Park Royal Development Corporation ("OPDC"). These functions were operated by the respective boroughs and the county council (local authorities) in the development corporation areas.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 The government has made regulations to commence sections 174 to 179 and Schedule 17 of the development corporation provisions in the LURA on 14 April 2026. Section

174(4) being commenced relates to additional planning functions that have been added to update Part 1 of Schedule 29 of the Local Government, Planning and Land Act 1980. Part 1 of Schedule 29 lists the planning functions which the Secretary of State by order under section 149(3) can give to a development corporation and section 174(4) of the LURA amends the list. This list has not been updated since the early 1990s and there are planning functions that would assist development corporations in their new town and regeneration activities. The updated functions relate to planning enforcement functions, certificates of lawfulness and certificates of appropriate alternative development in relation to compulsory purchase.

5.2 Pre-existing development corporations that were originally conferred functions under Part 1 of Schedule 29 will not automatically receive the functions that have been added to Part 1 of Schedule 29 by the LURA. This is because their functions were set out in secondary legislation at the time they were transferred. However, the LURA allows provisions to be made which are consequential upon the Act under section 250 and transitional provisions under section 252(1). Therefore, where a development corporation had previously been provided with the functions in Schedule 29, then when that list is added to, they should receive those additional functions as a consequential measure, which the Secretary of State considers appropriate upon the coming into force of that section.

5.3 The Department has contacted the oversight authorities and/or the existing development corporations with Schedule 29 functions to identify if they want the additional functions. The Deputy Mayor of London on behalf of the Mayor of London, wrote to the Secretary of State on 7 January 2026 requesting that the Old Oak and Park Royal Development Corporation ("OPDC"), a mayoral development corporation, should be provided with the additional planning functions made available to development corporations in section 174(4) of the LURA. The Ebbsfleet Development Corporation ("EDC"), a centrally-led urban development corporation, has also requested the additional functions.

5.4 The additional planning functions being provided are routine, would bring the development corporations more in line with local council planning authorities, and complement their existing development management and enforcement functions. It would also provide a more co-ordinated approach for the development corporations to take on these functions and ensure high quality development outcomes.

What was the previous policy, how is this different?

5.5 Prior to the coming into force of this instrument, these additional planning functions within the urban and mayoral development areas were the responsibility of Kent County Council, Dartford and Gravesham Borough Councils in relation to EDC and London Borough of Ealing, Brent and Hammersmith and Fulham in relation to OPDC.

6. Legislative and Legal Context

How has the law changed?

6.1 The OPDC was established by The Old Oak and Park Royal Development Corporation (Establishment) Order 2015 (S.I 2015/53) and was provided with planning functions as set out in The Old Oak and Park Royal Development Corporation (Planning Functions) Order 2015 (S.I 2015/442). This included 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 Town

and Country Planning Act 1990 (the 1990 Act) and the Planning (Listed Buildings and Conservation Areas) Act 1990, including enforcement functions.

6.2 Section 202(3) of the Localism Act 2011 enables the planning functions contained in Part 1 to Schedule 29 of the 1980 Act to be conferred on Mayoral Development Corporations. Part 1 to Schedule 29 confers various enforcement functions in Parts 7 and 8 in the 1990 Act.

6.3 The EDC was established by The Ebbsfleet Development Corporation (Area and Constitution) Order 2015 (S.I. 2015/747) and was provided with planning functions as set out in The Ebbsfleet Development Corporation (Planning Functions) Order 2015 (S.I.2015/748). These include the functions listed in Part 1 of Schedule 29 to the Local Government, Planning and Land Act 1980 (the 1980 Act).

6.4 Section 149 of the Local Government, Planning and Land Act 1980 enables the planning functions contained in Part 1 to Schedule 29 of the 1980 Act to be conferred on urban development corporations.

6.5 Section 174(4) of the LURA adds additional planning functions to update Part 1 of Schedule 29 of the Local Government, Planning and Land Act 1980. Part 1 of Schedule 29 lists the planning functions which the Secretary of State by order can give to a development corporation and section 174(4) of the LURA amends the list. The updated functions relate to planning enforcement functions including temporary stop notices under the Town and Country Planning Act 1990 and Planning (Listed Buildings and Conservation Areas) Act 1990, certificates of lawfulness under the Town and Country Planning Act 1990 and certificates of appropriate alternative development in relation to compulsory purchase under the Land Compensation Act 1961. These provisions are to be commenced on 14 April 2026.

6.6 This instrument amends the function orders of the respective development corporations so that the additional planning functions added to Part 1 of Schedule 29 of the Local Government, Planning and Land Act 1980 can be operated by the development corporations in their respective urban and mayoral development areas. This represents a change in the body exercising those statutory functions, rather than a change in planning policy or substantive planning law.

6.7 The Schedule to this instrument sets out the transitional provisions in relation to the planning functions exercised by the local authorities prior to the commencement date. Specific transitional provision is made for the local authorities to retain responsibility in relation to planning certificates, enforcement action, planning appeals and compensation in relation to decisions or actions undertaken before 14 April 2026.

6.8 These transitional provisions are necessary to ensure a smooth handover of planning functions on 14 April 2026. They provide clarity for both the corporations and the local authorities in respect of the transfer of functions and are beneficial to all parties.

Why was this approach taken to change the law?

6.9 Section 250 of the LURA provides for amendments, which are consequential, on any of the provisions within it to be made by statutory instrument and transitional provisions can be made under section 252(1) by statutory instrument. Subsequently this is the most straightforward approach to make the necessary changes on commencement of the planning functions contained in the LURA.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Mayor of London undertook an engagement exercise to seek the views of relevant stakeholders about the proposal for the OPDC to be provided with the additional planning functions. This engagement reflected the provisions of section 202 of the Localism Act 2011 and the bodies listed at section 197(4). This covered, the London Assembly and relevant Assembly Members, London Boroughs and Members of Parliament in OPDCs area. A single response was received from the Chair of the London Assembly's Planning and Regeneration Committee who raised no objection to the proposal. No other stakeholders responded to the engagement. More information is available in Mayoral Decision MD3449 and can be viewed at: https://www.london.gov.uk/md3449-proposed-additional-old-oak-and-park-royal-development-corporation-planning-powers.

7.2 In relation to EDC, the Department engaged with the relevant local authorities - Kent County Council, Dartford and Gravesham Borough Councils and relevant Members of Parliament in EDC's area to obtain views on the transfer of the additional planning functions. The Department received three responses from the local authorities. Dartford Borough Council and Kent County Council had no objections to the functions being transferred to EDC. It was noted that it would be a natural extension of EDC's functions, it would avoid confusion for stakeholders and ensures consistency of approach by a single local planning authority. Gravesham Borough Council objected to the functions being transferred at this stage and that they work proactively with EDC and will support the Corporation in their activities. Having reviewed the responses, the Department is of the view that it would be more practical and beneficial for EDC to take on these responsibilities for the urban development corporation area.

8. Applicable Guidance

8.1 There is no specific guidance associated with this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there are no direct additional costs to business, charities, or voluntary bodies in respect of the additional planning functions being transferred. An impact assessment was prepared for the LURA on the wider package of development corporation reforms and copies of that assessment may be found at https://publications.parliament.uk/pa/bills/cbill/58-03/0169/LevellingUpandRegenerationBillImpactAssessment.pdf.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 In relation to the public sector, there is no, or no significant, impact on the public sector. This instrument makes provision to transfer additional planning functions to the existing development corporations at Ebbsfleet and Old Oak and Park Royal. They will take over those functions of existing public bodies in respect of their defined area.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 With regards to centrally-led development corporations, there is an expectation that the government will review from time to time their powers, responsibilities and whether they should continue to exist.

10.2 In relation to mayoral development corporations, section 215 of the Localism Act 2011 requires the Mayor to review from time to time whether a mayoral development corporation should continue to exist.

10.3 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").