EXPLANATORY MEMORANDUM TO

THE OLYMPIC DELIVERY AUTHORITY (PLANNING FUNCTIONS) ORDER 2006 No. 2185

THE LONDON THAMES GATEWAY DEVELOPMENT CORPORATION (PLANNING FUNCTIONS) (AMENDMENT) ORDER 2006 No 2186

1. 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

1.3 It refers to two related statutory instruments which concern local planning responsibilities within a specific part of East London subject to development as the Olympic Park

2. Description

2.1 The first instrument (S.I.2006/2185) makes the Olympic Delivery Authority (ODA) the local planning authority in respect of development in the area shown on the relevant map, which focuses on the Olympic Park. This area includes part of the area for which the London Thames Gateway Development Corporation (LTGDC) was made the local planning authority by the London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I.2005/2721). The second instrument (S.I.2006/2186) accordingly amends that Order such that the planning boundaries for the two local planning authorities are consistent and do not overlap.

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

3.1 None

4. Legislative Background

4.1 The London Olympic and Paralympic Games Act 2006 inter alia establishes the ODA to manage the planning and delivery of the Olympic Park, venues and infrastructure. Section 5 of the Act makes the provisions in section 149 of the Local Government, Planning and Land Act 1980 apply in relation to the Olympic Delivery Authority as they apply to urban development corporations.

4.2 The London Thames Gateway Development Corporation (LTGDC) was established by the London Thames Gateway Development Corporation (Area and Constitution) Order 2004 (S.I 2004/1642) for the purpose of regenerating the London Thames Gateway urban development area

4.3 Section 149 of the 1980 Act enables the Secretary of State to provide by Order for an urban development corporation to be the local planning authority for specified purposes or in relation to certain kinds of development. Section 149 also allows the Secretary of State to confer certain other powers in the Town and Country Planning Act 1990 to the urban development corporation including planning enforcement powers.

4.4 The London Thames Gateway Development Corporation (Planning Functions) Order 2005, was made under Section 149 of the Act and made the London Thames Gateway Development Corporation the local planning authority on 31 October 2005.

5. Extent

5.1 These instruments apply to England.

6. European Convention on Human Rights

6.1 As these instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 The London Olympic and Paralympic Games Act 2006 creates a body to facilitate the staging of the Olympic Games, and in particular to plan and deliver the Olympic Park and other infrastructure.. One of the main provisions of the Act is to enable the Olympic Delivery Authority (ODA) to take development control planning powers by way of a Planning Functions Order. In view of the scale and complexity of the planning decisions attached to the development of the Olympic Park, the Government considers it essential that the ODA is granted development control powers to ensure the effective delivery of the project to time and budget.

7.2 The transfer of powers from the existing planning authorities to the ODA would not change the nature of those powers nor would it lessen the transparency of the process. Applicants would have the same rights of appeal against decisions by the ODA.

7.3 The Government issued a Consultation Paper in March which sought views on the extent of the powers to be given to the ODA . In particular it asked for views on whether the ODA should deal with all development, or just specific categories; whether all development control powers should be transferred; whether existing applications should be transferred as well as new ones, and whether the boundary as shown in the consultation was the appropriate one. Following Consultation, Ministers decided that the most effective and efficient arrangement would be for the ODA to take all powers and deal with all development and all applications within the area defined. In the unusual event that a non Olympic- related application is submitted to the ODA, it has the powers under the Act to delegate this to an existing local planning authority.

7.4 The London Thames Gateway Development Corporation (Planning Functions) Order 2005 anticipated the ODA and its planning role with regard to the development of the Olympic Park. It therefore already excludes an area broadly corresponding to the Olympic Park from the LTGDC planning jurisdiction. However boundary changes

to the Olympic Park have since come about which require relatively minor adjustments to that area, to ensure that the planning authority boundaries of the authorities are consistent.

8. Impact

8.1 A Regulatory Impact Assessment in relation to the Olympic Delivery Authority (Planning Functions) Order, is attached to this memorandum

8.2 The impact on the public sector will be:

transitional and organisational costs for the local authorities involved as they adapt the operation of their development control procedures to allow for a split of responsibilities with the ODA

benefits to the local authorities from a reduced number of major applications which will now be processed by the ODA

8.3 A full Regulatory Impact Assessment was produced for the London Thames Gateway Development Corporation (Area and Constitution) Order 2004. These minor boundary modifications do not raise further issues in principle

9. Contact

9.1 Robert Moore at the Department for Communities and Local Government Tel: 0207 944 5890 or e-mail: Robert.moore@communities.gsi.gov.uk can answer any queries regarding the instrument.

Regulatory Impact Assessment (RIA) for The Olympic Delivery Authority (Planning Functions) Order 2006

Title of Proposal

1. The Olympic Delivery Authority (Planning Functions) Order 2006

Purpose and Intended Effect of Measure

Objective

2. To establish the Olympic Delivery Authority as the local planning authority for development control within the area of the Olympic Park, in order to provide suitable planning arrangements to manage, in an efficient and timely manner, the extensive and complex planning decisions attached to the delivery of the Olympic Games.

Background

3 The London Olympics and Paralympic Games Act 2006 establishes a new public sector body, the Olympic Delivery Authority to facilitate the staging of the Games, and

manage public sector involvement in the games, primarily ensuring the delivery of the venues and necessary infrastructure on time and within budget. One of the main provisions of the Act is to enable the ODA to take planning powers by way of a Planning Functions Order. The Government has consulted on a range of options regarding the precise powers to be taken and their area of operation, in the Consultation Paper published in February 2006.

4 The effect of the Order will be to transfer development control powers from the existing boroughs, to the Olympic Delivery Authority. Plan making powers remain with existing planning authorities. The powers will only be transferred within a specific area, known as the Olympic Park, which is located north of Stratford and is the focus for the Games. Similar measures are not considered necessary for the other Games venues outside the Park, as the development involved in these locations is more limited and does not give rise to similar pressures

5 The proposed area of the Order largely reflects the area of the Compulsory Purchase Order which is being pursued in relation to the site of the Olympic Park. Overall it seeks to capture all areas where development related to the Park is planned or otherwise may have an impact on the delivery of the Park.

Rationale for government intervention

6 The purpose of the Order is to facilitate the delivery of the Olympic games through the establishment of a single planning body best placed to meet the demands attached to the project by virtue of its scale, complexity, integrated nature and timescale. Earlier planning control arrangements for the Games operated through four separate Boroughs using a joint arrangement (The Joint Planning Action Team). The arrangement is administratively complex, and can require parallel approval of several boroughs in concert to secure necessary decisions. While the JPAT mechanism dealt successfully with the outline consent process, the scale, range and volume of future Olympic applications is of a different order. The limited 5 year timescale available to develop the Park demands a clear and focused structure from the start.

7. The planning applications which would fall to the ODA to determine under the Order will in the main be submitted by the Authority itself, and relate to the development of the Games, and its subsequent legacy. Internal arrangements will be put in place to ensure the separation of the Authorities development and planning functions.

Consultation

8. All local authorities hosting Olympic development, both in and outside London, were notified, together with national and local agencies, business and local organisations. Copies were placed in all local libraries of the four boroughs affected. It was also publicised on the DCLG website. 24 responses were received, of which four were from local authorities, five from local residents and businesses, ten from agencies, and the remainder from other interested parties.

9 The consultation generated a range of responses to the key issues. Overall the majority of the responses with regard to each key issue were in favour of the policy as proposed in the Order.

Options

10 The consultation paper raised a set of options, or policy choices, relating to the transfer of powers:
(1) do nothing option, whereby the ODA does not exercise the development control powers made available to it in the London Olympic Games and Paralympic Games Act 2006
(2) the Order would transfer all development control powers including enforcement powers, rather than a more limited number
(3) the Order would transfer responsibility for determining all applications, rather than limit the transfer in some way to specific categories, for example, 'Olympic related development'
(4) the Order would transfer all outstanding applications as well as new applications, rather than those submitted only after the Order became operational
(5) the boundary for the Order area should be as shown in the Consultation Paper, rather than any modified alternative.

Identification of costs and benefits

11 The relocation of the planning function to a different authority should not give rise to any social, economic or environmental impact under any of the options. The purpose of the Order is simply to facilitate the development of the Olympic Park, without having any adverse impact on the planning and delivery of other development in the area. In determining planning applications the ODA will be subject to planning law and procedure in the normal way, and applicants will have usual rights of appeal. Planning applications will follow the established statutory process, and planning applicants should not therefore be adversely affected, nor consultees disadvantaged by the transfer. The ODA is basing its consultation protocol on those of the existing local authorities.

12 The ODA will be required to take into account material planning considerations in the normal way. In addition, section 5(5) of the Olympic Bill identifies specific matters to which the ODA will have regard:

a) the desirability of making proper preparation for the London Olympics,

b) the desirability of maximising the benefits to be derived after the London Olympics from things done in preparation for them,

c) the terms of any planning permission already granted in connection with preparation for the London Olympics,

d) any guidance issued by the Secretary of State (which may, in particular, refer to other documents), and

e) the development plan for any area in respect of which an order is made under section 149 of the Local Government, Planning and Land Act 1980 by virtue of subsection (1) above,

13 **Option 1,** or do nothing option**,** would not ensure that the robust planning decisions arrangements deemed essential for the successful delivery of the Games were in place. At best, the current structure, with its multi borough reporting requirements and decisions mechanisms would continue, though this cannot be guaranteed. Given the scale and complexity of the planning decisions to come, this would add unwelcome risk to the project and involve additional administrative burdens that could in practice threaten the decisions timetable, and the delivery of the Games, even assuming a consistent and supportive policy context among the authorities concerned.

14 **Option 2**. (transfer of all development control powers) creates a clear and straightforward structure. The alternative partial transfer would create a novel arrangement which would add regulatory cost (through duplication of authorities involved in very similar processes), and confuse applicants about where planning responsibilities lay. Both could add to delay. A simple system which placed all development control responsibilities with a single body is considered most efficient and the simplest for planning applicants to negotiate.

15 **Option 3** (transfer of applications for all kinds of development) again has the merit of creating clarity for all parties about where responsibility lies. To seek to limit the ODA's responsibility solely related development' is not in the Government's view feasible, as the term cannot be adequately defined and its use would generate uncertainty, potential argument and delay. The vast majority of applications submitted to the ODA will be Olympic applications, by virtue of the boundary of the Order area. Where this is not the case, ODA has powers available to it to delegate these applications to the relevant local authority, or UDC.

16. **Option 4** (transfer of all applications including those already submitted) would ensure that all applications that might impact upon the Olympic Park, were considered in a consistent way by the same authority, regardless of whether they were submitted before the ODA was established. The alternative - that those already submitted would continue to be determined by the original authority - runs counter to the intention of the Order and would confusingly result in two parallel decision making paths for applications within the same area. Effective management and procedures would avoid any potential risk to continuity resulting from a transfer. There will be no need to recommence the process or reconsult.

17 **Option 5** invites alternative views for the boundary of the area to which the Order will apply. The boundary included in the Consultation paper seeks to capture in an efficient way all locations within which Olympic applications will or may be made, and where any other applications may be submitted that have a direct impact on the delivery of the Park. One major commercial development, Stratford City, contains Olympic elements, (including the Olympic Village and public access routes) and falls into this category. Applications for other non Olympic development may also be made at the extremities of the Order area. Arrangements are being made by the ODA to ensure that the planning decisions process for development which is not related to the Olympics, is not

prejudiced. Where appropriate, applications which in the view of the ODA are not Olympic sensitive, can be delegated.

18 The transfer of powers to the ODA should not affect costs of planning decisions for the Olympics. Staffing requirements will be similar whether the function is administered by ODA or by local authorities. Similar administrative, technical assessment and consultation procedures will apply. Any costs attached to the operation of the new body should be offset by the savings attached to having a simplified administration. The service has to date been funded by the LDA and in future will be funded from the Olympic budget. It places no financial burden on local authorities.

19 The Order does not statutorily constrain the ODA in its management of the planning process. It has the scope to work with the boroughs jointly to deliver the planning service, and has agreed a memorandum of understanding with them to this effect.

Affected groups

20 Affected groups are principally the ODA, existing local planning authorities, other planning applicants within the Order area, and consultees. The transfer of powers should not affect any of these in a significantly material way. The ODA must follow established and statutory procedures in the conventional way. Decisions will be taken within a consultative and transparent framework. In practice the Olympics will attract a substantial amount of additional interest and informal scrutiny of the performance that the ODA deliver.

Impact on race equality, health and rural issues

21 There should be no adverse impact on race equality or health. Both race equality and health are important objectives for the Olympic Games, and the ODA can be expected to pay attention to these issues in its assessment of planning applications. The area concerned is located in inner East London and is wholly urbanised and therefore has no impact on rural considerations.

Small Firms' Impact Test (SFIT)

22 The intention of the Order is that it will apply to proposals related to the development and delivery of the Olympic Park. The final boundary has been determined accordingly. Very few businesses will ultimately lie within this area. Those that fall within the development area of the Park will have been relocated to enable the Park development, in accordance with separate and parallel procedures which lie outside this Order. Any non-Olympic business application that exceptionally is submitted within the Olympic boundary will be considered in the normal way by the ODA in the context of the Olympic development, or more probably will be delegated to the local authority for determination There will therefore be little if any small business impact.

Competition Assessment

23 The proposals in this RIA do not have any impact on competition.

Enforcement, Sanctions and Monitoring

<u>Enforcement</u>

24 Statutory planning enforcement powers exist and are unaffected by the options The options simply determine which local planning authority takes on this responsibility.

Sanctions

25 There are legal sanctions available to a local planning authority (the ODA in this case) to ensure that planning decisions are enforced. The enforcement process is a well established part of planning practice. The ODA's direct responsibility for the delivery of the Games will ensure that planning decisions are monitored and implemented.

Monitoring and review

26 The ODA is a limited life organisation. Following the Olympic Games, it will be dissolved and a further Order laid to make provision for the transfer of its planning powers (as set out in section 5(6) of the Act). Under the Act, the ODA is required to submit a report annually on the exercise of its powers. The delivery of wider benefits arising out of the Olympics is subject to a management process whereby key benefits are being defined and a monitoring system set up. More broadly, the performance of the ODA will inevitably be subject to close and widespread public interest and scrutiny, given the significance of the Olympics.

Summary and Recommendation

27 The transfer of all development control powers, to determine all applications which fall within the defined area, will give the planning certainty that is desirable for the successful delivery of the Olympic Games. It will also provide a clear and understandable framework for any planning applicant unrelated to the Games, and should not materially affect the planning decisions process that they will face. Attempting to define particular types of development for transfer, or splitting planning roles between different planning authorities, offers no clear regulatory advantages, and creates scope for potential delay.

Declaration and Publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed…Kay Andrews…….

Date…9th August 2006……..

Baroness Andrews, Parliamentary Under Secretary of State, DCLG

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