EXPLANATORY MEMORANDUM TO

THE LONDON THAMES GATEWAY DEVELOPMENT CORPORATION (PLANNING FUNCTIONS) (AMENDMENT) ORDER 2011

2011 No. 549

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 amends the London Thames Gateway Development Corporation (Planning Functions) Order 2005 (S.I.2005/2721) ("the 2005 Order"), which made the London Thames Gateway Development Corporation ("the Corporation") the local planning authority in place of the London Boroughs of Barking and Dagenham, Hackney, Havering, Newham and Tower Hamlets in the planning functions area, (which includes the area known as London Riverside) in relation to the kinds of development specified in the Order. The 2005 Order was amended by the London Thames Gateway Development Corporation (Planning Functions) (Amendment) Order 2006 (S.I. 2006/2186) which made minor changes to the planning functions area to ensure that the boundaries of the development corporation and the Olympic Delivery Authority are consistent

2.2 This Order amends the definition of the planning functions area in the 2005 Order (shown on relevant maps) to exclude the London Riverside area and to provide that planning functions in the excluded area return to previous local planning authorities, namely the London Boroughs of Barking and Dagenham, Havering and Newham.

2.3 The Order also makes various transitional provisions (including provision for the Corporation to transmit applications received but not determined by it prior to the date on which the Order comes into force, to the relevant local planning authorities for determination).

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

3.1 None

4. Legislative Context

4.1 The Corporation 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.

4.2 Section 149 of the Local Government, Planning 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 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 also 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 2005 Order provided for the development corporation to be "the local planning authority" for the purposes of Part 3 of the Planning Act, in the planning functions area, defined in article 3, for broadly "strategic development", specified in article 4. Article 5 of the Order conferred on the Corporation the functions of a local planning authority under the Listed Buildings Act , specified in the Schedule to the Order and article 6 applied all the provisions listed in Part 2 of Schedule 29 to the 1980 Act in relation to the Corporation, subject to the modifications set out in that Part.

4.4 The 2005 Order was amended by the London Thames Gateway Development Corporation (Planning Functions) (Amendment) Order 2006 (S.I. 2006/2186) which made minor changes to the planning functions area to ensure that the boundaries of the development corporation and the Olympic Delivery Authority are consistent.

4.5 This Order amends the definition of the planning functions area in the 2005 Order (shown on relevant maps) to exclude the London Riverside area and to provide that planning functions in the excluded area return to the local planning authority who, but for the 2005 Order, would be the local planning authority within the meaning of section 336(1) of the Planning Act. The relevant local planning authorities, are the London Boroughs of Barking and Dagenham, Havering and Newham.

4.6 The Order also makes various transitional provisions 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

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

7. Policy background

- What is being done and why

7.1 The 2003 Sustainable Communities Plan ("Sustainable communities: building for the future" ODPM) 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 urban development corporation are set out in section 136 of the 1980 Act.

7.2 The London Thames Gateway Development Corporation was established in 2004, and made the local planning authority for strategic planning applications in its area in 2005. Its area is made up of two non-contiguous parts as shown in the 2005 Order. The area located to the west has become known as the Lower Lea, and the area located to the east is known as London Riverside. The area in respect of which the Corporation is planning authority was amended in 2006, on the establishment of the Olympic Delivery Authority.

7.3 The Coalition Government has conducted a review of all arms length bodies and on 14 October 2010 the Public Bodies Review concluded that the functions of the Corporation should be transferred to the relevant local authority or other London body.

7.4 This Order takes forward phase one of the return of planning functions to the local authorities. In the London Riverside area, the Corporation's planning functions are, by this Order, returned to the London boroughs of Barking and Dagenham, Havering and (in part) to the London borough of Newham. The development projects that the corporation has led in this area should transfer during 2012 to development partners, the relevant London boroughs or the Greater London Authority .

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- Consolidation

7.5 The Department does not intend to consolidate the Orders.

8. Consultation outcome

8.1 In June 2009, the Department undertook a Quinquennial Review of urban development corporations. The review looked at the performance and future of the Corporation and included a 12 week public consultation.

8.2 There has not been a period of formal public consultation. The Government announced on 14 October 2010 that the Public Bodies Review had concluded that the functions of the Corporation should be transferred to the relevant local authority or other London body.. The Department has consulted the London Thames Gateway Development Corporation and the relevant London Boroughs on this Order, who have agreed the planning functions in question should be returned.

9. Guidance

No guidance on this Order will be issued. The Order does not impose any new obligations on the local authorities affected. They are already the local planning authority for the parts of their area outside the Corporation boundary.

10. Impact

10.1 There is no expected impact on business, charities or voluntary bodies as new planning applications and those not yet determined will be transmitted to the relevant local authority to determine. The Corporation and the local authorities have put in place a protocol to minimise any delays to the planning process.

10.2 The impact on the public sector is limited to the local authorities who will have their responsibility as planning authority restored. Development control is a statutory function of a local authority funded through planning fees income on a cost recovery basis. As such there should be no new financial burden associated to the local authorities with this transfer. No Government funding was withdrawn from the local authorities when the development control function was initially transferred to the Corporation. During the period the Corporation was planning authority the relevant fee paid to them has been transferred to the local authority.

10.3 An Impact Assessment has not been prepared for this instrument as projected costs/benefits are below £5 million.

11. Regulating small business

11.1 The Order does not change the way in which planning applications by small businesses are handled.

12. Monitoring & review

12.1 The effect of the Order is to return all planning functions in the London Riverside area to the relevant local authorities on 1 April 2011. The Department has put in place arrangements to monitor the transition. The local authorities concerned and the Corporation have put in place arrangements to ensure delivery, and identify issues and risks.

12.2 The Order represents the first phase of transfer of planning functions from the Corporation. Its effect will be considered when preparing any future

Order to transfer remaining planning functions. It is the intention to do this during 2012.

13. Contact

Alison Bowerbank at the Department for Communities and Local Government Tel: 0303 444 1936 or email: Alison.bowerbank@communities.gsi.gov.uk can answer any queries regarding the instrument.