EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING GENERAL (AMENDMENT) (ENGLAND) REGULATIONS 2011

2011 No. 1589

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 These Regulations amend the Town and Country Planning General Regulations 1992 (S.I. 1992/1492) ("the 1992 Regulations") as amended, to enable urban development corporations to grant themselves planning permissions which run with the land.

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

3.1 None

4. Legislative Context

4.1 Part 16 of the Local Government, Planning and Land Act 1980 (c.65) provides for the designation of urban development areas and for the establishment of urban development corporations ("UDCs"). Their function is to secure the regeneration of their area. Section 149 of that Act enables the Secretary of State, by order, to provide for a development corporation to be the local planning authority for the whole or part of its area for the purposes of Part 3 (development control) of the Town and Country Planning Act 1990 (c.8) ("the 1990 Act"), in relation to the kinds of development prescribed in the Order. The Order may make provision for additional planning matters. Section 7 of the 1990 Act provides that where an order is made under section 149 of the Local Government, Planning and Land Act 1980, the UDC specified in the Order is the local planning authority for the area or part of the area specified, for the purposes and development specified.

4.2 Section 316 of the 1990 Act enables the Secretary of State to make regulations governing the development of land by "interested planning authorities", defined by section 316(6). The 1992 Regulations provide for the granting of planning permission in respect of land owned by interested planning authorities and development by them. In this context, an "interested planning authority", in relation to any land, means any body which exercises any of the functions of a local planning authority in relation to that land; and land is land of an authority if the authority has any interest in it. UDCs with planning functions fall within this definition.

4.3 Generally, planning permission runs with land but, under regulation 9 of the 1992 Regulations, where an interested planning authority grants itself planning permission for its own development, the permission enures only for the benefit of the authority or, in the case of joint development, the authority and the joint developer.

4.4 The 1992 Regulations were amended by S.I. 1998/2800 so as to exclude from the ambit of regulation 9 those planning authorities which are the sole local authority for their area.

4.5 These Regulations further amend the 1992 Regulations to exclude a UDC, which is an interested planning authority, from the ambit of regulation 9, to enable the UDC to grant itself planning permission which enures for the benefit of the land.

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 Generally, planning permission runs with land but, under regulation 9 of the 1992 Regulations, where an "interested planning authority" grants itself planning permission for its own development, that permission is only for the benefit of that authority (or, in the case of joint development, the authority and the joint developer). Hence, if an "interested planning authority" is wound up, any planning permissions for development granted by that authority for its own development will lapse.

7.2 The policy of the Government is to enhance the freedom of local communities to run their own affairs in their own way. Further to this "localism" policy, the three unelected UDCs[1] are to be wound up between 2012 and 2014 and their planning functions transferred to the elected local planning authorities for the relevant areas.

[1] London Thames Gateway, Thurrock, West Northamptonshire

7.3 This instrument is designed to ensure that winding-up the UDCs does not delay the progress of redevelopment and regeneration schemes where these have been granted planning permission by the UDCs, after the coming into force of the Regulations. It amends regulation 9 so that planning permissions granted by a UDC for their own development will apply to the land concerned rather than to the UDC. Such planning permissions will not expire when the UDC that granted them is wound up.

7.4 The effect of this instrument will be to avoid burdening the local authorities that take over the planning functions of the UDCs with having to re-consider the grant of planning permissions, and to renegotiate related contracts signed by the UDCs. Having to do these things would:

- impose additional administrative costs on the local authorities;
- delay redevelopment and regeneration schemes; and
- delay the realisation of benefits to local communities generated by these schemes.

- Consolidation

7.5 The Department does not intend to consolidate the Regulations.

8. Consultation outcome

8.1 No consultation has been undertaken. This is because the amendment will not impact adversely on business, communities or individuals. Nor will it change existing statutory planning procedures to their disadvantage. It will simply ensure that future planning permissions granted under those procedures (which provide for local involvement) by UDCs will not lapse when the UDCs are wound up.

9. Guidance

9.1 No guidance on the Regulations will be issued. The Department will inform the UDCs and the local authorities for the relevant areas that the instrument has been made and will explain its effect.

10. Impact

10.1 The impact on business, charities or voluntary bodies is positive. The amendment will not limit their activities. Instead, it will benefit them by significantly reducing the risk that redevelopment and regeneration schemes beneficial to them and to local communities will be delayed.

10.2 The impact on the public sector is positive. The local authorities which will assume the planning responsibilities of the UDCs when they are wound up will not have to repeat procedures already properly completed by the UDCs

(in which the local authorities will have participated) and so will not have to incur the additional costs of doing so.

10.3 There is no expected impact on business, the third sector or local authorities, as the effect of the amendment will be to continue planning permissions granted after due process in which they could participate. So an Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Department will review the position prior to the transfer of planning functions from UDCs to local planning authorities, to confirm that all parties are aware of the effect of the instrument.

13. Contact

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can answer any queries regarding this instrument.