EXPLANATORY MEMORANDUM TO

The West Northamptonshire Development Corporation (Planning Functions) (Amendment) Order 2011

2011 No. 560

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 West Northamptonshire Development Corporation (Planning Functions) Order 2006 (S.I.2006/616) ("the 2006 Order"), which made the West Northamptonshire Development Corporation ("the Corporation") the local planning authority in place of Daventry and South Northamptonshire District Councils, Northampton Borough Council, and of Northamptonshire County Council in relation to the kinds of development and within the urban development area specified in the Order.

2.2 The effect of the present Order is to amend the 2006 Order so that the Corporation will continue to exercise planning functions in relation to specified kinds of development, in the whole of the urban development area, while planning functions in the former central planning and outer planning functions area, relating to development which is not so specified, are returned to those authorities which were local planning authorities prior to the 2006 Order.

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

None

4. Legislative Context

4.1 The Corporation was established by the West Northamptonshire Development Corporation (Area and Constitution) Order 2004 (S.I. 2004/3370) ("the 2004 Order") for the purpose of regenerating three areas in West Northamptonshire, which it designated as an urban development area (UDA).

4.2 Section 149 of the Local Government, Planning and Land Act 1980 ("the 1980 Act") enables the Secretary of State to make provision by order so that an urban development corporation is 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 provide that certain provisions of the Planning Act apply in relation to the Corporation subject to the modifications set out in Part 2 of Schedule 29.

4.3 The 2006 Order provided for the development corporation to be the local planning authority, for the purposes of Part 3 of the Planning Act , in the "central planning functions area" in Northampton Town Centre, for broadly all kinds of development (except that relating to households) . It also provided for the Corporation to be the local planning authority for those purposes in the "outer planning functions area", in relation to specified kinds of developments, broadly "strategic development".

4.4 The 2006 Order applied all of the provisions of the Planning Act 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.

4.5 This Order amends the 2006 Order to provide that the Corporation is the local planning authority in the whole of the development area in relation to the kinds of development specified in the Order. The definitions of "central planning functions area" and "outer planning functions area" are removed and, as a result of this, planning functions relating to certain kinds of development return to the local planning authority who, but for the 2006 Order, would be the local planning authority in accordance with Part 1 of the Planning Act.

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

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 (UDC) are set out in section 136 of the 1980 Act.

7.2 The Corporation was established in 2004. In 2006 the Corporation became the local planning authority for strategic planning applications in the outer planning functions area, as defined by the Order, and almost all planning applications except householder development in the central planning functions area.

7.3 In June 2009, the Department undertook a Quinquennial Review of the three urban development corporations in England. The review looked at the performance and future of the UDCs and included a 12 week public consultation.. The review concluded that the Corporation should become a more strategic delivery focussed organisation and that planning functions should be returned to the local authorities in a staged and managed process. The Government subsequently conducted a review of all arms length bodies and, on 14 October 2010, the Public Bodies Review confirmed the approach for the future of the Corporation. On 28 September Andrew Stunell, Minister of State for the Department of Communities and Local Government announced that, subject to Parliamentary approval, the changes would start to take effect from April 2011.

7.4 This Order takes forward phase one of the return of planning functions to the local authorities and amends the 2006 Order to modify the types of development for which the Corporation is responsible. Henceforth, the Corporation will only be the planning authority for strategic developments within its development area, as specified in the Order. In respect of highways, the Corporation retain responsibility for any highway applications which enable a development specified in sub-paragraphs (a) to (g) of article 5(1) of the Order. Responsibility for applications below the revised thresholds and responsibility for mineral and waste applications will return to the relevant local planning authority.

- Consolidation

7.7 The Department does not intend to consolidate the Orders.

8. Consultation outcome

8.1 A 12 week consultation took place between 22 June and 18 September 2009 as part of the Quinquennial Review. The consultation sought views on the future and performance of the UDC and included questions on whether the Corporation's planning powers should be modified and, if so, in what way. 291 responses were received including from the four local authorities, public sector bodies, businesses, developers, members of the public and 237 responses from an organised campaign. There was widespread agreement in favour of modifying UDCs planning powers. A number of respondents felt that planning powers should be returned to the local authorities immediately others felt that the powers should return in a phased way starting with raising the threshold of applications dealt with by the Corporation. The Government's

response recognised the significant role that the Corporation had played in planning decisions since 2006 but decided that it was the right time to start the return of these functions to the relevant local authorities and proposed to take the process forward in stages beginning with raising the threshold of applications dealt with by the Corporation to 200 dwellings and returning mineral and waste applications to the County Council.

Subsequent consultation and discussion has taken place with the local authorities on the detail of the Order.

A more detailed analysis of the consultation outcome can be found here.

9. Guidance

9.1 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 authorities for the parts of their areas outside the Corporation boundary.

10. Impact

10.1 There is no expected impact on business or the third sector as new planning applications and applications not yet determined will be transmitted to the relevant 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 for applications between the previous and revised thresholds restored. Development control is a statutory function of a local planning 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.

10.3 An Impact Assessment has not been prepared for this instrument as there is no expected impact on business or the 3rd sector and the impact on the public sector is expected to be below £5m.

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 responsibility for mineral and waste applications and all planning applications below the new threshold to the relevant local authority from 1 April 2011. The Department has put in place

arrangements to monitor the transition. The Corporation and the local authorities concerned have put in place arrangements to ensure delivery and identify issues and risks.

12.2 The Order represents the first phase of the 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 review this within 6 months.

13. Contact

Xavia Morbey at the Department for Communities and Local Government tel: 0303 4443815 or email: Xavia.Morbey@communities.gsi.gov.uk can answer any queries regarding the instrument.