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STATUTORY INSTRUMENTS

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**2011 No. 560**

**URBAN DEVELOPMENT**

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

*Made - - - - 23rd February 2011*  
*Laid before Parliament 2nd March 2011*  
*Coming into force - - 1st April 2011*

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by sections 149(1), (3), (11) and (13) of the Local Government, Planning and Land Act 1980<sup>(1)</sup>, makes the following Order:

**Citation and commencement**

1. This Order may be cited as the West Northamptonshire Development Corporation (Planning Functions) (Amendment) Order 2011 and shall come into force on 1st April 2011.

**Interpretation**

2. In this Order—

“outline planning permission” and “reserved matters” have the same meanings as in section 92 of the 1990 Act<sup>(2)</sup>;

“relevant authority” means the authority which, but for the 2006 Order as unamended by this Order, would be the local planning authority in accordance with Part 1 of the 1990 Act; and

“the 2006 Order” means the West Northamptonshire Development Corporation (Planning Functions) Order 2006<sup>(3)</sup> and the “development corporation “ means the West Northamptonshire Development Corporation.

**Amendment of Order**

3. The 2006 Order is amended as follows.

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(1) 1980 c.65; section 149 was amended by Schedule 1 to, and paragraph 44(6) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11). There are other amendments not relevant to this Order. See also, in relation to urban development corporations, section 7 of the Town and Country Planning Act 1990 (c. 8).

(2) 1990 c.8.

(3) S.I.2006/616.

### **Amendment relating to interpretation**

4. In article 2 (interpretation), omit the definitions of “the central planning functions area” and the “outer planning functions area”.

### **Amendments relating to the planning functions area and planning functions of the development corporation**

5.—(1) Articles 3 and 4 are omitted.

(2) For articles 5(1) and (2), substitute—

#### **“Planning functions of the development corporation in the development area**

5.—(1) Subject to articles 7 and 8, the development corporation shall be the local planning authority for the development area for the purposes of Part 3 of the 1990 Act in relation to the following kinds of development—

- (a) development which comprises or includes the provision, or is likely to result in the loss of, 200 or more dwellinghouses (irrespective of whether the development would also entail the provision of new dwellinghouses);
- (b) development which comprises or includes the provision of dwellinghouses where the development occupies 4 hectares or more of land;
- (c) development which is likely to prejudice the residential use of land, where that land exceeds 4 hectares and is used for residential use;
- (d) development which comprises or includes the provision of, or is likely to result in the loss of, 2,500 or more square metres of floorspace for mixed use;
- (e) development which comprises or includes a mixed use where the development occupies two hectares or more of land;
- (f) development which comprises or includes the provision, or is likely to result in the loss of, 2,500 or more square metres of floor space for a use falling within any or all of the following classes of the Use Classes Order<sup>(4)</sup>—
  - (i) Class A1 (shops);
  - (ii) Class A3 (restaurants);
  - (iii) Class A4 (drinking establishments);
  - (iv) Class A5 (hot food takeaways);
  - (v) Class B1 (business);
  - (vi) Class B2 (general industrial);
  - (vii) Class B8 (storage or distribution);
  - (viii) Class C2 (residential institutions);
  - (ix) Class D1 (non-residential institutions);
  - (x) Class D2 (assembly or leisure);
- (g) development which comprises or includes the provision of a use falling within Class B1, B2, B8 or D2 of the Use Classes Order where the development occupies 2 hectares or more of land;
- (h) development which comprises, includes the provision of, or extends—

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(4) S.I. 1987/764; relevant amending instruments are S.I. 1991/1567, S.I. 1992/610, 1992/657, S.I. 1995/297, S.I. 1999/293, S.I. 2005/84, S.I. 2006/220 and S.I. 2006/1282.

- (i) an aircraft runway, airfield or aerodrome;
  - (ii) a heliport (including a helipad on a building);
  - (iii) an air passenger terminal;
  - (iv) a railway station;
  - (v) a tramway, an underground, surface or elevated railway, or a cable car;
  - (vi) a bus or coach station;
  - (vii) a waterway, river or canal crossing or pier;
  - (viii) any highway (other than a bridle way, cycle way or footpath) where the development forms part of a development specified in sub-paragraphs (a) to (g) of this paragraph;
  - (i) development which occupies 2 hectares of land or more and which—
    - (i) is likely to prejudice the use, or lead to the loss of use, of land being used as a playing field; or
    - (ii) is on land which has been—
      - (aa) used as a playing field at any time in the 5 years before the making of the relevant application for planning permission and which remains undeveloped;
      - (bb) allocated for use as a playing field in a development plan or in proposals for such a plan or its alteration or replacement.”.
- (3) In article 5(3)—
- (a) substitute “(2)” for “(3)”;
  - (b) for sub-paragraph (c) substitute—

““playing field” has the same meaning as in paragraph (za) of the Table in Schedule 5 to the Town and Country Planning (Development Management Procedure) (England) Order 2010 (consultations before the grant of permission)(5)
  - (c) sub-paragraphs (f) to (h) are omitted.
- (4) In article 6, for “central planning functions area and the outer planning functions area” substitute “development area”.

### **Transitional provision: applications to the development corporation**

**6.—(1)** This article applies as respects any application for planning permission or for a consent or approval or determination under the 1990 Act, or under any order or regulation made or having effect under the Act which —

- (a) is for development in the development area of a kind specified in article 4 or 5 of the 2006 Order as unamended by this Order, and which is not of a kind specified in article 5 as substituted by this Order;
- (b) was duly made to the development corporation before this Order came into force; and
- (c) has not been determined when this Order came into force.

(2) This article does not apply to any application for approval of reserved matters, where the relevant outline planning permission has been granted by the development corporation.

(3) The development corporation must transmit any application to which this article applies to the relevant authority for determination by that authority.

(4) Where the development corporation transmits an application to the relevant authority for determination, the application shall be treated as received by the authority from the applicant on the day on which it is transmitted to the authority.

(5) If after this Order comes into force, an application is made to the development corporation, which by virtue of the preceding provisions of this Order has ceased to be the local planning authority in respect of that development, the development corporation must transmit the application to the relevant authority for determination.

(6) Where an appeal is made to the Secretary of State under section 78 of the 1990 Act (6) against a decision or determination made in relation to an application for development for which, by virtue of the preceding provisions of this Order the development corporation has ceased to be the local planning authority responsible for making such a decision or determination, the development corporation shall continue to be the local planning authority for the purposes of the appeal.

#### **Transitional provision: compensation**

7.—(1) Where a right to compensation arises under section 107, 108 or 115 of the 1990 Act (7) in consequence of action taken in relation to land within the development area by the development corporation, the development corporation shall be liable for any compensation which is payable.

(2) Where—

(a) the Secretary of State makes a determination —

(i) of an appeal against action taken by the development corporation; or

(ii) on a reference made to the Secretary of State by the development corporation; and

(b) that determination gives rise to a right to compensation,

the development corporation shall be liable to pay the compensation.

(3) Where, on or after the date of the coming into force of this Order, the Secretary of State —

(a) makes an order under section 100 or 104 of the 1990 Act (8) in respect of a matter arising before that date, which relates to land in the development area; or

(b) serves a notice under section 185 of that Act in respect of such a matter,

the development corporation shall remain liable to pay any compensation arising from the order or notice.

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(6) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c.34), by section 40(2)(c) of the Planning and Compulsory Purchase Act 2004 (c.5) and by sections 196 and 197 of and paragraphs 1 and 3 of Schedule 10 and paragraphs 1 and 2 of Schedule 11 to the Planning Act 2008 (c.29).

(7) Section 107 was amended by paragraph 8 of Schedule 1 to, and paragraph 13 of Schedule 6 to the Planning and Compensation Act 1991; section 108 was amended by section 13(4) of that Act and section 189 of the Planning Act 2008.

(8) Section 100 was amended by paragraph 5 of Schedule 1 to the Planning and Compensation Act 1991 and section 202 is prospectively amended, from a date to be appointed, by section 192 and paragraphs 7 and 10 of Schedule 8 to the Planning Act 2008.

Signed by authority of the Secretary of State for Communities and Local Government

23rd February 2011

*Andrew Stunell*  
Parliamentary Under Secretary of State  
Department for Communities and Local  
Government

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The West Northamptonshire Development Corporation (the corporation) was established by the West Northamptonshire Development Corporation (Area and Constitution) Order 2004 (S.I. 2004/3370) for the purpose of regenerating the West Northamptonshire urban development area.

The West Northamptonshire Development Corporation (Planning Functions) Order 2006 (the 2006 Order) made the corporation the local planning authority in the central planning functions area and outer planning functions area (as defined by that Order) in relation to specified kinds of development for the purposes of Part 3 of the Town and Country Planning Act 1990.

This Order amends the 2006 Order.

The Order makes the corporation the local planning authority in the development area in relation to specified kinds of development for the purposes of Part 3 of the 1990 Act. Articles 3 and 4 of the 2006 Order are omitted (*article 4*).

The effect of the amendments is that the development corporation ceases to be the local planning authority in the former central planning functions area and outer planning functions area, in relation to specified kinds of development for the purposes of Part 3 of the Town and Country Planning Act 1990. The planning functions in relation to these developments revert to the authority which, but for the 2006 Order, would be the local planning authority.

There are transitional provisions relating to applications and the payment of compensation (*articles 5 and 6*).

An impact assessment was prepared in relation to the West Northamptonshire Development Corporation (Planning Functions) Order 2006. It is available on the internet at [www.communities.gov.uk](http://www.communities.gov.uk) Alternatively copies may be obtained from the Planning Directorate, Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU. An impact assessment has not been prepared for this instrument as there is no expected impact on business or the third sector and the impact on the public sector is expected to be below £5 million.

