


Non-Executive Report of the: Council 17 July 2024	 TOWER HAMLETS
Report of: Paul Patterson, Interim Corporate Director of Housing and Regeneration	Classification: Unrestricted
London Legacy Development Corporation – Interim Delegation Schemes	

Wards Affected	All wards
Originating Officer(s)	Matt Newby – Principal Planner – Corporate Lead Paul Buckenham – Head of Development Management

Executive Summary

The Mayor of London has formally decided that the London Legacy Development Corporation should cease to be a Local Planning Authority for its area and that planning functions should be transferred back to Tower hamlets and the other Growth Boroughs on 1 December 2024.

Secondary legislation is required to be enacted by Parliament to revoke the LLDC current planning functions.

This report seeks Council approval for two separate interim delegations of planning functions from the London Legacy Development Corporation to the London Borough of Tower Hamlets (as part of the “Growth Boroughs”) in preparation for the transfer of LLDC’s planning powers on the 1 December 2024.

The first interim delegation scheme would enable LB Tower Hamlets to take on limited planning functions, mainly the receipt and determination of new planning applications received between 1 September 2024 and 30 November 2024 (3 months prior to transition date).

The second interim delegation scheme would delegate all planning functions from the LLDC to Tower Hamlets (as part of the Growth Boroughs) from the 1 December 2024 and would only be required in the event that the legislation required for the transfer of all planning powers does not receive Parliamentary approval prior to the transition date.

Both of these schemes intend to provide continuity of planning work and enable a smooth transition of planning functions to the Growth Boroughs in accordance with the Memorandum of Understanding (MoU) and ISD.

The decision to exercise functions delegated by another authority is reserved to the full Council.

Recommendations:

The Council is recommended to:

1. Agree to enter into the first Interim Delegation Scheme with the London Legacy Development Corporation (under Section 203 of the Localism Act) to perform planning functions on behalf of LLDC limited to determining planning applications on their behalf, as submitted from the 1 September 2024 to 30 November 2024 or until planning powers are formally transferred through legislation.
2. Agree to enter into the second Interim Delegation Scheme with the London Legacy Development Corporation (under Section 203 of the Localism Act) to perform all planning functions on their behalf from 1 December 2024 until planning powers are formally transferred through legislation.

1. REASONS FOR THE DECISIONS

- 1.1 The Mayor of London has decided that the London Legacy Development Corporation role as a Local Planning Authority should cease, and town planning powers should transfer to the Growth Boroughs on the 1 December 2024.
- 1.2 To facilitate the smooth and effective transition of Town Planning functions from the London Legacy Development Corporation to Tower Hamlets, two interim, time limited, delegation schemes (IDS) are proposed. Details are set out in this report.
- 1.3 The Council's constitution sets out that the decision to exercise functions that are delegated by another authority is reserved to the full Council.

2. ALTERNATIVE OPTIONS

- 2.1 There is no obligation on the Council to accept functions delegated by another authority. Hence an alternative option would be to not approve either one or both interim delegation schemes.
- 2.2 If the first IDS is not approved, the LLDC would continue to register and determine new applications for planning permission until such time as planning powers are formally revoked by the Parliamentary process.
- 2.3 If the second IDS is not approved and the Statutory Instrument (SI) is delayed in Parliament beyond the 1 December transition date, the LLDC would continue to be the LPA for its area and exercise all town planning functions until the SI comes into force.

- 2.4 Both of the above alternative options would impact on the smooth transition of planning powers, creating a “cliff edge” approach at the point when the SI comes into force and are therefore not recommended.

3. DETAILS OF THE REPORT

BACKGROUND INFORMATION

- 3.1 The London Legacy Development Corporation (LLDC) is a London Mayoral Development Corporation (MDC) established in 2012 under Section 198 of the Localism Act 2011.
- 3.2 The LLDC’s stated remit is to deliver the Olympic legacy commitments made in the original London 2012 Games bid - the physical transformation legacy of the Games, the long-term planning, development Management and maintenance of the park and its surrounding areas after the 2012 Games.
- 3.3 The LLDC is the Local Planning Authority for its area with planning powers for Local Plan making, determining planning applications, appeals and enforcement. These powers were transferred to the LLDC from LB Tower Hamlets under the *London Legacy Development Corporation (Planning Functions) Order 2012*.
- 3.4 The LLDCs planning area in Tower Hamlets comprises Fish Island, parts of Hackney Wick and Bromley by Bow. Applications for development within this area currently are submitted to and determined by the LLDC. Tower Hamlets is a statutory consultee but has no decision-making powers.
- 3.5 In February 2020, the LLDC’s Board agreed that its town planning powers and functions should return to the four neighbouring boroughs of Tower Hamlets, Hackney, Newham and Waltham Forest (also known as the Growth Boroughs) by the transition date.
- 3.6 On the 8 September 2022, the Mayor of London formally decided for the purposes of the Localism Act 2011, that from 1 December 2024 the LLDC shall cease to exercise its town planning functions and has confirmed to the Secretary of State his intention to return planning powers from the LLDC to the four Growth Boroughs with effect from 1 December 2024.
- 3.7 To enable the transfer of planning powers from the LLDC, secondary legislation is required by Parliament, described as a **Statutory Instrument (SI)**.
- 3.8 The draft legislation is being progressed by the Department for Levelling Up, Housing and Communities (DLUHC) and is expected to be laid before Parliament later this year, in time to come into force before 1 December 2024.

- 3.9 The Mayor of London will also prepare a Statutory Transfer Scheme (STS) under Section 216 of the Localism Act 2011. The STS lists the existing rights and liabilities to be transferred including planning applications, enforcement cases, appeals, planning obligation agreements and receipts and Community Infrastructure Levy receipts.
- 3.10 On the 25 October 2023, the Mayor in Cabinet agreed the STS with the Mayor of London. This was subsequently approved via a Mayoral Decision (under MD3256) by the Mayor of London on 12 March 2024.

PROPOSED INTERIM DELEGATION SCHEME (IDS) FOR PLANNING APPLICATIONS

- 3.11 If the SI is confirmed by Parliament, the LLDC will cease to be a Local Planning Authority on 1st December 2024. Tower Hamlets, Hackney, Newham and Waltham Forest will resume full planning powers under the Town and Country Planning Act 1990 for the areas within their administrative boundaries.
- 3.12 Growth Boroughs officers have been working with the LLDC to establish a smooth planning transition process in the period running up to the 1 December 2023. Growth Borough planning leads and the Director of Planning Policy and Decisions at LLDC have confirmed in a Memorandum of Understanding that it would be expedient that any new planning applications submitted to the Development Corporation in the three months prior to the 1 December, to be dealt with by the four boroughs (see **appendix 1**).
- 3.13 Section 203 of the Localism Act 2011 includes a provision for Mayoral Development Corporations to make arrangements with a London Borough Council *for discharge of, or assistance with, planning functions*.
- 3.14 Using the powers under Section 203, two **Interim Schemes of Delegation (IDS)** are proposed (see **appendix 2 & 3**)

The first IDS

- 3.15 The first would take effect from 1st September 2024 until 30th November 2024 and would delegate the determination of any planning applications received in that period and within Tower Hamlets to the Council to determine.
- 3.16 There are several benefits to this approach:
- Certainty and continuity for applicants, by avoiding new applications being submitted to the LLDC in the period up to transition and then having to be transferred and re-allocated to staff within the Growth Boroughs when the LLDC ceases to be a local planning authority.
 - It would allow the LLDC planning teams to focus their resources on existing on hand cases, thereby reducing the number of undetermined planning applications that may otherwise have to be transferred on the transition date.

- The Growth Boroughs will start to influence future planning decision in the Olympic Legacy area at an earlier stage, prior to formal planning transition.
- The receiving Borough would have the benefit of the statutory planning fees.

The Second IDS - mitigation if the statutory instrument is delayed

- 3.17 DLUHC anticipates that the draft Statutory Instrument (secondary legislation) that revokes the LLDC planning powers will be laid before Parliament after the general election in time to pass through the Parliamentary stages and to come into force before the 1 December transition date.
- 3.18 However the pause in parliamentary business due to the election increases the risk that the Statutory Instrument could be delayed.
- 3.19 To mitigate the effect of the delay on the proposed return of planning powers a second interim delegation scheme is recommended (see **appendix 3**). This would operate from 1 December 2024 covering all planning functions until such time as the necessary legislation is enacted for the LLDC to cease to be a Local Planning Authority.
- 3.20 The Statutory Transfer scheme agreed by the Mayor in Cabinet on 25 October 2023 will provide the mechanism for the transfer of Community Infrastructure Levy (CIL) and other financial receipts received by the LLDC as planning obligations under Section 106 of the Town and Country Planning Act 1990 and the future collection of CIL within the LLDC area.

LBTH GOVERNANCE PROCESS FOR AGREEING THE DELEGATION SCHEMES

- 3.21 The decision to carry out functions delegated by another authority is set out in Section 7 of the Tower Hamlets Constitution as a decision being reserved for Full Council.
- 3.22 Decisions on planning applications are a non-executive function delegated by the Council to the Development and Strategic Development Committees to officers.
- 3.23 Both Development and Strategic Development Committees have been advised of the proposed first IDS (meetings on 25 April 2024 and 14 May 2024 respectively). Both Committees have confirmed their agreement to determine planning applications under the IDS if it is agreed by the Council.
- 3.24 The Director of Planning and Building Control has confirmed their agreement in principle to the IDS within a Memorandum of Understanding.
- 3.25 The second IDS is broader in scope and covers all planning functions, including plan making which is an executive function. The Mayor and the Lead Member have been briefed regularly on the progress towards the IDS, both through

officer updates, as part of the LLDC Transition Growth Borough Partnership and Mayor as LLDC Board Member. Officers will continue to provide updates going forward through to the transition date.

- 3.26 The LLDC Board approved the two separate ISD at their Board meeting on the 21 May 2024.

4. EQUALITIES IMPLICATIONS

- 4.1 This report is seeking approval of an interim arrangement to delegate Local Authority function. Any planning decisions from this arrangement will be made in accordance with the relevant Development Plan. The London Plan, the LLDC Local Plan and the LBTH Local Plan have all been subject to EQIAs. The Tower Hamlets Local Plan which is under review and will cover the LBTH component of the LLDC area will be subject to an EQIA as part of this process. This process is to ensure the legal duty to equalities issues are fully considered as part of the planning process.
- 4.2 Impacts of new (development) proposals on equalities are also considered as part of the Development Management process and set out delegated and committee reports.
- 4.3 It is envisaged that the processes proposed by the Interim Scheme of Delegation set out in this report, do not raise any equalities implications as the functions, decisions and planning activities enabled by the Interim Scheme of Delegation process are subject to their own equalities assessments, as part of the legal duty to ensure equalities are fully considered as part of the planning process.
- 4.4 An equalities screening exercise (see **appendix 4**) has taken place and no equalities implications have been identified.

5. OTHER STATUTORY IMPLICATIONS

- 5.1 No further statutory implications have been identified.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 The report is seeking approval for the statutory process for the transition of planning powers from the London Legacy Development Corporation to Tower Hamlets, firstly on an interim basis from 1st September 2024, where limited planning functions around new applications would transfer and from 1st December all planning functions would transfer.
- 6.2 There are a number of financial implications emanating from the transfer of planning powers back to the Council. There will be an increase in workload at the planning department will become liable for monitoring and enforcing all existing planning obligations secured in Section 106 Agreements and collection

of CIL and the monitoring and enforcement of grant funding agreements with third party organisations to deliver certain planning obligations. The team will also be required to administer live planning applications and future applications for development that previously would have been the responsibility of the LLDC.

- 6.3 The Council will benefit from additional planning income from statutory planning application and pre-application fees. These fees should meet the additional cost associated with the increased work outlined above and therefore the cost associated with transferring planning powers back to the Council should not impact negatively on the General Fund budget position.
- 6.4 Any unallocated receipts of Section 106 agreements within the Tower Hamlets portion of the LLDC, as at the date of transfer of powers, will be transferred to the Borough.
- 6.5 Any unallocated receipts from the Community Infrastructure Levy will be transferred to each of the Growth Boroughs on a pro-rata basis, determined by the geographic area of land within the LLDC boundary. For Tower Hamlets this would equate to 16% of the unallocated receipts.

7. COMMENTS OF LEGAL SERVICES

- 7.1 The Report details the current arrangements for determining planning applications with the area of the LLDC, part of which include areas of LBTH. It notes that legislation is pending which will see the return of statutory planning functions presently exercised by the LLDC to LBTH for those areas of the borough detailed in the Report. This report details the proposals for a handover period to allow a smooth transition of functions from the LLDC to LBTH and a mitigation if the necessary legislation should be delayed beyond 1 December. Section 203 of the Localism Act 2011 provides the legal basis for the proposals by way of schemes of delegation from LLDC to LBTH.
 - 7.2 Similar processes are under way with the other LLDC London Boroughs (LB Hackney, LB Newham and LB Waltham Forest)
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Linked Reports, Appendices and Background Documents

Linked Report (s)

- [Development Committee Report \(25th April 2024\)](#)
- [Strategic Development Committee Report \(14th May 2024\)](#)

Appendices

- Appendix 1: LBTH Interim Scheme of Delegation Memorandum of Understanding (MOU)
- Appendix 2: First Interim Delegation Scheme: 1 September 24 – 30 November 24
- Appendix 3: Second Interim Delegation Scheme: 1 December 24 onwards
- Appendix 4: Equalities Screening

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- None

Officer contact details for documents:

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