

THE EXECUTIVE

11 OCTOBER 2005

REPORT OF THE HEAD OF PLANNING AND TRANSPORTATION

This report is submitted under Agenda Item 7. The Chair will be asked to decide if it can be considered at the meeting under the provisions of Section 100B(4)(b) of the Local Government Act 1972 as a matter of urgency, so as to avoid delay obtaining the necessary changes to the Council's Constitution required to set up of the Urban Development Corporation.

London Thames Gateway (Urban) Development Corporation: Proposed Planning Service Agreement	For Decision
<p>Summary:</p> <p>At the meeting held on the 8 March 2005, the Executive considered a report on the proposed planning protocol and service level agreement between the Council and the London Thames Gateway Development Corporation.</p> <p>The Executive agreed</p> <ol style="list-style-type: none">1. To the proposed Planning Protocol as a means of establishing a working relationship with The London Thames Gateway Development Corporation (the Urban Development Corporation (UDC)) on planning matters.2. To authorise the Director of Regeneration and Environment to conclude negotiations on the draft Service Level Agreement in line with the Charging Policy Commission. This should be fully funded by the UDC. <p>Since that time, Officers have been negotiating with the UDC and a final Agreement has been produced. The document merges the original draft protocol and Services Level Agreement into a single document.</p> <p>The London Thames Gateway Development Corporation (the Urban Development Corporation) was established on 25 June 2004. The Local Government Planning and Land Act empowers the First Secretary of State to provide by Order for an Urban Development Corporation (UDC) to be the local planning authority for all or any part of its area. The UDC will take those planning powers on 20 October 2005.</p> <p>This will mean that the London Borough of Barking and Dagenham will cease to be the Development Control Authority for certain specified types of development within the UDC boundary. These developments are shown in Appendix A. However, Ministers have also indicated that they wish to see the UDC work closely with local planning authorities and the Greater London Authority (GLA) to ensure successful delivery. To this end, Officers have been negotiating with the UDC, to reach a Service Agreement by which planning applications for these types of development are processed by the Council's Planning staff.</p> <p>The drafting of the Service Agreement has now been completed, and is available on request.</p>	

Wards Affected:

All Wards but particularly Abbey, Gascoigne, Thames and River.

Implications:**Financial:**

The UDC has claimed that it cannot fund the additional cost to the Council of providing the SLA, estimated at £50,000 p.a. For 2005/06 the council has provided for this cost within its Planning Delivery Grant (PDG) allocation. Future years' costs will be funded from future PDG allocations, however PDG has only been confirmed for a period of four years and this agreement runs until June 2014. In addition, PDG will vary depending on planning performance. The costs incurred will be subject to review.

Legal:

The Council will lose its status as local planning authority for certain types of planning application within the UDC area. The Council's Constitution will need to be amended to give the Development Control Board power to comment on UDC applications.

Risk Management:

The UDC will take its planning powers on 20 October 2005. If the recommendations are not agreed, the Council will not be able to process planning applications on behalf of the UDC. This will jeopardise the Council's long-term relationship with the UDC and remove any Council involvement from UDC planning applications. By funding UDC commitments through PDG for this year there is a risk that if PDG is reduced in subsequent years, the risk remains with the Council.

Social Inclusion and Diversity

As this report does not concern a new or revised policy there are no specific adverse impacts insofar as this report is concerned.

Crime and Disorder:

There are no specific implications insofar as this report is concerned.

Recommendation

The Executive is recommended to agree:

1. The service agreement which defines the working relationship between the Council and the UDC on planning matters.
2. To authorise the Chief Executive to sign the Agreement.
3. That reports prepared by Officers for consideration by the UDC's planning committee be submitted to the Council's Development Control Board and any comments received be appended to the Officers report.

4. That the Assembly be recommended to amend the Scheme of Delegation within the Council's Constitution to include an additional responsibility under Section E of Part C to enable the Development Control Board to consider officer reports to the UDC Planning Committee.
5. That the Development Control Board be advised accordingly.

Reason

To assist the Council achieve its Community Priorities of “*Regenerating the Local Economy*” and “*Improving Health Housing and Social Care*”

Contact Officer	Job Title	Contact Details
Peter Wright	Head of Planning and Transportation	Tel: 020 – 8227 3900 Fax: 020 – 8227 3896 Minicom: 020 – 8227 3040 E-mail: peter.wright@lbbd.gov.uk

1. Background

- 1.1 The London Thames Gateway Development Corporation (the UDC) was established on 25 June 2004. The Local Government, Planning and Land Act (1980) enables a UDC to be a Local Planning Authority. The UDC will take its planning powers on 20 October 2005. The UDC does not have statutory ‘plan-making powers’.
- 1.2 Ministers have also made it clear that they expect the UDC to concern itself primarily with the larger, ‘strategic’ planning applications, not to interfere with the Mayor of London’s powers and not to exclude boroughs from the planning process.
- 1.3 The Planning Order will provide for the UDC to be responsible only for certain sizes and types of planning applications as shown in Appendix A. Furthermore, it is not the intention that the UDC would take on responsibility for the areas covered by the recently approved outline Planning Permissions for the Olympics and Stratford City.
- 1.4 Discussions have been progressing with the UDC for some months now and a final Agreement has been produced. A copy of the final Agreement is available on request.

2. The Proposed Agreement

- 2.1 The Agreement is made pursuant to the Local Authorities (Goods and Services) Act 1970 in respect of local authorities providing planning services to the London Thames Gateway Development Corporation.
- 2.2 The Agreement will commence on 20 October 2005 and continue until 24 June 2014 but may be extended by mutual agreement.

2.3 The Agreement may be terminated by either party after the first six months of operation by giving six months notice in writing.

3. Transitional Arrangements

3.1 The Agreement provides for the following transitional arrangements:-

- Planning applications above the threshold submitted to the Council before 20 October will continue to be determined by the Council.
- Any subsequent submission of details pursuant an application determined by the Council will be the responsibility of the UDC.
- Applications submitted after 20 October will be the responsibility of the UDC.

4. Working Arrangements

4.1 The basis of the Agreement is to enable the Council to provide a planning service to the UDC to enable and assist them to determine planning applications and carry out other planning functions as set out in the Order. This entails Council planning Officers processing applications and preparing reports for consideration by the UDC's planning Committee.

4.2 The Agreement requires a collaborative, co-operative approach to the handling of planning applications but dispute provisions are also included.

4.3 The key features of the Service Agreement are:-

- Negotiations with developers and applicants will be carried out in Partnership with negotiations normally led by the UDC
- Formal pre-application meetings will be encouraged
- Statutory Planning registers will continue to be kept by the Council
- All consultation on planning applications will be carried out by the council
- The Council and the UDC will agree a timetable for processing of each application
- The Council must allocate a Case Officer to each application and allocate staff with sufficient expertise and knowledge to progress each application.
- The UDC will nominate an Overseeing Officer to work with the Council's Case Officer on each application.
- The Council will be responsible for initial referrals to the Mayor for London and Secretary of State.

- The Council will be responsible for making normal PS1 and PS2 returns to ODPM

5 Planning Obligations

- 5.1 The UDC are insistent that they will lead negotiations over Section 106 Agreements and other planning obligations. Where the views of the Council differ significantly from the UDC over the content of Section 106 Agreements a meeting will be held between the Council's Head of Planning and Transportation and the UDC's Director of Planning to attempt to resolve the matter.

6 Planning Application Report

- 6.1 The planning application report will be prepared by the Council's Case Officer in co-operation with UDC's overseeing officer.
- 6.2 Where the views of the Council and the UDC differ in regard to the form, content or outcome of the report, a meeting will be held to attempt to resolve these. However, ultimately the UDC can reject the Officers report and draw their own conclusions.

7 The Role of Members

- 7.1 The UDC do not 'require' reports to be considered by Members of the Council before Consideration at the UDC Planning Committee.
- 7.2 The report to the Executive on 8 March 2005 recommended that any Council Officer report be 'signed off' by the Lead Councillor for Regeneration and the Chair of the Development Control Board. However, Councillor Kallar, has now been appointed to the UDC's Development Control Committee and such an arrangement could be seen to give Councillor Kallar a conflict of interest.
- 7.3 It is therefore a recommendation of this report that the Officers reports be presented to the Development Control Board and any views expressed by members of the Board be appended to the Officers report prior to submission to the UDC. This will require an amendment to the Council's constitution covering the powers and responsibilities of the Development Control Board
- 7.4 As part of the Consultation procedures, relevant Ward Councillors will be notified of the receipt of a UDC planning application.

8. Other Planning Matters

- 8.1 All planning appeals will be led by the UDC with support from Council Officers.
- 8.2 The Council will remain as the Planning Enforcement Authority.
- 8.3 The UDC will have their own performance targets and the Council will not be liable for achieving the UDC's performance target in respect of BVPI 109 (a) relating to the percentage of major applications determined within the prescribed time
- 8.4 The Council will remain as the Plan making authority.

9. Financial Considerations

- 9.1 All planning applications fees will come to the Council. However, the law stipulates that all fees should be made payable to the local planning authority. This will mean that cheques, etc, accompanying planning applications must be made payable to the UDC. The UDC will then be required to reimburse the Council
- 9.2 In agreeing to the reports considered at the Executive on 8 March 2005, the Executive stipulated that any working arrangement should be fully funded by the UDC.
- 9.3 At that meeting, the Executive was advised that the emergence of the UDC and potential working arrangements had been known for some time. As such, proposals for handling planning applications on behalf of the UDC were included in the restructure incorporated in the Best Value review of Regeneration. Assumptions were made that three additional posts would be required and these were incorporated into the restructure. It was also assumed that these posts would be funded to an estimated value of £50,000, at least in the short-term, by the UDC.
- 9.4 The UDC has now stated that it is unable to provide additional funding at this time. If the Council is still committed to support the UDC, any shortfall will need to be funded from other Council resources which may include Planning Delivery Grant so preventing those funds being used for other purposes. Planning Delivery Grant, has been extended for the next four years. PDG for 2005/06 amounted to £695,000. Future levels of PDG are dependent on planning performance
- 9.5 The agreement provides that any additional costs incurred by the Council shall be monitored and reviewed after 6 months of the Agreement coming into force as part of a review of how the Agreement is working and its impact on Council resources.

10. Consultation

10.1 Councillors

The following Councillors have been consulted on the proposals.

Lead Councillors

Regeneration, Councillor Kallar
Adult Social Services and Lifelong Learning (Finance) Councillor Bramley
Community Development and Safety (Neighbourhood Renewal), Cllr Geddes

Ward Councillors:

Abbey: Councillors Alexander, Bramley and Fani
Gascoigne: Councillors Flint, McKenzie, Rush
Thames: Councillors Barns, Miles, Rawlinson
River: Councillors Jamu, L Smith Twomey

10.2 **Officers**

The following Officers have seen this report and are happy with it as it stands.

Finance

Alexander Anderson, Head of Finance (DRE).

Allan Russell, Head of Internal Audit.

CS

Muhammad Saleem, Solicitor to the Council.

Robin Hanton, Corporate Legal Manager.

Bill Coomber, Corporate Equalities and Diversity Adviser.

H and H

Jeff Elsom, Community Protection Unit Manager.

Background Papers

- Draft Agreement between London Thames gateway Development Corporation and LB Barking and Dagenham and others.
- London Thames Gateway Development Corporation (Planning Functions) Order 2005.
- Executive Report and Minute 317, 8 March 2005 re: London Thames Gateway Development Corporation: Proposed Planning Protocol and Service Level Agreement