

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD3256

### Title: London Legacy Development Corporation Transition – Statutory Transfer Schemes

#### Executive Summary:

The London Legacy Development Corporation (LLDC) is a Mayoral Development Corporation established in 2012 by statutory instrument under the Localism Act 2011 (“the 2011 Act”). As described in [MD3015](#), the Mayor authorised LLDC to negotiate and prepare Statutory Transfer Schemes (STS) under section 216 of the 2011 Act for later submission to the Mayor in relation to the transfer of LLDC’s town planning related matters to the London Boroughs of Hackney, Newham, Tower Hamlets and Waltham Forest (the Growth Boroughs) and report back to the Mayor in due course. The individual draft STS have been approved through the respective boroughs’ Cabinets and by the LLDC Board, and subsequent minor amendments have been approved through delegated authority.

Statutory Instruments (SIs) laid by the Secretary of State for Levelling Up, Housing and Communities before Parliament via the negative resolution procedure to come into force on 1 December 2024 will provide that the LLDC ceases to exercise its statutory town planning related functions, and return these functions to the London boroughs, as well as reduce the Mayoral Development Area (approved via [MD3202](#)). Prior to the SIs being made, the Department for Levelling Up, Housing and Communities (DLUHC) will consult the Mayor on their content. It is recommended that the Mayor notes the four current versions of the draft STS, in relation to the transfer of LLDC’s town planning related matters to the four Growth Boroughs pursuant to sections 216 and 218 of the 2011 Act, and delegates the approval and signature of the four final STS to the Greater London Authority’s (GLA) Executive Director for Good Growth.

#### Decision:

That the Mayor:

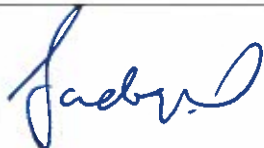
1. Notes the draft scope of the town planning Statutory Instrument (SI) (Appendix 1), and also notes that he will be consulted on both this SI and the reduced development area SI; and that the four STS will only take effect if the SIs are made and come into force.
2. Notes the current versions of the draft STS at Appendices 2-5 that have been approved by the four London Boroughs of Hackney, Newham, Tower Hamlets and Waltham Forest, and the LLDC Board, and which include subsequent minor amendments that have been approved pursuant to borough and LLDC delegated authority.
3. Delegates the powers conferred by sections 216(1), of the Localism Act 2011 (2011 Act), to the GLA’s Executive Director for Good Growth to approve and sign the four final STS to take effect from the date the SIs come into force. These will transfer property, rights or liabilities (as applicable) related to the transfer of town planning functions from the London Legacy Development Corporation to the four Growth Boroughs.
4. Authorises the publication of each STS after the SI has taken effect as soon as it is reasonably practicable.

#### Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

12/3/24

## **PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**

### **Decision required – supporting report.**

#### **1. Introduction and background**

##### *Background*

- 1.1. The London Legacy Development Corporation (LLDC) was the first ever Mayoral Development Corporation (MDC) established under the Localism Act 2011 (2011 Act) and was created to take forward commitments made in the London 2012 Olympic and Paralympic bid in relation to the physical and socio-economic regeneration of Queen Elizabeth Olympic Park (QEOP) and its surrounding area. It was created in April 2012 by statutory instrument SI 2012/310 and town planning powers were granted to LLDC by a further statutory instrument, SI 2012/2167 in October 2012.
- 1.2. Under section 215 of the 2011 Act, the Mayor is required "...to review, from time to time, the continuing in existence of any existing MDCs". In early 2020, the Mayor asked the LLDC Board to bring forward recommendations in relation to the future of the LLDC. In March 2022, the LLDC Board made a series of recommendations to the Mayor. In September 2022, the Mayor in [MD3015](#), approved the recommendations, comprising the move to a "reset LLDC" model of operation from 1 April 2025 with a reconstituted Board and governance structure which involves LLDC ceasing to exercise town planning functions from 1 December 2024 and (subject to consultation) a reduced Mayoral Development Area (MDA) from the same date.
- 1.3. At the same time, the Mayor authorised LLDC to negotiate and prepare draft Statutory Transfer Schemes (STS) in relation to the transfer of town planning-related matters to the four London Boroughs of Hackney, Newham, Tower Hamlets and Waltham Forest (the Growth Boroughs) and to report back to the Mayor in due course. The Mayor also authorised LLDC to undertake a consultation on the proposed reduction of the LLDC MDA from 1 December 2024, and to report back to the Mayor on the consultation in due course. LLDC undertook the consultation from 7 March 2023 to 9 May 2023 and reported the outcome of the consultation to the LLDC Board in July 2023. In December 2023, the Mayor, having considered the consultation report on the proposed reduction of the MDA, approved the alteration to the boundary of the MDA and authorised the publication of the alteration and the notification letter to the Secretary of State in [MD3202](#).
- 1.4. Statutory Instruments (SIs) to be laid by the Secretary of State for Levelling Up, Housing and Communities will provide that the LLDC will cease to exercise its statutory town planning related functions and return these functions to the Growth Boroughs as well as reduce the MDA. LLDC officers are working closely with the Department for Levelling Up, Housing and Communities (DLUHC) to prepare the two SIs to effect the cessation of LLDC's town planning functions and to substitute a new map in SI No.310/2012 to reduce the LLDC MDA to the core part of the QEOP estate in which LLDC owns, manages or operates land. These may be combined into one SI. The draft scope for the Town Planning SI is set out in Appendix 1. This is primarily a revocation of all LLDC's Town Planning functions granted in LLDC (Planning Functions) Order 2012 (SI 2012/2167). The initial scope was prepared by DLUHC following a workshop in April 2023 with the Growth Boroughs' planning leads and LLDC have been informed by DLUHC that drafting has commenced.
- 1.5. Once prepared, DLUHC will share the draft SIs with the Mayor for consultation, and following the Mayor's response, these SIs will be laid before Parliament via the negative resolution procedure to come into force on 1 December 2024. This timetable is dependent on DLUHC resources.

##### *Statutory Transfer Schemes*

- 1.6. Under section 216 (1) and (2) of the 2011 Act, the Mayor may at any time make a transfer scheme transferring property, rights and liabilities from LLDC to a permitted recipient (which includes the Growth Boroughs as set out in this Mayoral Decision), with consent from each permitted recipient.

- 1.7. LLDC has developed the STS through close working with the Growth Boroughs' planning teams. The four draft STS were approved by the LLDC Board on 19 September 2023 and the drafts were considered and approved by the Growth Boroughs on the following dates: Tower Hamlets (25 October), Waltham Forest (7 November), Newham (9 November) and Hackney (27 November) with no comments or changes. Including minor amendments that have been approved since then by the Growth Boroughs and LLDC, the four draft STS are attached (Appendices 2-5).
- 1.8. Other than s106 funds and Community Infrastructure Levy (CIL) monies, no property or liabilities are proposed to be transferred.
- 1.9. With regards to LLDC Planning Policy and Decisions Team staff, these are not included in the STS. LLDC and the Growth Boroughs have signed a separate Memorandum of Understanding (MoU) concerning the working understanding in relation to the affected staff.
- 1.10. LLDC and the Growth boroughs have also agreed that the Growth Boroughs will use or make their own contractual arrangements for any support or other services they need to facilitate the transfer of activities. The four STS do not, therefore, provide for the transfer of any commercial contracts for such services and LLDC Planning Policy and Decisions Team contractual arrangements will be ended as appropriate after the transfer of planning functions.
- 1.11. In relation to the transfer of statutory town planning functions, to give effect to the Community Infrastructure Levy Regulations 2010 (as amended) the four STS confirm that each Growth Borough will become the relevant authority for charging, collecting and spending CIL monies from the date of transfer of planning powers.
- 1.12. The four STS therefore cover planning data and finance as specified in Grant Funding Agreements and s106 legal agreements. Residual planning fee and CIL administration fee income to be transferred to the Growth Boroughs is also included in the scope of the STS. This includes lists of what is available to transfer to each Growth Borough at present and includes all grant funding and s106 agreements currently in place.
- 1.13. Appended to the four STS is a protocol on the approach to the transfer of LLDC CIL and S106 monies (see Appendix 6). This details the agreement on how unspent CIL and s106 monies as at 1 December 2024 will be split between the Growth Boroughs, including how any monies that remain unallocated for spend, will be proportioned between them. LLDC's intention is to have an open and transparent process for the transfer of those funds following the principles of Regulation 28 of the CIL Regulations 2010.
- 1.14. It should be noted that the final lists of what is available to transfer to the Growth boroughs in Schedules 1-3 of the STS, including final unallocated sums of CIL, s106 and any other fee income to be transferred will be provided by 30 November 2024. This is because LLDC will continue to operate as the planning authority, and therefore receive planning applications and CIL and s106 monies, up to the point at which planning powers cease to be exercised by LLDC. However, it is proposed that all new planning applications and other applicable applications will be delegated to the Growth Boroughs from 1 September 2024, under an interim scheme of delegation. In the event that there are delays to the parliamentary process of the SI, a further scheme of delegation is proposed to delegate LLDC planning functions to the Growth Boroughs after 30 November 2024 until such time as the SI comes into force. Both are subject to LLDC Board and Growth Boroughs' approval and subject to consultation with the Mayor under the LLDC Governance Direction 2019.
- 1.15. The Mayor is asked to note that clause 8 of the draft STS for each Growth Borough includes the ability to modify the STS by agreement in writing between LLDC and the individual Growth Borough to have effect from the transfer date. LLDC will consult with the Executive Director for Good Growth, GLA, on the proposed modification before entering into any agreement with the respective Growth Borough.

- 1.16. The Mayor is being asked to note Appendices 2-5, and delegate authority to the GLA's Executive Director for Good Growth to approve and sign the final versions of the STS to take effect from the date the SIs come into force.
- 1.17. Some wording is included in the four current draft STS (in square brackets at paragraph 3, and at paragraph 1 of Schedule 1 and paragraph 2 and 6 of Schedule 2) that has been agreed with each Growth Borough to describe the current position as these are drafts. It is proposed that these will be deleted (under delegated authority) in the final versions as they are either unnecessary (paragraph 3), or out of date (paragraph 1 of Schedule 1 and paragraph 2 and 6 of Schedule 2).

#### *Data transfer*

- 1.18. The data transfer approach is set out in detailed Data Transfer Plans which have been reviewed by LLDC's Senior Information Manager and agreed with each Growth Borough. These detail the mechanism to transfer data and are written in accordance with the General Data Protection Regulation and the Data Protection Act 2018. A copy of a Data Transfer Plan is available on LLDC's [website](#).

## **2. Objectives and expected outcomes**

- 2.1. LLDC has acted as the planning authority for its MDA since 2012, with five elected representatives from the Growth Boroughs serving on its Planning Decisions Committee along with three LLDC Board members and four independent members. Given the maturity of development within the LLDC MDA, and particularly across QEOP, in September 2022, MD3015 approved that LLDC will cease to exercise its town planning powers and that such powers will be returned to the Growth Boroughs. This will mean that all planning applications after the transfer date that fall within the LLDC's MDA will be determined by the respective Growth Borough in which a site is located meaning that planning decisions, along with those related to planning policy and other associated areas of planning authority responsibility such as infrastructure planning and funding and heritage management, are taken at the local level.
- 2.2. Progressing the four draft STS will provide a degree of certainty for all parties on when and what type of data and agreements are to be transferred from LLDC to each Growth Borough. Due to the significant amount of data to be transferred, preparatory work has had to take place over several months in advance of the planning powers transfer date. Preparatory work for the data transfer process began in Autumn 2023.
- 2.3. As part of the transfer of planning functions, any unspent CIL and s106 money will be transferred to the Growth Boroughs. Where existing grant funding agreements for the use of specified amounts of CIL or s106 money are transferred, the Growth Borough will be responsible for ensuring that the money is spent in accordance with the objectives set out in the grant funding agreement. Any CIL or s106 money held by LLDC at the point of transfer that has not been allocated for use through grant funding agreements will be transferred to the relevant Growth Borough (in accordance with the protocol set out in Appendix 6), and it will be for that Growth Borough to determine the scope of its use within the legal requirements that apply to the use of CIL and s106 money.

## **3. Equality comments**

- 3.1. Under section 149 of the Equality Act 2010 (the Equality Act), as public authorities, LLDC and the GLA are subject to a Public Sector Equality Duty which means that, when carrying out their functions, they must have due regard to (i) the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Equality Act, (ii) advance equality of opportunity between people who share a relevant protected characteristic and those who do not, and (iii) foster good relations between people who share a protected characteristic and those who do not. Protected characteristics under the Equality Act include age, disability, gender

reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage or civil partnership status (all except the last being "relevant" protected characteristics).

- 3.2. LLDC undertook an equality impact assessment (EQIA) (attached as an Appendix to MD3202, and Appendix 7). The Mayor can rely upon this EQIA in relation to the decision that the Mayor is invited to make. The EQIA documents LLDC's consideration of the impacts, in the round, of the transition to the next phase of QEOP and LLDC, on persons with protected characteristics under the Equality Act. This transition includes the transfer of LLDC's planning functions to the Growth Boroughs from 1 December 2024, a reduction in the MDA from 1 December 2024, the transition to the "reset model of the LLDC" and the anticipated reduction in LLDC's staffing and financial resources by 1 April 2025. These changes will impact on persons with protected characteristics whether they live in the geographic confines of the existing MDA, the reduced MDA or indeed the surrounding area or indeed if they are visiting the area.
- 3.3. LLDC has developed significant capability and expertise relating to accessibility and inclusive design. The transfer of LLDC's planning functions to the boroughs on 1 December 2024 may reduce LLDC's ability to directly influence the implementation of exemplary design standards through the planning process in relation to future developments in the area surrounding QEOP. Consideration is being given as to how LLDC can support the Growth Boroughs to continue to uphold high standards of accessibility and inclusion to avoid any potential negative impact on persons in protected groups.
- 3.4. LLDC was formed with the purpose of regenerating and overseeing delivery of a meaningful physical, social, economic and community legacy from the 2012 Olympic and Paralympic Games. Since its inception, LLDC has worked closely with the Growth Boroughs and with local communities to ensure that QEOP is a place which is accessible and welcoming to all, regardless of disability, gender, race, ethnicity, or sexual orientation, and that a diverse range of views are factored into ongoing development and management of the Park. While there is still a significant amount of work to do, the core developments undertaken by the LLDC have been completed or are near completion, there are growing numbers of cultural, academic and community partners in the area who are committed to continuing legacy agenda and there is increasingly effective collaboration with the Growth Boroughs.
- 3.5. Against this background, LLDC consider that the changes are justified, notwithstanding the adverse impacts identified, but will keep this under review with an open mind and on an ongoing basis and will keep the GLA updated.

#### **4. Other considerations**

##### *Key risks, issues and mitigations*

- 4.1. The SIs are currently being prepared by DLUHC. There is a risk that the final SIs may include provisions which would require amendments to the four draft STS. LLDC officers consider this to be low risk based on discussions to date with DLUHC officials. If any amendments were to be required, these could be incorporated before final approval under delegated authority.
- 4.2. There is a risk of delays to the preparation of the SI revoking planning powers (and the SI for the reduced MDA) and hence to the making and laying of the SIs. LLDC officers are working closely with DLUHC officials to mitigate this risk. In the event that the SI is not laid before Parliament in time to revoke LLDC's town planning powers on 1 December 2024, LLDC and the Growth Boroughs have agreed a MoU that would allow them to work together to implement an interim scheme of delegation, subject to Mayoral consultation pursuant to the LLDC Governance Direction 2019. This MoU would delegate LLDC's applicable planning functions to the Growth Boroughs after 30 November 2024 until such time as the SI takes effect. It would be in addition to the proposed separate interim scheme of delegation which will delegate all new planning applications and other applicable applications to the Growth Boroughs from 1 September 2024.

- 4.3. Any delay progressing the four STS will put pressure on the programme for data transfer work. Due to the significant amount of data to be transferred, work will need to take place several months in advance of the planning powers transfer date; this has been factored into workforce resource planning at LLDC and the Growth Boroughs. Initial preparatory work for the data transfer began between LLDC and the Growth Boroughs in Autumn 2023. Arrangements for this are set out in the data transfer plans between LLDC and each Growth Borough.

*Links to Mayoral strategies and priorities*

- 4.4. The ongoing regeneration of the revised MDA will help to deliver Mayoral strategies including the Mayor's Good Growth priorities, the Skills Roadmap, the Economic Development Strategy for London, London Housing Strategy, Culture Strategy, Transport Strategy, London Environment Strategy and several of the Mayor's policies in the London Plan.

*Consultations and impact assessments*

- 4.5. LLDC has been working closely with the Growth boroughs on plans for LLDC's next phase from April 2025 through the Growth Borough Partnership (membership is Mayors of Hackney, Newham and Tower Hamlets and the Leader of Waltham Forest), the Borough Transition Group of senior officers and LLDC officers, and a range of specialist working groups.
- 4.6. There are no conflicts of interest to declare from any of the officers involved in the drafting or clearance of this decision.

## **5. Financial comments**

- 5.1. As noted in paragraph 1.8, only s106 and CIL funding will be transferred to the Growth boroughs under this STS.
- 5.2. At present, the total amount of related s106 and CIL funding held by LLDC (as the planning authority) is approximately £50 million. The actual quantum to be transferred will not be known until nearer the time of the transfer as s106 and CIL funding is necessarily flowing in, as receipts are received, and out, as these receipts are utilised on agreed expenditure. The funds held by LLDC are largely invested via the London Treasury Liquidity Fund LP, overseen by London Treasury Ltd.
- 5.3. Any interest arising from this investment is retained against the fund balances. It is not recognised as corporate income by LLDC. Therefore, the transfer will have no impact on LLDC's current financial position or its Long-Term Funding Model.
- 5.4. LLDC, as developer, has secured approximately £9.8 million of s106/CIL funding from the planning authority function across 2023-24 and 2024-25 and this is reflected within its current capital budgets. However, this transfer should not have any financial impact as the funding has previously been agreed and will be provided to LLDC on receipt of evidence of expenditure.

## **6. Legal comments**

- 6.1. Section 216 (1) and (2) of the 2011 Act, provides that the Mayor has the statutory power to make a statutory transfer scheme transferring to a London borough, upon such terms as the Mayor considers appropriate, any property, rights or liabilities which are for the time being vested in an MDC, only if the London borough consents.
- 6.2. Section 216 (3) of the 2011 Act provides that the Mayor must publish the transfer scheme as soon after it is made as is reasonably practicable.
- 6.3. Section 38 (1) and (2) of the Greater London Authority Act 1999 provides authority for the Mayor to delegate to a GLA member of staff, and the GLA's Mayoral Decision Making in the GLA does not reserve the powers set out in section 216 (1) or (3) of the 2011 Act to the Mayor.



- 6.4. Section 220 of the 2011 Act provides that the Mayor may give general or specific directions to LLDC. The Mayor has provided directions under the LLDC Governance Direction (updated 2019) which provides at 2.1 (a) that the Mayor will be consulted before LLDC adopts or makes any significant changes to its scheme of delegation. Paragraph 1.14 sets out that there will be a proposal for interim schemes of delegation which the Mayor will be consulted on.
- 6.5. Section 110 of the 2011 Act requires local planning authorities to co-operate in relation to planning of sustainable development. Under section 203 of the 2011 Act LLDC may make arrangements for the discharge of any of its functions relating to being the local planning authority for the purposes of Part III of the Town and Country Planning Act 1990. In addition, the LLDC may seek assistance in connection with its functions as a result of being the local planning authority pursuant to Parts 2 and 3 of the Planning and Compulsory Purchase Act 2004 from the relevant boroughs.
- 6.6. Regulation 63B of the Community Infrastructure Levy (CIL) Regulations 2010 has been taken into account as part of the transfer of planning powers. LLDC officers consider that it has been followed when drafting the Statutory Transfer Schemes. DLUHC lawyers have been made aware of this and indicated that it will be used to inform the drafting of the Statutory Instrument.
- 6.7. LLDC and the boroughs have acknowledged that neither the Transfer of Undertakings (Protection of Employment) Regulations nor the Cabinet Office Statement of Practice<sup>1</sup> apply in this situation, because it involves the transfer of administrative functions to four separate entities, therefore LLDC Planning Policy and Decisions Team staff are not included in the STS. As noted above, LLDC and the Growth Boroughs have signed a MoU concerning the working understanding in relation to the affected staff.
- 6.8. In taking the decision requested, the Mayor must have due regard to the Public Sector Equality Duty and the Mayor is referred to paragraph 3 above.

## 7. Planned delivery approach and next steps

Activity	Timeline
Mayoral decision to note the four STS and delegate approval to the Executive Director for Good Growth, GLA	March 2024
SIs laid before Parliament by Secretary of State	April 2024 (subject to DLUHC resources)
STS to be updated with final list of items to be transferred and four final STS to be signed	By 30 November 2024
SIs on the revocation of town planning powers and reduced MDA to take effect	From 1 December 2024
STS for the four boroughs to take effect	1 December 2024
Next phase of LLDC with new structure and governance in place	From 1 April 2025

### Appendices and supporting papers:

- Appendix 1: Draft scope of the statutory instrument related to town planning
- Appendix 2: The London Legacy Development Corporation and London Borough of Hackney Transfer Scheme 2024
- Appendix 3: The London Legacy Development Corporation and London Borough of Newham Transfer Scheme 2024
- Appendix 4: The London Legacy Development Corporation and London Borough of Tower Hamlets Transfer Scheme 2024

<sup>1</sup> The Cabinet Office Statement of Practice seeks to support employees when work is being transferred across the public sector by providing TUPE-like protections in certain circumstances.

- **Appendix 5: The London Legacy Development Corporation and London Borough of Waltham Forest Transfer Scheme 2024**
- **Appendix 6: Protocol on the approach to the transfer of LLDC CIL and s106 monies (attached to each STS)**
- **Appendix 7: Equality Impact Assessment**



**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

**Part 1 – Deferral**

**Is the publication of Part 1 of this approval to be deferred? NO**

**Part 2 – Sensitive information**

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

**Is there a part 2 form – NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to confirm the following (✓)

**Drafting officer:**

Jamie Dean has drafted this report in accordance with GLA procedures and confirms the following:

✓

**Sponsoring Director:**

Philip Graham has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Adviser:**

Jules Pipe has been consulted about the proposal and agrees the recommendations.

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**Corporate Investment Board**

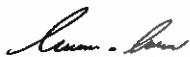
This decision was agreed by the Corporate Investment Board on 11 March 2024.

✓

**INTERIM CHIEF FINANCE OFFICER:**

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

**Signature:**



**Date:**

11/03/2024

**CHIEF OF STAFF:**

I am satisfied that this is an appropriate request to be submitted to the Mayor

**Signature:**



**Date:**

11/03/2024

