

Title of Report	Approval of the Statutory Transfer Scheme for the transfer of Planning Powers from the London Legacy Development Corporation to Hackney	
Key Decision No	CHE S268	
For Consideration By	Cabinet	
Meeting Date	27 November 2023	
Cabinet Member	Cllr Guy Nicholson, Deputy Mayor for Delivery, Inclusive Economy & Regeneration	
Classification	Open	
Ward(s) Affected	Hackney Wick Kings Park	
Key Decision & Reason	Yes	Significant in terms of its effects on communities living or working in the affected wards
Implementation Date if Not Called In		
Group Director	Rickardo Hyatt, Group Director of Climate, Homes and Economy	

1. Cabinet Member's Introduction

- 1.1. Approving the Statutory Transfer Scheme for the transfer of Planning Powers back to the Council from the London Legacy Development Corporation (LLDC) creates a moment to not only reflect on the success of the London 2012 Olympic & Paralympic Games themselves but also the delivery of an extraordinary legacy. Hackney was instrumental in both shaping and ensuring that the legacy for Hackney and East London formed part of London's Bid to Host the Games, and then set about delivering the legacy through partnership with the Mayor of London.
- 1.2. We have now passed the ten year point from the closing ceremony of the Paralympic Games and as had been planned by all partners it is a timely moment to look forward to the next chapter of the Queen Elizabeth Olympic Park and the ongoing development of a new town centre for Hackney Wick. With the stepping back of the LLDC and the Council stepping forward to re-adopt the Planning powers for this part of Hackney.
- 1.3. The LLDC was established as the first ever London Mayoral Development Corporation, designed to take forward the legacy commitments made in the original

London 2012 Olympic bid for the physical and socio-economic regeneration of Hackney, Waltham Forest, Newham and Tower Hamlets. In Hackney, this area included Hackney Wick, and the Council has been working in close partnership with the LLDC since its inception ensuring that Hackney Wick, both within the Park boundary and adjacent to it, benefited from the legacy opportunity brought about by London 2012.

- 1.4. The report seeks approval for the Statutory Transfer Scheme so that Planning policy, plan making, application determinations and Planning gain, such as Section 106 and Community Infrastructure Levy, can be transferred to Hackney enabling locally accountable decision making on all matters to do with development in and around Here East and the wider Hackney Wick neighbourhood.
- 1.5. This is a key step in ensuring that the Council will be able to make planning decisions to support the future of this important, vibrant part of the borough from 1st December 2024.
- 1.6. I commend this report to Cabinet.

2. **Group Director's Introduction**

- 2.1 On 1st December 2024, the London Legacy Development Corporation will transfer planning powers back to the four boroughs of the Olympic Growth Boroughs: Hackney, Newham, Tower Hamlets and Waltham Forest.
- 2.2 To enable the transfer of planning powers back to Hackney, alongside new legislation (a Statutory Instrument) a Statutory Transfer Scheme is required. Section 216 provides that the Mayor may at any time make a transfer scheme transferring to a permitted London Borough Council, upon such terms as the Mayor considered appropriate, any property, rights or liabilities which are for the time being vested in a Mayoral Development Corporation the London borough Council must consent to the transfer. This report seeks Hackney's consent to the transfer.
- 2.3 The Statutory Transfer Scheme includes details of information to be transferred such as planning records, live planning applications, enforcement cases and appeals as well as details of money to be transferred relating to Section 106 legal agreements and Community Infrastructure Levy Funding.
- 2.4 This report seeks Cabinet approval from Hackney for its Statutory Transfer Scheme.

3. **Recommendation**

Cabinet is recommended to:

- 3.1. **Approve the Statutory Transfer Scheme for the transfer of Planning Powers from the London Legacy Development Corporation to Hackney (appendix 1)**
- 3.2. **Note the supporting documents that have been established to support the Statutory Transfer Scheme including: Joint working protocol for**

Development Management and Enforcement (appendix 2), Protocol for transfer of LLDC CIL and S106 monies (appendix 3), a Data Transfer Scheme (appendix 4), and MOU for Staff (appendix 5)

3.3. Delegate any subsequent amendments to the Statutory Transfer Scheme and supporting documents to the Group Director, Climate, Homes and Economy

4. Reasons for Decision

- 4.1. A Cabinet decision is needed to approve the Statutory Transfer Scheme which sets out details of matters to be transferred such as planning records, live planning applications, enforcement cases and appeals and Section 106 legal agreements and Community Infrastructure Levy Funding.

5. Details of Alternative Options Considered and Rejected

- 5.1 None. A Cabinet decision on the Statutory Transfer Scheme is required to support the transfer of planning powers from the London Legacy Development Corporation to Hackney

6. Background

- 6.1 London Legacy Development Corporation (LLDC) was established as the first ever Mayoral Development Corporation under the Localism Act 2011, to take forward commitments made in the original London 2012 Olympic bid in relation to the physical and socio-economic regeneration of Stratford and the surrounding area including Hackney Wick.
- 6.2 Under section 215 of the Localism Act 2011, the Mayor of London is required “to review, from time to time, the continuing existence of any existing Mayor Development Corporations”.
- 6.3 In September 2022 the Mayor of London, approved a recommendation for London Legacy Development Corporation (LLDC) to maintain its status as a Mayor Development Corporation beyond 1 April 2025 with a reconstituted Board and governance structure; the removal of its Town Planning functions from 1 December 2024 subject to the necessary Parliamentary procedures; and (subject to consultation) a reduced Mayoral development area from the same date.
- 6.4 Hackney’s Planning Service along with LLDC and the other growth boroughs have been working with the Department of Levelling Up, Housing and Communities (DLUHC) to make the necessary legislative arrangements to enable the town planning functions to be transferred from the LLDC. The Statutory Instrument will make it clear that the LLDC Local Plan (and CIL Charging Schedule) will continue to be the development plan for Hackney Wick until this is replaced by an updated Hackney Local Plan (and CIL Charging Schedule) thereby ensuring that the whole of the borough continues to have a development plan in place.

- 6.5 Alongside the Statutory Instrument, Statutory Transfer Schemes have been developed for each Olympic growth borough in partnership with the LLDC.

7. **Policy Context and Impacts**

- 7.1. Under the terms of the Localism Act 2011, the transfer of any rights and liabilities between the Mayor of London and the Growth Boroughs must be set out in a Statutory Transfer Scheme agreed by the relevant parties: the transferor (LLDC) and transferee (relevant Borough). In relation to the transfer of statutory town planning functions, the Community Infrastructure Levy Regulations 2010 (as amended) also require the Statutory Transfer Scheme to confirm that each Borough will become the relevant authority for charging, collecting and spending CIL monies from the date of transfer of planning powers.
- 7.2. The Statutory Transfer Schemes cover planning data and finance (principally related to Community Infrastructure Levy and s106 planning obligation funding). They include lists of what is available to transfer to each Borough at present. This includes all grant funding (Neighbourhood CIL and S106 Carbon Offset) and s106 agreements currently in place.
- 7.3. It should be noted that final lists, including final sums of CIL, s106 and any other fee income to be transferred, will be provided on 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 of planning powers transfer.
- 7.4. In light of the above, the Cabinet report seeking approval of the STS in November 2023 will include a recommendation for the final version of the STS to be delegated to the Group Director of Climate, Homes and Economy.
- 7.5. LLDC and the Boroughs have been working collaboratively to prepare for the transfer of town planning functions, via a number of joint working groups. Development management protocols have been drafted covering major pre-applications and applications, non major pre-application and applications, planning enforcement, planning appeals, development (LLDC Developments i.e. developments managed and operated by LLDC) and the London Legacy Scheme (London Legacy Development Corporation (LLDC) Legacy Communities Scheme (LCS) outline planning permission) (appendix 2).
- 7.6. The 'Protocol for transfer of LLDC CIL and S106 monies' is set out in appendix 3. The approach confirms that where any CIL monies held by the LLDC at 30th November 2024 and are associated with a finalised Grant Funding Agreement, the money specified in the Agreement will be passed to the borough in which that project is based or most closely associated with. Where there is CIL money remaining unallocated that money will be split between the Four Boroughs proportionally according to land area with Hackney receiving 16%. Where a S106 financial contribution has not been allocated to a project that money will be transferred to the borough in which the development that paid the contribution sits, alongside the S106 Agreement that specifies how that money can be spent.

- 7.7. A Data Transfer Plan is included as appendix 4. This sets out the full scope of data to be transferred and the processes of transferring it ensuring compliance with data protection regulations.
- 7.8. It has been agreed by LLDC and the Boroughs that neither TUPE nor the Cabinet Office Statement of Practice (CoSoP) apply in this situation, therefore staff are not included in the Statutory Transfer Schemes. A MOU (appendix 5) has been prepared to provide opportunities to retain staff talent.

Next Steps

- 7.9. Approval of the Statutory Transfer Scheme is required now to enable clarity of the nature of what is being transferred and to enable work to commence - including work on the data transfer. It should be noted that the three other Olympic Growth Boroughs (Newham, Tower Hamlets and Waltham Forest) are going through the same process in seeking approvals. Once the Statutory Transfer Schemes are agreed by the boroughs and any minor changes are made under delegated powers, the LLDC will seek approval for them from the Mayor of London via the Mayoral Decision process. This will provide certainty for all parties on the detail of what will be transferred from LLDC to each Borough and will enable programmed work to commence in relation to the first transfer of data to the Boroughs scheduled for summer 2024.

- 8. **Equality Impact Assessment**

- 8.1 There are no equalities implications associated with the STS.

- 9. **Sustainability**

- 9.1 There are no direct sustainability implications relating to the STS

- 10. **Consultations**

- 10.1 The STS does not require consultation.

- 11. **Risk Assessment**

- 11.1 A risk register has been established as part of the programme management for the transition of planning powers

- 12. **Comments of the Interim Group Director, Finance**

- 12.1. The report talks about how planning powers are shifting from the London Legacy Development Corporation to the Council. This change will have a financial impact. LLDC offered to cover reasonable costs from the transfer of data. The LLDC has agreed to provide £47k to support the data transfer. Funding for the LLDC project has also been requested as part of a capital bid through ICT.

- 12.2. A significant part of the financial implications involves the transfer of funds, specifically related to Community Infrastructure Levy (CIL) and Section 106 (S106) planning obligation funding. The Statutory Transfer Scheme (STS) covers the transfer of these financial aspects. The report mentions that final lists, including the final sums of CIL, S106, and any other fee income to be transferred, will be provided at the end of November 2024.
- 12.3. This report is anticipated to have some resource impact on the planning team. The planning team's workload and responsibilities will rise as a result of the transfer of planning authority from the London Legacy Development Corporation (LLDC) to the Council, making it the designated planning authority for the region. This will be funded in part through new planning application fees. This transition will call for interim modifications to protocols and procedures, including those pertaining to appeals, enforcement cases, and cases involving planning applications
13. **Comments of the Acting Director of Legal, Democratic and Electoral Services**
- 13.1 The return of LLDC's statutory town planning functions will be put into effect through Statutory Instrument/s laid by the Secretary of State at DLUHC, which will be subject to the negative resolution parliamentary procedure.
- 13.2 As set out above, under the terms of the Localism Act 2011 and the Community Infrastructure Levy Regulations 2010 (as amended), the transfer of any rights and liabilities between the Mayor of London and the Growth Boroughs must be set out in a Statutory Transfer Scheme which confirms that each Borough will become the relevant authority for charging, collecting and spending CIL monies from the date of transfer of planning powers. A Transfer Scheme may provide:
- a) modification by agreement
 - b) modifications to have effect from the date when the original scheme came into effect.

Appendices

Appendix 1 - Statutory Transfer Scheme

Appendix 2 - Joint working protocol for Development Management and Enforcement: major pre-applications and applications, non major pre-application and applications, planning enforcement, planning appeals, development and the London Legacy Scheme

Appendix 3: Protocol for transfer of LLDC CIL and S106 monies

Appendix 4: Data Transfer Plan

Appendix 5: MOU for Staff

Background Papers

None

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