

MHCLG Development Corporation Reform, Technical Consultation: Wokingham Borough Council consultation – holding response

Question 1: *Are there measures that you would like to see implemented to further facilitate private sector involvement and investment in development corporations? What changes would you like to see?*

The Council welcome the Government's aspiration to encourage broader private-sector participation in Development Corporations. In terms of governance, the private sector clearly has much to offer when it comes to board composition. Board members would expect that the Corporation be empowered and equipped to deliver on its objectives within a reasonable timeframe. Were NTDCs to be bound by unnecessary bureaucracy, some board members may think twice about giving their time. The relationship with the oversight authority(ies) will therefore play a central role, and a balance needs to be struck to ensure NTDC functions are not unduly constrained, but without losing accountability. There will invariably be a potential risk for conflicts of interest, and so the nature of this participation would need to be kept under review and held to account by the agreed governance arrangements over the life of the Corporation. Oversight should be strategic and cyclical, not detailed and frequent. While this is already possible, it could perhaps have been made more explicit the 2018 Regulations.

In the event that Locally-Led NTDCs (LNTDCs) were to be granted a plan-making function, a mixture of public and private sector expertise is likely to benefit this role.

Private sector board member expertise would be helpful in steering and procurement of planning and infrastructure proposals at this scale.

Question 2: *Are the existing models of development corporations sufficiently broad in scope to allow for the types of development that local areas wish to pursue? Are there any barriers to the uptake of existing models? If so, what sort of change do you think is needed?*

The Council broadly welcome the recent introduction of LNTDCs, which it regards as complementary to the more centralised models that have historically been used. Prior to a request for designation, the 2018 Regulations anticipate that there will have been engagement between a requesting Authority and MHCLG. For requesting Authorities, the whole process may seem like a step into the unknown. The council would therefore hope and expect that the Ministry would commit to providing a meaningful level of advice and support to prospective applicants. For example, the Ministry might usefully provide guidance about the type of Compulsory Purchase Powers available to LNTDCs and their speed and effectiveness of implementation would hopefully be similar to those of NTDCs. Confirmation of brokerage arrangements with utilities providers, Network Rail or other Government departments would also be helpful. The council would particularly appreciate further clarity in terms of how the oversight role is expected to function where a New Town straddles administrative boundaries, and where a Combined Authority does not currently exist.

In terms of barriers to uptake, the Council main concerns pertain to a lack of certainty surrounding land assembly, and how land value is firstly derived and then financed. Being underwritten by government, as NTDCs were, would certainly make this option more attractive. Traditionally, NTDCs had access to significant amounts of capital, and borrowed all their finance from the Government at fixed rates over 60 years. There remains a central role for patient public sector finance at the outset to and create the confidence necessary to subsequently lever in private sector finance at acceptable cost.

The LNTDC innovation would become significantly more compelling were there to be a clear expectation that a Corporation would perform a land assembly role, and that it would be actively supported in doing so by Government - both in terms the acquisition process and financing. A more detailed explanation is provided at Q5.

Question 3: *Do you agree that all development corporations should have the ability, where appropriate, to exercise the plan-making and development management functions of a local planning authority?*

The Council considers that there should be a parent role for oversight authorities in setting an initial framework through the Development Plan. Subsequently LNTDCs could be delegated the freedoms to issue Supplementary Planning Guidance or refine a plan (in conformity with and subordinate to the Local Plan), both having call-in powers to the oversight authority. At this later detailed stage the LNTDC would benefit from partnership-working with the private sector and with the practicalities of delivery in mind. However, the oversight authority would clearly need to have an important and ongoing consultative role (and with powers to further delegate regulatory functions or withdraw them) throughout this process.

The Council strongly agree with stipulations in the 2018 Regulations that assume responsibility for granting planning permission will rest with the Oversight Authority / Local Planning Authority. Any significant delegation of development management functions to the LNTDC is likely to raise questions re: (lack of) accountability and democratic deficit. Consideration could be given to the delegation of further regulatory powers at the discretion of the oversight authority, subject to suitable a policy framework being agreed. The Council also welcome the potential option to use development orders prepared by the LNTDC and authorised by the oversight authority as means for granting planning permission on this scale.

Question 4: *Do you agree that all development corporations should be able to secure contributions from developers using a range of mechanisms, such as CIL, SIT and Section 106 planning obligations, where they have taken on the corresponding planning powers from the local planning authority?*

The Council agree that corporations would need to be party to any S106 in their area (in addition to the oversight authorities where they retain regulatory control). The Corporation

would at some stage release parcels of land to developers, and so is critical that legal obligations for on-site provision are clearly defined, and enforceable.

The Council also recognises that LNTDCs should have access to CIL collected in their area as the majority of the proceeds would need to be spent on infrastructure to mitigate the impact of the New Town by the Corporation. Since Local Authorities currently levy such tariffs and have the resource necessary to do so, any new equivalent collection powers for NTDCs are considered to be an unnecessary duplication of function. The legislation should be adapted to require funds raised in the LNTDC area to be transferred in the same way that Town and Parish Council CIL funding is currently distributed.

Alternatively, the LNTDCs could be enabled to commission the oversight authority to collect on their behalf for the 5% admin charge. The LNTDC should also be able to commission the oversight authority to deliver infrastructure on their behalf in cases where a utility company, statutory or regulatory authority will or cannot allow any other party to execute works on their behalf. Any new regulations would need to ensure a proportion of funds could be passed back “up” to the oversight authority, to allow it to mitigate the impact of development outside the boundaries of the New Town.

Question 5: *Are there any other measures relating to planning powers and/or increasing the efficiency and effectiveness of planning in development areas designated to be overseen by development corporations?*

The interests of private landowners (and their consultants) should not be allowed to compromise the full public interest potential of a New Town. However, this is likely to remain a risk so long as a significant proportion of the land is brought forward for allocation/planning permission by a private landowner/controller, regardless of whether this is done so on a fragmented basis, or as a consortium.

The certainty derived from control of land is one of the key variables that can provide political will and delivery momentum. The Council would therefore support the reform of land acquisition powers in this context, including the use of accelerated access to and acquisition of land via Compulsory Purchase. At present, the process is slow and lacks certainty. Ideally, the Government would set out that land acquisition is a default power and function for LNTDCs moving forward. Where necessary for timely and well-coordinated delivery, LNTDCs should be empowered to purchase all substantial tracts of development land, allowing it to shape the form, quality and pace of development in a ‘master developer’ leadership role, albeit in partnership with other private, public and voluntary stakeholders.

The price at which land is purchased will also have a direct impact on the attractiveness of the proposition for the private sector at the back end. The lower the original price paid, the more viable their involvement becomes, allowing for an appropriate amount of planning gain to be realised, whilst all the while maintaining developer profits. Compulsory Purchase by LNTDCs should be on the basis of Existing Use Value (plus disturbance); as was the case with the original

New Towns programme. Presently, “No Scheme Value” determines the price to be paid; however, this can be a complex process – taking years to establish and at substantial cost - with land costs typically rising significantly during the preparation of plans and establishment of a LNTDC, as their hope value gets taken into account. The Council therefore urge government to introduce expedited CPO powers at Existing Use Value (plus disturbance) as a major delivery accelerator tool.

Question 6: *Are there any measures relating to developer contributions that should be put in place for development corporations?*

It is essential that developer contributions are captured and reserved for long term stewardship of community infrastructure, such as was the case for the original Garden Cities such as Welwyn and Letchworth, and other New Towns such as Milton Keynes. A New Town may straddle existing administrative boundaries – and where the creation of a brand new parish, and/or the redrawing of local authority boundaries should logically follow. However, current procedures mean that a significant amount of time can elapse until parish boundaries are reviewed and redrawn. Under the current CIL regulations, parish councils are entitled to a proportion of total receipts, either 15% as of right and 25% where a neighbourhood plan is in place. Delay may therefore inhibit the ability for a LNTDC to forward plan stewardship arrangements. To this end, the Government should consider setting out an expectation that parish boundaries are restructured at the creation of the LNTDC, or require that the Parish percentage be reserved for community stewardship funds (derived from CIL) in escrow, until such time as an appropriate public body is formed to administer them.

Question 7: *Are there any other measures relating to development corporation powers that you would like to see implemented?*

Refer to issues raised in Q5 response – further clarification of expectations, legal process and government support is required in relation to powers for land acquisition, and the basis on which land value is derived where assembly is via Compulsory Purchase.

Question 8: *Is there anything else that you would like to see new legislation or policy address regarding the aims, objectives, remit, powers and restrictions of development corporations?*

No further comments.

Question 9: *Do you have any views on the Public Sector Equality Duty in relation to any of the questions above?*

No specific comments at this time.