

IS LOCAL OVERSIGHT OF A NEW GENERATION OF NEW TOWNS A REAL WAY FORWARD?

01 August 2018

On 4 December 2017 the Department for Communities and Local Government published a consultation document seeking views on draft Regulations made under section 16 of the Neighbourhood Planning Act 2017 creating a new option of local authority oversight for new towns.

The Ministry of Housing and Local Government (MHLG) has now published its response to the consultation and made the regulations which came into force on 24 July. [MHLG](#) has also issued guidance to be read alongside the regulations.

Our planning experts return to this topic and explain why they see local oversight of a new generation of new towns as a real way forward for developments of this scale and complexity.

An Overview

The government legislated for local oversight in the Neighbourhood Planning Act 2017 with the prospect of a significant number of locally-led garden cities, towns and villages with the potential for at least 220,000 new homes. A locally-led approach for future new towns is one way of helping persuade local residents to accept the scale of such developments.

Local authorities were supportive of the proposals whilst developers had mixed views. There were concerns about extra bureaucracy, a loss of democratic accountability and the ability of local authorities to oversee very large scale developments. We can see, however, that local oversight through a new generation of town development corporations has some real advantages over other models. These include:

- accessing development finance at public sector borrowing rates for infrastructure within state aid rules. This is because the provision of land ready to build on in line with local urban and spatial development plans is part of the role of the state and not an economic activity in itself (Commission Notice on the notion of state aid 2016/C 262/01);
- finance for any compulsory purchase acquisitions from within the borrowing limits agreed with the oversight authority and the Treasury;
- borrowing costs not scoring against the Housing Revenue Account borrowing cap which constrain the delivery of new social housing by local housing authorities;
- the opportunity to include a representative of other social housing providers on the board of the development corporation;
- locally led oversight in contrast to developments led by Homes England, whose expertise is still a possibility on a contract basis; and
- a statutory framework providing a more secure governance base for the delivery of long term sustainable development consistent with the principles of a Garden City compared to public/private sector joint ventures constrained by the terms of companies and insolvency legislation

New Towns

S1 of the New Towns Act 1981 provides that the Secretary of State may make an order designating an area as the site of a proposed new town if he is satisfied, after consultation with any local authorities who appear to him to be concerned, that it is "expedient in the national interest" that the area should be developed as a new town by a corporation established under the Act.

S3 goes on to require the Secretary of State to establish a development corporation for each new town after consulting representatives of local residents and businesses, the county or district councils for an area wholly or partly within the site and anyone else he considers appropriate. Unitary authorities and parish councils can expect to be included in such consultations where they have been consulted on the designation itself.

The Secretary of State may appoint one or more local authorities whose area includes all or part of the new town "to oversee the development of the area as a new town" (s1A(2) of the Act).

The New Towns Act 1981 (Local Authority Oversight) Regulations 2018 have now been made which provide a framework for the setting up of the development corporations. The Regulations identify the respective roles of the oversight authority and the development

corporation and are unchanged from the draft regulations. Guidance published alongside the Regulations sets out how the Government expects the process to work.

Before Designation

The Secretary of State expects the leader or leaders of the local authorities wanting to become the oversight authority to write to him with a map of the proposed area, the name for the new town, and material and evidence to support the proposal including letters of support. The guidance goes on to say:

"Given the size and complexity of a new town development project, the Secretary of State would expect there to be strong local buy-in from the outset. The letter seeking designation should, at a minimum, be accompanied by letters of support from any other local authority (including any combined authority) that covers the proposed new town area but which does not propose becoming part of the oversight authority."

The guidance identifies the evidence the Secretary of State expects to see before he can be satisfied that designation is "expedient in the national interest" given the size and complexity of such a project. Such evidence will cover:

1. Community participation and consultation where allocation in an adopted local plan or seeking designation close to the point of adoption will provide the best evidence. Alternatively an applicant will need to show a robust evidence base and opportunities for community participation of a similar character to those required for a local plan along with a strategy for creating a planning framework for the development of the new town.
2. Deliverability through financial modelling over the whole delivery lifecycle, including projected returns, debt profile, and peak debt. The borrowing limits of the development corporation will be agreed with the oversight authority and the Treasury as part of the designation process.
3. The best route to securing "expedited delivery of a high quality, sustainable new development with the necessary supporting physical and social infrastructure and a plan for the long term stewardship of assets" compared to other public or private sector delivery models. Development corporations offer a number of potential advantages over other public and private sector delivery models which are highlighted in our overview section.
4. Governance including board appointments which follow the guidance and balance the need for oversight and independence. According to the guidance:

- To reflect the scale and complexity involved in delivering a new town, the board should have "a wide range of place making skills" such as experience of leading major housing or infrastructure projects, development, construction, community development, finance and engineering, art and cultural development, environmental science, human health and wellbeing and planning and design skills.
- To demonstrate commitment to community participation the board should include members who live locally.
- Independent members should not be officers or elected members of a local authority in the new town area.

5. Place making, community engagement, stewardship, and future growth for example by adopting frameworks such as the Garden City Principles and proposals which show how "appropriate levels of affordable housing, community participation, sustainable development and long-term stewardship and legacy arrangements" will be delivered in practice.

6. Environmental Assessments by the oversight authority having considered EU Directives 2001/42/EC, 92/43/EEC and 2009/147/EC relating to strategic plans, habitats and birds respectively alongside the relevant implementing regulations in domestic law, that is the Environmental Assessment of Plans and Programmes Regulations 2004 and the Conservation of Habitats and Species Regulations 2017. These issues are likely to have been assessed already where the proposed new town area has been identified through the local plan process.

The guidance leaves open how the Secretary of State might reconcile the need for "strong local buy-in" with a scenario where there is strong local opposition but support from the local planning authority through planning policy and a site allocation in an adopted local plan.

After designation

S7 of the Act, as modified by the Regulations, requires the development corporation, after a direction from the oversight authority, to submit their proposals for the development of the new town to the oversight authority for approval.

The Secretary of State expects the development corporation working with the oversight authority to produce a masterplan for the whole area. If a development plan document (DPD) exists then the development corporation may, with the approval of the oversight authority, use that as its masterplan. Where the oversight authority is the local planning

authority it would be expected to include the new town masterplan as part of a DPD.

The guidance encourages the use of local development orders "as a means of securing high quality development at pace within clear parameters".

Once a new town is designated the Secretary of State expects there to be ongoing dialogue with himself and Homes England but will not put in place any formal reporting requirements.

Quality Stewardship and Community Involvement

The Government wants to see not just the delivery of new towns, "but new garden communities that future generations will see as standing out from the ordinary in terms of their quality and commitment to sustainable development." Credible arrangements for the delivery of the long-term stewardship of assets, community participation and legacy arrangements after the development corporation is dissolved will be a fundamental part of the proposals. They must be evidenced in the financial modelling and in the representation of the community within the governance arrangements.

On the dissolution of the development corporation, its property, rights, liabilities and obligations will be transferred to the local authorities comprising the oversight authority, a community stewardship body, or any other body in the proportions notified to the Secretary of State by the oversight authority. The guidance says sufficient assets should be transferred to community stewardship bodies "to meet the current and future cultural, environmental and social needs of the town."

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