



BPF RESPONSE TO DLUHC'S CONSULTATION ON LOCALLY-LED DEVELOPMENT CORPORATIONS

CONSULTATION RESPONSE

PREPARED AND SUBMITTED BY

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British Property Federation

1. The British Property Federation (BPF) represents the real estate sector – an industry which contributed more than £116bn to the economy in 2020 and supported more than 2.4 million jobs. We promote the interests of those with a stake in the UK built environment, and our membership comprises a broad range of owners, managers, and developers of real estate as well as those who support them. Their investments help drive the UK's economic success; provide essential infrastructure and create great places where people can live, work, and relax.

General comments:

2. The BPF and our members are firm believers in the power of partnership and are longstanding supporters of Development Corporations. We support the locally-led Development Corporation model, and welcome the increased flexibility that the model will provide.
3. We welcome the opportunity to respond to this consultation paper and have answered the questions raised below. In addition, we would make the following points:
 - good corporate governance is important, and we recognise that this is the focus of the consultation paper. We would argue, however, that having the necessary powers – including on acquiring and controlling land, on planning and on supporting and enabling infrastructure - is the most important element to get right;
 - alongside the technical and legal regulations, there is a real need for practical advice and guidance for all those involved in setting up a new locally-led Development Corporation. This might include toolkits and case studies; and
 - the BPF and our members have first-hand experience of working with, and being part of, Development Corporations. We've seen them succeed and we've seen them fail. As a result, we have insights and experience that we would like to share with Ministers and officials to ensure that the new generation of locally-led Development Corporations are able to fulfil their potential.

Question 1: Do you support the principles/ objectives of the regulations? If not, are there other considerations you would like us to reflect on?

4. We are broadly supportive of the principles and objectives of the regulations.

Question 2: Do you agree that the proposed list of functions to be transferred to the oversight authority is the correct one? If not, please specify which functions you think should or should not be transferred and why.

5. Members did raise some concerns about the contents of Paragraphs 1 and 2 under Section 138 of the draft regulations. Specifically, it was noted that the powers listed in this section of the regulations give the oversight authority quite considerable power which goes well beyond formal oversight.
6. More broadly, members also noted that, as currently drafted, the regulations perhaps give the oversight authority a bit too much power. They suggested that this could be something for policymakers to revisit with higher thresholds of intervention to be incorporated into the regulations.
7. It was also noted that there will need to be a considerable training programme to enable oversight authorities to replicate the functions previously undertaken by the Secretary of State and DLUHC. Practical guidance from DLUHC would be welcome to assist this.

Question 3: Do you agree that the proposed list of functions of the Secretary of State that may only be exercised with the consent of the oversight authority is the correct one? If not, please specify which other functions you think should or should not be transferred and why.

8. We broadly agree.
9. However, it is more important what powers have not been included and whether the list of powers development corporations have is correct in the first place. For example, having planning powers but not highways powers is a significant blocker to delivery.

Question 4: Do you agree that the aims of the oversight authority included in the draft Regulations promote and support high quality developments, with sustainability and community at its heart? If not, are there additional aims or should they include less prescription?

10. We received feedback that the aims listed in the draft regulations are quite generic and arguably should be the objective of any successful planning function.
11. If the aims in the regulations are to have the strength to drive better outcomes then the regulations will need to be enhanced. For example, perhaps there needs to be an aim around addressing strategic blockages of development.
12. It was also noted that there would be value in the aims referencing the aim of enhancing the economic, social and environmental credentials of an area which is a key feature of compulsory purchase under the Town and Country Planning Act.

Question 5: Should the powers on the disposal of land be equalised across Locally-led Development Corporations so that all LUDCs can gift land with consent? If so, please provide reasoning.

13. The BPF are broadly supportive. If the aim is long-term stewardship and community engagement, then the ability to gift land is at the heart of both these objectives. Otherwise all that will be achieved is undermining the aims of the development corporation.

14. More broadly, members fed back that Locally-led Development Corporations need as wider powers as possible to achieve their aims.

Question 6: Do you agree with the proposals for board membership set out in the draft Regulations? If not, how should these be changed and why?

15. Members noted that ideally the chair needs to be independent of the local authority/oversight authority, local, and from a private sector background.
16. Members also fed back that the process by which board members are appointed needs effective guidance. Currently appointees to development corporation boards follow the public sector procurement route and specific guidance on the skills and experience needed to be on a development corporation board would enhance this process. Members also noted that ideally all board appointees should be subject to a competitive procurement process and not simply 'appointed' as can be the case when this power has sat with the Secretary of State.
17. In terms of board composition, members also noted that there would be a value in having a mix of different people on the board. This is to say that whilst appointees who are local add value, it is also important to have appointees who perhaps are not but can bring other skills to the board. Having appointees sourced from outside the local area would also guard against any vested interests/conflicts of interest.
18. Members also fed back there perhaps should be a role for the chair or CEO of the locally-led development corporation in appointments to the board. That is to say that whilst the power sits with the oversight authority, the chair or CEO of the relevant development corporation should still be involved in the process.
19. Members also commented on the terms of reference for the locally-led development corporations boards. Ideally, the terms of reference should give clear instructions to the board, duration of authority and also reference delivery phases and business planning processes. It was also noted that board terms of references should better define the roles of respective board members.
20. On appointments to the board, members also noted there would be a value in not every board member having a same length of appointment. It would be better if appointments are staged which would guard against significant numbers of experienced board members all leaving at the same time. This would build more continuity within the board composition which is only positive.
21. Finally, it was noted that policymakers should also think about the overall size of development corporation boards and refer to this in guidance. It was noted that large boards are not necessarily the most effective or efficient in the activities they undertake.

Question 7: Do you agree with the financial controls are set at the right level? If not, what should be changed?

22. We are broadly supportive of the proposal for the Secretary of State to set the borrowing limit and the oversight authority to administer/hold the development corporation to account.
23. Members also noted that aside from the borrowing limit, what is also important is monitoring the overall level of debt of development corporations. Monitoring the overall level of debt is arguably much more important than borrowing limits. Members noted that industry are not clear on where liability for development corporation debt ultimately sits and that is something that policymakers should make clearer.

Question 8: Do you agree that the Secretary of State should retain the function of dissolving the LUDC without consent from the oversight authority? If not, please provide reasoning?

24. We are broadly supportive. Members did feed back that there should be a formal process before any final decision is made. For example, if the Secretary of State is proposing to dissolve the development corporation without agreement from the oversight authority then in these situations there should be a duty on the Secretary of State to consider representations by the oversight authority/development corporation.

Question 9: Do you agree with the removal of redundant regulations that are covered by LURA? If not, please provide reasoning?

25. We are broadly supportive.

Question 10: Do you agree with the proposed changes to reflect proposals for the oversight of Locally-led Urban Development Corporations? If not, please provide reasoning?

26. Yes

Question 11: Are there any issues not picked up in the questions above you would like to raise? If so, please set these out.

27. If Development Corporations are to be successful then they need to have the appropriate range of powers. This includes the full range of planning powers, including development plan powers, and the ability to acquire and control land. Development Corporations would also benefit from having transport and highways powers. The delivery of infrastructure is often critical to unlocking investment and accelerating regeneration, but this can be complex. Development Corporations should have the powers to aid and unlock this.
28. In line with the locally-led principle, it will also be important that Government properly empowers Development Corporations to deliver. Historically, some of the oversight from Central Government has led to delays in delivery.

29. It will also be important that Development Corporations are properly resourced.
30. To attract investment, large development projects need as much policy and regulatory certainty and consistency as possible. This includes sustained and long term support from politicians at a local and national level. What happens if local politicians withdraw their support? Is there a case for powers to be reinvested in the Secretary of State in such cases?
31. It will be important that Development Corporations are able to engage with other statutory agencies, like the Environment Agency and Homes England.
32. It will also be important that Development Corporations are able to be agile and move at pace.
33. We would like to see comprehensive advice and guidance made available to those involved in setting up locally-led Development Corporations, including toolkits and case studies. This could include guidance on the appointments process. This could also include guidance on establishing an interim authority to allow a shadow Development Corporation to start recruiting staff and entering into contracts ahead of its formal constitution (which we understand may take a year or two). We believe it will be important that new Development Corporations are able to hit the ground running.
34. There should also be guidance on winding up Development Corporations, as these should be time-limited bodies. There may also be value in a formal review of Development Corporations after a set period to time, to ensure that they are still necessary and delivering against their objectives.
35. We would welcome clarity on where liability sits. We would assume ultimate liability resides with the Secretary of State but this should be made clear.
36. We recognise the limited scope of the consultation, but would note that the legal landscape governing locally-led Development Corporations and locally-led New Town Development Corporations is quite complex, with some legislation dating back to the 1980s. There may be value in a more strategic and wide-ranging review of the relevant legislation.
37. Finally, we received the below comments just before the consultation deadline which, given time constraints, we summarise in bullet form below:
- What is the optimum scale of development where an urban development corporation could be effective e.g. minimum scale of planned growth, extent of local, physical and social Infrastructure deficit etc.
 - Will government fund their creation as local authorities will not have the resources or skills to establish these bodies quickly
 - Lack of clarity in Regs on Dispute resolution / minimum articles of association/plan making powers/ for LLDCs
 - Ability to challenge LLDC decisions e.g. judicial review
 - Duration of existence – need to have a fixed timeframe e.g. to ride different political cycles e.g. min 20 years

- Lacks a requirement to have private sector inclusion especially private finance partners/housing associations on the oversight board – given these will have to be public/private partnerships. Significant levels of finance/funding will be required in addition to any developer contributions and CIL receipts so should be included in the oversight management
- How will deal with practical points like residential absorption rates in an area where no single lead housing provider