



## Department for Communities and Local Government

To: Interested Parties

2 October 2012

### **Proposed transfer of Homes and Communities Agency functions and assets to Milton Keynes Council**

Following Milton Keynes Council's proposal to take greater strategic control over housing delivery and regeneration in their area, there have been ongoing negotiations between Milton Keynes Council, the Homes and Communities Agency and Department for Communities and Local Government to arrive at a mutually agreeable settlement which will transfer land and planning functions from the Homes and Communities Agency to Milton Keynes Council.

This headline settlement consists of

- A proposed reversion of planning functions exercised by the Homes and Communities Agency, to Milton Keynes Council
- Disposal of the majority of the Homes and Communities Agency's land holdings in the area to Milton Keynes Council
- Transfer of Infrastructure Tariff management to Milton Keynes Council
- Waiver of the Homes and Community Agency's historic clawback and restrictive covenants
- Transfer of remaining green estate

We envisage the proposed transfer taking place in December 2012 subject to agreement on detail. **This letter seeks your views on the transfer of planning functions only from the Homes and Communities Agency, to Milton Keynes Council.** The attached draft Statutory Instrument (at Annex B) sets out how this will be transferred.

Currently, the Homes and Community Agency<sup>1</sup> is responsible for planning decisions in the following areas (**Annex A illustrates these areas**):

- The Northern, Western and Eastern Expansion Areas and remaining sites within the existing grid squares of Oxley Park, Tattenhoe Park and Kingsmead South.
- Land adjoining the A421 containing Eagle Farm and Glebe Farm, identified as "strategic reserve" sites.

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<sup>1</sup> By virtue of a designation made under sections 170(1) and (4) and 171 of the Leasehold Reform, Housing and Urban Development Act 1993.

And for the following types of development only:

- Development which comprises or includes the provision of 10 or more houses, flats, or houses and flats;
- Development which comprises or includes 1,000 or more square metres of floorspace for a use falling within any or all of the following Classes in the Town and Country Planning (Use Classes) Order 1987 (a) –
  - Classes A1, A2, A3, B1, B2, B8
- Development which occupies 1 hectare or more of land; and
- Development which is not of a kind specified above but which forms part of more substantial proposed development of such a kind on the same land or adjoining land in a designated area.

Under our proposals, the Homes and Communities Agency will cease to be the local planning authority in respect of the matters and areas set out above. It is intended that the powers to make decisions on planning applications for such development in these area will revert to Milton Keynes Council.

Milton Keynes Council already has, and will retain under the proposals, planning powers for the remainder of its area and for types development within the expansion areas that are not within the scope of the Homes and Community Agency's powers.

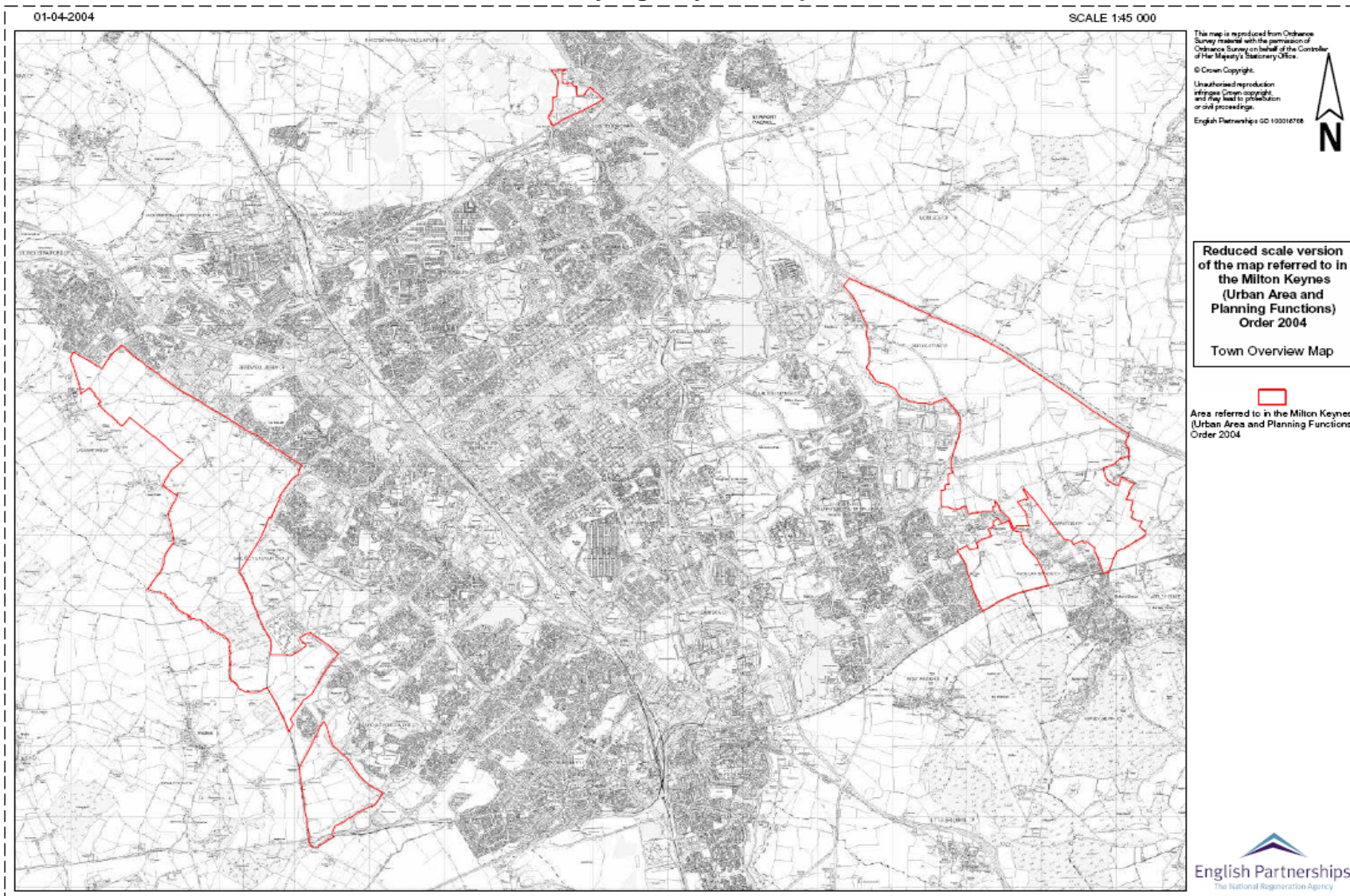
Should you have any views on the transfer of these functions from the Homes and Community Agency, to Milton Keynes Council please could you submit them by Monday 29 October to:

Matthew Pye  
1/A3  
Eland House  
Bressenden Place  
London  
SW1E 5DU

[matthew.pye@communities.gsi.gov.uk](mailto:matthew.pye@communities.gsi.gov.uk)

For information, further detailed information on the settlement can be obtained from at:  
<http://cmis.milton-keynes.gov.uk/CmisWebPublic/Binary.ashx?Document=35534>

### Homes and Community Agency Development Control Areas



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 STATUTORY INSTRUMENTS
 

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2012 No. xx

## URBAN DEVELOPMENT, ENGLAND

## The Milton Keynes (Urban Area and Planning Functions) Revocation Order 2012

<i>Made</i>	- - - -	2012
<i>Laid before Parliament</i>		2012
<i>Coming into force</i>	- -	XXXXX 2012

The Secretary of State, having consulted the Council of the borough of Milton Keynes part of whose area was included in the designated area, in exercise of the powers conferred by section 170(4) of the Leasehold Reform, Housing and Urban Development Act 1993<sup>(2)</sup>, makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Milton Keynes (Urban Area and Planning Functions) Revocation Order 2012 and shall come into force on 1st October 2012.

(2) In this Order—

“the 1990 Act” means the Town and Country Planning Act 1990<sup>(3)</sup>;

“the authority” means the Council of the borough of Milton Keynes;

“the designated area” means an area designated under article 3 of the Milton Keynes (Urban Area and Planning Functions) Order 2004<sup>(4)</sup>;

“the HCA” means the Homes and Community Agency<sup>(5)</sup>;

“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>(6)</sup>.

**Revocation of planning functions orders**

2. The Milton Keynes (Urban Area and Planning Functions) Order 2004 is revoked.

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<sup>(2)</sup> 1993 c.28. Section 170(4) of the Leasehold Reform, Housing and Urban Development Act 1993 was repealed by paragraph 63(2) of Schedule 8 Housing and Regeneration Act 2008 (c.17). Article 11(1) of the Housing and Regeneration Act 2008 (Commencement No.2 and Transitional, Saving and Transitory Provisions) Order 2008 (No.3069 (C.132) saved section 170(4) for the purposes of the Milton Keynes (Urban Area and Planning Functions) Order 2004 S.I. 2004/932.

<sup>(3)</sup> 1990 c.8.

<sup>(4)</sup> S.I. 2004/932.

<sup>(5)</sup> The Homes and Community Agency was established under section 1 of the Housing and Regeneration Act 2008 (c.17).

<sup>(6)</sup> 1990 c.9.

### Transitional provisions in connection with planning functions

3. Subject to articles 4 and 5, anything which before the date of the coming into force of this Order was in the process of being done by, to or in relation to the HCA in connection with any of the functions transferred to it under the Order revoked by this Order, may be continued after that date by, to or in relation to the authority <sup>(7)</sup>.

### Transitional provisions in connection with planning applications

4.—(1) This article applies as respects any application for planning permission or approval of reserved matters or for any other approval, consent or determination under the 1990 Act, or the Listed Buildings Act, or under any order or regulations made or having effect under either of those Acts—

- (a) which, before the date of the coming into force of this Order, was duly made to the HCA and which has not been determined before that date, and
- (b) in respect of which the HCA ceases, by virtue of the preceding provisions of this Order or by virtue of a direction made under section 77 of the 1990 Act <sup>(8)</sup> to be the local planning authority responsible for determining the application.

(2) The HCA shall transmit any application to which this article applies to the authority for determination.

(3) Subject to paragraph (4), where the HCA transmits an application to the authority for determination, the application shall be accompanied by a copy of any representation received by the HCA concerning the application and shall be treated as received by the authority from the applicant on the day on which it is transmitted to the authority.

(4) Where notices, certificates, publicity or consultations have been, or are in the process of being, given or carried out in relation to an application before the day on which it is transmitted to the authority, paragraph (3) shall not be construed as requiring further notices, certificates, publicity or consultations solely because the application is treated as received by the authority from the applicant on that day.

(5) Where an appeal is made to the Secretary of State under section 78 of the 1990 Act <sup>(9)</sup> or section 20 of the Listed Buildings Act <sup>(10)</sup> in relation to an application to which this article applies, the authority shall be the local planning authority for the purposes of the appeal.

(6) The authority shall be the local planning authority in relation to any application in respect of which a direction has been made under section 77 of the 1990 Act—

- (a) where the HCA has resolved with the agreement of the authority that the authority shall be the local planning authority in relation to that application; and
- (b) in any other case, where the application has not been determined before the date of the coming into force of this Order or has not been finally determined before that date following an application to the High Court under section 288 of the 1990 Act.

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<sup>(7)</sup> The Milton Keynes (Urban Area and Planning Functions) Order 2004 S.I. No 2004/932 transferred specified planning functions to Urban Regeneration Agency (“the URA”). The URA was abolished on 1<sup>st</sup> April 2009 by section of the Housing and Regeneration Act 2008 (c.17). With effect from 1<sup>st</sup> December 2008 article 11 (2) to (4) of the Housing and Regeneration Act 2008 (Commencement No.2 and Transitional, Saving and Transitory Provisions) Order 2008 (No.3069 (C.132) provided that the HCA should be substituted for the URAs regards sections 170 and 171 of the Leasehold Reform, Housing and Urban Development Act 1993 and anything done pursuant to them.

<sup>(8)</sup> Section 77 was amended by paragraph 18 of Schedule 7 to the Planning and Compensation Act 1991 (c.34) (the “1991 Act”), section 40(2) of the Planning and Compulsory Purchase Act 2004 (c. 5) (“the 2004 Act”) and is to be amended by paragraphs 1 and 2 of Schedule 10 to the Planning Act 2008 (c. 29) on a date to be appointed.

<sup>(9)</sup> Section 78 was amended by section 17(2) of the 1991 Act and sections 40(2)(e) and 43(2) of the 2004 Act and by sections 196 and 197 of, and paragraphs 1 and 3 of Schedule 10 (for certain purposes) and paragraphs 1 and 2 of Schedule 11 to, the Planning Act 2008 (c.29).

<sup>(10)</sup> Section 20 has effect in relation to buildings in conservation areas as it has effect in relation to listed buildings subject to such exceptions and modifications as may be prescribed by regulations (*see* section 74(3) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519).

## **Liability for compensation in connection with planning functions; section 106 obligations**

5.—(1) Where a right to compensation arises under section 107, 108, 115, 186, 203 or 204 of the 1990 Act<sup>(11)</sup> or section 28 or 29 of the Listed Buildings Act in consequence of action taken in relation to land within a development area by the HCA, the authority shall be liable for any compensation which is payable.

(2) Where, on or after the date of the coming into force of this Order, the Secretary of State makes an order or serves a notice, as the case may be, under section 100, 104, 185 or 202 of, or paragraph 11 of Schedule 9 to, the 1990 Act<sup>(12)</sup> in respect of a matter arising before that date, which relates to land within a designated area, the Secretary of State shall be liable to pay any compensation arising from the order or notice.

(3) A planning obligation entered into by agreement or otherwise under section 106 of the 1990 Act<sup>(13)</sup> before the date of the coming into force of this Order which identifies the HCA as the local planning authority by whom the obligation is enforceable shall after that date be enforceable by the authority.

Signed by authority of the Secretary of State for Communities and Local Government

	<i>Name</i>
Address	Parliamentary Under Secretary of State
Date	Department for Communities and Local Government

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

Article 2 of this Order revokes the Milton Keynes (Urban Area and Planning Functions) Order 2004

The effect of revoking the Orders is that the HCA ceases to be the local planning authority, in relation to the kinds of development and for the purposes specified in that Order, for the designated area. The planning functions concerned revert to the Council of the borough of Milton Keynes which, but for the Order, would be the local planning authority.

The Order makes transitional provisions in connection with the transfer of planning functions and planning applications from the HCA to local authority and the payment of compensation (articles 3, 4 and 5).

*An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.*

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<sup>(11)</sup> Section 107 was amended by paragraph 8 of Schedule 1 to, and paragraph 13 of Schedule 6 to, the 1991 Act; section 108 was amended by section 13(3) of that Act, section 40(2) of , and paragraph 6 of Schedule 6 to, the 2004 Act, section 189 of the Planning Act 2008 (c.29) and article 5 of S.I. 2006/1281; section 186 was amended by section 9(3) of, and paragraph 29 of Schedule 7 to, and Part 1 of Schedule 19 to, the 1991 Act and paragraph 206 of Schedule 1 to S.I. 2009/1307; sections 203 and 204 are repealed by section 192(6) of that Act on a date to be appointed.

<sup>(12)</sup> Section 100 was amended by paragraph 5 of Schedule 1 to the 1991 Act; section 202 is amended by paragraph 10 of Schedule 8 to the Planning Act 2008, and section 202(3) is repealed by section 192(5) of that Act, on a date to be appointed].

<sup>(13)</sup> Section 106 was substituted by section 12 of the 1991 Act, and is amended by section 33 of the Greater London Authority Act 2007 (c.24) and section 174 of the Planning Act 2008.