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Member of the Senedd for Carmarthen East and Dinefwr

3 Chwefror 2026

Annwyl Adam,

### **Planning consolidation Bills: proposed removal of urban development corporation planning powers**

I wrote on 27 January setting out the background to the Government's decision that the planning consolidation Bills should remove the Welsh Ministers' powers to give planning functions to an urban development corporation (UDC). When we met on 29 January with my officials, I agreed to write providing more detail about some of the difficulties that would arise from trying to retain and use the existing powers.

During our discussion, my officials and I noted that the existing powers in section 149 of the Local Government, Planning and Land Act 1980 ("the 1980 Act") would only enable Ministers to transfer some of a planning authority's functions to a UDC. Other planning functions would have to remain with the local authorities in the urban development area. The resulting split of functions would create the risk that neither the UDC nor the local authorities could operate effectively as planning authorities.

Currently, a UDC in Wales could be given development management functions under Part 3 of the Town and Country Planning Act 1990 ("TCPA 1990"), including the power to make local development orders and the responsibility for determining planning applications. It could also be given some related functions relating to enforcement, highways, listed buildings, and other consents and notices. But there are numerous functions of local planning authorities that could not be transferred to a UDC in Wales, which would prevent it operating effectively or on an equal basis with other local planning authorities. Further details are set out in the annex to this letter, but in summary the gaps are as follows:

- a UDC in Wales could not be given the function of preparing a local development plan;
- it could be given the function of deciding planning applications, but could not be given the function of issuing certificates of lawful use or development, which may be needed to determine whether a planning application is required;

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

- it could be given the function of agreeing planning obligations, but not the function of charging the community infrastructure levy (CIL), leaving it with only some of the available powers to address the impact of development on its area;
- it could be given the powers to issue enforcement notices and stop notices, but not the powers to issue enforcement warning notices and temporary stop notices. This would mean a UDC would have only some of the powers that local planning authorities have to enforce the requirements to obtain planning permission and comply with the terms of any permission that is granted;
- it could be given the powers to make tree preservation orders and issue tree replacement notices, but not the powers to enter land or apply for injunctions to enforce tree preservation orders.

There would also be some similar gaps in the functions that could be transferred to UDCs under the legislation about listed buildings and conservation areas.

Some of these gaps were present in the 1980 Act when it first introduced the power to transfer planning functions to a UDC. Others reflect the fact that the planning legislative landscape has changed significantly since 1980. New functions have been conferred on planning authorities, but the legislation creating those functions has not necessarily added them to the lists of functions that can be transferred to UDCs. Whatever the reasons may have been for leaving those gaps, it is clear that we cannot fill them all in a consolidation exercise. In particular, the consolidation Bills could not change the law to enable UDCs to be given the functions of preparing development plans, issuing certificates of lawful use or development, or charging CIL.

Therefore, if we now tried to amend the consolidation Bills to reinstate the powers to give planning functions to UDCs, not only would that be a complicated task (because, as my officials mentioned when we met, it would involve reintroducing a number of distinctions and exceptions that are not required if the powers are omitted), but we would also have to reproduce unsatisfactory gaps in the functions that can be given to UDCs in Wales.

As I explained when we met, I consider it very likely that amendments to primary legislation would be needed to ensure that UDCs in Wales could operate effectively in fulfilling planning functions for their areas. That was the view of some respondents to the consultation paper issued by the Law Commission on Planning Law in Wales, and formed part of the background to the Commission's recommendation to omit these powers. In response to consultation question 5-12 on this matter, the Law Society and Huw Williams of Geldards solicitors stated:

*"We agree and see no merit retaining these provisions because of a possibility they might be used in the future. It is unlikely that future policy initiatives, albeit they might involve approaches like the ones noted, would be the same in all respects – so the need for adaptation of the legislation should be regarded as almost inevitable. Once this is acknowledged there isn't a great saving from having to legislate "from scratch". That being the case, the balance of advantage lies with removing these provisions and reducing the length of the Code."*<sup>1</sup>

I share that view. It should be noted that the establishment of Mayoral Development Corporations (MDCs) in London has involved the creation of a new legislative framework provided by the Localism Act 2011, which enables MDCs to be given development plan functions under Parts 2 and 3 of the Planning and Compulsory Purchase Act 2004 ("PCPA

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<sup>1</sup> See paragraphs 5.287 and 5.291 of the Law Commission's Planning Law in Wales: Responses to Consultation Paper, December 2018

2004"). More recently, the Levelling-up and Regeneration Act 2023 ("LURA 2023") amends the powers to confer planning functions on MDCs and on UDCs in England, to ensure that both types of development corporation can be given a more comprehensive set of planning functions. (See the annex to this letter for further details.) These legislative changes made by the UK Parliament clearly demonstrate that the existing legislation relating to the transfer of planning functions is not considered satisfactory.

These problems with the existing powers to transfer planning functions, together with the fact that the powers have never been used in Wales and the positive response to the Law Commission's consultation on omitting them, all reinforce my view that the powers are no longer of practical utility.

I note that in last week's report the other members of the Legislation, Justice and Constitution Committee recommended that the Bills should proceed to Final Stage, but that you have now tabled a motion that amendments should be considered at a Detailed Senedd Consideration stage. The Government fully supports the recommendation that the Bills should proceed to Final Stage. In light of the reasons set out in my previous correspondence and elaborated further during our discussion and in this letter, I would encourage you to withdraw your motion.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee.

Yn gywir,



**Julie James AS/MS**

Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni  
Counsel General and Minister for Delivery

## **Annex: legislation about functions of UDCs**

### General purposes and functions of UDCs

Under sections 134 and 135 of the 1980 Act, Ministers have the power to designate an area as an urban development area, and to establish an urban development corporation (UDC) to secure the regeneration of the area.

Sections 136 and 141-146 of the 1980 Act contain powers for UDCs to acquire, develop and dispose of land. Ministers can transfer land to UDCs from other public bodies, and can authorise them to acquire land compulsorily.

Under sections 136 and 160-162 of the 1980 Act, UDCs may make loans for certain purposes, including to enable the acquisition and development of land.

Under sections 151-153 of the 1980 Act, UDCs may be given building control functions and certain functions under housing legislation.

### Planning functions of UDCs: the current position in Wales

Part 6 of PCPA 2004 requires local planning authorities to prepare local development plans for their areas. For this purpose, a “local planning authority” means only a county council or national park authority, so a UDC does not have the function of preparing a development plan. Under section 74 of PCPA 2004, the Welsh Ministers can direct that the provisions about development plans do not apply to an urban development area, meaning that plans do not have to be prepared for the area. But Ministers cannot transfer plan-making functions to the UDC.

Under section 148 of the 1980 Act, a UDC may submit a set of proposals for the development of land in its area to Ministers. Ministers can make a special development order under section 59 of TCPA 1990 granting planning permission for development in accordance with the proposals. The proposals and development order could relate to a specific development, or to general categories of development in the urban development area or particular parts of the area. (These functions are preserved by the consolidation Bills.)

Section 149(1) of the 1980 Act enables Ministers to make an order which provides for a UDC to be the local planning authority for all or part of its area, in relation to specified kinds of development, for the purposes of any or all of the provisions of Part 3 of TCPA 1990. Section 7 of TCPA 1990 provides that, in the cases provided for in such an order, the UDC is the local planning authority in place of any other authority.

Under section 149(1) of the 1980 Act, a UDC could be given the functions of making local development orders, determining applications for planning permission, modifying or revoking permissions, agreeing planning obligations and making discontinuance orders. The effect would be to transfer those functions to the UDC from the local authority that would otherwise be the planning authority.

Section 149(2) of the 1980 Act enables an order under section 149(1) to modify legislation that applies to planning authorities in relation to a UDC. This power could, for example, be used to modify the compensation provisions that apply where planning permission is refused or revoked. It could not be used to apply the provisions under which, in that situation, a person may require a local authority to purchase their interest in land by serving a purchase notice.

Section 149(3) of the 1980 Act enables Ministers to give a UDC the functions of a local planning authority under certain provisions in Parts 7, 8 and 10 of TCPA 1990, and under certain provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA 1990). But the lists of provisions of each Act are incomplete:

- The list includes some of the planning enforcement provisions in Part 7 of TCPA 1990, but not the powers to issue enforcement warning notices or temporary stop notices, or the function of issuing certificates of lawful use or development.
- The list includes some of the provisions of Chapter 1 of Part 8 of TCPA 1990 relating to the protection of trees but does not include the powers to enter land or apply for injunctions, and the list of provisions has not been amended to reflect significant change made by the Planning Act 2008.
- The list includes all the function of planning authorities in Wales under Chapters 2 and 3 of Part 8 of TCPA 1990, relating to land adversely affecting amenity and the display of advertisements, and under Part 10, relating to highways.
- The listed provisions of PLBCAA 1990 include many, but not all, of the provisions of that Act conferring functions on planning authorities relating to listed buildings and conservation areas (now restated for Wales in the Historic Environment (Wales) Act 2023).

Regulations under Part 11 of the Planning Act 2008 enable planning authorities to charge CIL, as a means of requiring owners and developers of land to meet some of the costs resulting from development. The regulations cannot authorise UDCs to charge CIL.

### Planning functions of UDCs: position in England now and under LURA 2023

In England, in addition to the gaps in the functions that may be conferred on UDCs described above, the list of functions in Schedule 29 to the 1980 Act has other gaps. The list of provisions in Schedule 29 does not currently include new provisions that have been inserted in Part 7 of TCPA 1990 relating to planning enforcement orders, or new provisions in Chapters 3 and 4 of Part 8 relating to unauthorised advertisements and defacement of premises. All of those provisions apply only in England.

However, section 174 of LURA 2023 amends the 1980 Act to fill in most of the gaps in the planning functions that can be transferred to UDCs in England. That section is not yet in force, but it makes the following amendments:

- It amends section 149 of the 1980 Act and Part 2 of PCPA 2004 to include a new power to give UDCs functions of preparing development plans.
- It amends Schedule 29 to the 1980 Act so that the list of functions under TCPA 1990 that may be transferred to a UDC includes the powers to apply for planning enforcement orders and to issue enforcement warning notices and temporary stop notices, the function of issuing certificates of lawful use or development, and powers to take action in relation to unauthorised advertisements and defacement of premises.
- It inserts a new section 149A into the 1980 Act, which enables a UDC in England to delegate any of its functions as a planning authority back to the council that previously had the function, and enables such a council to give a UDC assistance in exercising any planning functions that are conferred on it.

Section 174 of LURA 2023 does not, however, make any changes to the enforcement functions that may be given to a UDC in relation to the protection of trees.

In addition, Schedule 12 to LURA 2023 (which is not in force) would replace CIL with a new “infrastructure levy” (IL) in England, and would give a UDC for an area in England the function of charging the new levy if it was the local planning authority for all of its area. Following the 2024 UK General Election, the new UK Government announced that it did not intend to take the IL forward.

These changes would apply only to UDCs in England, not ones in Wales. They would enable UDCs in England to be given a much fuller set of planning functions, although the new section 149A of the 1980 Act suggests that UDCs might not be able to exercise all of those functions themselves.