## LONDON BOROUGH OF ENFIELD

### Report No: 4

#### PLANNING COMMITTEE

**Report of**
Assistant Director,
Regeneration & Planning

**Contact Officers:**
Kenneth Rose: 0208 379 5345
Kenneth.rose@enfield.gov.uk
Paul Gardner: 020 8379 5537
Paul.Gardner@enfield.gov.uk

**Ward:**
Upper Edmonton Green

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**LOCATIONS:**
- Meridian Water Zone 1: Willoughby Lane
- Meridian Water Zone 5: Leeside Road

**PROPOSAL:**
Hazardous Substance Revocation Orders

**Applicant Name & Address:**
Enfield Borough Council

**Agent Name & Address:**
Not Applicable

**RECOMMENDATION:**
Authorise the revocation of Hazard Substance Consent orders HAZ/92/0006 and HAZ/92/0007.

1. Issue the “The London Borough of Enfield Revocation of Hazardous Substances Consent Order (No 1) 2017”
2. Issue the “The London Borough of Enfield Revocation of Hazardous Substances Consent Order (No 2) 2017”

**Plan Numbers:**
Not applicable

**Note for Members:**
note the Hazardous Substance Revocation Order Report
1. EXECUTIVE SUMMARY

1.1 The purpose of this report is to obtain approval from the Planning Committee for the making of an Order under S14(1) of the Planning (Hazardous Substances) Act 1990 to revoke the Hazardous Substances Consent (HSC) at three former gasholder sites two at Willoughby Lane and one at Leeside Road used for the storage of natural gas by National Grid (NG) in the Upper Edmonton ward: Leeside Road gas holder (Grid Ref: TQ 354 915), and Willoughby Lane gas holder (Grid Ref: TQ 349 919). (Appendix 7,8)

1.2 The revocation of the consents will support build out at an appropriate density and scale and enable the Council to achieve its financial and regeneration objectives in a timely manner.

1.3 The two sites are within Meridian Water Zones 1 and 5. The sites were purchased by the council in April 2015 from NG as part of the process of land assembly to deliver against the spatial policy and the Council’s regeneration programme for Meridian Water.

1.4 The Council has within its powers under the Planning (Hazardous Substances) Act 1990 the provision to issue Hazardous Substance Revocation orders that can be used by the Hazardous Substance Authority (HSA) in this case the London Borough of Enfield.

1.5 The Health and Safety Executive (HSE) have been engaged at the outset of compiling this report to confirm their position in respect of issuing the Revocation Orders in their role as impartial advisers to the HSA and they have confirmed they have no objections and will not impede the planning application process. (Appendix 2)

1.6 The NG have been consulted and confirmed they will not seek compensation from the Council under section 16 of the Planning (Hazardous Substances) Act 1990. (Appendix 3)

1.7 The Environment Agency (EA) have been consulted as impartial advisers to the HSA and have no objections. The gas holders have been removed (Ref.no: 14/02995/FUL), infill is complete, the remediation process is ongoing and presents no risk to the environment or public health. (Appendix 4)
1.8 All statutory consultees as specified in S15(3) of the Planning (Hazardous Substances) Act 1990 will be consulted by the HSA. The hazardous substance exclusion zones do not presently include any residential properties, business, or properties of any kind.

1.9 Revocation is subject to confirmation by the Secretary of State.

1.10 The practical impact if the hazardous substance consents are not revoked is that the HSE will keep the consultation zones in place. This will limit the type and quantity of development within 3 zones (inner, middle, outer). (Appendix 1,7,8)

2. RECOMMENDATIONS

That the Planning Committee:

2.1 Revoke Hazardous Substances Consent Numbers. HAZ/92/0006 and HAZ/92/0007.

2.2 Authorise the making of the “The London Borough of Enfield Leeside Road and Willoughby Lane Hazardous Substance Revocation Orders 2017” serving of notices on interested persons and request confirmation of the Orders by the Secretary of State. (Appendix 5,6, 9, 10)

2.3 Delegate authority to the Assistant Director, Regeneration & Planning and Meridian Water Programme Director to amend, process, resolve, and consult with relevant parties to enable completion of the revocation duty.

3. BACKGROUND

3.1 Hazardous Substance Consent (HSC) was granted for Gas holder station No 4, at Leeside Road, London N17 0SA and Gas holder stations No’s 2 and 3 at Willoughby Lane, London N17 0RT on 29th November 1992.
3.2 The HSC gave permission to National Grid to store 206 tonnes of natural gas at Willoughby Lane and 260 tonnes at Leeside Road. The HSE are responsible for defining the consultation zones around installations that store hazardous substances which are subject to hazardous substance consents. The current consultation zones as illustrated in *(Appendix 1, 7,8)*

3.3 The amendments to the outline planning application for Meridian Water Zone 1 *(Ref. No: 16/01197/RE3)* were submitted on the 27th January 2017. The Greater London Authority have confirmed all issues raised at Stage 1 have been satisfactorily addressed. The negotiations on the Section 106 agreement and planning conditions are nearing completion. Barratt Homes London have confirmed that they will commence their pre-application process on the reserved matters application in June 2017 subject to signing the Master Developer Framework Agreement *(MDFA)* and planning permission being granted.

3.4 The proposed Revocation Orders are key elements of the planning, legal and contractual process as they relate to the reserved matters conditions 1, 3 and 10 *(Ref: 15/04050REL* the remediation of contaminated soils and shallow groundwater and removal of buried structures).

3.5. A programme of remedial works has started on site and a remedial strategy has been produced which are now subject to discharge of conditions *(Ref: 16/05350/CND)*. This will enable the Council and its regeneration partner’s business and development aims in respect of the pre-application process to progress without impediment as the revocation process is now running in tandem. This will (i) contribute to the unlocking of the wider Meridian Water regeneration area; and (ii) contribute to the delivery of priorities set out in the Edmonton Leeside Area Action Plan and the realisation of the regeneration opportunity.
4. **BRIEF HISTORY OF USE OF SITES BY THE NATIONAL GRID**

4.1 The sites known as the Tottenham Gas Works Eastern estate were owned by NG and used for the storage of natural gas in water sealed holders. The gas holders were sealed and operated through pressure reducing equipment during periods of low demand and emptied through jet or fan boosting during periods of high demand.

4.2 The Gas holders at Leeside Rd and Willoughby Lane were decommissioned and removed in 2014 *(Ref. No: P13-03568PRI)* and *(Ref. No: P13-03564PRI)* and are no longer a hazard. There is no longer any requirement for the storage of gas or any other hazardous substance therefore the hazardous substance consent is redundant and should be revoked. The HSE, EA, HSA agree that the orders are redundant and revocation should proceed.

5. **ALTERNATIVE OPTIONS CONSIDERED**

5.1 No other options were considered. The HSC provide the legal authority to store Hazardous Substances and that alone. The substances have been removed. The Gasholders have been demolished and the site is in the advanced stages of remediation. A decision not to proceed to revocation will mean the HSE will keep the consultation zones in place unnecessarily. This will limit the type and quantity of development within zones 1 and 5.

5.2 Doing nothing is not an option as the issuing of the orders are a necessary step in respect of 5.1 above. The issuing of the Revocation Orders for Zone 1 are part of the necessary actions, documentation, and certificates required to conclude the signing of the Master Development Framework Agreement with Barratt London Limited in July 2017 and to facilitate the meeting of the planning conditions of the Meridian Water planning application *(Ref. No: 16/01197/RE3)* as well as fully enable the development of Zone 5 in future by removing the HSC at Leesside Road.

5.3 Officers have been proactive in engaging the HSE, EA and NG at the early stages in the process of seeking revocation. We have clarified their view to confirm there are no objections and proceeded to initiate the formal process in the knowledge that planning conditions in respect of remediation are being fulfilled to ensure
there is no delay delivering against the Council's business and regeneration plans for ongoing as well as future investment opportunities.

6.0 Revocation schedule (Provisional)

6.1 The HSA, LPA can make the revocation orders once authorised by Planning Committee. The orders are submitted to the Secretary of State and the Council must serve notice on interested persons giving no less than 28 days from the date of service for those persons to make representations. If they make such representation they will be entitled to be heard by an inspector appointed by the Secretary of State. If no representations are made during that period the Secretary of State confirms the orders, following which the Council must give notice of confirmation to interested persons.

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<th>Item</th>
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<tr>
<td>Scheduled for Planning Committee</td>
<td>Tuesday 23rd May 2017</td>
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<tr>
<td>Revocation Order Made</td>
<td>From the day following Planning Committee (Day 1)</td>
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<tr>
<td>Order sent to Secretary of State and Notices served on Interested Parties</td>
<td>From Day 1</td>
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<tr>
<td>Secretary of State confirms Revocation</td>
<td>no less than 28 days following service of notices</td>
</tr>
<tr>
<td>Confirmed Revocation Order served on parties</td>
<td>After receipt of Confirmed Revocation order from Secretary of State</td>
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7. **REASONS FOR RECOMMENDATIONS**

7.1 The purpose of this report is to recommend that committee resolve to authorise the making of the order under S14(1) of the Planning (Hazardous Substances) Act 1990 to revoke the Hazardous Substances Consents.

7.2 Meridian Water Zone 1 is a mixed-use development comprising: up to 725 residential units, new station building, platforms and associated interchange and drop-off facilities including a pedestrian link across the railway, a maximum of 950 square metres retail (A1/A2/A3), floor space, a maximum of 600 square metres of community (D1) floor space, a maximum of 750 square metres of leisure (D2) floor space, associated site infrastructure works including ground and remediation works, roads, cycle-ways and footpaths, utility works above and below ground, surface water drainage works, energy centre and associated plant, public open space and children’s play areas, and various temporary meantime uses without structures (such as landscaping and open space).

7.3 Zone 1 is the location of the gas holder at Willoughby Lane and Leeside Road is in Zone 5 all subject to the issuing of Revocation Orders. The Leeside Road and Willoughby Lane gas holders have been removed Ref: P13-03568PRI and Ref: P13-03173PLA. Hydrock Limited, a multidisciplinary engineering consultancy and specialist land remediation contracting business, and Cognition Land and Water Ltd, a groundwater remediation contracting specialist, are on site. The remediation process has started in preparation for the commencement of the first phase of the build out of Zone 1.

7.4 Full Council endorsed the proposed *Edmonton Leeside Area Action Plan* on the 25th January 2017 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, subject to a statutory period of consultation and submission to the Secretary of State for public examination. The plan includes the Meridian Water regeneration opportunity and aims to guide the implementation and delivery of the spatial vision and land use strategy for this part of south east Enfield. (*Key decision – 4389*)
8. **KEY RISKS**

8.1 **Risk 1:**

The primary risk is administrative if the orders are not confirmed in a timely manner in line with the statutory process this may complicate matters in respect of meeting planning obligations by our development partner Barratt Homes London and the signing of MDFA for Zone 1. The result would be that the exclusion zone technically would remain in force, the implication being the scale and pace of development may be reduced until the consents are revoked with potential for resultant financial and reputational damage. In addition, it is expedient, efficient, and practical to revoke the HSC in Zone 5 at the same time to remove any potential future impediment to development.

8.2 **Mitigation:**

We have ensured the HSE and EA support the initiation of the revocation process. They have been engaged throughout the process in their capacity as impartial advisers to the HSA/LBE. Barratt London are aware of our actions and fully support them. (i) The remediation process is ongoing. (ii) All Revocation Orders and notices have been prepared and will be served on the LPA decision. We have taken all the necessary steps as the HSA to ensure our statutory duty is met and revocation proceeds to its full completion.

8.3 **Risk 2:**

Additional risk is that of compensation. NG have confirmed they will not seek compensation. However potentially there may be a risk of a third-party, individual or corporate yet unknown to the Council seeking compensation. We have sought legal advice in that respect to ensure every foreseeable consequence is addressed. Trowers and Hamlin’s our legal advisers have confirmed the potential is minimal.
8.4 Mitigation:

The likelihood of this occurring is extremely low as Officers have considered the implications legal and contractual and have been in contact with the HSE, EA, to obtain a view and legal advice from Trowers and Hamlin’s to ensure the orders can be issued without delay by the HSA. The LPA/HSA also have within their remit the ability to enforce conditions within the planning application and as such can act in the unlikely event planning conditions are not fulfilled in respect of complete remediation of the Meridian Water Zone 1 land.

9. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

None.

10. FINANCIAL IMPLICATIONS

None.

11. LEGAL IMPLICATIONS

11.1 The Council is empowered under section 14(1) of the Planning (Hazardous Substances) Act 1990 (the Act) as the Hazardous Substance Authority to issue the revocation orders if it considers, having regard to any material consideration, that it is expedient to do so. A revocation order made by the Council will not take effect until confirmed by the Secretary of State.

The Council must serve notices on any persons specified in section 15(3) of the Act, who must be given no less 28 days to make representations to the Secretary of State. If any representations are made those persons will get opportunity of appearing before a person appointed by the Secretary of State.

Where an order has been confirmed by the Secretary of State, the Council must serve a copy of the order on every person who was entitled to be served with notice under section 15(3) of the Act.
11.2 Under section 16 of the Act a right to compensation may apply where the Council revokes an Order under section 14(1) of the Act as is proposed by this report. Legal advice in respect of potential compensation has been provided by Trowers and Hamlin’s

12. PROPERTY IMPLICATIONS

12.1 The Meridian Water Zone 1 and 5 sites the location of the former Gas holders was acquired on the assumption the Hazardous Substance Consent Orders would be removed. Therefore, it is imperative the Hazardous Substance Revocation Orders are issued to fully realise the development value and comply with our duty as the Hazardous Substance Authority.

13. IMPACT ON COUNCIL PRIORITIES

13.1 Fairness for All

The regeneration of Meridian Water Zone 1 promotes fairness and equity for all. The social, economic, and regeneration benefits are extensive, creating employment opportunities, supporting existing and new enterprises, attracting inward investment and delivering a range of housing options, community facilities and civic improvements that facilitate choice and increase the quality of life, health and wellbeing of residents and visitors to Enfield.

13.2 Growth and Sustainability

Growth and sustainability is a prima facia reason for regeneration and development; to create an environment that maximises the human, geographical and spatial potential of the Borough and its strategic position within the Greater London Growth Corridor. The positive impact of delivery will be experienced across all aspects of social, economic, and civic life by integrating a range of programmes, projects, and initiatives with a cost neutral focus and emphasis on sustainability through the effective and efficient delivery of Council services securing increased capital and revenue receipts for investment and further growth.

13.3 Strong Communities
The proposals for Meridian Water regeneration programme aim to create a vibrant mixed use community that will attract inward investment, create a range of home ownership options, and increase the choices available through the provision of new civic amenities and improvements to the public realm. The aim is to build strong and resilient communities who are empowered to contribute to civic and economic life through provision of social and economic infrastructure that increases civic pride, responsibility, and choice whilst tackling elements of social and economic disadvantage.

14. EQUALITIES IMPACT IMPLICATIONS

14.1 None.

15. PERFORMANCE MANAGEMENT IMPLICATIONS

15.1 None.

16. HEALTH AND SAFETY IMPLICATIONS

16.1 None.

17. HUMAN RESOURCES IMPLICATIONS

17.1 None.

18. PUBLIC HEALTH IMPLICATIONS

18.1 The Meridian Water regeneration programme site was previously contaminated land. The immediate environment will benefit from remediation and development as new housing, public space, and amenity will be created delivering a high-profile exemplar neighbourhood on what was once an underutilised brownfield site.

19. BACKGROUND PAPERS


APPENDICES
1. Remediation Boundary Map
2. Letter from the Health and Safety Executive
3. Letter from National Grid
4. Letter from the Environment Agency
5. Revocation of Hazardous Substance Order (Leeside) 2017
6. Revocation of Hazardous Substance Order (Willoughby) 2017
7. Leeside Road Consultation Zone gas holder number 4
8. Willoughby Lane Consultation Zone gas holders number 2 and 3
9. Hazardous Substance Revocation Notice Barratts (Leeside Road)
10. Hazardous Substance Revocation Notice Barratts (Willoughby Lane)
11. Hazardous Substance Notice National Grid (Leeside)
12. Hazardous Substance Notice National Grid (Willoughby)
13. Willoughby Lane Location Plan GH No 2, 3
14. Leeside Road Location Plan GH No 4
15. Letter to the Secretary of State
16. Willoughby Lane and Leeside Road Location Plan Gasholders 2, 3 & 4