

Report to:

PLANNING COMMITTEE

Relevant Officer:

Susan Parker, Head of Development Management

Date of Meeting:

27 February 2024

SITE / UNIT 15, SQUIRES GATE INDUSTRIAL ESTATE, BLACKPOOL, FY4 3RN – REVOCATION OF HAZARDOUS SUBSTANCE CONSENT

1.0 Purpose of the report

- 1.1 To obtain approval from the Planning Committee for the making of an Order under S14(2) of the Planning (Hazardous Substances) Act 1990 to revoke the Hazardous Substances Consent at a former gasholder site at Squires Gate Industrial Estate, Site 15 – See attached plan

2.0 Recommendation(s)

- 2.1 To authorise the revocation of the Hazardous Substance Consent orders in relation to the above site.
- 2.2 To authorise the making of the Hazardous Substance Revocation Orders and serving of said notices on interested parties and request confirmation of the Orders by the Secretary of State.
- 2.3 To delegate authority to the Director of Communication and Regeneration to amend, process, resolve and consult with relevant parties to enable completion of the revocation duty.

3.0 Reason for recommendation(s)

- 3.1 The site is no longer occupied / tenanted by Home Heat Gas Co Limited and the large gas storage tanks have been removed, therefore there is no requirement for the hazardous substance consent order.
- 3.2 The presence of the consent order does not prohibit development, but does prohibit the occupation of any new development within the 250m designated COMAH zone. This will have a negative economic and regeneration impacts on the proposed development within the Eastern Gateway and privately owned sites within the Enterprise Zone.

3.3 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 (HAS) in this instance Blackpool Council.

3.4 There has been a material change of use of the land and the substances detailed in the hazardous substance consent have not been present on, over or under the land for at least five years.

3.5 Is the recommendation contrary to a plan or strategy approved by the Council? No

3.6 Is the recommendation in accordance with the Council's approved budget? Yes

4.0 Other alternative options to be considered

4.1 No other options were considered. The Hazardous Substance Consent provides the legal authority to store Hazardous Substances and that alone. The substances have been removed from the site. A decision not to proceed to revocation will preclude the occupation of new development in the Enterprise Zone.

4.2 Doing nothing is not an option as the issuing of the revocation orders is a necessary step in order to fulfil delivery of the Enterprise Zone masterplan

5.0 Council priority

5.1 The relevant Council priority is: 'The economy: Maximising growth and opportunity across Blackpool'

6.0 Background and key information

6.1 The last approved Hazardous Substance Consent ref. 99/0349 was in respect of the storage of 38.3 tonnes of commercial propane and 52.0 tonnes of commercial butane. This was approved 20 September 1999.

6.2 Home Heat Limited vacated the site in 2019.

6.3 The site has most recently been used for temporary wagon parking by Fox Brothers and Leyland Trucks.

6.4 Related planning applications: 95/0763 and 95/0600

6.5 Does the information submitted include any exempt information? No

7.0 List of appendices

7.1 Appendix 9a – Draft Order – Hazardous Substances Consent Revocation

8.0 Financial considerations

8.1 None.

9.0 Legal considerations

9.1 The Planning (Hazardous Substances) Act 1990 allows for a Hazardous Substance Consent to be revoked under s14. This Authority, as a Hazardous Substance Authority, can make a revocation order under s14 (1) or (2) of the Act. The revocation will be subject to confirmation by the Secretary of State under s.15 of the Act (even if it is unopposed). S 16 (1) of the Act makes clear that compensation, which would otherwise be payable for a revocation or modification using powers under s14 (1), is not payable for a revocation if it is made under s14 (2) of the Act.

9.2 Whilst the risk of compensation being sought from the Council would not apply if the consent was revoked under s14 (2), there are a number of criteria that must be satisfied, these are as follows:

(a) that there has been a material change in the use of the land to which the HSC relates; or

(b) planning permission has been granted and commenced for development of the site and would involve making a material change in the use of the land; or

(c) in the case of a Hazardous Substance Consent which relates only to one substance, that the substance has not for at least five years been present on, over or under the land to which the consent relates in a quantity equal to or exceeding the controlled quantity or

(d) in the case of a Hazardous Substance Consent which relates to a number of substances, that none of these substances has for at least five years been so present.

9.3 The Council must serve notices on any persons specified in S15(3) of the Act, who must be given no less than 28 days to make representations to the Secretary of State. If any representations are made those persons will get the opportunity of appearing before a person appointed by the Secretary of State.

9.4 Where the order has been approved by the Secretary of State, the Council must serve with notice under S15(3) of the Act.

9.5 Under S16 of the Act, a right to compensation may apply where the Council proposes to revoke an Order under S14(1) of the Act. There is no such right to compensation if the Council revokes the Order under S14(2) of the Act as proposed.

10.0 Risk management considerations

- 10.1 Whilst there is a risk of compensation being requested if revocation is made under s14(1) of the Planning (Hazardous Substances) Act 1990 this does not apply under s14(2). It is proposed to revoke under s14(2) of the Planning (Hazardous Substances) Act 1990, under s14(2) to negate compensation risk.
- 10.2 There are positive environmental implications from revoking the consent for the continued storage of hazardous materials to the currently authorised amounts at the site. It reduces a potentially hazardous use.

11.0 Equalities considerations and the impact of this decision for our children and young people

- 11.1 None.

12.0 Sustainability, climate change and environmental considerations

- 12.1 None.

13.0 Internal/external consultation undertaken

- 13.1 Internal consultation has been undertaken with Blackpool Councils Planning and Legal department.

14.0 Background papers

- 14.1 None.