

Application for revocation of Hazardous Substances Consents H/HSD/36016 and H/HSD/36017 under Section 14 of the Planning (Hazardous Substance) Act 1990 (the 1990 Act)

Gasholders And Associated Infrastructure, Common Lane, Partington, M31 4BR

APPLICANT: National Grid

AGENT: Forsters LLP

RECOMMENDATION: THAT THE REVOCATION ORDER BE MADE AND SUBMITTED TO THE SECRETARY OF STATE FOR CONFIRMATION

EXECUTIVE SUMMARY

This report identifies the available revocation procedures under the Planning (Hazardous Substances) Act 1990 ('the Act') and the implications with regard to hazardous substances consents H/HSD/36016 and H/HSD/36017 relating to the storage of natural gas at the National Grid site at Common Lane in Partington. The report recommends that the revocation order be submitted to the Secretary of State for confirmation under section 14(2) of the Act.

SITE

The application relates to a site at the south-western edge of the now largely vacant Carrington refinery complex, to the north-east of Partington. Two gas holding towers and twelve cylindrical vessels for the storage of natural gas were located on the site prior to their removal circa 2018 following the approval of application 92920/DEM/17 to demolish the structures.

The site is accessed via Common Lane to the north, and there is largely vacant brownfield, former industrial land to the east. Manchester Road runs along the western boundary of the site, beyond which is the Saica Paper Mill. To the south is a densely vegetated area (Partington Nature Reserve) with a disused railway line running through it which separates the site from Partington to the south-west.

PROPOSAL

The report seeks authorisation to make an Order and then submit the Order to the Secretary of State for confirmation, which would revoke the extant hazardous

substances consents H/HSD/36016 and H/HSD/36017 which relate to the storage of natural gas on the site ('Deemed Consents').

DEVELOPMENT PLAN

For the purposes of this application the Development Plan in Trafford comprises:

- The **Trafford Core Strategy**, adopted 25th January 2012; The Trafford Core Strategy is the first of Trafford's Local Development Framework (LDF) development plan documents to be adopted by the Council; it partially supersedes the Revised Trafford Unitary Development Plan (UDP), see Appendix 5 of the Core Strategy.
- The **Revised Trafford Unitary Development Plan** (UDP), adopted 19th June 2006; The majority of the policies contained in the Revised Trafford UDP were saved in either September 2007 or December 2008, in accordance with the Planning and Compulsory Purchase Act 2004 until such time that they are superseded by policies within the (LDF). Appendix 5 of the Trafford Core Strategy provides details as to how the Revised UDP is being replaced by Trafford LDF.
- The **Greater Manchester Joint Waste Plan**, adopted 1st April 2012 now forms part of the Development Plan in Trafford and will be used alongside district-specific planning documents for the purpose of determining planning applications.
- The **Greater Manchester Joint Minerals Plan**, adopted 26th April 2013 now forms part of the Development Plan in Trafford and will be used alongside district-specific planning documents for the purpose of determining planning applications.

PRINCIPAL RELEVANT CORE STRATEGY POLICIES

SL5 – Carrington

L5 – Climate Change

W1 – Economy

W1.13 – Hazardous Installations

PROPOSALS MAP NOTATION

E7 – Main Industrial Area

E15 – Priority Area for Regeneration

D5 – Health and Safety Sub Area

PRINCIPAL RELEVANT REVISED UDP POLICIES/PROPOSALS

Proposal E7 – Main Industrial Areas

Proposal E15 – Priority Regeneration Area: Carrington

Proposal D5 – Special Health and Safety Development Control Sub-areas

PLACES FOR EVERYONE

Places for Everyone (PfE) is a joint Development Plan Document being produced by nine Greater Manchester districts (Bolton, Bury, Manchester, Oldham, Rochdale,

Salford, Tameside, Trafford and Wigan). Once adopted, PfE will be the overarching development plan, setting the policy framework for individual district Local Plans. The PfE Regulation 19 consultation concluded in Autumn 2021 and the Plan was submitted to the Secretary of State for Levelling Up, Housing and Communities on 14 February 2022. Independent Inspectors have been appointed to undertake the Examination in Public of the PfE Submission Plan and the timetabled hearings have now been completed with further updates from the Inspectors possible. Whilst PfE is at a significantly advanced stage of the plan making process, for the purposes of this application it is not yet advanced enough to be given any meaningful weight, such that it needs consideration in this report.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

The DLUHC published the latest version of the National Planning Policy Framework (NPPF) on 20 July 2021. The NPPF will be referred to as appropriate in the report.

NATIONAL PLANNING PRACTICE GUIDANCE (NPPG)

DLUHC published the National Planning Practice Guidance on 6 March 2014, and was last updated on 4 January 2023. The NPPG will be referred to as appropriate in the report.

RELEVANT PLANNING HISTORY

92920/DEM/17 – Demolition of gasholders, high pressure gas storage bullets and associated structures. (Consultation under Schedule 2, Part 11 of the Town and Country Planning (General Permitted Development) (England) Order 2015.) – Prior Approval Approved 15.12.2017

H/HSD/36017 – Deemed Hazardous Substances Consent – Deemed Consent 27.10.1992

H/HSD/36016 - Deemed Hazardous Substances Consent – Deemed Consent 28.10.1992

Land to the northeast known as Voltage Park

97261/FUL/19 - Erection of five buildings for use within Use Class B8 (Storage & Distribution) to provide flexible employment purposes with ancillary offices, car parking, landscaping, service yard areas, ancillary uses and associated external works and operational development including remediation and ground levelling works – Approved 19.05.2022

APPLICANT'S SUBMISSION

Letter requesting revocation of Hazardous Substances Consents and associated Annexes.

CONSULTATIONS

Cadent Gas – Have submitted a holding objection (on 5th May) whilst their engineering team reviews the available information. Any further comments received will be included in the Additional Information Report.

Environment Agency – No objection

Health and Safety Executive (Hazardous Substances) – State they have no comments to make on the proposals but request that HSE's Hazardous Substance Consent team are notified when the hazardous substance consents which apply to the site have been formally revoked in order that they can arrange for the HSE Consultation Zones around the site to be removed.

Health and Safety Executive (PADHI+) – Does not advise, on safety grounds, against the granting of the application.

Partington Town Council – No comments received at the time of writing. Any comments received will be included in the Additional Information Report.

Trafford Council, Pollution and Housing (Contaminated Land) – No objection

REPRESENTATIONS

The application was advertised on site and in the press. No responses have been received.

OBSERVATIONS

BACKGROUND

1. The Council received a letter from Forsters LLP on behalf of National Grid on 14th April 2023 in Trafford Council's capacity as Hazardous Substance Authority (HSA), as described under the Planning (Hazardous Substances) Act 1990, to formally apply for the revocation of the following Hazardous Substance Consents (HSC) currently in place at the site on Common Lane in Partington:
 - H/HSD/36016 - Deemed Hazardous Substances Consent – this related to No. 1 and No. 3 Gasholders for the storage of Natural Gas
 - H/HSD/36017 – Deemed Hazardous Substances Consent – this related to 12 cylindrical storage vessels for the storage of Natural Gas

2. The above consents were granted to British Gas but the current owner of the site and the beneficiary of the consents is National Grid.
3. National Grid applied in 2017 to demolish the structures on the site (92920/DEM/17) and prior approval was granted by Trafford Council on 15.12.2017 with the associated report confirming that *“The application relates to two large gas holding towers, high pressure gas storage bullets and associated structures, including a boiler house building, all of which are no longer in use”*.
4. The applicant has stated that works to remove the existing structures on the site have subsequently progressed as envisaged in the Prior Approval and have provided photographic evidence that the structures have been removed. This has also been verified on site.
5. Since that time, planning permission has been granted for the redevelopment of land adjacent to the site known as ‘Voltage Park’ for five buildings for use within Use Class B8 (Storage & Distribution) - 97261/FUL/19. The report to the Planning and Development Management Committee acknowledges the presence of some redundant infrastructure on this site, and stated that the Health and Safety Executive were consulted and did not advise against the grant of the permission. The policy justifications for the grant of the Voltage Park application included maximising the reuse and redevelopment of brownfield land in Trafford, with the Carrington Strategic Location identified as an area for a number of uses including employment activities. The Council has identified significant potential for this area to provide much brownfield land for economic regeneration.
6. As the storage of natural gas has ceased to be part of its operations at this site, National Grid no longer require the Hazardous Substances Consents for this site. National Grid has therefore requested that the Deemed Consents be revoked and the site removed from the Council’s Hazardous Substances register.

LEGAL FRAMEWORK FOR THE REVOCATION OF HAZARDOUS SUBSTANCES CONSENT

7. The Planning (Hazardous Substances) Act 1990 allows for a Hazardous Substance Consent to be revoked under section 14. Trafford Council, as Hazardous Substance Authority, can make a revocation order under section 14(1) or (2) of the Act. The revocation will be subject to confirmation by the Secretary of State under section 15 of the Act (even if it is unopposed). Section 16(1) of the Act makes it clear that compensation, which would otherwise be payable for a revocation or modification using powers under section 14(1), is not payable for a revocation if it is made under section 14(2) of the Act.
8. The risk of compensation being sought from the Council would not apply if the Deemed Consents are revoked under section 14(2). Under section 14(2) the HSA may revoke a hazardous substances consent if it appears to them –

- (a) that there has been a material change of use of land to which a hazardous substances consent relates; or
 - (b) that planning permission or development consent has been granted for development the carrying out of which would involve a material change of use of such land and the development to which the permission or development consent relates has been commenced; or
 - (c) in the case of a hazardous substances consent which relates only to one substance, that that 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 substances consent which relates to a number of substances, that none of those substances has for at least five years been so present.
9. The applicant has confirmed that they consider Section 14(2)(c) would be the applicable power as the Deemed Consents relate to only to one hazardous substance (the storage of natural gas). This is on the basis that:
- (i) the Council's report for 92920/DEM/17 confirmed that all structures on the site (including the towers, storage bullets and associated structures) were no longer in use at the date of the report; and
 - (ii) only minimal levels of the defined hazard substance were present on the site at that time; the five-year period referred to in section 14(2)(c) expired in December 2022 at the latest based on the date of the delegated planning report.
10. In the context of the above and the supporting information provided, the applicant formally requests that the Council, in its capacity as the HSA, revokes the Consents currently in place and benefitting the site. They state that revocation of the HSC will allow comprehensive redevelopment of the area to come forward, with many proposals (both consented and in the pipeline) contingent on its removal. This aligns with the Council's own policy aims set out in its development plan and the emerging Places for Everyone plan, and the revocation of the Deemed Consents will support the redevelopment and regeneration of brownfield land in this location, and assist with enhancing the employment offer at the site and its surrounds.
11. Trafford Council, as the HSA, may make an Order to revoke the Deemed Consents, however in accordance with Section 15(1) the Order shall not take effect unless it is confirmed by the Secretary of State. If Members support the recommendation, this Committee report will be used to provide the 'Statement of Reasons' that is required to accompany the Order under the referral to the National Planning Casework Unit.

12. Under Section 15(3) of the Act, when the HSA submits an Order under section 14 to the Secretary of State for confirmation, there is a requirement for the HSA to serve notice of the order:-
- (a) on any person who is an owner of the whole or any part of the land to which the order relates;
 - (b) on any person other than an owner who appears to them to be in control of the whole or any part of that land;
 - (c) on any other person who in their opinion will be affected by the order.
13. Any persons “affected by the Order” have at least 28 days to notify the Secretary of State that they wish to challenge the Order and be heard at a public inquiry.

FINANCIAL IMPLICATIONS

14. Section 16 of the Act includes provisions relating to compensation. Compensation is only payable by an HSA upon the revocation of a hazardous substances consent when such a revocation is made under Section 14(1) of the 1990 Act. No compensation is payable by the Council (as HSA) when such a consent is revoked, where the revocation order is made under one of the specified grounds in Section 14(2).
15. The applicant has confirmed that the Deemed Consents have not been relied on for over 5 years and that on this basis a revocation order can be made under Section 14(2)(c), and as a result, no compensation will be payable. This is confirmed in the Hazardous Substance Guidance produced by the Government, which states:
- “Where a consent has not been relied on for 5 years, or the use of the land has changed materially since the consent was granted, it may be revoked without compensation being payable.”*
16. National Grid, the freehold owners of the site have confirmed in writing that they would not challenge or seek compensation if the Council proceeded with the revocation of consent order. Anyone seeking compensation will have to show they have suffered damage in consequence of the revocation order being made and National Grid are not aware of any other party with land owning interests in addition to National Grid. They have provided land registry titles for the site and suggest that notice also be served on Cadent Gas as owners of the neighbouring land. Cadent Gas are already aware of the application but formal notice will be served on them at the point the Order is referred to the Secretary of State under Section 15(3) of the Act as set out above.

CONCLUSION

17. It is considered that there are positive environmental implications from revoking the Deemed Consents for the continued storage of natural gas on the site. It removes a hazardous use from the Carrington Strategic Location which will assist in progressing redevelopment and regeneration opportunities by removing an inhibitor to the development and upgrading of the site and adjacent land. This is supported by Policies SL5 and W1 of the Core Strategy.
18. In addition, natural gas is a fossil fuel and contributes to climate change through CO2 emissions when burned and through methane leakages from its transportation in pipelines, therefore the revocation is also supported by Policy L5 of the Core Strategy which seeks to reduce carbon emissions.
19. The site has ceased to be used for the purpose of natural gas storage. It is not considered that there is any reason to refuse to revoke the consent and National Grid have confirmed that they will not seek compensation and in any event compensation is not payable for a revocation if the Order is made under section 14(2) of the Act. Therefore it is recommended that the revocation order be made under Section 14(2) of the Act and then submitted to the Secretary of State for confirmation.

RECOMMENDATION:

That an Order, under section 14(2) of the Planning (Hazardous Substances) Act 1990, revoking hazardous substances consents H/HSD/36016 and H/HSD/36017 (Deemed Consents), to remove consents for the storage of natural gas at the National Grid site on Common Lane, Partington, M31 4BR, be made and submitted to the Secretary of State for confirmation.

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