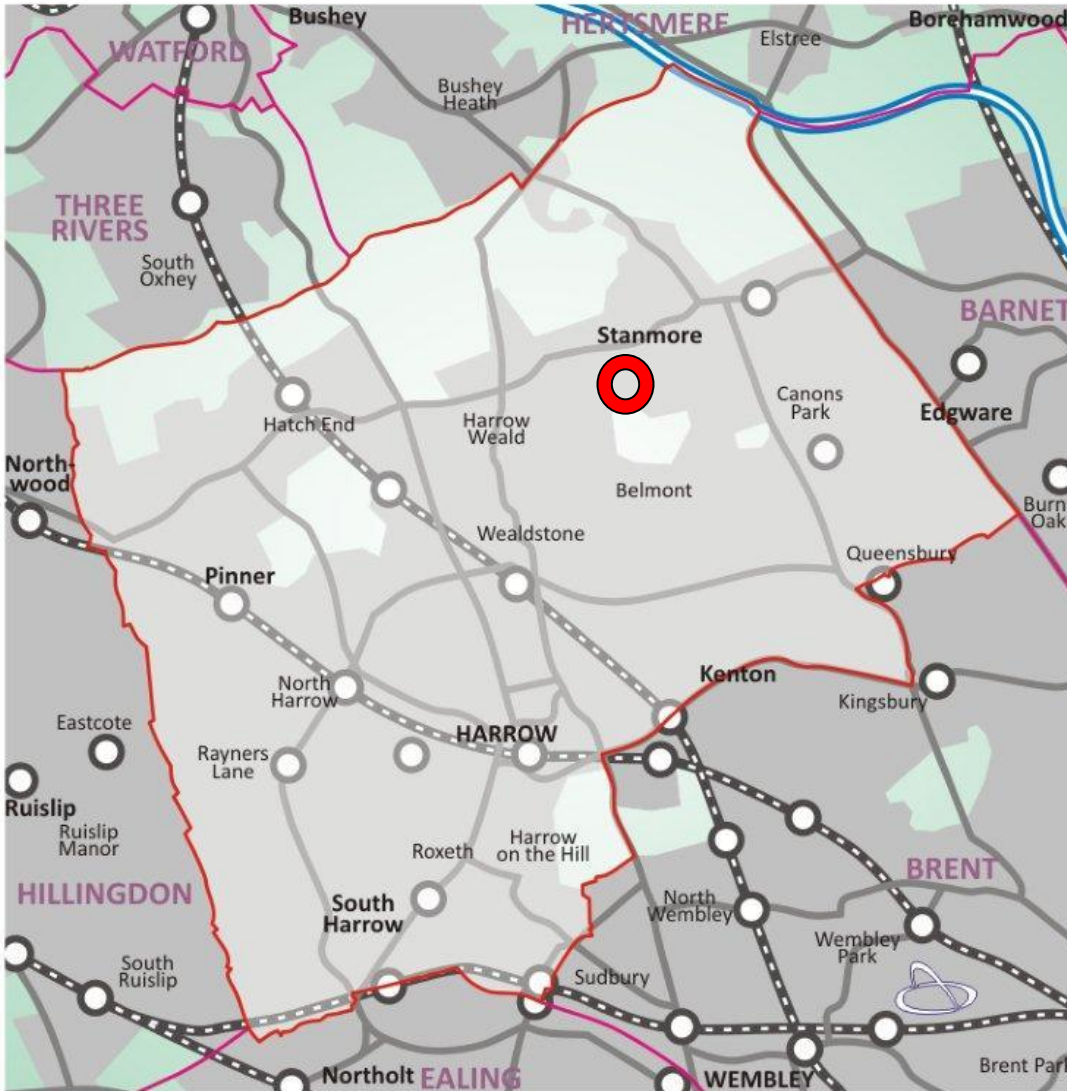
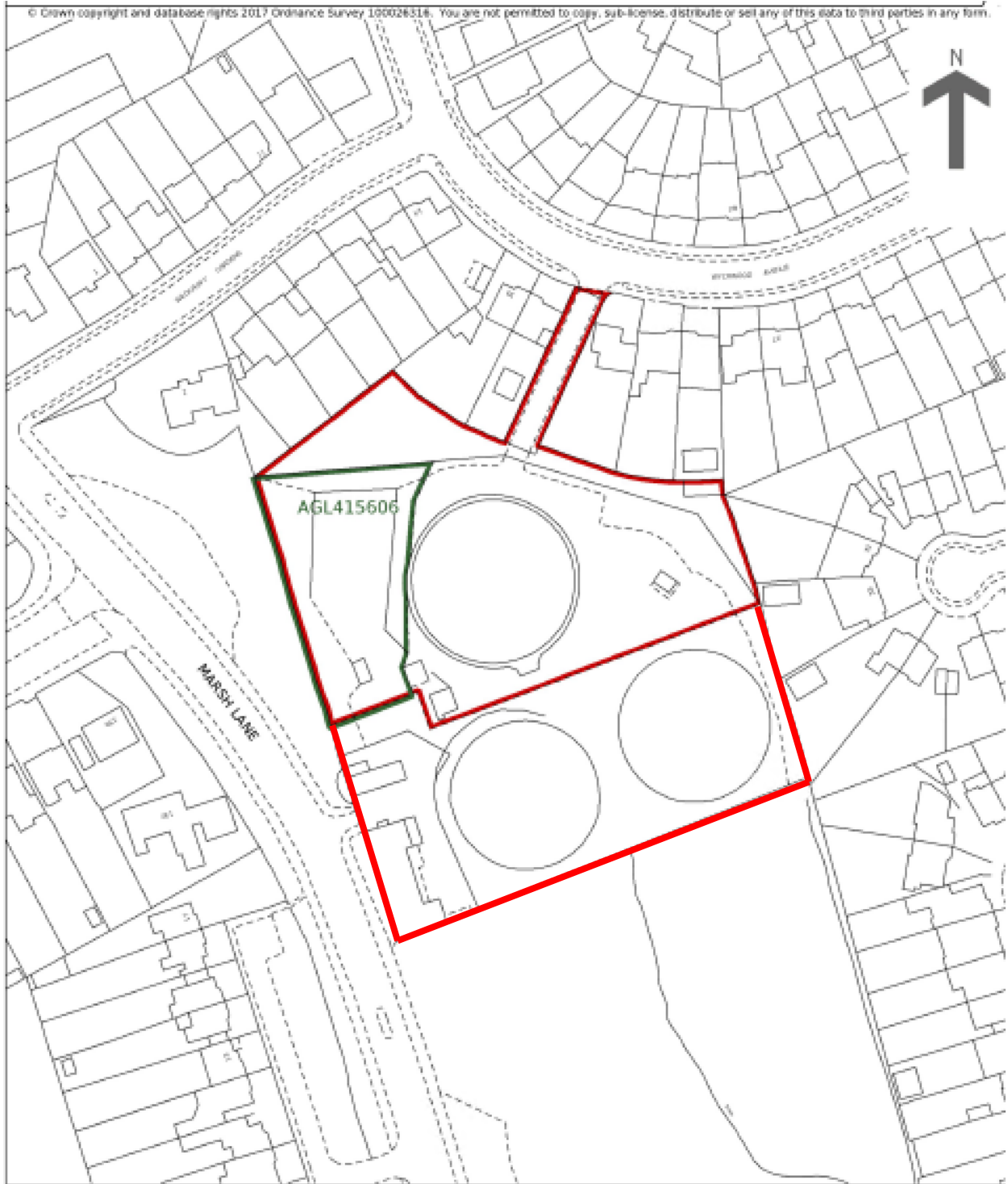


 = application site



<b>GAS WORKS, MARSH LANE, STANMORE</b>	<b>P/2536/22</b>
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**LONDON BOROUGH OF HARROW**  
**PLANNING COMMITTEE**

**6<sup>th</sup> September 2023**

**APPLICATION NUMBER:** P/2536/22  
**VALID DATE:** 01/08/2022  
**LOCATION:** GAS WORKS, MARSH LANE  
**WARD:** STANMORE  
**POSTCODE:** HA7 4SH  
**APPLICANT:** R GARDEN  
**AGENT:** CMS LLP  
**CASE OFFICER:** MUHAMMAD SALEEM  
**EXPIRY DATE:** 02/09/2022

**PROPOSAL**

To make an order under s14(2) of the Planning (Hazardous Substances) Act 1990 to revoke the Hazardous Substances Consent ref: East/266/00 for the continued storage of natural gas at the Gas Works Marsh Lane Stanmore

**RECOMMENDATION**

This matter is presented to the Planning Committee for notification of the making of an order under Section 14 (2) of the Planning (Hazardous Substances) Act 1990 to revoke the Hazardous Substances Consent (HSC) at the site for the continued storage of natural gas at the Gas Works, Marsh Lane, Stanmore and the revocation would be subject to confirmation by the Secretary of State.

**INFORMATION**

This application is reported to Committee as the proposal for revocation does not fall within any of the provisions set out at Paragraphs 1 (a) to 1 (g) of the Scheme of delegation dated 12th December 2018 and the proposal is also a matter of public interest.

Statutory Return Type: 29-Not Categorised  
Council Interest: N/A  
Net Additional Floorspace: N/A  
GLA Community  
Infrastructure Levy (CIL): N/A  
Local CIL requirement: N/A

**HUMAN RIGHTS ACT**

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

## **EQUALITIES**

In determining this application, the Council has regard to its equalities obligations including its obligations under section 149 of the Equality Act 2010.

For the purposes of this application there are no adverse equalities issues.

## **S17 Crime & Disorder Act**

Policy D11 of The London Plan (2021) and Policy DM1 of the Development Management Policies Local Plan (2013) require all new developments to have regard to safety and the measures to reduce crime in the design of development proposal. It is considered that the development does not adversely affect crime risk.

## **1.0 SITE DESCRIPTION**

- 1.1 The site extends to approximately 0.9 ha and is located on the eastern side of Marsh Lane (A4140) within Stanmore.
- 1.2 The site comprises the former gasholder station with associated hardstanding, and two vacant two-storey buildings which front the site along Marsh Lane to the west.
- 1.3 The three gasholders have now been demolished.
- 1.4 It is bounded at the rear by an area of trees and the gardens of the properties of Wildcroft Gardens and Wychwood Avenue to the north/northeast; an area of mature trees which form part of Stanmore Marsh to the south; the rear gardens of the properties of Howberry Close to the east; and Marsh Lane to the west.
- 1.5 The site, whilst segregated, is situated within a wider predominately residential context, characterised by low-rise housing to the north, west and east of the site.
- 1.6 The site has a Public Transport Access Level (PTAL) which ranges from 1b–2.

## **2.0 PROPOSAL**

- 2.1 The application seeks Revocation of Hazardous Substances Consent Attached To Planning Permission EAST/266/00 Dated 11th May 2000

## **3.0 RELEVANT PLANNING HISTORY**

EAST/266/00 – Hazardous substances consent: continuation of consent  
Granted 11/05/2000.

P/1088/20 – Infilling of three gasholder bases – granted subject to s106 agreement  
16<sup>th</sup> July 2021

P/1054/20 – Prior Approval for demolition of three non-operational gasholders –  
Prior Approval Not Required 20/04/2020.

## **4.0 CONSULTATION**

- 4.1 No consultation is required when a Hazardous Substances Authority is considering making an order to revoke a HSC. However, once the order is made, the landowners and other affected parties are notified of the council's intention to revoke for a period of at least 28 days and may challenge the HSC.

## 5.0 **POLICIES**

- 5.1 The presence of hazardous substances on land is controlled by the Act. A HSC is required when certain quantities of hazardous substance are to be present on a site. These quantities are set out in Schedule 1 to the Planning (Hazardous Substances) Regulations 2015. For natural gas, a HSC is required when 15 tonnes or more is present on site.
- 5.2 The HSC is granted by the relevant Hazardous Substances Authority, in this case the Local Planning Authority (LPA).
- 5.3 The LPA as Hazardous Substances Authority can revoke a HSC under s14(1) or (2) of the Act which states that:
- (1) *The hazardous substances authority may by order revoke a hazardous substances consent or modify it to such extent as they consider expedient if it appears to them, having regard to any material consideration, that it is expedient to revoke or modify it.*
  - (2) *The hazardous substances authority may also by order 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.*
  - (3) *An order made by virtue of subsection (2)(a) or (b) in the case of a consent relating to more than one substance may revoke it entirely or only so far as it relates to a specified substance.*
  - (4) *An order under this section shall specify the grounds on which it is made.*
- 5.4 The Council may revoke a HSC under either s14(1) or s14(2) above. National Grid in their submitted letter via CMS dated 17<sup>th</sup> June 2022 have confirmed that under 15 tonnes of natural gas has been present at the site for at least the last 5 years. This would allow the Council to revoke the HSC pursuant to s14(2)(c). If the council

exercises its powers under s14(2)(c) no compensation is payable, whereas compensation may be payable if s14(1) is used.

- 5.5 A revocation order made under s14 above does not take effect until it is confirmed by the Secretary of State pursuant to s15 of the Act.
- 5.6 The Council is required to serve the order on any landowner or person in control of the land to which the order relates as well as anyone else who will, in the Council's opinion be affected by the order. Any person affected by the order has at least 28 days to notify the Secretary of State if they wish to challenge the order and be heard at a public inquiry.
- 5.7 The purpose of this report is to consider the case for revoking the HSC and make a recommendation accordingly. Should a recommendation for revocation be agreed, the Chief Planning Officer would proceed with making the order for the Secretary of State to confirm.
- 5.8 Relevant policies are Policy SI 8 of the London Plan (2021) and Policy DM15 of the Harrow Development Management Plan (2013).

## **6.0 ASSESSMENT**

6.1 The main issue is the revocation of the Hazardous Substances Consent (HSC)

### **6.2 Revocation of the HSC**

6.2.1 The relevant policies are:

- National Planning Policy Framework (2021)
- The London Plan (2021): SI 8
- Harrow Core Strategy (2012): CS1
- Harrow Development Management Policies (2013): DM15

6.2.2 The grounds for considering the revocation of a HSC are set out under s14(1) and s14(2) of the Act and the key planning consideration is whether any of these tests are met. This is discussed in detail below.

6.2.3 S14(1) allows the council to revoke the HSC if it considered to be 'expedient':  
*The hazardous substances authority may by order revoke a hazardous substances consent or modify it to such extent as they consider expedient if it appears to them, having regard to any material consideration, that it is expedient to revoke or modify it.*

6.2.4 However, s14(2) provides other grounds on which the council could revoke the consent:

*14(2) The hazardous substances authority may also by order 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 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 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.*

- 6.2.6 There has been no material change of use of the land to which the HSC relates so s14(2)(a) above is not applicable. Planning permission has been granted for the redevelopment and material change of use of the site. However, development has not yet commenced, so s14(2)(b) is not applicable. Para. s14(2)(d) is not applicable as it only applies to HSCs that relate to more than one substance. The HSC in question relates only to one substance.
- 6.2.7 In respect of s14(2)(c), the HSC relates to one substance, natural gas, and National Grid, the owner and operator of the site, has confirmed that it no longer stores natural gas on the site (this is outlined in the submitted letter from CMS dated 17<sup>th</sup> June 2022).
- 6.2.8 Furthermore, it has confirmed that the substance has not been present for at least five years on, over or under the land to which the HSC relates in a quantity equal to or exceeding the controlled quantity, which in this case is 15 tonnes of natural gas. They have also confirmed that all three gasholders were Mothballed in November 2012 and that no gas has been stored since that date.
- 6.2.9 It is considered that the evidence demonstrates that no natural gas has been stored on, over or under the land to which the HSC relates in a quantity equal to or exceeding the controlled quantity. Consequently, officers are satisfied that the site meets the test under s14(2)(c) and the HSC can be revoked accordingly.
- 6.2.10 The presence of the HSC at the site is a significant constraint on its future use and development, particularly given its strategic importance. The borough should periodically review HSCs granted under the Act to ensure they reflect current conditions and the physical capacity of the site. London Plan (2021) Policy SI 8 (Waste capacity and net waste self-sufficiency) states that in order to manage London's waste sustainably: 1) the equivalent of 100 per cent of London's waste should be managed within London and also allocate sufficient sites, identify suitable areas, and identify waste management facilities to provide the capacity to manage the apportioned tonnages of waste.



- 6.2.11 The Harrow Local Plan (2013) has no specific policies relating to the revocation of the HSC but ceasing of operations is anticipated in the supporting text of Policy DM 15: Prevention and Remediation of Contaminated Land which suggests the future redevelopment of sites. The revocation of the HSC would allow for the redevelopment to be occupied when complete and for the lifting of development restrictions on surrounding sites. These outcomes would support the regeneration aims of Policy. There is therefore significant planning benefit in revoking the HSC.
- 6.2.12 The Council has a statutory duty as a Hazardous Substance Consent Authority, to decide this request. Should the Council not determine or refuse the request there may be a right of appeal available to the Secretary of State.
- 6.2.13 There are positive environmental implications from revoking the consent for the storage of hazardous materials to the currently authorised amounts at the site. It reduces a potentially hazardous use.
- 6.2.14 It is therefore recommended that the order to revoke the HSC is made.

## **7.0 CONCLUSION**

- 7.1 To make an order under s14(2) of the Planning (Hazardous Substances) Act 1990 to revoke the Hazardous Substances Consent ref: East/266/00/HSC for the continued storage of natural gas at the Gas Works Marsh Lane Stanmore in the form of the submitted draft order subject to its confirmation by the Secretary of State for Housing, Communities and Local Government.
- 7.2 To authorise the Chief Planning Officer to take all necessary steps as required to revoke the Hazardous Substances Consent ref: East/266/00/HSC.
- 7.3 For all the reasons considered above, and weighing up the development plan policies and proposals, and other material considerations including comments received in response to notification and consultation as set out above, this application is recommended for approval.

**APPENDIX 1: Conditions and Informatives**

**The National Planning Policy Framework (2021)**

**The London Plan (2021)**

SI-8 - Waste capacity and net waste self-sufficiency

**Harrow Core Strategy (2012)**

Core Policy CS 1 A Overarching Policy Objectives

**Harrow Development Management Policies Local Plan (2013)**

DM-5 - Prevention and Remediation of Contaminated Land

**Relevant Supplementary Documents**

The Planning (Hazardous Substances) Act 1990

The Planning (Hazardous Substances) Regulations 2015

**CHECKED**

 <p>Orla Murphy Head of Development Management 24<sup>th</sup> August 2023</p>	 <p>Viv Evans Chief Planning Officer 24<sup>th</sup> August 2023</p>
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