

Cabinet – 20 March 2019

Former Willenhall Gas Works (Stonegate & Trent Park Estates)

Portfolio: Councillor Harrison – Clean and Green

Related portfolios: N/A

Service: Planning, Engineering and Transportation

Wards: Short Heath

Key decision: No

Forward plan: Yes

1. Summary

- 1.1. This report provides Cabinet with an update on progress since their 23 January 2019 meeting where approval was given to revoke the Identification of Contaminated Land at the former Willenhall Town Gas Works, previously identified in 2012 as contaminated land in accordance with the Environmental Protection Act.
- 1.2. Immediately after 23 January Cabinet meeting, the Council held a well-attended residents meeting to provide further information and allow the opportunity for questions and further clarification.
- 1.3. On 1 February 2019 the Council issued the Notice of Revocation of the Identification of Contaminated Land in relation to the former Willenhall Town Gas Works. The Notice of Revocation was sent to residents, land owners and others with an interest in the site. The Council has also updated the Contaminated Land Public Register to reflect the revocation.
- 1.4. This report outlines how the Council has continued to work with residents and landowners. It also provides an overview of the engagement the Council can provide to residents in future.

2. Recommendations

- 1.1 That Cabinet note the content of this report which sets out the activities and actions since the 23 January 2019 Special Cabinet meeting
- 1.2 That Cabinet, in noting the content of this report, requests the Executive Director, Economy and Environment, in consultation with the Portfolio Holder for Clean and Green, take necessary steps to continue to support residents, in particular to engage with mortgage lenders, local estate agents and contaminated land search organisations as set out in this report.

3. Report detail

Background

- 3.1 The Site forms part of land formerly occupied by the former Willenhall Town Gas Works.
- 3.2 The Council published the first edition of its Contaminated Land Strategy for implementing Part II(A) of the Environmental Protection Act in 2001.
- 3.3 Based on the content on the 2001 Strategy and concerns received from local residents, the Council instructed environmental specialists to carry out detailed intrusive ground investigation and technical reporting from early 2007 to 2012. A report completed in 2011 for the Council concluded that parts of the land on the Former Willenhall Gas Works site was contaminated land as defined under Part IIA of the Environmental Protection Act 1990 (as amended).
- 3.4 As a consequence of the technical reports prepared by external consultants in March 2012 and in accordance with the statutory guidance issued by the Secretary of State in 2006, the Council determined the land shown in Appendix A as contaminated as defined by Section 78 A(2) of the Environmental Protection Act 1990.
- 3.5 Following the 2012 Determination, the Council sought to establish what had taken place on the land and who might be responsible for the presence of contaminants found. Further work was also undertaken by officers to establish the current and historical land ownership dating back to the time that the site had been operating as a gas works.
- 3.6 On 17 March 2015 a Remediation Notice was served on the original developer of part of the land. The Remediation Notice related to 71 properties at Kemble Close, Brookthorpe Drive and Oakridge Drive collectively comprising the Stonegate Estate and Kemble Close and land adjoining 1 and 2 Kemble Close.
- 3.7 The Remediation Notice was subsequently appealed by the developer which resulted in a Public Inquiry in December 2015. In April 2017 the Secretary of State for Environment issued a decision together with the Inspector's Report. The Secretary of State determined that the developer would be responsible for 84% of the costs of remediating the site, if it was contaminated. The Remediation Notice served on the developer by the Council was quashed; the Secretary of State concluded that there were weaknesses in the expert advice provided to the Council and that there was no scientific or technical assessment of the risks arising from the contaminant linkage. The Inspector's Report can be read on the Pollution Control Public Register on the Council's website (https://go.walsall.gov.uk/pollution_control_public_registers).
- 3.8 As reported to Cabinet in January 2019, further extensive ground investigation and scientific assessment has been undertaken. Based on the in-depth analysis of an extensive number of soil samples and detailed risk assessment this enabled the Council to conclude that the land is not contaminated in accordance with Part IIA of the Environmental Protection Act 1990.

- 3.9 At their 23 January 2019 meeting Cabinet approved the revocation of the Notice of Identification of Contaminated Land.
- 3.10 The Revocation Notice, together with the accompanying Record, was served on residents, landowners and persons with an interest in the land, on 1 February 2019. The public register was updated at the same time. The public register contains a copy of the Revocation Notice and supporting documents issued to residents on 1 February 2019 which can be located on the web link above.

What is the status of the land?

- 3.11 The assessment and analysis has concluded that although the land contains contaminants from its previous industrial use, these contaminants are not considered to represent an unacceptable risk under Part IIA of the Environmental Protection Act 1990 and, therefore, the land cannot be defined as contaminated land in accordance with the Environmental Protection Act 1990 (as amended).
- 3.12 In updating the public register, property searches associated with conveyancing now show that the land is not contaminated, as defined by the Environmental Protection Act 1990 (as amended). The technical reports are also available for public inspection through the Council's website.

What has the Council been doing since last Cabinet meeting in January?

- 3.13 Following 23 January 2019 Cabinet, the Council organised a well-attended residents meeting. This meeting provided opportunity for residents to ask further questions to both the Council and its external specialist environmental consultant on the technical reports conclusions. In continuing to support residents first, the Council made the decision to arrange this meeting as soon as it was able, which led to some questions asked at that time remaining unanswered. This Cabinet report provides further clarity for both residents and the Council.
- 3.14 Cabinet approved the decision to revoke the Notice of Determination to remove the land from the public register and the Revocation Notice, together with the accompanying Record, was served on residents, landowners and persons with an interest in the land, on 1 February 2019. The public register was updated at the same time.
- 3.15 On 1 February 2019, following a commitment made at the 23 January residents meeting, the Council working in conjunction with Public Health England issued updated advice to residents on the use of their gardens and home grown produce. This new advice supersedes that previously issued by the Council and is contained in appendix A.

Can residents claim compensation from the Council?

- 3.16 The Council has received a number of queries from residents and their representatives seeking compensation.
- 3.17 As with any compensation claim, it is important that the person claiming compensation is clear as to what they are claiming compensation for. Persons

wishing to pursue this should seek their own legal advice and decide whether or not to proceed. The Council believes it has acted in the interest of residents during this complex and technical matter. Therefore should any claim be submitted to the Council it will uphold its position through any process which may follow.

Can residents seek a reduction in Council Tax?

- 3.18 The Council has received queries from residents regarding a potential reduction or rebate of Council tax.
- 3.19 Such requests are for residents to consider their case and submit an application to the Council accordingly; should applications be received they will be assessed on their own merit and against well-established criteria. Decisions will be made on consideration of applications and assessment criteria with responses provided to residents on an individual basis.
- 3.20 Such claims would need to be made in writing and submitted to the Council using the information contained in the following link https://go.walsall.gov.uk/council_tax

What support will the Council provide to affected residents?

- 3.21 The Council will continue to support affected residents and property owners where it is able to do so. Subject to the recommendations contained in this report, officers will, at the request of Cabinet, proactively engage with local estate agents and mortgage lenders to ensure they are aware of the technical assessments and the Revocation Notice.
- 3.22 The Local Planning Authority, Building Control and Pollution Control officers already provide support to residents and businesses across the borough concerning proposed extensions alterations and new buildings/works. The Council will continue to provide advice and support to residents at the Stonegate and Trent Park estate as required.

4. Council Corporate Plan priorities

- 4.1 The revocation of the Notice of Identification of Contaminated Land, following extensive investigation and assessment, allows the community to have clarity and live and enjoy their life in a safe environment.

5. Risk management

- 5.1 Specialist external advice has been secured to support the Council to ensure that all information and actions are reasonable.

6. Financial implications

- 6.1 No significant financial implications arising from the recommendations contained in this report.

7. Legal implications

7.1 The Council engaged specialist legal Counsel to advise in relation to the site and act for the Council in the Public Inquiry. The Council's Legal Services Team continue to provide advice on the Contaminated Land regime, alongside Counsel. The Council has also engaged external solicitors to advise the Council.

8. Property implications

8.1 None identified for the Council.

9. Health and wellbeing implications

9.1 Working in collaboration with Public Health England, the Council has prepared and issued updated advice to residents.

10. Staffing implications

10.1 None identified

11. Reducing inequalities

11.1 No protected characteristic or groups have been identified as a result of revoking the Notice of Identification of Contaminated Land.

12. Consultation

12.1 The Identification of Contaminated Land and the issue of a Remediation Notice followed a formal statutory process, throughout which the residents, developer and ward councillors were kept informed.

12.2 Consultation on this report has been carried out with communications, legal, finance, insurance & loss control and pollution control teams.

Background papers

1. Former Willenhall Gas Works (Stonegate & Trent Park Estates) Special Cabinet Report - 23 January 2019
2. Revocation of the Identification of Contaminated Land at the former Willenhall Town Gas Works – February 2019
3. LQM Interpretive and Factual Reports – January 2019

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Simon Neilson
Executive Director

12 March 2019

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Councillor Harrison
Portfolio Holder

12 March 2019

Stonegate & Trent Park Estates Advice to residents

This advice replaces advice previously issued in March 2012 relating to the use of your garden and home-grown produce.

The Council has worked with environmental specialists to review the soil contamination data from earlier investigations. We took more soil samples from the site during 2018 which confirmed that there are greater than “background” concentrations of contaminants in the soils that are associated with the former gas works. Many parts of the Black Country and other industrial areas in the UK have soil contaminants due to their previous history.

Our environmental specialists have considered the likely exposures that residents may experience from soils around the old gas works and compared these calculations with data published in the scientific literature. This showed that everyday domestic activity is unlikely to result in exposure that will present a ‘significant possibility of significant harm to health’ as defined in legislation.

Given that the site **is not** defined as “contaminated land” under Part 2A of the Environmental Protection Act, the Council would like to remind residents of some general good practice advice which it has developed with Public Health England.

- All soils pose potential risks from soil-borne substances including bacteria and viruses. As standard good practice, wherever possible, gloves should be worn when planting or weeding garden areas. Wash hands after gardening or working in the garden.
- In accordance with national guidelines and good practice it is important to wash all fruit and vegetables, whether bought or home-grown, before you eat them to ensure they are clean and safe to eat.
- Children can continue to play outdoors, and this might include digging in soil. As always, children should wash their hands after playing outdoors, and always before eating or drinking anything. This is for any soil, not just around the old gas works.
- If your child has the uncommon condition of continually chewing or eating non-food items – which may include soils - please seek advice from your general practitioner (GP).
- As with all building projects, the Council would recommend you seek specialist advice concerning any extension or property improvement work before starting. The Council regularly provides advice to residents across the Borough when undertaking such works and you can contact Pollution Control to discuss further:

Telephone 01922 658040 - pollutioncontrol@walsall.gov.uk

Additional Sources of advice are listed overleaf

Useful links

The NHS Healthy Body provides advice on how to wash your hands:

<https://www.nhs.uk/live-well/healthy-body/best-way-to-wash-your-hands/>

NHS Eat Well advice:

<https://www.nhs.uk/live-well/eat-well/how-to-wash-fruit-and-vegetables/>

The Royal Horticultural Society provides advice on minimising health risks in the garden while continuing to enjoy the health benefits of gardening:

<https://www.rhs.org.uk/advice/profile?pid=541>