EXPLANATORY MEMORANDUM

THE DERELICT LAND CLEARANCE AREA (CHANTRY LANE, WELWYN HATFIELD) ORDER 2011

2011 No. 2562

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government ("the DCLG") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order specifies a locality in the Chantry Lane area of Welwyn Hatfield as a derelict land clearance area. The area is currently blighted due to the presence of former chalk-mining workings in the area and the risk of mine collapse, which has meant that properties over the workings are unsellable and subject to development control.

2.2 The effect of this Order is to enable the Secretary of State to pay grant to a local authority under the Derelict Land Act 1982 ("the Act") of up to 100% of the relevant expenditure that it may incur in reclaiming or improving any land within the derelict land clearance area. Without this Order the amount of grant payable by the Secretary of State to local authorities would be limited to a maximum of 50% of the relevant expenditure.

3. Matters of Special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 1 of the Act allows grant to be paid to improve, reclaim or bring land into use where the land is derelict, neglected or unsightly, or could become so because of an actual or possible collapse due to previous operations which have been carried out in the area.

4.2 The amount of grant which can be paid under the Act depends on the classification of the area where the works are to be carried out and whether or not the applicant is a local authority. A local authority for an area which is already designated as a development or intermediate area under the Industrial Development Act 1982 may apply to the Secretary of State for funding of up to 100% of the costs or works, including surveys and, if necessary, acquisition of other land.

4.3 A local authority for an area which has not been designated as a development or intermediate area and where land is, or may become derelict, neglected or unsightly, may also apply to the Secretary of State for funding up to 100%. However, before the Secretary of State can approve such an application for funding, an order must be made under section 1(7) of the Act. The effect of such an order is to make the land a derelict

land clearance area, and means that it can be treated as if it were a development or intermediate area. This will then enable the local authority to claim up to 100% of its costs of improving or reclaiming the land.

4.4 The Chantry Lane area of Welwyn Hatfield is not a development or intermediate area. Therefore, this Order is made under section 1(7) of the Act and its effect will be to make Welwyn Hatfield Borough Council eligible to receive funding of up to 100% for the land stabilisation works required in that area.

4.5 Under section 1(8)(b) of the Act, the consent of the Treasury is required for an order under section 1(7). This has been obtained. The Order has been signed by two of the Lords Commissioners of Her Majesty's Treasury.

5. Territorial Extent and Application

5.1 This Order applies to England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Land Stabilisation Programme was set up in 1999 to deal with the problem of abandoned non-coal mines, such as chalk, metal or salt mines, which are unstable and likely to collapse and pose a threat to life or property. The Programme is funded by DCLG and is administered by the Homes and Communities Agency (HCA), on behalf of the Secretary of State. Since its inception, the Programme has contributed funding to almost 50 local authority land stabilisation projects, with four of those benefiting from an Order entitling them to a higher level of funding. The amount of grant payable is usually limited to a maximum of 50% of the relevant expenditure. Local authorities can apply for an area to be designated as a derelict land clearance area, which if granted will allow funding up to 100% of the relevant expenditure.

7.2 Deterioration of abandoned mines such as these can result in sudden and unexpected subsidence, or the appearance of "crown holes" at the surface. Unstable or poorly capped mineshafts can also result in unexpected collapses. Sudden events of these kinds can result in the collapse of buildings or could potentially impact on utilities, such as causing the fracture of gas mains, placing lives at risk, causing disruption, and requiring expensive repairs. In some cases the presence of unstable workings can blight land by discouraging repair and maintenance and deterring new investment, leading to the steady decline of the area.

7.3 Although local authorities have powers to stabilise workings or to deal with damage caused by a collapse, the high costs involved, and their inability to recover

their costs from those responsible (even if they could be found and could afford to pay), can give rise to financial difficulties for local authorities.

7.4 Without the Order, which changes the level of funding available from 50% to a figure up to 100%, Welwyn Hatfield Borough Council would not have been able to afford to proceed with the project which would mean that the area remains blighted and could have wider economic impacts. The level of maximum grant was set at 100% as there was no transparent methodology of working out other levels of subsidy between 50% and 100%.

7.5 The area currently blighted covers 2.47 hectares and comprises an open space known as Chantry Lane copse and adjacent residential properties (30 in total), as well as footpaths and highways. Action is required to address the exposure of residents to mining subsidence hazards and the risk of collapses. There is a high public awareness of the potential problems of purchasing properties and living in an area where mining has taken place.

7.6 The instability problems have caused considerable concern locally. There have been calls for remedial work to be undertaken urgently. As part of the appraisal process several options were considered for dealing with the instability. Each of these options and the decision on whether or not they would address the problem are set out below. These were:

Do Nothing

7.6.1 Mining voids at shallow depths adjacent to the houses have been identified. When collapses have occurred in other projects (eg. Briar's Lane), there has been significant damage to buildings and garden areas. The long term risk of doing nothing is considered unacceptable, given the risk to people and to services, in particular the gas main. Long term blight in the area would not be addressed and this would also lead to a loss of housing stock.

Fencing off

7.6.2 The erection of fencing would require long term maintenance and ongoing monitoring of its condition which would attract a revenue cost. It is only a realistic option in areas of open ground and does nothing to address the risks posed to housing and highways and by extension, the blight.

Evacuation

7.6.3 This option would require the area to be securely fenced off with a need for it to be maintained and inspected indefinitely. It would present a hazard to the surrounding residents and is increasingly likely to attract unsocial behaviour. The evacuated properties could not remain empty indefinitely and there would have to be some form of action either clearance or repair. Evacuation does not address the issue of blight and immediately results in a loss of the housing stock. This option also assumes that where properties are in private ownership, the insurance companies would be prepared to agree to evacuation and the payment of re-housing costs.

Monitoring Only

7.6.4 This is a short term solution and does nothing to address the issues of blight and loss of housing stock. The medium to long term collapse risk to people and the gas main will remain.

Infill with Granular Material

7.6.4 At a shallow depth this would not provide the required strength and degree of confidence that the voids had been infilled and would not treat those areas of the mine which had already collapsed.

Bulk Infill of Open Voids and Compaction Grouting – the preferred option

7.6.6. After a full risk assessment and detailed feasibility study, the Council project team has concluded their preferred option would be the infilling of the mine voids and stabilising the ground by the injection of grout.

7.7 Since identifying the risks connected with the collapse of mine workings at Chantry Lane, Welwyn Hatfield Borough Council has kept residents and wider stakeholders informed of progress of the investigations and potential solutions. Interaction with residents has provided reassurance and has allowed issues such as access for investigations to be readily agreed. The Council's project team has involved and communicated with the local community via letters to residents, regular updates on the Council's website and visits to residents. As a result, the community is very supportive of the scheme.

7.8 In addition, regular meetings with other stakeholders such as the Highways Authority (Hertfordshire Highways), Hertfordshire County Council and the utilities companies have enabled practical contributions towards the scheme. Joint emergency planning with stakeholders has also taken place.

7.9 Government policy for this programme is that individual homeowners will not be asked to contribute to funding for the project. Usually these old mine workings are not known about until there is a collapse or subsidence and investigations carried out. These workings are generally more than 200 years old and there is no chance of tracing any owner - which is why the responsibility for dealing with these problems falls to the local authority. Also for health and safety reasons the homeowners themselves would not be allowed access to any of the workings under the properties. It is also not just a case of stabilising the mine workings under the properties, which obviously does benefit the homeowner; but also removing the threat of blight from the whole area. Insurers will only pay for actual damage which occurs to property, but policies do not require them to contribute to wider projects dealing with the stabilisation of the mines under that property.

8. Consultation outcome

n/a

9. Guidance

n/a

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 The impact to the public sector is, in relation to this project, the increase in the level of funding through the Land Stabilisation Programme from a maximum of 50% of relevant expenditure under the Programme, to a maximum of 100% of that expenditure. The costs for this work are likely to be £1,949,158 in funding through the Programme. An application for funding has been submitted to the HCA for consideration, and agreement in principle to fund relevant expenditure falling within the Programme criteria has been given. Any other emerging costs relating to this project will be met by the local authority.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

n/a

13. Contact

Jo Taylor at the Department for Communities and Local Government Tel: 0303 444 4112 or e-mail jo.taylor@communities.gsi.gov.uk can answer any queries regarding the instrument.

Map referred to in the Derelict Land Clearance Area (Chantry Lane, Hatfield) Order 2011

