EXPLANATORY MEMORANDUM TO

THE DERELICT LAND CLEARANCE AREA (HIGHBARNS, HEMEL HEMPSTEAD) ORDER 2011

2011 No. 2227

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 Highbarns area of Hemel Hempstead as a derelict land clearance area. The area is currently blighted due to the collapse of the surface and subsidence caused by former chalk-mining activity, 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

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 Highbarns area of Hemel Hempstead 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 Dacorum 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.

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 three 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%, Dacorum 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 1.9 hectares, including 67 houses, as well as footpaths and highways. Two major collapses have occurred in the last 10 years affecting properties at 5 Pond Road (2001), and the most recent at 5 Highbarns (2007), and a road closure remains in place. Public perception of the collapses has heightened 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, and previous collapses have caused significant building damage. The long term risk of doing nothing is considered unacceptable. Long term blight in the area would not be addressed and this would also lead to a loss of housing stock.

Evacuation
7.6.2 This option does not address long term blight. It would require the area to be fenced off and fencing to be maintained and inspected indefinitely. This could remain an unacceptable hazard in a residential area (e.g. for children and trespassers) and again, there would be a loss of housing stock.

Monitoring Only
7.6.3 This would only be a short term solution and would not address long term risks, such as blight and the loss of housing stock.

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.

Infill with grout – the preferred option
7.6.5 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 Highbarns, Dacorum Borough Council has kept residents and wider stakeholders informed of progress of the investigations and potential solutions. The Council's project team has involved the local community through newsletters, regular updates on the Dacorum Borough Council website and visits to residents to provide updates and obtain information. There have also been public meetings some of which have

been chaired by the local MP Mike Penning. A residents' group has been established and has built the relationship between the local community and the Council and allowed potentially difficult issues to be addressed in ways which have met residents' concerns.

7.8 In addition, regular meetings with other stakeholders such as the Highways Authority (Hertfordshire County Council) and 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. In addition, 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 £2,717,973 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, capped at this amount. 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.