

To: Full Council
Date: 3 October 2022
Report of: Head of Law and Governance
Title of Report: Delegation of power to modify or revoke hazardous substances consents under section 14(2) of the Hazardous Substances Act 1990

Summary and recommendations	
Purpose of report:	This report recommends that the power to modify or revoke hazardous substance consents under section 14(2) of the Hazardous Substances Act 1990 be delegated to the Head of Planning Services and the Constitution be amended accordingly.
Key decision:	No
Cabinet Member with responsibility:	Councillor Alex Hollingsworth, Planning and Housing Delivery.
Corporate Priority:	None
Policy Framework:	None
Recommendation(s): That the Council resolves to:	
<ol style="list-style-type: none"> Amend paragraph 5.3 of the Constitution to delegate the power to revoke or modify hazardous substances consents under section 14(2) of the Hazardous Substances Act 1990 and to take all associated actions thereafter to secure the revocation or modification of those consents to the Head of Planning Services. 	

Introduction and background

- Applications to revoke hazardous substances consents are not received by the Council very often and this power has not been delegated to the Head of Planning Services although the power to determine applications for such consent has been delegated. An application to revoke the consent for the Gasholder site in Cowley

which stored natural gas has now been received but it is currently not possible for an officer to take that decision. To enable the current application to be dealt with and future such applications to either modify or revoke such consents, it is recommended that paragraph 5.3 of the Constitution is amended so that the power to take these decisions is delegated to the Head of Planning Services.

The procedure to modify or revoke consents

2. The modification or revocation of a consent is effected through an order made by the Council and, if the order is made pursuant to section 14(2) of the Hazardous Substances Act 1990, no compensation is payable by the Council.
3. Once made, notice of the order has to be given to landowners and those affected and then confirmed by the Secretary of State who can require a hearing or Inquiry to be held if representations about the order are received.

4. Grounds for making an order under section 14(2) of the Hazardous Substances Act 1990

An order made under section 14(2) of the Hazardous Substances Act 1990 must state the ground under which it is made. The grounds in section 14(2) are as follows:-

(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

Delegation of power to revoke or modify consents to the Head of Planning Services and the Development Management Service Manager

5. It is an anomaly that the power to determine applications for hazardous substances consents is delegated to the Head of Planning Services but the power to modify or revoke those consents is currently not delegated. This report seeks to rectify that by recommending that the power to modify or revoke such consents under section 14(2) of the Act, which does not involve any liability to pay compensation, is delegated to the Head of Planning Services and paragraph 5.3 of the Constitution is amended accordingly.

Financial implications

6. There are no financial implications arising from the recommendations contained in this report as the power that is requested to be delegated does not involve the payment of compensation by the Council.

Legal issues

7. There are no legal issues arising from the decision to delegate this power to officers. The actual procedure is prescribed by the Act and any action taken as a result of the exercise of this power would be required to follow the correct procedure.

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Background Papers: None

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