

Report of the Head of Planning & Enforcement

- Address:** SOUTHALL GAS WORKS HAYES BY PASS, HAYES
- Development:** Demolition of 16-32 The Crescent (all properties); 1-11 (odd) Randolph Road; remediation of the land and redevelopment of the site to deliver a mixed use development for up to: 320,000sq of residential, up to 14,200sqm for non-food retail, up to 5,850sqm of food retail, up to 1,750sqm of Class A2-A5 uses, up to 9,650sqm of hotel, up to 3,000sqm of conference and banqueting, up to 4,700sqm of leisure forming a cinema, up to 2,550sqm of health care facilities, up to 3,450sqm of education facilities, up to 3,500sqm of office/studio units, up to 390sqm of sports pavilion, an energy centre and associated car, coach and cycle parking, landscaping, public realm, open space and children's play space; and full details submitted (layout, scale, appearance and landscaping) for the following accesses: Pump Lane Link Road New access road from the Hayes bypass to the Application Site for vehicle, cycle and pedestrian access, including drainage and a flood relief pond. Eastern Access New access road from Southall centre to the site, including land currently occupied by properties on The Crescent. Minet Country Park Footbridge Central pedestrian and cycle access to the Minet Country Park, bridging over the Canal and Yeading Brook. Springfield Road Footbridge Northern pedestrian and cycle access to Minet Country Park and Springfield Road. Widening of South Road across the railway line - Widening of south road over the railway line for the creation of a bus lane. Accesses onto Beaconsfield Road (Outline Application with full details of accesses).
- LBH Ref Nos:** 54814/APP/2009/430
- Drawing Nos:** 368_A_100 - F;
368_A_200 - B;
368_A_300;
368_A_305;
368_A_306;
368_A_310 - B;
368_A_315 - A;
368_A_316;
4597-P-001;
4597-P-002;
4597-P-003;
4597-P-010;
4597-P-011;
4597-P-012;
4597-P-020;
4597-P-021;
4597-P-022;
4597-P-023;
4597-P-024;
4597-P-030;
4597-P-031;
4597-P-032;

4597-P-033;
4597-P-034;
4597-P-035;
4597-P-036;
52212/A/51 - A;
52212/A/74;
52212/A/77;
52212/AR/R1;
52212/AR/R2;
52212/AR/R3;
52212/B/31;
52212/B/32 - A;
52212/B/33 - A;
52212/B/34 - A;
52212/B/35;
52212/B/36;
800E - A;
800VV - A;
EX_02_site plan;
P1000/00;
P1001/00;
P1002/00;
P1003/00;
P1004/00;
P1005/00;
P1006/00;
P1007/00;
P1008/01 - 1;
P1009/00;
P1010/00;
P1011/01 - 1;
P1012/00;
P1013/00;
P1014/00;
P1015/00;
P1016/00;
PO_02_plan - A;
PO_02_site plan;
PO_04_13A - A;
PO_04_13B - A;
PO_04_13C - A;
PO_04_13D - A;

Date Plans Received: 09/10/2008 **Date(s) of Amendment(s):** 26/10/2009,
20/11/2009.

Documents: Design and Access statement
Environmental statement and non-technical summary
Development specification
Planning statement
Transport assessment
Transport submission
Framework travel plan
Sustainability strategy
Energy strategy

Addendum to energy strategy
Health impact assessment
Retail assessment
October 2009 retail centre health check
Regeneration strategy
Housing statement
General management strategy
Statement of community involvement
Existing tree removal/clearance, retention and protection
Remediation strategy

Date Documents Received: 09/10/2008 **Date(s) of Amendment(s):** 18/04/2009,
15/05/2009,
15/11/2009.

Date Application Received: 09/10/2008

Date Application Valid: 12/02/2009

1. BACKGROUND

The Application was considered by the Central and South Area Planning Committee on 10 December 2009, where it was resolved that the application be referred to the Greater London Authority and that (subject to the Mayor not directing the Council under Article 7 of the Order that he is to act as the local planning authority for the purpose of determining the application) delegated powers be given to the Director of Planning and Community Services to refuse planning permission, for the following reasons:

1. Impact on Green Belt, Grand Union Canal and Yeading Brook

The proposal, by virtue of the height, size and siting of buildings proposed adjacent to Green Belt land to the west of the site (Minet Country Park), would injure the visual amenities of the Green Belt, Yeading Brook and Grand Union Canal. In particular, the limited setback provided for between the canal edge and the development restricts the potential to successfully integrate the scale of this development into its surroundings. The proposal is therefore contrary to Policies OL5, BE32 and BE34 of the adopted Hillingdon Unitary Development Plan (Saved Policies 27 September 2007).

2. Impact on Ecology

The proposal, by virtue of the inadequate timing and scope of the ecological surveys (including surveys of birds, reptiles, bats and invertebrates), and lack of adequate measures to mitigate habitat loss and fragmentation caused by the scheme would be unacceptably detrimental to the ecological value of Minet Country Park (a Site of Metropolitan or Borough (Grade I) Importance for Nature Conservation) the Grand Union Canal and Yeading Brook contrary to Policies EC1, EC3, BE32, and BE34 of the Hillingdon Unitary Development Plan Saved Policies (September 2007).

3. Planning Obligations

The applicant has failed to provide, through an appropriate legal agreement an adequate provision of, or contributions towards the improvement of services and facilities as a consequence of demands created by the proposed development, including:

- Financial contribution to implement mitigation measures and capacity enhancements to Minet Country Park made necessary by the proposed development;
- Financial contribution to offset impacts on local educational facilities;
- Provision of construction training of Hillingdon residents, by enabling them to actively work and receive construction training on the construction site;
- Require the Applicant to enter into and abide by the terms of a Sustainable Travel Plan;
- Financial contribution to offset cost of additional air quality monitoring made necessary by the scheme;
- Financial contribution towards a strategic master plan for the wider area;
- Financial contribution towards delivery and implementation of a Waterspace Strategy;
- Financial contribution towards remediation of land between Yeading Brook and the Grand Union canal (Minet Tip);
- Financial contribution to implement works to improve access along the canal from Uxbridge Road to Bulls Bridge;
- Project management and monitoring.

The scheme therefore conflicts with London Plan Policy 4A.16, Policies EC1, EC3, OE11 and R17 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and the Hillingdon Planning Obligations Supplementary Planning Document (July 2008).

4. Highways

The application fails to demonstrate that the scheme would not result in adverse impacts on the Highway network, in particular:

- (i) The additional 6% increase in saturation levels on the A312 South PM peak, with the resultant increase in queuing lengths, is at odds with the applicant's assertion that the development will have nil detriment. It is considered that this increase in queue length will have an adverse impact on the highway network; and
- (ii) The Applicant has failed to satisfy the Local planning Authority that the development will not result in adverse traffic conditions on the wider surrounding highway network. The development is therefore considered to be contrary to be policies AM2 and AM7 of the Hillingdon Unitary Development Plan Saved Policies (September 2007) and Policies 3C.1 and 3C.2 of the London Plan.

The development has been assessed in detail and it is considered that the following planning obligations are required to mitigate the impacts of the development:

- Financial contribution to implement mitigation measures and capacity enhancements to Minet Country Park made necessary by the proposed development. Financial contribution sought: £2,752,520.
- Financial contribution to offset impacts on local educational facilities. Financial contribution sought: £821,000. This represents the cost of additional secondary school aged children, and post 16 year old students who can reasonably be expected to reside in the proposed scheme, but attend educational institutions in the London Borough of Hillingdon. An analysis of school roles and the postcodes in which students live was undertaken, for the last five years, to establish the likely average number of students who could reasonably be expected to attend Hillingdon schools.
- Provision of construction training of Hillingdon residents, by enabling them to actively work and receive construction training on the construction site;
- Require the Applicant to enter into and abide by the terms of a Sustainable Travel Plan (10 years).

- Various off site highways works;
- Project management and monitoring costs;
- Council's reasonable costs in the preparation of the Section 106 agreement and any abortive work as a result of the agreement not being completed.

Additionally British Waterways request that the following planning obligations be secured:

- Financial contribution towards a strategic master plan for the wider area: £20,000;
- Financial contribution towards delivery and implementation of a Waterspace Strategy: £10,000;
- Financial contribution towards remediation of land between Yeading Brook and the Grand Union canal (Minet Tip): £4,000,000;
- Financial contribution to implement works to improve access along the canal from Uxbridge Road to Bulls Bridge: £660,000.

The Application was referred to the Mayor of London on 15 December 2009. The Council received a formal direction on 22 December 2009 advising that the Mayor had decided to take over the Southall Gasworks application from both Hillingdon and Ealing for his own determination.

Relevant London Borough of Hillingdon Officer's attended a Representation Hearing on 25 March and clearly reiterated the Council's position as per the 10 December 2009 Central and South Committee resolution.

At the conclusion of the formal Representation Hearing (25 March 2010), the Mayor of London advised that he had determined to approve the application.

The Mayor of London has dictated the Heads of Terms of the S106 legal agreement that will be associated with the planning permission relating to development located within the London Borough of Hillingdon.

A comparison between obligations sought by the London Borough of Hillingdon and those set out by the Mayor are shown in the table below:

| As Sought by London Borough of Hillingdon | As Set by Mayor of London |
|--|--|
| Minet Country Park £2,752,520 | £1,840,000 |
| Educational facilities £821,118 | £ 821,118 |
| On site construction training | On site construction training |
| Strategic master plan: £20,000 | |
| Waterspace Strategy: £10,000 | |
| Remediation of land between Yeading Brook and the Grand Union canal £4,000,000 | |
| Canal Towpath Improvements £660,000 | |
| Air Quality monitoring £50,000 | £50,000 |
| Off site Highways works | Off site highways works |
| | Pooled fund to cover the cost of measures necessary to mitigate unanticipated traffic impacts. |
| Travel Plan | Travel Plan |
| Project management and monitoring | |
| Council's reasonable costs in the preparation of the Section 106 agreement. | |

Officers have at all times sought to maximise planning obligations that might address the impacts of the development on the London Borough of Hillingdon. However the Mayor has the final say on the planning obligations and negotiations have reached a point where neither the Mayor nor the applicant agrees to further contributions to the London Borough of Hillingdon.

The Committee is advised that it is necessary and in this Council's best interests for Head of Planning and Enforcement to be given delegated power to conclude the detailed terms of the Section 106 agreement, including timing of payments.

2. RECOMMENDATION

- 2.1 That delegated power be given to the Head of Planning and Enforcement to conclude the proposed Section 106 agreement to secure the following:**
- (i) A financial contribution of £1,840,000 towards implementation of mitigation measures and capacity enhancements to Minet Country Park;**
 - (ii) A financial contribution of £821,118 towards the improvement of local secondary education provision;**
 - (iii) A financial contribution of £50,000 towards the implementation of air quality monitoring;**
 - (iv) On-site employment skills training program and a commitment to a Local Labour Scheme;**
 - (v) Off site highways works;**
 - (vi) Management of a pooled fund to cover the cost of unanticipated highways mitigation measures.**
- 2.2 That the officers be authorised to negotiate and agree detailed terms of the proposed agreement.**

3. OBSERVATIONS OF BOROUGH SOLICITOR

When making their decision, members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

In addition Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it

must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

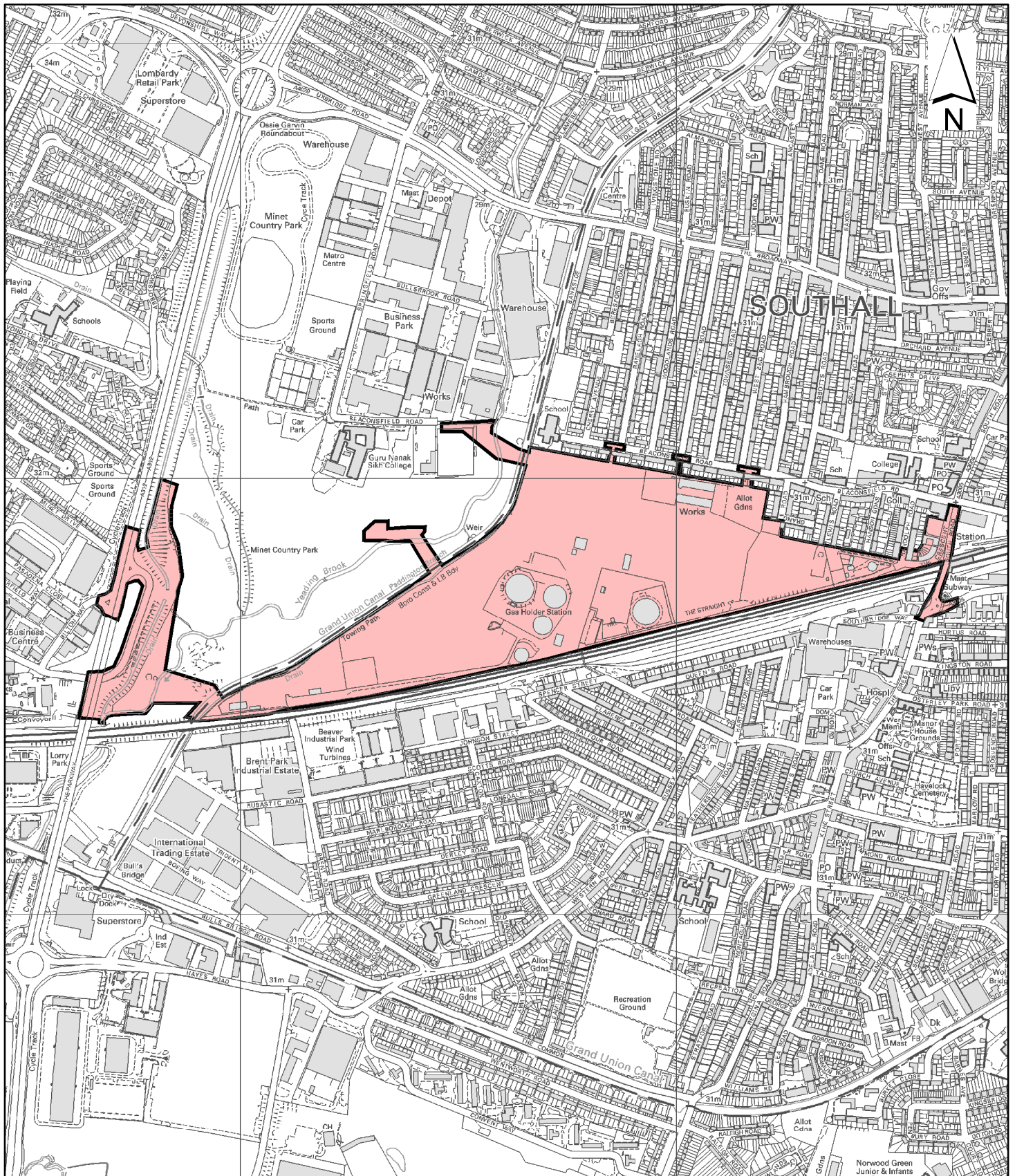
4. CONCLUSION

The Application was referred to the Mayor of London on 15 December 2009. The Council received a formal direction on 22 December 2009 advising that the Mayor had decided to take over the Southall Gasworks application from both Hillingdon and Ealing for his own determination. The Mayor of London advised on 25 March 2010, that he had resolved to determine the application by approving it.

The Mayor of London has dictated the wording of conditions and the Heads of Terms of the S106 legal agreement that will be associated with the planning permission relating to development in the London Borough of Hillingdon.

It is considered necessary and in this Council's best interests for Head of Planning and Enforcement to be given delegated power to conclude the detailed terms of the Section 106 agreement, including timing of payments.

Contact Officer: MATT DUIGAN **Telephone Number:** 01895 250230



Notes

 Site boundary

For identification purposes only.

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Site Address

**Southall Gas Works
Hayes By Pass
Hayes**

Planning Application Ref:
54814/APP/2009/430

Planning Committee
Central and South

Scale
1:12,000

Date
December 2009

**LONDON BOROUGH
OF HILLINGDON**
**Planning &
Community Services**

Civic Centre, Uxbridge, Middx. UB8 1UW
Telephone No.: Uxbridge 250111



HILLINGDON
LONDON