

<b>Item No.</b> 18.	<b>Classification:</b> Open	<b>Date:</b> 6 December 2022	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Southwark District Heating Network Local Development Order	
<b>Ward(s) or groups affected:</b>		Rotherhithe, North Bermondsey, South Bermondsey, Old Kent Road, Peckham, St Giles, Rye Lane, Nunhead and Queens Road	
<b>Cabinet Member:</b>		Councillor James McAsh, Climate Emergency and Sustainable Development	

## **FOREWORD – COUNCILLOR JAMES MCASH, CABINET MEMBER FOR THE CLIMATE EMERGENCY AND SUSTAINABLE DEVELOPMENT**

The climate emergency is an existential threat to our species – and the biggest threat of our time. Southwark Council has committed to becoming carbon neutral by 2030 and our climate strategy and action plan provide an ambitious road map to achieve it.

Around 75% of Southwark’s carbon emissions come from buildings – and much of that is from heating and hot water. We cannot tackle the climate emergency without decarbonising our buildings.

In 2013 we connected around 2,500 homes in Bermondsey to the SELCHP heat-from-waste plant in Lewisham. Heat which would otherwise be squandered into the air is pumped through a network of underground pipes to warm our residents’ homes. This saves around 7,700 tonnes of carbon per year.

But excess heat remains, and we can put it to good use. The Southwark Plan and the draft Old Kent Road Area Action Plan signal our intent to extend this district heating network to the south, potentially connecting it to around 3,000 existing council homes in Peckham and to new developments around the Old Kent Road.

This document outlines the Local Development Order (LDO) needed to achieve this goal, and is a key milestone in this process. While the network will mostly comprise underground pipes, with limited impacts on our environment, the construction of utilities infrastructure can be a disruptive process. The LDO allows this to go ahead and puts in place a framework to limit disruption: minimising the number of holes dug into the ground and the number of trucks on our streets. It will ensure that suitable construction management plans are put in place to reduce these impacts and coordinate with other building and utilities work which is happening in the area.

## **RECOMMENDATIONS**

1. That Cabinet approves a draft District Heating Network Local Development Order (Appendices A and B) for public consultation.
2. That Cabinet notes the Equalities Impact Analysis which is in Appendix C.
3. That Cabinet notes that the Council has made an Environmental Impact Assessment (EIA) Screening Opinion and has resolved that the Local Development Order does not comprise development which requires EIA.

## **BACKGROUND INFORMATION**

### **District Heating Network**

4. The heating and hot water in much of the social housing stock that Southwark Council owns and maintains is provided through communal heating generated by gas fire boilers.
5. In 2013, Southwark Council awarded the Southwark Heat Network Contract to Veolia to build and supply heat through a district heating system connected to SELCHP (South East London Combined Heat and Power). SELCHP is an energy recovery facility which processes over 430,000 tonnes of municipal waste per year. This mixed municipal waste is used as the main source of fuel and the energy is exported as both electricity to the grid and heat to homes and businesses within Southwark.
6. The District Heating Network (DHN) comprises highly insulated underground pipes that take hot water from SELCHP, and deliver it to heat exchangers in boiler houses on the Southwark estates, where the heat is extracted to provide heating and hot water, and the cooler water returns to the SELCHP plant for recirculation.
7. The existing network currently provides heating and hot water for 2,500 properties in Southwark. The system also enables other small third-party connections, replacing the need for local energy centres. Because the energy from SELCHP has a very low carbon content, the DHN has saved approximately 7,700t of CO<sub>2</sub> per year since its construction.
8. Buildings account for over 75% of the carbon emissions generated in Southwark. The Council has been working for the past two years to test the viability and feasibility of extending the DHN into the Old Kent Road area, and down to North Peckham. It has the potential to connect 3,000 council homes as well as new development, including the Tustin Estate and Ledbury Estate. The council's feasibility study suggests that connecting this development to district heating could reduce CO<sub>2</sub> generated by heating and hot water by as much as 89% over the course of 25 years. Connecting more buildings to district heating can play a key role in Southwark and London's response to the Climate Emergency.

9. The SELCHP DHN is operated by Veolia. In progressing the Old Kent Road and Peckham extension the council and Veolia are currently at commercialisation stage.. Subject to a separate cabinet decision on varying the council's existing heat supply contract with Veolia, construction of the network could commence in autumn 2023.

### **Simplified Planning**

10. Unlike statutory undertakers like electricity and water companies, DHN operators do not have "permitted development rights" to install pipes and utilities equipment and therefore require planning permission. In order to avoid the need for potentially multiple planning applications the council has the option of making a Local Development Order which grants permission for the type of development specified in the Order, and by doing so, removes the need for a planning application to be made. LDOs are prepared by Local Planning Authorities who have the right to apply conditions to ensure that the development is acceptable in planning terms.
11. In this case, implementation of the LDO would grant planning permission for the pipes and equipment needed to facilitate the DHN. The pipes would mainly be laid underneath the public highway. The only potential structures to be permitted would potentially be small cabinets which sit adjacent to plant rooms, and which take the pipes through the wall to connect to existing boilers.
12. The land that the LDO would apply to would comprise Council owned land and adopted highway. This is shown in Appendix B. During consultation there will be an opportunity to engage private landowners on whether their land should be included. They would benefit from connection to the DHN as it can help developments meet future building regulations and planning policies in a cost-effective way.

### **Consultation**

13. The council will consult publically on the draft LDO. Consultation will be carried out over a 10 week period, in compliance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 which require a minimum of 4 weeks and the council's draft Statement of Community Involvement which requires a minimum of 6 weeks for all planning documents.
14. The LDO will be published on the council's website, a press notice will be sent out and a notification email to all our statutory consultees and other interested subscribers. An online questionnaire will be published on the Consultation Hub for members of the public to share their views. Representations will also be accepted by email and post.
15. The council will consider all comments received and has the opportunity to make amendments to the LDO prior to reporting it back to cabinet for adoption which is anticipated in March 2023.

## KEY CONSIDERATIONS

16. The rationale for extending the district heating network is established in both the Southwark Plan 2022 and the emerging Old Kent Road area action plan. LDOs to help deliver DHNs have been put in place in Leeds and Exeter and a number of other cities are in the process of exploring their use. Paragraph 51 of the National Planning Policy Framework (NPPF) also promotes the use of LDOs to encourage development, which is tailored to local circumstances and promotes economic, social or environmental gains for the area.
17. While the DHN connected to SELCHP would be operated by Veolia, any provider who is developing a network in the area identified would benefit from the rights provided. It should be noted that the LDO only grants planning permission and does not remove the need to comply with other relevant legislation. It is the responsibility of operator/builder to obtain any other licenses and consents required for the construction of the DHN extension. This would include landowner consent to build on council (or any owner's) land and highways consents such as Section 50 of the New Roads and Street Works Act 1991.
18. Veolia intends for the project to be constructed in two phases. The preferred choice for the network design would comprise the following route (shown in Appendix D) although this may be subject to change depending on ground condition, presence of other utilities etc.
19. The first phase would see the construction of the network from the SELCHP facility running east along Surrey Canal Road, crossing the borough boundary into Southwark to join Ilderton Road and running south towards the redeveloped Tustin Estate which will connect to the network. It will then cross the Old Kent Road and run down to the Brimington Estate where it would connect to the existing boiler house.
20. The second phase would see the network branch off to the east with the potential to connect to a number of estates including the Acorn, Bell Gardens, Ledbury, North Peckham, Cossall, Pelican and Sceaux Gardens. While the network would be built primary in the public highway, it would need to cross Brimington Park and also Surrey Canal Park.
21. In addition to phases 1 and 2, Veolia are progressing an extension to the Biscuit Factory in Bermondsey. In order to provide flexibility to connect to third party developments, the area that would be designated under the LDO extends over a large part of the Old Kent Road opportunity area.
22. In order to help manage the impacts of development and ensure it the LDO does not result in unacceptable outcomes, the council is able to attach conditions. These can ensure that the following themes are addressed:
  - Heritage: Restrictions of development allowed within the curtilage of a listed building and in conservation areas
  - Archaeology: Pre-commencement requirement to provide of a desk archaeological assessment and written scheme of investigation

- Assessment of any impacts on trees and appropriate replacement if required depending on their quality and value;
- Ecological assessments;
- Provision of Construction Environmental Management Plans (CEMPs) to help reduce impacts for neighbours and ensure that the construction process adheres to Southwark's Technical Guidance for Demolition and Construction. Contractors will be expected to liaise with the local community during construction and will also be expected to liaise with the local authority to help ensure coordination between contractors and utilities companies working in the area at the same time.
- Time limit: The LDO will expire within 5 years, unless extended by the council.

## **Community, equalities (including socio-economic) and health impacts**

### **Community impact statement**

23. The adoption of the LDO and the resulting extension of the DHN will have a positive impact on the community.
24. Delivery of the DHN extension will benefit our most vulnerable residents and help the Council effectively tackle fuel poverty by providing greater energy security. It will also contribute to tackling climate change which is the biggest humanitarian threat this generation faces.

### **Equalities (including socio-economic) impact statement**

25. In everything we do as a Council, we seek to promote equality and discharge our full Public Sector Equalities Duty (PSED) under Section 149 (1) of the Equality Act 2010. The PSED requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. A detailed Equalities Impact Assessment has been undertaken in regard to this proposal (see Appendix B).
26. Overall, the LDO if implemented, and subsequent extension of the DHN should reduce inequality and have a positive impact on groups which are protected under the Act. Connection to the DHN will bring improved reliability and efficiency of heating and hot water systems which should lead to lower overall heating costs. This would benefit our residents with a lower socio-economic status and those who have higher heating requirements such as elderly and disabled residents.

### **Health impact statement**

27. There is a link between poor air quality and negative health outcomes. The Council has an ambition and a legal obligation to improve air quality in the borough.
28. The main atmospheric pollutants of concern in Southwark are Nitrous Dioxide (NO<sub>2</sub>) and Particulate Matter (PM). The main source of these pollutants locally

is traffic emissions but domestic heating also makes a significant contribution with commercial and domestic gas heating is estimated to contribute nearly 30% of local NO<sub>2</sub> emissions.

29. In the short term, the construction of the DHN may cause increased emissions from increased traffic and heavy duty vehicles required on site, leading to poorer air quality. These impacts will be temporary and can be managed through the Construction Environmental Management Plan.
30. In the long term, the extension of the DHN will result in a decreased reliance on gas boilers which emit harmful gases which will mean an improvement in air quality and therefore better health outcomes for Southwark residents.

### **Climate change implications**

31. The adoption of the LDO which facilitates the extension of the DHN will have a positive impact on the Council's contribution to tackling Climate Change.
32. Analysis has shown that the majority of Southwark's carbon emissions come from buildings and a sizeable proportion come from Southwark's own buildings. Modelling shows that moving away from gas boilers is an effective way to reduce carbon emissions. The SELCHP DHN is low-carbon and generated from a renewable energy source. The energy from SELCHP also incorporates circular economy principles as the energy is recovered from municipal waste which would otherwise end up in landfill.
33. Implementing the LDO, resulting in the delivery of the DHN extension will achieve two of the actions set out in *Southwark's Climate Change Strategy 2021* under *Priority 1 – Greener Buildings*:
  - Theme C. Low-carbon technologies and practises are encouraged within the borough's buildings. The goal is to maximise the use of low-carbon technologies for new and existing homes. The immediate action sets out to identify households not currently serviced by district heating that can be switched onto SELCHP or equivalent district heat system. Alongside this Identify areas of the borough that cannot be served by heat networks and must look at communal ASHP, CHP or secondary source heat pumps.
  - Theme E. Decarbonise council housing. The goal is to replace gas with low-carbon technologies. The immediate action is to increase the number of council-owned homes to the extended SELCHP network where feasible.

### **Financial implications**

34. There are no direct financial implications for the council associated with making the LDO. Work to prepare the Local Development Order is funded by existing staff budgets. As noted above the LDO does not override other consents which are required to deliver the network. A decision to vary the council's existing heat and hot water supply contract with Veolia would require a separate cabinet decision.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Law and Governance**

35. Should the cabinet be satisfied with the contents of this report then it has the power to make the decision recommended at paragraph 1 of this report by virtue of the council's constitution. Decisions relating to LDOs are not reserved to any body within the Council. Given the strategic nature of the LDO, decisions relating to it are appropriately matters for cabinet. This is supported by the express executive functions of Cabinet in part 3B, including to consider and promote strategic initiatives to improve the quality, efficiency and effectiveness of the council's services to the public. In addition, Article 6 provides that cabinet will carry out all of the functions which are not the responsibility of any other part of the Council under law or the constitution.
36. The Equality Act 2010 introduced the public sector equality duty, which merged existing race, sex and disability equality duties and extended them to include other protected characteristics; namely age, gender reassignment, pregnancy and maternity, religion and belief and sex and sexual orientation, including marriage and civil partnership. In summary those subject to the equality duty, which includes the Council, must in the exercise of their functions: (i) have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and (ii) foster good relations between people who share a protected characteristic and those who do not. Paragraphs 24 and 25 of the report confirms that the proposals will have no disproportionate impact on any particular age, disability, ethnicity and sexual orientation. The same paragraphs confirm that the proposals support the Council's equalities and human rights policies and promote social inclusion. The implementation of the proposals are not anticipated to have any detrimental impact on a particular protected group under the Equality Act 2010.
37. The Human Rights Act 1998 imposed a duty on the council as a public authority to apply the European Convention on Human Rights; as a result the council must not act in a way which is incompatible with these rights. The most important rights for highway and planning purposes are Article 8 (respect for homes); Article 6 (natural justice) and Article 1 of the First Protocol (peaceful enjoyment of property). The implementation of these proposals is not anticipated to breach any of the provisions of the Human Rights Act 1998

### **Strategic Director of Finance and Governance (FC22/047)**

38. This report is requesting that cabinet approves a draft District Heating Network Local Development Order (Appendices A and B) for public consultation as detailed above.
39. The strategic director of finance and governance notes that there are no immediate financial implications arising from this report.
40. It is also noted that staffing and any other related costs will be contained within existing departmental revenue budgets.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Old Kent Road district heating feasibility study	160 Tooley Street London SE1 2QH	Ali Weatherup <a href="mailto:ali.weatherup@southwark.gov.uk">ali.weatherup@southwark.gov.uk</a>
<b>Link:</b> <a href="#">Environment and sustainability - Southwark Council</a>		
Environmental Impact Assessment screening opinion	160 Tooley Street London SE1 2QH	Ali Weatherup <a href="mailto:ali.weatherup@southwark.gov.uk">ali.weatherup@southwark.gov.uk</a>
Planning reference: 22/AP/3936 <b>Link:</b> <a href="https://planning.southwark.gov.uk/online-applications/">https://planning.southwark.gov.uk/online-applications/</a>		

## APPENDICES

No.	Title
Appendix A	Draft Local Development Order
Appendix B	Area covered by the Local Development Order
Appendix C	Equalities analysis
Appendix D	Phasing plan for SELCHP extension



## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor James McAsh, Climate Emergency and Sustainable Development	
<b>Lead Officer</b>	Althea Loderick, Chief Executive	
<b>Report Author</b>	Tim Cutts, Senior Regeneration Manager	
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<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	23 November 2022	