

**EXPLANATORY MEMORANDUM TO**  
**THE DERELICT LAND CLEARANCE AREA (DRAKE GARDENS, TAVISTOCK)**  
**ORDER 2009**

**2009 No. 3098**

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. This is a revised version of the explanatory memorandum which was originally laid with the Order on 2nd December 2009.

**2. Purpose of the instrument**

2.1 This Order specifies a locality in the Drake Gardens area of Tavistock South as a derelict land clearance area. The area is currently blighted by unsightly fenced off derelict properties due to the collapse of the surface and subsidence caused by former lead-mining activity.

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 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 Drake Gardens area of Tavistock is not a development or intermediate area. This Order is made under section 1(7) of the Act and its effect will be to enable West Devon Borough Council to become 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 extends to England only.

## **6. European Convention on Human Rights**

5.1 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 of 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), gives rise to substantial 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%, West Devon Borough Council would not have been able to afford to proceed with the project without applying an increase to council tax which would be above the level allowed by Government. The subsidy of up to 100% was decided in this particular case in the absence of a current, transparent methodology of working out other levels of subsidy but the possibility of such a methodology being used in future is likely to be considered when the programme is next reviewed.

7.5 All of the properties in Drake Gardens are affected by the blight caused by the risk of collapse of the mine workings. The properties on the south side of Drake Gardens are directly affected by the mine workings and are at risk from instability and subsidence. Six of the properties have been evacuated and fenced off for health and safety reasons. Five of these properties are in the ownership of a Registered Social Landlord, and were evacuated in 2005. One private home was evacuated in 2003 following suspected mine subsidence damage. The other properties in Drake Gardens are blighted by association and by the unsightly fenced off derelict properties, which also deters potential buyers.

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 the long term risk of doing nothing was 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 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.

#### *Capping Lode*

7.6.4 This would require extensive and deep excavation of the area around Drake Gardens. It would involve demolition of the houses and excavation of the road. It would address risks from shallow voids but there would still be the risk of voids migrating downwards leading to further instability.

#### *Infill with granular material*

7.6.5 At a shallow depth this would not provide the required strength and degree of

confidence that the voids had been infilled. This method would mean that it is difficult to introduce the material into deeper voids unless they were very large and interconnected (which is not believed to be the case).

*Infill with grout – the preferred option*

7.6.6 After a full risk assessment, the Council project team decided to progress with their preferred option of infilling the mine voids and stabilising the ground by the injection of grout.

7.7 Since identifying the risks connected with the potential mine subsidence at Drake Gardens, West Devon 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 regular newsletters, occasional public meetings, chaired by the local MP Geoffrey Cox, regular updates on the West Devon Borough Council website and visits to individual residents to provide updates and obtain information. The Council's consultants and project managers have continued this relationship which means that residents have engaged in the project and have more of an understanding of the stabilisation process. This ultimately means being able to find a practical solution and retaining the community.

7.8 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's 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 expected costs to the public purse for this work will be £2.3million

in funding through Land Stabilisation Programme Funding. 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 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

Helen Batley at the Department for Communities and Local Government Tel: 0303 444 3559 or e-mail [helen.batley@communities.gsi.gov.uk](mailto:helen.batley@communities.gsi.gov.uk) can answer any queries regarding the instrument.

MAP REFERRED TO IN THE DERELICT LAND CLEARANCE AREA (DRAKE GARDENS, TAVISTOCK ) ORDER 2009

SCALE 1:5000

