

MAYOR AND CABINET			
Report Title	Memorandum of Understanding with Veolia to develop a Lewisham heat network		
Key Decision	Yes		
Ward	All		
Contributors	Executive Director for Resources and Regeneration		
Class	Part 1	Date:	06 June 2018

1. Purpose

- 1.1 To agree a memorandum of understanding with Veolia supporting plans to develop a heat network using waste heat from South East London Combined Heat and Power facility.

2. Recommendations

- 2.1 It is recommended that the Mayor and Cabinet agrees:
- the Memorandum of Understanding with Veolia to support the development of a Lewisham strategic heat network
 - the approach proposed by officers to develop a detailed business case for the Council's involvement in a strategic heat network and specifically the terms under which the Council will bid for funding under the Government's Heat Network Investment Project

3. Policy Context

- 3.1 The Climate Change Act 2008 sets a legally binding commitment of an 80% reduction in greenhouse gases for the year 2050 from a 1990 baseline with an interim milestone of 34% by 2020.
- 3.2 In November 2016, the UK Government ratified the Paris Agreement, part of the United Nations Framework Convention on Climate Change. The Agreement commits countries to take action to prevent the global average temperature increasing 2°C above pre-industrial levels.
- 3.3 The Government's Clean Growth Strategy (2017) identifies heat networks as having a significant contribution to make in achieving low carbon heating and delivery of the UK's greenhouse gas emission targets.
- 3.4 The Mayor of London's ambition is for London to be a zero-carbon city by 2050. The new London Environment Strategy (LES) targets 15% of London's energy demand to be met from local and renewable energy sources by 2030. Heat from existing energy from waste plants have a key role to play in delivering the Mayor's ambitions and targets for London.

- 3.5 *Shaping our future*, Lewisham's Sustainable Community Strategy for 2008-2020, sets out a vision for Lewisham: 'Together, we will make Lewisham the best place in London to live, work and learn'. *Shaping our future* includes the ambition to 'Work alongside the South East London Combined Heat and Power plant to progress sustainable measures for heating and powering local developments'.
- 3.6 Lewisham Council's corporate priorities includes the priority *clean, green and liveable* that would be supported by a low carbon heat network supplying residents and businesses in the borough.

4. Background

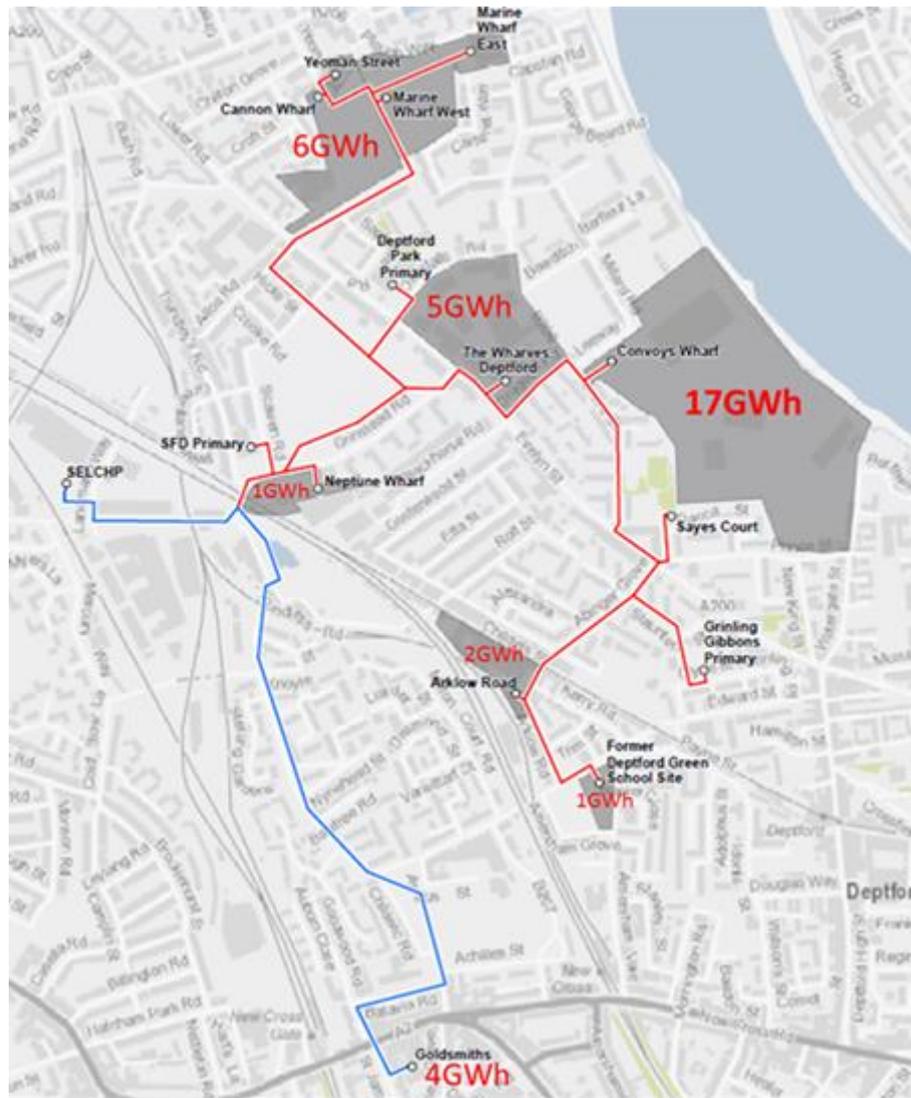
- 4.1 South East London Combined Heat and Power (SELCHP) facility is an energy from waste facility located in Lewisham between New Cross and Deptford, both areas where there is significant current and forecast development over the next few years.
- 4.2 Heat-mapping in Lewisham has identified opportunities for large-scale heat networks and these opportunities have informed local policy and engagement with developers through the Planning process.
- 4.3 Lewisham Council has delivered two studies assessing the technical, practical and financial feasibility of building heat networks in the borough from the SELCHP facility. In 2016 the second of these studies identified strong potential for a connection to development sites in the north of the borough.
- 4.4 Officers have been working with Veolia, the Department for Business Energy and Industrial Strategy (BEIS) and the GLA to assess and develop the opportunities a heat network from SELCHP may represent. The proposed Memorandum of Understanding (enclosed at Annex A) is one of the outputs from this ongoing partnership, and signals our intention to work together with Veolia. The MoU secures high level interest in both organisations but does not in itself constitute a formal commitment to any specific approach. The memorandum of understanding sets out broad heads of terms. There is no commitment to enter a detailed legal agreement but the MoU notes that there is an intention that the MoU should be a precursor to a formal agreement. This would, depend on progress made, and on both parties' legal and commercial decision-making processes.
- 4.5 Work so far has established that there are significant constraints and commercial risks involved in establishing the district heating network. Installing the infrastructure involves significant upfront investment, and in an urban environment, there are a range of constraints that add risk to any potential route. Uncertainties relating to developments along the route are also a key risk.
- 4.6 The Government has identified heat networks as an important part of the infrastructure needed to deliver a low carbon economy. In recognition of the challenges involved BEIS has established the Heat Network Investment Programme (HNIP), which is seeking to invest £320m of capital funding in heat networks. One of the objectives of the proposed MoU is to facilitate the development of a partnership that can access this funding. Any bid for HNIP funding would be expected to require prior approval by Mayor and Cabinet.
- 4.7 Working in partnership with Veolia on a heat network also offers opportunities to consider wider benefits that a purely commercially driven scheme would not achieve. A strategic heat network, extending the scope of the connection from SELCHP, could

offer opportunities for wider environmental or social benefits, such as low cost energy to vulnerable households or increased carbon savings. Depending on the nature of the Council's role, and the delivery structure that is created, there may also be economic benefits in terms of revenue or employment opportunities. Developing plans for the heat network is one of the ways the Council can pursue the Mayor's manifesto commitment to 'explore working with publicly owned not-for profit energy suppliers that do not penalise poorer residents using pre-pay meters'.

- 4.8 Achievement of the opportunities summarised above will depend on the detailed nature of the heat network and the Council's role. The legal, procurement, financial, technical and administrative implications of this will need to be assessed in a separate business case that officers are working on and will support the decision making by Mayor and Cabinet on any bid for funding through HNIP.

Potential routes

- 4.9 Lewisham Council has completed feasibility studies funded through the Government's Heat Network Development Unit into routes in New Cross and to development sites in the north of the borough showing significant potential for a commercially viable network that could deliver social, environmental and financial benefits to the borough.
- 4.10 The North Lewisham study completed in 2016 assessed the potential of a network with connections to Convoys Wharf; Marine Wharf East; Marine Wharf West; Yeoman Street; Cannon Wharf; Deptford Wharves; Deptford Foundry/Arklow Rd Neptune Wharf and the Former Deptford Green School.



- 4.11 Through the planning process Lewisham Council has been able to secure agreements to be able to connect to a heat network in key developments along the route.
- 4.12 The study identified that there was sufficient capacity within SELCHP to meet the heat demand of these sites, that a route although constrained was viable and that the economic case had potential to be commercially viable. The key risks identified in the study and in discussions with Veolia are:
- Crossing points with network rail and TfL infrastructure
 - Negotiating easements and access along the route
 - Existing infrastructure under the highway along the route
 - The timing of developments and whether a heat price can be agreed with developers

Lewisham Housing Select Committee scrutiny review of communal heating

- 4.13 Lewisham’s Housing Select Committee undertook a scrutiny review of communal heating systems in 2014/15 as a result of issues raised by residents in social housing properties served by communal heating. The Review made a number of

recommendations in relation to protecting residents from over-supply of heat, billing issues, supply problems and a lack of consumer protection in contracts for the supply of heat that the customer is not able to influence or withdraw from. The Committee's recommendations were referred to Mayor and Cabinet in July 2015 and the response from officers agreed by the Mayor in September 2015.

- 4.14 Since the Committee reported its findings there have been a number of national developments. These include:
- The Heat Networks Code of Practice for the UK published by CIBSE and the Association for Decentralised Energy (2015). The Code of Practice received broad support and provides a technical underpinning to raising standards in designing, delivering and running communal heating systems.
 - The Heat Trust, launched in November 2015, which offers free independent customer service standards and complaint resolution.
 - A review of 'SAP' (the Standard Assessment Procedure methodology for predicting the energy performance of buildings) by Government proposes amendments to the distribution heat loss factors from communal heating systems.
- 4.15 Active involvement by the Council would represent an opportunity to influence the commercial terms of the supply of heat and to seek higher standards of customer protection as standard in any Lewisham heat network.

5. Financial implications

- 5.1 The proposed work by officers to develop a detailed business case for the Council's involvement in a heat network can be funded from within existing budgets or grant funding.
- 5.2 The Memorandum of Understanding states that Veolia and Lewisham are interested in securing funding through the Government's Heat Network Investment Programme (HNIP) to support a common development project. The HNIP is a £320m capital investment programme that is expected to support up to 200 projects by 2021 through grants and loans and other mechanisms and to lever in up to £2bn of wider investment, reducing bills, cutting carbon and forming a key part of wider urban regeneration in many locations. In order to bid for grant funding, the Council will need to produce a business case setting out the potential commercial terms of a Lewisham heat network, including the degree of commercial risk and reward the Council would be willing to accept.
- 5.3 There are significant constraints and commercial risks involved in the development of a heat network. Installing the infrastructure involves significant upfront investment, and in an urban environment, there are a range of constraints that add risk to any potential route. Uncertainties relating to developments along the route are also a key risk and there are complex legal, procurement and governance considerations that would have to be addressed in order to deliver a commercially viable heat network.

6. Legal implications

- 6.1 The proposed Memorandum of Understanding does not commit the Council to enter into any formal agreement with Veolia, although it makes clear that there is an intention to proceed to formal agreement subject to further work and decision making. Decision making about an application to the Government's Heat Network

Investment Project will need to be considered separately in line with the Council's Constitution.

- 6.2 Some aspects of the MoU are legally binding (such as in relation to Confidentiality, and limits on liability) and officers will need to be aware of any constraints arising from those legally binding points. During the forthcoming development of work and potential commercial agreement, the Council will need to take into account the potential constraints on its position imposed by the state aid rules.
- 6.3 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.4 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
 - The duty is a "have regard duty", and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 6.5 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:
<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 6.6 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- The essential guide to the public sector equality duty
 - Meeting the equality duty in policy and decision-making
 - Engagement and the equality duty
 - Equality objectives and the equality duty
 - Equality information and the equality duty
- 6.7 The 'Essential guide' provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are

legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:
<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

7. Crime and disorder implications

7.1 There are no specific crime and disorder implications resulting from this report.

8. Equalities implications

8.1 There are no specific equalities implications resulting from this report, although the development of a strategic heat network could be an opportunity to provide low cost heating for residents in the borough which could support wider social objectives and align with the Council's existing work on fuel poverty and support for vulnerable residents.

9. Environmental implications

9.1 There are no specific environmental implications resulting from this report, although the development of a strategic heat network could be an opportunity to provide low carbon heating for business and residents in the borough supporting wider environmental objectives and the delivery of carbon reduction targets for the borough, London and the UK.

10. Conclusion

10.1 It is recommended that the Mayor and Cabinet agrees:

- the Memorandum of Understanding with Veolia to support the development of a Lewisham heat network
- the approach proposed by officers to develop a detailed business case for the Council's involvement in the heat network and specifically the terms under which the Council will bid for funding under the Government's Heat Network Investment Project

If there are any queries on this report please contact **Martin O'Brien, Climate Resilience Manager**, 020 8314 6605.

Background Documents

- Heat Network Feasibility Study New Cross (2015)
<https://www.lewisham.gov.uk/inmyarea/regeneration/deptford/Pages/New-Cross-heat-network-feasibility-study.aspx>
- Heat Network Feasibility Study North Lewisham (2016)
<https://www.lewisham.gov.uk/inmyarea/regeneration/deptford/Pages/North-Lewisham-heat-network-feasibility-study.aspx>
- Lewisham's Home Energy Conservation Report (2017)
<https://www.lewisham.gov.uk/getinvolved/environment/energyefficiency/taking-the-lead/Documents/LewishamHECARReport2017.pdf>