

ABERDEEN CITY COUNCIL

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COMMITTEE	Planning Development Management Committee	
DATE	24 July 2014	
LEAD HEAD OF SERVICE Margaret Bochel		DIRECTOR Gordon McIntosh
TITLE OF REPORT	Planning Digest	
REPORT NUMBER	EPI/14/214	

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1. PURPOSE OF REPORT

- 1.1 To advise Committee about recent appeal decisions, recent updates in Scottish Government Planning Advice and other aspects of the planning service.

2. RECOMMENDATION

- 2.1 To note the outcome of the appeal decision.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications arising from these appeal decisions.

4. OTHER IMPLICATIONS

- 4.1 The report is for information and does not have any implications for any legal, resource, personnel, property, equipment, sustainability and environmental, health and safety and/or policy implications and risks.

5. BACKGROUND/MAIN ISSUES

**APPLICATION P130918  
HILLHEAD OF CLINTERTY, TYREBAGGER ROAD, KIRKTON OF SKENE  
PROPOSED EXPLOSIVES STORAGE FACILITY COMPRISING 6 BUILDINGS,  
ACCESS ROAD, BUNDS AND LIGHTING TOWERS**

At its meeting on the 28<sup>th</sup> May 2014, the committee resolved to grant a willingness for officers to grant planning permission for the above development, subject to assurances be sought from the Health and Safety Executive ('HSE') in relation to the impact and risks associated with the application, prior to granting approval.

A response has since been received from the Explosives Inspectorate of the HSE which has advised that any license granted would place duties on the licensee to ensure that

- anyone manufacturing or storing explosives must take appropriate measures to prevent fire or explosion,
- to limit the extent of any fire or explosion should one occur and
- protect persons in the event of a fire or explosion.

Regulation 4 of the *Manufacture and Storage of Explosives Regulations (2005)* provides guidance on what measures should be taken with respect to the three headings above.

With regard to the security aspects, the following legislation is applicable to a licensed site.

### Explosives Act 1875

Section 23 of the act requires that anyone storing explosives must take all due precautions to prevent unauthorised access to the explosives. The HSE has published the document '*Security of licensed and registered explosives stores and registered premises*' which describes the recommended standards of security for licensed stores holding explosives which require an explosives certificate from the police.

### The Control of Explosives Regulations 1991 ('COER')

The regulations cover all explosives used in commercial, military or leisure activities. This includes blasting explosives, detonators, fuses, ammunition, propellants, pyrotechnics and fireworks. The main provisions of COER are:

- anyone wanting to acquire or keep certain explosives must have an explosives certificate issued by the police.
- duties are placed on anyone wanting to transfer certain explosives to others.
- anyone who has committed certain offences or been sentenced to certain terms of imprisonment must not acquire, keep, handle or control certain explosives or substances which could be used as explosives.
- occupiers of licensed explosives stores or magazines must appoint someone to be responsible for explosives security.
- comprehensive, accurate and up-to-date records must be kept of certain explosives.
- the loss or theft of explosives must be reported immediately to the police.

With reference to the application for a licence for the site at Hillhead of Clinterty, the licence is currently at the consultation stage with the applicant. The applicant is yet to submit detailed plans of the site to the HSE and the quantities of explosives that are to be licensed at each defined location. Once this information is received by HSE, the Scottish Fire and Rescue Service assess the suitability of the site with regard to the Fire (Scotland) Regulations. HSE would then draft a licence which would be submitted to the applicant for the process of acquiring assent from the Council.

### Aberdeen City Council's Role

The Trading Standards Service within the Housing and Environment Directorate is responsible for the licensing, registration and safe storage of explosives within the Aberdeen City area.

The Council would receive from the applicant -

- a copy of the draft HSE licence;
- the application;
- any other information the HSE Explosives Inspectorate instructs them to send;
- a request for a day to be appointed for the formal application for assent.

The applicant must within 28 days of submitting the documents publish a notice in a newspaper covering where the explosives are to be stored

- giving details of the application
- inviting representations on matters affecting the health and safety of people other than the applicant's employees to be made in writing to the local authority within 28 days of the date that the notice is first published –
- give an address where any representations should be sent

The applicant has to take other reasonable steps to inform everyone who lives or carries on a business or other undertaking within the public consultation zone, which is defined as an area 'extending to twice the proposed separation distance of the proposed site'.

The Council would inform the applicant of the date that it is proposed to hold an assent hearing, which must be within four months of receiving the draft licence and application, which would be determined by a report to the Housing and Environment Committee.

The Council must not less than 28 days before the assent hearing, publish notice of the date; time and place of the hearing in a local newspaper and send a copy of the notice to the applicant, anyone who made representations and the HSE.

In considering whether to assent, Council can have regard only to health and safety matters. A notice of decision would be issued to the applicant and HSE within 7 days of making it.

If the Council grant assent, then the draft license would be sent back to HSE and the licence would be signed by the Chief Inspector of Explosives. If the Council decided not to grant assent then the licence would be withdrawn by the HSE.

HSE advise that the current proposed layout complies with the statutory requirements for a HSE licence to be granted and in so far as much that it meets these criteria, HSE would have no reason to refuse a licence for Hillhead of Clinterty.

On the basis of the above, the Head of Planning and Sustainable Development was satisfied that health and safety matters would be addressed satisfactorily by the appropriate authorities. Therefore planning permission was granted on 10<sup>th</sup> June 2014.

## 6. IMPACT

The Scottish Government has stated that an effective planning service is fundamental to achieving its central purpose of sustainable economic growth. As such the information in this report relates to a number of Single Outcome Agreement Outcomes:

- 1 - We live in a Scotland that is the most attractive place for doing business in Europe;
- 2 - We realise our full economic potential with more and better employment opportunities for our people;
- 10 - We live in well-designed, sustainable places where we are able to access the amenities and services we need;
- 12 - We value and enjoy our built and natural environment and protect it and enhance it for future generations;
- 13 - We take pride in a strong, fair and inclusive national identity; and
- 15 - Our public services are high quality, continually improving, efficient and responsive to local people's needs.

Public – The report may be of interest to the development community and certain matters referred to in the report may be of interest to the wider community.

## 7. BACKGROUND PAPERS

None.

## 8. REPORT AUTHOR DETAILS

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