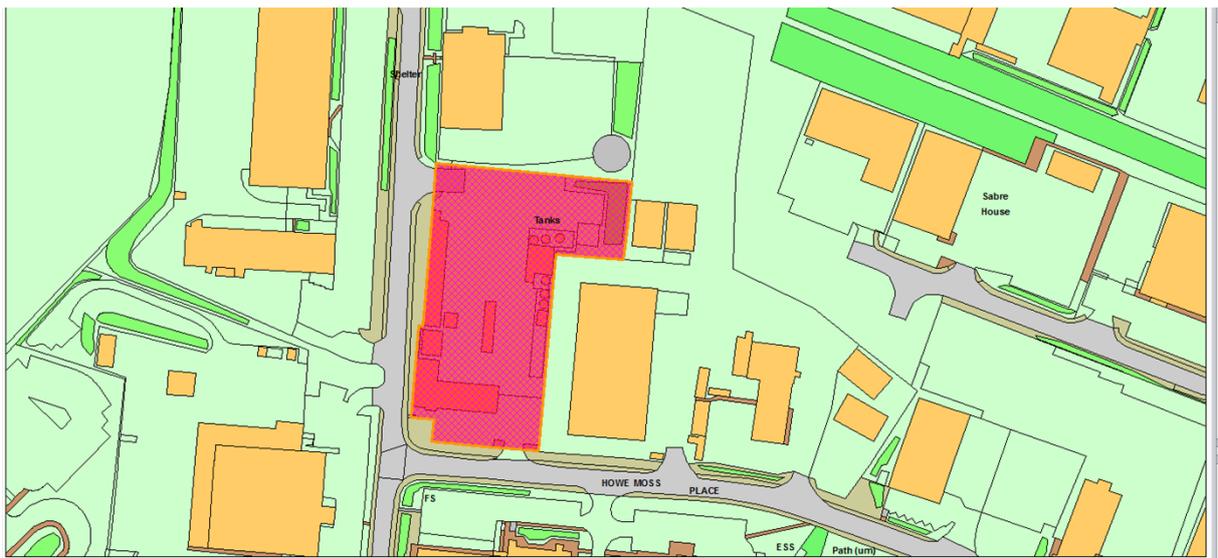


## Planning Development Management Committee Hazardous Substances Consent

**160830:** Storage and use of substances within category H2 (Acute Toxic) at Howe Moss Place, Kirkhill Industrial Estate, Dyce, Aberdeen AB21 0GS

For: Clariant UK Ltd

Application Date:	29 June 2016
Officer:	Matthew Easton
Ward:	Dyce/Bucksburn/Danestone
Community Council:	Dyce And Stoneywood
Advertisement:	Hazardous Substances Consent
Advertised Date:	3 August 2016



**RECOMMENDATION: Approve Conditionally**

## **BACKGROUND TO HAZARDOUS SUBSTANCES CONSENT**

The Control of Major Accident Hazard ('COMAH') regulations apply where quantities of dangerous substances are present, or likely to be present above specified limits. This includes sites where dangerous substances might be generated due to the loss of control of an industrial chemical process. The main aim of the COMAH regulations is to prevent and mitigate the effects of major incidents on people and the environment. Sites subject of COMAH are regulated by the Competent Authority, which in Scotland comprises both the Scottish Environment Protection Agency ('SEPA') and Health and Safety Executive ('HSE').

As well the requirements of the COMAH regulations, operators are required to obtain a separate hazardous substances consent (HSC) from the Council in its capacity as planning authority. The purpose of HSC is to ensure that when hazardous substances are stored or used, the residual risk to people in the vicinity of the site or to the environment is taken into account before a hazardous substance is allowed to be present in a controlled quantity. The extent of this risk will depend upon where and how a hazardous substance is to be present; and the nature of existing and prospective uses of the site and its surroundings.

## **SITE DESCRIPTION**

The application relates to an industrial facility located on the corner of Howe Moss Place and Howe Moss Avenue, within Kirkhill Industrial Estate, Dyce.

It is operated by chemicals company Clariant UK Ltd. and is currently used for the storage and blending of chemicals which are supplied to the oil and gas industry. The industrial activities which take place include: the storage of raw materials, blending of products and filling & storage of finished products for onward shipment.

The site extends to 0.6 hectares and comprises a yard containing several chemical storage and blending tanks and space for the open air storage of moveable containers such as drums and bulk storage tanks. There is an open-sided shed located on the west side of the yard and a further shed on the east side. There is a predominately two storey office building at the southern end of the site with a car park. Vehicular access and egress is via an entrance on Howe Moss Avenue and an exit on Howe Moss Place.

The site is surrounded by other industrial buildings with associated open storage yards.

## **RELEVANT HISTORY**

Hazardous substances consent (A3/2266) was granted to Clariant in May 2004 for the storage of substances which are categorised as being toxic (30 tonnes), flammable (50 tonnes) and dangerous to the environment (550 tonnes). This consent remains in place.

## **DESCRIPTION OF PROPOSAL**

Hazardous substances consent is sought under *The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015* to increase the permitted storage levels of substances within category H2 (Toxic) from 30 tonnes to 125 tonnes. The level of flammable (50 tonnes) and dangerous to the environment (550 tonnes) substances would remain the same.

## **SUPPORTING DOCUMENTS**

Detailed information about hazardous substances, for example where and how they will be present or stored on a site and in what quantities, could pose a security risk if made public. Therefore based on the advice within Scottish Government Circular 3/2015 (Planning Controls for Hazardous Substances) the full details of these matters within the application submission has not been made available online.

Members of the Committee wishing to review the submission documents should contact the case officer. The location plan is however available at <http://www.publicaccess.aberdeencity.gov.uk>. On accepting the disclaimer enter the application reference quoted on the first page of this report.

## **CONSULTATIONS**

**Aberdeenshire Council** – No observations.

**Dyce and Stoneywood Community Council** – No response.

**Health and Safety Executive (HSE)** – HSE has made the assumption that the requirements of the Health and Safety at Work etc. Act 1974, and all relevant statutory provisions, will be met at the establishment should consent be granted. On this basis, HSE has concluded that the risks to the surrounding population arising from the proposed operation are so small that there are no significant reasons, on safety grounds, for refusing hazardous substances consent.

**Scottish and Southern Energy Power Distribution (SSEPD)** – No response.

**Scottish Environment Protection Agency (SEPA)** – No response.

**Scottish Fire and Rescue Service (SFRS)** – No response.

**Scottish Natural Heritage (SNH)** – No observations.

**Scottish Gas Networks (SGN)** – No observations.

## **REPRESENTATIONS**

None

## **REASON FOR REFFERAL TO COMMITTEE**

The application has been referred to the Planning Development Management Committee because the determination of hazardous substances consents falls out with the scope of the Council's Scheme of Delegation.

## **PLANNING POLICY**

### **Aberdeen Local Development Plan (2012)**

Policy BI1: Business and Industrial Land

### **Proposed Aberdeen Local Development Plan (2015)**

Policy B1: Business and Industrial Land

## **EVALUATION**

Section 7(2) of the *Planning (Hazardous Substances) (Scotland) Act 1997*, requires the planning authority, when determining an application for hazardous substances consent, to take into account the following factors, as well as any other relevant material considerations: (a) any current or contemplated use of the land to which the application relates; (b) the way in which the land in the vicinity is being used or is likely to be used; (c) any planning permission that has been granted for development of the land in the vicinity; (d) the provisions of the development plan; and (e) any advice which the Health and Safety Executive (HSE) has given in response to consultations.

Notwithstanding the above matters which must be considered, it should be noted that the application is for an increase in the level of toxic material that can be present at the site, rather than for the introduction of a completely new major hazard establishment. Therefore the assessment focusses on the change in risk that the proposal would introduce.

HSE has advised that after carrying out its assessment, it has determined that the risks to the surrounding population arising from the proposed change in the quantity of toxic materials are so small that there are no significant reasons, on safety grounds, for refusing hazardous substances consent. On that basis an appropriate consultation distance has been set within which the Council are required to consult with HSE on any future planning applications received. Notwithstanding the low societal risk, the Council are required to consider the surrounding uses and their sensitivity.

The area has been in industrial use since the 1970's and remains zoned for business and industrial uses (Policy BI1) in the current local development plan. This policy supports office, industrial and storage & distribution uses. Other supporting uses, which meet the needs of the area, are also permitted. The proposed local development plan, which is expected to be adopted in January 2017, does not intend

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changing the current situation in terms of land use and therefore it is anticipated that the area would continue to function for business and industrial use into the foreseeable future.

The actual uses within the surrounding area reflect the aspirations of the zoning policies and are typical of an industrial estate. There are no vulnerable uses such as hospitals, schools, care homes or prisons within close proximity or the wider industrial estate. The closest residential property is within the industrial estate, some 350m to the east at Rambala on Dyce Drive. Two houses are located 410m away to the south west at Standingstones Cottages and there is a further house at Quarry Croft some 420m to the north west, all beyond the edge of the industrial estate. In view of the advice provided by HSE the proximity of these uses are not considered to be of any material significance.

Therefore the continued use of the site as a major hazard establishment and the change in the level of toxic material present at the site would not conflict with existing surrounding uses.

There are no planning permissions for land in the surrounding area which would introduce incompatible uses which would sit uncomfortably alongside a major accident hazard site.

The remaining risk is essentially isolated to the natural environment, should a chemical spill occur. This is largely controlled by the COMAH regulations which require the operator to take all measures necessary to prevent major accidents and to limit their consequences on human health and on the environment.

The closest watercourse is the North Kirkhill Burn which is 95m to the north and the Farburn is 480m to the south east. The closest statutorily designated natural heritage site is the Corby, Lily and Bishops Loch Site of Special Scientific Interest (SSSI) which is 4.3km to the east. In order to minimise any harm to the environment in the event of an incident, all bulk storage tanks and blending vessels are located within their own bunded areas. In addition, the facility as a whole is bunded and surface water collected on site passes through interceptor tanks prior to discharge to the public sewer. These measures are already in place and the increase in the level of toxic material would not alter this.

In summary, taking into account the existing consent which already exists, the existing and likely future land use of the site and surrounding area and the advice from HSE, it is considered that the increase in level of hazardous substances identified in the application would be compatible with the surrounding current and future uses in the area.

**RECOMMENDATION: Approve Conditionally**

### **REASONS FOR RECOMMENDATION**

An existing consent exists for the site and therefore the consideration of this proposal focusses on the proposed change in quantity of substances to be present on the site.

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The use of the site and surrounding area are typical of an industrial estate and there are no vulnerable uses present. It is not anticipated that the situation in terms of land use will change in the foreseeable future. There are no planning permissions for land in the surrounding area which would introduce incompatible uses which would sit uncomfortably alongside a major accident hazard site. HSE has advised that the risk to the surrounding population from the increase in substances present at the site would be so small, that there is no reason to refuse consent on safety grounds. All other consultees have provided advice or no observations.

In summary, taking into account the existing consent which already exists, the existing and likely future land use of the site and surrounding area and the advice from HSE, it is considered that the increase in level of hazardous substances identified in the application would be compatible with the surrounding current and future uses in the area.

### **CONDITIONS**

(1) The hazardous substances shall not be kept or used other than in accordance with the particulars provided on the amended application form (e-mail received 15 September 2016), nor outside the areas marked for storage of the substances on the plan (it002) which formed part of the application.

Reason - To ensure that all parties recognise the scale and extent of the consent being granted.

### **ADVISORY NOTES FOR APPLICANT**

(1) HEALTH AND SAFETY AT WORK ETC. ACT 1974

In accordance with the provisions of section 28 of the Planning (Hazardous Substances) (Scotland) Act 1997, nothing in this hazardous substances consent hereby granted shall require or allow anything to be done in contravention of any of the relevant statutory provisions or any prohibition notice or improvement notice served under or by virtue of any of those provisions. To the extent that such a consent or notice purports to require or allow any such thing to be done, it shall be void.

"Relevant statutory provisions", "improvement notice" and "prohibition notice" have the same meanings as in Part I of the [1974 c. 37.] Health and Safety at Work etc. Act 1974.