

Dear Ms Rodgers,

Thank you for your enquiry relating to planning application 17/00850/OUT. I have reviewed the documentation on your planning portal website which indicates that the land parcel associated with the planning application is affected by HSE consultation zones.

As you are aware, the proposed development lies within the inner, middle and outer HSE consultation distance of a major hazard site - Hanson Brick Ltd, Cherry Orchard Way, Rochford.

HSE has previously corresponded with Rochford District Council in relation to this major hazard site and a previous planning application (ref 15/00776/OUT).

I have attached this correspondence for your review.

In the case of planning application 17/00850/OUT, HSE's advice is that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case.

HSE has previously advised Rochford District Council that the revocation of Hazardous Substance Consent for the Hanson Brick Ltd site will result in the consultation distance around the site being withdrawn, and there being no further need to consult HSE on developments in its vicinity. In these circumstances, HSE would strongly encourage Rochford District Council, as the hazardous substances authority, to revoke the hazardous substances consent for the former Hanson Brick Ltd site, in accordance with Section 14 or 17 of the Planning (Hazardous Substances) Act 1990. If the hazardous substances is formally revoked, please send confirmation of this to HSE.

I can confirm that HSE would not advise against the granting of planning permission for application 17/00850/OUT if:

a) the hazardous substances consent for the Hanson Brick Ltd site is formally revoked in accordance with Section 14 or 17 of the Planning (Hazardous Substances) Act 1990, or

b) the following, or a similarly-worded condition, was included in the planning permission:

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Condition: The developments associated with planning application reference 17/00850/OUT shall not be occupied until the hazardous substances consent for the storage of LPG at the former Hanson Brick Ltd site at Cherry Orchard Way, Rochford has been revoked in its entirety under the provisions of the Planning (Hazardous Substances) Act 1990, and written confirmation of the necessary revocation has been issued by the Hazardous Substances Authority. </i>

If the hazardous substances consent is formally revoked, or permission is granted with the above condition before the consent is revoked, there is no need to refer the matter back to HSE to consider requesting that it be called-in for determination by the Secretary of State, as we will not have advised against the granting of permission. If nevertheless, you are minded to grant permission without this condition without the hazardous substances consent having been revoked, your attention is drawn to Section 9, paragraph 072 of the online Planning Practice Guidance on Hazardous Substances - Handling development proposals around hazardous installations, published by the Department for Communities and Local Government.

These require a local planning authority to give HSE advance notice when it is minded to grant planning permission against HSE's advice, and allow 21 days from that notice for HSE to consider whether to request that the Secretary of State for Communities and Local Government call-in the application for their own determination.
<p>The advance notice should be sent to HSE's Major Accidents Risk Assessment Unit, CEMHD5b, Redgrave Court, 2.2 Merton Road, Bootle, Merseyside L20 7HS or by email to <u>luppadhici5@hse.gov.uk</u>.
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Revocation of hazardous substances consent

With regards to the revocation of the hazardous substances consent, you may find the following information helpful:

It is HSE's understanding that, like planning permission, hazardous substance consent can add value to the land concerned.

Legal constraints have been put in place to control how and when such a consent can be revoked, or modified, with or without compensation. The legislation covering such action is mainly to be found in Sections 13 - 19 of <http://www.legislation.gov.uk/ukpga/1990/10/contents> The Planning (Hazardous Substances) Act 1990 as amended.

In line with national planning policy, planning controls around major hazard sites continue until formal revocation of all hazardous substances consents relating to an area of land has occurred (including any consent expressly granted or deemed to have been granted, and any associated variation(s) and/or continuation(s)).

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Section 14 of the Planning (Hazardous Substances) Act 1990

provides the hazardous substances authority (HSA) with a general power, by order, to revoke or modify hazardous substances consent.

Under s.14 (1), the HSA can revoke or modify a consent if they consider it expedient to do so. This requires confirmation by the Secretary of State,

and the HSA may be liable to pay compensation (s.16).

Under S.14 (2), the HSA may revoke a consent if it appears to them that

a) there has been a material change of use of land to which a consent relates; or

b) planning permission / development consent has been granted for development, the carrying out of which would involve a material change of use of such land, and the development to which the permission / development consent related has been commenced;

<p>c) where the consent relates to just one substance, that substance has not been present on, over or under the land to which the consent relates in a quantity equal to or exceeding the controlled quantity for at least five years; or

<p>d) where the consent relates to a number of substances, that none of those substances has for at least five years been present.

Revocations made for these reasons must also be confirmed by the Secretary of State.

If there is a change to the person in control of part of the land, the consent is revoked automatically unless an application for continuation has been made (s.17).

Applications for revocation that are subject to confirmation by the Secretary of State should be sent to the National Planning Casework Unit at the following addresses:
National Planning Casework Unit
5 St Philips Place
Colmore Row
Birmingham
B3 2PW<u>
</u><u>npcu@communities.gsi.gov.uk</u>
Current guidance on the revocation of consents can be found in paragraph 59 of the Planning Practice Guidance on Hazardous Substances (<u>https://www.gov.uk/guidance/hazardous-substances</u>)

The Department of Communities and Local Government has published general guidance on hazardous substances consents, which although now slightly out of date, can still be found at, <u>http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/index.asp?id=1143296</u>

I attach copies of a couple of revocation orders, confirmed by the Secretary of State, which you may also find helpful.

If the hazardous substances consent is formally revoked, please let me know when this has been confirmed by the Secretary of State; I will then arrange for the HSE consultation distance around the site to be withdrawn.

Regards,

Peter Rastall

Land Use Planning Support Team

HSL, Harpur Hill,

Buxton,

SK17 9JN

Please note our new number is 0203 0283708

For HSE's Land Use Planning Advice Terms and Conditions, please click on the following link <https://www.hsl.gov.uk/planningadvice> and then click on 'terms and conditions'.

HSE's Land Use Planning Advice Web App and Consultancy Service were finalists for the 2017 Planning Awards



From: PBCTechnicalSupport@Rochford.gov.uk

To: lupenquiries@hsl.gsi.gov.uk,

Date: 02/02/2018 10:41 AM

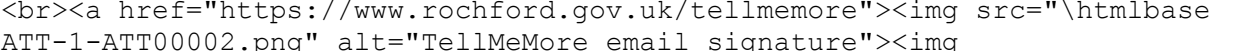
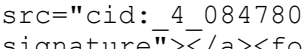
Subject:

FW: planning

consultation 17/00850/OUT

Sent by:
 <lee.branch@rochford.gov.uk>

Mrs Lee Branch
Technical Officer
Planning & Building Control
Rochford District Council
01702 318064 ext 3418
<http://www.rochford.gov.uk>

<https://www.rochford.gov.uk/new-local-plan-issues-and-options-document-and-draft-sustainability-appraisal>

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