

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Orchard Way, Rochford has been revoked in its entirety under the provisions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>

As HSE would not advise against the use of the site for offices if the building will have less than 100 occupants and less than 3 occupied storeys, alternatively, the condition could be worded so as to allow work to begin on the proposed development, at the applicant's risk, and the office units occupied, prior to the revocation of the hazardous substances consent. However, the condition should prevent any of the D1 use category (nursery) from being occupied until the hazardous

substances consent has been formally revoked.

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substances consent having been revoked, your attention is drawn to Section 9, paragraph 072 of the online Planning Practice Guidance on Hazardous Substances - Handling development proposals around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>.

<p>

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)).

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;

or

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

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). Such revocations do not require confirmation by the Secretary of State.

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

<mailto:npcu@communities.gsi.gov.uk>

npcu@communities.gsi.gov.uk

Current guidance on the revocation of consents can be found in paragraph 59 of the Planning Practice Guidance on Hazardous Substances (<https://www.gov.uk/guidance/hazardous-substances>)

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,

<http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/index.asp?id=1143296>

<http://webarchive.nationalarchives.gov.uk/20120919132719/w>

www.communities.gov.uk/index.asp?id=1143296

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: Katie.Rodgers@Rochford.gov.uk

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

Date:
 25/01/2018 12:24 PM

Subject:
 Planning Application
- Consultation - 17/00710/FUL.

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Dear Sir/Madam,

Our Reference : HSL-180125114552-42

Your Reference :
17_00710_FUL

Development Name : Land South of
Brickfield
Cottages

Rochford District Council are processing
a planning application (ref 17/00710/FUL) for proposed development at the
above site. The proposed development is for a new two storey building
comprising
a mixed use of office (B1) and day nursery (D1). I have run the
application
site through the HSE's Planning Advice Web App and generated the advice
in the document attached. As a mixed use is proposed I cannot progress
further on the App hence my email to you.

I have also attached the site location
plan and floor plans associated with the development.

Rochford Council previously sought your
advice in relation to another development close by reference 15/00781/OUT.
The HSE advised against the development in this application in an email
received on the 12th November 2015. However, the major hazard
site which is flagged up on the HSE App in relation to this site and the
current site (relating to 17/00710/FUL) is historic, a brickworks that
has been redundant for many years. The brickworks is allocated on the
adopted
Development Plan for redevelopment. Given this the Council resolved to
approve the 2015 application.

I would be grateful for your comments in
respect of the 2017 planning application 17/00710/FUL as soon as possible.

Please do not hesitate to contact me if
you require further information.

Regards

Katie Rodgers

Team Leader, Development Management
(South)

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Our Vision at Rochford District Council is to create a better future
together.

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