



Planning Committee Report LA01/2017/0760/HSC	22nd August 2018
PLANNING COMMITTEE	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Protecting and Enhancing our Environment and Assets
Outcome	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
Lead Officer	Development Management & Enforcement Manager
Cost: (If applicable)	N/a

<u>App No:</u>	LA01/2017/0760/HSC	<u>Ward:</u>	Giant's Causeway
<u>App Type:</u>	Hazardous Substance Consent		
<u>Address:</u>	Lands to North and East of 30 Haw Road, Bushmills		
<u>Proposal:</u>	Hazardous Substances Consent Application		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	6th June 2017
<u>Listed Building Grade:</u>		<u>Target Date:</u>	
Applicant:	Old Bushmills Distillery, 2 Distillery Road, Bushmills, Co. Antrim		
Agent:	Juno Planning & Environmental Ltd, 409 Lisburn Road, Belfast, BT9 7EW		
Objections:	45	Petitions of Objection:	0
Support:	0	Petitions of Support:	0

Drawings and additional information are available to view on request.

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **GRANT** hazardous substance subject to the conditions set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site comprises 25Ha of agricultural land southwest of the Straid Road and Haw Road junction, approximately 700m to the east of Bushmills. The site is irregular in shape with a large northern portion bounded by the Haw Road and Straid Road, the site narrows in the middle as the boundary cuts in and around the curtilage of No. 30 Haw Road, before opening out to a larger southern portion.
- 2.2 The topography of the site is varied with the northern portion dominated by a large drumlin, the land slopes away to the south with the lowest point running through the narrow central belt and along the western boundary of the southern portion of the site. The land rises from west to east across the southern portion. The site boundaries consist of post and wire fencing and hedgerows.
- 2.3 The site is located in the rural area outside of the settlement limit of Bushmills. The site does not fall within any designation as outlined in the Northern Area Plan 2016. The Causeway Coast Area of Outstanding Natural Beauty (AONB) and the Distinctive Landscape Setting of the Giants Causeway and Causeway Coast World Heritage Site cover an area of land to the north of the site.
- 2.4 The site is read within the context of the Bush Valley in that it is positioned on the eastern edge of the valley with long range views of the site available from Ballyclogh Road to the west.

3.0 RELEVANT HISTORY

- 3.1 The Distillery in Bushmills is already classified as a Top Tier establishment under the Control of Major-Accident Hazards (COMAH) regulations operating with an existing Hazardous Substance Consent granted under:

E/2001/0246/HSC: The Old Bushmills Distillery Hazardous Substances Consent Granted 27/11/2001

E/2009/0371/HSC: The Old Bushmills Distillery Hazardous Substances Consent Granted 07/09/2010

E/2011/0158/HSC: The Old Bushmills Distillery Hazardous Substances Consent Granted 02/03/2012

LA01/2015/0838/HSC: The Old Bushmills Distillery Hazardous Substances Consent Granted 23/06/2016

4.0 THE APPLICATION

- 4.1 Hazardous Substance Consent is sought for a maximum aggregate quantity of hazardous substances of 89178 tonnes which may include Alcohol, Heating Oil, Diesel and Liquid Petroleum Gas (LPG) run in conjunction with the proposed maturation facility (LA01/2017/0280/F).

Environmental Impact Assessment

- 4.2 The associated application LA01/2017/0280/F is accompanied by a voluntary Environmental Statement and is therefore considered EIA development. At the time of submission of the planning application with accompanying environmental statement, The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 applied.

Habitat Regulations Assessment

- 4.3 There is a watercourse which runs through the site which discharges into the sea at Portballintrae, and into the Skerries and Causeway SAC.

- 4.4 The associated application LA01/2017/0280/F was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Causeway Coast and Glens Borough Planning Authority.
- 4.5 Having considered the nature, scale, timing, duration and location of the project Shared Environmental Services concluded that provided that subject to condition of any approval, the proposal will not have an adverse effect on the site integrity of the Skerries and Causeway SAC.

5.0 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: There are 45 objections to this proposal.

OBJECTIONS

Multiple objections have been submitted referencing both the Hazardous Substance Consent (HSC) and the associated application LA01/2017/0280/F. Only matters relating to the HSC are considered below. Full consideration of other issues can be found in the Committee Report for LA01/2017/0280/F:

The main issues of concern in relation to the HSC focus on the lack of information contained within the application and the Environmental Statement which accompanies the associated planning application, specifically:

- No safety report highlighting consequences of living close to a COMAH top tier site
- No map to show the extent of the 3 concentric zones of the COMAH

5.2 Internal

NIEA: No objection to the proposal subject to condition

SES: No objection to the proposal

Northern Ireland Fire and Rescue Service: No objection to the proposal

Health and Safety Executive Northern Ireland: No objection to the proposal

6.0 MATERIAL CONSIDERATIONS

6.1 6.1 Section 110—(1) of the Planning Act (Northern Ireland) 2011 states that, “Subject to the following provisions of this Act, where an application is made to a council for hazardous substances consent, the council, in dealing with the application, must have regard to any material considerations, and—

(a) may grant hazardous substances consent, either unconditionally or subject to such conditions as it thinks fit; or

(b) may refuse hazardous substances consent

6.2 The development plan is:

- Northern Area Plan 2016 (NAP)

6.3 The Regional Development Strategy (RDS) is a material consideration.

6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.

6.5 Due weight should be given to the development plan.

6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7.0 RELEVANT POLICIES & GUIDANCE

Northern Area Plan 2016 (NAP)

Regional Development Strategy (RDS)

Strategic Planning Policy Statement (SPPS)

PPS 4: Planning and Economic Development

Development Control Advice Note 12 Planning Controls for hazardous substances.

8.0 CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to the creation of a COMAH site and the consideration of the objections.

Principle of development

8.2 The application for hazardous consent is being processed alongside another application for maturation warehouses in association with Old Bushmills Distillery. The application for the principle of a new warehouses has been assessed separately under LA01/2017/0280/F.

8.3 DCAN 12 guidance applies: Directive 96/82/EC on the control of major-accident hazards (the COMAH Directive) came into force on 3 February 1999 and supersedes the Seveso Directive. The aim of the Directive is to prevent major accidents which involve dangerous substances and to limit their consequences for man and the environment.

8.4 Hazardous Substances require the specialist skills and knowledge of HSE risk assessors to determine the potential risks and consequences from the hazardous substances in the Consent application. HSE provides the advice to the Council if they should grant consent and will also set a consultation distance, usually comprising three consultation zones (inner, middle and outer) which set out the risk contours and zones around the hazardous installation. This proposal will result in the creation of a new consultation zone area.

8.5 The proposal is for hazardous substance consent for the storage of flammable liquid on site. The Industrial Pollution and Radiochemical Inspectorate (IPRI) is along with the Health and Safety Executive (HSENI) the joint Competent Authority for regulation of the Control of Major Accident Hazard Regulations (Northern Ireland) 2015. Under these regulations the Council must consult with the joint competent authorities.

8.6 Council have consulted with IPRI and HSENI on the HSC application and no objections have been raised in relation to establishing a new COMAH site and to the granting of this

consent based on the current developments surrounding the site.

- 8.7 The greatest quantity of hazardous material handled on site is ethanol, which can be stored and handled as ethanol/water mixtures at various strengths and reflects what is already got consent. This consent would establish a consultation zone around the surrounding area for the consideration of future development within the defined zone.
- 8.8 The operator will be required to prepare a Safety Report detailing the major accident hazards, their potential effects on human health and the environment, the major accident scenarios and the control measures to prevent such accidents and limit their consequences.

Consideration of Objections

- 8.9 Representation received have raised concern about the health and safety risks associated with living in close proximity to a COMAH site.
- 8.10 Objectors requested that the Safety Report which is a requirement under Regulation 7 of the COMAH Regulations be made available. However, the safety report is not a requirement of the planning process and it would not generally be prepared ahead of the grant of consent.
- 8.11 This is confirmed by IPRI in their consultation response which advises the following: Every operator of an upper tier establishment shall prepare a safety report for the purposes mentioned in Part 3 (Safety Reports for Upper Tier Establishments) in Control of Major Accident Hazard Regulations (Northern Ireland) 2015. A safety report shall contain as a minimum the data and information specified in Schedule 3 of the Control of Major Accident Hazard Regulations (Northern Ireland) 2015 and identify the organisations involved in preparing it. According to Regulation 9(2)(c) in the Control of Major Accident Hazard Regulations (Northern Ireland) 2015, the operator shall send the safety report to the competent authority where the establishment is a new establishment, within a reasonable period of time prior to:
- the start of construction of the establishment;
 - the start of operation of the establishment; or

- any modifications leading to a change in the inventory of dangerous substances at the establishment.

- 8.12 Notwithstanding, in response to concerns additional information was submitted which details the requirements of the COMAH Regulations and outlines the scope of the safety report. This is contained in Chapter 2 of the ES addendum dated January 2018 and was also submitted on the HSC on 30th January 2018.
- 8.13 A further representation was received which states the lack of a safety report made it impossible to evaluate the risk associated with the COMAH site, and asked if the alcohol was flammable, explosive and what will happen in the event of an accident. In considering these points the Planning Authority consulted again with HSENI and the Northern Ireland Fire and Rescue Service (NIFRS).
- 8.14 HSENI advised that they apply PADHI guidelines and that they have no further comment to make in relation to the objection. NIFRS stated that it was not within their remit to respond to technical questions relating to flammability and explosiveness, adding: As previously stated it is envisioned the premises will be an upper tier COMAH site when in operation and under these regulations the site operator will be required to plan for accidents which only affect the site and accidents which will have an effect off site. These plans may include evacuation arrangements. The need for evacuation will depend on the nature of the accident.
- 8.15 Having been advised that the safety report was not a requirement a further letter of objection was received reiterating the need for a safety report and questioning the responses of NIFRS. It was highlighted that LA01/2015/0838/HSC submitted by OBD for the expansion of the existing distillery was accompanied by a safety report. A safety report which was submitted with a planning application in the Republic of Ireland is also provided.
- 8.16 LA01/2015/0838/HSC was accompanied by a safety report as the application was for the expansion of the existing COMAH site for which a safety report was in existence as per the requirements of the COMAH regulations. As such, this would only have required modification of the existing report. The report

submitted in relation to the planning application in the Republic of Ireland is not relevant as this is within a different jurisdiction.

- 8.17 The objector asks that NIFRS provide further comment in relation to figures contained within the HSC application to assess the flammability and explosiveness of alcohol. Officials have resolved not to carry out further consultation with NIFRS in this regard. NIFRS, HSENI and IPRI as the competent authority have considered the proposed development and have found the principle of granting consent to be in accordance with published guidance. The objection has not provided additional information by a recognised authority which would dispute the findings of the competent authorities.
- 8.18 In considering concerns in relation to health and safety the Planning Authority accept the conclusions of the competent authority. The issue of whether ethanol is flammable or explosive is not under consideration.

9.0 CONCLUSION

- 9.1 This Hazardous Substance Consent application would establish a new COMAH site which would be regulated under the Control of Major Accident Hazard Regulations (Northern Ireland) 2015. The HSENI will provide advice, as it currently does, which will depend on the type of application and its sensitivity, and the distance from the site and which consultation zone the application is in. However, given current and proposed land uses within the surrounding area it appears that this consent can be granted. Approval is recommended.

10 Conditions:

- 10.11. The maximum aggregate quantity of hazardous substances, including Alcohol, Heating oil, Diesel and Liquid Petroleum Gas (LPG) that may be present:-
- (a) on, over or under the land to which this consent relates;
 - (b) on, over or under the other land which is within 500 metres of it and controlled by the same person; or
 - (c) in or on a structure controlled by the same person any part of which is within 500 metres of it; at any one time shall not exceed 89177.4 tonnes.

Reason: In the interests of public safety and to enable the Planning Authority to retain control over the intensity of site usage.

2. The hazardous substance shall only be present in the approved vessels at the location shown on drawing No. 02(Rev.02) which was received on 15th February 2016.

Reason: In the interests of public safety and to enable the Planning Authority to retain control over the intensity of site usage.