

**Agenda Item No. 4.2**

**DERBYSHIRE COUNTY COUNCIL  
REGULATORY – PLANNING COMMITTEE**

**4 September 2017**

Report of the Strategic Director – Economy, Transport and Communities

- 2 APPLICATION FOR A HAZARDOUS SUBSTANCES CONSENT  
SITE AT ELLISIONS ROAD, NORWOOD INDUSTRIAL ESTATE,  
KILLAMARSH  
APPLICANT: VEOLIA ES (UK) LTD  
HAZARDOUS SUBSTANCES APPLICATION CODE NO:  
CH4/0617/21**

**4.577.25**

**Introductory Summary**

This application falls to the County Council, as Hazardous Substances Authority, to determine and relates to the Veolia Environment Services (UK) Ltd site at the Norwood Waste Treatment Facility on the Norwood Industrial Estate, north of Killamarsh. The application seeks to replace an existing Hazardous Substances Consent following changes introduced by the Planning (Hazardous Substances) Regulations 2015 (the Regulations). I consider the application meets the requirements set out in the Regulations and accords with the sustainable development principles as set out in the National Planning Policy Framework (NPPF), therefore it is recommended for approval.

(1) **Purpose of Report** To enable the Committee to determine the application.

(2) **Information and Analysis**

**Site and Surroundings**

The site is located within the existing Veolia Environment Services (UK) Ltd site at its Norwood Waste Treatment Facility on the Norwood Industrial Estate, north of Killamarsh. It covers an area of approximately 1 hectare (ha) and is situated within the larger 3ha site. The rest of Norwood Industrial Estate lies immediately to the east of the site, and the nearest residential properties are located approximately 250 metres to the south across open farmland. The site is used for the disposal of waste materials.

**Details of the Application**

Veolia is making this application to replace an existing Hazardous Substances Consent following recent changes introduced by the Regulations. The main

site activities involve the preparation of secondary liquid fuels from waste solvents and other organic materials received in bulk road tankers and moveable containers, and the storage and transfer for disposal or recovery off site of waste materials in moveable containers. The majority of substances received at the site are in liquid form with small quantities of solids, powders and gases also received for storage and transfer. The application relates to the maximum anticipated quantities of hazardous substances on site at any one time. The site activities are controlled by an Environmental Permit (EPR\CB3805KE\002).

Following correspondence with the Health and Safety Executive (HSE), the applicant has clarified the list of substances for which consent is sought. In the variation application submitted, consent is being sought for multiple substances, some of which are below the controlled quantity and do not require a consent even after applying the addition rule. The substances requiring consent were assessed by the HSE, and fall in to the following substance categories:

<u>Substance Category</u>	<u>Part and Entry Number</u>	<u>Maximum Quantity Proposed (tonnes)</u>	<u>Note</u>
Acute toxic category 1	H1	20 te	
Acute toxic category 2/3	H2	950 te	The combined total mass of the stored H2 and H3 substances does not exceed 950 tonnes.
STOT SE category 1	H3		
Aquatic acute / chronic category 1	E1	550 te	
Aquatic acute / chronic category 2	E2	400 te	

## Consultations

In determining an application for hazardous substances consent, the authority must take into account the results of consultations held in relation to that application.

The HSE and the Environment Agency (EA) are jointly the Control of Major Accident Hazards (COMAH) Authority.

In this instance, comments are provided by the HSE.

HSE has concluded that the risks to the surrounding population arising from the proposed operation are such that there are no significant reasons, on safety grounds, for refusing the application for Hazardous Substances Consent provided that a series of conditions, as set out below, are imposed on the consent.

Local Members Councillor Ridgeway and Councillor Charles have been consulted.

North East Derbyshire District Council Planning and Environmental Health Officer, Derbyshire County Council's Emergency Planning team, Rotherham Metropolitan Borough Council and The Coal Authority have all been consulted with no responses received to date.

### **Publicity**

In accordance with the regulations, the application has been advertised by the applicant in the Derbyshire Times on 6 June 2017 asking for any comments to be sent to the County Council by 29 June 2017. The application has also been advertised by site notices. No representations have been received as a result of this publicity.

### **Planning Considerations**

This is not an application for planning permission and it does not concern any proposal to change the activities at the site. It is an application to update the site's Hazardous Substances Consent following a change to the regulations. The application site is used for the disposal of waste materials and so the County Council is the relevant Hazardous Substances Authority for determining this application.

The hazardous substances consent process ensures that necessary measures are taken to address the risks of major accidents and limit their consequences to people and the environment. This is a key part of the controls for storage and use of hazardous substances which could, in quantities at or above specified limits, present a major off-site risk. The system of Hazardous Substances Consent does not replace requirements under health and safety legislation.

Under the Regulations, the COMAH competent authority is the HSE and the EA, acting jointly. They advise hazardous substances authorities on the nature and severity of the risk to persons in the vicinity and the local environment arising from the presence of a hazardous substance at an establishment.

Hazardous Substances Consent is required for the presence of hazardous substances at any establishment that falls within the scope of the Seveso III Directive. The 'categories of substances' that require Hazardous Substances Consent are listed in Part 1 of Schedule 1 of the Regulations. The list of hazardous substances, subject to controls in Schedule 1 of the Regulations, is split into Part 1 and Part 2. The rule governing the addition of hazardous substances, known as the addition rule, applies when substances in Part 2 are present below their individual controlled quantity, together with substances from the same classification in Part 1.

Some of the thresholds for requiring consent had been changed by the Regulations coming into force. This application became necessary as a result of these changes.

The Hazardous Substances Authority can impose conditions, including conditions as to how and where substances are kept and the times substances may be present, or requiring permanent removal within a certain time. Conditions as to how a substance is to be kept or used may only be imposed if the COMAH competent authority has advised that such conditions should be imposed.

The NPPF provides guidance on the planning considerations in relation to hazardous substances. In setting out how the planning system should contribute to and enhance the natural and local environment, Paragraph 109 states that it should prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. Paragraph 172 directs that planning policies should be based on up-to-date information on the location of major hazards and on the mitigation of the consequences of major accidents.

The site has a long history of successfully managing the storage of hazardous substances and other waste materials. The Council, as Waste Planning Authority, has not received any complaints about the site activities in recent years, therefore it is reasonable to conclude that the site does not have an adverse effect on local amenity. The site is subject to strict environmental controls through the permitting regime which complements the hazardous substances controls. I am satisfied, therefore, that there are no unacceptable risks to the environment or public amenity associated with this application.

HSE has provided an assessment of the risk of harm from the maximum quantity of hazardous substances for which consent is being sought. Risks which may arise from the presence of other substances have not been taken into account in this assessment. HSE has concluded that the risks to the surrounding population arising from the proposed operation are such that there are no significant reasons, on safety grounds, for refusing Hazardous Substances Consent, provided the conditions listed in the Officer's Recommendation are imposed on the consent.

## **Conclusion**

I am satisfied that as HSE, as the COMAH competent authority, has concluded that there are no reasons to not grant consent based on safety grounds as set out in the Regulations. Having had regard to local needs and conditions, the local plan, and other material considerations, there are also no reasons not to grant consent on planning policy grounds. Therefore, I

recommend that consent should be granted for the application subject to the conditions required by HSE.

(3) **Financial Considerations** The correct fee of £400 has been received.

(4) **Legal Considerations** This is an application submitted under the Planning (Hazardous Substances) Act 1990 and the Planning (Hazardous Substances) Regulations 2015, which falls to this Authority to determine as the relevant Hazardous Planning Authority for land used for the disposal of refuse or materials.

This is a function prescribed by regulations under the Local Government Act 2000 as a function that cannot be exercised by the Executive.

In dealing with such application, the authority must have regard to any material considerations, including:

- a) any current or contemplated use of land to which the application relates;
- b) the way in which land in the vicinity is being used or is likely to be used;
- c) any planning permission that has been granted for development of land in the vicinity;
- d) the provisions of the development plan; and
- e) any advice which the HSE has given following consultations.

The authority may grant Hazardous Substances Consent either unconditionally or subject to conditions, or may refuse consent. Full reasons must be stated for any conditions imposed, and any refusal.

The consent must include a description of the land to which it relates, a description of the hazardous substance to which it relates, and a statement of the maximum quantity of each hazardous substance allowed by it to be present at any one time.

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this consent being granted subject to the conditions referred to in the Officer's Recommendation.

(5) **Environmental and Health Considerations** As indicated in the report.

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

(6) **Background Papers** File No.4.577.25

Application documents submitted under a covering letter from Veolia ES (UK) Ltd dated 2 June 2017. Email from Veolia dated 14 July 2017. Letter from the Health and Safety Executive dated 18 July 2017.

(7) **OFFICER'S RECOMMENDATION** That the Committee resolves to **grant** consent for the storage of substances of the nature and quantities set out in the hazardous substances application CH4/0617/21, subject to the following conditions:

**Conditions**

- 1) The hazardous substances shall not be kept or used other than in accordance with the particulars provided on the application form and supporting letter, nor outside the areas marked for storage of the substances on the plans which formed part of the application.

**Reason:** To ensure conformity with the details of the application as approved and to clarify its scope.

- 2) No substances or mixtures of substances classified as Category 1 acute toxic (H1 of the Planning (Hazardous Substances) Regulations 2015) shall be present in any storage areas other than in moveable containers.

**Reason:** To maintain public safety and to protect the amenity of the local area.

- 3) No substances or mixtures of substances classified as Category 2 or 3 acute toxic (H2) and with an atmospheric boiling point of less than 60 degrees Celsius, shall be present on the site unless in moveable containers.

**Reason:** To maintain public safety and to protect the amenity of the local area.

- 4) No moveable containers for substances or mixtures of substances, classified as Category 1 acute toxic (H1) or classified as Category 2 or 3 acute toxic (H2) shall contain a quantity of that category of material in excess of 1,000 litres.

**Reason:** To maintain public safety and to protect the amenity of the local area.

- 5) No substances or mixtures of substances that are classified as Category 1 acute toxic (H1) or classified as Category 2 or 3 acute toxic

(H2) be stored other than in vessel storage area 4, or moveable container storage areas 4 and 5.

**Reason:** To maintain public safety and to protect the amenity of the local area.

**Mike Ashworth**  
**Strategic Director – Economy, Transport and Communities**



