

Gedling Borough Council  
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Hazardous Installations  
Directorate

**Gerard Adderley**

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Head of Unit  
Stuart Reston

Date: 15 November 2013

HSE Ref.: 4.2.1.3864

Your Ref.: 2013/0500

For the attention of Jennifer Cole

Dear Ms Cole

**Land Use Planning Consultation with Health and Safety Executive  
Town and Country Planning (Development Management Procedure) Order 2010**

**Planning application: 2013/0500**

**Location: Land south of Colwick Loop Road, Colwick**

**Proposal: Construction of A1 retail unit with ancillary restaurant and concession units, petrol filling station, car wash, service yard, car parking, landscaping & highway works (full application) and B1/B2/B8 employment uses (outline application)**

Thank you for your email of 1 November 2013 informing HSE that Gedling Borough Council is minded to approve the above planning application, and giving HSE 21 days in which to consider whether or not to request that the Secretary of State call-in the application for his own determination, in accordance with paragraph A5 of Circular 4/2000.

HSE is a statutory consultee for developments in the vicinity of major hazard sites and major accident hazard pipelines by virtue of Article 16 of the Town and Country Planning (Development Management Procedure) (England) Order 2010. The proposed development lies within the HSE consultation distance of a major hazard site – Total Lindsey Oil Refinery Ltd, Colwick Industrial Estate, Colwick, Nottingham. That site is also a large-scale petrol storage site.

HSE provides its land use planning advice to enable the Planning Authority to comply with the objective of Article 12 of EC Directive 96/82/EC, (the Seveso II Directive – see addendum). Its objective is to control proposed development around designated sites and pipelines that would increase the risk or consequences of a major accident. As

explained in paragraph A6 of Annex A of Circular 04/00, HSE normally considers its role to be discharged when it is satisfied that the Planning Authority is acting in full understanding of the HSE's land use planning advice received and of the consequences to public safety that could follow.

As also explained in that paragraph, HSE will consider recommending call-in only in cases of exceptional concern or where important policy or safety issues are at stake.

Having considered the intention of Gedling Borough Council to approve this planning application, and the offered opportunity to request that the application be called in for determination by the Secretary of State, HSE would not wish to pursue the matter further. **However, HSE's land use planning advice, for the purposes of Article 12 of the Seveso II Directive, remains that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case, and HSE's decision in this case does not mean that advice is withdrawn. You may wish to note that this letter will be published on the HSE website in due course.**

In coming to this conclusion HSE was mindful, among other factors, of the views expressed in Chapter 5 of the First Report of the Advisory Committee on Major Hazards (ACMH) and Chapter 4 of the Second Report of ACMH. In these reports it was stated that:

"... the siting of developments should remain a matter for planning authorities to determine, since the safety implications, however important, could not be divorced from other planning considerations." and

"... local authorities are well placed to take proper account of the full range of local factors, including safety issues, which are relevant to a planning decision."

HSE acknowledges that the final decision on whether to grant planning permission rests with Gedling Borough Council. We are satisfied that if planning permission is granted, the Council will be acting in full understanding of HSE's advice and the consequences that could follow should a major accident occur at the major hazard site.

Yours sincerely



**Gerard Adderley**  
**Major Accident Risk Assessment Unit**

cc: Julie Hobson, HSE, HID CEMHD 1E, Sheffield

## ADDENDUM

### Land use planning requirements of the Seveso II Directive

Article 12 of the Directive requires land-use planning controls to apply to all establishments within the scope of the Directive; this includes major accident hazard pipelines:

1. *"Member States shall ensure that the objectives of preventing major accidents and limiting the consequences of such accidents are taken into account in their land-use planning and/or other relevant policies. They shall pursue these objectives through controls on:*

*a. the siting of new establishments;*

*b. modifications to existing establishments covered by Article 10;*

*c. new developments such as transport links, locations frequented by the public and residential areas in the vicinity of existing establishments, where the siting or developments are such as to increase the risk or consequences of a major accident.*

*Member States shall ensure that their land use and/or other relevant policies and the procedures for implementing those policies take account of the need, in the long-term, to maintain appropriate distances between establishments covered by this Directive and residential areas, areas of public use and areas of particular natural sensitivity or interest, and, in the case of existing establishments, of the need for additional technical measures in accordance with Article 5 so as not to increase the risks to people.*

2. *Member States shall ensure that all competent authorities and planning authorities responsible for decisions in this area set up appropriate consultation procedures to facilitate implementation of the policies established under paragraph 1. The procedures shall be designed to ensure that technical advice is available, either on a case-by-case or on a generic basis, when decisions are taken."*

