

## Hazardous Substance Consent Application 04/00946/HSC

at

Wheatfield Road

Edinburgh

EH11 2QA

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Development Quality Sub-Committee  
of the Planning Committee

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### 1 Purpose of report

To consider application 04/00946/HSC, submitted by Mcfarlan Smith. The application is for: **Storage of hazardous substances**

It is recommended that this application be **GRANTED** subject to the conditions in Appendix B.

### 2 The Site and the Proposal

#### Site description

The application site is a large industrial complex lying on the south and east sides of Westfield Road. The site is bound to the west by the former North British Distillery bonded warehouses and by the existing North British Distillery industrial operation to the east.

Murrayfield stadium, a car showroom and an office building and 2 dwellings lie to the north and north east on the opposite side of Westfield Road.

The site is split into an eastern and western site by a railway line running through the centre of the site.

An industrial unit and Wheatfield road which forms the access to the site lies to the south.

Nearby flatted residential properties are located on the north-south part of Westfield Road and on Westfield Street.

### **Site history**

97/00531/FUL - Demolish process building and erect replacement building for extraction of natural products Granted 14.04.1997

97/02592/FUL - Demolish existing single storey building and erect new single storey plantroom. Granted 19.11.1997

99/02743/FUL - Realign three existing access points. Granted 07.12.1999

99/03547/FUL - Construct temporary storage building. Granted 06.01.2000

00/00486/FUL - Alter and extend block 118 Granted 15.05.2000

00/02135/ADV - Erect signage on bridge parapet. Granted 24.08.2000

00/02611/FUL - New production facility and modification of existing general storage building to solvent storage building. Granted 19.12.2000

00/03236/FUL - Installation of pre-fabricated modular building units to provide new milling facilities (milling coarse chemical to fine powder) Appeal Allowed. 03.10.2001

01/00985/ADV - Erect signage Granted 18.05.2001

01/03249/FUL - Two new silos for storage of raw material for a pharmaceutical process. Granted 21.12.2001

01/04419/HSC - Claim for deemed consent for storage of hazardous substances under the Hazardous Substances / COMAH Regulations 2000. No decision issued.

02/02785/FUL - Alterations to gatehouse. Withdrawn 15.08.02

02/02788/FUL - Formation of new office entrance. Withdrawn 15.08.02

02/03404/FUL - Changing, locker room accommodation and general office use. Granted 08.01.2003

02/03491/FUL - Building containing plant to operate as a new hydrogenator. Granted 16.01.2003

02/04122/FUL - It is proposed to utilise the existing land for 2 bunds which would hold flammable and toxic waste. Granted 26.02.2003

03/00873/FUL - It is proposed to utilise the existing land for a car park.  
Permitted Development 15.05.2003

03/01630/FUL - Hydro genator plan unit. Refused. 02.07.2003

03/03654/FUL - Storage unit. Pending

03/04643/ADV - Erection of 2 flags on flagpoles. Granted 19.03.2004

03/04643/FUL - Erection of 2 flags on flagpoles. Granted 21.01.2004

04/01014/FUL - Infill to corner of existing building to provide additional floor space and erection of new external fire escape stair. Granted 21.05.2004

04/01855/FUL - Land to be enclosed with a containment bund and firewall.  
Granted 27.07.2004

04/04469/FUL - Alter existing roof profile over existing unit. Granted  
02.03.2005

05/00197/FUL - Erection of east site boundary security fencing. Pending

#### Other Relevant History

02/04655/FUL Retail Class 1, dev, with related access, service area & parking  
(as amended). Undetermined

02/02693/OUT Superstore, car park, service yard, pedestrians and vehicular  
access at land to the rear of 5-37 Westfield Road. Undetermined

04/04371/OUT Superstore, car park, service yard, pedestrians and vehicular  
access at land to the rear of 5-37 Westfield Road.(Duplicate).Undetermined

### **Description of the Proposal**

The applicant seeks Hazardous Substances Consent to store stated quantities of hazardous substances within their current site boundary.

Scheme 2 introduced new information relating to quantities and substance storage conditions.

## **3 Officer's Assessment and Recommendations**

Determining issues

The determining Issues are:

- Do the proposals comply with the development plan?
- If the proposals do comply with the development plan, are there any compelling reasons for not approving them?
- If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

## Assessment

To address the determining issues, the Committee needs to consider the suitability of the storage arrangements in terms of risk in relation to surrounding land and occupiers and to the development plan.

To accurately assess this application the Council commissioned consultants to advise on the likely effects of the proposed storage of Hazardous substances detailed in the application.

Scottish Office Circular 5/1993 Planning Controls for Hazardous Substances "The Town and Country Planning (Hazardous Substances)(Scotland) Regulations 1993," and 16/1993, "Hazardous Substances Consent: A Guide For Industry," states that Planning Authorities will determine whether, in light of the residual risk, and having regard to existing and prospective uses of a site and its surroundings, the proposed presence of a hazardous substance is an appropriate land use of that site.

The application site has been operated as a pharmaceuticals manufacturing plant over a number of years, and its existence and activity is recognised by the Scottish Environment Protection Agency (SEPA) and the Health and Safety Executive (HSE) which also regulate activities on the site. The evolving nature of the activity has resulted in increased quantities of Hazardous Substances. being introduced

In November 2000, following the introduction of The Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2000, a Claim for Deemed Consent was submitted for the change of hazardous substances. The application lacked some detail and no response was issued by the Council within the statutory period of two weeks.

The Claim contained insufficient information on the storage activity to allow the HSE, to set a consultation distance. At the request of HSE, the applicant was requested to provide further details. In May 2002, the applicant submitted additional information on their storage activity. HSE assessed these further details, made certain assumptions and set a consultation distance.

In August 2002, the applicant submitted further information that contradicted HSE's earlier assumptions. Following extensive investigation of this matter, Planning requested a formal Hazardous Substances Consent application to regularise the position. It is this application that is now before committee members.

This application, including the various corrections and additional information which has been notified to this Authority and HSE up to 21/12/2004, details a number of moveable container areas located in various parts of the site. The application also introduces new information on the storage and process details for various generic categories of substances, and increases the quantities for some of these generic categories. The applicant has defined their existing practices.

Calculations carried out by the Council's consultant and the HSE have indicated that the storage of Hazardous substances within the movable container areas indicated, the increased quantities of substances and the new storage practices would result in different inner and middle land use planning zones and the outer consultation distance.

The HSE advise that the increase in the risk is not so significant as to influence them to advise against the grant of Hazardous Substances Consent in this instance, subject to conditions.

The site is within an area allocated in both the adopted and emerging local plans for business and industry.

Following discussion with the applicant, the Council's consultant has formulated further conditions to encourage good practice and reduce the risk to the surrounding population. The Council has sought to agree these conditions with the applicant. Final agreement has not been reached. The applicant is of the opinion that agreement to the conditions cannot be accepted without inclusion of vessels they wish to introduce in the near future. The Council has advised that any new storage arrangements should be subject to consideration under the relevant hazardous substances and planning legislation with new applications submitted to consider development or new storage conditions as appropriate. A separate application is expected imminently.

In conclusion, the substances and storage arrangements which are the subject of this application would not, if controlled by conditions, be in conflict with the development plans, or undue risk to surrounding land or occupiers.

It is recommended that the Committee grant Hazardous Substances Consent, subject to conditions in respect of the location, type and amount of substances and the location and size of containers. Thereafter, the Health and Safety Executive will be advised accordingly.

Alan Henderson

**Alan Henderson**  
Head of Planning and Strategy

<b>Contact/tel</b>	Steven Black on 0131 529 3904 (FAX 529 3716)
<b>Ward affected</b>	29 - Shandon
<b>Local Plan</b>	South West Edinburgh
<b>Statutory Development Plan Provision</b>	Business/Industry
<b>Date registered</b>	19 March 2004
<b>Drawing numbers/ Scheme</b>	01,03,04,11-20

#### **Advice to Committee Members and Ward Councillors**

The full details of the application are available for viewing on the Planning and Building Control Portal : [www.edinburgh.gov.uk/planning](http://www.edinburgh.gov.uk/planning).

If you require further information about this application you should contact the following Principal Planner, Helen Martin on 0131 529 3517. Email: [helen.martin@edinburgh.gov.uk](mailto:helen.martin@edinburgh.gov.uk).

If this application is not identified on the agenda for presentation, and you wish to request a presentation of this application at the Committee meeting, you must contact Committee Services by 9.00a.m. on the Tuesday preceding the meeting on extension 4229/4239. Alternatively, you may e-mail [blair.ritchie@edinburgh.gov.uk](mailto:blair.ritchie@edinburgh.gov.uk) or [sarah.bogunovic@edinburgh.gov.uk](mailto:sarah.bogunovic@edinburgh.gov.uk)

**Application Type** Hazardous Substance Consent Application  
**Application Address:** Wheatfield Road  
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**Proposal:** Storage of hazardous substances  
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## Consultations, Representations and Planning Policy

### Consultations

#### SNH

*No objections*

#### Lothian and Borders Fire Brigade

*I advise you that there is in force a Fire Certificate, issued under the fire Precautions Act 1971 for the above mentioned premises and as such they are inspected on an annual basis to ensure adherence to the conditions of the Certificate.*

#### SEPA: 27 April 05

*SEPA has no objection in principal to the proposed development. Comments are as follows:*

*I can confirm that the site is regulated by SEPA by means of an Integrated Pollution Control (IPC) Authorisation and it is also a lower tier COMAH site (Control of Major Accident and Hazards Regulations).*

*SEPA are satisfied with the controls in place in relation to the storage of hazardous substances at the site and have no further comment to make on this application.*

#### Additional Comments: 11.05.2005

*SEPA has no objection in principle to the proposed development and SEPAs previous response dated 27 April 2004 will still apply. The following additional comments have been prepared in response to recent discussions:*

*SEPA can confirm that when examining the planning application, the information in the licence is compared with the information supplied with the application. However, SEPA does not have a definite list of all chemicals although SEPA does carry out routine inspections to ensure compliance with the existing IPC authorisation, which*

*involves ensuring materials are stored in contained areas to prevent spillages/leaks escaping to ground and sewer. SEPA has no reason to believe that the application does not reflect what is stored on site.*

*SEPA area satisfied that the controls in place for the storage of hazardous substances at the site are adequate and SEPA have no further comment to make.*

*SEPA area staff will be able to advise the applicant or agent on meeting SEPAs requirements. The principle contact will be Damian Walls at SEPAs Edinburgh Environmental Protection and improvement Team (Tel: 0131 4497296).*

### **Environmental Services**

*This Department has no objections to this proposed application. The installations will have to comply with other legislation which would be enforced by HSE and SEPA.*

### **Railtrack Property Scotland**

*Thank you for your consultation letter (20/4/05) with regard to the proposed development I can confirm that on the basis of the information provided, Network Rail has no objection in principle.*

### **Health and Safety Executive**

*The Health and Safety Executive (HSE) has assessed the risks to the surrounding population from the likely activities resulting from the granting of the proposed Hazardous Substances Consent.*

*Only the risks from hazardous substances for which consent is being sought have been assessed, together with the risks from substances in vehicles which are being loaded or unloaded. Risks that may arise from the presence of other substances have not yet been taken into account in this assessment.*

*HSE has not been able to take account of any propose developments in the surrounding areas that have been granted planning permission, but are not yet built. This may also apply to existing developments that did not appear on the maps accompanying the consent application. Since this may affect our advice please consult the HSE again if there are such developments within the Consultation Zone referred to below.*

*In considering this application for consent, HSE has made the assumption that the requirements of the Health and Safety at work etc Act 1974, and all relevant statutory provisions, will be met at the establishment should consent be granted. Accordingly HSE advises that you should direct the applicant's attention to section 560 of the Town and Country Planning (Scotland) Act 1972. This makes it clear that should the establishment, as built and operated, not comply with the relevant statutory provisions then any consent granted, shall be rendered wholly, partly void.*

*On this basis, HSE have concluded that if this were an express application for a new hazardous installation, then it is likely that we would not advise against the application. It is understood that Edinburgh Council are treating the consent application as a clarification of the existing deemed consent. As such, it is concluded that if the consent is granted, then there will be no significant increase in off site risk subject to the consent conditions set out below being applied.*

*Following central advice that particulars in the application do not automatically become conditions of consent, it is important to include a condition such as:*

*1. The Hazardous substance(s) shall not be kept or used other than in accordance with the application particulars provided in the Hazardous Substances Consent Application Form, nor outside the area(s) marked for storage of the substances(s) on the plan which formed part of the application.*

*The following additional condition is proposed:*

*2. No toxic (B2) substances shall have an LC50 (4hr/rat) less than 0.5mg/L*

*Also in its assessment HSE has taken account of the conditions which your Authority intends to apply, as specified by Alan Henderson, Head of Planning and Strategy, in a letter dated 10 October 2005.*

*It has been assumed that consent will be granted with the above conditions and, on the basis, HSE has devised a Consultation Zone for this establishment. The Consultation Zone is outer of the three zones delineated on the attached map and constitutes a notifiable area for HSE consultation purposes. The other two zones are for HSE's use in providing land use planning advice.*

*Please note, HSE has expended considerable time and effort in assessing further modifications to this consent. We have now reached a position where we are unable to utilize further our scarce resource to analyze any possible variations to this application. Your own consultants may be able to assist you in this.*

*When consent is granted, please send a copy of all the consent documents to this office so that our records can be updated and future land-use planning advice given on the correct basis.*

### **Scottish Power**

No response

### **British Gas Transco**

*Transco acknowledges receipt of your notice of your intention to carry out work at the above location.*

*Transco will contact you prior to your intended start date indicated in your correspondence.*

*We enclose an extract from our mains records in the location of the area covered by your proposals together with a comprehensive list of precautions for your guidance. This plan shows only those pipes owned by Tansco in its role as a Licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners. The information shown on this plan is given with obligation, or warranty, the accuracy thereof cannot be guaranteed. Service pipes, valves, siphons, stub connections etc, are not shown but their presence should be anticipated. Your attention is drawn to the information and disclaimer on these plans. The information included on the enclosed plan should not be referred to beyond a period of 28 days from the date of issue.*

*You will note the presence of our Low/Medium/Intermediate Pressure gas main in the proximity to your site. No mechanical excavations are to take place above or within 0.5m of the low pressure system, two metres of the medium pressure system and three metres of the intermediate pressure system. You should where required confirm the position of mains using hand dug trial holes.*

*A colour copy of these plans and the gas safety advice card should be passed to the senior person on site in order to prevent damage to Transco plant and potential direct or consequential costs to your organisation.*

*Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services", must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plan is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus. In addition please follow the advice given on the gas safety card.*

*It must be stressed that both direct and consequential damage to gas plant can be dangerous both for your employees and the general public, repairs to any such damage will incur a charge. Your works should be carried out in such a manner that we are able to gain access to our apparatus throughout the duration of your operation.*

## **Representations**

Four letters of representation have been received. Comments concerns and objections can be summarised as follows:-

Increase in risk to occupiers of neighbouring land.

Conditions should be imposed to reduce risk to occupiers of neighbouring land.

Storage should not lead to additional constraints which blight the regeneration and development of adjacent land.

***Full copies of the representations made in respect of this application are available in Group Rooms or can be requested for viewing at the Main Reception, City Chambers, High Street.***

## **Planning Policy**

The application site is located within the South West Edinburgh Local Plan and the Draft west Edinburgh Local Plan. The land is allocated as existing business and industry.

### Relevant Policies:

#### **South West Edinburgh**

Policy ED4 offers qualified support for the expansion of existing businesses within and beyond the urban area.

#### **Draft West Edinburgh**

Policy ED1 relates to areas defined "Business" on the Proposals Map, and sets general principles for their development.

Policy DQ5 Careful control will be exercised over development proposals in the vicinity of hazardous installations to ensure unacceptable risks to health, safety or amenity do not arise.

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## Conditions/Reasons associated with the Recommendation

### Recommendation

It is recommended that this application be **GRANTED**

### Conditions

1. The Hazardous substances shall not be kept or used other than in accordance with the application particulars provided in the Hazardous Substances Consent application forms, nor outside the areas marked for the storage of the substances on the plans which forms part of the application.
2. No toxic (B2) substance shall have an LC50 (4hr/rat) less than 0.5 mg/L.
3. The total inventory of B2 toxic on site will not exceed 75T. Within this 75T limit, the total of all pure or highly concentrated B2 liquids with a boiling point of less than 75 deg C will not exceed 5T. Other B2 pure or highly concentrated liquids will not exceed 20T. The remainder of the B2 Toxics shall be solids or toxic solids in solution including aqueous methanol solutions (none of which will present a significant inhalation toxicity hazard in the event of a loss of containment.) All such B2 toxic solids will have a boiling point of at least 110 degC.
4. The maximum moveable container size for any pure or highly concentrated B2 liquid with a boiling point of less than 75degC, shall be 200 litres.
5. No pure or highly concentrated B2 liquid with a boiling point of less than 75degC shall be stored in:  
Number 3 drum bund  
Number 2 solvent drum bund  
West solvent drum bund  
Block 108 acid/alkali/misc bund
6. A hazardous substance shall not be present in a vessel outside a vessel area.

7. A hazardous substance shall be stored in moveable containers only in an area identified in a moveable container storage area plan for that substance.

### **Reasons**

1. To ensure that storage practices are carried out in full compliance with the approved details and in the interests of good practice and minimising off site risk.
2. In the interests of good practice and minimising off site risk.
3. To avoid doubt and ensure that the total quantity of Toxics in the B2 category does not exceed 75T.
4. In the interests of good practice and minimising off site risk.
5. In the interests of good practice and minimising off site risk.
6. In the interests of good practice and minimising of site risk.
7. In the interests of good practice and minimising of site risk.

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**End**

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### Location Plan



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