

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **8TH NOVEMBER 2017**

REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

SUBJECT: **APPLICATION FOR A HAZARDOUS SUBSTANCES CONSENT AT VALSPAR, PARKWAY, DEESIDE INDUSTRIAL PARK**

APPLICATION NUMBER: **056574**

APPLICANT: **VALSPAR (UK) CORPORATION LIMITED**

SITE: **VALSPAR, PARKWAY, DEESIDE INDUSTRIAL PARK.**

APPLICATION VALID DATE: **13 FEBRUARY 2017**

LOCAL MEMBERS: **CHRISTINE JONES SEALAND WARD**

TOWN/COMMUNITY COUNCIL: **SEALAND**

REASON FOR COMMITTEE: **NOT IN SCHEME OF DELEGATION**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This is a hazardous substances application which is being sought on account of a national re-classification of materials which are defined as being hazardous. The materials for which a hazardous substances consent is being sought have been in storage and use at the site for some considerable time. This application is effectively an exercise to regularise the use and storage of a hazardous substance within the existing premises.

2.00 RECOMMENDATION: TO GRANT HAZARDOUS SUBSTANCES CONSENT, SUBJECT TO THE FOLLOWING:-

- 2.01
1. Define and list the materials hazardous materials and maximum quantities consented.
 2. In accordance with the submitted documents (List in full).
 3. Specific reference to storage locations plan.
 4. Changes to maximum quantity or new hazardous substances exceeding thresholds to be notified to the Competent Authority (s) and obtain appropriate variation to the consent.
 5. Alteration to the location of storage vessels or handling of hazardous substances to be notified to the Competent Authority (s) and obtain appropriate variation to the consent.
 6. The Hazardous substance(s) shall not be kept or used other than in accordance with the particulars provided on the Application Form nor outside the area(s) marked for storage of the substance(s) on maps/plans which formed part of the application.
 7. Copy of consented plans to be held at premises.
 8. Copies of the consent, plans and particulars shall be provided to the requisite Statutory organisations.

3.00 CONSULTATIONS

- 3.01 Local Member. Christine Jones - Discussion via telephone to understand the application and had no comment to make. Subsequent confirmation that she is happy for this to be dealt with by delegated powers.

Town/Community Council - No response to date.

Head of Public Protection - No comment to make.

Natural Resources Wales - Confirm that NRW have no substantive comments to make. Valspar has an Environmental permit (under Environmental Permitting Regulations 2016) for the site and this Hazardous Substance Notification would not require a variation to the permit.

British Pipelines Agency - Not aware that any Shell (NOP) Pipelines apparatus falls within the vicinity of the noted location.

National Grid/Gas Utilities - No response.

Connah's Quay/Deeside Power stations/EIR Grid – No response.

North Wales Police and Fire and Rescue Services – No response.

Health & Safety Executive -Two responses.

Initial Response dated 4.2.2017

In order to arrive at the HSEs response the application is currently being assessed by the specialist Major Accidents Risk Assessment Unit (CEMHD5) of HSE. HSE needs to undertake complex detailed and technical work; may require additional information to optimise the assessment; a number of iterations in the assessment might be needed to ensure cautious best estimate advice; in many cases the assessment is subject to technical peer review to ensure robust advice. Resources available for this to the HSE for this are limited and it might be 26 weeks before we can respond fully. The reasons for this initial judgement is: (a) The complex and uncertain current situation which needs to be understood before this application can be assessed.

Subsequent Response dated 08/09/2017

1.The Health and Safety Executive have assessed the risks to the surrounding areas from the likely activities resulting from the granting of Hazardous Substances Consent (056574 Amended application form rev B).

2. Only the risks from Hazardous Substances for which consent is being sought have been assessed. HSE has assessed 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.

3. Hazardous Substance Consent is sought for:

Name of Substance	Part number in schedule	Maximum quantity to be present (tonnes)
Hazardous to the aquatic environment (cat1)	Part 1, Cat E1	13
Hazardous to the aquatic environment (cat2)	Part 1. Cat E2	440.2

4. 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. On this basis, **subject to the conditions listed below**, HSE has concluded that the risks to the surrounding operations are so small **that there are no significant reasons, on safety grounds, for refusing Hazardous Substances**

Consent. (HSE's emphasis)

5. Following Government Advice that particulars in the application form do not automatically become conditions of consent, it would be beneficial to include the following new conditions: a) *"the Hazardous substance(s) shall not be kept or used other than in accordance with the particulars provided on the Application Form nor outside the area(s) marked for storage of the substance(s) on maps/plans which formed part of the application"*

6. Unless we hear from you in the near future that the application has been refused, a map and Consultation Zone will be placed on the HSE's land use planning advice system within the Consultation Zone Library.

7. When consent is granted, please send a copy of all of the consent documents to this office so that our records can be updated.

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification

The 2015 Planning (Hazardous Substances) Regulations (the Regulations) require the applicant to post a notice and press notice prior to formal submission, and this was duly carried out. In addition, following receipt of the application, the planning authority has posted 2 site notices (entrance and rear of the site) together with a press notification and 30+ notifications to the businesses in the immediate vicinity of the site between Shotwick Road, Fourth Avenue, Parkway and First Avenue.

5.00 SITE HISTORY

5.01 This site is located within Zone 2 of the Deeside Industrial Park and has been a coatings producing factory since the premises have been first built. The site has been subject to small scale ancillary developments related to storage tanks and other essential components to ensure efficient and safe operations and storage at the site.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

This is not a planning application, nevertheless is enshrined in the Town and Country Planning suite of legislation and the development would be guided by the following policies in so far as they are applicable.

STR1 New Development

GEN1 General Requirements for Development

EM3 Development Zones and Principal Employment Areas
EM7 Bad Neighbour Industry
EWP12 Pollution
EWP13 Nuisance
EWP17 Flood Risk

- 6.02 The principle of the development has already been accepted as it is an existing operational unit. The presence of substances known to be hazardous within this site accords with the requirements of the policies, and the change to the classification does not introduce new hazards or risks, as these were pre-existing. The assessment by the HSE is that the risk of hazards from the substances is acceptable at this location.

7.00 HAZARDOUS SUBSTANCES APPRAISAL

- 7.01 This application is made pursuant to the Planning (Hazardous Substances) Act 1990 and the Planning (Hazardous Substances)(Wales) Regulations 2015 for the continued use and storage of a number of materials which are used in the manufacture of packaging coatings, such as is used on food, beer and paint cans. There are a number of raw materials, intermediate compounds and process residues which in isolation or in combination are handled and stored which fall within the criteria designating them as hazardous substances, either as individual named substances or by hazard risk type. This application sets out these, and identifies where and how they are stored, and ultimately informs the emergency plans which are used by the fire and rescue authorities to manage any incident which occurs within or close to the site.
- 7.02 The original inventory supplied to support the Hazardous Substances Application Consent is very detailed and on the request of the Health and Safety Executive (HSE) has been simplified to fall within category E – Environmental Hazards set out in Regulation 3, Schedule 1, Part 1, Categories of Substances. The application therefore consists of a maximum of 13 tonnes of substances E1 hazardous to the aquatic environment in category Acute 1 or Chronic 1, and a maximum of 440.2 tonnes of substances E2 hazardous to the aquatic environment in category Chronic 2.
- 7.02 The respective thresholds triggering a requirement to obtain a Hazardous Substances Consent are 100 tonnes for E1 and 200 tonnes for E2. Whilst the quantity of E1 Acute 1 or Chronic 1 (13 tonnes) falls significantly below the threshold of 100 tonnes, the quantity of E2 Chronic 2 (440.2 tonnes) is more than double the threshold, and therefore hazardous consent is required, both alone for category E2 and also in combination with both categories E1 and E2. This is because in the event of a major accident, both E1 and E2 substances risk being released to the environment.

- 7.03 The substances named in the original inventory are and will still be present upon grant of a Hazardous Substances Consent, and the range of substances falls within other categories of hazards, such as P Physical Hazards, mainly P5, flammable liquids, and some P6 self-reactive substances and mixtures and organic peroxides, and some H Health Hazards in category H3 Specific Organ Toxicity Single Exposure. There are in excess of 150 different substances held and used in at the site and these variously fall within the named categories, but not necessarily individually exceed the respective thresholds.
- 7.04 These have been assessed by the HSE and due to the complexity of the various solvents, pigments and resins used to produce the main product and customer specific contracts, a simplification has been made to characterise the materials requiring consent to fall within the E1 or E2 Environmental Hazard category of harmful to the aquatic environment. Whilst some substances are highly dangerous and can cause rapid death, or explosion on account of low flashpoints and release highly flammable vapours, the individual quantities were not sufficient to a hazardous substances consent, and other legislation governing the safe handling and storage of such materials is applicable, such as the Control of Substances Harmful to Health and the Health and Safety at Work Act 1974 and subsequent amendments.
- 7.05 The site is very well organised and is well maintained. At the site visit the open storage bunds were clear of debris and excessive standing water. Safe distances between private vehicles and operational areas are strictly applied, and security is tight and well applied, so all personnel and visitors to the site have to wear anti-static clothing and shoes, and there are vapour meters in active use. The landscaped areas of the site are well maintained and provide a safe stand-off with non-flammable materials. Labelling is quite evident and it is clear that the applicant takes full responsibility towards its obligations to the safety of its employees, neighbours and the wider environment.
- 7.04 The site has a full array of one site fire and chemical spill equipment which will aid rapid containment and control of any accidents or spillages that may occur. The site is also regulated by Natural Resources Wales, and will have an industrial installations type of Environmental Permit. All evidence points to a process and operator who employs the highest standards of regulatory control.

8.00 CONCLUSION

The operations which take place at the site have been occurring for a long time and this application is to enable the use and storage of the hazardous substances to continue in the existing chemical processing plant. No new hazards or risk is being introduced at this site, and this application is made as a result of changes to the classifications and thresholds applicable to the substances currently being utilised. The Health and Safety Executive, the principal statutory consultee to be consulted on this application, have raised no objection subject to the inclusion of a condition, and note that there is no significant reasons, on safety grounds, for refusing Hazardous Substances Consent. On the basis of no objection from either Natural Resources Wales or the Health and Safety Executive Hazardous Substances Division, the recommendation is for **approval** subject to conditions.

8.01 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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