

Report of Handling

Wednesday 11 January 2023

**Application for Hazardous Substance Consent
10 Wheatfield Road, Edinburgh, EH11 2QA**

**Proposal: Application for a Planning (Hazardous Substances)
Consent Variation**

**Item – Committee Decision
Application Number – 20/01709/HSC
Ward – B07 - Sighthill/Gorgie**

Reasons for Referral to Committee

The application has been referred to the Development Management Sub-Committee because the application is for a Hazardous Substance Consent.

Recommendation

It is recommended that this application be **Granted** subject to the details below.

Summary

In accordance with the Planning (Hazardous Substances) (Scotland) Act 1997, the application to vary the inventory of substances kept on the site is acceptable in terms of the risk to the surrounding land, neighbouring occupiers, and the development plan. There are no material considerations that outweighs this. It is recommended that the Development Management Sub Committee approve this application.

SECTION A – Application Background

Site Description

The site is the Macfarlan Smith Ltd and is a large industrial complex, divided into three parts with an east site, west site, and staff parking to the south. A railway splits through the site with Westfield Road to the north and Wheatfield Road to the south.

The premise is regulated by the Competent Authority (Health and Safety Executive (HSE) and SEPA) as a Lower Tier COMAH Establishment. Macfarlan Smith Ltd handle a wide range of Dangerous Substances. Activities undertaken include the Manufacture of Pharmaceutical Products and Intermediates. The site includes 120 blocks with hazardous substances stored in fixed and mobile bunds.

The existing North British Distillery is located to the east of the site. On the south side of Wheatfield Road is a secured area for staff parking and to the south-west is a supermarket. Westfield Road bounds the northern edge of the site, with a railway line, Murrayfield stadium and other commercial buildings beyond. The closest residential properties are on Wheatfield Road further south of the site.

Description of the Proposal

The application is for a hazardous substances consent (HSC) under Planning (Hazardous Substances) (Scotland) Act 1997.

Due to the passage of time, and alterations to consent limits, the site is applying for a new consent to bring together three previous consents, and to account for current operating requirements. The proposal seeks to vary the inventory and quantity of hazardous substances kept on the site.

The following are the hazardous substances, locations, and maximum quantities of moveable containers to be contained on site at any one time, for which these hazardous substances consent is sought. The hazardous substances are outlined below in accordance with their classification contained within the Hazardous Substances Regulations.

Storage Area on Site	Hazardous Substance	Hazardous Substance	Maximum Capacity of Area	Maximum capacity (cubic metres) of individual moveable containers
Location of Bund	Existing 2009 Consent	New		
East site				
EB01 as shown on Drawing 01 and 07.	Corrosives	Flammable P5c	25te	1000litres IBC
EB02 as shown on Drawing 01 and 07.	Ammonia	H2 Toxic (Chloroform)	95te	200litre drums
EB03 as	Ammonia or	H1, H2, H3 Toxic &	30te	H2, H3 Toxic

shown on Drawing 01 and 07.	Toxic B2	E1 (Note: only 3.5te of materials classified as H1 will be stored in this area)		and E1 – 1000litres IBC H1 Toxic – 30Kg containers
EB04	Highly Flammable Toxic B2	N/A	N/A	N/A
EB08 as shown on Drawing 01.	Highly Flammable	Flammable P5c Toxic H2 Hazardous to Environment E1	3te	200litre drum
EB09 as shown on Drawing 01.	Highly Flammable Toxic B2 Formaldehyde	Methanol Flammable P5c Toxic H2	5te	200litre drum
EB10 as shown on Drawing 01.	Some Flammable B8, Flammable B6 and some Aqueous	Flammable P5c Toxic H2 Toxic H3 Hazardous to Environment E1	70te Flammable 20te Toxic 1te E1	1000litres IBC
EB14 as shown on Drawing 01 and 07.	Hydrogen	Hydrogen	3te	30kg cylinder
EB15 as shown on Drawing 01 and 07.	Some Flammable B8, Flammable B6 and some Aqueous	Flammable P5c	50te	1000litres IBC
Block 22 Fridge as shown on Drawing 01.	Very Toxic B1	Toxic H1	1te	30litre container
Block 20 Fridge as shown on Drawing 01.	None	Toxic H2	1te	200litre drums
Block 11 storage as shown on	Toxic B2 Solids Corrosive Solids	Toxic H2	6te	50kg drum

Drawing 01 and 07.	Flammable Solids	O1 O2		
Block 2 Packaging as shown on Drawing 01 and 07.	Toxic B2 Solids Very Toxic B1 Solids	Toxic H2 and H3	20te	25kg drum
		Toxic H1	0.1te	5kg container
Block 12 Cabinet as shown on Drawing 01 and 07.	None	Flammable P5c	6te	200litre drum
Block 12/1 Cabinet as shown on Drawing 01 and 07.	None	Flammable P5c	6te	200litre drum
Block 20 Store as shown on Drawing 01 and 07.	Toxic B2 Solids Very Toxic B1 Solids	Toxic H2	47te	25kg drum
		Toxic H1	0.1te	5kg container
		Hazardous to Environment E1	0.1te	25kg drum
Cylinder (east site)	Extremely Flammable B9	N/A	N/A	N/A
Block 18 Development Strong Room as shown on Drawing 01 and 07.	None	Toxic H2	0.1te	25gram container
Block 18 G3 / Safe / Main Safe as shown on Drawing 01 and 07.	None	Toxic H2 Toxic H3	0.1te	10kg container
Block 13/1 as shown on Drawing 01	None	Toxic H2	0.2te	25kg drum

and 07.				
Block 8 as shown on Drawing 01 and 07.	None	Toxic H2	0.5te	25kg drum
West site				
WB01 as shown on Drawing 01.	Highly Flammable B8 Flammable B6 Corrosive Toxic B2	Flammable P5c Toxic H2	72te	1000litres IBC
WB02 as shown on Drawing 01.	Highly Flammable B8 Flammable B6 Extremely Flammable B9	Methanol Flammable P5c	120te	1000litres IBC
WB03 as shown on Drawing 01.	Highly Flammable	Flammable P5c	55te	1000litres IBC
WB04	N/A	N/A	N/A	N/A
WB06	N/A	N/A	N/A	N/A
WB07	N/A	N/A	N/A	N/A
WB08 as shown on Drawing 01 and 07.	Highly Flammable B8 Flammable B6	Flammable P5c or Toxic H2 (Chloroform)	56te	1000litres IBC
WB09 as shown on Drawing 01 and 07.	Highly Flammable B8 Flammable B6	Flammable P5c or Toxic H2 (Chloroform)	35te	1000litres IBC
WB10 as shown on Drawing 01 and 07.	Highly Flammable B8 Flammable B6 Corrosive	Flammable P5c	150te	1000litres IBC
WB19 as shown on Drawing 01 and 07.	Flammable B6 Toxic B2	Flammable P5c	50te	1000litres IBC
WB20 as shown on	Corrosives	N/A	N/A	N/A

Drawing 01 and 07.				
WB21 as shown on Drawing 01 and 07.	Corrosives	N/A	N/A	N/A
WB28 as shown on Drawing 01 and 07.	Highly Flammable B8	Flammable P5c	8te	1000litres IBC
Hydrogen Storage 1	Hydrogen A11	N/A	N/A	N/A
Cylinder Store as shown on Drawing 01.	Extremely Flammable B9 Toxic B1	Hydrogen/Flammable Gas P2 Hydrogen Chloride/Toxic H2	400kg	37kg cylinder
Block 104 Storage Cabinet as shown on Drawing 01.	Oxidising B3 or Toxic B2	Toxic H2	1te	25kg drum
Block 104 Store as shown on Drawing 01.	Toxic B2 Solids	Toxic H2	5te	25kg drum
Block 118 Storage as shown on Drawing 01.	Toxic B2 Solids	Toxic H2	6te	25kg drum
Block 115 Storage as shown on Drawing 01.	Toxic B2 Solids	Toxic H2	20te	25kg drum
West Tank Farm Storage Cabinet as shown on Drawing 01.	None	Toxic H2	0.5te	200litre drum
Storage Cabinet as shown on Drawing 01.	Oxidising B3 or Toxic B2	Oxidising Liquid/Solid P8	1te	50 litre containers

Block 108 Storage as shown on Drawing 01.	None	Toxic H2	10te	25kg drum
Block 105 Storage as shown on Drawing 01 and 07.	N/A	N/A	N/A	N/A
Oil Storage as shown on Drawing 01.	None	Hazardous to Environment E2	0.4te	200litre drum

Relevant Site History

10/01205/HSC
10 Wheatfield Road
Edinburgh
EH11 2QA
Change the storage and inventory of chemicals.
Granted

25 November 2010

04/00946/HSC
Wheatfield Road
Edinburgh
EH11 2QA
Storage of hazardous substances
Granted

22 December 2005

05/04326/HSC
10 Wheatfield Road
Edinburgh
EH11 2QA
Addition of further vessels and processing equipment to existing Block 120 building
Granted

13 April 2006

06/02587/HSC
10 Wheatfield Road
Edinburgh
EH11 2QA

Minor amendment to condition 3 of 05/04326/HSC for block120 to alter to block120 phase 2.
Granted

14 September 2006

Other Relevant Site History

None.

Consultation Engagement

Health and Safety Executive

NatureScot

SEPA

Gorgie Dalry Community Council

Publicity and Public Engagement

Date of Neighbour Notification: 27 April 2020

Date of Advertisement: 1 May 2020

Date of Site Notice: Not Applicable

Number of Contributors: 0

Section B - Assessment

Determining Issues

This report will consider each hazardous substance under Section 7 (2) and (3) of the Planning (Hazardous Substances) (Scotland) Act 1997 with the following specified considerations under Section 7 (2):

- (a) to any current or contemplated use of the land to which the application relates;
- (b) to the way in which land in the vicinity is being used or is likely to be used;
- (c) to any planning permission or development consent that has been granted for development of land in the vicinity;
- (d) to the provisions of the development plan and
- (e) to any advice which the safety regulator has given following consultations in pursuance of regulations under section 5(2) of the Act

In the assessment of material considerations this report will consider:

- the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;
- equalities and human rights;
- public representations and
- any other identified material considerations.

Assessment

a) Current or contemplated use of the land to which the application relates

The site is an established industrial complex that specialises in pharmaceutical products and intermediates. The current use of the land will not change as a result of this Hazardous Substance Consent (HSC) and the proposal is therefore justified.

b) The way in which land in the vicinity is being used or is likely to be used

To the north of the site is the West Approach Road, an arterial route into the city. To the east, is the North British Distillery. The former Tynecastle High School on Macleod Street remains vacant and planning permission was recently refused for a change of use of the premises to student housing (application reference, 21/04469/FUL). That refusal is currently the subject of an appeal with Scottish Ministers (appeal reference: PPA-230-2393). Tynecastle Park stadium is located on McLeod Street to the south of the site where the existing stand was recently upgraded. The stadium includes a children's nursery also (application reference, 16/03823/FUL). To the west of the site at 36 - 44 Westfield Road, an application for planning permission for the demolition of existing office and erection of student accommodation was submitted on 30 May 2022 (application reference, 22/02539/FUL). The status of the application is pending.

Both the distillery and the stadium have existed next to one another for over a hundred of years. Pool fire calculations contained in the submitted Consequence Modelling demonstrates that each hazard zone would remain within their respective zones and there is no requirement to increase any of the inner, middle and outer zones. In addition, there are no listed buildings within the inner, middle and outer zones. The nearest listed building is located over 200 metres south east from the site on 258-266 Gorgie Road (category C listed, date of listing 2/9/1993, listing reference: LB26851).

The proposal to increase the inventory of substances kept on the site will not compromise the way in which land in the vicinity is being used or is likely to be used.

c) Planning permissions that have been granted for development of land in the vicinity

The proposed HSC does not necessitate a requirement to increase the existing inner, middle and outer zones. Therefore, any other planning permission granted within the vicinity of the zones will not be compromised as a result of this HSC.

d) The Development Plan

The adopted Edinburgh Development Plan does not have any specific policy or designation in relation to hazardous substances consent. However, Policy Env 22 - Pollution and Air, Water and Soil Quality, of the Edinburgh Local Development Plan (LDP) states that planning permission will only be granted where there will be no significant effects for health, the environment and amenity. The approach of this policy to pollution, air, water and soil quality, can be considered a material consideration in respect of this HSC application in that the LDP clearly sets out to protect health.

Consultation with the Competent Authority (Health and Safety Executive (HSE) and SEPA) was carried out and no objection was raised. The HSC application to vary the inventory of substances on the site do not raise new issues in relation to public health.

e) Health and Safety Executive advice

The Health and Safety Executive was consulted on the application and assessed the risks to surrounding areas. They initially assessed that the proposals as submitted would have been incompatible with its surroundings. Clarification from the applicant was sought on the maximum capacity of moveable containers used to store and transport H1 Toxic substances within the establishment. It was confirmed that the maximum moveable container capacity for H1 Toxic substances at the establishment is 30Kg which is different from the information listed on the application form. Therefore, HSE advised that the revised table be included in the decision notice. This is to make it clear what information HSE based their assessment on.

Subject to conditions, HSE has concluded that risks to the surrounding population arising from the proposed operations are sufficiently small that there are no significant reasons for refusing Hazardous Substances Consent on safety grounds.

f) There are any other material considerations which must be addressed?

The following material planning considerations have been identified:

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development. The proposal complies with Paragraph 29 of SPP in terms of making efficient use of existing capacities of land and considering the implications for water, air and soil quality.

Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

No comments were received.

Conclusion in relation to identified material considerations

The other material considerations have been identified and addressed. There are no new material considerations.

Overall conclusion

In accordance with the Planning (Hazardous Substances) (Scotland) Act 1997, the application to vary the inventory of substances kept on the site is acceptable in terms of the risk to the surrounding land, neighbouring occupiers, and the development plan. There are no material considerations that outweighs this. It is recommended that the Development Management Sub Committee approve this application.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Conditions: -

1. Notwithstanding the submitted application form, this Hazardous Substance Consent relates to the following substances and the maximum quantity permitted for each substance:

Location of Bund	Hazardous Substance Existing 2009	Hazardous Substance New	Maximum Capacity of Area	Maximum capacity (cubic metres) of individual

				moveable containers
East site				
EB01 as shown on Drawing 01 and 07.	Corrosives	Flammable P5c	25te	1000litres IBC
EB02 as shown on Drawing 01 and 07.	Ammonia	H2 Toxic (Chloroform)	95te	200litre drums
EB03 as shown on Drawing 01 and 07.	Ammonia or Toxic B2	H1, H2, H3 Toxic & E1 (Note: only 3.5te of materials classified as H1 will be stored in this area)	30te	H2, H3 Toxic and E1 – 1000litres IBC H1 Toxic – 30Kg containers
EB04	Highly Flammable Toxic B2	N/A	N/A	N/A
EB08 as shown on Drawing 01.	Highly Flammable	Flammable P5c Toxic H2 Hazardous to Environment E1	3te	200litre drum
EB09 as shown on Drawing 01.	Highly Flammable Toxic B2 Formaldehyde	Methanol Flammable P5c Toxic H2	5te	200litre drum
EB10 as shown on Drawing 01.	Some Flammable B8, Flammable B6 and some Aqueous	Flammable P5c Toxic H2 Toxic H3 Hazardous to Environment E1	70te Flammable 20te Toxic 1te E1	1000litres IBC
EB14 as shown on Drawing 01 and 07.	Hydrogen	Hydrogen	3te	30kg cylinder
EB15 as shown on Drawing 01	Some Flammable B8, Flammable B6	Flammable P5c	50te	1000litres IBC

and 07.	and some Aqueous			
Block 22 Fridge as shown on Drawing 01.	Very Toxic B1	Toxic H1	1te	30litre container
Block 20 Fridge as shown on Drawing 01.	None	Toxic H2	1te	200litre drums
Block 11 storage as shown on Drawing 01 and 07.	Toxic B2 Solids Corrosive Solids Flammable Solids	Toxic H2 O1 O2	6te	50kg drum
Block 2 Packaging as shown on Drawing 01 and 07.	Toxic B2 Solids Very Toxic B1 Solids	Toxic H2 and H3	20te	25kg drum
		Toxic H1	0.1te	5kg container
Block 12 Cabinet as shown on Drawing 01 and 07.	None	Flammable P5c	6te	200litre drum
Block 12/1 Cabinet as shown on Drawing 01 and 07.	None	Flammable P5c	6te	200litre drum
Block 20 Store as shown on Drawing 01 and 07.	Toxic B2 Solids Very Toxic B1 Solids	Toxic H2	47te	25kg drum
		Toxic H1	0.1te	5kg container
		Hazardous to Environment E1	0.1te	25kg drum
Cylinder (east site)	Extremely Flammable B9	N/A	N/A	N/A
Block 18 Development Strong Room	None	Toxic H2	0.1te	25gram container

as shown on Drawing 01 and 07.				
Block 18 G3 / Safe / Main Safe as shown on Drawing 01 and 07.	None	Toxic H2 Toxic H3	0.1te	10kg container
Block 13/1 as shown on Drawing 01 and 07.	None	Toxic H2	0.2te	25kg drum
Block 8 as shown on Drawing 01 and 07.	None	Toxic H2	0.5te	25kg drum
West site				
WB01 as shown on Drawing 01.	Highly Flammable B8 Flammable B6 Corrosive Toxic B2	Flammable P5c Toxic H2	72te	1000litres IBC
WB02 as shown on Drawing 01.	Highly Flammable B8 Flammable B6 Extremely Flammable B9	Methanol Flammable P5c	120te	1000litres IBC
WB03 as shown on Drawing 01.	Highly Flammable	Flammable P5c	55te	1000litres IBC
WB04	N/A	N/A	N/A	N/A
WB06	N/A	N/A	N/A	N/A
WB07	N/A	N/A	N/A	N/A
WB08 as shown on Drawing 01 and 07.	Highly Flammable B8 Flammable B6	Flammable P5c or Toxic H2 (Chloroform)	56te	1000litres IBC
WB09 as shown on Drawing 01	Highly Flammable B8 Flammable B6	Flammable P5c or Toxic H2 (Chloroform)	35te	1000litres IBC

and 07.				
WB10 as shown on Drawing 01 and 07.	Highly Flammable B8 Flammable B6 Corrosive	Flammable P5c	150te	1000litres IBC
WB19 as shown on Drawing 01 and 07.	Flammable B6 Toxic B2	Flammable P5c	50te	1000litres IBC
WB20 as shown on Drawing 01 and 07.	Corrosives	N/A	N/A	N/A
WB21 as shown on Drawing 01 and 07.	Corrosives	N/A	N/A	N/A
WB28 as shown on Drawing 01 and 07.	Highly Flammable B8	Flammable P5c	8te	1000litres IBC
Hydrogen Storage 1	Hydrogen A11	N/A	N/A	N/A
Cylinder Store as shown on Drawing 01.	Extremely Flammable B9 Toxic B1	Hydrogen/Flammable Gas P2 Hydrogen Chloride/Toxic H2	400kg	37kg cylinder
Block 104 Storage Cabinet as shown on Drawing 01.	Oxidising B3 or Toxic B2	Toxic H2	1te	25kg drum
Block 104 Store as shown on Drawing 01.	Toxic B2 Solids	Toxic H2	5te	25kg drum
Block 118 Storage as shown on Drawing 01.	Toxic B2 Solids	Toxic H2	6te	25kg drum
Block 115	Toxic B2 Solids	Toxic H2	20te	25kg drum

Storage as shown on Drawing 01.				
West Tank Farm Storage Cabinet as shown on Drawing 01.	None	Toxic H2	0.5te	200litre drum
Storage Cabinet as shown on Drawing 01.	Oxidising B3 or Toxic B2	Oxidising Liquid/Solid P8	1te	50 litre container
Block 108 Storage as shown on Drawing 01.	None	Toxic H2	10te	25kg drum
Block 105 Storage as shown on Drawing 01 and 07.	N/A	N/A	N/A	N/A
Oil Storage as shown on Drawing 01.	None	Hazardous to Environment E2	0.4te	200litre drum

2. The hazardous substance(s) shall not be kept or used other than in accordance with the particulars provided in the application for Hazardous Substances Consent reference 20/01709/HSC and its supporting documents, or outside the areas marked for storage or use of the substance(s) as shown on Drawing 01 and Drawing 02 which formed part of this application.
3. Other than Bitrex (i.e., denatonium benzoate), no Toxic (B2) substances kept on site shall have an LC50 (4hr/rat) less than 0.5 mg/l.
4. The maximum moveable container size for any pure or highly concentrated liquid substance that is classified as H2 Acute Toxic Category 2 - all routes / Category 3 - inhalation and which has a boiling point <75 °C shall be 200 litres.
5. Any propionitrile held on site shall be classified as H1 Acute Toxic Category 1 - all routes and shall be accommodated within the overall Consented quantity of 3.5 metric tonne (te) for substances in this category.
6. The total quantity at any one time of substances classified as H1 Acute Toxic Category 1 - all routes in Block 120 Phase II shall be limited to 300 kg.

7. The total quantity at any one time of substances classified as H2 Acute Toxic Category 2 – all routes / Category 3 – inhalation in Block 120 Phase II shall be limited to 10 metric tonnes (te).

Reasons

1. To safeguard public safety.
2. To safeguard public safety.
3. To safeguard public safety.
4. To safeguard public safety.
5. To safeguard public safety.
6. To safeguard public safety.
7. To safeguard public safety.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - [Local Development Plan](#)

Date Registered: 20 April 2020

Drawing Numbers/Scheme

01-08.

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Laura Marshall, Planning Officer
E-mail:laura.marshall@edinburgh.gov.uk

Appendix 1

Consultations

NAME: Health and Safety Executive
COMMENT: No objection subject to conditions.
DATE: 11 March 2022

NAME: NatureScot
COMMENT: We have no comments to make to this application.
DATE: 15 May 2020

NAME: SEPA
COMMENT: We have no objection to this application.
DATE: 25 May 2020

NAME: Gorgie Dalry Community Council
COMMENT: No comments were received.

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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