
Hazardous substances consent application for natural gas refuelling station at East Midlands Gateway Development.

**Application Reference:
19/01456/HSC**

**East Midlands Gateway, Ashby Road, Castle Donington,
Derbyshire.**

**Date Registered:
26 July 2019
Consultation Expiry:
21 February 2020
8 Week Date:
20 September 2019
Extension of Time:
26 February 2020**

**Applicants:
Gasrec Ltd**

Case Officer:
[REDACTED]

**Recommendation:
GRANT CONSENT**

1. Proposals and Background

This is an application for Hazardous Substances Consent for the use and storage of liquefied natural gas (LNG) and compressed natural gas (CNG) at a proposed natural gas refuelling station at the East Midlands Gateway, Ashby Road, Castle Donington.

Originally the application proposed that a maximum of 94 tonnes of LNG and 6 tonnes of CNG would be stored on the site with the LNG being stored within three vertical tanks and the CNG being contained within bottles. Following amendments to the application forms it is now proposed that 94 tonnes of LNG and 3 tonnes of CNG would be stored on the site.

An application for the erection of the natural gas refuelling station together with ancillary buildings, associated access, service and yard areas and landscaping within zone B (ref: 19/01404/FULM) was approved on the 18th October 2019.

2. Publicity

No neighbours have been notified.

A site notice was displayed by the applicant on the 18 July 2019.

A press notice was displayed in the Leicester Mercury on the 23 July 2019.

3. Summary of Consultations and Representations Received

The following summary of representations is provided.

No Objections from;

Castle Donington Parish Council.
Charnwood Borough Council.
Environment Agency.
Kegworth Parish Council.
Lockington cum Hemington Parish Council.
Long Whatton and Diseworth Parish Council.
NWLDC – Environmental Protection.

No Objections, subject to conditions, from;

Health and Safety Executive.

Third Party Representations

No third party representations have been received.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2019)

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraph 2 (Introduction);
Paragraph 45 (Decision-making);
Paragraph 95 (Promoting healthy and safe communities); and
Paragraph 170 (Conserving and enhancing the natural environment).

Adopted North West Leicestershire Local Plan (2017)

The following policies of the adopted local plan are consistent with the policies of the NPPF and should be afforded full weight in the determination of this application:

Policy D2 – Amenity.

Other Policies

National Planning Practice Guidance.
Planning (Hazardous Substances) Act 1990.
Planning (Hazardous Substances) Regulations 2015.

5. Assessment

This application is made under the Planning (Hazardous Substances) Act 1990, for which North West Leicestershire District Council is identified as the Hazardous Substances Authority, responsible for determining such applications.

Full permission is sought for the storage of up to 94 tonnes of liquefied natural gas (LNG) and 3 tonnes of compressed natural gas (CNG).

The National Planning Practice Guidance (NPPG) on Hazardous Substances (HS) sets out the requirements for making and processing such applications. The applicant has confirmed that pre-application publicity procedures have been undertaken in accordance with Regulation 6 of the Act. The District Council has also consulted the parties identified under Regulation 10(1).

Paragraph 007 of the NPPG on HS specifies that the *“COMAH competent authority advises the hazardous substances authority 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. The COMAH competent authority is a statutory consultee and must be consulted by the hazardous substances authority before hazardous substances consent can be granted.”* Paragraph 079 of the NPPG outlines that the Control of Major Accident Hazards (COMAH) competent authority is the Health and Safety Executive (HSE) and Environment Agency (EA), acting jointly.

Paragraph 045 of the NPPG on HS clarifies that *“the role of the COMAH competent authority is to advise the hazardous substances authority on the risks arising from the presence of the proposed hazardous substances. The COMAH competent authority has the expertise to assess the risks to people, and risks to the environment. However, the decision as to whether the risks from hazardous substances are acceptable in the context of existing and potential uses of neighbouring land is made by the hazardous substances authority.”*

Paragraph 046 of the NPPG on HS also outlines that *“before reaching a decision, the hazardous substances authority will weigh up all the comments received, including those from the COMAH competent authority. It will take account of local needs and conditions, the local plan, and any other material considerations.”*

Paragraph 047 of the NPPG on HS indicates that *“in view of its acknowledged expertise in assessing the off-site risks presented by the use of hazardous substances, any advice from the COMAH*

competent authority that hazardous substances consent should be refused should not be overridden without the most careful consideration.”

It is considered that the Regulations and Circular place emphasis on the consultation responses from the HSE and EA. In both instances the consultees have concluded that the risks to the surrounding population arising from the proposed operation are so small that there are no significant reasons, on safety grounds, for refusing hazardous substances consent. The HSE have provided a map identifying a consultation zone around the site and propose a condition which ensures that hazardous substances are only stored in the approved area.

With regards to paragraph 4 of the consultation response from HSE it is had been identified to HSE that a rail terminal is to be constructed to the north-east of the site which would fall within the consultation zone identified on the consultation map provided by HSE, this being as permitted as part of the Development Consent Order (DCO) for the strategic rail freight interchange as well as application reference 19/00779/FULM. The HSE have clarified that such a development would not alter their consultee response, as identified above, given that such a development is not a sensitive development.

No other statutory consultee or third party has raised an objection to the application, subject to the development being undertaken in accordance with any recommendations of the HSE.

Overall it is recommended that hazardous substances consent be granted.

RECOMMENDATION – GRANT CONSENT, subject to the following conditions;

1. The hazardous substances shall not be kept or used other than in accordance with the particulars provided on the amended application form, received by the Local Authority on the 13th February 2020, nor outside the areas marked for storage of the substances on the plans which formed part of application (including drawing numbers C130 Revision P3 (Substance Location Plan – Phase 3) and C131 Revision P3 (Substance Location Plan – Phase 1 & 2) both received by the Local Authority on the 13th February 2020).

Reason: To define the scope of this consent and for the avoidance of doubt.

2. The consent, hereby granted, is on the condition that an effective management system is in place for controlling access of the public to the facility that includes suitable signage and a competent person to escort members of the public off the site.

Reason: In the interests of health and safety.

Notes to Applicant

1. The applicants attention is drawn to Section 29 of the Planning (Hazardous Substances) Act 1990. This makes it clear that nothing in any consent granted can require or allow the building or operation of an establishment which does not comply with the relevant statutory provisions and to the extent that any consent purports to require or allow any such thing is void.