

**Annex EF47** of Dr E J Fordham Interested Party – Unique Reference: 20030698  
EN010106 – Sunnica Energy Farm

**Letter from Dept for Levelling Up, Housing and Communities**

From: Christina Davey  
Position: Team Leader – Minerals and Waste  
Date: 6 October 2022



Department for Levelling Up,  
Housing & Communities

**Department for Levelling Up, Housing and  
Communities**

[Enter address here]

Samantha Main  
n/a

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[www.gov.uk/dluhc](http://www.gov.uk/dluhc)

Our Ref:20875395

Your Ref:

Date:6 October 2022

Dear Samantha Main,

Thank you for your email of the 6 September 2022 seeking clarification on Part 3 Schedule 1 of The Planning (Hazardous Substances) Regulations 2015.

Please note that the Department does not provide legal advice to correspondents and as such, we advise you obtain independent legal advice to inform your decision making on this matter. Published guidance on the scope and effect of the regulatory regime controlling hazardous substances can be found at:

<https://www.gov.uk/guidance/hazardous-substances>.

However, your interpretation of the regulations is broadly correct, in that the scope of the regulations is that they apply (and therefore the requirements and offences under the Planning (Hazardous Substances) Act 1990 apply) where hazardous substances are present on land (however that presence occurs), with some limited exemptions.

However, you should note that the scope and effect of the regulations is broader than you describe. Part 3 of Schedule 1 to which you refer, also brings into scope circumstances where hazardous substances could be present on land, i.e., the Regulations (and Act) also apply if it is "reasonable to foresee that a substance falling within Part 1 or Part 2 ("HS") [of Schedule 1] may be generated during loss of control of the processes". The effect of this is, for obvious reasons, to ensure the Regulations (and Act) apply to control and require consents where hazardous substances could be present and not only if something actually goes wrong.

As stated in the Government's published guidance, the planning system recognises the importance of controlling sites where hazardous substances could be present and where development is proposed near them.

I hope this response is helpful.

Yours sincerely,

Christina Davey  
Team Leader – Minerals and Waste