

Application to modify condition 1 of 12/00488/HAZ to vary the consented quantity of Naphtha to zero tonnes

KEY INFORMATION

Ward Maryfield

Address

Nynas UK
East Camperdown Street

Applicant

Nynas UK
East Camperdown Street

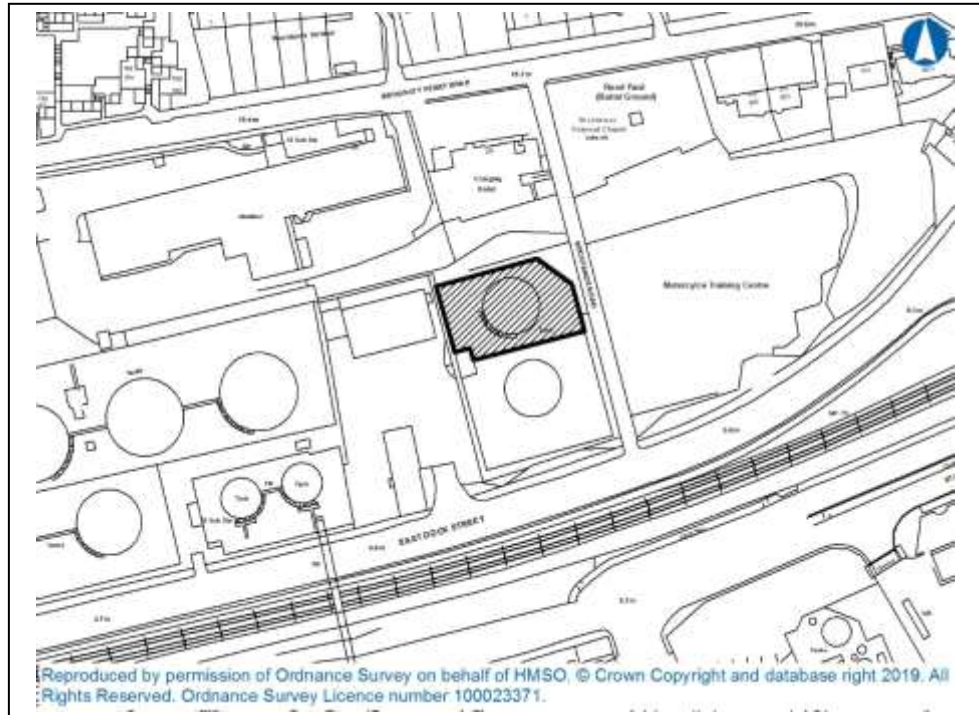
Agent

None

Registered 22 April 2019

Report by Head of Planning & Economic Development

Contact: Claire Myles



SUMMARY OF REPORT

- Nynas UK seeks consent to modify condition 1 of Hazardous Substances Consent 12/00488/HAZ in order to vary the consented storage quantity of Naphtha to zero tonnes.
- SEPA has no objection to the proposal and the Health and Safety Executive (HSE) has advised that there are no significant reasons, on safety grounds, for refusing Hazardous Substances Consent.
- In accordance with Dundee City Council's scheme of delegation, all applications for Hazardous Substances Consent are to be determined by the Planning Committee.
- The application has been assessed in accordance with the Planning (Hazardous Substances) (Scotland) Act 1997. There are no significant reasons to refuse Hazardous Substances Consent.
- More details can be found at:
<http://idoxwam.dundee.gov.uk/idoxpa-web/simpleSearchResults.do?action=firstPage>

RECOMMENDATION

There are no significant reasons to refuse the application to modify condition 1 of Hazardous Substances Consent 12/00488/HAZ. The application for Hazardous Substances Consent is therefore recommended for APPROVAL.

1 DESCRIPTION OF PROPOSAL

- 1.1 The application seeks to modify condition 1 of Hazardous Substances Consent 12/00488/HAZ to vary the consented quantity of Naphtha to zero tonnes.
- 1.2 Condition 1 of 12/00488/HAZ states that 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 the plan which formed part of this application.
- 1.3 In respect of Hazardous Substances Consent 12/00488/HAZ, Nynas UK identified a number of substances to be stored on site including Naphtha; Kerosene; Diesel; Gas Oil; Crude Oil and Fuel Oil.
- 1.4 Nynas UK confirmed that the only bulk material stored in tanks on site which is flammable is Naphtha which was stored in Tank 59 at a capacity of 2650 tonnes.
- 1.5 As part of this consent process for 19/00231/HAZ, Nynas UK has advised that refining operations at Nynas Dundee ceased permanently in January 2014 therefore Naphtha is no longer produced or stored on site. The infrastructure to produce and store naphtha (Tank 59) was demolished in 2015.
- 1.6 On this basis the application seeks to vary the consented quantity of Naphtha to zero tonnes.

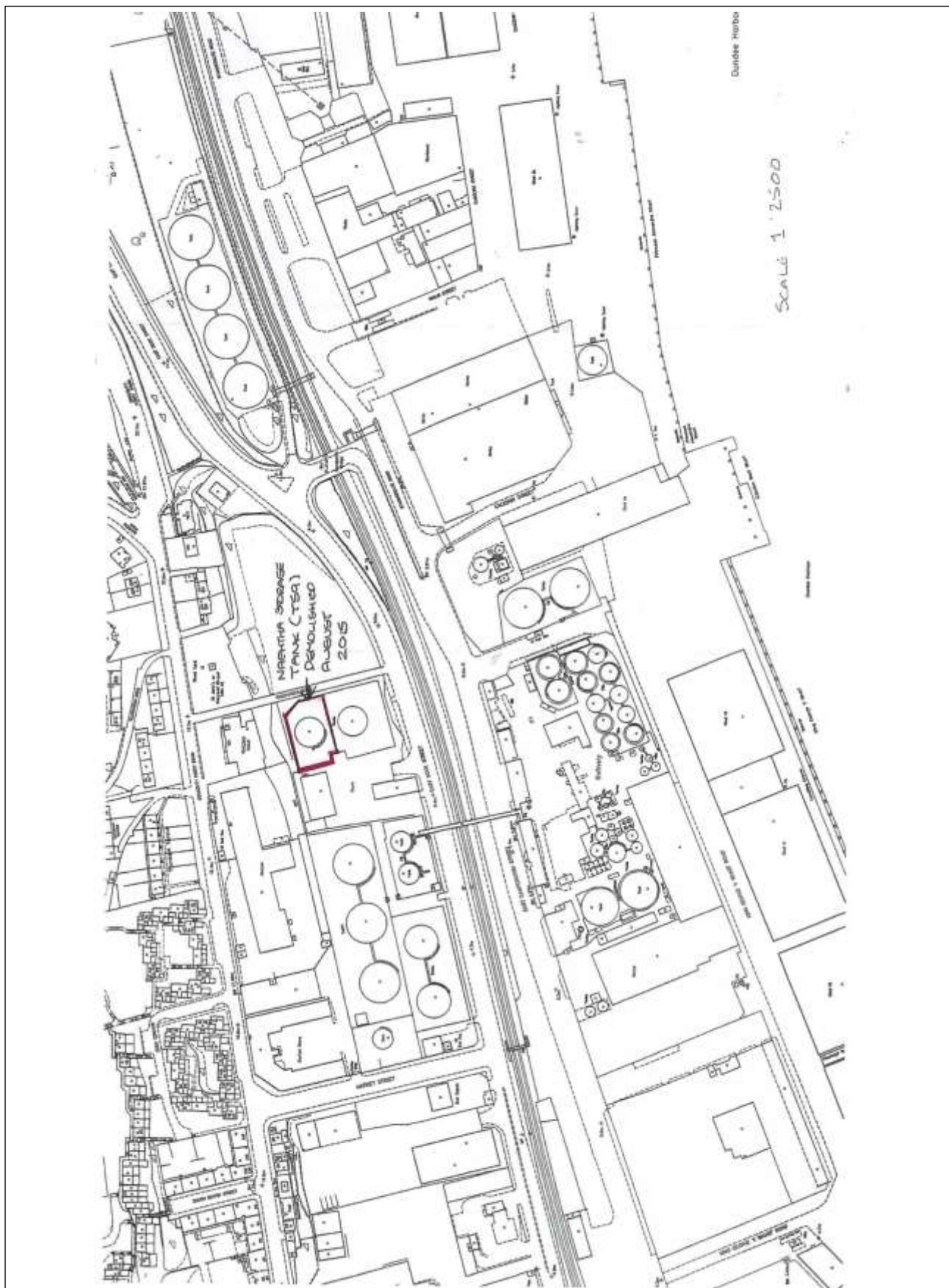


Figure 1 – Site Plan

2 SITE DESCRIPTION

- 2.1 The application site is located within the Nynas Refinery on East Camperdown Street, situated on land between Broughty Ferry Road to the north; East Dock Street to the south; Roodyards Road to the east and Market Street to the west.
- 2.2 The immediate area is surrounded by industrial and commercial uses.
- 2.3 There are residential properties on the north side of Broughty Ferry Road to the north of the application site and on the south side of Broughty Ferry Road to the east of the site.



Figure 2 – Photo of Site

3 POLICY BACKGROUND

- 3.1 The following plans and policies are considered to be of direct relevance:

TAYPlan 2016-2036

The application raises no issues of relevance.

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 3: Principal Economic Development Areas

SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTES AND CIRCULARS

In considering this application reference has been made to the provisions of the Hazardous Substances (Scotland) Act 1997, the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015, the Control of Major Accident Hazards Regulations 2015. Circular 3/2015: Planning Controls for Hazardous Substances also provides guidance for dealing with applications for Hazardous Substances Consent.

- 3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

- 4.1 Hazardous Substances Consent application 03/00411/HAZ for the storage & treatment of various mineral oils at Dundee refinery was approved subject to conditions on 30 August 2004.
- 4.2 Hazardous Substances Consent application 12/00488/HAZ for the storage and treatment of various mineral oils was approved subject to conditions on 17 December 2012.

5 PUBLIC PARTICIPATION

- 5.1 The Council has followed the statutory neighbour notification procedures contained in Regulation 9 of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015. The application has also been advertised in accordance with Regulation 10.
- 5.2 As a result of these publicity procedures no representations or objections were received.

6 CONSULTATIONS

- 6.1 **The Health and Safety Executive (HSE)** – advise that there are no significant reasons, on safety grounds, to refuse Hazardous Substances Consent. A revised consultation area has been determined as a result of this. HSE also state in their consultation response that, following Government advice that particulars in the application form do not automatically become conditions of consent, it would be beneficial to include the following condition on any consent granted:

‘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 the plan which formed part of the application.’

- 6.2 **The Scottish Environment Protection Agency (SEPA)** – has no objection to the application.
- 6.3 **Police Scotland** - has no issues with the application.
- 6.4 **Scottish Natural Heritage** - has no comments to make on the application.
- 6.5 **Emergency Planning** – has no objection to the application.

7 DETERMINING ISSUES

- 7.1 **The determining issues are prescribed in Section 7 of the Planning (Hazardous Substances) (Scotland) Act 1997 which states that in dealing with an application for Hazardous Substances Consent the planning authority shall have regard to any material considerations, and in particular:**

A - ANY CURRENT OR CONTEMPLATED USE OF THE LAND TO WHICH THE APPLICATION RELATES

- 7.2 The application site is the existing premises used by the applicant for the storage and process of hazardous substances. The storage and processing of materials is an appropriate use of the site in this location. The application seeks to modify Condition 1 of Hazardous Substances Consent 12/00488/HAZ which states:

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 the plan which formed part of this application.

- 7.3 In respect of Condition 1, Nynas UK identified Naphtha as a substance to be stored on site in Tank 59 at a capacity of 2650 tonnes.
- 7.4 Nynas UK has advised that refining operations at Nynas Dundee ceased permanently in January 2014 therefore Naphtha is no longer produced or stored on site. The infrastructure to produce and store Naphtha (Tank 59) was demolished in 2015.
- 7.5 The application simply seeks to modify a consent granted for the storage and processing of a hazardous substance that the applicant states is no longer produced or stored on site.
- 7.6 On this basis the application seeks to vary the consented quantity of Naphtha from 2650 tonnes to zero tonnes.

B - THE WAY IN WHICH LAND IN THE VICINITY IS BEING USED OR IS LIKELY TO BE USED

- 7.7 The site is located within a designated Principal Economic Development Area, where business, industrial and storage/distribution land uses are supported. The majority of the surrounding land uses are in such uses, and Local Development Plan policies resist other uses in the area. The nature of the industrial area is not likely to significantly change.

C - TO ANY PLANNING PERMISSION OR DEVELOPMENT CONSENT THAT HAS BEEN GRANTED FOR DEVELOPMENT OF LAND IN THE VICINITY

- 7.8 There are no developments that would be adversely affected.

D - THE PROVISIONS OF THE DEVELOPMENT PLAN

- 7.9 The provisions of the Development Plan relevant to the determination of this application are specified in the Policy Background section above.

TAYPLAN 2016 – 2036

- 7.10 **The application raises no issues of relevance.**

DUNDEE LOCAL DEVELOPMENT PLAN 2019

- 7.11 **Policy 3: Principal Economic Development Areas** – safeguards land for Class 4 (Business), Class 5 (General Industry) and Class 6 (Storage and Distribution). It states that other uses will be resisted.
- 7.12 The use of land for the storage and processing of materials is consistent with Policy 3.
- 7.13 **The proposal is in accordance with Policy 3.**
- 7.14 **It is concluded that the proposal is in accordance with the Development Plan.**

E - ANY ADVICE PROVIDED BY THE HEALTH AND SAFETY REGULATOR

- 7.15 The Health and Safety Executive (HSE) was consulted and advised that there are no significant reasons, on safety grounds, for refusing Hazardous Substances Consent.
- 7.16 As a result of this advice, HSE has determined a revised consultation area made up of the set of zones shown on the map in Figure 3. This consultation area will be for relevant consultations under The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.
- 7.17 HSE also state in their consultation response that, following Government advice that particulars in the application form do not automatically become conditions of consent, it would be beneficial to include the following condition on any consent granted –
- 7.18 ‘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 the plan which formed part of the application.’
- 7.19 **The proposal satisfies the particular requirements of the material considerations specified in Section 7 of the Planning (Hazardous Substances) (Scotland) Act 1997.**
- 7.20 **There are no material considerations to support the refusal of hazardous substance consent.**



Figure 3 – Revised HSE Consultation Zones

8 CONCLUSION

- 8.1 The proposal satisfies the requirements of Section 7 of the Planning (Hazardous Substances) (Scotland) Act 1997. It is recommended that Hazardous Substances Consent be granted subject to condition.

9 RECOMMENDATION

- 9.1 It is recommended that Hazardous Substances Consent be GRANTED subject to the following conditions:

- 1 **Condition** - 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 the plan which formed part of the application. Tank 59 has been demolished and the consented quantity of Naphtha is zero tonnes.

Reason – to ensure that the Hazardous Substances are kept in accordance with the application particulars and that the Council has the opportunity to consider any changes to the current operations on the site.

- 2 **Condition** - the tanks listed in Table C submitted with application 12/00488/HAZ shall not store substances with a flash point below 55 degrees Celsius. Tank 59 has been demolished and the consented quantity of Naphtha is zero tonnes.

Reason - to ensure that the Hazardous Substances are kept in accordance with the application particulars and that the Council has the opportunity to consider any changes to the current operations on the site.

- 3 **Condition** - the tanks listed in Table C submitted with application 12/00488/HAZ shall not be operated above the flash points of the stored substances or above atmospheric pressure. Tank 59 has been demolished and the consented quantity of Naphtha is zero tonnes.

Reason - to ensure that the Hazardous Substances are kept in accordance with the application particulars and that the Council has the opportunity to consider any changes to the current operations on the site.