

Chichester District Council

Planning Committee

08 September 2021

Revocation of Hazardous Substances Consent on the Chichester Gasholder Site, Terminus Road, Chichester

1. Contacts

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2. Recommendation

- 2.1. That the Committee resolves to make a revocation order under s14(1) of the Planning (Hazardous Substances) Act 1990, i.e. revoking the Hazardous Substances Consent ref CC/02/03063/HSC for “Continuation of hazardous substance consent for the storage of high pressure natural gas.” (and all previous relevant consents) on the gasholder site, Terminus Road, Chichester; subject to its confirmation by the Secretary of State under Section 15 of the Act.

3. Background

- 3.1 The Council received a letter from Southern Gas Networks (SGN) on 11 March 2021 advising that the storage facility for natural gas at its gasholder site at Chichester has been permanently decommissioned and purged. As the storage of natural gas has ceased to be part of its operations, SGN no longer require a Hazardous Substances Consent (HSC) at this site. SGN has therefore requested that the HSC be revoked and the site removed from the Council’s register.
- 3.2 SGN has confirmed that, if the Council revokes the consent under the Planning (Hazardous Substances) Act 1990, it will make no claim for compensation under that Act. SGN also confirmed that they are not aware of any other party likely to be affected by the order in relation to the site.
- 3.2 Chichester District Council as the Hazardous Substance Authority may make an order to revoke the HSC, however in accordance with Section 15(1) the order shall not take effect unless it is confirmed by the Secretary of State. There is a requirement to notify all relevant landowning and leasehold interests in accordance with part 15(3) of the 1990 Act who “will be affected by the Order”. Any persons “affected by the Order” have at least 28 days to notify the Secretary of State that they wish to challenge the Order and be heard at a public inquiry.

4. Relevant history

02/03063/HSC - Continuation of hazardous substance consent for the storage of high pressure natural gas.

PERMIT 16.12.2002

01/02086/HSC – Reduction in size of site in relation to existing storage of high pressure natural gas – maximum of 72 tonnes
PERMIT 15.08.2001

5. Assessment

- 5.1 The main issues to be considered in respect of this request to revoke a HSC are;
- i. The legal framework for the revocation of HSC
 - ii. The financial implications
- i. Legal Framework for the Revocation of the Hazardous Substances Consent (HSC)
- 5.2 The Planning (Hazardous Substances) Act 1990 allows for a HSC to be revoked under s.14. This Authority, as Hazardous Substance Authority, can make a revocation order under s.14 (1) or (2) of the Act. The revocation will be subject to confirmation by the Secretary of State under s.15 of the Act (even if it is unopposed). S.16 (1) of the Act makes it clear that compensation, which would otherwise be payable for a revocation or modification using powers under s.14(1), is not payable for a revocation if it is made under s.14(2) of the Act.
- 5.2 Whilst the risk of compensation being sought from the Council would not apply if the consent was revoked under s.14(2), there are a number of criteria that must be satisfied, these are as follows:
- a) That there has been a material change in the use of the land to which the HSC relates; or
 - b) Planning permission has been granted and commenced for development of the site and would involve making a material change in the use of the land; or
 - c) In the case of a HSC which relates only to one substance, that the substance has not for at least five years been present on, over or under the land to which the consent relates in a quantity equal to or exceeding the controlled quantity; or
 - d) In the case of a HSC which relates to a number of substances, that none of those substances has for at least five years been so present.
- 5.3 Based on the information available the above criteria do not apply to this particular site at present. It is therefore proposed that the consent be revoked under s.14 (1) of the Act.
- ii. Financial implications
- 5.4 Section 16 of the Act includes provisions relating to compensation, Southern Gas Networks (SGN), the freehold owners of the site have confirmed in writing that they would not challenge or seek compensation if the Council proceeded with the revocation of consent order. Anyone seeking compensation will have to show they have suffered damage in consequence of the revocation order being made and SGN are not aware of any other party affected by the revocation.

- 5.4 Whilst the risk of SGN seeking compensation does not appear to be an issue, particularly given SGN's assurance on this, the matter is nevertheless brought to the Committee's attention and its authority is sought to revoke the consent and to make an Order in accordance with the procedures set out under s14(1) of The Planning (Hazardous Substances) Act 1990.

6. Conclusion

- 6.1 The site has ceased to be used for the purpose of natural gas storage, it has been permanently decommissioned and purged. There is no reason to refuse to revoke the consent and SGN have confirmed that they will not seek compensation. Therefore it is therefore recommended that it is expedient to revoke the order under Section 14(1) of the Act.