

## **Report to Environment and Licensing Committee**

**Subject:** Revocation of Hazardous Substances Consent

**Date:** 15<sup>th</sup> October 2013

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**Ref:** 92/1500

### **1. Summary**

1.1 This report is to provide information to Members regarding the automatic revocation of a Hazardous Substance Consent for the Esso site, Private Road No. 3, Colwick Industrial Estate as shown as two parcels of land outlined in red on the attached plan, under Section 17(1) of the Planning (Hazardous Substances) Act 1990 ("the Act"). For the purposes of the Act, Gedling Borough Council is the relevant Hazardous Substances Authority for this site.

1.2 The Act allows for Hazardous Substances Consent (HSC) to be automatically revoked under section 17. The grounds under which the revocation occurs are set out in Section 17(1):

(1) A hazardous substances consent is revoked if there is a change in the person in control of part of the land to which it relates, unless an application for the continuation of the consent has previously been made to the hazardous substances authority.

1.3 There must only be a change to the person in control of *part* of the land not the whole for the revocation to take effect. There is no definition in the Act of "*the person in control*"; it does not necessarily have to be the owner or occupier of the land.

1.4 The HSC on the Esso site, reference 92/1500, is for the storage of gasoline. Esso has confirmed that they no longer hold an interest in the site and they are no longer in control of the site. The freehold to the site was never held by Esso and Esso's interest in the site was surrendered back to the landlord this being City Estates. Esso has confirmed that around June 1997 the site was closed with all substances being removed, the structures on site were demolished and the site was remediated. Esso has not made an application for the continuation of the HSC to the Hazardous Substances Authority and

Esso has confirmed that they do not wish to retain the HSC.

- 1.5 In August 2006 planning permission was granted for the erection of a driving test centre incorporating a single storey building with motorcycle manoeuvring areas and associated parking on part of the former Esso site, reference 2006/0614. This permission has been implemented. At the time of planning permission being applied for under the Town and Country Planning (Development Management Procedure) (England) Order 2010, ownership Certificate B under Article 12 was completed as part of the application and Notice was served on City Estates as the owners of the land.
- 1.6 As the driving test centre, as granted under 2006/0614, has been erected on part of the former Esso site there has been a change in the person in control of part of the former Esso site, this being the Colwick Driving Test Centre. The Hazardous Substances Authority are satisfied that Esso no longer have control of this part of the site and therefore the HSC for Esso has been automatically revoked by virtue of the fact that there has been a change in control of part of the former Esso site as set out under Section 17 (1) of the Act.
- 1.7 The Health and Safety Executive (HSE) maintain records of sites with HSC and they use this information to designate consultation zones around such sites, which store hazardous substances. For the Esso site, there were Inner, Middle and Outer Consultation Zones around the compound, for which consultation with the HSE was required for planning applications for certain types of developments. Where development proposals were within these zones, the HSE considered the potential for major accidents to occur at an installation containing hazardous substances, which could have risks to people using development in the vicinity of the potentially hazardous site. Whilst the HSC was in place, the HSE maintained the consultation zones and were consulted on planning applications.
- 1.8 The HSC was inhibiting the development of land in the surrounding area, which was affected by the designated consultation zones.
- 1.9 The revocation of the consent, under the provisions of the Act, means that the consultation zones affecting development proposals in the vicinity of the Esso site are removed. As a result there is no longer a requirement to consult with the HSE on developments, effectively lifting a constraint on developing land around the former hazardous site. Whilst the HSC is revoked, should a planning application be submitted for the development of any part of the former Esso site, a contaminated land survey would be required to be submitted as part of an application. This would highlight any contamination of the site and remediation measures required.

## **2. Recommendation**

The Members note the contents of this report.

## **3. Appendices**

Appendix 1- Plan – the red line shows the extent of the HSC site.