



Department for
Communities and
Local Government

Hazardous substances: draft planning
practice guidance

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Introduction

Planning practice guidance on hazardous substances is being updated to reflect changes which new regulations will introduce on 1 June 2015. This draft guidance is provided to help you understand and prepare for these changes.

Current guidance on hazardous substances is available on the [planning practice guidance portal](#); this will be archived and replaced with a final fully web-enabled version of the draft guidance when new [Planning \(Hazardous Substances\) Regulations 2015](#) come into force on 1 June.

This guidance applies to England only.

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Background

New planning regulations on hazardous substances are being introduced in June 2015 to streamline the current system and bring regulations in line with international standards.

Between 20 October and 1 December 2014, the Department for Communities and Local Government ran a consultation on the role of land-use planning in preventing major-accident hazards involving hazardous substances. The technical consultation invited comments on draft regulations and the measures proposed to streamline the hazardous substances consent regime and meet the requirements of the new European [Seveso III directive](#) on the control of major-accident hazards involving dangerous substances.

The consultation document and Government response to the consultation are available at: <https://www.gov.uk/government/consultations/the-role-of-planning-in-preventing-major-accident-hazards-involving-hazardous-substances>

The [Planning \(Hazardous Substances\) Regulations 2015](#) will come into effect on 1 June 2015. This draft updated guidance reflects the changes which these regulations will introduce.

The draft guidance follows the same format currently used on the planning portal, with information organised under the same nine sections. Substantial amendments have been

made to each of these sections, particularly those sub-sections relating to deciding when hazardous substances consent is needed, and applying for a hazardous substances consent.

Cancellation of existing guidance

A final version of this draft updated guidance will replace current planning practice guidance on hazardous substances on 1 June 2015.

Guidance to be cancelled (on 1 June 2015)

<http://planningguidance.planningportal.gov.uk/blog/guidance/hazardous-substances/>

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Hazardous substances: draft planning practice guidance

This guidance explains planning controls for storage of hazardous substances in England stemming principally from the [Planning \(Hazardous Substances\) Regulations 2015](#), European legislation [the Seveso III directive](#), and the wider planning system.

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1. Planning for Hazardous Substances from 1 June 2015

1.1 Why does land use planning need to consider hazardous substances?

The lessons from explosions such as at the Flixborough chemical works in Humberside in 1974, Seveso in Italy in 1976 and Buncefield in 2005 underline the importance of controlling sites where hazardous substances could be present and where development is proposed near them. Such accidents have prompted European legislation ([the Seveso III directive](#)) which sets land-use planning expectations intended to prevent major accidents involving hazardous substances and limit the consequences to people and the environment.

1.2 How does the planning system deal with hazardous substances?

There are three elements to how the planning system deals with preventing and limiting the consequences of major accidents:

1. Controlling where and how hazardous substances are present

Hazardous substances consent is required for the presence of certain quantities of hazardous substances. This is a key part of the controls for storage and use of hazardous substances which could, in quantities at or above specified limits, present a major off-site risk.

- [\[link to: The purpose of hazardous substances consent \]](#)
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- [\[link to: Breaches of hazardous substances control \]](#)

2. Dealing with hazardous substances in plan-making

When preparing [Local Plans](#) [[link to Guidance Document 12 \(Local Plans\)](#)], local planning authorities are required to have regard to the prevention of major accidents and limiting their consequences. They must also consider the long-term need for appropriate distances between hazardous establishments and population, and to protect environmentally sensitive areas. They must also consider whether additional measures for existing establishments are required so that risks to people in the area are not increased. Detailed requirements are set out in the [Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#).

Further guidance can be found under [[link to: dealing with hazardous substances in plan-making.](#)]

3. Handling development proposals around hazardous installations

When considering development proposals around hazardous installations the local planning authority is expected to seek technical advice on the risks presented by major accident hazards affecting people in the surrounding area and the environment. This

advice is sought from the Control of Major Accident Hazards competent authority. [link to Who is the Control of Major Accident Hazards competent authority?] This allows those making planning decisions to give due weight to those risks, when balanced against other relevant planning considerations. The competent authority also provides advice on developments around pipelines, licensed explosives sites, licensed ports, developments around nuclear installations and other relevant sites. There are also additional expectations on how local authorities notify people about applications in the vicinity of a hazardous establishment.

Further guidance on development can be found under [link to: [handling development proposals around hazardous installations.](#)]

1.3 What is the policy and legislation governing planning and hazardous substances?

The following paragraphs of the [National Planning Policy Framework](#) are particularly relevant to planning for hazardous substances:

- [Paragraph 2](#) on EU obligations and statutory requirements;
- [Paragraph 110](#) on preventing unacceptable risk to development;
- [Paragraph 172](#) on planning policies taking account of the major hazards and mitigating the consequences of major accidents;
- [Paragraph 194](#) on consulting appropriate bodies when planning, or determining applications, for development around major hazards;
- The [glossary to the Framework](#) defines what is meant by 'major hazards', including nuclear installations.

The Seveso III directive sets expectations on land-use planning. In particular, Article 133 requires planning controls to apply to all establishments within the scope of the directive and developments in the vicinity of these establishments. Article 15 sets expectations on public participation in decision making. In England these requirements are implemented through a system of consents for hazardous substances under the [Planning \(Hazardous Substances\) Act 1990](#) and through arrangements for dealing with planning applications and plan-making.

The main regulations are:

- the [Planning \(Hazardous Substances\) Regulations 2015](#);
- [the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) (see regulation 18 and Schedule 4);
- [the Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#) (see regulation 10(1) (a) and (b)).

The Control of Major Accident Hazards competent authority have responsibility for implementing other aspects of the Seveso III directive and deliver this principally through the Control of Major Accident Hazards Regulations 2015. This guidance only deals with the land use planning aspects of Seveso III under planning legislation.

2. The purpose of hazardous substances consent

2.1 What is the purpose of hazardous substances consent?

The hazardous substances consent process ensures that appropriate measures necessary are taken to prevent major accidents and limit their consequences to people and the environment. This is a key part of the controls for storage and use of hazardous substances which could, in quantities at or above specified limits, present a major off-site risk. The system of hazardous substances consent does not replace requirements under health and safety legislation.

Hazardous substances consent provides control over the presence of hazardous substances whether or not an associated planning permission is required. Where the presence of a hazardous substance is directly associated with a proposed development, local planning authorities can exercise some control through the decisions on applications for planning permission.

The consent process regulates the storage and use of hazardous substances and enables breaches of control, which may present serious risks, to be dealt with quickly and effectively.

Separate health and safety laws [link to question 2.1] ensures measures are in place for the safe use of hazardous substances. However, even after measures have been taken to prevent major accidents, there will remain the residual risk of an accident which cannot entirely be eliminated. Hazardous substances consent ensures that this residual risk to people in the vicinity or to the environment is taken into account before a hazardous substance is allowed to be present in a controlled quantity. The extent of this risk will depend upon where and how a hazardous substance is present; and the nature of existing and prospective uses of the application site and its surroundings.

2.2 Who decides if the risk of storing hazardous substances is tolerable?

The hazardous substances authority has responsibility for deciding whether the risk of storing hazardous substances is tolerable for the community. Therefore the decision on whether a particular proposal to store or use a hazardous substance should be allowed is one for the hazardous substances authority. Where the hazardous substances authority is itself applying for hazardous substances consent it must apply to the Secretary of State.

2.3 Who is the hazardous substances authority and what is its role?

The hazardous substances authority will usually be the local planning authority. The local council should therefore be the first point of contact to check who the local hazardous substances authority is. The hazardous substances authority for an area determines hazardous substances consent applications and enforces the controls.

2.4 Who advises the hazardous substances authority on the level of risk?

The Control of Major Accident Hazards competent authority [link to next question] 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.

2.5 Who is the Control of Major Accident Hazards competent authority?

The Control of Major Accidents Hazards competent authority for most cases is the Health and Safety Executive and Environment Agency, acting jointly and for nuclear sites the Office of Nuclear Regulation and the Environment Agency, acting jointly.

2.6 Does hazardous substances consent override planning permission requirements?

Where there is development associated with the storage or use of hazardous substances, a separate planning permission may also be necessary. Dealing with related applications for hazardous substances consent and for planning permission together should speed up decision making and avoid unnecessary duplication in providing information.

There may be different considerations, and decisions, for related applications. It is important that related decisions are not inconsistent (e.g. conditions containing conflicting requirements). To avoid confusion, detailed control over the manner in which a hazardous substance is to be kept or used is best addressed by hazardous substances consent conditions.

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3. Deciding whether a hazardous substances consent is needed

3.1 When is consent needed for the storage or use of hazardous substances?

Consent is needed if specified hazardous substances are stored or used at or above specified controlled quantities. Where more than one substance is present there are procedures for working out whether consent is required. In certain circumstances there are exemptions to these controls.

3.2 What hazardous substances are subject to the controls? 39/011/20140120

The list of substances and controlled quantities set out in Schedule 1 to the Planning (Hazardous Substances) Regulations 2015 [add link] is in three parts:

- Part 1: categories of hazardous substances and controlled quantities.
- Part 2: named substances and controlled quantities.
- Part 3: substances used in processes that it is reasonable to foresee may generate a controlled amount of hazardous substance.

Hazardous substances consent is required for hazardous substances present at any establishment that falls within the scope of the [Seveso III directive](#). The concept of 'establishment' is important. It is defined in Article 3 of the directive and means any installation or collection of installations which are within an area of land under the control of the same person or body. In distinguishing one establishment from another it is essential to establish who exactly has control.

3.3 When is a hazardous substances consent needed?

Generally, consent is required for the presence of hazardous substances on, over or under land unless below the thresholds listed in Schedule 1 to the Planning (Hazardous Substances) Regulations 2015 [add link]:

If any of the categories of hazardous substances at Part 1 of Schedule 1 of the Regulations are present at a site at or above the specified threshold then a hazardous substances consent is needed. If any of the named substances at Part 2 are present at a site at or above the specified threshold then a hazardous substances consent is needed. A consent may also be required:

- For the presence of hazardous substances even though the amount of the substance present is below the threshold specified for that substance. This may happen because substances within the same generic category, or that have similar hazard characteristics, are added together to determine whether consent is required for some or all of them. This is calculated using an addition rule [link to What is the rule governing the addition of hazardous substances rule?].
- For substances that appear as a result of a loss of control of an industrial chemical process. In this case if a substance in either Part 1 or 2 of the regulations may be present in an amount at or above its controlled quantity (even though the substance would not normally be present) consent is required. The consent would not be for the dangerous substance(s) that would be produced during any loss of control of the

chemical process. The consent would be required for the substances present at the site that in the event of a loss of control would lead to the production of the released dangerous substance(s), as specified in Part 3. Advice on this matter is available as part of the pre-application advice provided by the Health and Safety Executive.

3.4 What are the categories of substances in the list?

The 'categories of substances' that require hazardous substances consent are listed in Schedule 1, Part 1 of the regulations. These substances are those set out in the [Classification, Labelling and Packaging Regulations 2008](#) [insert new hyperlink]. Further information is available from the Health and Safety Executive. [add link]

3.5 What is the rule governing the addition of hazardous substances?

The list of hazardous substances subject to controls is split into [Part 1](#) [link to regulations] and [Part 2](#) [link to regulations]. The rule governing the addition of hazardous substances, known as the addition rule applies when substances in Part 2 are present below their individual controlled quantity, together with substances from the same classification in Part 1.

For the addition rule the following calculation is used:

$q_1/QL_1 + q_2/QL_2 + q_3/QL_3 + q_4/QL_4 + q_5/QL_5 + \dots$ is greater than or equal to 1. The quantities present for each substance (q_x) are expressed as fractions of the controlled quantity for that substance (Q). These are then added together. If the sum equals or exceeds 1, then a consent is required for each of the substances included in the addition.

For some substances in Part 2 of the list, the controlled quantity (Q) used for the purpose of the addition is different from that used in considering the controlled substance itself. The controlled quantities for the purpose of the addition rule are set out in note 5 of the table in Schedule 1 of the Regulations.

For illustrations of how the addition rule works see [examples of the addition rule](#).

3.6 Are there any exemptions to the normal hazardous substances consent requirements?

Exemptions to the normal hazardous substances consent requirements are set out in [Schedule 2 of the Planning \(Hazardous Substances\) Regulations 2015](#). For more details on the exemptions see [exemptions from hazardous substances consent](#).

3.7 Do I need a consent for minor changes to the types and quantities of substances stored?

In some circumstances, where an existing consent is already held, hazardous substances consent is not required for a minor change to the type and quantity of substances stored. Consent is not required where:

- the hazardous substances authority receives written notice from the Control of Major Accident Hazards competent authority (copied to the person in control of the relevant land) confirming—
 - details of the minor change, including details about how substances are to be kept and used;
 - that the minor change will not result in a change to consultation zones ; and
 - that the minor change will not result in a change to the status of the establishment under the Seveso III directive ; and
- that any hazardous substances that are held without hazardous substances consent in reliance on this exemption are kept and used in accordance with the details set out in the notice from the Control of Major Accident Hazards competent authority.

3.8 Do I need consent for substances stored in small amounts which do not pose a risk?

In some circumstances, small amounts of most substances can be disregarded when assessing whether hazardous substances consent is required. This is because of an exemption known as the 2% rule.

Regulations [\[update link\]](#) stipulate that the exemption can apply up to 2% of the controlled quantity of most substances where its presence cannot initiate a major accident elsewhere on the site. This may be, for example, because it is stored separately or because of the physical properties of the substance as stored on site. The responsibility for determining whether small quantities of hazardous substances maybe disregarded under this exemption is, initially, for the site operator.

For illustrations of how the 2% rule might apply see the [examples of the 2% rule \[link to 2% rule examples\]](#).

3.9 Is hazardous substances consent needed for nuclear sites?

The hazardous substances consent procedure does not apply to substances that create a hazard from ionising radiation at licensed nuclear sites. However, other hazardous substances present at certain nuclear sites (those which do not create hazards through ionising radiation) are subject to hazardous substance consent controls. Separate arrangements apply to controlling development around nuclear sites [\[link to: Handling development proposals around hazardous installations\]](#).

3.10 Do explosives require hazardous substances consent?

Certain explosives controlled by licences issued by the Health and Safety Executive are not exempted.

The quantity of explosives licensed by county councils is less than the quantity subject to hazardous substances consent. There should therefore be no need for consent for the presence of these explosives alone. However, consent may be required if present in combination with other hazardous substances [\[link to explosives legislation/guidance on HSE website\]](#).

3.11 Do I need hazardous substances consent for storing flammable aerosols?

In some circumstances consent from the hazardous substances authority is required for flammable aerosols. The controls apply to the amounts stored at or above the amounts set out in Schedule 1, Part 1 P3a and P3b of the list of controlled hazardous substances and quantities [link to regulations].

Aerosols containing liquefied petroleum gas (LPG) are not classified under the named substance entry of LPG (in Part 2 of the Schedule) – these would instead be classified as P3a Flammable aerosols. The Health and Safety Executive's guidance provides more information on dangerous substances in aerosols and category of flammable aerosol [add links].

3.12 List of hazardous substances and controlled quantities

The list of hazardous substances and controlled quantities for England is available at Schedule 1 of the Planning (Hazardous Substances) Regulations 2015 [add link to regulations]. There are three parts to the list:

Part 1: Categories of substances

Part 2: Named hazardous substances

Part 3: Substances used in processes
Notes to Parts 1 to 3

3.13 Examples of the addition rule

Example 1

Assume that the following substances are present together at an establishment:

Substance/Category	Amount present	Controlled quantity	Fraction
Bromine	21.00 tonnes	20.00 tonnes	21/20
Chlorine	3.00 tonnes	10.00 tonnes	3/10
H1 acute toxic	1.00 tonne	5.00 tonnes	1/5
H2 acute toxic	5.00 tonnes	50.00 tonnes	5/50

The amount of bromine is greater than its controlled quantity. It therefore requires a hazardous substances consent.

None of the other substances or categories of substance exceeds its controlled quantity. But they all have health hazards. Further information on classifications is available from the Health and Safety Executive. They must therefore be added together. Expressed as fractions of their controlled quantities the sum is:

$$1/5 + 5/50 + 3/10 = 0.20 + 0.10 + 0.30 = 0.60.$$

The sum of the addition is less than 1, so there is no need for a consent for any of these substances, other than bromine. The addition rule applies for named hazardous substances (Part 2) which are present below the controlled quantities with substances with similar hazard classification according to Part 1. As the amount of bromine is greater than its controlled quantity, it is not included in the aggregation calculation.

Example 2

Substance/Category	Amount present	Controlled quantity	Fraction
Bromine	15.00 tonnes	20.00 tonnes	15/20
Chlorine	3.00 tonnes	10.00 tonnes	3/10
Ethylene oxide	2.00 tonnes	5.00 tonnes	2/5
Propylene oxide	1.00 tonnes	5.00 tonnes	1/5
H1 acute toxic	1.00 tonne	5.00 tonnes	1/5
H2 acute toxic	5.00 tonnes	50.00 tonnes	5/50
P8 oxidising liquids and solids	3.00 tonnes	50.00 tonnes	3/50

None of these substances is present at amounts greater than its individual controlled quantity. But substances that have similar hazard characteristics have to be considered under the addition rule.

Bromine, chlorine and the acute toxic substances (H1 and H2) have similar characteristics. They have to be added together. Expressed as fractions of their controlled quantities the sum is:

$$15/20 + 3/10 + 1/5 + 5/50 = 0.75 + 0.30 + 0.20 + 0.10 = 1.35.$$

The sum of these fractions is greater than 1, so for each of these four substances a hazardous substances consent would be required. Any consent granted by the hazardous substances authority will be in respect of the amount of the hazardous substance present.

Ethylene oxide, propylene oxide and the oxidising substance also have common characteristics. They all have physical hazards. Expressed as fractions the addition is:

$$3/50 + 2/5 + 1/5 = 0.06 + 0.4 + 0.20 = 0.66.$$

Since the sum is less than 1, there is no need for a consent for any of these three substances.

Example 3

A number of dangerous substances are present at an establishment. None of them are substances named specifically in Part 2 of the list but they are all within the categories in Part 1. The site operator does not wish to name the individual substances, preferring to apply for consent under their generic headings. The substances shown on the consent application form are as follows:

Substance/Category	Amount present	Controlled quantity	Fraction
<i>Acute toxic (H1)</i>	7.00 tonnes	5.00 tonnes	7/5
<i>Acute Toxic (H2)</i>	35.00 tonnes	50.00 tonnes	35/50
<i>STOT specific target organ toxicity – Single exposure STOT SE (H3)</i>	10.00 tonnes	50.00 tonnes	10/50

These substances have similar hazard characteristics (health hazards – Part 1, Section H) and they therefore have to be added together for the purpose of determining whether a consent is needed. Expressed as fractions of their controlled quantities the addition is:

$$7/5 + 35/50 + 10/50 = 1.40 + 0.70 + 0.2 = 2.3.$$

The sum of the addition exceeds 1, so for each of the substances a hazardous substances consent is required.

When the aggregation rule is applied only to substances that fall within Part 1 of the list, all of the substances have to be taken into account, even if an individual substance appears in excess of its controlled quantity. In the above example it would not be permissible to disaggregate the acute toxic (H1) substances from the calculation.

Example 4

Substances A, B and C are present at a site and are used in a chemical process to produce substance Z. None of the substances A, B, C or Z used or produced in the chemical process requires a hazardous substances consent. However, in the event of a loss of control of the chemical process, it is known that in some circumstances A, B and C will react to produce a different substance, ZX. ZX is included in the list of hazardous substances, at an amount that exceeds its controlled quantity. A consent would therefore be required for substances A and B and C.

3.14 Exemptions from hazardous substances consent

Temporary presence of hazardous substances for a short time while in transit (loading, unloading and intermediate storage)

The temporary presence [to update link] of a hazardous substance does not need to be taken into account if it is being transported from one place to another, unless it is unloaded or present on land which already has consent or requires consent for other hazardous substances. It is up to the hazardous substances authority to take a view on whether the presence of a hazardous substance is temporary.

Substances in transit, unloaded to transfer to another means of transport, are likely to be exempt if there was clear intention to transfer to another means of transport as opposed to going into storage. It is for the hazardous substances authority to determine whether a consent would be required based on the requirements of legislation.

Hazardous substances in pipelines

Consent is not generally required for hazardous substances in pipelines unless those pipelines are on land which already has consent or requires consent for hazardous substances. Consent is also required for pipelines carrying substances from one part of the establishment to another.

Emergency unloading from ships

Where ships or other sea vessels containing hazardous substances are allowed to enter a harbour in a dangerous condition there is an exemption from needing consent. The harbourmaster may waive normal requirements for advance notice in the interests of health and safety.

In such cases substances may need to be removed and stored as a matter of urgency. There is an exemption for 14 days from unloading to give time for suitable alternative storage arrangements to be made.

Waste landfill sites

Hazardous substances at waste landfill sites are usually exempt from the consent procedures. There may be controls on substances in the waste management licence issued by the Environment Agency. In certain cases, for example, in relation to some sites used for the storage of metallic mercury, consent will be required.

Nuclear sites

Hazardous substances at nuclear sites that create a hazard from ionising radiation are exempt from the consent procedures if they hold a nuclear site licence or will be applying for one.

Minerals

There is an exemption for mines and quarries, but this exemption does not apply in some circumstances, for example in relation to chemical and thermal processing operations and related storage.

Explosives

In certain circumstances where the holding of explosives has been authorised under the special legislation applying to explosives, hazardous substances consent is not required.

Presence of substances on sites before 1 June 2015

Hazardous substances consent is generally not required for quantities of substances that were present at a site before the Planning (Hazardous Substances) Regulations 2015 came into force and which did not require consent at the time.

3.15 Examples of the 2% rule

Example 1

A site has a number of locations where small quantities of oxygen are stored, each less than 4 tonnes in size. The total quantity stored is greater than the controlled quantity for oxygen, which is 200 tonnes. However, all of the storage containers have suitable separation such that they are not capable of causing fire escalation which could become the initiator of a major accident elsewhere on the site. Under such circumstances the site does not require hazardous substances consent.

Example 2

A site has a small number of large bulk oxygen vessels which in aggregate can store a total of 196 tonnes. In addition there are a number of locations where small quantities of oxygen are stored, each less than 4 tonnes in size. The total quantity stored is greater than the controlled quantity for oxygen, which is 200 tonnes. However, all of the small storage containers of less than 4 tonnes have suitable separation such that they are not capable of causing fire escalation which could become the initiator of a major accident elsewhere on the site. Under such circumstances, the small containers do not need to be included in the total quantity and consequently the site does not require hazardous substances consent.

Example 3

The following substances are present at a site, each stored in a single separate container:

Substance/Category	Amount present	Controlled quantity
Bromine	8.00 tonnes	20.00 tonnes
Ethyleneimine	3.00 tonnes	10.00 tonnes
H1 acute toxic	1.00 tonne	5.00 tonnes
H2 acute toxic	5.00 tonnes	50.00 tonnes

None of the substances present are at amounts greater than their individual controlled quantities, but they all have similar characteristics and have to be added together. Expressed as fractions of their controlled quantities the sum is:

$$8/20 + 3/10 + 1/5 + 5/50 = 0.40 + 0.30 + 0.20 + 0.10 = 1$$

The sum of these fractions adds up to 1, so for each of the substances the controlled quantity is considered to be present and a hazardous substances consent would be required for each of them.

If the H1 acute toxic substance was stored in two separate containers one of which contained 0.9 tonne and the other 0.1 tonne: then the calculation and outcome could be different. The hazardous substance in the smaller container represents 2% of the controlled quantity for that substance. If the 0.1 tonnes of H1 acute toxic material could not initiate a major accident elsewhere on the site (for example because it is stored separately or because of the physical properties of the very toxic substance as stored on site) it may be disregarded when calculating the aggregate quantity. So the calculation would then be:

$$8/20 + 3/10 + 0.9/5 + 5/50 = 0.40 + 0.30 + 0.18 + 0.10 = 0.98.$$

The sum of these fractions is less than 1, so there is no need for a consent for any of the substances.

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4. Applying for hazardous substances consent

4.1 How are applications for consent made?

If consent is required, applicants will need to apply for consent to the hazardous substances authority. It is important that applications provide all the relevant information as decisions on incomplete applications can be delayed.

An application for consent must include the information set out in Regulation 5 of the Planning (Hazardous Substances) Regulations 2015 [insert link when available].

Information prepared in connection with applications under other legislation (for example, environmental statements) may be useful for the purpose of an application for hazardous substances consent and can be submitted to the hazardous substances authority where relevant.

For more information on what needs to be provided in an application, see [information needed in an application \[link to section\]](#).

4.2 How can applicants help make sure decisions are not delayed?

Incomplete applications can delay decisions. Early discussions with the hazardous substances authority and the Control of Major Accident Hazards competent authority can help to ensure the quality of applications and prevent delays. The Health and Safety Executive will give pre-application advice to new operators of hazardous installations and to nationally significant infrastructure project applicants. If applications are incomplete, or information required by the Control of Major Accident Hazards competent authority is not provided, this can cause delays for applicants. See [information needed in an application \[link to section\]](#).

4.3 Who can see the information provided in an application?

The application will be used to make the decision on consent by the hazardous substances authority and for consultation. Applicants who are in doubt as to what could be disclosed may want to have a prior informal discussion with the hazardous substances authority.

4.4 Do applicants need to tell people around the site that they are making an application?

Applicants need to tell others around the site that they intend to make an application. This allows people living and working in the area to make their views known to the hazardous substances authority.

4.5 How do applicants tell local people about their application?

Before submitting the application for consent to the hazardous substances authority, the applicant must inform the public about the application through public notice (the application itself is not published). The information that must be made available is set out at Regulation 6. Hazardous substances authorities should not consider applications for

hazardous substances consent if they are not accompanied by evidence of the public notification. For more details see [information needed in an application](#).

4.6 Do applicants need to own the site to apply for consent?

Applicants do not need to own the application site in order to make an application for consent. However, owners should be given the opportunity to comment on the application. Every application must therefore also be accompanied by a signed certificate relating to ownership. This will be one of the certificates (A-D) set out in Form 22 in Schedule 33 of the Planning (Hazardous Substances) Regulations 2015 [add link when available].

Applicants should provide a copy of:

- Certificate A if they are the freeholder of all the land and there are no leaseholders with leases of 7 or more years;
- Certificate B if not, and they know the names and addresses of the other owners; or
- Certificate C or D if they cannot ascertain all, or some, of the other owners in order to serve individual notices on them.

4.7 How much does an application cost?

For applications where no one substance exceeds twice the controlled quantity, the fee is £250. For proposals involving the presence of a substance in excess of twice the controlled quantity, the fee is £400. Where an application is for the removal of conditions attached to a grant of consent or for the continuation of a consent upon partial change in ownership of the land, the fee is £200.

4.8 How can hazardous substances authorities apply for consent themselves?

Where a hazardous substances authority in England wishes to obtain a hazardous substances consent itself, it will apply to the Secretary of State for Communities and Local Government by sending the application to the National Planning Casework Unit at the following addresses:

National Planning Casework Unit
5 St Philips Place
Colmore Row
Birmingham
B3 2PW

npcu@communities.gsi.gov.uk

4.9 Can hazardous substances consent be given under Local and Neighbourhood Development Orders?

Local and Neighbourhood Development Orders allow for development to take place without the need for an express grant of planning permission. However they cannot provide an exemption from hazardous substances consent, which would need to be obtained in the normal way. Further guidance on Local and Neighbourhood Development

Orders near hazardous installations see [‘What about Local and Neighbourhood Development Orders?’](#) [link to this question]

4.10 Do hazardous substances controls apply to Crown land?

[Section 79 of the Planning and Compulsory Purchase Act 2004](#) applies hazardous substances controls to Crown land.

4.11 Information needed in an application

Provide the information set out at Regulation 5 [add hyperlink]. This includes information about the substances for which consent is required (referring to the list of substances) and the manner in which the substances are to be kept and used. This information will be treated as official-sensitive information once received by the local authority [add link to sensitive information guidance and government classifications].

Applicants should:

- include the name and address of the applicant;
- provide relevant maps and drawings. Firstly, a site map, to a scale of at least 1:10,000, identifying the application site and showing National Grid lines and reference numbers. Secondly, a substance location plan, to a scale of at least 1:2,500, showing any area of the site where the substance is to be stored. It is helpful if topographical features of the site are indicated. Where existing and proposed works are shown on the same drawing, new works should be easily distinguishable;
- the location of the land to which the application relates;
- the person in control of the land to which the application relates;
- each hazardous substance for which consent is sought (“relevant substance”), including the maximum quantity of each relevant substance proposed to be present;
- the main activities carried out or proposed to be carried out;
- how and where each relevant substance is to be kept and used;
- where the substance is to be used in a manufacturing, treatment or other industrial process, include the location of the major items of plant involved in that process. Also other details such as maximum temperature and maximum pressure;
- how each relevant substance is proposed to be transported to and from the land to which the application relates;
- the vicinity of the land to which the application relates, where such details are relevant to the risks or consequences of a major accident; and
- the measures taken or proposed to be taken to limit the consequences of a major accident.

This information should be provided for each hazardous substance or generic category for which consent is required.

4.12 Notifying local people about an application

The requirements for notifying people about an application for hazardous substances consent are set out in the Planning (Hazardous Substances) Regulations 2015 [update

link]. This notice should use simple language and generic categories rather than named substances. Three steps are needed:

- A notice of the application should be published in a local newspaper or by electronic media where it would bring the notice to the attention to the public better than a local newspaper notice would. This must be published within the 21 days before the date on which the application is made.
- A copy of the notice should be published at the application site. This should be easily legible for people without needing to go onto the land. The notice should be displayed for at least seven days of the 21 day period.
- When the application is made, the applicant will need to certify that this publicity has happened by providing a copy of the notice (verifying that it has been published). A certificate (Form 1 in regulations) should confirm that the site notice was displayed as required. If the site notice was not displayed through no fault of the applicant, an explanation should be given.

The hazardous substances authority will ensure that a copy of the application is available for inspection at its offices during a period provided for making representations.

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5. Deciding applications for hazardous substances consent

5.1 What does the hazardous substances authority do when it receives an application?

The first thing a hazardous substances authority will do is to make sure the application is in order. This will involve ensuring it meets the requirements set out in the Planning (Hazardous Substances) Regulations 2015 [update link]. If the application is in order, the hazardous substances authority will acknowledge it and send a copy of the application to the Control of Major Accident Hazards competent authority. It will place details of the application on the register of consent applications, which is available to anyone who wants to see it. If it does not consider the application is in order it will tell the applicant why.

5.2 What expert advice should the hazardous substances authority seek?

Before deciding on a consent application, the hazardous substances authority should consult the Control of Major Accident Hazards competent authority and others as required by legislation. These include fire and civil defence authorities, other relevant planning authorities and public utilities. Natural England should also be consulted where it appears to the hazardous substances authority that an area of particular natural sensitivity or interest may be affected. The hazardous substances authority must give consultees at least 28 days to comment.

5.3 What is the role of the Control of Major Accident Hazards competent authority?

The role of the Control of Major Accident Hazards competent authority is to advise the hazardous substances authority on the risks arising from the presence of hazardous substances. Acting jointly as the Control of Major Accident Hazard competent authority, the Health and Safety Executive has the expertise to assess the risks to people, and the Environment Agency risks to the environment. However, the decision as to whether the risks from hazardous substances are tolerable in the context of existing and potential uses of neighbouring land is made by the hazardous substances authority.

5.4 What will the hazardous substances authority consider in making a decision?

Before reaching a decision, the hazardous substances authority will weigh up all the comments received, including those from the Control of Major Accident Hazards competent authority. It will take account of local needs and conditions, the local plan, and any other material considerations.

5.5 What consideration should be given to the Control of Major Accident Hazards competent authority's advice?

In view of its acknowledged expertise in assessing the off-site risks presented by the use of hazardous substances, any advice from the Control of Major Accident Hazards competent authority that hazardous substances consent should be refused should not be overridden without the most careful consideration. **Where a hazardous substances authority is minded to grant consent against Health and Safety Executive advice, it**

should notify the Health and Safety Executive and allow 21 days for the Executive to give further consideration. During that period the Health and Safety Executive will consider whether to request the Secretary of State for Communities and Local Government to call-in the application for determination.

5.6 What decision can the hazardous substances authority make on the consent?

It may grant consent, either with or without conditions, or may refuse it. If it refuses consent or grants it subject to conditions, it should provide full reasons for the decision. This will help the applicant to decide whether or not to contest the decision. The requirements for making a decision are set out in the Planning (Hazardous Substances) Act 1990 and Planning (Hazardous Substances) Regulations 2015 [add link to new regulations].

5.7 What conditions can be imposed on a consent?

The hazardous substances authority [can impose conditions](#), including how and where substances are kept and the times substances may be present, or requiring permanent removal within a certain time.

Conditions on how a substance is to be kept or used may only be imposed if the Health and Safety Executive (or in the case of nuclear sites, the Office of Nuclear Regulation) has advised that such conditions should be imposed. Where an authority is considering imposing a condition restricting where a substance may be present within a site, it should try to avoid imposing undue restrictions on the relatively small amounts of that substance being elsewhere. For example, a condition may allow a hazardous substance to be stored in a moveable container in a different area of a site from where it has previously been stored provided the quantity does not exceed 10 per cent of the controlled quantity set out above. This avoids situations where, for example, a relatively small amount of a substance in a moveable container in a different part of the site (e.g. a gas canister to service a staff kitchen), or which is covered by the '2% rule' [link to this section], would otherwise be a breach.

5.8 Who else could decide applications for consent?

The hazardous substances authority will usually decide the application. The Secretary of State also has [the power to call-in an application](#) for his own determination. This will be very much the exception, for example where an application raises issues of more than local importance. Where an application is called-in, the hazardous substances authority must inform the applicant.

Under [the nationally significant infrastructure planning regime](#) hazardous substances consent can be deemed to be granted by a Development Consent Order. The aim in doing so is to provide a 'one stop shop' for consenting for nationally significant infrastructure projects. A deemed consent can also be issued in certain other circumstances by the Government where consent is required for a development by a statutory undertaker or local authority which requires Government authorisation.

5.9 How long will it take to decide on an application for consent?

A decision should be given within eight weeks from receipt of a valid application. Alternatively, it should be given within any extended period agreed in writing between the applicant and hazardous substances authority. In order to avoid delay it is important that the application contains all of the necessary information. Early discussions between the applicant, Control of Major Accident Hazards competent authority and hazardous substances authority can help ensure this.

5.10 What can an applicant do to avoid delays in waiting for a decision on consent?

Delays in a decision on an application for hazardous substances consent are less likely when the presence of the establishment and its likely future new needs have been reflected in local plans. Good liaison with the local enterprise partnership can help identify the importance of local business to the economic health of the area. [link to - How should businesses that need hazardous substances consent and local authorities work together?]

5.11 What if an applicant is not happy with the decision or the hazardous substances authority is taking too long to reach it?

It is important to consider the reasons for any refusal or conditions. It may be possible to overcome objections by changing the proposal in some way and submitting a new application. Discussions between the hazardous substances authority and applicant can help. If a hazardous substances authority is taking longer than eight weeks to make a decision it is possible to appeal, although this may take longer than waiting for the authority to make a decision.

5.12 Can applicants appeal against the decision on an application for consent?

An appeal can be made to the Secretary of State if the hazardous substances authority:

- refuses to grant consent;
- refuses an application for a continuation of consent upon change in ownership of part of the land;
- refuses to grant any consent, agreement or approval required by a condition imposed on a consent;
- refuses an application to vary or remove conditions attached to a previous grant of consent;
- grants consent but imposes conditions which are unacceptable to the applicant; or
- fails to reach a decision within the statutory time limit of eight weeks, or any longer period agreed with the applicant.

Hazardous substances consent appeals may be made at any time within six months of the decision or, if no decision has been made, within six months from when a decision should have been given. This gives the applicant time to discuss matters with the hazardous substances authority to see if there is any possibility of finding a way of overcoming its objections bearing in mind that an appeal is intended to be a last resort.

6. After consent has been granted

6.1 Can the consent be used straight away?

The applicant can use the consent immediately unless the consent contains conditions that do not allow this. There may be other approvals required in connection with consent (e.g. planning permission if development is required).

6.2 Who can implement the consent?

Unless a condition is imposed limiting use of the consent to a specified person or company the consent will normally run with the land, rather than being personal to the applicant. This means that if the land is sold in its entirety, the new owner will be able to implement the consent. Where there is a partial change in control of land with a consent (e.g. part of the land is sold, but not all of it) that consent is revoked unless an application to continue has been made.

6.3 Can conditions be altered?

An application can be made to the hazardous substances authority to vary or revoke any conditions. In considering applications the hazardous substances authority can only consider the conditions; it cannot overturn the original decision by refusing consent outright. If the hazardous substances authority decides that the conditions should be varied or removed, it will grant a new consent. If it decides that the conditions should not be changed, the application will be refused, but the original consent will still stand. The same publicity procedures will apply as for applications for a new consent.

6.4 Will a hazardous substances consent affect decisions on future development nearby?

There are obligations requiring recognised hazardous sites to be taken into account in deciding nearby applications for planning permission for certain development and in preparing local plans.

6.5 What happens if the consent is not implemented?

If the substances with consent have not been present for five years, the hazardous substances authority may revoke the consent without needing to pay compensation. There are also other circumstances where consent can be revoked.

6.6 Can hazardous substances authorities revoke or change a consent?

The hazardous substances authority can revoke or modify a consent. This requires confirmation by the Secretary of State, and the hazardous substances authority would be liable to pay compensation. There are specific circumstances where a consent can be revoked, set out in [section 14 of the Planning \(Hazardous Substances\) Act 1990](#).

In some cases the use of the land with a consent may change. For example, there have been situations where sites with consent have since been converted into a car park. In these situations the hazardous substances authority can revoke the consent. Where a

consent has not been relied on for five years, or the use of the land has changed materially since the consent was granted, it may be revoked without compensation being payable.

If there is a change to the person in control of part of the land the consent is automatically revoked unless an application for continuation has been made. It is likely that a hazardous substances authority will need to modify information in the consent or conditions. But it should rarely be appropriate to impose more onerous conditions or revoke a consent.

Applications for revocation that are subject to confirmation by the Secretary of State should be sent to the National Planning Casework Unit at the following addresses:

National Planning Casework Unit
5 St Philips Place
Colmore Row
Birmingham
B3 2PW

npcu@communities.gsi.gov.uk

6.7 What happens if an operator gives up a consent?

If an operator wants to give up the consent or reduce the maximum quantity of hazardous substances for which it has consent it should discuss this with the hazardous substances authority. There is no procedure for giving up consent set out in legislation however alternative arrangements may be made (e.g. the hazardous substances authority may revoke the consent and make a separate agreement with the operator to waive compensation).

6.8 Who keeps a register of applications and consents?

Hazardous substances authorities keep a register containing information about applications for hazardous substances consent.

7. Breaches of hazardous substances control

7.1 Who is responsible for ensuring hazardous substances consent requirements are complied with?

Enforcement of hazardous substances controls is the responsibility of the hazardous substances authority. The authority will liaise with the Control of Major Accident Hazards competent authority where contraventions give rise to health and safety or environmental concerns. The Control of Major Accident Hazards competent authority may consider whether action is also appropriate under Control of Major Accident Hazards Regulations 2015 or other relevant health, safety or environmental legislation.

7.2 What happens if somebody operates without consent?

Contravention of hazardous substances control can be a serious and immediate risk to people in the area. There are [several options](#) for a hazardous substances authority if somebody is operating without consent, or in contravention of a condition. In deciding a course of action the hazardous substances authority will:

- take account of the nature of the unauthorised use;
- the degree of risk arising from it; and
- whether the breach is intentional.

In less serious cases the hazardous substances authority can negotiate with the operator to resolve the situation without formal action. For example, a hazardous substances authority may ask an operator to apply for consent retrospectively. Alternatively, the hazardous substances authority can serve a contravention notice, setting out what should be done to rectify the situation.

The hazardous substances authority can also ask for a court injunction to restrain a breach of control or prosecute. The fact that contravention is a criminal offence reflects the potential gravity of such a breach.

7.3 What is a contravention notice?

A contravention notice would set out the alleged contravention and the steps required to remedy that contravention. Requirements for a notice are set out in [legislation](#). It would be served on:

- the owner;
- the person in control of the land; and
- any other person with an interest in the land to which the notice relates.

The hazardous substances authority should also send a copy of the notice to the Control of Major Accident Hazards competent authority. The notice should be accompanied by information about the right to appeal, the grounds for which are set out in legislation.

The hazardous substances authority can withdraw a contravention notice at any time.

8. Dealing with hazardous substances in plan-making

8.1 What information is available to local planning authorities in making plans?

Local planning authorities should know the location of hazardous installations as they will have been informed of consultation zones by the Health and Safety Executive and consultation distances by the [Office for Nuclear Regulation](#). For licensed explosives sites the license holder will provide the local authority with a safeguarding plan for the site. Plan preparation can be informed by taking into account the likely advice on applications within these zones. This will also enable the local planning authority to have regard to the objective of preventing major accidents and limiting their consequences.

If a neighbourhood plan is being developed in an area where a consultation zone applies, local planning authorities will want to take this into account when exercising their duty to advise and assist [link to relevant section in Guidance Document (41 Neighbourhood Planning)].

It is good practice to discuss any emerging issues with the Health and Safety Executive (or [Office for Nuclear Regulation](#)) at the earliest opportunity.

8.2 How should businesses that need hazardous substances consent and local authorities work together?

It is good planning practice for local authorities and businesses that need hazardous substances consent to work together when Local Plans [link to Guidance Document 12 (Local Plans)] are being prepared. This can help to reduce the potential for conflicting land uses and promote safety of people and protection of the environment.

The National Planning Policy Framework [link to para 21] sets out that local planning authorities should support existing business sectors and, where possible, identify and plan for new or emerging sectors likely to locate in their area. This may include the chemicals industry, distributors and other businesses that require hazardous substances consent.

The chemicals industry is an important part of the UK economy. Local planning authorities can use the duty to co-operate [link to – Guidance document 09 Duty to co-operate] to work strategically with neighbouring authorities and local enterprise partnerships to understand the needs of business in their area, including the chemicals industry.

In wholly or predominantly business areas that have been designated as such for neighbourhood planning, businesses can take the lead and the local planning authority can work with business to support their ambitions, including early consideration of the need for hazardous substances consent.

8.3 What can be done to overcome conflicts between hazardous substances consents and the demand for development?

It is good practice for local planning authorities to work proactively with businesses to consider how any conflicts between businesses requiring hazardous substances consents, and the need for development, can be overcome. Reviews of consents to ensure they are

still in use could help identify where consents may be redundant or could be given up. If a hazardous substances consent is no longer used it may be appropriate for it to be revoked so as not to prevent development in the vicinity. Hazardous substances consent can be revoked in other situations, although this may result in compensation being payable.

8.4 What consultation and public participation must take place when dealing with hazardous substances in relation to plan-making?

Local authorities should be aware that there are public participation requirements for certain plans and programmes that deal with issues relating to hazardous installations. However those obligations won't apply if a public participation procedure is already carried out as part of a Strategic Environmental Assessment [link to this guidance on SEA and local plans: e.g. <http://planningguidance.planningportal.gov.uk/blog/guidance/strategic-environmental-assessment-and-sustainability-appraisal/sustainability-appraisal-requirements-for-local-plans/>]

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9. Handling development proposals at and around hazardous installations

9.1 What expert advice should be sought in relation to development proposals at and around hazardous installations?

Local planning authorities should know the location of hazardous installations as they will have been informed of consultation zones by the Health and Safety Executive and the [Office for Nuclear Regulation](#). For licensed explosives sites the license holder will provide the local authority with a safeguarding plan for the site. Local planning authorities are required to consult [link to relevant section in Guidance Document 15 (Consultation and Pre-Decision Matters)] the Health and Safety Executive and other expert bodies on certain on development proposals where the presence of those installations is relevant.

Such proposals include residential development and large retail, office or industrial developments located in consultation zones and development likely to result in an increase in the number of people working in or visiting the relevant area. Particular regard should be had to children, older people or disabled people. There may be particular issues to consider for hotels and similar developments where people may be unfamiliar with their surroundings, or which may result in a large number of people in one place. Within consultation zones certain permitted development rights may not apply [link to relevant section in Guidance Document 13 (When is permission required?)].

Consultation with these expert bodies is also required in relation to any development proposals (whether authorised by planning permission or other procedure) involving new establishments or modifications to existing establishments covered by the Seveso III Directive, and development involving transport routes, and locations of public use in the vicinity of existing establishments, where the development could be the source of or increase the risk or consequences of a major accident. Finally, where such development could affect a sensitive natural area, Natural England must be consulted.

For each type of development where the Health and Safety Executive is consulted, the Executive's advice to local planning authorities will take account of the maximum quantity of a substance permitted by a hazardous substances consent and any conditions attached to it. The Health and Safety Executive's advice will be based on the following general principles:

- The risk considered is the residual risk (that is the risk that unavoidably remains even after all legally required measures have been taken to prevent and mitigate the effects of a major accident) to people in the vicinity.
- Where it is beneficial to do so the advice takes account of risk as well as hazard that is the likelihood of an accident as well as its consequences.
- The advice takes account of the size and nature of the proposed development and the inherent vulnerability of the population at risk.
- The advice takes account of the risk of serious injury, including that of fatality, attaching particular weight to the risk where a proposed development might result in a large number of casualties in the event of a major accident.

9.2 What pre-application advice is available?

The Health and Safety Executive provides a pre-application advice service for developers, through its agency, the Health and Safety Laboratory, and charges for some elements of the advice that is provided. Further information about Health and Safety Executive's land-use planning pre-application advice, the different options and associated pricing structure, and how to access this service, can be found at <http://www.hsl.gov.uk/products/lupa>.

9.3 How should applications for planning permission which are below thresholds for consultation be dealt with?

Local planning authorities should be alert to encroachment of development in consultation zones, including where larger developments are divided between smaller applications to fall below consultation thresholds. Unplanned and encroaching development can add costs for businesses to provide additional safety measures, and risk increased consequences should a major accident occur. Local planning authorities can consult the Health and Safety Executive on other applications [link to relevant section in Guidance Document 15 (Consultation and Pre-Decision Matters)], for example where several planning applications fall below the thresholds in the regulations but would require consultation if they had been submitted as one larger application. In line with the National Planning Policy Framework, new development should not be put at unacceptable risk from pollution [link to para 109].

9.4 How will the Health and Safety Executive be consulted?

PADHI (Planning Advice for Developments near Hazardous Installations) is the name of the methodology used by Health and Safety Executive to give land use planning advice. The Health and Safety Executive has developed a software version of this methodology, known as [PADHI+](#), which is available on-line to planning authorities, to enable them to consult the Health and Safety Executive directly for advice on developments around major hazard sites and pipelines. As a statutory consultee, [link to relevant section in Guidance Document 15 (Consultation and Pre-Decision Matters)] the Health and Safety Executive will provide advice within 21 days.

9.5 What consideration will the local planning authority give to Health and Safety Executive advice?

The Health and Safety Executive's role is an advisory one. It has no power to direct refusal of planning permission or of hazardous substances consent. Where the Health and Safety Executive advises that there are health and safety grounds for refusing, or imposing conditions on an application, it will, on request, explain to the local planning authority the reasons for its advice.

The decision on whether to grant permission rests with the local planning authority. In view of its acknowledged expertise in assessing the off-site risks presented by the use of hazardous substances, any advice from the Health and Safety Executive that planning permission should be refused for development for, at or near to a hazardous installation or pipeline **should not be overridden without the most careful consideration**.

Where that advice is material to any subsequent appeal, the Health and Safety Executive may provide expert evidence at any local inquiry. More information on the issues the Health and Safety Executive takes into account when advising on applications can be found [on the Health and Safety Executive Land Use Planning website](#).

9.6 What happens if a local planning authority would like to give planning permission against Health and Safety Executive advice?

Where a local planning authority is minded to grant planning permission against the Health and Safety Executive's advice, **it should give the Health and Safety Executive advance notice of that intention, and allow 21 days from that notice for the Health and Safety Executive to give further consideration to the matter.** This will enable the Health and Safety Executive to consider whether to request the Secretary of State for Communities and Local Government to call-in the application. The Secretary of State exercises the power to [call-in](#) applications very selectively [link to relevant section in Guidance Document 21b (Determining and Application)].

The Health and Safety Executive will normally consider its role to be discharged when it is satisfied that the local authority is acting in full understanding of the advice received and the consequences that could follow. It will consider recommending call-in action only in cases of exceptional concern or where important policy or safety issues are at stake.

Local planning authorities should notify the Health and Safety Executive where planning permission has been granted in the Safeguarding Zone of a Health and Safety Executive licensed explosives site.

9.7 How can conflicts between consents and development be addressed?

It is good planning practice for local planning authorities to work proactively with businesses that have consent where there is potential conflict between the existence of a consent and a local authority's planning priorities. Reviews of consents to ensure they are still in use could help identify where consents may be redundant or could be given up. It is also important to plan strategically for the chemicals industry and other uses that require hazardous substances consents. Business, industry and local planning authorities working together when Local Plans are being prepared can help to reduce future problems and promote safety of people and protection of the environment [link to last question in section 8].

9.8 If hazardous substances consent is no longer required will it still prevent development nearby?

Redundant hazardous substances consents can be a barrier to development. Sometimes a consent is no longer required by an operator. For example, a facility may have shut down or a site redeveloped. However, unless the hazardous substances consent is revoked then consultation zones are still likely to apply. Hazardous substances authorities should be proactive about revoking consents that are no longer required. Operators are required to inform the Control of Major Accident Hazards competent authority in advance of permanently closing or decommissioning an establishment. The competent authority will then notify the hazardous substances authority to allow for the revocation of the hazardous substances consent.

9.9 What about development around nuclear installations?

Consultation requirements can vary between sites for proposed developments in the vicinity of licensed nuclear installations. Administrative arrangements exist under which the [Office for Nuclear Regulation](#) specify consultation zones and the type of developments on which it should be consulted. Where the local planning authority is in any doubt about [whether the Office for Nuclear Regulation should be consulted in a particular case](#), it should contact them at the earliest opportunity.

Policy on public safety from major accidents – including those at nuclear installations – is set out at [paragraphs 172](#) [link to para 172] and [194](#) [link to para 194] of the National Planning Policy Framework. Given their statutory role in public safety, local authority emergency planners will have a key role to play in advising local planning authorities on developments around nuclear installations. Early engagement can help to address issues which may otherwise affect development proposals at a later stage.

9.10 How is development around licensed explosives facilities and licensed ports considered?

The Health and Safety Executive issue consultation zones around licensed explosive sites and licensed ports. Licences issued by the Health and Safety Executive specify that each place keeping or handling explosives shall be separated from other occupied buildings. This 'safety distance' varies according to the types and quantities of explosives present.

The licence does not of itself prevent construction or activities within these distances, but this may lead to further restrictions being imposed on the licensee. This could result in the operations with explosives becoming unviable. Licensees are therefore usually alert to any development which occurs or is proposed in the vicinity of their premises and which may seriously affect their operations. So that the Health and Safety Executive is also made aware of the possibility of encroachment on the safety distances; local planning authorities are required to consult Health and Safety Executive at an early stage about applications for development in the vicinity of licensed explosives sites and licensed ports.

9.11 Could the zones for consultation change over time?

Changes may sometimes be required to consultation distances around sites that already have a consent for the presence of hazardous substances. The Health and Safety Executive/Office for Nuclear Regulation will keep the consultation zones under review and will inform the local planning authority if changes are appropriate. Similarly, the local planning authority should liaise with Health and Safety Executive/Office for Nuclear Regulation if it becomes aware of changed circumstances that might affect the consultation zone.

9.12 What other consultation and public participation needs to take place for development proposals at and around hazardous installations?

When local planning authorities and government bodies are considering whether to approve certain development proposals at and around hazardous installations they must ensure that there have been opportunities for public participation. It is important that

information is presented in a way that allows for informed responses from those likely to be affected.

Applicants should ensure that the information that is provided in applications is appropriate for the purpose of public participation. Public communications online or in newspapers should only contain a brief summary of that information, no more than is required to understand the land-use implications. This means that only generic categories of chemicals should be referred to. Special arrangements will need to be put in place to enable the public to inspect particular documents in person [[link to sensitive information guidance](#)].

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