Head of HID CI5: Mr J Murray

CHIEF EXECUTIVE'S DEPARTMENT
22 NOV 2010

Adur District Council
Civic Centre
Ham Road
Shoreham-by-Sea
West Sussex **BN43 6PR**

Your ref. ADC/0277/10

FAO: Mr K Morgan, Planning Services Manager

Date: 3 November 2010

Dear Mr Morgan

Consultation with the HSE under Article 16 of the Town and Country Planning (Development Management Procedure) (England) Order 2010
The Pilot Public House, Station Road, Southwick BN42 4AE: Planning application for redevelopment with 14 flats

I refer to your letters of 24 September and 21 October 2010, and my earlier exchanges with your Mr Barnett regarding application ADC/0277/10 and your Mr Sykes regarding the HSE's Consultation Zones (CZs) for the major accident hazard sites at Shoreham Harbour.

Firstly, I should mention that in May this year I confirmed to the Council (email to Sykes, dated 28 May 2010) that the CZs, including those arising from the presence of consented quantities of ammonium nitrate at the harbour, had been appropriately 'set' in accordance with:
- HSE's established land use planning (LUP) policies and practices, and
- the associated Hazardous Substances Consents (HSC) as notified to us by yourselves.
Obviously, in the case of the latter, we had taken into account any conditions attached to the HSCs (e.g. the restrictions on presence for the ammonium nitrate) as is required by relevant national planning policy (set out in Planning Circular 04/2000).

Furthermore, in May, I informed the Council (email as above), amongst other matters, that:
- the HSE provided its independent and impartial LUP advice on public safety to enable the Council to implement Article 12 of EU Directive 96/82/EC, as amended by Directive 2003/105/EC, (the 'Seveso II' Directive), which includes the need to control proposed development that would increase the risk or consequences of a major accident, and
- the LUP advice delivered through the 'PADHI+' system is not 'preliminary' or 'screening' in nature, but is the HSE's advice for the purposes of implementing Article 12 of Seveso II.

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Staff in your authority have been trained in the use of PADHI+ and as such are able to determine the types of development that HSE will and will not advise against within the CZs. However, in the circumstances, HSE has reviewed its advice for application ADC/0277/10 and I can confirm that our LUP advice to the Council remains that there are sufficient public safety grounds for planning permission to be refused.

Clearly, the Council is the decision-maker on planning applications taking into account all material considerations including relevant legislation, and national and local policies. HSE's advice on public safety is only one, albeit important, consideration which should not be overridden without the most careful consideration (para A5, Circular 04/2000). If you would like further explanation of our advice then the HSE, as usual, would be prepared to make suitable arrangements to provide this.

Secondly, on your concern regarding the HSE's advice to the Council about the HSC application for the presence of ammonium nitrate, you may remember that we explained the basis of this to you at the time (email Painter to Morgan, dated 7 Sept 2006). In summary we reached our decision not to advise against the consent taking into account:
- the risks to the surrounding population (existing at that time) as judged against long-established and nationally consistent criteria, and
- the risk reduction that was achieved by the two 'conditions' limiting the presence of consented quantities of ammonium nitrate.

As stated in national planning policy (para 7, Circular 04/2000), when consent is granted then "*as a matter of practice, a consultation zone will be established within which proposals for future development will also be referred to consultees to consider possible effects on public safety.*" HSE's advice on the suitability of the surrounding land for future development is delivered through your use of the PADHI+ system.

Lastly, HSC legislation is a matter for yourselves, acting as Hazardous Substances Authority, and the HSE would not wish to comment on whether or not grounds exist for the Council to modify or revoke an existing consent.

Yours sincerely,

[redacted]

J Williams
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