Head of HID CI5: Mr J Murray

ADUR D.C.
CHIEF EXECUTIVES DEPARTMENT
10 DEC 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: 7 December 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 2 & 3 December 2010, and my earlier correspondence with the Council, in particular my email to Mr Sykes of 28 May 2010, my email to Mr Barnett of 8 October, and my two recent letters to you of 3 & 5 November. I will attempt to answer your further queries in turn.

In my letter of 5 November I confirmed that our methodology and criteria for advising on ammonium nitrate have not changed since 2006. HSE operates a consistent approach on advising on hazardous substances consent and planning applications across the UK. There is no contradiction in HSE's advice.

In this context we are dealing with the 'residual risk' that unavoidably remains after all legally-required measures have been taken by the operator of a major hazards site to reduce the risks as low as reasonably practicable. However recognising that major accidents, whilst rare events, can have very serious consequences, land use planning (LUP) controls, as described in Planning Circular 04/2000, have been put in place.

As I stated to your Mr Sykes in May, national planning policy, as set out in the Circular, implements the recommendations of the Government's Advisory Committee on Major Hazards and, where appropriate, Article 12 of EC Directive 96/82/EC as amended (the Seveso II Directive). The overall aim is to use land use planning to limit the consequences of major accidents.

Major accident risks are a combination of the following components:
From what [In this case a fire/explosion involving ammonium nitrate]
To what [People living/working in the vicinity and their vulnerability]
How often [Likelihood of exposure]
A change in any of these will influence the advice offered by HSE.

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In your report to committee of 8 January 2007, when considering whether to grant the consent, 'The way in which land in the vicinity (of the ammonium nitrate warehouse) ..... is likely to be used' in the future is identified as a material consideration, and it is clear that the Council understood that if it were granted then there would be implications for future development around Shoreham harbour.

In the case of the proposal for 14 flats on The Pilot public house site, the 'To what' component of risk would, by increasing the number of people within the plume, change sufficiently for HSE to advise that permission should be refused on public safety grounds. Whereas, a low density development, say four houses, may not do so.

HSE's methodology for assessing the residual risks arising from the consented presence of ammonium nitrate is based on the sequential consumption of 300 tonne amounts (the industry-standard storage 'unit') in a major accident. Consequently, the reduction in total amount allowed by consent from 2800 to 1200 tonnes would neither alter our Consultation Zones nor our advice that permission for The Pilot development should be refused. The thresholds, in terms of quantity and nature, beyond which hazardous substances consent is required for ammonium nitrate are set in planning legislation and, therefore, not a matter on which HSE would wish to comment.

Communicating messages on major accident risks is always a challenge. However, HSE has had recent fruitful direct contact from both a spokesperson from a local community group and the applicant both of whom seemed to understand the issues after discussion.

I can confirm that the UK does not generally operate LUP 'exclusion zones' around major hazard sites. Although, as I stated to Mr Sykes in May, exceptionally and following full public consultation a Development Proximity Zone (within which HSE advises refusal for all development except that which is not normally occupied) has been put in place around large-scale petrol storage sites, such as the one at Shoreham harbour.

According to our records, The Pilot public house is located in the HSE's LUP Consultation Middle Zone. I trust the Council is referring to the current HSE map from the PADHI+ system. Within the Middle Zone the risk of receiving a Dangerous Dose or worse of harm is between 10 and 1 chances per million per year. The development site is approximately half way across the zone so the risk there is towards the lower bound figure. This value is roughly ten times higher than the chance of being killed by lightning.

The PADHI+ guidance you refer to is not the current version which can be found on HSE's website (http://www.hse.gov.uk/landuseplanning/padhi.pdf). The 'Existing Use' box you refer to no longer exists and all planning authorities were informed of its withdrawal in March 2008. Codified advice like the PADHI+ system has been found to be a perfectly satisfactory way of speedily delivering statutory advice. This position was recently agreed by the Secretary of State for Communities and Local

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Government in his decision to refuse permission, primarily on HSE's public safety advice, for the proposed redevelopment of the former Ram Brewery in Wandsworth.

If doubts exist, as you know, further advice can be sought from HSE. The Advisory Committee on Major Hazards laid down a principle that existing development should not set a precedent for advice on a planning application. This matter was considered and confirmed by the Planning Inspector in his decision letter (paras 8 & 9) on the Salisbury development which I sent to you Mr Barnett in October. Indeed to allow existing development to set aside advice would render ineffective the requirements of Article 12 of the Seveso II Directive. Again you appear to be referring to the wrong Consultation Zone.

In order to maximise the benefit of a meeting between the Council and HSE, it would be helpful to know the purpose of the meeting, who will attend and their roles. It would also be helpful to have a clear agenda.

Subject to these matters being clear, I would be pleased to arrange a visit at some mutually convenient time to discuss these matters with your Strategic Director, Mr Latham. However, my diary is very full with casework right through into the new year. The earliest date I could offer would be Tuesday 18th January 2011 at a time to suite travel from Liverpool. However, if you were able to travel to Liverpool I might be able to fit in a short meeting in the week before the Christmas holiday.

Yours sincerely,

[redacted]

A J Williams
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