



<b>Case reference</b>	NA-DUC-013
<b>Application details</b>	Demolition of 128 Existing Cottage Flats and 1 shop and creation of 130 New homes and 1 shop including new roads and pedestrian routes and public green space
<b>Site address</b>	Site at Ellengowan Drive, Dundee
<b>Applicant</b> <b>Determining Authority</b> <b>Local Authority Area</b>	David Zwirlein (Northern Housing Company Ltd) Dundee City Council
<b>Reason(s) for notification</b>	Category 2 (Objection by HSE)
<b>Representations</b>	6
<b>Date notified to Ministers</b> <b>Date of recommendation</b>	13 February 2019 2 April 2019
<b>Decision / recommendation</b>	Clear

### Description of Proposal and Site:

- Planning permission (18/00487/FULM) is being sought for the demolition of 128 flats and 1 kiosk style shop and the construction of 130 new homes, 1 shop and associated infrastructure.
- The proposed development site lies within the consultation zone of a major hazard site at East Camperdown Street.



Figure 1 - Site Context (bingmaps)

### **EIA Development:**

- Dundee City Council (DCC) sent its screening opinion to Scottish Ministers upon notification. The Council determined that the development is unlikely to have significant environmental effect and concluded that EIA was not required.

### **Consultations and Representations:**

- The Health and Safety Executive (HSE) objected to the proposed development because the proposed site is located within a consultation zone of a major hazard site. HSE consider that there are sufficient reasons on safety grounds for advising against the granting of planning permission.
- Six representations of objection were received from members of the public to DCC for this application.

### **Assessment:**

1. The planning application has been notified to Scottish Ministers because Dundee City Council (DCC) is minded to grant planning permission for the proposed development against the advice of the Health and Safety Executive (HSE).
2. The northern part of the site falls outwith the HSE consultation zone. However, the southern part of the site is within the inner, middle and outer zones. The zones are in relation to a refinery site operated by Nynas and the hazard to the proposed development is created by the capability to store naphtha (a flammable liquid hydrocarbon mixture) on site.
3. Following notification, HSE were consulted to find out whether they maintained their objection. HSE advised that it does not recommend Scottish Ministers call-in the application. Rather, HSE requested that the Scottish Government advises DCC to take steps to remedy the current conflict of the existing Hazardous Substances Consent (HSC).
4. HSE suggested that DCC and Nynas discuss the continued need for the HSC and if appropriate, take the necessary action to modify or revoke existing consents. Once this has been done, HSE can review its consultation zones, with the likely outcome that they would no longer advise against the granting of planning permission for the proposed development.
5. Since notification to Scottish Ministers, there have been discussions between HSE, Nynas and DCC about how to remedy the existing Hazardous Substances Consent. HSE advised that one solution would be for Nynas to vary the consented quantity of naphtha on site to zero. Nynas have confirmed that they no longer produce, store or distribute naphtha and that refining operations on site ceased permanently in January 2014 and the infrastructure (the storage tank, pipework and pumps) was decommissioned in 2014 and demolished in 2015.
6. On 29 March 2019 DCC advised Ministers that Nynas have submitted an application to vary the HSC, that modifies the consented quantity of naphtha on site to zero.

7. As the proposed development is for the demolition of the existing flats before the new homes can be developed, residents are currently being re-housed elsewhere in the city. Therefore, DCC highlighted their desire to progress the modification of the HSC in tandem with development progressing.
8. In conclusion, HSE did not recommend that the case be called-in, but suggested that DCC take steps to remedy the current conflict of the existing HSC. Scottish Ministers are content that DCC have taken the appropriate steps to achieve this objective. It is not considered that the proposal raises issues of national interest and it is recommend that the case should be cleared back to the council.

**Decision/Recommendation:**

- Clear back to Dundee City Council.