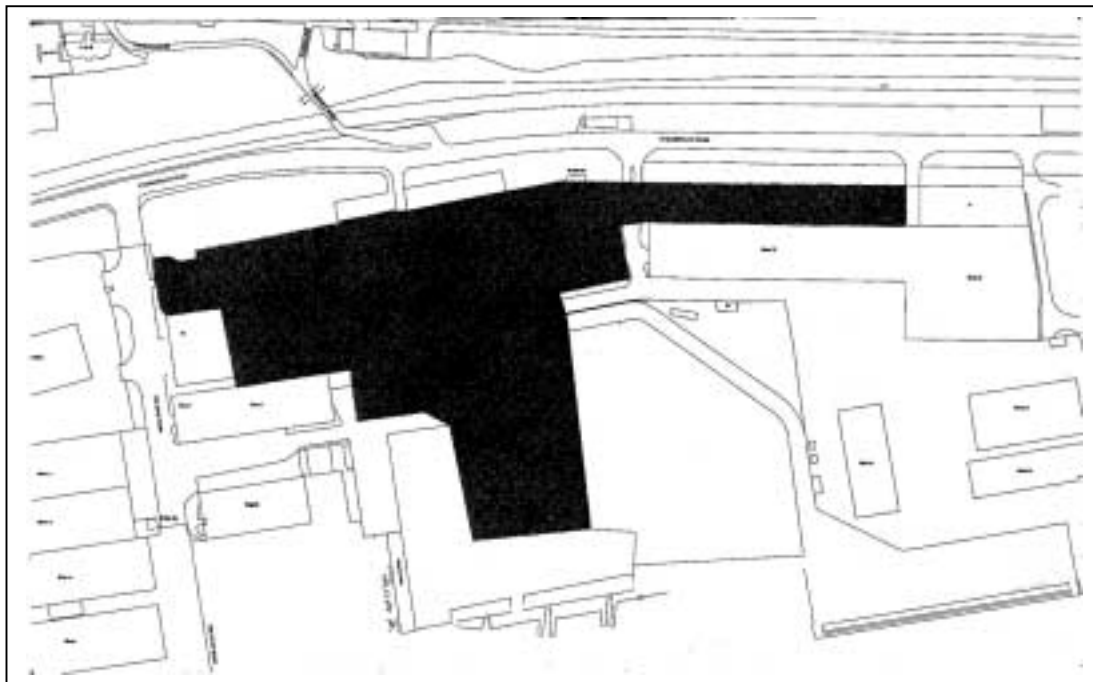


**KEY INFORMATION****Ward** Craigiebank**Proposal**

Storage of Hazardous Substances

**Address**Land to the South of  
Stannergate Road and West  
of Shed 16 R&M  
Engineering, Stannergate  
Road, Dundee**Applicant**Angus Horticulture Ltd  
Whanland Farm  
Farnell  
Brechtin**Agent**Ross Henderson Associates  
Town Planning Consultants  
5 Dundee Road  
Letham  
Angus DD8 2PP**Registered** 1 July 2002**Case Officer** Iain Ross

# Hazardous Substance Storage Advised Against

An increase in the Storage of Hazardous Substances in Stanergate is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposals for Hazardous Substances Consent at the Angus Horticulture Ltd site at Stannergate Dundee are considered by the Health and Safety Executive to pose a sufficiently high risk to the surrounding population to merit them advising against the grant of consent.

Accordingly, it is recommended that consent be **REFUSED**.

**SUMMARY OF REPORT**

- Hazardous Substances Consent is sought to increase the levels of ammonium nitrate presently stored on the site presently occupied by Angus Horticulture Ltd at Stannergate Dundee for the receipt, storage packaging and distribution of horticultural fertilisers.
- The Consent is required to comply with the provisions of the Town and Country planning (Hazardous Substances)(Scotland) Regulations 1993 as amended by the Planning (Control of Major Accident Hazards)(Scotland) Regulations 2000 because it is anticipated that the increasing size of delivery vessels will require the business to be capable of storing larger quantities of chemicals than is currently permitted without the need for a consent.
- The Health and Safety Executive has been consulted and following a lengthy period of assessment has advised that the risks to the surrounding population arising from the proposed operation are sufficiently high to justify its advising against the granting of Hazardous Substances consent on the grounds of safety. A range of other external agencies have been consulted and do not object to the proposal. The Council's Emergency Planning Officer has recommended that any consent notice should include Notes for Guidance concerning safety matters.

## DESCRIPTION OF PROPOSAL

Hazardous Substances Consent under the provisions of Regulation 5 of the Town and Country Planning (Hazardous Substances)(Scotland) Regulations, as amended by the Planning (Control of Major Accident Hazards)(Scotland) Regulations 2000, is sought by Angus Horticulture Ltd. for the storage of a maximum of 5000 tonnes of ammonium nitrate fertiliser at their existing site south of Stannergate Road.

## SITE DESCRIPTION

The application site extends to approximately 3.1 hectares, is irregular in shape and is located on the south side of Stannergate Road to the east of Fishdock Road and is bounded on the east, south and west by storage areas and sheds which are in use for a variety of storage and industrial uses. These uses are port related and compatible with the existing and proposed use of the application site. The existing site is currently used for the storage, packaging and distribution of ammonium nitrate and other compound fertilisers for use in the horticultural industry. The application site embraces Sheds 6 and 8 and the surrounding open storage areas. The site is bounded on the north by Stannergate Road and beyond that by parking and beyond that the main Dundee-Aberdeen railway line. Beyond the railway line the ground rises by a wooded slope to Broughty Ferry Road some 90 metres distant from the northern boundary of the application site and 13 metres above the level of the application site. The nearest residences to the site are the residences beyond Broughty Ferry Road (approximately 112 metres distant). The vacated petrol filling station on Broughty Ferry Road is located 100 metres to the north on Broughty Ferry Road and the flatted development at Carolina Court, Broughty Ferry Road is approximately 130 metres distant from the northern boundary of the application site.



## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

There are no national or Structure Plan policies of relevance to the consideration of this application.

### Dundee Local Plan 1998

The site is located in an area allocated within the adopted Dundee Local Plan 1998 for port related uses. Policy EU7 seeks to maximise the potential of the port in a way which is compatible with the other policies of the local plan; and Policy EU8 encourages the establishment and retention of business and industrial uses within the port area which benefit from being located close to port facilities.

### Dundee Nature Conservation Subject Local plan 1995

The adopted Dundee Urban Nature Conservation Subject Local Plan 1995 is not relevant in this instance.

### Finalised Dundee Local Plan Review

The following policies are of relevance:

Policy 26 (General Economic Development Areas) supports proposals in such designated areas for uses within Classes 4,5 and 6 of the Use Classes Order. Specifically within the Port area the Council will encourage uses that are compatible with Port activities subject to other policies in the Local Plan.

## Scottish Planning Policies, Planning Advice Notes and Circulars

In considering this application reference has been made to the provisions of the Hazardous Substances (Scotland) Act 1997, the Hazardous Substances (Scotland) Regulations 1993 (as amended), the Planning (Major Accident Hazards) (Scotland) Regulations 2000 and to Circulars 5/1993 and 16/1993.

## LOCAL AGENDA 21

Key Theme 7 (Access to facilities, services, goods and people are not achieved at the expense of the environment and are accessible to all) is of some relevance in that the proposal is to concentrate the storage of chemicals in an area already used for such a use and a such Local Agenda 21 objectives are not compromised.

## SITE HISTORY

There is no planning history of direct relevance to the current application. On 14 March 2003, the applicants lodged an appeal against the Council's failure to timely determine the application. This appeal was declared invalid as it was submitted outwith the timescales prescribed in the Act.

## PUBLIC PARTICIPATION

As required by the appropriate Regulations (see above), the applicants undertook to publicise the proposals by advertisement in the Dundee Courier and Advertiser on 1 July 2002 allowing a 21 day period for representations and objections to be lodged with the Council.

In addition, under the Regulations, notifiable neighbours were notified allowing a 21 day period for representations and objections to be lodged with the Council. Statutory owner notification was also undertaken.

As a result of these publicity procedures no representations or objections were received. A statement of support from the Port of Dundee Ltd was submitted with the application.

## CONSULTATIONS

Again in accordance with the Regulations, the following organisations were formally consulted and their responses are summarised as follows :

Health and Safety Executive - Advise against the grant of Consent

Scottish Natural Heritage - No comment

Scottish Environmental Protection Agency - Request a condition should consent be recommended to cover the issue of retention and disposal of firefighting water.

Scottish Gas - No response

Scottish Hydro Electric - No response

Tayside Police - No response

Tayside Fire Brigade - No objection

Emergency Planning Officer, Dundee City Council - Advises that the applicants should abide by the storage and handling safety guideline contained in the handbook submitted with the application.

Railtrack - No response

Members are asked to note that the response from the Health and Safety Executive is particularly material in the determination of this application. The formal response from HSE was received on 6 February 2003 some seven months following formal consultation. HSE visited the site on 18 December 2002 accompanied by the applicants agent and a planning officer. At the outset, HSE were in receipt of all the supporting information supplied by the applicant who offered to supply any further technical information which may have been required. Further details of HSE's findings and recommendation are outlined in the "Observations" below and copies of the organisation's responses can be found in the Members' Lounges.

## OBSERVATIONS

Ammonium nitrate is a manufactured compound and is a well established source of nitrogen for use in the agricultural and horticultural industries. The compound's most well known chemical property is its combustability under certain

circumstances. Its use in the explosives industry is well known.

During the 1980s strict Health and Safety regulations were introduced to regulate the handling and storage of volatile substances. When the 1993 Regulations were introduced, ammonium nitrate fertilisers complying with EC Directive 80/876/EEC were brought under planning control if present above a threshold of 1000 tonnes. These Regulations were amended by the Planning (Control of Major Accident Hazards)(Scotland) Regulations 2000 but the storage quantity parameter remained unchanged. Nevertheless at a storage inventory of 1250 tonnes, the establishment becomes subject to the Control of Major Accident Hazard Regulations 1999. This recognises the inherent hazards of storing large quantities of ammonium nitrate fertiliser, and places special duties on the operator to ensure a proportionately high standard of Health and Safety Management.

The determining issues for the Committee in this instance are prescribed in Section 7 of the Planning(Hazardous Substances)(Scotland) Act 1997. These are

- 1 any current or contemplated use of the land subject of the application

The applicants submitted, as part of their application a supporting statement which outlined a justification for their proposals. In summary, the application site is exclusively used for the reception, storage, packaging and distribution of ammonium nitrate and other compound fertilisers for use by the horticulture industry. Hazardous Substances Consent is not required for the applicant's present levels of storage of the ammonium nitrate because the quantities concerned fall within permitted levels as outline in the Schedule to the Regulations (1000tonnes). However the applicants advise that in future ships of up to 5000 tonnes will potentially mean that the levels of storage required will exceed the levels currently permitted. Accordingly the applicants felt that it was prudent for consent to be sought. It should be noted that currently the site has a total storage capacity for 40,800 tonnes of fertiliser storage of which ammonium nitrate comprises a maximum of 1000tonnes. The proposal

involves maintaining similar total levels of storage but with any additional ammonium nitrate storage replacing stocks of the other fertilisers. Current and proposed storage distribution plans were submitted with the application and circulated to consultees..

The application site lies within an industrially designated area and is removed from residential property as outlined above. The site is generally secure in accordance with the security requirements of the port authority.

The supporting statement submitted by the applicants outlines that the applicants are longstanding tenants of the Port Authority and the Authority has been comfortable with its business activities to date. Consultations between the applicants and the Port Authority have taken place and a statement of support from Port of Dundee Ltd. has been submitted by the applicants. In addition the applicants advise that

- there is no processing on the site, merely storage, packaging and distribution
  - the site is well distanced from residential property in an area of the port dedicated to storage uses
  - the application site is secure in accordance with port authority policy and entry is restricted
  - the maximum individual stack of ammonium nitrate is 300 tonnes in accordance with the company's policy of risk minimisation
  - there is no other more suitable site within the port or the city
  - the company has in place a major accident policy document in accordance with the Major Accident Hazards Regulations
- 2 the use or contemplated use of land in the vicinity.

The application site is presently principally used for the storage of fertiliser compounds and for a limited quantity of ammonium nitrate. The surrounding land uses are industrial in nature with a strong port associated relationship. There is no known incompatible land use proposals requiring planning permission relating to land in the vicinity.

3 any planning permission already granted for development of land in the vicinity.

Much port related development is exempt from the need for planning permission and there are no known outstanding planning permissions in the vicinity which might compromise the granting of hazardous substances consent in this instance.

4 the provisions of the development plan.

the proposed development is compatible with the provisions of the development plan, in this instance Policies EU7 and EU8 of the adopted Dundee Local Plan 1998. These policies support developments which are compatible with port related activities within a specifically allocated area. As indicated above these policies are supported by the provisions of Policy 26 of the Dundee Local Plan Review.

5 any advice given by the Health and Safety Executive.

As indicated above, and following an extremely lengthy period of consideration, the Health and Safety Executive formally responded to the consultation on 6 February 2003 as follows :

"1 The Health and Safety Executive has assessed the risks to the surrounding areas from the likely activities resulting from the granting of the proposed Hazardous Substances Consent.

2 Only the risks from hazardous substances for which consent is being sought have been assessed, together with the risks from substances in vehicles, which are being loaded or unloaded. Risks which may arise from the presence of other substances have not been taken into account in the assessment.

3 On the basis, HSE have concluded that the risks to the surrounding population arising from the proposed operation(s) are sufficiently high to justify against the granting of Hazardous Substances Consent on grounds of safety.

4 However, if there are any factors which weigh strongly in favour of the application, we suggest that it would be desirable for an inspector from HSE to explain the technical

assessment and the level of risk in more detail, before a final decision is made. Please let me know and I will make the necessary arrangements.

5 If you decide to refuse Hazardous Substances Consent on the grounds of safety, HSE will provide the necessary support in the event of an appeal"

HSE was requested to supplement its response. Further written submissions from HSE dated 26 February and 26 March 2003 clarified matters as follows :

- a The main hazard associated with ammonium nitrate fertiliser is its decomposition in a fire to produce toxic decomposition products;
- b Under normal storage and use ammonium nitrate is a stable substance, but under certain conditions, it may be unstable and lead to detonation generating significant blast overpressure;
- c The application was modelled and tested by HSE using standard assessment methodology and procedures for this substance factoring in current levels of storage (1000 tonnes), proposed maximum levels of storage as outlined in the application (5000 tonnes), storage in relation to other compound fertilisers, bagging arrangements, weather conditions, warehouse dimensions, type of structure and orientation, dispersion parameters, site manning and presence of sprinklers, and the distribution of the surrounding population.
- d Having applied the model it was concluded that although the likelihood of a major accident at the proposed development is low, the risk of harm to people in surrounding developments would be sufficiently high that Hazardous Substances Consent should be refused on the grounds of safety.

HSE was asked to clarify whether, by the use of conditions covering say the level and distribution of storage, the proposal could be rendered supportable. In response, HSE confirmed that in this case the degree of incompatibility between the risks

and the surrounding population were such that amendments to safety measures and storage arrangements would still mean that the risks would remain at a level incompatible with the proposed operations. HSE could rerun the model but this would require to be done on an amended proposal formally submitted.

The applicant was advised of HSE's views throughout and discussions between the applicant and HSE has failed to result in the submission of amended proposals.

In addition to the above statutory considerations, other material considerations in dealing with the application are :

- 1 objections and representations received as a result of consultation.

Other than from HSE no objections have been received from statutory consultees as noted above . However, the Emergency Planning Officer has recommended that the applicants comply with the recommendations contained in the Hydro Agri Europe SA Distribution Stores Handbook in respect of the storage and handling of the substance; that an up to date emergency plan is in place; and all staff are fully trained in the handling and storage of the material and in the actions to be taken in an emergency. It is recommended that these issues be raised in guidance notes to the applicant within the Hazardous Substances Consent Certificate in the event that Members decide to grant consent. In addition SEPA has suggested that a condition relating to surface water disposal be applied as outlined above.

- 2 objections and representations received from the general public

No objections or representations were received from members of the public.

## Design

There are considered to be no design implications as the proposals are for open storage or storage within existing buildings.

## CONCLUSION

The proposal is compatible with the provisions of the development plan. The site is presently used for the storage packaging and distribution of

chemical fertilisers including ammonium nitrate up to the maximum level (1000 tonnes) permitted under the 1993 Regulations without the need for Hazardous Substances Consent. There is no proposal to change this use but to provide for the additional storage of ammonium nitrate in contemplation of the increased future volume of delivery vessels. No overall increase in open or enclosed storage volumes is involved. However, HSE has assessed the risk involved and has advised that consent should not be granted for the reasons comprehensively outlined in this report. Although the proposal is compatible with the development plan and there are no other material considerations which would indicate that consent should be refused, it would be inappropriate for the Council to set aside the conclusions and recommendations of HSE without sound reasons for doing so. In the circumstances, it is appropriate that the precautionary principle should apply and that the Council should rely on the expert analysis undertaken by HSE and the conclusions and recommendations which followed. The applicants are nevertheless encouraged to continue a dialogue with HSE in an effort to establish the criteria for a proposal which would result in an acceptable level of risk when modelled by HSE.

If the Council wishes to grant consent contrary to the advice of HSE the application must be submitted to Scottish Ministers to allow them the opportunity to call in the application for their determination.

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## **RECOMMENDATION**

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In the circumstances, it is recommended that Hazardous Substances Consent be refused for the following reason:

- 1 the risks to the surrounding population arising from the proposed operation(s) are sufficiently high to justify the refusal of consent. This view is based on the advice offered by the Health and Safety Executive.