DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H01-0157-24**	**Applicant:**	**Amber Real Estate (Agriculture) Ltd.**
Proposal:	Siting of 3 LPG Tanks		
Location:	Cowbit Poultry Farm Mill Drove Cowbit		
Terminal Date:	22nd November 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Planning (Hazardous Substances) Regulations 2015.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0
ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	5

CASE OFFICER ASSESSMENT

Proposal

This is an application for hazardous substances consent for the use of up to 36 tonnes of liquified propane on site.

The main activities on site relate to a poultry farm and the hazardous substance is required to ensure heating for Broiler chicks reared in poultry houses on site. The site location and block plan show the location of 3 number tanks in the northwest corner of the application site.

The site already benefits from consent to use 36 te of liquid propane on site, the application form received for H01-0157-24 requires the same amount of consent but in the name of Amber Real Estates (Agriculture) Ltd.
The applicant has not provided any information in relation to the existing consent on site. The HAS have been advised by HSE that official documentation to confirm any changes in land ownership / name changes to ensure our records are correct and the Consent is placed under the right legal entity and for the correct amount. These have not been provided.

Site Description

The application site relates to Cowbit Poultry Farm, located on Mill Drove, Cowbit .
The application site is located within the open countryside for policy purposes and the area of land associated with the tankers is ancillary to wider site operations, located to the north of 'Paradise' which is the farm house located on site.

Relevant History

H01-0591-13 - Erection of 9 biomass heating packaged plant rooms. Approved 10-09-13
H01-0931-15 - Installation of solar PV panels to the roof of existing poultry units. Approved 24-11-15
SI4/361/1058/1996 - this consent is for 36 te

Legislation

Planning (Hazardous Substances) Regulations 2015.

Consultation Responses

South Holland District Council in its role as the Hazardous Substances Authority has acknowledged this application and send a copy of the application to the COMAH competent authority via the Health and Safety Executive, in turn this has been sent to the Environment Agency (via HSE).
In addition, SHDC have also consulted other consultees required by legislation. This section summaries all of those responses.

Parish Clerk

The Parish Council has no objections to this application

Anglian Water

No objections

Environment Agency

The site has a future hazard classification of 'Danger for Most' (includes the general public). The site could experience flood depths of 0.5 - 1.0m arising from a breach in the defences during a flood that has a 0.5% chance of occurring in any one year up to 2115.

In addition, the site has a current hazard classification of 'Danger for Most' (includes the general public) and 'Danger for Some' (includes children, the elderly and the infirm). The site could experience flood depths of 0.25 - 0.5m and 0.5 - 1.0m arising from a breach in the defences during a flood that has a 0.5% chance of occurring in any one year for the present day.

We advise that the risk of flooding present at this site is considered in the design of the LPG tanks and advise that appropriate flood risk mitigation is implemented for the proposed tanks. Tank

floatation and associated pipe work damage is a known hazard which can be easily mitigated through appropriate design e.g. securing the vessel to the ground and ensuring pipe stress is considered.

Highways

No objection The proposal is for the siting of 3 LPG Tanks and it does not have an impact on the Public Highway or Surface Water Flood Risk.

National Gas Transmission

Regarding planning application H09-0159-24 at site location 'Holbeach Poultry Farm' there are no National Gas assets affected in this area

HSE

CEMHD5's expectation is any application that has had no movement for 6 months will be returned to the HSA. I am now informing you that HSE has now closed the consultation on the hazardous substance consent application H01-0157-24

IDB

Thank you for your consultation on planning application H01-0157-24 . Having screened the application, whilst the site in question lies within the Internal Drainage District of the South Holland Internal Drainage Board the proposed application does not meet our threshold for commenting as per our Planning and Byelaw Strategy. Therefore the Board has no comments to make.

Environmental Protection

No comments

Natural England

Natural England has no comments to make on this application.

Historic Places Team

No archaeological input required.

Planning Considerations

It is the remit of South Holland DC as the Hazardous Substances Authority and weigh up all the comments received, including those from the COMAH competent authority. It will take account of local needs and conditions, the local plan, and any other material considerations.

The COMAH competent authority in this case is the Health and Safety Executive and Environment Agency, acting jointly. They have advised South Holland DC 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 at an establishment.
The Hazardous Substances 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 law ensures measures are in place for the safe use of hazardous substances.

Health & Safety Executive (HSE)

The Health and Safety Executive in a letter dated 11 February 2025 have confirmed they have closed the consultation. The HSE had anticipated that confirmation of either was received:

(a) whether this is an additional 36 te of LPG at the same site but for another tenant namely Amber Real Estates (Agriculture) Ltd. OR

(b) this is merely a continuation of the existing consent but under a different name

Neither have come forward. It is likely that point B applies given a consent already exists on site for the storage of 36te of liquid propane. In that case the onus is upon the applicant to provide the following:

HSE require official documentation to confirm any changes in land ownership / name changes to ensure our records are correct and the Consent is placed under the right legal entity and for the correct amount(s).

This information has not been presented to the HSA and so the HSE are no longer offering comments. Whilst the HSE role is an advisory one and that the decision on whether to grant permission rests with the local planning authority acting as the Hazardous Substances Authority (HSA), the applicant has not made it clear what the consent seeks.

The HSA feel that given a consent already exists on site for what the application form is seeking, then then is no requirement to reissue another consent. Should this proposal merely be to reflect changes to the operators name, then a submission containing official documentation to confirm any changes in land ownership / name changes to ensure all HAS and COMAH competent authorities records are correct to ensure that the Consent is placed under the right legal entity and for the correct amount is required; without such information a new consent cannot be issued.

Environment Agency

The EA have stated that *We have no objection to this application to hold 36 tonnes of Part 2, 18 substance; however, we would like to draw your Local Authority's and the applicant's attention to the following information*
Flood risk The site has a future hazard classification of 'Danger for Most' (includes the general public). The site could experience flood depths of 0.5 - 1.0m arising from a breach in the defences during a flood that has a 0.5% chance of occurring in any one year up to 2115. In addition, the site has a current hazard classification of 'Danger for Most' (includes the general public) and 'Danger for Some' (includes children, the elderly and the infirm). The site could experience flood depths of 0.25 - 0.5m and 0.5 - 1.0m arising from a breach in the defences during a flood that has a 0.5% chance of occurring in any one year for the present day.

We advise that the risk of flooding present at this site is considered in the design of the LPG tanks and advise that appropriate flood risk mitigation is implemented for the proposed tanks. Tank floatation and associated pipe work damage is a known hazard which can be easily mitigated through appropriate design e.g. securing the vessel to the ground and ensuring pipe stress is considered

A permission was granted under SI4/361/1058/1996 which was consented to allow for storage of the same Hazardous Substances and amount that the site already benefits from. The applicant has not made it clear whether there are to be new tanks installed or whether this application is simply on the basis that the details of the business operating the site have changed.
Should it be the former some details regarding mitigation to flood risk would be required. At this stage then the Environment Agency who are a COMAH competent authority have no objections subject to giving flood risk advice. The HAS considers that the applicant need to be clearer in relation to the submission.

Other Consultations

There are no objections from any other consultee that formed part of the consultation process.

Conclusion

South Holland District Council, in its role as the Hazardous Substances Authority following direction from the COMAH competent authorities, who in this case are Health and Safety Executive and Environment Agency as well as other consultees required by legislation consider that insufficient information has been presented to issue a new consent. The site already benefits from consent for the storage of 36 te of liquid propane. The applicant needs to make it clear whether the consent is to be issued in a new name, if so, then the HSA require official documentation to confirm any changes in land ownership / name changes to ensure our records are correct so that the Consent is placed under the right legal entity and for the correct amount.

Until such a time consent will not be issued.

Recommendation
Consent Refused.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.