DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H19-0152-24**	**Applicant:**	**Amber Real Estate (Agriculture) Ltd.**
Proposal:	Variation of Condition 3 attached to H19-0891-12 to allow for increase in capacity of LPG tanks already consented on site		
Location:	Gedney Poultry Farm Eastfields Luttongate Road		
Terminal Date:	22nd November 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Planning (Hazardous Substances) Regulations 2015

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	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	2
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	2
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	5

CASE OFFICER ASSESSMENT

Proposal

Variation of condition 3 attached to H19-0891-12 to allow for increase in capacity of LPG tanks already consented on site

Condition 3 (of H19-0891-12) allowed for the maximum capacity of LPG in a tanker unloading on site not to exceed 18 tonnes. This application seeks to amend that maximum capacity to 25 tonnes. The application also provides an updated location and block plan. This plans shows the tankers in the same location as previously approved under H19-0891-12.

Site Description

The application site relates to

Relevant History

H19-0891-12- Siting of a 12 ton gas storage vessel (retrospective). Approved 14-03-13

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.

Anglian Water

Environment Agency

We have no objection to the variation of condition application, to allow for an increase in capacity to 36 tonnes of Part 2, 18 substance.

Historic Environment Officer

No archaeological input required.

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 H19-0152-24 at site location 'Gedney Poultry Farm Eastfields' there are no National Gas assets affected in this area.

HSE

There are no significant reasons, on safety grounds, for refusing Hazardous Substances Constent.

North Level IDB

Please note that North Level District Internal Drainage Board have no objections to the above planning application.

Environmental Protection

No comments

Natural England

Natural England has no comments to make on this application.

Civil Aviation Authority

No comments received

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 26th November 2024 confirm that there are no significant reasons on safety grounds, for refusing the hazardous substances consent. The HSE expand to recommend the following planning conditions:

1.The hazardous substances shall not be kept or used other than in accordance with the particulars provided on the application form, nor outside the areas marked for storage of the substances on the plans which formed part of the application (including 'LPG Gas Lines Site Location and Block Plan' Drawing number JW/2192/0224-200_01 dated Feb 2024)
2.The maximum capacity of LPG in a tanker unloading on site shall not exceed 25 tonnes.

It is also advised by the HSE that conditions 4, 5 & 6 of H19-0893-12 are no longer fit for purpose. Condition 4 restricts deliveries of LPG tankers to 100 per annum whilst condition 5 stipulates that there shall be a single unloading point for the transfer of LPG from the tanker to all 3 tanks. Condition 6 limits the LPG to propane only.

In terms of the number of Tankers per annum, given the tankers are an ancillary element of the broader business, they need to be working when required. Highways have no issues in terms of highway safety and given that the wider operations are likely to involve multiple daily movements, the impacts from filling the LPG tanks are not required to be conditioned.

In terms of an unloading point, in previous emails with the HSE it is advised that a basic approach would be to condition that an offloading point will be within 10m of the tank(s). This will be attached.

In terms of the LPG, the application is for liquified propane. The conditioning of the application form ensures that this is the case.

Environment Agency

The EA have stated that they have no objection to the variation of condition application, to allow for

an increase in capacity to 36 tonnes of Part 2, 18 substance. The following points were considered in reaching this conclusion:

1. The storage of liquefied propane gas is not an activity listed in the Environmental Permitting (England and Wales) Regulations 2016.
2. The proposed quantity of liquefied propane gas is below the 50 tonne threshold required to bring the establishment into the Control of Major Accident Hazard Regulations in Schedule 1 Part 2 of those regulations.
3. The applicant already holds an Environmental Permit for the main activities at the site.
On the basis of this response South Holland DC also have no objections to issuing the consent.

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 authority, who in this case are Health and Safety Executive and Environment Agency as well as other consultees required by legislation consider that there is no reason reasons on safety grounds, in respect of potential harm to people nor on environmental grounds to restrict the issuing of hazardous substances consent, subject to the conditions discussed within this report.

Recommendation

Consent Granted.

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.