

Hazardous Substance Consent



What is a Hazardous Substance?

A Hazardous Substance is defined by legislation and the [Planning \(Hazardous Substances\) \(Scotland\) Act 1997](#) and [the Town and Country Planning \(Hazardous Substances\) \(Scotland\) Regulations 2015](#) provide legal definitions of the substances affected by this consent process. The hazardous substances whether present as a raw material, product, by-product, residue or intermediate are grouped into general types of substances, e.g. their characteristics such as flammable or toxic, and named substances which specify the chemical compounds themselves. It is a basic premise of this legislative approach that the storage of these materials raises safety risks for people and the environment and that a specific permission should be sought for their storage.

Do I need Consent?

You will need permission to store any substance within the descriptions set out in the Regulations specified above if you breach the thresholds described for each of the various substances. This is described as the “controlled quantity”. The storage of smaller quantities of substances do not need consent however the storage of a combination of different hazardous substances even below their “controlled quantity” could result in consent being required. Transport of hazardous substances does not generally need permission but the point of loading and unloading could be affected by this consent process and it would be important that this is checked with the planning authority. The determination of the need for this type of consent is complex and any summary given in this guidance should not replace a full assessment of the legislative requirements as they relate to the substances that you intend to store or use.

You can also need consent to vary conditions attached to any previous Hazardous Substance Consent or to continue to store a hazardous material where there has been a change in the person that controls the land where it is stored.

Application Submission Requirements

Fife Council has application forms for applying for the three types of permission described above and these are available [here](#). You must provide specific information and the forms are set out in a way that ensures that the key requirements of the legislation are met. In addition you must notify the owner/controller of the land if that person/organisation is not the same as the applicant. A separate form is available for that too. Fife Council also requires the following

- Site Map – at 1:10,000 scale with the OS grid lines included and the site should be identified in red.
- Substance Location Plan at a scale of 1:2500 with the site identified in red. This should encompass and demonstrate the area of land where the substance(s) is to be stored, any plant and machinery associated with this and access routes to and from the site to the road network.
- Block plan at a scale of 1:200 or 1:500, as appropriate to the scale of the proposal, indicating the layout of all plant and machinery, structures or ground engineering associated with the storage.
- Details any storage building or plant and machinery eg tanks

- A fee of £500 (or £1000 if the amount of substance to be stored equal to or more than double the “controlled quantity”)

How will my application be processed by Fife Council?

The guidance associated with the assessment of applications for Hazardous Substance Consent is set out in the aforementioned legislation and [Circular 3/2015, Planning Controls for Hazardous Substances](#).

The Council is required to carry out neighbour notification in the same way as a planning application; advertise the application in the local paper and consult an agreed set of statutory consultation bodies. This will always include the Health and Safety Executive, SEPA, Scottish Natural Heritage, the Community Council, and the Police and Fire Services. In determining the application the Council has a duty to consider the terms of the Development Plan including any existing and future land uses, any existing planning permissions in the vicinity, the advice from consultees and any representations from the public.

The Council can decide to refuse the application, grant consent unconditionally or grant consent subject to conditions. The advice to the Planning Authority is that they should in most circumstances take on board the safety advice and any conditions recommended by the HSE in this regard.

The Council is expected to determine this type of application within 2 months unless an extension to the time period has been agreed. Similar to the planning application system the applicant can opt to assume a deemed refusal and appeal to the Scottish Ministers if the decision is not made within the agreed timescale.

Any appeal to the Scottish Ministers would be made in a similar way to a refusal of planning permission though there are specific requirements relating to this type of appeal which are set out in detail in the legislation and guidance.

How does a Hazardous Substance Consent Application affect me?

If you are notified of an application for Hazardous Substance Consent you are able to submit comments to the Council for 21 days after the date on the notification or within the time period set by the advert in the local paper. The significant difference with this type of application is that the information will not be available to view online. It will be essential that you visit the Planning Authority to view the information submitted. The Planning Authority is part of Economy, Planning and Employability Services and is located at Fife House, North Street, Glenrothes, KY7 5LY. You will be able to view paper copies of the submission or access digital versions at that location. Similarly the register of Hazardous Substance Consents will not be available online. This is a requirement of the legislation as information of this nature can be security sensitive.

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