

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 13 FEBRUARY 2018

**HAZARDOUS SUBSTANCES CONSENT APPLICATION – HATTON FARM HATTON
CARNOUSTIE**

GRID REF: 359050 : 737475

REPORT BY HEAD OF HOUSING, REGULATORY AND PROTECTIVE SERVICES

Abstract:

This report deals with hazardous substances consent application No 17/00506/HAZ for the storage of 8.11 tonnes of Biogas (Classified as Part 1 – P2 Flammable Gases, Cat 1 or 2) and 24 tonnes of LPG – Propane (Classified as Part 2 – 18 Liquefied Flammable Gases, Category 1 or 2 (including LPG and natural gas), Described Under the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015 by Hattonside Ltd at Hatton Farm, Hatton, Carnoustie. This application is recommended for conditional approval.

1. RECOMMENDATION

It is recommended that the application be approved for the reason and subject to the conditions given in Section 10 of this report.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- Safe, secure, vibrant and sustainable communities
- A reduced carbon footprint
- An enhanced, protected and enjoyed natural and built environment

3. INTRODUCTION

3.1 The applicant seeks hazardous substances consent for the storage of 8.11 tonnes of Biogas and 24 tonnes of Liquid Petroleum Gas (LPG) (Propane) at Hatton Farm, Hatton, Carnoustie. A location plan is provided at Appendix 1.

3.2 The application site is located 88m to the east of the C61 public road, approximately 740m south of the A92 dual carriageway. The application site accommodates and anaerobic digester plant and associated infrastructure. The site is bound to the north, east and west by agricultural land with the complex of agricultural buildings at Hatton Farm and farmhouse bounding the site to the south.

3.3 The application proposes the storage of 8.11 tonnes of Bio-gas in four anaerobic digester tanks and 24 tonnes of LPG – Propane in a total of 12 tanks. The digester tanks and LPG tanks have been or are subject of separate planning applications as discussed below.

3.4 An amended application form was submitted on 10 October 2017. The amended application form confirms that LPG – Propane is to be stored on site; confirms the number of vessels that the LPG – Propane will be stored in and the maximum capacity of each individual vessel; confirms the maximum tanker size and where they will unload when visiting the site.

3.5 The application was advertised in the Courier as required by legislation.

3.6 This application requires to be determined by Committee due to the recommendation for approval whilst being subject to an objection from the Community Council.

4. RELEVANT PLANNING HISTORY

- 4.1 Planning application (Appn: 15/01149/FULL refers) for development of an anaerobic digester plant, associated infrastructure, landscaping, ground works and the formation of a new site access was approved under delegated powers on 27 May 2016. This planning permission has been implemented.
- 4.2 Planning application (Appn: 16/000941/FUL refers) for extension to the approved anaerobic digester plant (retrospective) is subject of a separate report to this Committee. That application is recommended for conditional approval.
- 4.3 Planning application (Appn: 17/00642/FULL refers) for the erection of an additional digestate storage tank (retrospective) is subject of a separate report to this Committee. That application is recommended for conditional approval.

5. APPLICANT'S CASE

Commentary on the consultation response from the Community Council has been provided in support of the application. The supporting information is available to view on the Council's [Public Access](#) system and is summarised at Appendix 2 below.

6. CONSULTATIONS

- 6.1 **Angus Council – Roads** – has offered no objection to the application.
- 6.2 **Health & Safety Executive (HSE)** – has assessed the risk of harm to the surrounding area from the maximum quantity of hazardous substances for which consent is being sought. Having regard to relevant matters HSE has concluded that the risks to the surrounding population arising from the proposed operation(s) are so small that there are no significant reasons, on safety grounds, for refusing hazardous substances consent subject to conditions.
- 6.3 **SEPA** – has offered no objection to the application and has indicated the site would also be regulated under Control of Major Accident Hazards (COMAH) Regulations 2015.
- 6.4 **SNH** – has offered no comments on the application.
- 6.5 **Scottish Water** – there was no response from this consultee at the time of report preparation.
- 6.6 **Carnoustie Community Council** – has objected to the application in relation to the time it has taken for the applicant to apply for hazardous substances consent and is concerned about what measures are in place should a major incident occur at the site. *The full representation from the community council will be circulated to members of the Development Standards Committee and is available to view on the council's [Public Access](#) system.*

7. REPRESENTATIONS

No objections have been received.

8. PLANNING CONSIDERATIONS

- 8.1 Section 7(2) of the Town and Country Planning (Hazardous Substances)(Scotland) Act 1997 requires that the following matters be taken into account, besides any other material considerations: (a) any current or contemplated use of the land to which the application relates; (b) the way in which land in the vicinity is being used or is likely to be used; (c) any planning permission or development consent that has been granted for development in the vicinity; (d) the provisions of the development plan, and (e) any advice which the safety regulator has given in consultations.
- 8.2 In this case the development plan comprises:-
- TAYplan (Approved 2017)
 - Angus Local Development Plan (ALDP) (Adopted 2016)
- 8.3 Neither TAYplan nor the ALDP identify or safeguard any land in the vicinity of the site for any purpose. There are no policies, proposals or land allocations in the development plan that are directly relevant to the determination of this application.

- 8.4 The site has planning permission (ref: 15/01149/FULL) for the development of an anaerobic digester plant and associated infrastructure. That permission has been implemented and use of the site for that purpose has been established. That permission provided for the formation of gas storage facilities. There are no extant planning permissions or undetermined applications for planning permission in the surrounding area that are relevant to the determination of this application.
- 8.5 The application seeks consent for the storage of quantities of Bio-gas and LPG – Propane in association with the anaerobic digester plant. The locations where the hazardous substances are to be stored have been identified on the submitted Hazardous Substances Location Plan. The application site is bound by agricultural land which is in the control of the applicant.
- 8.6 The HSE has taken account of surrounding land uses and, as indicated above, has concluded that the risks to the surrounding population arising from the proposed operations are so small that there are no significant reasons, on safety grounds, for refusing hazardous substances consent. The HSE has indicated conditions it would wish to see attached to any consent and has also as part of the consultation process provided a revised consultation zone map which will be placed on the HSE's PADHI+ land use planning advice web application in the consultation zone library. The effect of this consultation zone would not unreasonably restrict appropriate development in the area having regard to the provisions of the development plan.
- 8.7 The representation from the Community Council is noted. However, the applicant has indicated that hazardous substances are not currently stored on site at a level that would require hazardous substances consent. The HSE has advised that the risks to the surrounding population are so small that there are no significant safety reasons for refusing consent. The HSE is the public body with the expertise in assessing risks of this kind, and its advice should be overridden only on the basis of sound scientific arguments. There is no evidence to justify departure from the HSE advice.
- 8.8 In conclusion, and giving due consideration to the consultation response from the Health and Safety Executive, there are no incompatible land uses or proposals requiring planning permission relating to the land in the vicinity. Also, there are no known outstanding planning permissions in the vicinity which might compromise or be compromised by the granting of hazardous substances consent. The proposed development does not give rise to any significant issues in terms of the provisions of Section 7(2) of the Planning (Hazardous Substances) (Scotland) Act 1997 and there are no material considerations that justify refusal of the application.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

The recommendation in this report for grant of hazardous substances consent, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

EQUALITIES IMPLICATIONS

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

10. CONCLUSION

It is recommended that the application be approved for the following reason, and subject to the following condition(s):

Reason(s) for Approval:

That the storage of hazardous materials in accordance with the terms of this consent does not

give rise to any unacceptable impacts on the current or contemplated use of the land to which the application relates or to the way in which land in the vicinity of the site is being used or is likely to be used having regard to the provisions of the development plan and to the advice provided by the Health and Safety Executive. There are no material considerations that justify refusal of the application.

Conditions:

1. The hazardous substances shall not be kept or used other than in accordance with the particulars provided on the amended application form (submitted on 10 October 2017), nor outside the areas identified on Drawing No. MGA020 Rev B: Site Plan Services and Access dated 23 August 2017.

Reason: In order to clarify the terms of this consent and to ensure that hazardous substances are stored in accordance with the details against which the application was assessed.

2. The hazardous substances shall be stored and processed in accordance with the particulars provided on the amended application (submitted on 10 October 2017).

Reason: In order to clarify the terms of this consent and to ensure that hazardous substances are stored and processed in accordance with the details against which the application was assessed.

**STEWART BALL
HEAD OF HOUSING, REGULATORY AND PROTECTIVE SERVICES**

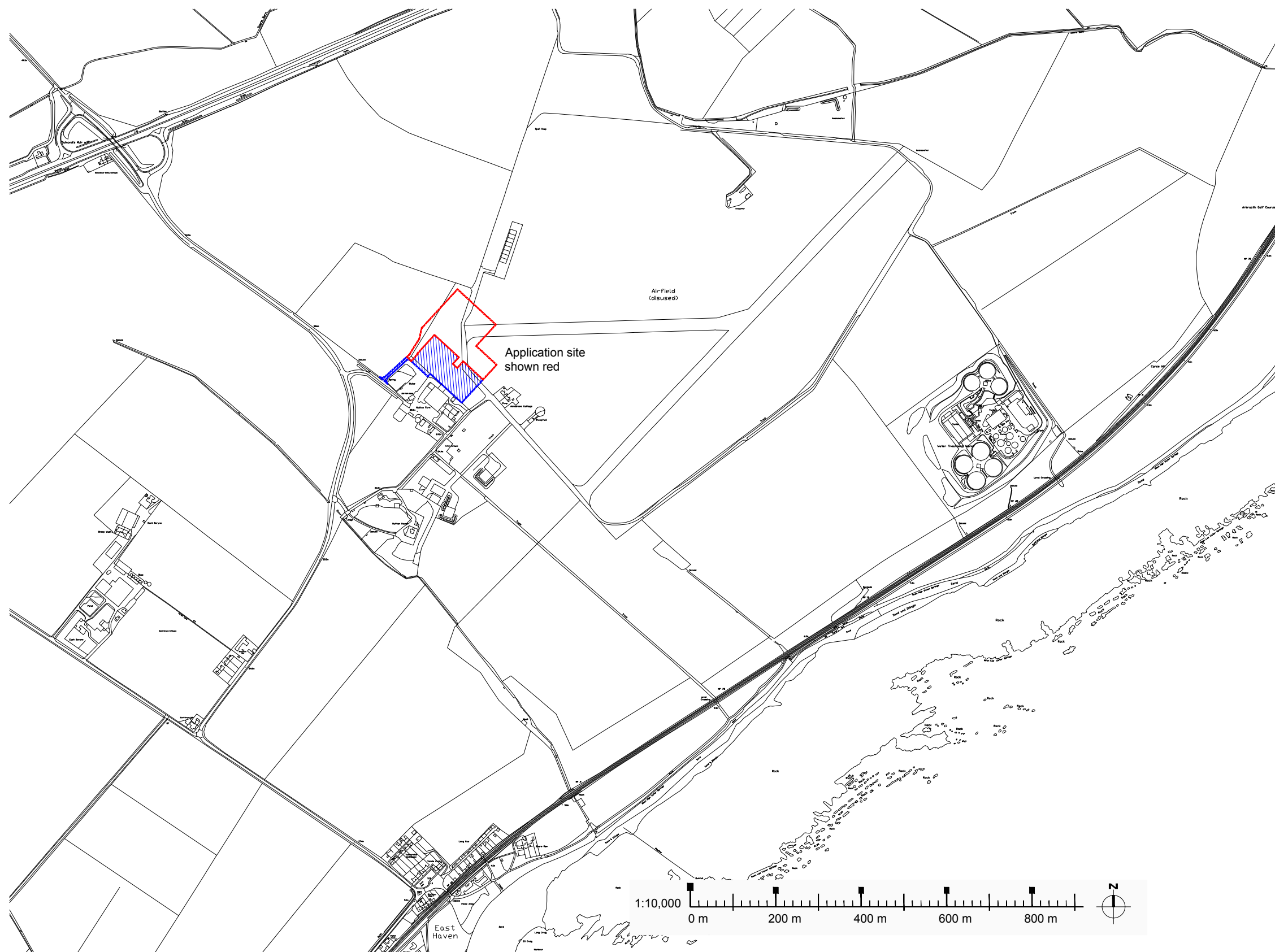
NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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DATE: 5 February 2018

APPENDIX 1: LOCATION PLAN

APPENDIX 2: SUMMARY OF APPLICANTS SUPPORTING INFORMATION



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DRAWING TITLE
PHASE 2
Location Plan

SCALE 1/10,000 @ A3 DATE Nov 2016
DRAWN BY LF

STATUS
3889/LP/10 DWG NO

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Appendix 2 – Summary of Applicant Supporting Information

Commentary on Community Council consultation response - The LPG Tanks and biogas upgrader were granted planning permission as part of the original application. Under this application the storage of both LPG and the methane produced by the sites Anaerobic Digestion process is permitted. In anticipation of the grant of Planning Permission for tank 4 and with what would be the resulting biogas storage capacity the site would border on the threshold of Lower Tier Control of Major Accident Hazards (COMAH) site which will result in a requirement for it to be more closely regulated. It is the Developers obligation under the COMAH Regulations to notify the relevant authorities (Angus Council and the HSE and SEPA) that the site is now above the threshold of Lower Tier COMAH regulations. This would be as a result of the storage of LPG in combination with the biogas stored following installation of tank 4. As such an application for a Hazardous Substances Consent must be made prior to their use above the threshold. The site as it exists now is not above this threshold but it was anticipated that this would be the case in future and the developer is obligated to apply for this consent. The application has been made as a precautionary measure. It is best practise to ensure that the site is known to the HSE and SEPA for COMAH reasons and as a result this will mean that the site will be voluntarily regulated more closely by the HSE and SEPA.

The LPG Tanks and biogas upgrader were granted planning permission as part of the original application. The works undertaken by SGN for the pipeline connection are not subject to planning applications from the Developer. The need to add LPG to the bio-methane produced is a requirement of the Network Operator to ensure gas quality.

The amount of energy released when a volume of gas is burned is known as the calorific value (CV). Because gas meters measure the volume of gas, not its energy content, the CV of the gas in the gas network needs to be consistent to ensure customers get the amount of energy they pay for. Bio-methane can have a lower CV than the required gas system CV. It therefore has to either be blended with conventional gas where the location permits or have LPG added to bring the CV up to standard.

The Gas Export Connection is within the Gas to Grid Unit within the consented site granted as part of the original application as seen in the approved site layout drawing GR-0132 MGA001 REV J (attached). All gas pipelines outside of the site are under the stewardship of SGN.

The COMAH regulations clearly define what information can be supplied to the public and this information can be seen on the HSE's website.