

**Application Number:** 15/11057 Hazardous Substance Consent Revocation  
**Site:** FAWLEY POWER STATION, FAWLEY ROAD, FAWLEY  
SO45 1TW  
**Development:** Hazardous substance consent revocation  
**Applicant:** RWE Generation UK plc  
**Target Date:** 10/09/2015

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## 1. Introduction

This matter relates to the revocation of an existing Hazardous Substances Consent at Fawley Power Station. Specifically, the former owner of the site (RWE) are asking the Local Planning Authority to revoke a deemed Hazardous Substances Consent dated 8th July 1992 (Reference 92/93493). This consent relates to the storage of 54 tonnes of propane.

RWE (the applicants) advise that a number of years ago many of the propane storage tanks on the site were decommissioned, meaning that since 2000, the site has had a maximum storage capacity of 14 tonnes of propane. The remaining storage tanks were decommissioned in 2014, with the effect that propane is no longer stored on the site.

## 2. Legislation Background

- 2.1 The Planning (Hazardous Substances) Act 1990 requires consent to be obtained for the presence on, over or under land of a hazardous substance in an amount at or above a specified controlled quantity. In the case of Propane, the controlled Quantity specified in Column 2 of the original 1992 Regulations was 25 tonnes. In the new 2015 Regulations, the controlled quantity of Liquefied petroleum gases (which includes propane) is also 25 tonnes.
- 2.1 The existing Hazardous Substances Consent for Propane gas at Fawley Power Station was claimed under Section 11 of the 1990 Act using the deemed consent provisions.

## 3. Land Use Planning

- 3.1 Where Hazardous Substance Consent is granted, a Consultation Zone (CZ) is established around the installation, and this is based on the maximum quantity of hazardous substances that the site is entitled to have under its consent. The proximity of individual proposals within a CZ to an installation with hazardous substances is a material consideration and it is a statutory requirement to consult on such proposals with the Health and Safety Executive (HSE). The HSE advises on the nature and severity of the risks presented by the installation to people in the CZ so that those risks can be given due weight by the Local Planning Authority.

- 3.2 In the case of Fawley Power Station, the Health and Safety Executive have designated 3 zones in and around the power station. These are an inner zone, a middle zone and an outer zone. The inner zone is the most sensitive zone and it is here that development is currently most restricted. However, in all of the zones, development potential and the types of development that can take place are affected to a degree. If the current consent is revoked, it is likely that in due course the Health and Safety Executive would remove their consultation zones, thereby removing a potential restriction to certain types of development.

#### **4. Revocation**

- 4.1 Section 14(2)(c) of the 1990 Act gives hazardous substances authorities the power to revoke a hazardous substances consent that relates to a single substance, where that substance has not for at least five years been present on, over or under the land to which the consent relates in a quantity equal to or exceeding the controlled quantity.
- 4.2 In this case, because the applicant indicates that the quantity of Propane has been below the controlled quantity of 25 tonnes since 2000 and that there is now no propane on the site at all, it is considered that it would be appropriate to revoke the Hazardous Substances Consent 92/93493 under Section 14 (2) (c) of the Hazardous Substances Act 1990.
- 4.3 Revoking a Hazardous Substances Consent under Section 14 (2) (c) needs to be confirmed by the Secretary of State.
- 4.4 Where a Hazardous Substances Authority submit a Revocation Order under Section 14 to the Secretary of State, they are required (by Section 15) to serve notice of the order on:-
- a) any person who is an owner of the whole or any part of the land to which the order relates;
  - b) any person other than an owner who appears to them to be in control of the whole or any part of the land;
  - c) on any person who in their opinion will be affected by the order.

Any such notice shall specify the period (which must not be less than 28 days from the service of it) within which any person on whom notice is served may require an opportunity of appearing before the Secretary of State.

- 4.5 Where an Order under Section 14 has been confirmed by the Secretary of State, the Hazardous Substances Authority are required to serve a copy of that order on every person on whom the initial notice has been served.
- 4.6 RWE advise that they have recently sold the site, so that it is now owned by Aldred Drummond of Fawley Waterside Ltd who has an environmental management consultant and a planning consultant who RWE advise should also be notified of any revocation.
- 4.7 Given that the previous owners of the site have sought a revocation, which is supported by the new site owners, it is felt that it would be reasonable and appropriate for the Local Planning Authority to revoke Hazardous Substances Consent under Section 14 (2) (c) of the Hazardous Substances Act. This would then enable the Health and Safety

Executive to review (and in all probability remove) its Consultation Zones around the Fawley Power Station, which in turn would remove an unnecessary impediment to development within these areas.

## **5. Conclusions**

- 5.1 In the light of the constraints this deemed hazardous substances consent has on potential future development opportunities on surrounding areas and given the hazardous substance has not been on the site in excess of the Controlled Quantity for over 5 years and has all now gone, it is considered expedient to revoke the consent.

## **6. Recommendation**

- 6.1 That Hazardous Substances Consent 92/93493 be revoked.
- 6.2 That Planning Development Control Committee authorise the Head of Planning and Transportation to prepare a Revocation Order under Section 14 (2) (c) of the Planning (Hazardous Substances) Act 1990 for the Secretary of State to confirm.
- 6.3 In making the order, interested parties be notified in line with the requirements of the Act.

## **7. Reason for Recommendation**

- 7.1 The site is no longer used for the storage of the hazardous substance stipulated in the Hazardous Substances Consent, and moreover for a period of over 5 years the quantity of the hazardous substance stored on the site has been below the controlled quantity. As such, the continuation of the Hazardous Substances Consent is no longer required.
- 7.2 Although the Local Planning Authority is under no obligation to revoke the existing Hazardous Substances Consent, and could choose not to, the continued existence of a seemingly unnecessary Hazard Consultation Zone places an unnecessary impediment to future development within the defined Consultation Zone Area.

### **Further Information:**

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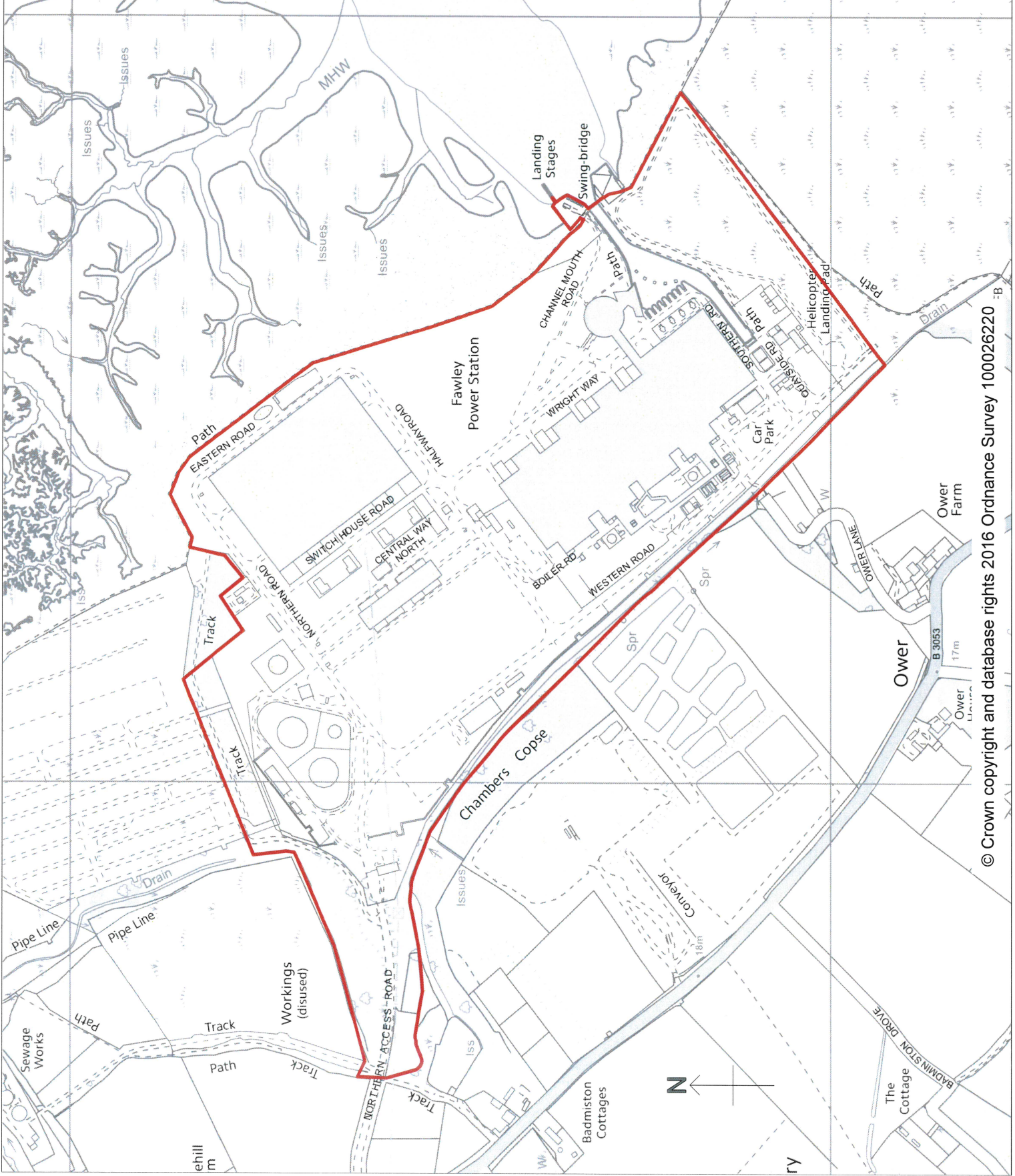
**Planning Development  
Control Committee  
February 2016**

**Item No: 3b**

**Fawley Power Station  
Fawley Road  
Fawley  
15/11057**

Scale 1:7000

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