



Annex G – The Health and Safety Executive

This annex supplements the Planning Inspectorate's Advice Note Eleven: Working with public bodies in the infrastructure planning process. The advice note covers many of the generic points of interaction relevant to the Planning Inspectorate and the Health and Safety Executive (HSE). This annex helps applicants understand HSE's particular role in infrastructure planning. It explains:

- **What is HSE?**
- **What does HSE do?**
- **What is HSE's role in land use planning?**
- **What is HSE's role in Nationally Significant Infrastructure Projects (NSIPs)?**
- **Risk Assessments**
- **How to contact HSE**

What is HSE?

HSE is a statutory non-departmental public body with Crown status sponsored by the Department for Work & Pensions.

What does HSE do?

HSE is Great Britain's national regulator for workplace health and safety. We aim to reduce work-related death, injury and ill health. We achieve this through research, providing information and advice, promoting training, developing regulations and codes of practice, operating permissioning and licensing activities in major hazard industries, carrying out targeted inspections and investigations, taking enforcement action and by working with local authorities and others. Our website can be found at www.hse.gov.uk.

What is HSE's role in land use planning?

Because of HSE's knowledge on major accident hazards, the government has appointed HSE as a statutory consultee in England, Scotland and Wales to planning authorities on applications for Hazardous Substances Consent and certain types of development near major hazard installations and major accident hazard pipelines. We set a 'consultation distance' (known as a safety hazard area) around such sites.

For explosives sites where manufacturing and/or storage activities are undertaken, a licence may exist under the Explosives Regulations 2014 (as amended) (ER 2014). A licence may also exist under the Dangerous Goods in Harbour Area Regulations 2016 (DG HAR 2016) where loading/unloading, handling and carriage of explosives activities are undertaken within a harbour/harbour area. Under both licensing regimes, the licensee has a duty to maintain the separation distances to various classes of protected places that the relevant licensing authority has set in the licence. The licensee has to produce a plan of the separation distances and send a copy of this to the relevant licensing authority and local planning authority.

Our land use planning processes can be viewed on the HSE website at www.hse.gov.uk/landuseplanning/.

HSE has transformed how it delivers its land use planning service, making it easier and quicker for developers, planning authorities and others (eg agents, architects and land owners) to access HSE's formal advice. A [Web App](#) allows planning authorities to obtain HSE's statutory advice directly and gives an online platform for developers and others to make enquiries related to any plot of land.

Confirmation whether a Proposed Development is within a consultation zone of a major hazard site, an HSE licensed explosives site or a major accident hazard pipeline can be obtained from the [Web App](#), and is a free service. Pre-application advice can also be provided to business users who are looking to develop a site.

What is HSE's role in Nationally Significant Infrastructure Projects (NSIPs)?

HSE is a consultation body, for the purposes of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (Schedule 4) requires (where relevant) an Environmental Statement (ES) to include "a description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters which are relevant to the project concerned".

When an applicant requests an EIA Scoping Opinion from the Planning Inspectorate in relation to a proposed EIA development, HSE will be consulted and will provide useful information supporting them to compile a robust scoping opinion which will be used by the applicant to prepare their ES.

HSE is also a statutory consultee in accordance with section 42 of the Planning Act 2008 (PA2008), providing public safety advice in respect of proposed NSIPs.

Two main considerations for HSE are: does the Proposed Development have the potential to cause a major accident (eg does the development require a hazardous substances consent, will it be within scope of the Control of Major Accident Hazards (COMAH) Regulations (<http://www.hse.gov.uk/comah/>) or could the development impact on a COMAH site); and is the Proposed Development vulnerable to potential major accidents (eg is it within a consultation zone around a major hazard site or pipeline). When preparing our statutory advice on NSIPs, as well as providing our views on the above considerations, we will also highlight as appropriate:

- If the Proposed Development is on an existing major hazard site, where such a new development could have significant consequences for major accident hazards.
- The need to consider if an application should be made to the Hazardous Substances Authority (HSA) for a new hazardous substances consent (HSC) and/or whether extant hazardous substances consent(s) need to be varied.
- If there is a facility near to the Proposed Development where a licence exists under either ER 2014 or DGHAR 2016.

It is incumbent upon the applicant to address all responses including those from statutory consultees in their Consultation Report to be submitted with each NSIP application. When this is not apparent and the HSE NSIP team has had no other direct contact, we will

contact the applicant to satisfy ourselves that any outstanding issues have been addressed. This interaction will clarify if a Relevant Representation is required.

We use the same criteria to then consistently review all relevant documentation under section 56 of the PA2008. However, HSE only raises a Relevant Representation, if we have outstanding concerns which require further scrutiny at the Examination stage of the process.

HSE may also choose to participate in the Examination when there have been unresolved issues usually around those sites constrained by current consultation zones.

Risk assessments

If the Proposed Development will be in scope of the COMAH Regulations, a risk assessment would need to include relevant information on the extent and severity of hazards from the Proposed Development, with the potential to impact on local populations, and/ or the adjacent major hazard installations. Guidance is available on the scope of the Regulations and the duties imposed by them (<http://www.hse.gov.uk/pubns/books/l111.htm>)

If the Proposed Development is not within scope of the COMAH Regulations, the safety concerns related to any work activity would be addressed under the Health and Safety at Work, etc Act 1974 and its relevant statutory provisions. In particular this consideration should be discharged under a management of Health and Safety at Work Regulations requirement to prepare a suitable and sufficient risk assessment (<http://www.hse.gov.uk/risk/index.htm>) for proposed activities, identifying hazards and taking appropriate measures to manage and control the risks.

Under Great Britain's health and safety legislation, HSE does not have a role in examining risk or hazard assessments unless the circumstances are covered by specific regulations (eg the on-shore chemicals sectors where threshold levels of dangerous substances are exceeded).

In general, there are no requirements for HSE to examine risk/hazard assessments prepared by licensees under specific explosives legislation. However, risk/hazard assessments may be examined as part of a technical justification for licensing a particular facility as part of the licensing process. This is normally done on a case by case basis, giving due consideration to the technical issues involved where standard licensing criteria cannot be fully applied.

There are no additional requirements for any risk assessments submitted to and approved by the relevant planning authority to also be considered by HSE. However, it may be beneficial for applicants to undertake a risk assessment as early as possible to satisfy themselves that their design and operation will meet the requirements of relevant health and safety legislation as design of the Proposed Development progresses.

How to contact HSE

For NSIPs, the designated address and email for both applicants and the Planning Inspectorate to contact HSE is:

NSIP Consultations

1.2

Health and Safety Executive
Redgrave Court

Merton Road
Bootle
Merseyside
L20 7HS

Email: NSIP.applications@hse.gov.uk

Our preferred means of communication is electronic. The NSIP Manager will consult specialist colleagues as appropriate and may put applicants into direct contact with these specialists from time to time.

Other land use planning related contact details (including for the [Web App](#)) can be found at:

<http://www.hse.gov.uk/landuseplanning/contact.htm>