



Renfrewshire Council

To: Regulatory Functions Board

Report by: Director of Finance and Resources

Heading: Consultation for Civic Government Licences near COMAH establishments

1. Summary

- 1.1 There are currently five sites in Renfrewshire which constitute Control of Major Hazards (COMAH) establishments.
- 1.2 The Health and Safety Executive has requested that Renfrewshire Council reviews its procedures under the Civic Government (Scotland) Act 1982 to prevent the licensing of certain activities that could pose a risk to members of the public should they take place within the vicinity of a COMAH establishment.
- 1.3 The recommendations in this report would ensure that appropriate Council departments are consulted when an application is received for a market operators' licence or public entertainment licence which is seeking to take place within the vicinity of a COMAH establishment. This will allow the appropriate departments to liaise with relevant external bodies and make relevant objections or representations to the Regulatory Functions Board. The policy also creates a rebuttable presumption that certain applications will not be granted.

2. Recommendations

- 2.1 To approve the Regulatory Function Board COMAH Policy as set out in Appendix 1; and
- 2.2 To instruct officers to make any necessary changes to the civic government licensing application procedures and practices as required to implement the COMAH Policy.
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3. Background

- 3.1 The Control of Major Accident Hazards Regulations 2015 (the "Regulations") provides that a site will constitute a COMAH establishment if it houses dangerous substances above the thresholds provided in the Regulations. In the Renfrewshire area there are currently five COMAH establishments. These are listed in Appendix 2.
- 3.2 The Regulations are enforced by the COMAH Competent Authority which is a partnership of different bodies including the Health & Safety Executive, the Office for Nuclear Regulation and the Scottish Environment Protection Agency. When applicable, Planning Authorities are notified by the Health & Safety Executive or the Office for Nuclear Regulation of consultation distances for COMAH establishments. This allows the relevant bodies of the COMAH Competent Authority to be consulted when planning applications are received within the consultation distances. Within the consultation distance there is an inner zone, a middle zone and an outer zone. An example of a consultation distance is provided in Appendix 3. There is no equivalent consultation requirement under the Civic Government (Scotland) Act 1982.
- 3.3 Certain activities licensed under the civic government licensing regime may attract a large crowd public gathering in one location. Should this location be within the vicinity of a COMAH establishment then there is a potential risk to the members of the public should a major accident occur. Accordingly, the Health and Safety Executive has requested that Renfrewshire Council reviews its procedures to ensure that appropriate bodies are consulted when an application has been made for Market Operators' Licences and Public Entertainment Licences which take place in the vicinity of a COMAH establishment. These types of licences have the potential for attracting large crowds and would not necessarily require planning permission.
- 3.4 The proposed COMAH Policy provides that the Council's Health and Safety Section and Civil Contingency Service must be consulted should an application for Market Operators Licences and Public Entertainment Licences for activities on premises within the middle zone of consultation distances for a COMAH Establishment. The officers of these departments have the experience and knowledge to liaise with appropriate external bodies and then make representations or objections as would be necessary. The policy also creates a rebuttable presumption which means that any application within an inner zone of a consultation distance will be refused which means that the applications will go to Board for consideration. This rebuttable presumption will not apply to applications where the COMAH Competent Authority have already been consulted on the intended activities as part of the consultation for planning permission and the COMAH Competent Authority did not make any adverse comments. This will prevent duplication of the planning process.

- 3.5 The draft policy has been approved by the Health and Safety Executive. Comments were also sought from Diageo, the operator of the upper tier COMAH site in Renfrewshire, but no comments have been received.
- 3.6 Should the Board approve the proposed policy then officers will review the application practices and procedures in order to best implement the aims of the policy.

Implications of the Report

1. **Financial – none**
2. **HR & Organisational Development - none**
3. **Community Planning – Safer and Stronger – the proposal aims to improve public safety.**
4. **Legal - none**
5. **Property/Assets – none**
6. **Information Technology – none.**
7. **Equality & Human Rights -** The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report and each application would be considered against these specific impacts. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety –** the purpose of the policy is to improve public safety. The Council's Health and Safety Section has been involved in discussions prior to the drafting of this report.
9. **Procurement – None**
10. **Risk -** the decision to adopt the policy itself carries minimal risk. However, any decision to refuse an application following adoption of the policy may result in interested parties appealing a decision of the Board to the Sheriff court.
11. **Privacy Impact – none**
12. **Cosla Policy Position – not applicable**

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Appendix 1



Civic Government (Scotland) Act 1982

Regulatory Functions Board

COMAH Policy

Where an application is made to Renfrewshire Council for the grant or renewal of a Public Entertainment Licence or a Market Operators' Licence which is wholly or mainly to be carried on in a premises within a Middle Zone or Inner Zone of a COMAH Establishment then a copy of the application will be sent to Renfrewshire Council Civil Contingency Services and to Renfrewshire Council Health and Safety Section.

Where an application is made to Renfrewshire Council for the grant or renewal of a Public Entertainment Licence or a Market Operators' Licence which is wholly or mainly to be carried on in a premises within an Inner Zone of a COMAH Establishment it will be presumed that the application will be refused for reason of protecting public safety in accordance with Paragraph 3(d) of Schedule 1 of the Civic Government (Scotland) Act 1982. This rebuttable presumption will not apply to applications which include evidence that the relevant Competent Authority were consulted in relation to the activities intended to be licensed as part of the consultation process under Regulation 25 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and the relevant Competent Authority made no adverse comments.

In this policy:

"COMAH Establishment" has the same meaning given to "establishment" in the Control of Major Accident Hazards Regulations 2015;

"Competent Authority" has the same meaning given to "competent authority" in the Control of Major Accident Hazards Regulations 2015;

"Inner Zone" means the inner zone of the consultation distance around a COMAH Establishment notified to Renfrewshire Council by the relevant Competent Authority for the purposes of development management;

"Market Operators' Licence" has the same meaning given to "market operators' licence" in the Civic Government (Scotland) Act 1982.

"Middle Zone" means the middle zone of the consultation distance around a COMAH Establishment notified to Renfrewshire Council by the relevant Competent Authority for the purposes of development management.

"Public Entertainment Licence" has the same meaning given to "public entertainment licence" in the Civic Government (Scotland) Act 1982.

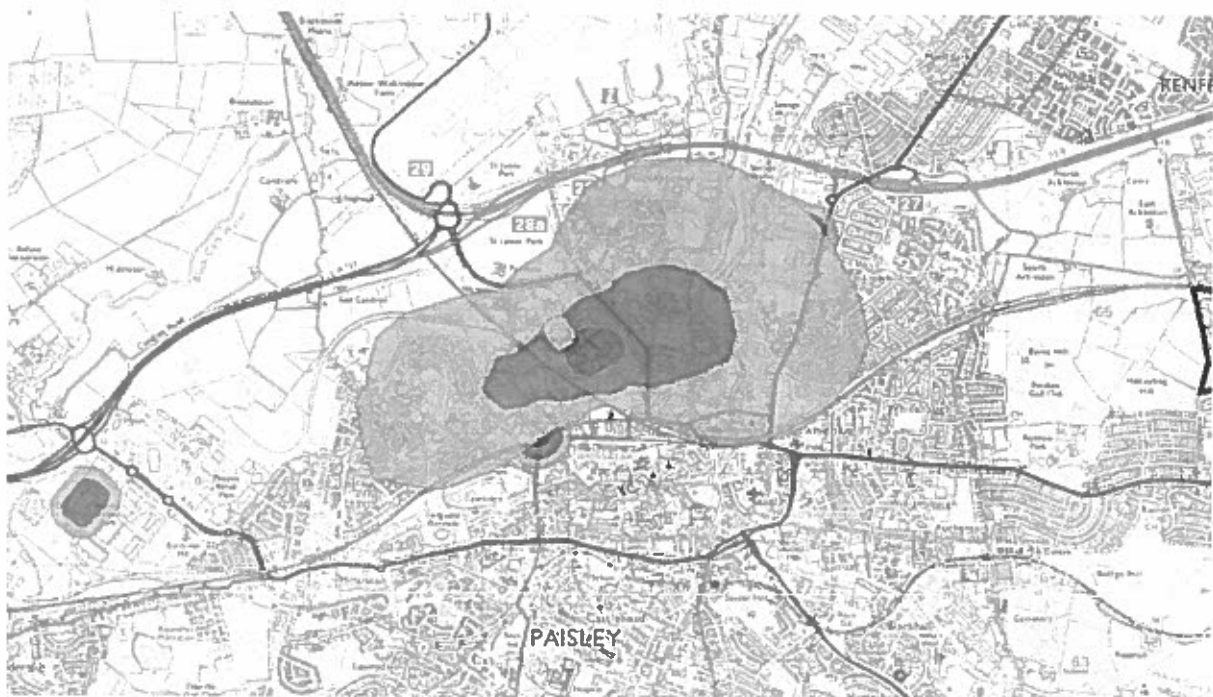
COMAH 2015 Public Information

COMAH 2015 Search Results

5 establishments found. Click on any establishment name to view their Public Information record.

<u>Establishment Name</u>	<u>Operator Name</u>	<u>Trading As</u>	<u>Town</u>	<u>Postcode</u>
<u>Blythswood</u>	Diageo Scotland Limited		Renfrew	PA4 9EB
<u>Glasgow Airport</u>	S & J D Robertson North Air Limited		PAISLEY	PA3 2TJ
<u>Paisley</u>	Flogas Britain Limited	MacGas Limited	PAISLEY	PA3 4AT
<u>Paisley</u>	Chivas Brothers Limited		PAISLEY	PA3 4DY
<u>Shieldhall Packing Operations</u>	Diageo Scotland Limited		Glasgow	G51 4SA

Appendix 3





Title

Notes



Renfrewshire
Council



1:10000

Active

Date: 12/10/2017

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