

Case reference	NA-HLD-084
Application details	Extension to Form Barber unit and additional dining area
Site address	Café V8, 12 Henderson Road, Inverness
Applicant	David McDougal
Determining Authority	The Highland Council
Reason(s) for notification	Category 2 (HSE)
Representations	Nil
Date notified to Ministers	1 December 2016
Date of recommendation	2 March 2017
Decision / recommendation	clear

### Description of Proposal and Site:

- The proposal is for a small scale single story extension to an existing café to form a barber unit and additional dining area.
- This site lies in an industrial estate and is located within the Development Proximity Zone (DPZ) of the Certas Energy UK Ltd petrol storage facility.

### EIA Development:

- EIA not required. The site area (0.25ha) is below the 0.5ha threshold for Schedule 2 development.

### Consultations and Representations:

- The Health and Safety Executive (HSE) advised against development because the proposed site is located within the DPZ and should a major fire or explosion occur at the depot there is potential for multiple fatalities and serious injuries to members of the public at the proposed development. Following notification to Scottish Ministers, HSE were consulted to verify whether they maintained their objection. HSE advised “that after careful consideration HSE does not recommend Scottish Ministers call-in this case for their own determination”. HSE has reached this decision in the context of the following: This case, on its own merits, does not meet the exceptionally high test HSE sets in its published criteria for decisions on whether to recommend call-in to Scottish Ministers. However,

HSE's significant safety concerns remain as do their observations on how the Highland Council have approached development control around the Certas Energy UK Ltd depot in Inverness (including not consulting HSE on the retrospective planning permission in 2013, as outlined in their letter of 20<sup>th</sup> January 2017).

- There were no other representations from statutory consultees or third parties.

**Assessment:**

1. The application has been referred to Scottish Ministers because HSE have advised against the proposed development because it falls within the DPZ. Whilst HSE maintain their advice, they conclude that they do not recommend that the application is called in for Scottish Ministers' determination.
2. Highland Council has considered the proposal against the relevant local development plan policies, and other material considerations, and considered the proposal accords with the provisions of the development plan.
3. In this instance, as the reason triggering notification to Ministers was the HSE objection, and HSE do not recommend call-in, it appears appropriate for Ministers to clear back the case to Highland Council for its own determination.

**Decision/Recommendation:**

- Clear application back to the Council.