



CANVEY GREENBELT CAMPAIGN

Submission on the Amendment to the Core Strategy CP9

C/137 and C/138

Change Ref No C/137 - CP9

The reason given for this change

“Ensures that the policy is focused on reducing the risk, as required by residents, without prejudice to commercial interests”

This is an open ended statement that will encourage the Hazardous sites to put forward planning applications that if not granted would prejudice their commercial interest.

However it is pleasing that the council's primary intention remains , although now not so vigorously, to pursue every opportunity to ensure the removal of the Major Hazardous Installation in doing so intending to release land back to the community for recreational use.

We still contend that until this aspiration can be fully achieved only limited development, particularly that which does not increase the level of societal risk, should be contemplated. We recognised in our original submission that the policy to make Canvey Island South a long term strategic location disguised the fact that the council, despite their reservation, regarding the hazard potential of this location, continued to propose to develop large areas of Canvey for residential use on the basis of the need out weighs the risk.

A significant issue seem that the Council are under pressure form the COMAH sites operators, whom have make it clear that their sites are non negotiable for future development. Having been given the opportunity to reconsider the proposed development on Canvey Island existing green belt/flood plain and being given the opportunity to recalculate housing requirement for the borough, the Council has chosen to maintain its position.

The Control of Major Accident Hazards Regulations 1999 (COMAH) already expect that Major Hazardous Sites reduce risk to As Low As Reasonably Practicable , The risk reduction measure will reduce the likelihood of a catastrophic event however it is the Planning Authority through its planning proposals that has ultimate control over the magnitude of the consequences.

Previously poor planning decisions have allowed development of residential property and caravan dwellings within the existing consultation distance CD creating an obvious safety issue. Consideration should now be extended to the whole of the community now residing within the now known to be possible hazard range of major hazardous sites. It is unsound to still remain adamant that it is appropriate to allow for increasing residential premises under the disguise of resolving deprivation, in doing so, putting more people at risk. The Buncefield incident caused massive damage to homes and businesses which illustrated the devastating potential of major hazard sites.

We recognised that there was never justification for the settling for over-cautious

restrictions as a long term solution to reducing societal risk, i.e. the removal of the hazardous sites, equally planning proposals should be appropriately responsive to risk. The residents of Canvey Island need assurance that retrospective action will be taken where there are issues compromising the safety of its community regardless of commercial interests.

Change Ref No C/138- CP9

This amendment has identified that the Planning Authority had not applied the necessary depth of expertise required when considering the safety and well being of those exposed to the risks of Major Hazardous sites .It has now been recognised that further constraints may be imposed with regards to land use planning depending upon the outcome of reforms in legislations. Issues dealing with the preventative measures and the ramifications of a Major Accident should have been investigated before justifying the proposals for extensive residential development. A huge part of the review process is looking at the provisions for emergency response and mitigation measures culminating with the strategy of an emergency plan.

The amendment change states:-

“The health and safety regime surrounding hazardous installations has become more rigorous and, it is recognised that it will continue to change the future as new information come to light. Since the Buncefield incident the HSE has been researching ‘societal risk’ ‘i.e. the risk to society as opposed to individual development proposals. At this time HSE has not published a policy on this matter, but the Council expect that in the future it will also need to have regard to the HSE Policy on Societal Risk when considering development proposals in the proximity of the hazardous installations at south Canvey.”

Societal Risk is an established concept for taking into account the total population at risk. High consequence hazards are now perceived as different from hazards which do not have the potential to injure many people at once, a number of multiple fatality industrial incidents over the last 40 years illustrate this point The contents of this submission is aimed at highlighting how seriously the subject is now being treated and the consequences of underestimating its message.

There is evidence in recent years of growing shortcomings in the management and control of risks on onshore major hazard sites, although safety targets had seemed to be met there having been over 65 major or significant incidents since the Control of Major Accident Hazards Regulations came fully into force in 2002.

There has always been the expectation that safety regime should be effective in detecting and remedying any weakness in an operator’s management system before such incidents occurs. These incidents do not reflect well on a system that places an obligation on site operators to guarantee a high level of protection for persons and the environment by all appropriate means. The reality is that it has to be recognised that achievement of ‘no major accidents’ prognosis is unrealistic.

The Council has now become aware of the work being commissioned by the Health and Safety Executive (HSE). The safety regimes are to become more rigorous and although not yet policy its aim is to develop a model for the consideration and estimation of the risk ramification to communities and the environment resulting from accidents at major hazard installations. It is hoped that the results of the work being undertaken by the Technical Advisory Group (TAG) will be used to advise Local Authorities (LA) on proposed land use allocation around certain major hazardous sites, with a view of complementing the Planning Advice for Developments near Hazardous Installations (PADHI+) advice process.

The HSE when dealing with the complex issues of (LUP) consultation distances and societal risk are now endeavouring to develop a process that considers the issues of the potential for multiple loss of life and injuries that could result from the off site consequences of major incidents, by ensuring that risk criteria for the vicinity of major hazards sites can be adequately analysed to be consistent with a risk based consequential outcome.

The potential for a major incident can only be reduced, not entirely eliminated as there will always be some degree of residual risk in any industrial operation. The mitigation of the off - site consequences of a major incident can be achieved by controlling the uses to which land in the hazard range of the sites activities can be used.

One of the main considerations dealt with by the consultation process and the Technical Advisory Group (TAG) is to advise, challenge and support the development of a societal risk methodology when dealing with land use planning.

The TAG first needed to establish whether it was appropriate to use societal risk to control risks to people around hazardous installations and how societal risk should be represented.

A major difficulty is to decide what criteria the risk should be assessed against and should these be considered alone or combined with neighbouring hazardous sites, i.e. the domino effect. The HSE's is considering site specific risks to people from activities carried out by the major hazardous installations and have identified the need to analyse local societal risk with a direct consequence of events that could harm people in the vicinity of the installation, the relationship between the frequencies of these events and the numbers of people that could be harmed.

COMAH Remodelling

In 2008 the COMAH Competent Authority (CA) following a series of recent incidents has led them to take a wider review how their regulatory approaches have evolved and how these incidents relate to the COMAH regime, subsequently it has been considered that remodelling of the regulatory processes is necessary. The aim is to optimise the regulatory activities with emphasis on those that produce the greatest benefits in terms of improving the control of major hazard risk.

In the changing of the approach to COMAH regulations, the COMAH (CA), The Health and Safety Executive and its regulatory partners, the Environmental Agency and the Scottish Environmental Agency embarked on an extensive review. The Competent Authority has set about a programme of work to fundamentally review of how the regulatory regime is implemented and its intention is to bring the management of the (CAs) response to the Buncefield Major Incident Investigation Board (MIIB) under the umbrella of a single programme board.

The Competent Authority (CA) is remodelling the way it carries out its responsibilities, especially in areas of priority setting, safety report assessment and inspection. It is hoped that better national coordination of the (CA's) priorities to deliver a better placed safety report assessment process. It has recognised that it needs to be more upfront to deliver face-to-face advice and guidance to duty holders as they prepare to submit their safety reports

The HID (Hazardous Installation Directive) and the CI (Chemicals Industry Divisions) branches of the HSE represent the technical knowledge and expertise needed to undertake site inspections have also undertaken a review to account for the diversion of front line resource required for the supporting role of the COMAH remodelling programme. This review has led to a number of measures including the introduction of the revised risk ranking scheme devised to identifying and targeting the highest priority COMAH sites requiring intervention from the HID/CI ,making the best use of operational resources over the next 2-3 years while the remodelling programme is in effect.

The Site Ranking Scheme is based on a scoring system which allows for local adjustment of sites scores to raise the priority ranking identified by significant performance issues. Other criteria are.

- (1) The Societal Risk projection i.e. the density of the populated area
- (2) Pattern of persistently poor or deteriorating performance
- (3) Major accident or reportable Dangerous Occurrences
- (4) Prosecution(s) or enforcement notices
- (5) Failure to heed or implement advice of the regulatory authority

The existing process generally on the basis of the information detailed within Top Tier COMAH sites Safety Reports supported by the Major Accident Prevention Policy document, needing to be credible against the HSE Safety Reports Assessments Manuals, allows for those installations that maintain the criteria of this process to normally be left to manage their establishments without the necessity of intervention, in effect being self compliant self regulating installations. This process is hoped to release the regulatory authority to use their over stretched resources to greater effect, enabling them to focus upon the areas of most concern and the hazard industry poor performers.

The Calor Gas site has been the subject of the intervention process operated by the HSE and the new occupier of the Oikos site have inherited huge problems with regards to containment of hazardous substances. The fact that these situations are being or have been rectified gives little comfort to the community reliant on the very safety systems preventing their exposure to the risk from these sites.

The CA will also endeavour, alongside changes to the assessment process, to make a step change towards inspection regime of hazardous sites which should proactively increase the verification of the sites safety reports contents whilst on site, an intervention that should secure their documents validity and competency.

This is all of course resource led, Field operators with the necessary expertises and support mechanisms are at present fully stretch and have only been able in the past to respond reactively to incidents requiring their attendance. This aspect must not be allowed to prevail, having recognised the need for change from the incident driven approach. Responders from all agencies must be appropriately resourced, failure to do so will only see history repeating itself, society cannot afford a disaster causing devastating loss of life knowing that recommendation not taken up could have been the mitigating factor.

It is of course appropriate to point out that although the COMAH (CA) is undertaking fundamental change to the way that it functions, the law will not change in so far as their priorities will continue to endeavour to:

1. Limit the potential for occurrence of major incidents
2. Ensure that those who create risks meet their responsibilities
3. Endeavour to assure people who live and work near a major hazard site or sites can continue to do so safely and that the activities undertaken by such sites take into account their safety and that of the surrounding environment, and
4. Assist industry to conduct its activities safely and recognise that individual failures undermine the hazardous industries sector as a whole.

Once again there is an expectation that this more robust major hazard regime will be effective in the detection and remedying of the present weaknesses in an operator's safety systems and safety management process. Implicit in these endeavours is the need for a balance between the competence and performance expectation of the regulators and regulated.

Because of the recent developments resulting from the Buncefield Incident, Local authorities, the blue light services and COMAH sites operators will be confronted by the difficulties they encounter in accommodating the appropriate demands to provide suitable for purpose emergency action and evacuation plans as required by the COMAH regulations. The whole aspect of suitable for purpose emergency

contingencies should essentially be a consideration for the planning authority to investigate before proposing large scale development on Canvey Island.

The Civil Contingencies Act 2004

The Civil Contingencies Act (CCA) established the statutory framework of roles and responsibilities for organisations involved in civil protection giving responsibilities to Local Authorities primarily dealing with risk assessments, business continuity management, emergency planning and most importantly maintaining public awareness with reference to warning and public advice. The Civil Contingencies Act (Contingencies Planning) Regulations 2005) establish the Local Resilience Forums, the principal mechanisms for multi-agency resilience work. Essex County Council Resilience Forum risk assessment working groups have been given the task of compiling the Community Risk Register following the carrying out of comprehensive assessments of the risks in Essex.

This Community Risk Register is the first step in the Emergency Planning process; its aim is to ensure that Planning and other work are carried out in proportion to the risk. This aspect is the subject of examination by the Cabinet Office and other Agencies, as the risk ramifications aspect to this process had not been fully justified and may need to be amended.

The Cabinet Office has set about formulating the Civil Contingencies Act Enhancement Programme and has produced a document dealing with interim guidance to complement emergency preparedness, dated January 2010.

Having undertaken the review to ensure that statutory arrangements continue to be fit for purpose, evidence from independent reviews and findings from the 2008 National Capability Survey, indicated that implementation of the CCA has been largely successful, and that it has made significant contributions to the enhancement of emergency preparedness in the UK. However, during the initial stages of this work, evidence emerged including findings from the reviews of the Buncefield Oil Depot explosion, and Sir Michael Pitt's report of the Summer 2007 floods indicated that there are broad ranges of CCA areas that would merit a more thorough review.

The CCA enhancement programme has been established to deliver a number of policy projects which include

1. Assessing whether there are aspects of the CCA where original intentions are not being met and develop solutions where these are needed.
2. Considering whether the CCA needs to be modified to reflect relevant experience and changes in relevant structures which have emerged since the CCA came into force.
3. Considering how to reflect best practice in the CCA regime and supporting guidance to help raise the standard of UK resilience activities.

4. Evaluating whether the scope of the CCA should be broadened beyond emergency preparedness to cover the remaining aspects of integrated emergency management not already covered by the act, and
5. Ensuring that the CCA framework is effectively aligned and integrated with relevant legislation and policy initiatives.

The Aim of the enhancement programme is to ensure that the legislation is consistent across planning and response arrangements established by the CCA and other legislations including the COMAH regulations. It also sought to address a number of related recommendations arising from the Buncefield investigations and Sir Michael Pitts review.

Having identified the following issues, the rationale of the enhancement programme seeks to respond to the following points.

1. Evidence suggests that Local Planning and Response arrangements under different regimes are not always effectively integrated.
2. Different standards apply to readiness and response.
3. Some hazards specific regimes are not integrated well into the work of the local resilience forums (LRF).
4. Warning and informing arrangements for some regimes differ from the CCA requirements, and
5. Inconsistency can cause confusion for the public and responders, consequently increasing the risk of poor planning and response.

The Cabinet Offices guidance is born from recommendations arising from the previous reviews and reports of the incidents referred to above, which while focusing on a number of individual areas clearly has implications for the overall interface between the CCA and its accompanying guidance documents such as the COMAH regulations and subsequent emergency plans prepared under these two regulatory regimes. In addition there are also recommendations requiring improvements to be made to the risk assessment, emergency planning, warning and informing processes.

Castle Point Council Planning Authority should avail itself of the principle elements that gives cause for concern to the Cabinet Office to ensure that its guidance endeavouring to complement emergency preparedness is fully understood and that the reasons why it is felt necessary to review the Civil Contingencies Act have been acknowledged. The Council needs to be comfortable that Essex County Council's provision for emergency preparedness is fully integrated into the review process with a particular requirement to consider the societal risk ramifications.

It is becoming increasingly apparent that when preparing and up dating risk assessments all responders need to consider the potential for major incidents

occurring at Major Hazardous Installations having a significant impact on the wider community. Risk assessments need to reflect the site safety reports and ensure that they are consistent with the worst case ramifications identified from previously experienced incidents. The Community Risk Register should not only reflect the nature of the risk but also detail the control measures required to best mitigate the consequences.

The fundamental failure however of the Community Risk Register is that generally it is not a process known to the community that could benefit from its existence. The scope of the hazard range from an incident at hazardous sites has never been identified by Public Information Zones (PIZ), leaving large numbers of the community around such sites completely unprepared.

The CCA regime includes two specific duties in relation to communicating with the public, firstly there is a duty to inform the public about civil protection matters so that the public are better prepared. Secondly, there is a duty to maintain arrangements to warn the public and provide appropriate advice if an emergency occurs. The existing COMAH regulations require major hazardous sites operators to provide information to the public liable to be affected by a major accident at their establishment. In preparing this information the operators must consult the local authority in which they are situated and reach agreement for the local authority to disseminate the information to the public.

The issues here being investigated as a result of the Buncefield MIIB findings are that worst case scenario need to be reassessed and that the ALARP as low as reasonably practical thresholds of the hazardous sites safety regimes need be regularly reappraised. PIZ. Public information zones and the information previously provided are no longer viable and are seriously failing to satisfy the regulatory requirements.

Accumulation of Initiatives

The HSE's special task and finish Technical Advisory Group formulated to advise challenge and support the development of societal risk methodology to assist with land use Planning

The Buncefield Major Incident Investigation Board's recommendations on land use Planning and the control of major societal risks around major hazardous sites.

The Cabinet Office's Civil Contingencies Act enhancement programme and resilience interim guidance to complement emergency preparedness

The COMAH Competent Authority's fundamental review of its approach of regulating onshore major hazards so as to modernise the regulatory regime and take into account operational experience gained since the regulations were first introduced (COMAH site remodelling programme)

All these initiatives are designed and being developed so as to protect the safety of the environment and communities living in and around major hazardous sites. However it is irresponsible to suggest that because the risk may be reduced i.e. the likelihood of a serious event; it is acceptable to consider putting more people at risk.

The consequences of injury or even death to the community of Canvey Island remain constant other than the likelihood of a greater number of residents becoming casualties having been exposed to the ramification of a major incident due to the proposed over development. The public attitudes to major hazard sites have become less accepting. Pressure on land use is growing, leading to problems in protecting the population around hazardous sites. Local Authorities must be mindful of the responsibility that they have for their community's human rights to live without fear for their safety.

Amendment:-*"Clarify how HSE advice will be used in planning decisions"*. Indicates that the council has not fully appreciated the consequences that hazardous site could have on the well being of communities. An incident of any significant magnitude will have physical, mental and financial implication for the whole community of Castle Point

This response submission to the changes C/137 and C/138 to CP9 of the Core Strategy has identified that the policy CP9 remains fundamentally flawed .These amendments will not satisfy the issues brought by the representation of the Hazardous Sites of Calor Gas and Oikos. It is clear that these companies have shown that they have no intention of closing down or relocating elsewhere within the foreseeable future. The proposed policy changes have highlighted that the Council still has serious reservations about the safety of these sites and the risks that they represent to the community.

The Council seem now to be aware of the need for change in the planning system when dealing with the issues of societal risk and should as indicated by recommendations of the Buncefied report employ the necessary level of expertise that will bring them up to date with some the initiatives, identified by this submission, being undertaken by the various agencies.

The situation of Canvey Island is clearly reflected by their concerns, despite this they have not justified why they persist to introduce disproportionate housing development to this part of the Borough. However it is the Planning Authority that has the ultimate responsibility with accountability for the safety of its community when granting planning applications. It is for them to justify why they feel that it is sustainable to promote the continued growth of population in the vary part of the Borough where it community is at long and short term risk be it from flooding or industrial accident when other parts of the Borough are clearly better place for future development of housing requirements.