

Ian McPherson
Director - Environment, Health
and Safety

By e-mail

27 March 2006

Mr Hugh Harris
Head, Barker Review Team
HM Treasury

Dear Mr Harris,

UKPIA's response to the Barker Review of Land Use Planning

1. Thank you for the opportunity to submit evidence to this important review. UKPIA is the trade association representing the oil refining and marketing industry in the UK, and our members own and operate all the major crude oil refineries and most of the oil product distribution terminals. From this network of terminals road tankers deliver oil products (ie petrol, diesel, jet-fuel etc) to petrol filling stations, commercial consumers and industry. Oil products provide some 32% of primary energy in the UK, and are expected to continue to be the largest single source of energy in the UK beyond 2030 (source IEA).
2. We recognise that this review has a very wide remit, and we wish to mainly address a small part of the subject concerned with industrial sites holding hazardous substance consents. We also have included a brief comment at the end of this submission concerning the relationship between land use planning and the EU Habitats Directive.
3. Oil products and operations are potentially hazardous, and they are rightly the subject of extensive regulatory control to ensure risks to both people and the environment are properly controlled. An important part of the regulatory system is land use planning and the associated consents to hold hazardous substances. Additionally, major hazard sites holding large inventories of hazardous substances are also regulated under the Control of Major Accident Hazards Regulations 1999 (COMAH) by the Health and Safety Executive and Environment Agency, and have duties to take all necessary measures to prevent and mitigate the effects of major accidents involving hazardous substances, and work with local authorities to prepare emergency responses to major accident scenarios. The COMAH Regulations, based on the EU's Seveso II directive 96/82/EC Art 12, also require member states to have effective land use planning policies to prevent major accidents and to limit the consequences.
4. There are important balances to be struck to enable society to continue to enjoy the benefits of oil products while allowing the industry to operate efficiently and competitively, and to be able to continue to attract the considerable investment needed to meet future market demand. At present UK consumers benefit from among the lowest pre-tax prices for petrol and diesel in the EU, as a result of an efficient domestic oil refining and distribution industry and fierce competition on retail forecourts.

5. The recent incident at Buncefield oil storage terminal has shown that although incidents at hazardous installations involving off-site damage are unusual, we cannot assume they will never happen. It is important to have a land use policy around major hazard sites aimed at providing appropriate separation between major hazard sites and the public, such that society can continue to enjoy the benefits of the products, but that risks to people, property and the environment are controlled to an acceptable level, and industry can continue to invest and operate competitively and productively.
6. There are some concerns and perceived inconsistencies in the present system, and we understand that Government departments are currently addressing some of these, although we are not party to the detail. We have been involved with HSE in a recent review of methodologies for ranking and assessing the risks to society from major hazard sites. And we are aware that HSE is working on helping local authorities have the tools to assess the risks around major hazard sites. In most cases the major hazard site has been operating for many years, and the pressure is for more development in the vicinity. The concern is that if more development is allowed to encroach around the major hazard site, it would increase the risks to the people concerned to an unacceptable degree – putting pressure on the operator to constrain his operations and reduce the source of the risk – possibly causing the operator unacceptable expense and in extreme cases triggering closure of the site. **A strong and well-balanced policy on industrial zoning is needed to ensure the best outcome for society as a whole, and to respect the rights of existing industrial operators.**
7. The current system establishes consultation distances around sites with hazardous substance consents. There are two main forms of threat from development: either major development such as new shopping centres just outside the consultation distance (on which HSE will not be consulted), or smaller in-fill development inside the consultation distance. We should be aiming to provide a consistent long-term approach to both land use planning and to the regulatory control of major hazard sites under the COMAH regime.
8. We appreciate that land for development is scarce in some parts of the country, and we understand the attractions of encouraging re-development of brown-field sites. However, the same pressures mean it is often difficult, expensive, or impossible to re-locate distribution assets such as oil terminals and the associated primary supply network providing product from refineries either by ship or by pipeline. These assets need to be protected by a strong industrial zoning policy for the benefit of society as a whole.
9. **Habitats Directive:** In autumn 2005 the UK was found by the European Court of Justice to be in breach of the 1992 Habitats Directive 92/43/EEC. This requires new plans or projects to be scrutinised to ensure no adverse effect to the integrity of EU designated habitats. The ECJ ruled that UK should subject regional development plans to this test, even though no planning permission is given in a regional development plan. The tests currently used by the Environment Agency and English Nature are in our view extremely onerous and far beyond the practice in other member states. You may wish to seek evidence on how DEFRA intends to comply with the ECJ ruling, which we understand is likely to require changes to the UK implementing regulations of 1994 SI 2716.

We hope these comments are helpful

Yours sincerely



Ian McPherson