



Kilcolgan Residents Association
Protecting the Shannon Estuary

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Ms. Orla Ryan
Petroleum Affairs Division
Department of Communications, Energy and Natural Resources,
Leeson Lane,
Dublin 2
Email: orla.ryan@dcentr.gov.ie

Re: Public Consultation on Draft Heads of Petroleum Exploration and Extraction (Safety) Bill, 2007

Dear Ms. Ryan,

We the members of the Kilcolgan Residents Association, having had serious reservations about the safety approach used by the HSA, An Bord Pleanala and the Statutory Bodies in evaluating the safety aspects of the proposed LNG terminal at Tarbert in County Kerry are hereby making the following submission as is our right on the public consultation on Draft Heads of Petroleum Exploration and Extraction (Safety) Bill, 2007.

The most serious flaw in the HSA's approach to safety opinion it gives to planning authorities, which we fear will be replicated implicitly in this bill, is to consider only the probability of an accident and to ignore the consequences of an accident in the safety evaluation of gas and petroleum infrastructure projects. In our opinion this is totally unacceptable.

From our attached submission to An Bord Pleanala,¹ which was ignored by the Bord as being irrelevant, you will note (in point 7) that The "Planning (Location of Hazardous Sites) Bill [Number 55]" was introduced in the British House of Commons by Mr. Bob Spink MP (Castle Point) on January 15th 2008². The Bill will require the introduction of binding guidance regarding minimum distances between

¹ "Serious New Information on Höegh LNG and Irish Sea Offshore Gas Storage for PA0002 post oral hearing into the proposed LNG terminal in County Kerry." Submitted to An Bord Pleanala by the Kilcolgan Residents Association, March 8th, 2008 (attached).

² Planning (Location of Hazardous Sites) Bill [55] setting precedent for mandatory exclusion zones around Seveso II sites

<http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080115/debtext/80115-0004.htm>
<http://www.epolitix.com/EN/Legislation/200801/4e63f2df-4a95-48c0-9962-dd5545ad463b.htm>

developments classified as Control of Major Accident Hazard sites and other specified types of building; and for connected purposes: The Bill was ordered to be read a Second time on Friday 6 June 2008, and to be printed.

When introducing the Bill, Mr. Spink stated that “the Bill seeks to improve protection for communities across Britain from the new development of potentially dangerous industrial sites. It will ensure increased safety by giving the Health and Safety Executive a framework for COMAH plant siting decisions, thereby improving the consistency of such decisions and affording a predetermined level of protection for communities.” He argued that his Bill “would increase and formalise the protection afforded to communities” and that it would “give clarity and certainty to applicants, the HSE and planning authorities, saving time, expense and much community anguish.” He stated that the “Planning Bill fails conspicuously to give the necessary procedural rigour for the infrastructure planning commission (IPC) to deal with the location of hazardous sites.” He argued that the Planning Bill “will cause more difficulties” as “the location of a dangerous plant will be decided by an unelected quango”.

We feel that the UK Bill deals with the same issues we are faced with in Ireland and highlights one glaring issue of concern to us viz. that the statutory bodies need guidance regarding minimum distances between dangerous installations and cannot be relied upon to apply their own criteria because, as we have learned, they will always favour the developer to the detriment of communities.

Secondly, we feel that the consequences of all decisions made under this proposed bill should be available to the general public at the planning decision-making stage to allow effective and timely participation in the decision-making process as per EU Directives, especially Article 6 of the EIA Directive. We therefore urge that the Safety Case should not only be submitted to the Commission but should also be subject to public scrutiny, sanction and approval.

Thirdly, as was highlighted in the Irish media in recent days, even the large gas and oil companies have grave reservations about the statutory process in place in Ireland. One media report noted the following:

“Earlier this month, seven [Mayo residents] travelled to Norway with Labour Party president Michael D Higgins, Green Party councillor Niall Ó Brolcháin and Sinn Féin councillor Noel Campbell in a bid to break the current impasse on the Corrib Pipeline issue. The group met StatoilHydro, a partner in the Corrib gas project, and received support from the federation of oil and gas workers' unions, SAFE, representing 8,700 members. StatoilHydro commented afterwards that the chances of moving the refinery were "close to zero". However, in an implicit criticism of the role of Irish statutory authorities, Helge Hatlestad, StatoilHydro's vice-president (exploration and production) for western Europe, said he believed it was "very unfortunate" that the concerns voiced by the north Mayo community had not been listened to during the planning stages of the project in 2000/2001. Speaking earlier this month, Mr Hatlestad said: "We've learned in Norway that there is a need for these sort of discussions, for consultation and communication, before a project is sanctioned . . . It becomes commercially unviable to do something different once a project has started.”

Fourthly, we are of the opinion that the regulations relating to exploration and extraction safety activities of Head 11 are regulations that should be decided upon at the planning stage because that is the only means by which community consent and approval can be obtained and this will ensure compliance with EU directives on public access to information, public participation and environmental impact assessment and to ensure compliance with the Seveso II Directive.

Finally, we are deeply concerned that this bill is attempting to explicitly and implicitly allow a parallel system of planning and development of gas and petroleum without full consultation with the general public and without powers of the general public to veto projects which put their lives in danger when a viable alternative exists. The final Report from the APaNGO project entitled 'community engagement in planning exploring the way forward'³ was launched at the international APaNGO closing conference in Brussels at the end of October 2007. The APaNGO project is one of the first studies of community engagement and involvement at the European level, covering findings from the seven Member States in North West Europe (Belgium, France, Germany, Luxembourg, the Netherlands, the Republic of Ireland, and the UK). It noted that the "legitimacy of any planning decision will vitally depend on the quality of democratic input to the process; without that input, decision-making itself will be discredited.

³ Final Report of the INTERREG IIIB Advocacy, Participation and NGOs in Planning Project – "community engagement in planning – exploring the way forward". October 2007 http://www.apango.eu/closingconference/20071016_APaNGO_ENGLISH_FINAL_REPORT_PRINT_UK.pdf