

# Britain: Still no compensation one year after Buncefield explosion

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One year after Britain's largest peacetime explosion, local residents are still waiting for compensation for the damage caused by the blast.

At 6 a.m. on Sunday, December 11, 2005, a huge explosion ripped through the Buncefield oil storage depot at Hemel Hempstead, northwest of London, decimating the depot and surrounding houses and offices. The raging inferno at the facility owned by Hertfordshire Oil Storage Limited (HOSL) took 650 firefighters four days to put out.

Prior to the explosion, Buncefield supplied over eight percent of the UK's oil, including 20 percent of supplies to south-east England and 40 percent of Heathrow airport's demand. On December 11, the depot held over 35 million litres of petrol, diesel and aviation fuel.

As a result of the explosion some 200 people were injured—two seriously—and a further 2,000 evacuated. More than 300 houses were damaged and about 600 businesses employing 16,500 people were badly disrupted. If the incident had happened during the week casualties would have been far higher and fatalities would almost certainly have occurred.

Heidi Brazier, founder of the Buncefield Residents Support Group whose family is still living in a hotel one year later said, "The residents have been forgotten." She added, "One woman said to me if she had the choice between compensation and turning the clock back she would say 'keep the money'. The suffering of some of those affected has been terrible and unreasonable."

Nena Hunter, her daughter Ann and her three children have been told they must move back into their home for Christmas even though the roof leaks and most repairs have not been carried out. "I am almost blind from writing letters," Mrs Hunter, 83, said. "They have never apologised or explained anything. It has been a nightmare. I have written so many letters it has got to the point where I can't go on. It has been a wall of silence."

Solicitor Des Collins has been acting on behalf of over 60 families seeking compensation for personal injury, damage to homes and devaluation in house prices. In January 2006, the families made an application for a Group Litigation Order in the High Court. During the hearing it emerged that there were 3,500 claims against HOSL from individuals and businesses totaling about £600 million.

HOSL is owned by the oil corporations Total and Chevron-Texaco, but BP and Shell could also face litigation as they own in part the British Pipeline Agency, which also has storage tanks at Buncefield, and the pipeline supplying Heathrow airport.

Back in January, Collins complained about HOSL's reluctance to discuss the compensation claims saying, "What they are doing is in effect stonewalling us . . . It just seems to be absolute nonsense that they seem to be persisting in this approach of 'we can't talk and we won't talk'."

HOSL denied the claim, saying it was "committed to constructive, efficient and coordinated discussions with solicitors representing the local residents and insurers and will continue to work closely with them."

The application to pursue group litigation was adjourned until October 30, 2006, when the judge ruled that claims should be settled by negotiation or mediation without admission of liability. But still the disputes drag on.

The families have also repeated their calls for a full public inquiry. From the start the Labour government refused and instead appointed an Investigation Board chaired by former Conservative MP Lord Tony Newton of Braintree. The board has published three Progress Reports and an Initial Report, relying for its information on investigations carried out by the Health and Safety Executive (HSE) and Environment Agency (EA)—the very organizations responsible for overseeing the Buncefield site in the first place.

Evidence gathered so far suggests the explosion resulted from the failure of the shutoff valves and alarms on one of the storage tanks, allowing unleaded petrol to overflow from the top. A vapour cloud formed, spread around the site and ignited causing a large fire that engulfed over 20 large storage tanks.

The HSE insists that formation of such a vapour cloud was not considered "a sufficiently credible scenario" and that its advice to HOSL was based on a "worst credible scenario" of a fire resulting from a pool of leaking fuel. This view was backed up by the Director General of the UK Petroleum Industry Association, Chris Hunt, who said the blast was "absolutely unprecedented." He claimed, "Generally there was reckoned to be no risk whatsoever from a terminal in terms of major fire or incident. We've got to learn lessons from that."

Following the first Progress Report published on February 21, Collins opposed this view saying, "The enquiry team insist on maintaining that this was a rare event. This flies in the face of mounting evidence that the only rarity value is in the minds of the HSE. Against this background it cannot be right that the HSE should have the major role in the investigation. The interests of the residents must demand a full Public Inquiry."

The Initial Board Report itself lists at least seven incidents around the world in which a large vapour cloud formed in a similar manner. And, even closer to home, a book about the Buncefield explosion recently published by the Sceptre school fundraising scheme shows a newspaper cutting about an explosion at the site in 1985. The oil corporation Mobil was fined several thousand pounds for breaching regulations that could have led to a "major catastrophe" as a result of a large build-up of petrol vapour. The company was found guilty of

failing to maintain a valve on a storage tank and failing to take all due precautions to prevent accidents.

Not only did the explosion have precedents, but it seems it could have been predicted too.

The Buncefield depot was granted planning permission on 90 acres of land on the outskirts of Hemel Hempstead in 1966. Although St Albans Rural District Council initially refused the application on the grounds that it would have a detrimental effect on the area, the Labour Minister of Housing and Local Government granted permission.

The depot expanded into a major distribution centre for the UK's fuel supply and started to supply Luton and Gatwick airports, which have mushroomed in size in the last three decades. Over the same period, as the price of land has rocketed, particularly in the southeast of England, the commercial zones of the town have expanded and developers have squeezed in housing and industrial estates dangerously close to the storage tanks.

Dacorum Borough Council is the principal planning authority for the site, but is required to consult the HSE and other agencies if any development is within the "consultation distance"—in this case just 190 metres from the perimeter of the depot (at one time it had been 250 metres). Between 1991 and 2005, some 28 applications were passed to HSE for advice relating to commercial or residential developments, but the agency only objected to four of them. It appears "there are no records of the technical assessments that were performed when the local planning authority sought advice on developments within the vicinity of the site."

The first time that the HSE received official notification from the owners of Buncefield that the site was "a major hazard" was 1983, some 15 years after its construction. In July 2002, Buncefield was classified as a "top-tier" hazardous site under the Control of Major Accident Hazards (COMAH) Regulations, which were introduced after the disastrous explosion at a chemical plant at Flixborough in 1974 where 28 workers killed, the plant was destroyed and there was extensive damage to property off-site.

The regulations make the HSE, EA and local councils responsible for monitoring hazardous sites and require companies to produce safety reports, introduce safety measures and draw up emergency plans. HOSL was required to submit safety reports in July 2003, but by the time of the explosion they had still not been completed.

Contamination has also been a major question at Buncefield. The Environment Agency is responsible for monitoring this at the site, but a survey of the drains and soakaways has still to be completed. During the course of the investigation, one borehole was discovered close to the tanks that is 42 metres deep and extends into the chalk below, which is classified as a major aquifer providing water supplies regionally. There are a number of road drains, some of which are connected to deep chambers. At the bottom of one appears to be another borehole at least 40 metres deep also penetrating the chalk aquifer.

A substantial proportion of the 786,000 litres of foam concentrate and 68 million litres of water used to extinguish the blaze contaminated the groundwater and surface water. Its severity has meant the explosion has been declared a Major Accident to the Environment and reported to the European Commission.

The third Progress Report also noted that the remaining contaminated fire waters had been removed and stored at a number of sites around the country, including the Thames Water Maple Cross sewage treatment works, pending decisions on its safe disposal. It declared, "The current storage does not present a significant

environmental risk and measures are in place to protect the environment." Within weeks the EA announced that nearly one million litres of the contaminated firewater had been released "inadvertently" from the treatment plant into the River Colne.

The firewater not only contains the residues from the burnt fuels but perfluorooctane sulphonate (PFOS), which is used to make firefighting foam flow more easily. As scientists have long known about its toxicity and links to cancer, the largest global producer, 3M, decided to phase out the chemical in 2000 although it is not formally banned in the UK or European Union. After the Buncefield explosion, the Drinking Water Inspectorate decided that drinking water should not contain more than three microgrammes of PFOS per litre of water. This decision reverses its previous policy, which said that there should hardly be any toxic substances detectable in water. The level for pesticides, for example, is 0.1 microgrammes per litre—thirty times less.

Despite the apparent poor regulation by the HSE and EA, it is the depot owners and management who are ultimately responsible for the safety of the site and prevention of accidents. But it is still uncertain if any prosecution of HOSL will take place. "In our view," said Lord Newton, "the importance of reaching conclusions that are considered, costed and sustainable greatly outweighs any benefit that might be derived from coming to summary judgments." He explained that the investigation into the causes of the incident will feed into the ongoing criminal investigation, and that it will be the HSE and the EA who will decide whether there are grounds to pursue criminal proceedings.

Meanwhile, BP is pressing to start using its undamaged storage tanks once more and there are controversial plans to build more than 5,000 homes on the remaining Green Belt land between Buncefield and the M1 motorway. As St Albans District Council councillors have pointed out, "Some of the development is quite close to the Buncefield site, but we haven't even had all the results from the Buncefield inquiry, the guidelines into how close houses can be built to the site or whether or not the oil depot will be re-built."



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