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23 March 2018

Dear Ms Vince,

PLANNING ACT 2008
APPLICATION FOR A NON-MATERIAL CHANGE TO THE HINKLEY POINT C (NUCLEAR GENERATING STATION) ORDER 2013

1. I am directed by the Secretary of State for Business, Energy and Industrial Strategy ("the Secretary of State") to advise you that consideration has been given to the application ("the Application") which was made by EDF Energy NNB ("the Applicant") on 3 October 2017 for a change which is not material to the Hinkley Point C (Nuclear Generating Station) Order 2013 ("the 2013 Order") under section 153 of, and Schedule 6 to, the Planning Act 2008 ("the 2008 Act"). This letter is the notification of the Secretary of State's decision in accordance with regulation 8 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (as amended) ("the 2011 Regulations").

2. The original application for development consent under the Planning Act 2008 was submitted to the Planning Inspectorate by the Applicant on 31 October 2011 and was granted development consent on 19 March 2013. Consent was granted for the construction and operation of a European pressurised reactor ("EPR") nuclear power station with a generating capacity of 3260MW ("the Development") at Hinkley Point in Somerset. The 2013 Order was subsequently amended by The Hinkley Point C (Nuclear Generating Station) (Amendment) Order 2015 ("the 2015 Amendment Order") and The Hinkley Point C (Nuclear Generating Station) (Amendment) Order 2017 ("the 2017 Amendment Order"). The Hinkley Point C (Nuclear Generating Station) Order 2013 as amended by the 2015 Amendment Order and the 2017 Amendment Order is referred to hereafter as "the Hinkley Power Station Order".

3. The Applicant is seeking consent for a change to the Hinkley Power Station Order to allow:
   - an alteration to the alignment of the sea wall to avoid an existing dry dock;
   - the erection of additional pipework along the underside of the temporary jetty to enable discharges of water from the site;

- the increase in the size of 4 buildings and structures (Equipment Store for the Interim Spent Fuel Store, Back Up Power Containerised Generators, Underground Tunnel Highpoint and the Valve Room for Demineralisation Station);
- the redesign of 12 buildings and structures (Interim Spent Fuel Store, Hot Laundry, the Hot Workshop/Hot Warehouse/Facilities for Decontamination structures, Effluent Tanks, Cooling Water Discharge Weir, Safeguards Buildings, Gas Insulated Switch Gear, Outfall Pond, Fire Fighting Water Building, Auxillary Administration Centre, Service Access Buildings and Off-Site Vehicle Search Area);
- change in the original location of the Nuclear Island Water Storage Tank, the Degassed Water Storage Tanks (2 tanks) and the Battery Load Bank; and
- the construction of a new Equipment Store in the location of the originally approved Access Control Building which is no longer required.

Consultation

4. The Applicant publicised this Application in accordance with regulation 6 of the 2011 Regulations and on 3 October 2017 consulted the persons specified in regulation 7 of the 2011 Regulations in the manner prescribed. The deadline for receipt of representations on the Application was 10 November 2017.

5. The Application was made publicly available on the Planning Inspectorate's website on 3 October 2017, such that there was opportunity for anyone not notified to also submit representations to the Planning Inspectorate.

6. Representations were received and considered from: the Environment Agency, Natural England, West Somerset Council, Stogursey Parish Council**,** Marine Management Organisation, Sedgemoor District Council, Somerset County Council, Natural England, Quantock Hills AONB Service**,** The Fairfield Estate**,** the Stop Hinkley organisation, the West Hinkley Action Group and ten private individuals. The Applicant responded to the representations on 22 January 2018 and then again on 21 February 2018 to respond specifically to the objection on the proposed change to the sea wall made by the Environment Agency.

7. The Secretary of State has considered the representations received in response to the consultation and does not consider that, other than as stated in his consideration of the changes in respect of the Interim Spent Fuel Store and associated Equipment Store, any further information needs to be provided by the Applicant or that further consultation of those already consulted is necessary.

Consultation Responses

<u>Environment Agency</u>

8. The Environment Agency objected to the proposed change to the sea wall on the basis that the Supporting Statement did not provide any information on the impact of the proposed change on tidal over-topping flood risks to the site, and because the Application did not contain a new Flood Risk Assessment which considered the proposed change to the sea wall.

9. The Environment Agency confirmed that it had not considered the documents titled 'TR443; Cefas Report HPC Assessment of Construction Discharges from the Jetty – Shadow Habitats Regulations Assessment (HRA) HPC-DEV024-XX-000-REP-10000' and 'TR428; Hinkley Point C construction discharge modelling assessment at the temporary jetty location Edition 3, HPC-DEV024-XX-000–REP-100002' as it would do so when it determined the variation of the current Construction Water Discharge Activity Permit

(EPR/JP3122GM). In addition, the Environment Agency noted that a variation to the Environmental Permit would be required before the Applicant could discharge water from the jetty. The Secretary of State also notes that the Environment Agency stated that the dry interim storage of nuclear waste would require an amendment to the current Environmental Permit issued for radioactive substances activities.

Marine Management Organisation

10. The Marine Management Organisation responded to say that the proposed change to the jetty and the realignment to the sea wall will have no effect on the assessments made for the original Hinkley Power Station Order in respect of Coastal Hydrodynamics, Geomorphology, Water and Sediment Quality, and Marine Ecology.

Natural England

11. Natural England confirmed that while some of the changes to the permanent building designs are unlikely to result in a significant effect on designated nature conservation sites and landscapes, because of the proximity of the Quantock Hills Area of Outstanding Natural Beauty ("AONB"), the Applicant should consult the Quantock Hills AONB Service.

12. Natural England stated that it would provide detailed comments on the temporary jetty discharges and the submitted documents 'TR443; Cefas Report HPC Assessment of Construction Discharges from the Jetty – Shadow Habitats Regulations Assessment (HRA)' and 'TR428; Hinkley Point C construction discharge modelling assessment at the temporary jetty location Edition 3' through the Environment Agency's formal consultation on the variation to the Construction Water Discharge Activity permit. Natural England also stated that providing no significant effects on designated sites are identified through the variation to the Construction Water Discharge Activity permit, it would have no objection to the proposed change to the jetty.

13. On the proposed change to the alignment of the sea wall, Natural England said that it did not consider that this change would result in a significant effect on designated nature conservation sites and landscapes, and that this was based on the assumption that there would be no further habitat loss as a result of the alignment changes to the sea wall. In relation to construction of the seawall, Natural England also advised that sufficient measures are in place to avoid excavation of contaminated material found during site investigations.

Quantock Hills AONB Service

14. Quantock Hills AONB Service raised concerns about the visual impact of the changes sought through the Application and stated that the Applicant had not provided evidence to support its conclusion that the proposed changes would not lead to any negative visual impacts from viewpoints from outside of the Development site. Quantock Hills AONB Service also raised concerns about the lack of consideration to the increase of building mass of the Development site and whether this would affect views from the AONB. Concerns were also raised regarding the proposed change to the size of the Interim Spent Fuel Storage building given that this structure would remain in place for a long period of time and until a geological disposal facility is identified.

Somerset County Council

15. Somerset County Council ("SCC") stated that the approval of the layout, scale and external appearance of the Interim Spent Fuel Store including the associated ancillary plant was the responsibility of West Somerset Council, as set out in Requirement M16 of the Hinkley Power Station Order.

16. On the Interim Spent Fuel Store, SCC raised concerns over the assessment of visual impact and impact on landscape of the proposed change was made in context of the operational power station, and that consideration should be given to the fact that the structure will remain in place long after the power station has been decommissioned as the spent fuel can only be removed when a geological disposal facility is identified.

Sedgemoor District Council

17. Sedgemoor District Council ("SDC") raised concerns on the proposed change to the Interim Spent Fuel Store and the impact it might have on the immediate locality and coastal path, and the impact on long distance views in the context of the long period of time the structure will be in existence. SDC also requested the Secretary of State to provide assurance to local communities that, from a regulatory perspective, the selection of dry storage ensures a safe and secure location for the interim storage of spent fuel. SDC also stated that it would be seeking reassurance from the Applicant that the addition of pipework along the underside of the jetty for groundwater discharge will not result in future delays to the jetty completion and operation, as any delay would be unacceptable in terms of ongoing impact and disruption of HGV movements by road.

Stogursey Parish Council

18. Stogursey Parish Council responded to say that it considered the redesign of some of the permanent buildings, the erection of additional pipework and an alteration to the alignment of the sea wall are material changes, and requested an explanation as to why these changes are non-material.

West Somerset Council

19. West Somerset Council ("WSC") responded to object to the proposed change to the spent fuel storage technology from a wet to a dry method on the basis that this was not previously considered during the examination of the Application, and because members of the public and the local community has not been properly consulted and afforded the opportunity to make detailed representations on this proposed change. WSC also objected to the proposed change to the Interim Spent Fuel Store, which would be 79m longer, 8m wider and 5m taller, on landscape and visual impacts. Furthermore, WSC requested that the proposed changes to the buildings and structures be considered in combination with the changes in buildings and structures approved through the 2015 Amendment Order and the 2017 Amendment Order.

West Hinkley Action Group

20. West Hinkley Action Group said that it considered the proposed change to the Interim Spent Fuel Store to be material, and that the impacts of this change needed to be considered fully and carefully. The group also raised concerns over the number of non-material changes applied for by the Applicant to date, and queried whether through these various changes the Applicant was circumnavigating the planning process.

The Fairfield Estate

21. The Fairfield Estate owns land adjacent to and surrounding the Development site. The Fairfield estate objected to the proposed changes on the basis that sufficient information had not been submitted by the Applicant to allow for an assessment of the visual and landscape impacts of the proposed changes.

Stop Hinkley

22. Stop Hinkley questioned the materiality of the proposed change to the Interim Spent Fuel Store and stated that it agreed with the representation made by WSC on this matter. Stop Hinkley called for a consultation and public examination on the change to the Interim Spent Fuel Store.

Responses from Private Individuals

23. Ten private individuals objected to the changes sought through the Application on the basis of insufficient consultation, the materiality of the changes being sought and landscape and visual impacts.

The Applicant's Response to the Consultation Responses

24. The Secretary of State is satisfied that the Applicant's response of 22 January 2018 addressed most of the concerns listed above. The Secretary of State notes that no parties provided any further concerns or raised any objections relating to the changes sought by the Application following the Applicant's response. The responses to the Consultation and the Applicant's response to those responses are publicly available at:

https://infrastructure.planninginspectorate.gov.uk/projects/south-west/hinkley-point-c-new-nuclear-power-station/?ipcsection=docs

25. The Secretary of State has considered some of the concerns raised by Interested Parties in more detail below.

Consideration of the materiality of the proposed change

26. The Secretary of State has given consideration as to whether the Application is for a material or non-material change. In doing so, he has had regard to paragraph 2(2) of Schedule 6 to the Planning Act 2008 which requires the Secretary of State to consider the effect of the change on the development consent order ("DCO") as originally made.

27. There is no statutory definition of what constitutes a 'material' or 'non-material' amendment for the purposes of Schedule 6 to the Planning Act 2008 and Part 1 of the 2011 Regulations.

28. So far as decisions on whether a proposed change is material or non-material, guidance has been produced by the Department for Communities and Local Government, the "Planning Act 2008: Guidance on Changes to Development Consent Orders" (December 2015) ("the Guidance")[1], which makes the following points. First, given the range of infrastructure projects that are consented through the 2008 Act, and the variety of changes that could possibly be proposed for a single project, the Guidance cannot, and does not attempt to, prescribe whether any particular types of change would be material or non-material. Second, there may be certain characteristics that indicate that a change to a consent is more likely to be treated as a material change, namely:

(a) whether an update would be required to the Environmental Statement (from that at the time the original DCO was made) to take account of likely significant effects on the environment;

(b) whether there would be a need for a Habitats Regulations Assessment, or a need for a new or additional licence in respect of European Protected Species;

[1] https://www.gov.uk/government/publications/changes-to-development-consent-orders

(c) whether the proposed change would entail compulsory acquisition of any land that was not authorised through the existing DCO; or

(d) whether the proposed changes have a potential impact on local people and businesses.

Third, that although the above characteristics indicate that a change to a consent is more likely to be treated as a material change, these only form a starting point for assessing the materiality of a change. Each case must depend on thorough consideration of its own circumstances.

Interim Spent Fuel Store and associated Equipment Store

29. The Secretary of State has considered the change proposed by the Applicant to the Interim Spent Fuel Store and associated Equipment Store, and is not satisfied that these changes are not material on the basis of the information provided by the Applicant. The Secretary of State has also given consideration to the fact that dry storage rather than wet storage, the preferred option chosen by the Applicant, was not previously considered during the examination of the Application. The Secretary of State began his consideration of the materiality of the proposed variation by considering the four matters lettered (a), (b) (c) and (d) above:

(a) The Applicant supplied a document dated September 2017 entitled 'Application Statement' ("the Supporting Statement") which provides further environmental information which concludes that the changes in respect of the Interim Spent Fuel Store and associated Equipment Store will not have any new significant effects or materially different effects from those already assessed in the original Environmental Statement for the Hinkley Power Station Order. The Secretary of State does not consider that the Applicant has provided sufficient information to evidence that these proposed changes fall within the parameters of the impacts assessed in the Environmental Statement for the Hinkley Power Station Order. The Secretary of State notes that the Applicant is correct that the storage method for spent fuel is not specified within the Hinkley Power Station Order. However the Environmental Statement clearly considers the alternatives and selects wet storage as the preferred approach. This then feeds into the various assessments contained within the Environmental Statement. For example, the landscape and visual impact assessments are based on building parameters in line with that preferred approach.

(b) The Secretary of State has concluded that, given the nature and impact of the changes to the Interim Spent Fuel Store and associated Equipment Store and the advice of Natural England, there is not likely to be a significant effect on any European site. Therefore, the Secretary of State is satisfied that a Habitats Regulation Assessment is not required. Furthermore, in respect of European Protected Species, the Secretary of State is satisfied that the changes considered in this letter do not bring about the need for a new or additional licence as the amendments sought are not anticipated to give rise to any new or different effects from an ecological perspective.

(c) The changes in respect of the Interim Spent Fuel Store and associated Equipment Store do not result in any change to the compulsory acquisition provisions of the Hinkley Power Station Order. Consequently, this question does not raise issues of materiality.

(d) On the basis of the information provided by the Applicant, the Secretary of State is not satisfied that the potential impacts on local people and businesses of the changes to the Interim Spent Fuel Store and associated Equipment Store are no

greater than those that arise from the development permitted by the Hinkley Power Station Order. The visual impacts of the changes to the Interim Spent Fuel Store and associated Equipment Store are not insignificant and in light of the consultation responses the Secretary of State is not satisfied that the changes will not have impacts on local people and businesses.

30. Although the DCO does not specify the method of storage, the Environmental Statement, the drafting of the DCO and the examination of the DCO all proceeded on the basis of the Applicant's preferred option of wet storage, with the associated development and visual impacts. Several consultation responses consider that, as a result, no detailed consideration of the impacts of the change has taken place, and members of the public and the local community therefore have not been properly consulted and afforded the opportunity to make detailed representations on this proposed change.

31. Having considered the Applicant's supporting statement, the consultation responses and the Environmental Statement, the Secretary of State has concluded that he is not satisfied based on the information he has, that the proposed changes to the Interim Spent Fuel Store and associated Equipment Store are non-material.

The other elements

32. The Secretary of State, having removed the Interim Spent Fuel Store and associated Equipment Store from consideration, moves on to consider the remaining elements of the application. The remainder of this letter relates to those elements and are referred to hereafter as "the changes considered in this letter". The Secretary of State began his consideration of the materiality of the proposed variation by considering the four matters lettered (a), (b) (c) and (d) above:

    (a) The Applicant supplied a document dated September 2017 entitled 'Application Statement' ("the Supporting Statement") which provides further environmental information which concludes that the changes considered in this letter will not have any new significant effects or materially different effects from those already assessed in the original Environmental Statement for the Hinkley Power Station Order. In light of the analysis supplied by the Applicant and the responses to the consultation, the Secretary of State concludes that an update to the Environmental Statement is not required in respect of the changes considered in this letter.

    (b) The Secretary of State has concluded that, given the nature and impact of the changes considered in this letter and the advice of Natural England, there is not likely to be a significant effect on any European site. Therefore, the Secretary of State is satisfied that a Habitats Regulation Assessment is not required. Furthermore, in respect of European Protected Species, the Secretary of State is satisfied that the changes considered in this letter do not bring about the need for a new or additional licence as the amendments sought are not anticipated to give rise to any new or different effects from an ecological perspective.

    (c) The changes considered in this letter do not result in any change to the compulsory acquisition provisions of the Hinkley Power Station Order. Consequently, this question does not raise issues of materiality.

    (d) The potential impacts on local people and businesses from the changes considered in this letter are no greater than those that arise from the development permitted by the Hinkley Power Station Order.

33. The Secretary of State therefore concludes that none of the specific indicators referred to in the guidance, or other relevant considerations, suggest that the changes considered in

this letter is a material change. He has also had regard to the effect of the changes, together with the previous changes made to the Hinkley Power Station Order through the 2015 Amendment Order and the 2017 Amendment Order, and considered whether there are any other circumstances in this particular case which would lead him to conclude that the changes considered in this letter are material but has seen no evidence to that effect, as set out in paragraph 38 below.

34. The Secretary of State is therefore satisfied that the changes considered in this letter are not material and should be dealt with under the procedures for non-material changes.

Consideration of Other Concerns and Objections Raised in the Consultation Responses

Realignment of the Sea Wall

35. In response to the consultation, the Environment Agency raised an objection to the proposed change to the sea wall on flood risk grounds and raised concerns over the lack of information in the Supporting Statement on the impact of the design changes on tidal over-topping risks to the Development site, impacts on the back-drainage system, and the lack of a new flood risk assessment taking into consideration the proposed change.

36. The Applicant entered into discussion with the Environment Agency to address its concerns on the impact of the sea wall on Flooding and provided further information to the Environment Agency as to why the proposed change did not give rise to any new or different effects from a flood risk and a hydrology drainage perspective. The Environment Agency made a further representation on 22 February 2018 to confirm that it was content to withdraw its objection to the proposed change on flood risk grounds. Given the nature and impact of the change proposed, and having had regard to the Environment Agency's response of 22 February 2018 and Natural England's response confirming that it did not consider this change would result in a significant effect on designated nature conservation sites and landscapes, the Secretary of State is satisfied that the change will not result in any material impacts above those already assessed for the Hinkley Power Station Order.

Additional Pipework to the Underside of the Jetty

37. In response to the concern raised by Sedgemoor District Council regarding whether the change to the temporary jetty would result in further delays to the completion of the construction of the jetty, the Applicant confirmed that the addition of pipework along the underside of the jetty will not result in any changes to the construction programme or operation of the jetty. Sedgemoor District Council did not submit any further representations following the Applicant's response. The Secretary of State, noting the response from the Marine Management Organisation confirming that the proposed pipework will have no hydrodynamic or geomorphological impacts above those already assessed for the Development, is content that the proposed pipework will not result in any additional impacts.

Cumulative Impacts

38. The Secretary of State has considered the changes considered in this letter in combination with the changes introduced through the 2015 Amendment Order and 2017 Amendment Order. The Applicant responded to the representations from Interested Parties on this point saying that the changes introduced by the 2015 Amendment Order related to minor changes to the site layout, and that the 2017 Amendment Order related to changes to offsite accommodation buildings, and that these amendments in combination with the changes being sought through this Application did not result in any impacts beyond those considered for the Hinkley Power Station Order. No further responses were received from any parties on the Applicant's response. The Secretary of State has considered the

Illustrative Master Plan submitted as part of the application for the Hinkley Power Station Order and the revised Illustrative Master Plan submitted as part of this Application and agrees with the Applicant that the changes proposed by the Applicant, with the exception of the Interim Spent Fuel Store and associated Equipment Building for the reasons set out above, would not have any impact, including landscape and visual impact, larger than those previously assessed and examined for the Hinkley Power Station Order.

The Applicant's Approach to Consultation

39. The Secretary of State has considered the representations made on the adequacy of the Applicant's consultation on the changes it sought through the Application. This concern related particularly to the change in spent fuel storage. As noted in paragraphs 4 - 5 above, the Applicant published the Application in accordance with regulation 6 of the 2011 Regulations and on 3 October 2017 consulted the persons specified in regulation 7 of the 2011 Regulations in the manner prescribed. The Application was made publicly available on the Planning Inspectorate's website on 3 October 2017, such that there was opportunity for anyone not notified to also submit representations to the Planning Inspectorate. The Secretary of State is therefore satisfied that the Applicant has taken the required steps to ensure that the Application comes to the attention to those with an interest in the changes being sought through the Application, or are likely to be affected by the proposed changes.

Environmental Impact Assessment

40. The Secretary of State has considered whether the Application would give rise to any new significant effects or materially different effects when compared to the effects set out in the Environmental Statement for the development authorised by the Hinkley Power Station Order.

41. The Secretary of State is satisfied that the Application documents provided by the Applicant in support of the changes considered in this letter are sufficient to allow him to make a determination on the Application.

42. The Secretary of State has considered the information provided and the views of consultees. The Secretary of State agrees with the Applicant's conclusions that, with the exception of the Interim Spent Fuel Store and associated Equipment Store, there will not be any new or materially different likely significant effects when compared to the effects set out in the Environmental Statement for the Development authorised by the Hinkley Power Station Order and as such considers that there is no requirement to update the Environmental Statement.

Habitats

43. The Secretary of State has considered the relevant and important policies in respect of the United Kingdom's obligations as set out in the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations"), which transpose the Habitats Directive (92/43/EC) into UK law. The Habitats Regulations require the Secretary of State to consider whether the development would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site, as defined in the Habitats Regulations. If likely significant effects cannot be ruled out, then an Appropriate Assessment must be undertaken by the Secretary of State, pursuant to regulation 63(1) of the Habitats Regulations, to address potential adverse effects on site integrity. The Secretary of State may only agree to the Application if he has ascertained that it will not adversely affect the integrity of a European site.

44. The Secretary of State has considered the Supporting Statement and other Application documents alongside the response from Natural England, and is satisfied that the changes considered in this letter will not have a likely significant effect on any European site alone and in combination with other plans and projects and a Habitats Regulation Assessment is therefore not required.

General Considerations

Transboundary Impacts

45. Under Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended), the Secretary of State has considered whether the proposed development is likely to have a significant effect on the environment in another European Economic Area ("EEA") State. In the application for the Hinkley Power Station Order, the Secretary of State concluded that there would be no likely significant effects on the environment of another EEA State. Subsequent engagement with Espoo Convention States is not complete but has, to date, confirmed this. The Secretary of State has considered whether the changes considered in this letter will have any potential impacts on another EEA State and, as set out above, has concluded that there is no change in the environmental impacts assessed within the existing environmental statement for the Development. Consequently, the Secretary of State has concluded that there would not be likely significant effects on the environment of any other EEA state whether the Application is considered of itself or cumulatively with the environmental effects already considered for the Hinkley Power Station Order. If the position changes as a result of the engagement with Espoo States then any response will cover the 2013 Order and all subsequent changes, including this one.

46. The Secretary of State has also considered whether there may be potential impacts on European sites in other EU Member States, known as transboundary sites, from this Application. Noting that the Secretary of State has reached a conclusion that there will be no Likely Significant Effects on European sites (over and above those already assessed in the Habitats Regulation Assessment for the Hinkley Power Station Order Order), the Secretary of State has also concluded that there is no route whereby sites in other EU Member states may be impacted by this Application.

47. The Secretary of State therefore concludes there is no need for transboundary consultation with other EEA States.

Equality Act 2010

48. The Equality Act 2010 includes a public sector equality duty. This requires a public authority, in the exercise of its functions, to have due regard to the need to (a) eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic (e.g. age; gender; gender reassignment; disability; marriage and civil partnerships;[2] pregnancy and maternity; religion and belief; and race) and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

49. The Secretary of State has had due regard to the need to achieve the statutory objectives referred to in s149 of the Equality Act 2010, and is satisfied that there is no evidence that granting the changes considered in this letter will affect adversely the achievement of those objectives.

[2] In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

Human Rights Act 1998

50. The Secretary of State has considered the potential infringement of human rights in relation to the European Convention on Human Rights, by the Development. The Secretary of State considers that the grant of the changes considered in this letter would not violate any human rights as enacted into UK law by the Human Rights Act 1998.

Natural Environment and Rural Communities Act 2006

51. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, has to have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent. The Secretary of State is of the view that the Application considers biodiversity sufficiently to accord with this duty.

Secretary of State's conclusions and decision

52. The Secretary of State notes that in order that the Applicant can construct and operate the development efficiently, effectively and safely, it has concluded that it is necessary to alter the alignment of the sea wall, erect additional pipework along the underside of the jetty, increase the size of 4 buildings and structures, redesign 12 buildings and structures and change the location of 3 buildings and structures.

53. The Secretary of State has considered the ongoing need for the development. The Secretary of State notes that the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Nuclear Power Generation (EN-6) both set out that for the UK to meet its energy and climate change objectives, there is an urgent need for new electricity generation plants, including new nuclear power. The Secretary of State considers, therefore, that the ongoing need for the project is established.

54. With the exception of the Interim Spent Fuel Store and associated Equipment Store, the Secretary of State has considered the nature of the changes sought through this Application, noting that they would have no additional significant environmental effects, and the benefits of the changes in facilitating the deployment of the Development. He concludes that the changes considered in this letter are not material and that it would be appropriate and advantageous to authorise the proposed changes as detailed in this letter.

55. For the reasons above, the Secretary of State considers that there is a compelling case for authorising the changes considered in this letter to the Hinkley Power Station Order. The Secretary of State has therefore decided under paragraph 2(1) of Schedule 6 to the 2009 Act to make a non-material change to the Hinkley Power Station Order so as to authorise the changes considered in this letter.

Modifications to the draft Order proposed by the Applicant

56. The changes related to the Interim Spent Fuel Store and associated Equipment Store have been removed from the draft order. Otherwise minor drafting improvements have been made by the Secretary of State to the draft Order proposed by the Applicant. These changes do not materially alter the terms of the draft Order.

Challenge to decision

57. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for decision

58. The Secretary of State's decision on this Application is being notified as required by regulation 8 of the 2011 Regulations.

Yours sincerely,

Gareth Leigh

Gareth Leigh
Head of Energy Infrastructure Planning

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 (5) of the Planning Act 2008, a decision under paragraph 2(1) of Schedule 6 to the Planning Act 2008 to make a change to an Order granting development consent can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The Amending Order as made is being published on the date of this letter on the Planning Inspectorate website at the following address:

https://infrastructure.planninginspectorate.gov.uk/projects/south-west/hinkley-point-c-new-nuclear-power-station/?ipcsection=docs

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655)