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To: [Wylfa Newydd](#)
Subject: EN010007: Action Point 15 on devolved matters - Draft DCO Hearing 24.10.2018
Date: 08 November 2018 10:16:24

Wylfa Newydd Case Team
Infrastructure Planning Inspectorate

Dear Madam/Sir

Draft DCO Hearing 24.10.2018

Regarding Action Point 15 (above), what is and is not devolved is logically a question of law.

To the extent the Applicant is apparently not an authority on devolution law or devolution settlement, it seems rather curious the ExA should be keen on taking advice from the Applicant.

It is somewhat surprising as well that the question of what has and has not been devolved under the devolution settlement is being relegated to discussion (or, negotiation) between the Applicant and the Welsh Government.

Further, it is not readily apparent whether, and on what sound basis, the ExA intends to accept the outcome of any such discussion/negotiation as constituting expert advice. The parties in question are clearly vested in the proposed Grant of DCO.

Under the circumstances, the ExA could reasonably be expected to obtain independent objective advice from expert(s) in constitutional law, in the public interest.

signed

J Chanay

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Evidence deficit, public consultation deficit and terminology

EN010007 ExA Deadline 1 Comment

Application by Horizon Nuclear Power Limited for an Order Granting Development Consent for the Wylfa Newydd Nuclear Power Station

Summary

1. Apparent DCO Evidence deficit in:
 - 1.1 Any Annex A list photographs taken by the ExA Panel, USI 22.10.2018
 - 1.2 APP-133;
 - 1.3 APP-143;
 - 1.4 APP-233 radioactive waste management; and
 - 1.5 APP-233 radioactive waste interim storage DCO Work No 1D planning jurisdiction.
 2. Apparent DCO public consultation deficit:
 - 2.1 the principal geographical area;
 - 2.2 APP-233 radioactive waste management;
 - 2.3 APP-234 consequences and impact of nuclear accidents in North Wales; and,
 - 2.4 APP-129 AONB and North Anglesey Heritage Coast obliteration at Porth-y-pistyll.
 3. Incomprehensible terminology:

seismology; and,
windroses.
 4. AS-010 embedded mitigation
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1. Evidence deficit

There exists material deficiency in evidence, in the Applicant's DCO documentation as well as in Relevant Representations by statutory authorities. The following is not an exhaustive review, bearing in mind gross lack of equality of arms.

1.1 The ExA Panel's Unaccompanied Site Inspection on 22 October 2018

- 1.1.1 Any Annex A list photographs taken by the ExA Panel.

1.2 APP-133 Radiological effects

- 1.2.1 According to para.14.3.14, there is no historic Caesium-137 contamination of soils from local sources. That being the case, what is the explanation for variation in baseline contamination levels in near-surface samples from WNDA, including the reported variation in maximum measurements at para.14.3.15, as well as the measurements reported separately in para.14.3.16?
- 1.2.2 Given routine occurrence of fuel clad failure and leakage during normal reactor operating conditions¹, and inevitability of pin-hole leaks anywhere in the reactor-turbine primary coolant loop circuits, is the Applicant arguing,

¹ HNP (2017) Environmental Permitting Application to Natural Resources Wales. Application Number: EPR/EB3393NE/A001. Horizon Nuclear Power Wylfa Limited, November 2017

- a. there could be no Caesium-137 discharge; and,
- b. that the UKABWRs would have no impact on the baseline levels of Caesium-137?

1.2.3 At para.14.4.28, the statement:

“a total of 19,200 spent fuel assemblies are assumed to be generated over the 60-year operational lifetime of the Power Station”,

would not appear to add up arithmetically if there are 301 spent fuel casks, each containing 68 spent fuel assemblies. The latter total up to 20,468 fuel assemblies, more than 6.5% higher.

1.2.4 At para.14.4.49, how many spent fuel assemblies would there be in each dispatch fuel flask destined for GDF disposal?

1.3 APP-143 Geology baseline

1.3.1 Evident inaccuracy in,

- a. footprints of DCO Grant Application buildings (including reactor buildings, the radwaste building, turbine buildings and the very long term storage warehouses for intermediate level and high level radioactive waste, and spent nuclear fuel); and,
- b. in the Wnda boundary shown in Diagram 2, under section 6.1.4. Likewise, in the Atkins' 2017 Faults and Intrusions Plan, Drawing 0007 referring under Appendix D.

1.3.2 Missing CGI video of the 3D Geological Fault Model, as incorporated into the Atkins's DOnGI Fault Model: section 6.1.4, page 29, referring.

1.4 APP-233 Radioactive waste management

1.4.1. Missing evidence on the Applicant's assertion that it is reasonably practicable to,

- a. apply the principles of waste minimisation, as well as measures to prevent materials either becoming radioactively contaminated or activated (para.1.1.3, referring), during,
 - normal operating conditions,
 - expected abnormal situations and,
 - unexpected abnormal operating conditions, respectively,

when the reality of the laws of physics dictates that:

“Radioactive waste would be generated during the operation of the Power Station, primarily due to nuclear fission of the fuel, activation of impurities in the reactor water and activation of corrosion products in the reactor circuit”: para.3.2.1, referring;

- b. prevent the creation of a legacy that has to be dealt with by future generations (para.1.1.5, referring), when in fact the twin UKABWRs are designed to generate 192,000 (or, 20,468) spent fuel assemblies, all constituting Higher Activity Radioactive Waste (Table 5-5, referring), and which the Applicant expects to be interred in a Geological Disposal Facility (GDF) by some future generation some 130-200 years after the creation of the first tranche of spent fuel under the proposed Grant of DCO (60 years' storage during reactor operating lifespan, plus 70-140 years' interim storage after the permanent cessation of electricity generation: paras 7.1.1, 8.1.2 and 8.1.3, referring). Even then, any eventual permanent disposal of the long legacy radioactive waste from Wylfa Newydd would remain subject to host rock strength characteristics of a future GDF (para.8.1.4). The Applicant's reliance on “early work” to massage post-generation storage period down to 70 or 80 years belongs

more to the realm of speculation, than “a more realistic estimate”, given the actual experience to date of repeated set backs in finding a suitable site for a GDF in the UK;

- c. make and implement adequate arrangements to minimise the rate of production and total quantity of radioactive waste accumulated on the site at any time, as required by Licence Condition 32 issued under the Nuclear Installations Act 1965 (Table 2-1, referring), in the face of laws of physics (maximum fuel load and maximum fuel burn, and as per APP-233 para.3.2.1) and the laws of commerce (profit maximisation);
 - d. implement the principle that radioactive wastes are not being created unnecessarily, as commanded in CM2919 [RD5], Table 2-1, referring, in the face of commercially viable low carbon alternatives to Wylfa Newydd Nuclear Power Station that are inherently incapable of creating radioactive wastes; and,
 - e. the Applicant’s proof that its proposed management of radioactive waste safeguards the interest of existing and future generations and the wider environment, as per the requirement in CM2919 [RD5], Table 2-1, referring, given the plain fact that environmentally assured, safe and permanent isolation of the self same radioactive waste from sub-surface and deep geological biospheres, for hundreds of thousands of years into distant futures, has not to date been demonstrated reliably and satisfactorily any where in any country².
- 1.4.2 Lack of material information on, and discussion of, operating issues and reactor transients experienced to date, at the world’s only operating ABWRs at four sites in Japan (para.2.2.2, referring).
- 1.4.3 Evidence and justification of the Applicant’s ability to foresee, and predict accurately and with certainty, the full final costs of disposal in the future, under RD12 (Table 2-1, referring);
- 1.4.4 The basis of the Applicant’s assertion that the 2011 EN-6 National Policy Statement on Nuclear Power Generation provides the primary policy context for Granting the Applicant a DCO for Wylfa Newydd, as a matter of material fact, when EN-6 expressly captures only those new nuclear power stations that could be deployed by 2025, the EN-6 terminal year (Table 2-1, referring). In other words, not after 2025, as would be the case with the Wylfa Newydd Nuclear Power Station under the proposed Grant of DCO.
- 1.4.5 In consideration of implication of para.B.4.4 in Annex B, in Volume 2 of EN-6³, lack of evidence on all credible effort by the Applicant to date, and commitment to continuing effort throughout the duration of the 60-year operating lifespan of the twin UKABWRs as well as during the decommissioning period culminating in complete dismantlement of the UKABWRs within 20 years of cessation of reactor operation, to search for or establish alternative arrangements to the continuing on-site interim storage of higher activity radioactive waste at Wylfa at any time (Table 2-1, referring). Annex B recognises expressly that interim storage could be on-site or elsewhere, at any time for any duration. That is, EN-6 neither commands nor mandates on-site storage as a matter of course, as appears to be presumed by the Applicant.
- a. According to para.2.11.5 in EN-6 Volume 1⁴, only if there were no alternative arrangements, “the IPC should expect that waste would be on site until the availability of a GDF.” For IPC,

² At Recommendation 27, the 1976 Royal Commission on Environmental Pollution (RCEP) counselled:
‘There should be no commitment to a large programme of nuclear fission power until it has been demonstrated beyond reasonable doubt that a method exists to ensure the safe containment of long-lived highly radioactive waste for the indefinite future.’
RCEP (1976) Nuclear Power and the Environment. Royal Commission on Environmental Pollution, Chairman Sir Brian Flowers. Sixth Report. Cmnd 6618. HMSO.

³ DECC (2011) National Policy Statement for Nuclear Power Generation (EN-6). Volume II of II – Annexes. Presented to Parliament pursuant to section 5(9) of the Planning Act 2008. URN 11D/717. Department of Energy and Climate Change. July 2011. Available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47860/1943-nps-nuclear-power-annex-volII.pdf

⁴ DECC (2011) National Policy Statement for Nuclear Power Generation (EN-6). Volume I of II. Laid before Parliament for approval – June 2011. URN 11D/716. Department of Energy and Climate Change. Available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47859/2009-nps-for-nuclear-volumel.pdf

read ExA. In other words, EN-6 para.2.11.5 amounts to neither a requirement nor an automatic mandate for on-site storage as appears to be presumed by the Applicant, whether for the entirety or part of the duration of wait for availability of permanent disposal capacity in some GDF somewhere. Rather, arrangements for on-site storage for any length of time should be an option of last resort.

- b. Plainly, on-site storage could only be an assumption, not a presumption in law or policy. A material question goes begging. Namely, on whom falls the onus to establish alternative arrangements to on-site interim storage? Plainly, the onus can but rest fairly and squarely only with the Applicant, the waste producer. That means the Applicant is expected to examine convincingly, investigate thoroughly and systematically, and realise practical alternative arrangements to on-site storage at Wylfa for any length of time. The evidence in DCO documentation seemingly fails to establish whether the Applicant can be seen to have credibly discharged the burden of proof.
 - c. Furthermore, in this particular regard, it is not self evident whether the Applicant has in fact also discharged adequately requirements of regulation 14 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
- 1.4.6 Lack of evidence under the specific design principle (Table 2-3, referring) upon which the Applicant asserts,
- a. it is ensuring implementation of the waste minimisation principle; and, that
 - b. it is managing radioactive wastes holistically throughout their entire lifecycle. And, the definition of “holistic management”.
- 1.4.7 At what “point” would the spent fuel be repackaged into a disposable form, by whom, where and approximately how many years after the permanent cessation of electricity generation, as distinct from the date a “GDF is made available”: para.3.4.3, referring;
- 1.4.8 Absence of independent assay of efficiency of HEPA filters from the four ABWR sites in Japan: paras 5.2.3-4, referring.
- 1.4.9 Regarding para.5.3.2, how frequently would it be impracticable to operate the reactor cooling circuit (in the turbine building) and the fuel pool (in the reactor building) as closed loop systems, in the course of normal and expected abnormal conditions, respectively?

1.5 APP-233: Radioactive waste interim storage Work No 1D planning jurisdiction

- 1.5.1 Neither the Applicant nor the Welsh Government (statutory consultee) or the Isle of Anglesey County Council (the host local authority), in respective Relevant Representations, appear to have addressed,
- a. the question of alternative arrangements to locating the very long duration storage facilities at Wylfa (para.1.4.5, hereof, referring);
 - b. the implication of devolved land use planning system in Wales for the Applicant’s proposed development of two large, very long duration, installations for the storage of higher activity radioactive waste on the WNDA site at Wylfa. In particular, whether Buildings 9-201 and 9-202, respectively (identified as “Work No 1D”) warrant deletion from the proposed Grant of DCO to the Applicant; and,
 - c. the specific statutory provision permitting the inclusion of development proposals identified as “Work No. 1D” in the Grant of DCO sought by the Applicant:
 - (i) to the extent these large development structures are not designated as NSIPs under sections 14 and 15, respectively, of the Planning Act 2008 (as amended, and as applying in Wales); and,
 - (ii) what, if any, statutory provision expressly prohibits the development of structures in question from being determined under the devolved Town and Country Planning Act

1990 (as amended), as primary stand alone non-NSIP development proposals in their own right, bearing in mind the terms of the devolution settlement⁵, and having regard as well to the particular characteristics of the proposed developments, including the following:

- the buildings constitute a “major development”⁶ in their own right, comprising large structures, with a combined footprint of 35,850m² (Building 201: 28,500m²; and, Building 202: 7,350m², Table D1-2 in APP-120, referring);
- neither proposed building constitutes plant or facility directly related to the generation of electricity by the proposed Wylfa Newydd Nuclear Power Station;
- nor do they comprise plant equipment, apparatus or appliance used for, or for the purposes inherently connected with the generation, transmission or supply of electricity;
- the buildings under Work No 1D do not conform *prima facie* to any component of the description of “The Power Station” set out by the Applicant at para.4.3.3 in APP-406 (Planning Statement);
- the buildings in question are designed to ensure safe containment of the intermediate and high level radioactive waste, as well as spent nuclear fuel after its discharge from the proposed Wylfa Newydd Nuclear Generating Station;
- the above ground buildings are designed functionally, purposefully and solely for the very long duration storage of spent nuclear fuel and intermediate/high level radioactive waste;
- the buildings in question have a vastly different lifespan, explicitly independent of the lifespan of the Wylfa Newydd Nuclear Generating Station. Namely, a cumulative lifespan of up to 200 years compared with a 60-year operating lifespan of the latter. Further, the former lifespan is directly linked to and expressly determined primarily by the availability of adequate disposal capacity

⁵ According to the Welsh Government’s letter (“the Thomas letter”) to Local Authority Chief Planning Officers (and others), dated 2 April 2009,

“From a Welsh perspective it is important to note that the Act does not alter the devolution settlement. The new regime is not devolved, but it is applied to Wales only in respect of projects where the principal consenting regime replaced by the Act was also not devolved. This means, in essence, that in Wales the new regime will apply only to energy generating projects above 50 megawatts (100 megawatts if the project is offshore) and certain pipeline, overhead electricity line and harbour facility projects. Consents for these projects are currently granted by the relevant Secretary of State.”

Note: following amendments under the Wales Act 2017, the 50 megawatt capacity threshold has been raised to 350 megawatts under sub-section 39(4) of the Act.

The Thomas letter explained further that,

“As in England, planning permission will not be required, reflecting the current powers of the Secretary of State to deem that planning permission be granted for the projects over which the Commission is to have jurisdiction. But it is intended that consents which are currently devolved and which the Secretary of State has no current power to grant under existing statutory regimes (for example listed building consent), will continue to be granted by the relevant bodies, and will not be within the jurisdiction of the Commission.”

Note: Subsequent to an amendment under the Localism Act 2011 (section 128, in force from 1st April 2012), the Infrastructure Planning Commission has been superseded by the National Infrastructure Planning Inspectorate (PINS).

Regarding the “**Existing Planning Regime**”, the Thomas letter stated,

“The land use planning system in Wales is devolved ...”

Reference:

Welsh Government (2009) Application of the Planning Act 2008 to the Planning Function in Wales. Letter from Rosemary Thomas (Chief Planner/Deputy Director, Department for Environment, Sustainability and Housing, Welsh Government) to Local Planning Authority Chief Planning Officers, Local Planning Authority Chief Executives and Wales Planning Forum). Ref PAA 53-06-qA699698, dated 2 April 2009.

⁶ Article 2 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 defines a “major development” as constituting:

“(e) development carried out on a site having an area of 1 hectare or more;”

The standard definition of 1 hectare = 10,000m²

in a suitable GDF yet to be identified, consented, developed, tested and operationalised elsewhere;

- their decommissioning and final dismantlement is not at all linked to the decommissioning and dismantlement of the Wylfa Newydd Nuclear Generating Station. It is instead governed by the availability of a suitable future GDF capable of housing the entire contents of the buildings in question. In other words, Buildings 9-201 and 9-202 are functionally designed to bridge a very long duration interim storage gap between the creation of higher activity radioactive waste and its final permanent disposal;
- the buildings constituting DCO Work No 1D are patently distinguishable from the four other short duration radioactive waste storage installations on the neighbouring Power Station Site⁷; and,
- the location of these buildings is functionally and technically independent of, and not determinable by, the location of a nuclear generating station (whether operating or not);

and,

- (iii) should the planning jurisdictions happen to be evenly balanced (as between PA2008 and TCPA1990), which jurisdiction ought properly to carry primacy under the subsidiarity principle?

2. DCO public consultation deficit

2.1 The principal geographical area

2.1.1 The Applicant evidently failed to consult the public directly and expressly throughout North Wales, during the pre-DCO Application process (for example, PAC2 and PAC3), on relevant impacts, despite systematic reference to impacts of the proposed developments on this principal geographical region. Moreover, the Applicant and statutory authorities are often seen to define North Wales as “local” in relation to Wylfa Newydd, in DCO documents.

2.1.2 Evident manifest failure to consult throughout North Wales

The following examples serve to illustrate the Applicant’s failure.

PAC 2: Drop-in Community Exhibition Events held in October 2016, in eleven towns/villages in Anglesey, a single town in Conwy and three towns in Gwynedd. None held in towns and villages in the remaining three local authority areas in North Wales⁸.

- PAC 3:
- a. References to North Wales, in the Applicant’s PAC 3 Overview Document, on pages 7, 20, 21, 35, 36 and 39, respectively.
 - b. Drop-in Community Exhibition Events were restricted to six venues in Anglesey. None held in towns and villages in the remaining five local authority areas in North Wales.
 - c. The Horizon Consultation Bus visited six locations in Anglesey, stopping for three hours each time, save for a five hour stop in Menai Bridge (at the Anglesey Farmers’ Market); a three-hour appearance each in Bangor (out of town centre Tesco Extra Car Park), Caernarfon (town centre Castle Square)

⁷ Namely, Buildings 104 and 246, and one installation each inside Buildings 1-101 and 2-101, respectively. These four installations are destined for permanent dismantlement and removal at the same time as the end-of-life decommissioned NSIP reactors, within 20 years of cessation of electricity generation. See APP-233, in particular, para.6.1.3.

⁸ HNPWL (2016) Horizon Community Update Issue 17, August 2016.

and the Conwy Quay. The Bus was nowhere to be seen in towns and villages in the remaining three local authority areas in North Wales.

2.1.3 A sample of the Applicant's references to impacts footprint

Press Release: "We want to connect with communities and businesses across Anglesey and North Wales, so we can let them know about the benefits and opportunities that the project will bring," claimed Gwen Parry-Jones, Executive Director – Operational Development.⁹

APP-067 Topic baseline identification (6.2.2 ES Volume B - Introduction to the environmental assessments B2 - Socio-economics) Table B2-14:

"A business survey was carried out by the IACC's Energy Island Programme and the North Wales Economic Ambition Board [RD15], supported by Horizon, to gauge the current position of businesses with regards trends in revenue and turnover growth and staff retention, alongside opinions of local businesses on the Wylfa Newydd Project. It was carried out in January 2016 and February 2016 ..."

APP-088 Summary of residual effects (6.3.1 ES Volume C - Project-wide effects C1 - Socio-economics) Table C1-22: Construction Receptor - Local economy in north Wales – Description of potential effect:

"Investment made within the local economy (north Wales). It is estimated that up to 4% of the total £10 billion construction value of the Wylfa Newydd Project could be spent within north Wales."

2.1.4 The Isle of Anglesey County Council (the host local authority)

Para.1.5 in the local authority's Relevant Representation¹⁰ (dated 9 August 2018):

"... Potentially it is an unprecedented opportunity, subject to appropriate actions, mitigation and controls, to make a substantial contribution to the transformation of the economies of Anglesey and the wider North Wales region and to deliver significant investment in employment, supply chain, services and infrastructure. ..."

2.1.5 The Welsh Government

In its Relevant Representation¹¹ (dated 10 August 2018), the Welsh Government recognises that the proposed Wylfa Newydd nuclear power station would have impacts in the entire North Wales region.

para.6.1.1: "... for many topic areas impacts will be felt across North Wales as a whole and beyond a single local authority boundary ...";

para.4.1.1: "Wylfa Newydd is one of the largest investments in Wales in a generation and provides the potential to make a significant contribution to the North Wales economy."

para.4.1.5: "The positive impact of supplier investment will be experienced primarily in Anglesey, in North West Wales, and North Wales – especially in terms of local services."

⁹ HNP (2018) Horizon invites communities to help inspire others about Anglesey's exciting future. Horizon News, 24.09.2018. Available at: <https://www.horizonnuclearpower.com/news-and-events/news/news-details/542>

¹⁰ Available at: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010007/EN010007-001894-Sylwadau%20Perthnasol%20CSYM%2009.08.18%20-%20IACC%20Relevant%20Representation%2009.08.18.pdf>

¹¹ Available at: <https://infrastructure.planninginspectorate.gov.uk/projects/wales/wylfa-newydd-nuclear-power-station/?ipcsection=relreps&relrep=26669>

para.4.2.1: “Wylfa Newydd will provide great opportunities to the economy and communities in North Wales,”

para.4.4.1: “There is a need to ensure that an increase in population during the construction phase does not lead to a reduction and/or deterioration in the access and quality of services for the local communities and population of North Wales.”

para.4.6.1: the impact on housing market “will extend across the Key Socio-economic Study Area (KSA) and potentially into other parts of North Wales.”

para.4.7.1: “The tourism sector is key to the economic and social well-being on Anglesey and North Wales.”

para.4.7.5: The second bullet point:

“wider impacts on tourism. For example, the impact on accommodation, attractions, events and activities on the island itself and wider North Wales region;”

The fourth bullet point:

“Impacts on the short- and long-term perception of Anglesey and North Wales as a high-quality tourism destination;”

2.1.6 The geographic definition

In the circumstances, it is salutary to be mindful of the geographical definition of North Wales.

a. According to Plows¹²:

“North Wales’ consists of the Unitary Authorities (UAs) along the A55 coastal corridor, from the island of Anglesey (Ynys Mon) in the North West, to Flintshire in the North East. The Wales Spatial Plan (2008) identified that different regions of Wales have extremely ‘fuzzy boundaries’. ‘North Wales’ stretches into what has been called the ‘Deep Rural’ (Wales Rural Observatory 2009) of mid Wales; for example where southern Gwynedd (Meirionnydd), blurs into the mid Wales UAs of Powys and Ceredigion. The Mersey Dee Alliance reflects existing cross-border relationships linking Flintshire and Wrexham with Cheshire and NW England. ‘North Wales’, then, stretches and blurs across different borders and boundaries (Mann + Plows 2015) and this blurring is reflected in policy initiatives such as the Mersey Dee Alliance. Importantly, North Wales is also made up of very distinctive sub-regions, or localities, with their own local characteristics and with very different labour market and other social demographics, such as the very marked difference in the percentage of Welsh language speakers in NE and NW Wales. These differences in local characteristics are important; they present *locally-specific* challenges and opportunities.”

b. According to APP-067:

Table B2-11: Socio-economic assessment geographic scope:

“This area consists of a grouping of local authority districts consisting of the Isle of Anglesey, Gwynedd, Conwy, Denbighshire, Flintshire and Wrexham. This area has also been used when it is not possible to represent the DCCZ due to statistical data limitations, including for baseline employment and economic activity information, and for the assessment of effects on fire and

¹² Plows A (2017) The North Wales Economy: Scoping ‘Snapshot’ Study. Prifysgol Bangor University and Economic & Social Research Council, June 2017. Available at: <https://wiserd.ac.uk/sites/default/files/documents/The%20North%20Wales%20Economy%20NAW%20Fellowshi p%20report%20AP28.06.17.pdf>

rescue services. It is worth noting that this area is more urbanised and industrial (with key developments in certain areas of Flintshire etc.) and has a much larger population than the DCCZ.“

para.2.4.15:

“A value or sensitivity for each receptor has been identified based on the definitions provided in table B2-15. The focus of these receptors is at the local economy level, as this is the level at which effects will be most likely realised. ‘Local’ in this context refers to the north Wales area.“

c. According to APP-088, at para.1.5.101:

“No estimates are available at this point in relation to the possible value of local contracts for the overall construction phase of the Wylfa Newydd Project. Horizon estimates that 60% of the £10+ billion Wylfa Newydd Project value during the construction phase would be spent in the UK, however, at present it is not clear how much of the value would be spent locally, i.e. within north Wales. ...“

2.2 **Consultation on radioactive waste management (APP-233: 6.4.97 ES Volume D - WNDA Development App D14-1)**

2.2.1 Lack of direct and specific public consultation in North Wales on the Applicant’s Holistic Waste Strategy, regarding:

- a. “Holistic” definition;
- b. ensuring radioactive wastes are “considered holistically throughout their entire lifecycle from production to disposition”; and,
- c. ensuring options for management of radioactive wastes are “based on this holistic consideration” (Table 2-3 in APP-233, referring).

2.2.2 Lack of direct and specific public consultation in North Wales on “Horizon’s strategy [...] to store the spent fuel on-site” and EN-6 Annex B alternative arrangements: paragraph 3.4.3 in AP-233, referring, as well para.1.4.5, hereof.

2.2.3 Misleading and inadequate public consultation on 15.01.2018: concealment and inexplicable failure to distinguish the very long duration Buildings 9-201 and 9-202, respectively (constituting Work No 1D under the proposed Grant of DCO), from the other four relatively short duration radioactive waste installations¹³: the ninth bullet point in para.1.5.1.c.(iii) hereof, referring as well.

2.3 **Consultation in North Wales on consequences and impact of major nuclear accident (APP-234: 6.4.98 ES Volume D - WNDA Development App D14-2 - Analysis of accidental releases)**

2.3.1 Unlike direct consultation with extraterritorial publics, there has been no direct or specific consultation during the DCO process with the domestic public in North Wales on impacts and consequences of nuclear accidents at Wylfa Newydd.

2.3.2 The Secretary of State was forced by a decision of the Espoo Compliance Committee (adopted 19 June 2017¹⁴) to instruct the Applicant (through the Infrastructure Planning Inspectorate) to

¹³ “Project Summary” in Section 48 Public Notice (APP-008), tantamount to masquerading false equivalence. Concealment was maintained in subsequent Section 56 Notice published 6 July 2018 (OD-002). Serial masquerade of false equivalence traces back to a Public Notice published 19 May 2017, at the least, if not from the outset.

¹⁴ UNECE (2017) Findings and recommendations with regard to communication ACCC/C/2013/91 concerning compliance by the United Kingdom. Adopted by the Compliance Committee on 19 June 2017. Available at:

directly notify and consult governments and the publics in 27 European Union member states, as well as in 3 European Economic Area member states (the relevant Parties to the 1991 Espoo EIA Convention), on consequences of a major nuclear accident at the Wylfa Newydd Nuclear Power Station under the proposed Grant of DCO.

2.3.3 However, the Applicant has not to date likewise notified and directly consulted all local authorities and the public in North Wales, or in the rest of the United Kingdom, under the DCO process. Curiously, on 28 June 2018, the Infrastructure Planning Inspectorate unequivocally Accepted the Applicant's Application for a Grant of DCO for the construction and operation of a new 3.1 GW Nuclear Power Station at Wylfa, ruling the Application was "of a satisfactory standard"¹⁵, despite manifest absence of evidence of express pre-Application consultation with the domestic public in North Wales, in particular, on consequences of a major nuclear accident at Wylfa Newydd.

2.3.4 The Espoo Compliance Committee recommended at paragraph 90(b) of their ruling in C91¹⁶:

"When identifying who is the public concerned by the environmental decision-making on ultra-hazardous activities, such as nuclear power plants, public authorities are required to consider the magnitude of the effects if an accident would indeed occur, even if the risk of an accident is very small; whether the persons and their living environment within the possible range of the adverse effects could be harmed in case of an accident; and the perceptions and worries of persons living within the possible range of the adverse effects."

2.3.5 Is it not seemingly perverse to require the Applicant to directly inform and consult the public beyond the borders of the United Kingdom on potential impacts of a major reactor accident at Wylfa Newydd, for the purpose of a Grant of DCO, but not require the Applicant to directly inform and consult the domestic public in North Wales likewise? This apparent discrimination under the DCO process contrasts starkly with the primary thrust of assertions on other impacts of the proposed Grant of DCO on North Wales: see paras 2.1.3-2.1.6, inclusive, hereof.

2.3.6 Neither have the Welsh Government (statutory consultee), or the Isle of Anglesey County Council (the host local authority) addressed the impacts of nuclear accidents at the proposed development, in their respective Relevant Representations.

2.3.7 Indisputable incongruity between direct consultation with the extra-territorial publics on nuclear accident impacts (APP-234) on the one hand, for the purposes of DCO deliberations, and its absence domestically across North Wales on the other hand, arguably suggests flawed discharge of the principle on public participation in environmental decision making, under the 1998 Aarhus Convention¹⁷. The test of reasonable expectation applies in the instance. Failure to consult duly the public across North Wales during the DCO Application process expressly and specifically on APP-234 consequences and impacts, appears capable of amounting to flawed DCO Application consultation.

2.4 **AONB and Heritage Coast contraction, variation and obliteration at Porth-y-pistyll (APP-129: 6.4.10 ES Volume D - WNDA Development D10 - Landscape and visual)**

2.4.1 Evident lack of evidence provided to the ExA on outcomes of public consultation by relevant responsible statutory authorities, under their own direct public consultation processes involving environmental decision making, as highlighted below.

https://www.unece.org/fileadmin/DAM/env/pp/compliance/C2013-91/C91_UK_Findings_adopted_advance_unedited.pdf

¹⁵ Available at: <https://infrastructure.planninginspectorate.gov.uk/projects/wales/wylfa-newydd-nuclear-power-station/>.

¹⁶ See footnote 14, hereof.

¹⁷ UNECE (1998) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. Available at: <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

- 2.4.2 Specific public consultation evidence from Natural Resources Wales (NRW), in its capacity as the statutory body responsible for designating and approving management plans for AONBs in Wales, regarding;
- a. the proposed obliteration of the coastal stretch of the AONB at Porth-y-pistyll by the Applicant, under the proposed Grant of DCO; and,
 - b. NRW's para.4.7.1 in Relevant Representation (dated 10 August 2018), concerning,
 - NRW's pre-approval advice to the Applicant and the ExA in relation to (a) above; and,
 - NRW's terms of final approval of the Applicant's obliteration of the coastal stretch of the AONB at Porth-y-pistyll in the event of successful award of DCO Grant to the Applicant.
- 2.4.3 Specific public consultation evidence from the Isle of Anglesey County Council, in its capacity as the statutory body promoting, safeguarding and jointly managing the Anglesey AONB, as well as the North Anglesey Heritage Coast, regarding:
- a. the proposed obliteration of the coastal stretches of the AONB and the Heritage Coast at Porth-y-pistyll by the Applicant, under the proposed Grant of DCO; and,
 - b. the host Local Authority's para.2.3 in Relevant Representation (dated 9 August 2018), concerning,
 - the Authority's pre-approval advice to the Applicant and the ExA in relation to (a) above; and,
 - the Authority's terms of final approval of the Applicant's obliteration of the coastal stretches of the AONB and the Heritage Coast at Porth-y-pistyll in the event of successful award of DCO Grant to the Applicant.
- 2.4.4 Complete silence from the Welsh Government in its Relevant Representation (dated 10 August 2018) on the proposed obliteration of the coastal stretch of the AONB and the North Anglesey Heritage Coast at Porth-y-pistyll by the Applicant, under the proposed Grant of DCO.

3. Incomprehensible terminology

- 3.1. The seismology terminology in APP-143 is plainly baffling, with no attempt to explain or interrelate the different measures, say, in terms of equivalence.
- While para.7.1 cites M_W as well as M_L ;
 - section 7.2 cites m/s^2 acceleration, as well as M_W ;
 - whereas section 7.3 cites peak ground acceleration in terms of a fraction of "g".
- a. What is the relationship between the differing measures?
 - b. What level of "g" is generated by the other measures?
 - c. What is the degree of impact of each measure on the structures, components, mechanisms and services of the proposed Wylfa Newydd UKABWRs?
- 3.2 Lack of explanation of the vertical axis scale in the Figure D14-1 Windrose, in APP-133. Likewise, the vertical scale in Appendix B windroses, in APP-141. Further, the numerical scales differ in both documents. Moreover, it is not readily self evident, for example, on how many days annually the wind blows at what velocity in each sector.

4. AS-010 Embedded mitigation measures and CJEU ruling in C-323/17 (2018)

- 4.1 It is not readily apparent whether AS-010 (dated August 2018) addresses the full list of all embedded mitigation measures. It is not clear what constitutes a complete list.
- 4.2 The Applicant manifestly has not consulted the public in North Wales to date expressly separately on the content and conclusions in AS-010.
- 4.3 In light of the Applicant's Conclusion para.5.1.2, the ExA is respectfully requested to obtain independent objective advice from expert(s) in environmental law, in the public interest.

End.
J Chanay, 13.11.2018