

From: [REDACTED]
To: [Wylfa Newydd](#)
Subject: EN010007: ExA Deadline 4 comment - jc170119
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FAO

Wylfa Newydd Case Team
Infrastructure Planning Inspectorate

Dear Madam/Sir

Please find attached Deadline 4 Comment.

signed,

J Chanay

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Approved policy and need; public investment finance; project risk bond; continuing evidence deficit; DCO s.106 Agreement; devolved jurisdiction matters and the DCO

EN010007 ExA Deadline 4 Comment

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

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Approved policy and need; public investment finance; project risk bond; continuing evidence deficit; DCO s.106 Agreement; devolved jurisdiction matters and the DCO

EN010007 ExA Deadline 4 Comment

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

4.1 Equality of arms: capacity constraint

4.1.1 Inadequate resource capacity as lay Interested Party severely hampers preparation of submissions to the extent warranted. For example, timeous appraisal of 52 documents submitted by the Applicant under Deadline 3, remained beyond available capacity whilst preparing the instant Deadline 4 Comment.

4.2 REP3-024: Horizon's Response on Government policy and need for the proposed Wylfa Newydd Nuclear Generating Station

4.2.1 Approved Government policy on nuclear new build deployable beyond 2025?

4.2.1.1 The Applicant's Response paras 1.2.1-1.2.5, inclusive in REP3-024, appear to erroneously present four reference documents in particular as if these merit equal standing and were equally binding on the ExA. Namely,

- the approved 2025 timeframe NPSs EN-1 and EN-6;
- a proposal for a new NPS for a timeframe beyond 2025; and,
- a Ministerial Statement of 7 December 2017, respectively.

4.2.1.2 It is questionable whether there exists proper basis under the Planning Act (PA2008) for the ExA to imbue the Applicant's reference documents in question with either,

- a. equal standing and weight; or,
- b. the imprimatur of relevant applicable statutory policy,

for the purpose of Examining the Applicant's current DCO Application for Grant of DCO for the proposed Wylfa Newydd Nuclear Generating Station.

4.2.1.3 The 2011 NPSs EN-1 (Overarching Energy Policy) and EN-6 (Nuclear Power Generation), for the approved 2025 timeframe

The respective 2011 NPSs were approved under Parliamentary vote on 18 July 2011¹, in accordance with requisite requirements of the PA2008. These NPSs clearly remain statutorily binding on the ExA in respect of nuclear new build projects deployable by the end of the prescribed 2025 timeframe. A number of implications follow.

- a. Approved evidence and policies determined for the prescribed timeframe could not be held binding on an ExA examining a DCO Application for a new nuclear power station which an Applicant acknowledges could only be deployed outside the statutorily approved 2025 timeframe: page 1, and para.1.1.3, in APP-406, referring.

¹ Hansard HC (2011) National Policy Statements (Energy). Columns 678-718. The House of Commons, 18 July 2011. Available at: <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110718/debtext/110718-0003.htm>

- b. The assumptions, evidence base, findings, projections, conclusions and recommendations in the 2011 NPSs were derived and determined specifically to inform a nuclear new build timeframe up to the end of 2025. The 2011 EN-1

“has effect, in combination with the relevant technology-specific NPS (see paragraph 1.4.1), on the decisions by the Infrastructure Planning Commission (IPC) on applications for energy developments that fall within the scope of the NPSs”: para.1.1.1 in EN-1, referring.

- c. The Applicant’s DCO Application for Wylfa Newydd fails compliance with the 2025 time horizon prescribed under para.3.5.8 in EN-1, despite the stated urgent need to ensure “new nuclear power stations are constructed and start generating as soon as possible and significantly earlier than 2025” (para.3.5.9 in EN-1, referring). The Applicant’s DCO Application evidently also fails compliance and consistency with EN-1 para.1.1.3². As plain from EN-1 para.3.5.10, Wylfa (in Anglesey) was only included in the 2011 EN-6 because the site was:

“shown to be capable of deployment by the end of 2025”,

and because

“2025 also represents a realistic timeframe for the construction of new nuclear power [station]”.

On the face of it, deployment of the proposed Wylfa Newydd Nuclear Power Station under the current DCO Application seemingly takes it out of the 2011 EN-6 timeframe, and arguably out of scope of the 2011 EN-1 and EN-6 NPSs, and, in turn, out of the remit of the ExA (EN-1 para.1.1.1, referring: cited in para.4.2.1.3.b, above).

- d. Parliamentary approval of the NPSs EN-1 and EN-6 on 18 July 2011 would not appear to have either made an allowance for, or sanctioned in advance, a continuing application of the approved NPSs beyond the prescribed 2025 timeframe in respect of any Application for a DCO for any Nationally Significant Infrastructure Project.

4.2.1.4 **A proposed new timeframe nuclear NPS and the Government’s Consultation Response of 20 July 2018 on Siting Criteria**³

Neither document has standing under the PA2008. These have yet to discharge compliance under section 5(4) of the Act. The Act does not require the ExA to take into account the content of either document. Neither document has to date attained Parliamentary approval. A number of implications follow.

- a. These documents could not be held to command equal standing and weight with respective 2011 NPSs. Nor do they constitute relevant statutory policy as yet.
- b. Both the proposed new timeframe nuclear NPS and the UK Government’s Response to a December 2017 Consultation on Siting Criteria for Future 1GWe Single Nuclear Reactors may therefore comprise *prima facie* invalid consideration under the PA2008, for the purpose of examining the Applicant’s current DCO Application for Wylfa Newydd.
- c. As accepted by the Applicant in para.3.6.8 in Appendix 16a of REP2-002, the UK Government has yet to formally decide the respective siting assessment under a proposed new timeframe NPS for nuclear new build beyond 2025.

² Namely, “Applicants should therefore ensure that their applications, and any accompanying supporting documents, are consistent with the instructions and guidance in this NPS, the relevant technology-specific NPS and any other NPSs that are relevant to the application in question.”

³ BEIS (2018) Government Response: Consultation on the Siting Criteria and Process for a New National Policy Statement for Nuclear Power with Single Reactor Capacity over 1 Gigawatt Beyond 2025. Department for Business, Energy & Industrial Strategy, July 2018. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/727628/NPS_Siting_Criteria_Consultation_-_Government_Response.pdf

4.2.1.5 **The Minister's Written Statement to Parliament on 7 December 2017⁴**

The Ministerial Statement was not subject to approval under any Parliamentary voting procedure. The Statement sets out the Government's opinion on relevance of the 2011 NPSs beyond 2025. It also refers to a proposed new 2026-2035 timeframe NPS. On the face of it, the Statement appears to neither signify nor constitute relevant approved policy under the provisions of the PA2008. A number of implications follow.

- a. The Written Statement would not appear capable of elevation to relevant statutory policy or equal standing with, or capable of superseding, the Parliamentary approved 2025 timeframe policy in the respective 2011 NPSs.
- b. The Statement does not amount to a section 6 review under the PA2008.
- c. The ExA would not appear objectively obliged under the PA2008 to act upon the content of the Ministerial Statement, for the purpose of examining the Applicant's current DCO Application for Wylfa Newydd.

4.2.1.6 In other words, it would appear the ExA may be entitled to disregard safely the Applicant's reference documents in question, for the purpose of examining the Applicant's current Application for a DCO for the proposed Wylfa Newydd Nuclear Generating Station.

- a. The Applicant's proposed DCO project cannot (and would not) be deployed within Parliament's approved statutory 2025 timeframe.
- b. The opinion and proposals in the Ministerial Statement could not amount to a statement of applicable lawful policy.
- c. The reference documents in question could not constitute approved policy for the timeframe beyond 2025, and could not merit requisite standing under the PA2008 for a DCO project deployable outside the approved 2025 timeframe.

4.2.2 **Applicability of the 2011 NPSs EN-1 and EN-6, and the Ministerial Statement on Energy Infrastructure (7 December 2017)**

4.2.2.1 The Applicant argues in Response paras 1.2.6-1.2.9, inclusive (REP3-024), that the 2011 NPSs EN-1 and EN-6 continue to remain applicable for the purpose of the ExA's current Examination into the Applicant's Application for Grant of DCO for the proposed Wylfa Newydd Nuclear Generating Station. The Applicant bases the argument entirely on a Minister's Written Statement to Parliament on 7 December 2017. A question arises: is there merit in the Applicant's response?

4.2.2.2 Consider first, the standing of the Ministerial Statement.

- a. The Applicant fails to note and address the standing of the Ministerial Statement: para.4.2.1.5, above, referring.
- b. If, as it would appear, the December 2017 Written Statement was not put to a vote in Parliament, can it properly be held to command the same weight and standing as the policy approved by Parliament in July 2011 under the statutory NPSs?

4.2.2.3 Consider next, the relevant agency under the Ministerial Statement.

- a. Plainly, the Written Statement is directed expressly at the Secretary of State acting in the capacity of a decision maker on an Application for Grant of DCO, in the instance of a

⁴ Hansard HC (2017) Statement on Energy Infrastructure: Written statement – HCWS321. Nuclear Power Generation. Richard Harrington (Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy). The House of Commons, 7 December 2017. Available at: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-12-07/HCWS321/>

project deployable beyond 2025, under section 105(2)(c) of the PA2008. The Statement is not directed at the ExA currently examining the Wylfa Newydd DCO, which is deployable beyond the approved 2025 timeframe under the 2011 EN-1 and EN-6 NPSs. Nor does the Statement instruct the Wylfa Newydd DCO ExA to take into account, to any extent, any matter referred therein. In the words of the Minister,

“... in deciding whether or not to grant development consent to such a project, the Secretary of State would be required, under section 105(2)(c) of the Act, to have regard to the content of EN-1 and EN-6, unless they have been suspended or revoked. In respect of matters where there is no relevant change of circumstances it is likely that significant weight would be given to the policy in EN-1 and EN-6.”

- b. Regarding the current Examination, the ExA is neither constituted, nor authorised to act, as decision maker under the PA2008 on any Grant of DCO for the Applicant’s proposed Wylfa Newydd Nuclear Generating Station. The Secretary of State is the relevant Decision Maker. In principle, the Ministerial Statement arguably appears inapplicable to the ExA conducting the current Examination into the Wylfa Newydd DCO Application. The Ministerial Statement is binding on the decision making Secretary of State. It could not be held binding on the ExA Examining the Applicant’s Wylfa Newydd DCO Application.

4.2.2.4. Consider, lastly, the content *per se* of the Ministerial Statement to Parliament on 7 December 2017.

- a. The Written Statement is plainly deficient on robust evidence base relevant to a new nuclear generating station deployable beyond 2025, for the purposes of section 105(2)(c) of the PA2008. The assumptions, the evidence base, findings, projections, conclusions and recommendations contained in the 2011 EN-1 and EN-6 NPSs were derived and determined specifically for the particular conditions predicted for the timeframe ending in 2025. The ExA could not justifiably properly rely on that conditionally prescribed evidence base, irrespective of the Applicant’s desire and the Government’s opinion in the Ministerial Statement, for the purpose of Examining the Applicant’s current Application for Grant of DCO for Wylfa Newydd. The Applicant confirms Wylfa Newydd can only be deployed after the expiry of the 2025 timeframe approved by Parliament for the respective 2011 NPSs.
- b. The Written Statement is further deficient on relevant up to date policy for a nuclear DCO project deployable after 2025, under the PA 2008. The words in the Statement that “The Government is confident” comprise an opinion at best, if not political rhetoric. These words do not constitute a statement of law or material fact.
- c. The opinion in the Written Statement purports to support a nuclear new build project that can only be deployed after 2025, a timeframe for which there has as yet been no public consultation, and which remains formally unevidenced and unapproved by Parliament. The Government’s opinion patently lacks standing under the PA2008. Unlike the 2011 NPSs for the timeframe ending 2025, the opinion was not put to Parliamentary vote.
- d. Moreover, the Written Statement fails to establish or clarify:
 - (i) robust parameters for duly ascertaining one way or the other whether “relevant change of circumstance” has indeed occurred; or,
 - (ii) what might constitute “relevant change of circumstance”, subsequent to approval of policy in EN-1 and EN-6 by Parliament on 18 July 2011, prescribing the applicable timeframe to the end of 2025; and,
 - (iii) whether “relevant change of circumstance” is proscribed to the balance of the term of the prescribed timeframe itself. If not, under what statutory authority might transcendence be permissible?

- 4.2.2.5 In summary, however confident the Government might be of its opinion on continuing relevance of the 2011 EN-1 and EN-6 NPSs, the Ministerial Statement could not *prima facie* be held capable of reasonably binding the Wylfa Newydd DCO ExA to any assertion therein.
- a. The ExA could only be bound by a relevant NPS for a relevant timeframe duly approved by Parliament: sub-sections 5(4), 5(9) and 9(2) of the PA2008, respectively, referring. To date, no NPS for Nuclear Power Generation or an Overarching Energy NPS for any timeframe beyond 2025 has been presented and approved in Parliament. Nor has any amendment to any 2011 NPS in question: sub-sections 6(5) and 6(9) of the PA2008, respectively, referring.
 - b. A procedural question arises. What provision under the PA2008 compels the ExA nevertheless to apply the 2011 NPSs (and the assumptions, evidence base, findings, projections, conclusions and recommendations contained therein) to any new proposed nuclear generating station deployable beyond 2025? Both EN-1 (the Overarching NPS for Energy) and EN-6 (the Nuclear Power Generation NPS) remain expressly binding only on proposals for new nuclear power stations that can be deployed by the end of 2025, and intended “in principle” to contribute to the balance of need for “new non-renewable capacity by 2025”⁵.
- 4.2.2.6 The ExA may doubtless note as well that, despite correctly quoting an extract from the Ministerial Statement in para.1.2.9 in REP3-024, in line 6 of para.1.2.6 in REP3-024 on the other hand the Applicant inexplicably substituted the word “material” for “relevant”, and “should” for “would”, respectively. These substitutions falsely alter the meaning and sense of the Ministerial Statement.

4.3 APP-406: Lack of approved siting assessment and approved new nuclear NPS for a timeframe beyond 2025

- 4.3.1.1 Evidently, a Parliamentary approved new NPS for a timeframe beyond 2025 and an approved siting assessment for nuclear new build beyond 2025 does not exist at present. The lacuna poses a conundrum.
- a. The ExA clearly would be bound by the requirements of 2011 NPSs only in respect of a DCO project deployable by the end of 2025 (the approved relevant timeframe). According to the Applicant, the proposed Wylfa Newydd Nuclear Generating Station (a Grant of DCO for which is the subject of the ExA’s current Examination), cannot be deployed by the end of 2025. It is expected to be deployed in 2027: page 1, and para.1.1.3, in APP-406, referring. The deployment of the Applicant’s proposed DCO Nuclear Generating Station at Wylfa thus plainly falls outside the statutory timeframe stipulated under Parliamentary approval in the 2011 EN-1 and EN-6 NPSs.
 - b. The entire evidence base in the 2011 EN-1 and EN-6 NPSs is tied to the conditions expected to prevail under the approved 2025 timeframe. The assumptions, the evidence base, findings, projections, conclusions and recommendations, including siting assessment, were derived and determined specifically to inform new nuclear power deployments during the term of the approved 2025 timeframe.
- 4.3.1.2 In the absence of approved siting assessment and approved new Nuclear NPS for a timeframe beyond 2025, on what basis is the ExA able to continue examining the Applicant’s current DCO Application for a proposed Wylfa Newydd Nuclear Generating Station, particularly given that Wylfa Newydd would be deployed only after 2025? The ExA are respectfully requested to consider clarification.

⁵ The fourth bullet point under para.3.3.22, in: DECC (2011) Overarching National Policy Statement for Energy (EN-1). Laid before Parliament for approval – June 2011. With Impact Assessment. URN 11D/711. Department of Energy and Climate Change. July 2011. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47854/1938-overarching-nps-for-energy-en1.pdf

4.4 REP3-024: The Applicant's additional evidence on need for Wylfa Newydd beyond 2025

4.4.1 The Applicant's Response paras 1.2.10 and 1.2.11 in REP3-024 purport to evidence specific need for the Wylfa Newydd DCO Nuclear Generating Station on the basis of five reference reports:

- Needs case for the proposed nuclear power plant at Wylfa Newydd (Oxera, February 2018);
- Future Energy Scenarios (The National Grid, July 2018);
- an MIT Study: The Future of Nuclear Energy in a Carbon-Constrained World (Massachusetts Institute of Technology Energy Initiative, September 2018);
- A Clean Planet for All (The European Commission's COM(2018)773, 28 November 2018); and,
- Global warning of 1.5°C (Special Report, Intergovernmental Panel on Climate Change, November 2018).

4.4.2 For the purpose of assessing need, it is relevant to recall para.A1 in the 2008 White Paper on Nuclear Power⁶, on which are based the 2011 EN-1 and EN-6 NPSs,

“Our two key energy challenges are to tackle climate change by reducing carbon dioxide emissions and to ensure secure, clean and affordable energy as we become increasingly dependent on imported fuel.”

4.4.3 Two threads running common in all five reports are, namely, an endorsement of need to reduce carbon emissions associated with electricity generation, and utilisation of nuclear power and alternatives in low carbon electricity generation. That leaves the ExA with four basic tests (para.A1 in the 2008 White Paper, referring) by which to appraise the relevance of each report to the ExA's current examination of the DCO Application for the proposed Wylfa Newydd Nuclear Generating Station. Namely, whether (or, the extent to which) the Applicant's reference reports address and assess:

- a. absolute need for Wylfa Newydd in particular, and the expected level of contribution to the balance of need for “new non-renewable capacity” in Wales/UK beyond 2025;
- b. security of supply, including fuel imports for low carbon electricity generation;
- c. clean generation: cradle to grave life cycle waste assessment, from mining inputs to end of life disposal, for respective electricity generating technologies; and,
- d. affordability of the UKABWR Nuclear Generating Station and alternative electricity generating technologies, in terms of estimated electricity generation cost per megawatt hour (£/MWh). In this regard, the 2008 White Paper identified a benchmark cost for nuclear electricity as £30/MWh⁷.

4.4.4 The Oxera Report, commissioned by the Applicant (Needs case for the proposed nuclear power plant at Wylfa Newydd) was not published as open literature in public domain. It was made available by the Applicant only as part of the DCO Application bundle, submitted to the Infrastructure Planning Inspectorate on 1 June 2018. Even so, it lies buried in Appendix G of APP-406, deep in a pile of Application documents numbering APP-001 to APP-447!

⁶ BERR (2008) Meeting the Energy Challenge: A White Paper on Nuclear Power. CM 7296. Department for Business, Enterprise & Regulatory Reform. URN 08/525. The Stationery Office, January 2008. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228944/7296.pdf

⁷ para.2.49: Costs and discount rates. The Government's preliminary view on Economics of nuclear power, under Section 2, Nuclear Power: An assessment of the evidence and arguments put forward in the Consultation. *ibid.*

- a. There thus exists no open source evaluation of Oxera's assumptions, evidence base, scenarios and conclusions, including appraisal by wider energy industry actors, academics, non-governmental organisations and other parties. Objectively, this could be held capable of diminishing the usefulness of the Oxera Report as a whole for the Wylfa Newydd DCO ExA.
- b. Crucially, the Applicant presents no credible evidence of consulting the public in North Wales, in particular, fully on the Oxera Report during Pre Application Consultations. The Report was seemingly kept hidden throughout the Applicant's PAC1, PAC2 and PAC3 Public Consultations. The ExA may not reasonably dismiss the omission of a strategic document as insignificant or immaterial, given the Applicant's submission that impacts of the proposed Wylfa Newydd DCO Nuclear Generating Station would range throughout North Wales, an area defined as "local": para.1.5.101 in APP-088, and the discussion under para.2.1.6 of REP1-038, respectively, referring.
- c. The authors of the Oxera Report can evidently be seen to have excluded consideration of detailed research on Zero Carbon Britain published by the independent, not-for-profit non-governmental organisation, The Centre for Alternative Technology⁸.
- d. Furthermore, the Oxera Report provides the ExA scant relevant assessment information regarding:
 - (i) the proposed contribution by the twin Wylfa Newydd UKABWRs to the balance of demonstrable need for "new non-renewable capacity" in Wales/UK beyond 2025. The Report fails as well to present a robust analysis of diverse scenarios for low carbon electricity generation in Wales/UK beyond 2025, inclusive of inter-connector projects. To that extent, the Report would appear materially limited in justifying need for the Wylfa Newydd DCO Nuclear Generating Station *per se*;
 - (ii) security of supply involving fuel imports for the UKABWRs. The Report contains no analysis whatever; and,
 - (iii) cradle to grave life cycle waste assessment of the proposed twin UKABWRs at Wylfa. The Applicant could not reasonably deploy the UK Government's guarantee on eventual radioactive waste disposal as a fig leaf for avoiding relevant assessment in a commissioned "independent" Report, including assessment of waste production by all low carbon electricity generating technologies.
- e. Moreover, the Oxera Report remarkably provides no assessment of electricity generation costs of low carbon technologies deployable beyond 2025, a core affordability parameter: para.4.4.3.d, above, referring. Failure to assess the core affordability parameter for the proposed twin UKABWRs at Wylfa, against the 2008 White Paper benchmark, constitutes major deficiency. This suffices to bring into question the fundamental soundness of the Report for the ExA for the purpose of need assessment.
 - (i) The Applicant's flagship Report is *prima facie* incapable of answering a material question: how does the generation cost of the proposed twin UKABWRs at Wylfa compare with the 2008 White Paper benchmark generation cost of £30/MWh, and with the generation costs of alternatives?
 - (ii) Lack of assessment against benchmark generating cost means the Applicant has *ipso facto* provided the ExA materially insufficient evidence for proper appraisal of need for, and reasonable alternatives to, the Applicant's proposed twin UKABWRs at Wylfa under the current DCO Application.

⁸ Allen P et al (2013) Zero Carbon Britain: Rethinking the Future. Primary authors: Paul Allen, Laura Blake, Peter Harper, Alice Hooker-Stroud, Philip James and Tobi Kellner. Centre for Alternative Technology, July 2013. Available at: <http://www.zerocarbonbritain.org/images/pdfs/ZCBrtflo-res.pdf>

4.4.5 The National Grid report on Future Energy Scenarios (the first bullet point under para.1.2.11 in REP3-024).

This Report self evidently fails to assist the ExA with assessing appropriately,

- a. the specific need for the Wylfa Newydd twin UKABWRs beyond 2025. As system operator, the National Grid has neither argued any case for, nor provided relevant information on, specific need for a new Nuclear Generating Station at Wylfa; and,
- b. the core benchmark parameter: the electricity generation costs for each type of technology, including nuclear generation, under various scenarios. The Report contains no information on the generation cost of Wylfa Newydd's twin UKABWRs relative to the 2008 White Paper benchmark generation cost of £30/MWh. It provides no information either on the electricity generation costs of alternative technologies.

The National Grid Report thus could not be held to bring additional or new information objectively relevant to the ExA's assessment of specific need for the Wylfa Newydd DCO Nuclear Generating Station. The Report cannot be employed to make good apparent deficiency in the Applicant's flagship Oxera Report.

4.4.6 The MIT Study on The Future of Nuclear Energy in a Carbon-Constrained World (the second bullet point under para.1.2.11 in REP3-024) is presented by the Applicant as "a comprehensive analysis".

For the purpose of the ExA's examination into the Applicant's DCO Application, does the MIT Study meaningfully assist the ExA assess the specific need for the proposed Wylfa Newydd Nuclear Generating Station?

- a. The MIT Study contains no assessment of low carbon electricity need/supply issues specific to the circumstances and conditions in Wales/UK beyond 2025, having regard to the UK Government's carbon reduction targets.
- b. The Study contains no assessment of the extent to which admittedly high cost nuclear new build is affordable, warranted and contributes to the balance of need for "new non-renewable capacity" in Wales/UK beyond 2025.
- c. The MIT Study does not address security of nuclear fuel supply issues for Wales/UK.
- d. The Study does not address issues of waste production from scaled up nuclear generation in Wales/UK.
- e. The MIT Study contains no assessment whatever of whether Generation III+ ABWRs in particular have lowered electricity generation costs to within reach of the 2008 White Paper benchmark, a core parameter on affordability: para.4.4.3.d, above referring.

Coupled with lack of Wales/UK specific low carbon electricity generation scenarios beyond 2025, the lack of core parameter electricity generation cost assessment, relative to the 2008 White Paper benchmark generation cost of £30/MWh for nuclear power, suffices to raise doubt about the usefulness of the MIT Study for the ExA's assessment of specific need for the Applicant's proposed twin UKABWRs at Wylfa.

The MIT Study thus could not be held to bring additional or new information objectively relevant to the ExA's assessment of specific need for the Wylfa Newydd DCO Nuclear Generating Station. Nor does it make good apparent deficiency in the Applicant's flagship Oxera Report.

4.4.7 The European Commission's Strategy titled A Clean Planet for All (COM(2018) 773 final, Brussels 28.11.2018), the third bullet point under para.1.2.11 in REP3-024, is presented by the Applicant as an "in-depth analysis".

For the purpose of the ExA's examination into the Applicant's current DCO Application, does COM(2018)773 meaningfully assist the ExA assess the specific need for the proposed Wylfa Newydd Nuclear Generating Station?

According to the first paragraph in section 2 of COM(2018)773,

“The proposed Strategy does not intend to launch new policies, nor does the European Commission intend to revise 2030 targets. It is meant to set the direction of travel of EU climate and energy policy, and to frame what the EU considers as its long-term contribution to achieving the Paris Agreement temperature objectives in line with UN Sustainable Development Goals, which will further affect a wider set of EU policies. The Strategy opens a thorough debate involving European decision-makers and citizens at large as to how Europe should prepare itself towards a 2050 horizon and the subsequent submission of the European long-term Strategy to the UN Framework Convention on Climate Change by 2020.”

On pages 7-8, COM(2018)773 informs that:

“Modelling assessments indicate that the deployment of no-regret options such as renewables including sustainable advanced biofuels, energy efficiency, impetus towards circular economy alongside individual options such as electrification, hydrogen and alternative fuels or new approaches to mobility, are not sufficient for a net-zero greenhouse gas emissions economy by 2050. Under such technology scenarios, emissions reduce only by 80% by 2050 compared to 1990. While combining all these options can reduce net emissions by around 90% (including the land use and forestry sink), some greenhouse gas emissions will always remain notably in the agriculture sector. Reaching net-zero greenhouse gas emissions will require maximising the potential of technological and circular economy options, the large scale deployment of natural land based carbon sinks including in the agricultural and forestry sectors as well as shifts in mobility patterns.”

In contrast to the high carbon reduction high nuclear power scenarios in the Oxera Report and the MIT Study, COM(2018)773 notes on page 8:

“The clean energy transition would result in an energy system where primary energy supply would largely come from renewable energy sources, thereby significantly improving security of supply and fostering domestic jobs.”

On page 9, COM(2018)773 notes:

“By 2050, more than 80% of electricity will be coming from renewable energy sources (increasingly located off-shore). Together with a nuclear power share of ca. 15%, this will be the backbone of a carbon-free European power system.”

COM(2018)773 notes on page 19:

“EU research should focus on transformational carbon-neutral solutions in areas such as electrification (renewables, smart networks and batteries), hydrogen and fuel cells, energy storage, carbon-neutral transformation of energy intensive industries, the circular economy, the bio-economy and sustainable intensification of agriculture and forestry.”

However, COM(2018)773 decidedly does not assert the words attributed by the Applicant in the third bullet point under para.1.2.11 in REP3-024. Namely,

“ ... made clear that “nuclear energy (based on nuclear fission) is a well-established large-scale zero-carbon technology in power generation” ”

Plainly, as a high level strategy document, COM(2018)773 could not be expected to contain the type of detailed additional or new information objectively relevant to the ExA’s assessment of specific need for the Wylfa Newydd DCO Nuclear Generating Station.

Nor could it be expected to make good apparent deficiency in the Applicant’s flagship Oxera Report. While COM(2018)773 remains of general interest, its content would not appear materially relevant to the ExA’s assessment of specific need for the proposed twin UKABWRs at Wylfa.

- 4.4.8 The Special Report of the Intergovernmental Panel on Climate Change (the fourth bullet point under para.1.2.11 in REP3-024) is a very high level scientific assessment of “the impacts of global warming of 1.5 degrees Celsius above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty.”

The IPCC’s Special Report (entitled “Global Warming of 1.5°C”) could not be expected to contain the type of detailed additional or new information objectively relevant to the ExA’s assessment of specific need for the Wylfa Newydd DCO Nuclear Generating Station.

Nor could it be expected to make good apparent deficiency in the Applicant’s flagship Oxera Report. While the Special Report deservedly commands great interest, its content would not appear materially relevant to the ExA’s assessment of specific need for the proposed twin UKABWRs at Wylfa.

Save to note in passing that the Report includes a following general observation on the generation cost of nuclear power⁹:

“Costs of nuclear power have increased over time in some developed nations, principally due to market conditions where increased investment risks of high-capital expenditure technologies have become significant. ‘Learning by doing’ processes often failed to compensate for this trend because they were slowed down by the absence of standardization and series effects (Grubler, 2010). What the costs of nuclear power are and have been is debated in the literature (Lovering et al., 2016; Koomey et al., 2017).”

- 4.4.9 Applicant bias.

Finally, it is notable that the authors of the Applicant’s flagship Oxera Report were minded to emphasise an academic paper by Heard *et al.* According to the Heard paper, a 100% renewable electricity system is unachievable¹⁰. However, somewhat inexplicably, the Applicant omitted a Response by Brown *et al* from the updated list of Additional Evidence under para.1.2.11 in REP3-024. Brown and colleagues demonstrate in their Response paper “that the 100% renewable energy scenarios proposed in the literature are not just feasible, but also viable” and that “only a directed evolution of the current system is required to guarantee affordability, reliability and sustainability.”¹¹ Plain bias underscored thereby does the Applicant’s professionalism no favours.

4.5 REP3-024, APP-033 and REP2-305: The UK Government’s direct investment in Wylfa Newydd - irrelevant to ExA’s impact assessment of the DCO project?

4.5.1 The Applicant’s opinion

- 4.5.1.1 The Applicant opines at para.1.2.23 in REP3-024 that,

“NPS EN-1 and NPS EN-6 make no reference to assumptions regarding private or public finance. Potential UK Government investment therefore

⁹ section 4.3.1.3 Nuclear Energy, in Chapter 4 Strengthening and Implementing the Global Response, in: IPCC (2018: 325) Global warming of 1.5°C. Intergovernmental Panel on Climate Change. Special Report. Available at: https://www.ipcc.ch/site/assets/uploads/sites/2/2018/08/SR15_Chapter4_High_Res.pdf

¹⁰ Heard *et al* (2017: 1122-1133) Burden of proof: A comprehensive review of the feasibility of 100% renewable-electricity systems. Renewable and Sustainable Energy Reviews 76. Open Source Access available at: https://ac.els-cdn.com/S1364032117304495/1-s2.0-S1364032117304495-main.pdf?_tid=aa44463a-2fcc-4c4a-ab86-f1cbb8bc3395&acdnat=1547169617_8f4870c12dc1dc273fd8a2b1322f04af

¹¹ Brown et al (2018: 834-847) Response to ‘Burden of proof: A comprehensive review of the feasibility of 100% renewable-electricity systems’. Renewable and Sustainable Energy Reviews 92. Open Source Access available at: https://ac.els-cdn.com/S1364032118303307/1-s2.0-S1364032118303307-main.pdf?_tid=2664d0e0-bfc8-4173-b300-c890452ad48b&acdnat=1547171206_a4af23b732169881b21a59654937dc45

has no relevance to the assessment of the Wylfa Newydd DCO Project against the policies in NPS EN-1 and NPS EN-6.”

4.5.1.2 This section addresses, in turn, the Applicant’s assertions that:

- a. public investment in Wylfa Newydd comprises an assumption;
- b. the 2011 EN-1 and EN-6 NPSs make no policy reference to private or public investment; and,
- c. that the investment regime for the proposed Wylfa Newydd DCO project is not relevant for the purpose of assessment against policies in the respective 2011 NPSs.

Comment in this section supplements observations in paras 2.2.5.1 and 2.2.5.2 under REP2-305. For the sake of the argument, these comments are framed in the context of the Applicant’s reference to the 2011 EN-1 and EN-6 as the relevant NPSs, for the purpose of the ExA’s examination of the Applicant’s current Application for Grant of DCO for the proposed Wylfa Newydd Nuclear Generating Station.

4.5.2 Is public investment in Wylfa Newydd an assumption?

4.5.2.1 With respect, the Secretary of State’s announcement in Parliament on 4th June 2018¹², spelling out consideration of and negotiation with Hitachi (the Applicant’s parent company) on direct investment of public funds in the Applicant’s proposed Wylfa Newydd DCO project, self evidently constitutes material fact, not “assumptions regarding private or public finance” as intimated by the Applicant. The material fact suffices to bring into question the reliability of the Applicant’s evidence in APP-033 paras 2.3.1-4, inclusive.

4.5.3 The 2011 EN-1 and EN-6 NPSs, and the evidence trail on policy against public investment finance for nuclear new build

4.5.3.1 Evidence trail

The Applicant’s assertion that the 2011 EN-1 and EN-6 NPSs do not refer to private or public investment would not appear objectively corroborated by available evidence. Official evidence establishes that Government policy under the 2008 White Paper established 100% private sector investment as a core principle underpinning the 2011 EN-1 and EN-6 NPSs, for all nuclear new build projects in the UK.

4.5.3.2 The evidence trail rooting the 2011 EN-1 and EN-6 NPSs in a policy framework of no public investment finance for nuclear new build projects comprises a number of relevant official documents. The following documents constitute the background and context of relevant policy framework for the respective 2011 NPSs:

- The 2006 Public Consultation on the Energy Challenge;
- The 2007 Public Consultation on The Future of Nuclear Power;
- The 2008 White Paper on Nuclear Power;
- The 2009 Public Consultation on Draft NPSs for Energy Infrastructure; and,
- The final 2011 NPSs, respectively.

¹² Hansard HC (2018) Nuclear Power. The Secretary of State for Business, Energy and Industrial Strategy (Greg Clark). Columns 76-88, 4 June 2018. Available at: <https://hansard.parliament.uk/commons/2018-06-04/debates/5841DAA8-85CF-4CDE-AEA6-3116517D53BC/NuclearPower>

Column 76: In line with the NAO and PAC’s clear findings and recommendations, for this project the Government will be considering direct investment alongside Hitachi, Japanese Government agencies and other parties. Our partnership on this project will serve as a further example of civil nuclear collaboration between the UK and Japan, building on the memorandum of co-operation that was signed with that country in 2016.

4.5.3.3 The 2006 Public Consultation on the Energy Challenge

4.5.3.3.1 The Government's 2006 Consultation on the Energy Challenge¹³ placed clear emphasis on private sector investment in energy infrastructure.

- "In the UK energy sector, specific investment decisions (including choices about which technologies to use) are made by energy companies and by business more generally. Public policy shapes the framework in which those investment decisions are made so that they properly reflect the country's goals on issues such as the reduction of carbon emissions. Policies to achieve that influence need to take full account of affordability and avoid damaging our competitiveness, public finances and prosperity": page 18, referring.
- "We would expect any future plant to be built and run by the private sector, within the regulatory framework set by the government": page 64, referring.

4.5.3.4 The 2007 Public Consultation on The Future of Nuclear Power

4.5.3.4.1 The 2007 Consultation on The Future of Nuclear Power¹⁴ presaged the 2011 National Policy Statements EN-1 and EN-6. The 2007 Consultation expressly did not include public investment in new nuclear power stations under "Proposals for Government facilitative action": paras 13.3-13.6, inclusive, referring. The Consultation emphasised need to "introduce arrangements to protect the taxpayer" against decommissioning and radioactive waste management costs in respect of new nuclear power stations. The Planning Act 2008 and the remit of the Infrastructure Planning Inspectorate's ExA also stem from this Consultation.

4.5.3.5 The 2008 White Paper on Nuclear Power

4.5.3.5.1 The 2008 White Paper on Nuclear Power clearly excluded public investment finance for any new nuclear power station in the UK. The Government determined that, as a matter of principle, all nuclear new build projects would only be built under private sector investment, without exception¹⁵. The details of the subsequent 2011 EN-1 and EN-6 NPSs, the Planning

¹³ DTI (2006) Our Energy Challenge: Securing clean, affordable energy for the long-term. Energy Review Consultation Document URN 06/670. Department of Trade and Industry, January 2006.

¹⁴ DTI (2007) The Future of Nuclear Power: The role of Nuclear Power in a Low Carbon UK Economy. Consultation Document URN 07/970. Department of Trade and Industry, May 2007.

¹⁵ BERR (2008) Meeting the Energy Challenge: A White Paper on Nuclear Power. CM 7296. Department for Business, Enterprise & Regulatory Reform. URN 08/525. The Stationery Office, January 2008. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228944/7296.pdf

The UK Government pledged to reduce regulatory (that is, environmental and safety) and planning uncertainties in order to incentivise energy companies to bring forward proposals for nuclear new build. The White Paper also set out the financing of nuclear new build, in the following terms.

Overview, The Government's energy strategy: paragraph 5:

"The fundamental principle of our energy policy is that competitive energy markets, with independent regulation, are the most cost effective and efficient way of generating, distributing and supplying energy. In those markets, investment decisions are best made by the private sector and independent market regulation is essential to ensure that the markets function properly and in accordance with our wider social and environmental objectives ...";

Overview conclusion, Economics of Nuclear Power: paragraph 29:

"it will be for energy companies to make investment decisions based on their analysis of the economics";

Overview conclusion, Economics of Nuclear Power: paragraph 30:

"Whether nuclear provides sufficiently attractive returns given its financing characteristics is a matter that investors will determine. It is ultimately for energy companies to make a judgement about the economics of nuclear power";

2007 Public Consultation Government Response, Economics of Nuclear Power: Costs and discount rates, paragraph 2.52:

"The risk of cost over-runs in construction and the choice of the appropriate cost of capital are genuinely uncertain factors and are best left for the market to determine. ... whether energy companies choose to invest in new nuclear power stations is, ultimately, a matter for them";

2007 Public Consultation Government Response, Economics of Nuclear Power: Our conclusion, page 66:

"It is for investors to determine whether the financing characteristics of nuclear power provide sufficiently attractive returns"; and,

2007 Public Consultation Government Response, Other conditions: paragraph 2.266:

Act 2008 and the remit of the Infrastructure Planning Inspectorate's ExA are all rooted in this conditional White Paper (page 7, referring: see footnote 15 below for details of pledges on exclusive private sector investment in nuclear new build). For example, according to the White Paper Overview para.1 [emphasis added]:

"The Government believes it is in the public interest that new nuclear power stations should have a role to play in this country's future energy mix alongside other low-carbon sources; that it would be **in the public interest to allow energy companies the option of investing in new nuclear power stations**; and that the Government should take active steps to open up the way to the construction of new nuclear power stations. It will be for energy companies to fund, develop and build new nuclear power stations in the UK, including meeting the full costs of decommissioning and their full share of waste management costs."

4.5.3.5.2 The 2008 White Paper constitutes the bedrock of Government's policy framework against which the ExA is considering the Applicant's current Application for Grant of DCO for the proposed Wylfa Newydd Nuclear Power Station. It follows reasonably that in the instance of investment finance for a new nuclear power station that is at variance with pledges in the White Paper excluding public investment finance, it would be legitimate and in the public interest for the ExA to require requisite information on assessment of socio-economic impacts of the level of public investment finance in question. This socio-economic assessment is also known as the opportunity cost of investing public funds in preferred activity or development project (for example). Paras 2.2.5.1 and 2.2.5.2 in REP2-035, referring as well.

4.5.3.6 The 2009 Public Consultation on Draft NPSs for Energy Infrastructure

4.5.3.6.1 In the 2009 Public Consultation on Draft NPSs for Energy Infrastructure¹⁶, open for public consultation between 9 November 2009 and 22 February 2010, the Government left it in no doubt that the NPSs are firmly rooted in the 2008 White Paper. For example, in para.5.12, the Consultation Draft repeats verbatim the White Paper Overview para.1:

"it would be in the public interest to allow energy companies the option of investing in new nuclear power stations."

The Consultation Draft did not argue public interest in the option of public investment finance for new nuclear power stations.

4.5.3.6.2 Furthermore, the NPSs were neither meant to, nor do they indeed, define in absolute terms all main issues and all main policy the ExA may consider. As explained at para.6.1 in the Consultation Draft NPS,

"Impact Assessments analyse the administrative costs and benefits to business, the public sector and the third sector (voluntary organisations) of proposed Government interventions. The assessments set out why the measure is needed and options for achieving the policy aims, with reasons for the option adopted."

Neither the draft nor the final EN-6 NPS considered impact assessment of Government intervention in the form of public investment in any particular proposed new nuclear generating station.

4.5.3.6.3 Moreover, paras 2.1.1, 2.1.2, A27 and A31, respectively, in the 2009 Draft EN-6 repeated verbatim the 2008 White Paper Overview para.1 on private investment finance. The White Paper was cited further, including at paras 2.1.3 (need), 2.3.2 (low carbon option), 2.3.3 (security of supply), 2.3.9 (large scale deployability), 3.4.1 (regulatory regime), 3.8.1 (radioactive waste management), 3.8.2 (higher activity waste definition), 4.8.4 (human health and well-being), and 5.6.17 (terrorism risk), respectively.

"... the fundamental principle of our energy policy is that competitive energy markets, with independent regulation, are the most cost-effective and efficient way of generating, distributing and supplying energy. In those markets, investment decisions are best made by the private sector and independent regulation is essential to ensure that the markets function effectively".

¹⁶ DECC (2009) Consultation on draft National Policy Statements for Energy Infrastructure. Department of Energy & Climate Change, URN 09D/621. November 2009.

4.5.3.7 The final 2011 EN-1 and EN-6 NPSs

- 4.5.3.7.1 The final 2011 NPSs (approved under Parliamentary vote on 18 July 2011) were unequivocally rooted in the 2008 White Paper on Nuclear Power. Self evidently, the 2008 White Paper's Overview para.1 has been structured into para.1.1.1 of the 2011 EN-6 (Volume 1), encapsulating the Government's established negative policy on public investment finance for new nuclear generating stations in the UK, thus:

"The Government believes that energy companies should have the option of investing in new nuclear power stations. Any new nuclear power stations consented under the Planning Act 2008 will play a vitally important role in providing reliable electricity supplies and a secure and diverse energy mix as the UK makes the transition to a low carbon economy."

- 4.5.3.7.2 The 2008 White Paper is further anchored, for example, in paras 2.2.2 and 2.2.25 in the 2011 EN-1; as well as in para.3.12.4 in the 2011 EN-6 Volume 1; and, in para.B.1.1 in the 2011 EN-6 Volume 2, respectively¹⁷.

4.5.3.8 Implication of the evidence trail

- 4.5.3.8.1 The available evidence establishes irrefutably that the 2011 EN-1 and EN-6 NPSs are based on the 2008 White Paper on Nuclear Power. That, the 2008 White Paper constitutes the bedrock of Government policy framework on investment in nuclear new build projects, against which the ExA is considering the Applicant's current Application for a Grant of DCO for the proposed Wylfa Newydd Nuclear Power Station.
- 4.5.3.8.2 Upon such consideration, the ExA reasonably may not turn a blind eye to the cardinal fact that Government policy in the 2008 White Paper on investment in new nuclear generating stations constitutes material context for the 2011 EN-6. Neither EN-1 nor EN-6 prohibits the ExA from assessing the socio-economic impact of substantive change in material fact in the Government's investment policy framework for nuclear new build. The 2008 White Paper is manifestly encapsulated in para.1.1.1 of the 2011 EN-6 NPS.

4.5.4 Might the UK Government's investment be relevant to assessment of socio-economic impacts of the Wylfa Newydd DCO project?

- 4.5.4.1 The Announcement in Parliament on 4 June 2018, expressly setting out a bespoke public investment arrangement solely with Hitachi (the Applicant's parent company) and solely for the proposed Wylfa Newydd DCO project, is relevant to and materially modifies para.1.1.1 in the 2011 EN-6 (Volume 1) NPS. The 2008 White Paper principle of 100% private sector finance for nuclear new build projects, without exception, has clearly been structured into para.1.1.1 of the 2011 EN-6 NPS.

¹⁷ Relevant extracts from the respective 2011 National Policy Statements.

para.2.2.2, 2011 EN-1:

Within a market-based system and with severe constraints on public expenditure in the near-term, the focus of Government activity in this transformation is clear. It should be on developing a clear, long-term policy framework which facilitates investment in the necessary new infrastructure (by the private sector) and in energy efficiency.

para.2.2.25, the second bullet point, 2011 EN-1:

... the requirement for substantial and timely private sector investment over the next two decades in power stations, electricity networks and gas infrastructure.

para.3.12.4 in 2011 EN-6, Volume 1:

Radiation from nuclear power stations requires careful management during and beyond the operational life of the power station. However, safety systems in place in the designs of new nuclear power stations and compliance with the UK's robust legislative and regulatory regime mean that the risk of radiological health detriment posed by nuclear power stations (both during normal operation and as a result of an unplanned release) is very small.

para.B.1.1, in Annex B of 2011 EN-6, Volume 2:

The Nuclear White Paper stated that "before development consents for new nuclear power stations are granted, the Government will need to be satisfied that effective arrangements exist or will exist to manage and dispose of the waste they will produce". The Government has considered this issue and this Annex sets out the Government's conclusions.

4.5.4.2 The documented evidence trail points to manifest need for proper socio-economic assessment of impact of substantive change in material fact: paras 4.5.3.8.1 and 4.5.3.8.2, above, referring. In the first instance in particular, the opportunity cost of the level of public finance in question: paras 2.2.5.1 and 2.2.5.2 in REP2-305, referring.

4.5.4.3 In the second instance, a potential distinction between assurance of delivery of assessed socio-economic benefits and mitigation under the two differing investment regimes, may arguably be relevant as well to the ExA's examination of the Applicant's current Application for a Grant of DCO for Wylfa Newydd. Namely,

- a. 100% private sector investment regime, under which the Applicant controls delivery of assessed benefits and mitigation; and,
- b. public investment stake, under which the public funding authority also becomes responsible (and, directly accountable) for ensuring delivery of assessed benefits and mitigation measures.

The operational impacts of the differing investment regimes may not be presumed as insignificant or immaterial. Not the least, given the prime objective of direct public investment in this particular instance. Namely, to ensure successful construction of the proposed DCO project, in response to the Applicant's express difficulty with securing the entire investment necessary in capital finance markets¹⁸. The UK Government's stake in Wylfa Newydd may, in turn, give enhanced effect to successful delivery of assessed socio-economic benefits and mitigation measures. Prevailing evidence would suggest that the proposed DCO project could not be constructed without direct financial investment support from the UK Government.

4.5.4.4 The Applicant submitted the DCO Application Documents to the Infrastructure Planning Inspectorate on 1 June 2018. Subsequent to the submission of DCO Application documents, the UK Government's Announcement in Parliament on 4 June 2018 interjected a bespoke reversal of the long standing White Paper policy against public investment finance, in response to sustained lobby by Hitachi and Horizon at the highest constitutional level of Government in the UK.

- a. Assessments of socio-economic benefits and mitigation contained in the DCO Application documents could only have been assessed by the Applicant under the private sector investment policy set out in the 2008 White Paper. That is, the assessment of socio-economic impacts provided to date by the Applicant were implicitly premised on 100% private sector capital investment, for the construction of the proposed Wylfa Newydd DCO Nuclear Generating Station.
- b. The Applicant's existing assessments patently pre-dated the Parliamentary Announcement. The assessments available to the current ExA could not therefore include relevant information on delivery of benefits and mitigation under a markedly different investment regime occasioned under a bespoke reversal of the long established investment policy under the Government's 2008 White Paper.
- c. Furthermore, the public authority would necessarily be obliged to exercise some measure of control over the Applicant, and thus over the delivery of the totality of assessed socio-economic benefits and mitigation measures. The Applicant cannot escape that material fact. The Government cannot escape that material fact. The ExA could not reasonably and rationally avoid, dismiss or disregard that same material fact in the course of assessing all significant interactions effectively capable of determining, shaping and ensuring delivery of assessed socio-economic benefits and mitigation measures.

¹⁸ Gosden E (2018) Hitachi may drop Welsh nuclear plant. *The Times*, 11 December 2018. Available at: <https://www.thetimes.co.uk/article/hitachi-may-drop-nuclear-bombshell-rjxnvt0j>

4.5.5 Prevailing information gap on the UK Government's proposed investment stake

- 4.5.5.1 The ExA are respectfully requested to require the Applicant and the Secretary of State to,
- a. disclose all Memorandums of Understanding so as to inform the ExA accordingly of change in material fact or circumstance arguably capable of bearing on adequacy of assessed socio-economic impacts, and delivery of assessed socio-economic benefits; and mitigation measures; and,
 - b. provide regular updates to the ExA on status of public investment negotiation, under each Examination Deadline.
- 4.5.5.2 It could not reasonably be acceptable, or in the public interest, for the two parties to deploy negotiations as a fig leaf. A commercial competitor for the Wylfa Newydd DCO project in question simply does not exist, as a matter of plain fact.
- 4.5.5.3 Update information on public finance investment could potentially relevantly inform as well the Applicant's capability for discharging section 106 agreements, in view of the Applicant's incorporation as a special purpose vehicle (by its owner, Hitachi Limited) with no assets of its own: paras 2.2.3.2 and 2.2.3.3 in REP2-305, referring. The Applicant's evidence in APP-033 paras 2.3.1-4, inclusive, *prima facie* fails to inform the ExA proceedings appropriately, reliably and accurately. On 17 January 2019, Hitachi Limited announced an "impairment loss" for the financial year ending 31 March 2019, attributed to the Horizon Project. Hitachi also announced their formal decision to suspend further work on Wylfa Newydd, for the time being, as "further time is needed to develop a financial structure for the Horizon Project"¹⁹.
- 4.5.5.4 The ExA may doubtless note that APP-033 provides no financial details on Horizon Nuclear Power Wylfa Limited, for any financial year, despite operating in the UK since 2012. Even the Hitachi Consolidated Financial Results for Fiscal 2016 (in Annex 1) include no financial information on Horizon.

4.6 REP3-024, APP-033 and REP2-305: Project risk bond

- 4.6.1 With respect, the Applicant's response para.1.2.18, in particular, fails to recognise salient material distinction between the corporate history and standing of the Hinkley Point C Developer, and Horizon Nuclear Power Wylfa Limited (the Wylfa Newydd Developer). The two entities are clearly not comparable.

¹⁹ Hitachi (2019) Hitachi Announces Suspension of UK Nuclear Power Stations Construction Project and Posting of Impairment Loss and Related Expenses on Consolidated Basis, Posting of Extraordinary Loss on Unconsolidated Basis, and Revisions to Full-year Consolidated Business Forecast. News Release. Tokyo, January 17, 2019 – Hitachi Ltd. (TSE:6501). Available at:

http://www.hitachi.com/New/cnews/month/2019/01/f_190117.pdf

An extract:

"1. Posting Losses Associated with the Suspension of the Horizon Project

(1) Backgrounds and Contexts of the Losses

Based on an Advanced Boiling Water Reactor (ABWR), which is a "Generation III+" reactor with an extensive construction and operation track record in Japan, Hitachi has worked on developing a nuclear power plant in order to build two UK ABWR units adapted to UK requirements.

Hitachi has held detailed discussions with the UK Government over various options about how the UK Government might support the project including potential for equity and debt investments. The parties, with the cooperation of the Japanese Government, have held discussions in good faith in regard to the financial structure for the project and various conditions for the building and operation of the nuclear power station.

Since the acquisition of HNP, Hitachi has set the following three points as the main criteria for business continuation and reviewed the Horizon Project from the viewpoint of its economic rationality: (1) securing reasonable returns as a private enterprise, (2) realizing a financial structure on the premise of making Horizon Project off balance sheet, (3) limiting an investment amount to an acceptable range as a private enterprise.

Unfortunately, despite the best efforts of everyone involved the parties have not been able to reach an agreement to the satisfaction of all concerned. As a result, Hitachi has decided to suspend the project at this time from the viewpoint of its economic rationality as a private enterprise, as it is now clear that further time is needed to develop a financial structure for the Horizon Project and the conditions for building and operating the nuclear power stations.

..."

- a. In contrast to EDF's established corporate history of operating fleets of nuclear generating stations for decades, Horizon has never operated even a single non-nuclear electricity generating station anywhere.
- b. Self evidently, it is Horizon's ambition that appears wholly unprecedented and unique in the civil nuclear electricity generating sector in the UK. Given the particular, exceptional and *prima facie* unprecedented circumstances, it would not at all be unprecedented to consider requiring Horizon to post the type of project risk bonds indicated in REP2-305 paras 2.2.3.1-4, inclusive.
- c. Project risk bonds in the instance of Wylfa Newydd DCO may be justifiable in principle, on the facts of the case. The spectre of Carillion-, Enron- or RBS-style meltdown (illustrative examples only) would be intolerable in the instance of an "apprentice" developer/operator of the two largest ever novel technology nuclear reactors in Wales. The ABWRs are nowhere to be found in the British Isles. These are the fundamental distinguishing facts of the case.
 - (i) Horizon Nuclear Power Limited has never built and operated any nuclear power station of any generating capacity involving any reactor design. Paras 2.3.1-4 in APP-033 are vacant to the point.
 - (ii) The Wylfa Newydd DCO Developer demonstrably presents no successful commercial history as a viable business entity. Annex 1 in APP-033 provides no financial information on the entity known as Horizon Nuclear Power Wylfa Limited, or Horizon Nuclear Power Limited.
 - (ii) A comparison with the Hinkley C developer/operator couldn't be more far fetched and inappropriate. In this regard, Hinkley C sets no relevant precedent as regarding Horizon's demonstrable business credentials and track record.
 - (iii) The Wylfa Newydd NSIP Developer would appear contextually distinguishable from the Hinkley C NSIP Developer. The broad generality of dismissal of an insurance bond for NSIP abandonment or incomplete development by the Hinkley C DCO Examining Authority may not strictly apply on the facts of the case to the Wylfa Newydd NSIP Developer. There apparently prevails manifest lack of corporate viability evidence regarding the latter.

4.6.2 It would be helpful in this instance to know what objectively satisfies the ExA currently that the Wylfa Newydd DCO Applicant, effectively an "apprentice" entity aiming to build and operate an extremely complex £15-20 billion development (in terms of business, commerce, corporate social responsibility, environmental management, human resources, risk management and technological challenge, for example), is nevertheless a sound viable corporate entity in its own right.

4.7 Continuing DCO evidence deficit

4.7.1 REP3-024, APP-088 and REP2-305: Socio-economics

4.7.1.1 With respect, the Applicant's broad brush Response paras 1.2.19 and 1.2.20 in REP3-024, fail to address salient specific matters in paras 2.2.4.1 and 2.2.4.2 in REP2-305, material to proper assessment of local socio-economic impacts, benefits and mitigation.

4.7.2 REP3-024, REP2-375 and REP2-305: Use of tail pieces in the DCO

4.7.2.1 In REP3-024 para.1.2.12, responding to REP2-305 paras 2.2.2.1-4, inclusive, the Applicant refers to an ostensible reply in REP2-002 to FWQ4.0.56 (apropos ExQ1), regarding "tail pieces". However, the Applicant cited incorrect reference for the relevant document, resulting

in considerable investment of scarce time in tracking down the correct document in question. Namely, REP2-375.

- 4.7.2.2 With respect, the Applicant's response to FWQ4.0.56 (in REP2-375) reads objectively insufficient for the purpose. The response appears to evade addressing:
- a. identification of absolute need for each tail piece: para.2.2.2.2 in REP2-305 referring. Presumably, lawfulness would not preclude establishing case by case absolute need; and,
 - b. relevant details requested under para.2.2.2.4 in REP2-305. The requested information comprises the type of information reasonably required by reasonably informed bystanders for proper assessment, comprehension and justification. The bystander query being: is it transparent from the Applicant's response to FWQ4.0.56 how and for what specific reason the Applicant has come to conclude not only that each tailpiece is objectively minimal but that all the tailpieces taken together are justifiably minimal on the basis of sound evidence?

4.8 REP3-042, REP3-043, REP3-024, REP2-023 and REP2-305: draft DCO s.106 Agreement

- 4.8.1 The Applicant's response para 1.2.24 in REP3-024 refers pithily to the Draft DCO section 106 Agreement (REP3-042 and REP3-043, respectively).
- 4.8.1.1 It is paramount that the Applicant plays no direct or indirect part in, or exercise direct or indirect control over, the establishment, the constitution, the powers, functions and deliberations of an Allocation Body: para.2.3.1.1.a in REP2-305 referring. An Allocation Body needs to be wholly independent of the Applicant, and be seen to conduct duly authorised affairs independently of the Applicant.
- 4.8.1.2 Furthermore, an Allocation Body making disbursement decisions needs to be controlled jointly by the respective host local community councils in North Anglesey and the Isle of Anglesey County Council.
- 4.8.1.3 Any pre-adoption DCO section 106 Agreement warrants full open public consultation, beyond the bubble of registered Interested Parties to the instant Examination into a Grant of DCO for Wylfa Newydd. A DCO s.106 Agreement should formally be presented to the ExA only thereafter: para.2.3.1.1.b in REP2-305 referring.
- 4.8.1.4 In view of a section 77 Call In decision (13 December 2018) by the Welsh Government on the Applicant's TCPA1990 Planning Application 38C310F/EIA/ECON, the entirety of the SPC Work No. 12 warrants removal from the DCO with immediate effect. Transgression on devolved jurisdiction could not be permissible under the PA2008 as applying in Wales.
- 4.8.1.5 For the avoidance of doubt, the Applicant's footnote 1 to para.4.10 in REP2-023 notwithstanding, any remaining or stray SPC elements hived off into the "twin track" DCO Application by the Applicant manifestly warrant reversion to proper and lawful determination under devolved TCPA 1990 jurisdiction. The Applicant needs to ensure any stray SPC elements join devolved determination of the Called In TCPA Application 38C310F/EIA/ECON, say by way of supplementary amendment.
- 4.8.1.6 Any DCO s.106 Agreement should also include a commitment to open access sharing of biodiversity data and updating of local biodiversity data archives, along the lines suggested in REP2-305 paras 2.2.6.1-4, inclusive, for the reason stated.

4.9 REP3-024, REP2-023 and REP2-305: Devolved jurisdiction matters and the DCO

4.9.1 Inclusion, exclusion or modification of statutory provision under sections 33 or 120 of the PA2008

4.9.1.1 The Applicant's response para.1.2.26 in REP3-024 refers to REP2-023 on the effect of provisions sought by the Applicant, including modification or exclusion of statutory provision. The Applicant refers as well to section 33 of the PA2008.

4.9.1.2 Consider, first, section 33 of the Act. It is clear from the opening words of sub section 33(1):

"To the extent that development consent is required for development, ...",

that exclusions and modifications expressly apply only to section 14 NSIP developments *per se*. The following discussion bears as well on suggestions for DCO deletions under the sections that follow below.

4.9.1.3 Section 33 (and, likewise, section 120) of the PA2008 could not apply to a development that *prima facie* characterises a primary non-NSIP stand alone development proposal in its own right, in planning terms, even where a developer seeks to dress up that non-NSIP stand alone development as if it formed part of the section 14 NSIP development. This reasoning turns on two considerations. Namely,

- DCLG Guidance on Associated Developments under the PA2008 (2013); and,
- the Thomas Letter (2009) on the operation of the PA2008 in Wales.

4.9.1.4 The April 2013 DCLG Guidance on Associated Developments may provide a clue, by analogy. Under paragraph 12 of the DCLG Guidance, it is for the Secretary of State to determine whether any waste storage facility listed in Annex B of the Guidance constitutes associated development or integral part of the NSIP, or a development in its own right²⁰. In other words, an installation even on an NSIP site does not automatically become an integral part of the principal NSIP.

- a. A relevant question arises under the DCLG Guidance. Is the development element affected by section 33 or section 120 inherently or ordinarily a primary standalone development that is not itself designated as an NSIP under section 14 of the PA2008?
- b. It would appear that, on this question, the ExA acts as proxy for the Secretary of State in its function as the DCO Examining Authority under National Policy Statements.

4.9.1.5 As to the operation of the PA2008 in Wales, a Welsh Government letter ('the Thomas letter') to Local Authority Chief Planning Officers (and others) dated 2 April 2009 may provide a principal clue.

- a. According to the Thomas letter²¹,

"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

²⁰ DCLG (2013). Planning Act 2008: Guidance on associated development applications for major infrastructure projects. Department for Communities and Local Government, April 2013. Available at: <https://www.gov.uk/government/publications/planning-act-2008-associated-development-applications-for-major-infrastructure-projects>

²¹ Thomas R (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.

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 threshold capacity has been raised to 350 megawatts²².

- b. 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 2011²³, the Infrastructure Planning Commission was superseded by the National Infrastructure Planning Inspectorate (PINS).

- c. Regarding the “Existing Planning Regime”, the Thomas letter stated,

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

- 4.9.1.6 Applying the Thomas letter to the operation of the PA2008 in Wales, was the DCO procedure under PA 2008 intended to usurp or override the default devolved TCPA 1990 provisions bearing on any primary standalone non-NSIP development proposal? If so, would the Thomas letter not have stated as much explicitly?
- 4.9.1.7 It appears highly questionable that the intention of the devolution settlement was to give effect to non-devolved planning legislation that automatically overrode any or all provisions of the principal devolved development consenting regime in Wales. That is, without the National Assembly for Wales first enacting express legislation dis-applying the entire principal devolved development planning consenting provisions in Wales in favour of the PA2008. The Assembly has enacted no such legislation to date, sweeping away the entire devolved TCPA1990. The Assembly has, however, enacted legislation that selectively and narrowly disapplies or modifies devolved TCPA1990 provisions in favour of the PA2008. For example, certain planning measures under the Wales Act 2017.
- 4.9.1.8 It would appear at least three primary questions of law might be germane, in respect of primary non-NSIP standalone developments in their own right in the context of the operation of the PA2008 in Wales.
- a. Does section 120 of the PA2008 expressly permit, or constitute blanket power for, overriding any or all devolved development planning consent jurisdiction in Wales in relation to any non-NSIP development element, located in Wales, and included in a section 14 NSIP application?
- b. Does section 33 in particular operate in Wales such as to enable nullification of devolved jurisdiction in respect of any non-NSIP development element in a section 14 NSIP DCO application?
- c. If both questions above are answerable in the affirmative, was this the intention under the devolution settlement? In other words, was bespoke extinction of devolved jurisdiction intended to take effect through non-devolved measures (that is, a back door) bereft of express authorisation from the National Assembly for Wales, on case by case basis under determination of DCOs for NSIPs in Wales?
- 4.9.1.9 It is humbly submitted that nothing in the Thomas Letter indicates that either section 33 or section 120 of the PA2008 was intended to bite on primary non-NSIP standalone developments in Wales, whether or not co-located with a section 14 NSIP in Wales.

²² sub-section 39(4) of the Wales Act 2017.

²³ section 128, Localism Act 2011 (c. 20), in force from 1st April 2012.

- 4.9.2 REP2-020: deletions potentially warranted from the proposed DCO for Wylfa Newydd**
- 4.9.2.1 Deletion of DCO SPC Work No. 12: devolved development consent jurisdiction**
- 4.9.2.1.1 Following a decision (13 December 2018) by the Welsh Government to Call In the Applicant's TCPA1990 Planning Application 38C310F/EIA/ECON, under section 77 of the TCPA1990, the entirety of the SPC Work No. 12 warrants removal from the Draft DCO (REP2-020) with immediate effect. Transgression on devolved jurisdiction could not be permissible under the PA2008 as applying in Wales.
- 4.9.2.1.2 For the avoidance of doubt, the Applicant's footnote 1 to para.4.10 in REP2-023 notwithstanding, any remaining or stray SPC elements hived off into the "twin track" DCO Application by the Applicant manifestly warrant reversion to proper and lawful determination under devolved TCPA 1990 jurisdiction. The Applicant needs to ensure any stray SPC elements join devolved determination of the Called In TCPA Application 38C310F/EIA/ECON, say by way of supplementary amendment.
- 4.9.2.1.3 This entails corresponding deletions in REP2-023.
- 4.9.2.2 Deletion of DCO Marine Work Nos. 1E, 1F, 1G and 1H, respectively: potential devolved development consent jurisdiction**
- 4.9.2.2.1 The inclusion of above Works in REP2-020 Draft DCO constitutes potential transgression on devolved development consenting regime in Wales: relevant provisions under the Marine and Coastal Access Act 2009, and under the consenting powers exercised by Natural Resources Wales, referring.
- 4.9.2.3 Deletion of DCO Work No. 1D
Interim Storage Facilities for Intermediate Level Radioactive Waste and Spent Fuel, respectively: potential devolved development consent jurisdiction**
- 4.9.2.3.1 The Draft DCO (REP2-020) lists Interim Storage Facilities for radioactive waste under Work No. 1D as if these Facilities were themselves PA2008 section 14 NSIP developments.
- 4.9.2.3.2 Section 14 of the PA2008 does not list interim storage facilities for radioactive waste as an NSIP development. As operating in Wales, the PA2008 does not extend to hazardous waste storage facilities (including facilities for the storage of radioactive waste). The fully devolved Town and Country Planning Act 1990 (TCPA1990) remains the development consents regime for waste storage facilities in Wales, including development consents for storage facilities for hazardous waste and storage facilities for radioactive waste, respectively.
- 4.9.2.3.3 In REP3-024 para.1.2.2, responding to REP2-305 paras 2.4.1.1-8, inclusive, the Applicant once again refers to an ostensible reply in REP2-002 to FWQ4.0.56 (apropos ExQ1). However, the Applicant cited incorrect reference for the relevant document, resulting in considerable investment of scarce time in tracking down the correct document in question. Namely, REP2-375.
- 4.9.2.3.4 The Applicant's response to FWQ4.0.56 (apropos ExQ1) in REP2-375 argues two grounds for inclusion of Work No. 1D in the DCO. These are discussed, in turn, below.
- 4.9.2.3.5 The Facilities "are essential aspects of the Power Station and therefore part of the NSIP. Neither structure requires a separate designation as a NSIP under section 14 of the Planning Act."

- a. The Applicant would not appear to have addressed the implication of para.B.4.4 in Annex B under Volume 2 of EN-6²⁴. According to para.B.4.4, 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: para.2.4.1.2 in REP2-305 referring as well. If the Facilities comprising Work 1D could be sited elsewhere, they could not possibly be an essential aspect of the NSIP Nuclear Generating Station *per se*.
- b. Legislators would have spelt it out if neither structure under Work No. 1D required separate designation as an NSIP under section 14 of the PA2008. Legislators plainly have not done so. Neither has any relevant Guidance under the Act.
- c. As discussed in para.2.4.1.3 (REP2-305), the on-site installations constituting Work No. 1D under the proposed Wylfa Newydd DCO are no more a part of an onshore generating station in Wales than an on-site Geological Disposal Facility (GDF) in Wales could be a part of an onshore generating station. The development of both types of facilities in Wales falls to be consented under the devolved TCPA1990, irrespective of the siting.
- d. The sole existing interim storage facility for intermediate level radioactive waste in Wales is located on the site of the now defunct Magnox Nuclear Power Station at Trawsfynydd (in Gwynedd). This was consented as a TCPA1990 development, under a joint decision of Welsh Ministers and the Secretary of State (reflecting its public sector ownership at the time)²⁵.
- e. In planning terms, the Facilities under Work No. 1D constitute large primary standalone non-NSIP developments in their own right in Wales. These therefore properly warrant determination of planning consents separately from the NSIP DCO for Wylfa Newydd, under the provisions of the devolved TCPA 1990.

4.9.2.3.6 “Even if they were not part of the NSIP they would be associated development. As a result of the Wales 2017, “associated development” can now be consented under a DCO in Wales.”

- a. The Applicant would not appear to have addressed the implication of para.12 in the April 2013 DCLG Guidance on Associated Developments: para.4.9.1.4, above, referring. Just because an installation situated on an NSIP site is not an integral part of the NSIP, it does not therefore transmute automatically into an “associated development” for the purpose of section 43 of the Wales Act 2017.
- b. Nor would the Applicant appear to have taken account of the fact that the sole existing interim storage facility for intermediate level radioactive waste in Wales is located on the site of the now defunct Magnox Nuclear Power Station at Trawsfynydd (in Gwynedd). This was consented as a TCPA1990 development, under a joint decision of Welsh Ministers and the Secretary of State (reflecting its public sector ownership at the time)²⁶.

²⁴ 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

²⁵ According to the consents decision, the new on-site store was required until such time a national facility for the long term management of Intermediate Level Waste or other alternative means of off-site storage or disposal became available. See: WAG/DTI (2003) *Decision under the Town and Country Planning Act 1990 (Sections 77 & 266) on an Application by Magnox Electric PLC for the construction of a new Intermediate Level Waste Store to replace existing stores on site, and reduction in height of former reactor buildings and their re-roofing and re-cladding at Trawsfynydd Nuclear Power Station, Trawsfynydd*. Joint decision by Carwyn Jones AM, Chair, Planning Decision Committee 2003/1 and Nigel Peace, Authorised by the Secretary of State for Trade and Industry to sign in that behalf. 31 July 2003. National Assembly for Wales Reference A-PP049-07-016. Available at [http://www.assemblywales.org/bus-home/bus-third-assembly/bus-committees/bus-committees-previous-committees/bus-committees-second-pdc-home/bus-committees-second-pdc-agendas/n000000000000000000000000000000011911.pdf?langoption=3&ttl=PDC\(2\)%202003-1%20Decision%20Letter%20Trawsfynydd](http://www.assemblywales.org/bus-home/bus-third-assembly/bus-committees/bus-committees-previous-committees/bus-committees-second-pdc-home/bus-committees-second-pdc-agendas/n000000000000000000000000000000011911.pdf?langoption=3&ttl=PDC(2)%202003-1%20Decision%20Letter%20Trawsfynydd)

²⁶ According to the consents decision, the new on-site store was required until such time a national facility for the long term management of Intermediate Level Waste or other alternative means of off-site storage or disposal became available. See:

- c. Notably, section 43 of the Wales Act does not mandate the designation of long duration interim storage facilities comprising Work 1D in Wales as associated development. The Applicant's argument fails to disprove an actuality that Work No. 1D comprises Facilities that are themselves large primary standalone non-NSIP and non-Associated Developments in their own right: RR-087 as considered further in REP1-038 and REP3-057, respectively.
- d. Further, the Applicant would not appear to have addressed the Thomas Letter of 2 April 2009, on the restricted operation of the PA2008 in Wales in respect of its application

"to Wales only in respect of projects where the principal consenting regime replaced by the Act was also not devolved."

Paras 4.9.1.5-9, inclusive, above referring.

J Chanay
17.01.2019

(subject to proofing error correction)

WAG/DTI (2003) *Decision under the Town and Country Planning Act 1990 (Sections 77 & 266) on an Application by Magnox Electric PLC for the construction of a new Intermediate Level Waste Store to replace existing stores on site, and reduction in height of former reactor buildings and their re-roofing and re-cladding at Trawsfynydd Nuclear Power Station, Trawsfynydd.* Joint decision by Carwyn Jones AM, Chair, Planning Decision Committee 2003/1 and Nigel Peace, Authorised by the Secretary of State for Trade and Industry to sign in that behalf. 31 July 2003. National Assembly for Wales Reference A-PP049-07-016. Available at [http://www.assemblywales.org/bus-home/bus-third-assembly/bus-committees/bus-committees-previous-committees/bus-committees-second-pdc-home/bus-committees-second-pdc-agendas/n00000000000000000000000000000000000011911.pdf?langoption=3&ttl=PDC\(2\)%202003-1%20Decision%20Letter%20Trawsfynydd](http://www.assemblywales.org/bus-home/bus-third-assembly/bus-committees/bus-committees-previous-committees/bus-committees-second-pdc-home/bus-committees-second-pdc-agendas/n00000000000000000000000000000000000011911.pdf?langoption=3&ttl=PDC(2)%202003-1%20Decision%20Letter%20Trawsfynydd)