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00:06

Good afternoon, everyone, the hearing is now resumed. Now what I'm going to hear now from is the applicants response to that last agenda item on funding.

00:22

Thank you, Madam, I'm going to try and deal with this in three parts. First part I will deal with by way of some general observations. Next, I'm going to go to Mr. Joe Ripon, who you heard from last week in the compulsory acquisition hearings to clarify what he said there in response to points that have been made. And then thirdly, I'm going to go to Mr. JOHN Rhodes, of quad to deal with this, in terms of the implications, having regard to the way the agenda item is framed. So the first point is, is this, a number of the interested parties who spoke talked about their perception of the difficulties with the raw model, and the steps that would need to be overcome in order to put it into effect in terms of legislation and matters of that sort. And they referred to, for example, the Thames tideway project, and the work that have been done in order to facilitate the funding of that project. Now, of course, these are matters for the government. Because this work is being done by the government, within the government. And the government is not here at this examination to speak and give evidence about those matters, and nor would one, expect them to. And therefore, we have to go on the basis of what the government has said in its public statements, and its policy documents in relation to these matters. And looking at it in that context, none of the points that have been made are news, they're not things that the government could probably be said to be on aware of, when putting together in particular, what it is said about these matters in the energy white paper. And having regard to the issue of funding, what the government has included in the white paper is a key commitment to aim to bring at least one large scale nuclear project the point of feared by the end of this Parliament sub it's clear by for money in all relevant approvals. So aware as it is, or what would be needed in order to do that the government has identified that as a key commitment. And it clearly regards that timing as being consistent with the urgency of the need. It is also to be understood in the light of what is said at power of that page 49. Under the heading nuclear, where it says last year, we consulted on a regulated asset base Rab model for private investment in new new nuclear generation. Today, we're publishing a summary of the responses which have indicated that a Rob model remains credible, the funding large scale nuclear projects. And then it explains the government will continue to explore this alongside a range of financing options with the developer of the next large scale projects in the pipeline, and other relevant stakeholders. So it is clear that the government aware of those matters, has identified its key commitment, it does not regard these two things as being inconsistent with one another. And it of course, when it comes to make the decision in relation to this project, we'll be well placed to make a judgement on that point. So against that background, I want to turn next to Mr. Joe Ripon, the financing programme manager at sizewell C, to deal with the points raised by Allison Davis in relation to what was said at the compulsory acquisition hearings on the question of timing of progress with a ramp model and how that sits with the applicants timetable for implementation of project. So hand over to Mr. Rep. I think that's Alison downs. You were

meaning Mr. Phil pot I do apologise it's my it's my scrawled note. It is, of course, Allison downs and I apologise to her for getting that wrong. I try not see it again.

05:14

Good afternoon, Jared Polin from sysvol. See, the clarification we required is either I misunderstood the question last week or misspoke in my response. But the the issue around the timing of the confirmation and progression of the brand model. What I intended to say was that we are confident that that can happen in a timeline that is consistent with the project's timeline. And in particular, its with its ambition to take fit in 2022.

05:56

What, as I understand it, Miss Downes had picked up was the suggestion that the decision on Rob would be made by the government by 14th of October. And as I understand it, what Mr. Ripon is clarifying is that that was certainly not what he intended to convey. The position is, in fact, as he has explained it now, but we will we will ensure that that is clarified, as well in the summary of the oral submissions so that you've got the position clear?

06:39

No, thank you. I do I do need clarity on that. Indeed. You know, I have looked again at the transcript of that compulsory acquisition hearing as well.

06:50

Indeed, what was said? Exactly, and that's why I wanted Mr. Ripon to clarify it, because as Miss Downes recorded, that was certainly what one was left with the impression of and I didn't want that to go on corrected. Having had it drawn to my attention. It I then want finally, to go to Mr. Rhodes, to deal with the implications of this in terms of the the way that the agenda item is framed.

07:31

JOHN Rhodes for the applicant. And just to say one thing, from my kind of planning policy perspective on this. I think the debate takes place against a background of an assumption that if for any reason the project is delayed, suddenly, it's not supported in in policy terms or doesn't meet the need, I don't think that would be the correct conclusion to draw. We know that the NPS contains a number of references to providing nuclear as soon as possible. It does set out a date of 2025. But en six explains at paragraph 2.2. Point three, that failure to deploy by the end of 2025 would increase the risk of the UK being locked into a high carbon energy mix for a longer period of time. That's why the government wants to encourage new nuclear to come forward as quickly as possible. But it's that as quickly as possible, which is the strong message from the policy rather than a cut off date for 2025. And that's confirmed, because we know the government's response to the siting criteria in 2018 indicated its intention to roll forward the sign trimmin, six into a new NPS. Because we don't know what dateline the new NPS will set it, it may well be 2035. And the 2018 response explained that being capable of deployment by 2035 helps focus on those sites which meet the need for nuclear as soon as possible. So it's it's the same emphasis that the government wants to encourage through its policy framework, nuclear, large scale nuclear projects to come forward as quickly as possible. But of course, the modelling work which the government's done that I talked about this morning, and figure 3.4 in the

energy white paper doesn't suggest the need for nuclear stops in 2035. In fact, quite the reverse figure 3.4 identifies an increasing need for nuclear after 2035. So we certainly want to get the new power station generating low carbon electricity as quickly as possible. But the date itself is desirable, but not fundamental in policy terms. It needs to be as soon as possible in all the efforts that were making all the discussions we're having with government are To that end, but Doesn't suddenly lose doesn't appear. It's magically government design. But it doesn't appear from everything that I've read or seen through the modelling work and the energy white paper to suggest that suddenly the policy support falls away or the utility of the energy that's generated at sizewell in a low carbon way would not still contribute substantially towards the government's objectives. In fact, I think as we've seen, in the passage from 2011, and the NPS, through two current policy, the need has increased in time, partly because it hasn't yet been met. The need gets more and more urgent as time goes by more and more benefit of beating it early, but a criticality of meeting it as soon as possible rather than by a specific date. Thank you.
Thank you,

10:55

Matt. Madam, and just to say of course, we are preparing written responses to to second round questions, which are directly on this point G. Point 2.0 and G. Point 2.1. So we will be providing a full explanation of the point that Mr. Rhodes has just been summarising. Thank you.

11:17

I see Alison dance. Do you have your hand up? I do want to move on from this topic. Is there a very short point that you have to make? Or is this something you could respond to in writing?

11:31

And I'm grateful for the clarification about the statement that was made last time that does explain quite a lot. And I wondered if the applicant would be able to answer my question about the reason for asking the government for additional funding up to s ID. And and I also just wanted to quickly, you know, mentioned when you asked the applicant for revised figures, the total cost of the project that Mr. Ripon referred to commercial sensitivities and, and just to say, well, a there's not a lot of developers planning large scale nuclear reactors in the UK and be that given the nature of the route model, which would require consumers to contribute to the financing costs, just how important it is for transparency on that topic. And I had other points, but I can put those in writing.

12:15

I prefer if you would, and counsellor Marianne fellows. Again, I do want to move on from this topic. But if you have a very short point to make, I'll hear it.

12:28

Thank you. Miss McCarthy was extremely short, Marian fellows on behalf of overtime counsel, if a timeline can't be secured, and if it can't meet the requirements, which the government set out for in the national policy statements of delivery by the key date 2025, then what are we really looking at. And if a finance decision can't be agreed and isn't agreed in place now, then the project is not fulfilling the requirements that have been outlined by the government. And so the whole premise that we're discussing today, of the need of the funding of why this is imperative to go forward, is is not

underpinned by what the applicant is offering. So there is no guarantee timeline for delivery, there is no funding agreement in place. It cannot therefore support the government's policy of having an amount of electricity on the grid by certain timeframe at a price that is affordable to the consumer. Thank you.
Thank you,

13:39

Mr. Foul pot, are those matters you can include within your written response that they are madam, we're happy to deal with it in that way. Thank you. Right, that concludes that particular agenda item. So if we go on now to agenda item three, a, that's the Drax, High Court and Court of Appeal judgments. So the applicants planning statement update also addresses the outcome of challenges in the courts to the DC to decision on the proposals for two gas fired generating units at the Drax power station. And that's a reason since the submission of the decio application. So those two judgments are referred to in the planning statements update. Now, what I wanted to check was whether there were any comments from interested parties on the Drax judgments and the relevant findings in the in relation to the consider eration of need that can be taken from them. So if I could go first, I see Marianne fellows, you have your hand up? Is that on this topic or from the previous? Right, so I'll go to Rashid Pereira. For task. Thank you. I think you may be on mute. I can't I can't hear you yet. I can't hear Miss perec either. Thank you. No, I can't tell you. I'm just, I think it might be useful if you leave and rejoin again, Miss perec. And in the meantime, I'll go to Andrew Tate.

16:14

Thank you, madam. Andrew Tate is suffer cancel. I've got five points to mention, if I may. The first is that the Drax judgments arose in the context of Section 104 of the Planning Act, but the interpretation of em one, on need, appears to us to be equally applicable to the status that they have here, as important and relevant considerations under Section 105. The second point is that the Court of Appeal confirms that, in the context of E n, one need is to be regarded as a given that's described at paragraph 60 as the first basic concept, and paragraph 66, that substantial weight need to be given to needs to be given to considerations of need. It's noted in paragraph 66, that the decision maker can depart from that fundamental policy, but clearly would need to give reasons for doing so. And finally, on this second point, the substantial need to be given to substantial weight to be given to considerations of need, needs to be applied and in the context of the last sentence of three to three, that it needs to be proportionate to the anticipated extent of the actual contribution to satisfying the need. The third point picking that up is that those final sentences of three to three are synthesised in the judgement at paragraph 68. And reconciled because there was an issue in that case as to whether they were compatible, as follows that three to three is based on the fundamental policy, that substantial weight is to be given to the contribution made by projects towards satisfying the established need for energy infrastructure, development of the types covered by n one. And that clearly encompasses nuclear power. So I describe that as a, a synthesis of the position. And that's a fundamental policy is described not only at 68, but also paragraph 60.

19:01

Fourthly,

19:04

that exercise as synthesised does not need to be carried out on a quantitative basis paragraph 66. The third point there is no such requirement. And that needs to be considered in the context of paragraph 60. which refers to 331 and 334. There are no targets or limits in the policy. And the Court of Appeal describes at 59 the absence of any quantitative definition of relevant need as striking. And so, my final point on paragraph on my fourth point is that in the light of that striking absence, it is difficult to make a quantitative assessment of contribution. And the absence of such an assessment in the Drax case was described by the court as having as acceptable, and indeed, the consideration having been performed impeccably. And just to make it clear, it comes later under paragraph four B, but it's no part of his suffix case, that substantial weight should not be attached to the capability of this project towards meeting that policy need. And the fifth point is in the court of appeals judgement at paragraph 105, which makes it clear that the merits of policy are not set out in an MPs are not to be challenged, and only to be encompassed in the context of a review under Section six, which is the requisite process. So those are the five points that we draw from that and clearly that force for further consideration later on in your agenda.

21:21

Thank you. Right, if I could hear from Suffolk County Council, please.

21:38

Thank you, Madam Michael Bedford, Suffolk County Council. We echo and endorse those points all clearly made by Mr. Tate on behalf of East Suffolk Council. And with trepidation, as it were, we venture to say anything further given that Mr. Tate was as you may have picked up from the judgement, the successful counsel for the party in the Drax case, so clearly knows the case of this is backwards. The only point I just wanted to, as it were, add by way of possible heightened emphasis, because it does cross refer to when we get on to item four a of your agenda. Is that in the one of the issues in the Drax case, obviously dealing with a different form of energy generation, but one of the issues in that case was the role or otherwise, of what were the then the 2017 updated projections of energy provision. And that point is picked up in the High Court judgement, particularly at paragraphs 130 and 131. And in paragraph 131, Mr. Justice Holgate in the High Court made the point, having referred to the fact that as Mr. Tate has already reminded you, that he no one has no targets or quantitative requirements. What the High Court then says in paragraph 131, is given those clear statements of policy in em one, there was no justification for the panel to have regard to the 2017 uep projections in order to assess the contribution of the draft proposal to meeting the qualitative need identified in the MPs. Likewise, an analysis of the consents for gas fuel power stations is irrelevant for that purpose. Moreover, the panel's assessment was benchmarked against the 2017 Ue PE, sorry, you EP projections, which self evidently did not form the basis for the policy contained in E n one. Now the short point as it applies more across to them when we get to four is obviously the applicant in the planning statement update has drawn your attention to the updated energy and emissions projections 2019, which they say underpin then the white paper and so on, and so forth. But as it were, it's the Corolla it's the same point that so far as E n one is concerned, e n, one is not to be taken to be dependent on or indeed informed by in terms of degrees of weight that goes quantitative exercise, because that sits outside of em one's approach to these matters, I should say that you will recognise that the Court of Appeal, having endorsed the fact that there's no requirement for a quantitative assessment does go on to say that matters or as it were left to the decision maker. And that's not to say that the quantitative assessment is prohibited by

anyone. But as Mr. Tate has already outlined to you, there are grave difficulties in trying to do such an assessment. And using that to inform the weight that you give to factors given as it were the the numbers free approach, if I can call it that, that e m. One takes. So that was my so as we were refinement point. Thank you.

25:53

Thank you. Miss paret. Can't believe you're back now. I am, madam. Thank you. Can you hear me now? Yes, I can. Thank you.

26:04

fat. Thanks. All right. Thanks very much. As I said, when I was addressing the first agenda item, and setting out what we believe our changes of circumstance, sorry, I should have said at the outset, Ricci Berg for task. So coming back to the changes of circumstance point, I did foreshadow there, but we would then deal with the drugs judgments under this agenda item. And in terms of task submissions, were really focusing on the implications of the drugs, judgments on the question of change of circumstance, and the extent to which the examining authority can look despite changes in circumstance. And so in, in perhaps at the outset, it's important to note that the drugs judgments are obviously concerned with a different statutory provision. So that was all undertaken under Section 104 of the Act, which has new obligation to the present project. And then Johnny jus, changes of circumstance, the ratio from those decisions, both high court and Court of Appeal, effectively a paragraph 105 of the Court of Appeal judgement, and 107 and 108 of the High Court judgement. There's at least three things being said there as to when it comes to changes and circumstance. And so first, what is that in the court of appeal is that section 1047, which is the provision where you look at whether adverse impacts outweigh benefits. That provision may not be used as a means of challenging policy, or of anticipating a review under Section six, which remains the appropriate process for dealing with changes in circumstance. And similarly, an argument that a change in circumstance warrants reduced or even no wage is also precluded under Section 1047. And that's in the High Court judgement in 108, paragraph one. The second point that emerges from from those cases is that section 1047 cannot be used to circumvent section 1043. On the question of needs, obviously, you give primacy to the national policy statements, if needed, is established in them, you can then go behind that finding by using change of circumstance via section 1047. And then finally, it's actually one of those have been cannot be used as circumvent section 1061. b, which entitles you on there's actually a state to disregard representations relating to the moral merit of policy set out in a national policy statement. And so the takeaway that that that we have, from these from the, from how the courts have dealt with changes of circumstance, is that really the focus very much in all three paragraphs that can do and that the reasoning of the course, is focused very heavily on section 1047. They are not general statements that are made sort of for general application and data. The myth is that what dusks admit is that, while they do relate specifically to the proper scope of Section 1047, they aren't a general obligation and certainly do not apply in the same way in the present context. And that's because section 104 and section 105 are designed to work in different ways. Do just touching on that briefly, where you have the section one for provision employees subject to prescribed exceptions, a decision must be taken in accordance with the relevant national policy statement. And effectively that policy statement has primacy so you can go behind that and introduce arguments as to changes in circumstances etc. However, when you're looking at section 105, and you're having regard to national policy statements

like none One six, these are effectively material considerations which are to be weighed alongside other such considerations in the overall planning balance. So it's just not the same exercise as section 104. And when you are in Section 105, Dr. g as this case is, it is therefore open, do you and indeed necessary for you to reach your own judgement on the way to be attributed to each of these relevant considerations? Now, as part of the planning balance, what does it is that it is also open to you under Section 105 juicy to take into account any other matters, which are deemed important and relevant, and in certain circumstances that can clearly include significant changes in circumstances.

30:44

And I also note, finally, that there is for 2017 W. Ms. But specifically says that changes of circumstances can be considered when looking at the appropriate weight. But I appreciate that that predates Jacksie doesn't take that into account. But for the reasons that I've just gone through our position is that you this panel is still entitled to look at changes in circumstance and weigh them in the balance as relevant considerations.

31:12

Thank you. So now go to the applicant for the response. Thank you, Madam, I hope I can deal with it. There is one hand up, it's just gone up on my screen, which was Reagan sculpt? Sorry about that. Mr. Phil part. I'll just have Rutan Scott.

31:35

Thank you. I'd obviously be difficult. And just a short point. I've I've followed this. I did read the Dratch judgments and read. Some subsequently, I think it was really clearly specified in the vanguard case, Mr. Phil Bach was involved in the letter of the law is what? What What determines many issues in judicial review? But I think there is a difficulty here that there's an aspect we will come come up tomorrow, but the applicant has asked for a rupee. And it seems to be a lot of the debate about the you know, what is policy and the applicability of policy is actually resolved in that application? Because it the rupee involves, as we all know, imperative reasons of overriding public interest. But it's the reasoning that's the heart of that. And it seems to me that the the secretary of state cannot and cannot reasonably set or set aside the reasons of their own policies. And it is absolutely clear that there has been an enormous change of change, if you like quality and quantity, I would argue of policy since the 2011. So then the question arises, that that view is not incompatible with the letter of the law E and one E and six if they are not changed by the time the decision is, is made, because they the case law being drawn on has not involved ropey as far as I can remember. So what has been an issue has been judicial review and appeals of judicial review judgments. And I've listened through so I listened online to the to the vanguard case. So it seems to me that if the developer is going to, you know, persist with the application for a Roby, for whatever reason, and whatever compensations are being are being offered there, we should separate matters, then we are involved with the reasoning of the Secretary of State, who is of course responsible for his or her own policies. And just another note, I mean, the reading I have from the Humphreys handbook on infrastructure, is the the maybe justice Holgate was missing a word because I think in the act, the the the the former about the inspection, the examining authority, not looking at the merits of policy, it's not fully qualified. I think it's me. I don't I don't think it is actually, you know, definitive in saying the merits of policy are not there. Now, the reason I'm raising that is that in the many submissions we've made as a group, we have gone for the view that this project does not

conform with government policy, in all its simplicity and complexity. You know, that is a way of approaching the question. And that relies on what policies are and on the notion that the judicial review involved in a rupee is itself a very special case of judicial review. Thank you. Thank you, Mr. Phil pot.

35:09

Thank you, madam. Well, it's useful to have heard that before I reply, because I can pick those points up. And I should say at the outset, I was very grateful to my friend, Mr. Tate for his five point summary of the judgement. And I don't take issue with what is said about that. I listened to the additional point made on behalf of the County Council. And as I understand it, the question that arises as to the contribution that would be made, and the role of any quantitative assessment in that context comes up on the item for, and so I was proposing to deal with that, at that point, because I don't think that there is an issue between us as to what the law says, because the Court of Appeal has made that clear, it's not an obligation to undertake quantitative assessment might be possible in some cases, and it might be appropriate in some cases. But there's no suggestion of necessity. So I don't think there's a difference between is on the law, in terms of its utility, and the difficulties involved in that, I pick that up under agenda item four. So what I would then turn to is the suggestion advanced on behalf of task, that in some way, the ratio of the dracs judgments is not applicable in this case, because this is a section 105 decision or not a section 104 decision. The short point which I'll elaborate on is that that simply wrong, and involves a highly superficial reading of the judgement, and doesn't get to grips with the very careful rationale that both the High Court and the Court of Appeal gave, but the conclusions that they reached. And it's very clear, when one reads those judgments carefully, that the matters that are relied upon, apply equally under Section 105 as they do to Section 104. And that the point that is being made to you is simply wrong in law. And it's very clearly so. So dealing briefly in that context with the fact that this is a pickable to Section 105 cases, as well as section one a for what the judgments provide is a complete answer to those who seek to argue that you as the examining authority, and the Secretary of State should use this decision making process to consider whether the MPs are up to date, and or should be given less weight in light of subsequent changes of circumstance. And they make clear that it's an essential feature of the Planning Act 2008 that such matters may only be taken into account through the statutory process of review under Section six of the Act. And perhaps the most helpful encapsulation of that is in Mr. Justice Holgate, judgement, paragraphs 31 and 3831. Dealing with the white paper that preceded the the coming into the coming forward of the Act, explains that the object was for policies on matters such as the need for infrastructure to be formulated and tested through the process leading up to the decision to adopt the national policy statement. And to that extent, they would not be open to challenge through subsequent consenting procedures. new evidence, such as the change in circumstances policy with dogs adopted will be addressed by the Secretary of State, making a revision to the policy insofar as he or she judged that to be appropriate in essence, the 2008 Act gave effect to those principles, and then towards the end of 38. Thus, the 2008 Act proceeds on the legal principle that significant changes in circumstances affecting the basis for or content of the policy may only be taken into account through the statutory process of review under Section six and in when one looks to see the rationale that Mr. Justice Holgate gives in paragraph 108 of the judgement

39:54

about why it is it is the case at one point Look at changes of circumstance to suggest that a basis or policy has been overtaken by events or come out of become out of date on has to look back to the

paragraphs that preceded it, which explained why that conclusion is reached. And in particular, if one looks at paragraph 106, the merits of policy set out in a national policy statement are not open to change in the examination process, or in the determination of an application for DCA that is the object of sections 87 394 81061. Now, of course, as we have explained, those provisions are provisions which apply whether the decision is made under Section 104, or section 105106, in particular course follows both of them. And it relates both in its language and its scope to both. So representations which relate to the merits of policies that have a national policy statement may be disregarded in deciding an application for an order granting development, consent, and that that applies equally, of course, to Section 105. And section 104. And we've explained this in our response to first round question G. Point 1.5. So those matters, are of equal applicability. And indeed, it is a fundamental feature of the legislation that that is so and one only has to stand back and think about the logic of the task position, which would be that if you had two examinations taking place, one under 104, and one under 105. In one of them, you'd be entitled to call into question the merits of the policy, decided it's not up to date and less weight should be attached to it. But at the same time, in another examination, that would be out of bounds? Well, that's clearly not the intention of the Act. The Act sets out a framework under which there is a clear and exclusive procedure for reviewing the merits of policy that is linked, of course, with the detailed, careful and democratically controlled process for both making policy and reviewing policy, and one can't subvert that by seeking to use Individual Development control decisions to get around that statutory framework. So with the greatest respect to the submissions and made on behalf of TAs are just simply playing the wrong. And if you followed them, you'd be led straight onto the rocks. And finally, two points made by Mr. Scott first in relation to eropa. And whether the government's position on that would raise any different considerations. I say, clearly not the government just does not agree that matters have moved on to the extent that the policy no longer falls to be applied as a as a basis for decision making. It's made that clear in the energy white paper. And those matters are not for this examination, we won't can't get around it can't get around the scheme of the 2008 Act by saying, oh, we're allowed to take these make these points to you in the context of ropey. And, secondly, he gives emphasis to the word May, in the relevant parts of the legislation to which I've just referred, first of all, the submission appears to be that in some way, both the High Court and the Court of Appeal assisted, as they were, by submissions, made on behalf of the parties by a range of specialist leading counsel, and were unaware, or did not take into account the way that the legislation was worded. That's implausible. It's also, if I may say so wrong. It's clear from what the court the High Court said in Drax in particular, in what it said in paragraphs 106 and 108. That it's

44:47

characterization of the implications of those provisions, reflects and appropriately reflects the exclusivity of the section six process as part of the statutory scheme. And therefore, when one is understanding and interpreting the implications of sections 8794 and 1061 needs to take into account that key feature of the process and that is what has consistently been understood not just by Mr. Justice Holgate among could not hope for a more experienced judge administrative court and dealing with planning matters, and also by the court of appeal, led, in this case by Keith, Lord justice keep them on, but also by previous judgement. So for example, the Thames blue green economy case to which references made in those judgments were, Mr. Justice woosley. And as he then was law, Justice Sullivan came to the same conclusions. And in order to assist you will put in copies of those judgments as part of the speaking note, just to help you on that. That's also reflected, of course, in the guidance on

examinations at paragraph 22, which says that a representation is not relevant to the extent but only to the extent that it contains material about compensation for compulsory acquisition of land material about the merits of policy set out on national policy statement, or material that is vexatious or frivolous. And it's worth it's worth noting that that, of course, not only reflects the language of Section 87. Three, but but one also needs to look at, therefore the the logic and the implications of that, when looking at what else may be disregarded. So for example, if one looks at section 94, eight, which has to do with hearings, and the examining authority may refuse to allow representations to be made at a hearing, if the examiner authority considers that the representations and then a list of options, which include relate to the merits of policy, but what else is there and representations that it considers are irrelevant? It can't be the case, as appears to be suggested by Mr. Scott, that there is a discretion to allow representations that are irrelevant and because of that, irrelevant considerations can be taken into account, they can properly influence the decision making. This is a this is a standard form of drafting. It also reflects Of course, the way in which comport compensation for compulsory acquisition is generally dealt with that's not a matter that is determined through this process. And all of that is consistent not only with those judgments, but as I've said, previous authority, as the High Court indirectly noted at paragraph 107. It clearly does not mean that the examinee or authority may choose to examine the merits of government policy and call into question its merits and call into question the weight that should be attached to it, because it considers that circumstances have changed. The courts have made that very clear. That was all I proposed to set the stage man. No, thank you, Mr. fell apart. Right. So we'll move on now to the next agenda item, which is the welfare new nuclear power station, panel recommendation report, and the relevant pro and the approach taken by the examining authority to the reference to relevant change of circumstances in the tier one seven ministerial statement. So since the application for size we'll see was submitted the welfare new nuclear power station decio application has been withdrawn. The recommendation of report of the examining authority from July 2019, as subjects currently been published, and the applicants planning statement update, draw support from those findings, which are the only findings relating to a nuclear power scheme assessed under Section 105 of the Planning Act. So as wanting to ask for any comments from interested parties on what was said in the in that part of the will for recommendation report. That's in relation to relevant change of circumstance. So in that report, at paragraph 5.5 point nine, that examining authority stated that for the examining authority, relevant change of circumstance must mean changes in relation to policy, assessment criteria or the identification in principle of a particular site. So I'll go first to Miss perec. The task. Thank you, madam.

50:12

In rubric for desk tasks position on this, and we've noted what you said in paragraph 5.59 of the word for abort, but darts darts position is that we do not consider that this examining authority is what is required to adopt or provide a precise definition for what may constitute irrelevant change of circumstance. And the main reason we see this is because the secretary of state clearly considers there to have been a significant change in circumstances on the basis of which the policies were designated. And that is evidenced by the section six review that was announced earlier this year, which I also know, both stated, the panel report. But in any event, and even if we wish to adopt the definition adopted by the world for banner just maintains that they have, in fact, in this case, been relevant changes in policy assessment criteria, and indeed, identification of this white for the reasons given previously in respective agenda item do B. C. Madam, I will repeat those analogies if that's the, you know, from data on this point.

51:29

Thank you. Can I just check if a Suffolk council want to add anything on this point?

51:41

Thank you, Madam Andrew at Suffolk cancel just three points. One applying the test that was adopted by the panel. We're not aware of any such relevant change of circumstances which would lead to less weight being given to the specific nuclear policies in n one and n six. Secondly, the energy white paper provides a an up to date endorsement of the relevance of those policies as at December 2020. So when we need to be looking at any relevant change of circumstance since that date. And thirdly, in any event, it brings one back to the section six point and the preclusive effect of that provision in relation to looking at change of circumstances other than through the process identified in that section.

52:48

Thank you. Can I ask if Suffolk County Council want to add anything on this?

53:00

Thank you, madam. We echo and endorse again those points made by Mr. Tate on behalf of East Suffolk Council. Strictly, you could say at 5.5 point nine that in the light of the clarification given by the court in Drax that the panel there didn't need to address the issue that they did address. But because they concluded that there were no relevant change of circumstance. instance it didn't matter. Because they didn't as it were transgress what Drax said they shouldn't do because of the conclusion actually reached on the particular facts. There is one point if I could perhaps just make it here. Because it has a bearing on the second with Mr. Tate points, and it's not in any way to disagree with Mr. Tate's point. But Mr. Tate referred you to the energy white paper, providing an up to date endorsement of the policies in n one, and n six as at December 2020. And we don't dimir from that. Hope it's not a controversial point in the light of what Mr. Phil Park was saying to us earlier about accepting this case, the case before you falls under Section 105 and not under Section 104. So I say I hope what I'm about to say isn't controversial. But at page 55 of the white paper. I'm afraid I have to give you a page reference because you will know it doesn't have paragraph numbers in what is the right hand column and it's effectively the top quarter helps you when you're identifying it in due course, on page 55, there is a proposition as follows having referred to the fact that there is going to be a review, it says whilst the review is undertaken, the current suite of NPS remain relevant government policy. No problem with that, he then goes on say, and have effect for the purposes of the Planning Act 2008. And it then goes on say, they will therefore continue to provide a proper basis on which the planning Inspectorate can examine, and the Secretary state can make decisions on applications for development consent. And the short point there is that that phraseology that the MPs is have effect for the purposes of the Planning Act 2008. Either, that was, as it were simply a broad or sweeping statement across the suite of MPs is as a whole, or it was loose language. But certainly I don't read that, to suggest that they're using the word have effect in a section 104 cents, which obviously has a particular implication. And therefore, I just draw attention to that. And hopefully, the applicants will confirm that they too don't see that statement in the energy white paper as having any materiality, or reason for departing from the approach that this is clearly a 105 case. And nothing in the white paper would make it a 104 case, having regard to the content of n one, and n six. Thank you.

56:50

Thank you, Mr. Bedford. And, yes, we have picked up on that point. And there is a second question on it. And I think Mr. Pill, Philpott made a passing reference to that earlier. Mr. Jones, you have your hand up

57:12

urine in relation to wealth annuity criteria, or suppose it criteria why it may have been come under the the idea of changing circumstances? Well, you know, I was involved in a consultation with the the Welsh Rural Affairs Committee report on nuclear power. And as far as I'm concerned, the only criteria that actually changed at Wilfere was the fact that that committee recommended that will vert should not be built if the strike price for Hinkley was not substantially undercut by high Tashi. And to me, this was the real criteria. And if you were to look back, and you looked at, so here, we have a transcript of Dr. J. K, right, the Director of Planning for cGb, who went to great pains to suggest that when looking for contracts, developers would often give very competent figure, but when it came for orders to be placed, suddenly, they found that the cost has greatly increased. Now, there must be some kind of iterative government in framing policy between who's going to build a nuclear power station and the people who are going to frame the policy. But there must come a point in that, where that company guarantees to the government that it can do it for a certain price. From what I can see, you know, how atashi got rumbled they weren't willing to go ahead with with will the new width if they didn't ever say margin? Were by with by which they could increase their costs as EDF were given at at Hinkley. And that's no surprise in Wales, because Wales has got a lot of electricity. You know, we can generate an awful lot there. Unlike that size, well, maybe, certainly painfully should the I think the rural Rural Affairs Committee where we're very right to do that for the most on behalf of the worst consumer, and that is the thing. That's what I believe the criteria was, though, of course, it you know, in a politically sensitive region and nuclear costs and electricity prices. There's not a lot being reported back by the government. Thank you, Mr. Jones. Right. I'll go now to the applicant. Mr. Phillpotts.

59:43

Thank you, madam. I'm not sure that the contribution from Mr. Jones was really on the point on the agenda which was the meaning and implications of what the examining authority said particularly at paragraph 5.5 point nine of its Recommendation reporters are going to focus my attention on that. But before doing so, I I should just say, clearly, the additional point made by Suffolk County Council was really about the interpretation of the energy white paper as opposed to anything to do with Wilfere itself. So far as that is concerned, I would just say this, clearly the question of whether or not an NPS has effect in relation to an individual application is a question of partly of law, but then also of fact, in relation to an individual application to be determined having regard to the MPs and what it says about the proposals for which it will have effect and secondly, looking at the description of development in an individual case. So, the question of whether or not something whether or not an NPS has effect for an individual ozel must necessarily be determined on a case by case basis. And in that context, I would suggest that the what is said by the government on page 55. About while the review was undertaken, the current suite of MPs remain relevant government policy and have effect for the purposes of the Planning Act 2008 can only mean that they are remaining government policy, when one is applying the provisions of the Planning Act 2008. Two Individual Development proposals, it couldn't sensibly be a

pre judgement as to whether an individual pose or did or did not fall within the scope of those individual MPs is whether nuclear or frankly, any other project because it has to be case specific. So certainly, our understanding of that language is not that it seeks to make a decision about whether policy has effect for any individual proposal, it's simply making clear that when one is applying the provisions of the Planning Act, the MPs remain current government policy, in so far as NPS feature in the act in the way that we have just been looking at the data that they take matters any further than that. So against that background, I just deal briefly, with what we've said on behalf of task. This was, as we've said, section 105 case, and although there is no Secretary of State decision, which must, of course be taken into account, when looking at this, the examining authorities report is a relevant consideration is not a binding precedent. And the main point of reference for these purposes is now the judgments in the Drax case, which are of course binding as a statement of the law. It also predates the energy white paper, and thus the examinee authority in that in that case, didn't have the benefit of that more recent and clear statement of the government's policy position on this matter. Nevertheless, what we have said about the examining authorities statement at 5.5 point nine remains correct that it's it's a fair and reasonable response to the position that it was faced with as recommending body and is consistent. So far as it goes with what was subsequently said by the courts, that they acknowledged and realised that it wasn't their role to make policy.

1:04:17

It was their ultimate recommendations in the context of existing policy. And that's why they adopted the narrow interpretation. They did have changes of circumstance. Now, you and your colleagues are in the fortunate position that the courts have subsequently clarified that position for you. So you're not faced with trying to deal with those words in the 2017 ministerial statement without the benefit of that clarification by the courts. But clearly, what they were alive to is it under the Act, they shouldn't be making policy and the changes of circumstance Answers does not and cannot mean changes, which are said to undermine the merits of external government policy. And we rely on it as illustrating that point. And that's I think, as far as the, as far as the point goes. And so so far as the suggested changes of circumstance are concerned, we dealt with those under agenda item to Mr. Rhodes tackled those at that stage, so I don't need to get him to repeat that.

1:05:29

No, thank thank you. Thank you, Mr. Robot. All right, that concludes that particular agenda item. So the item three, see that's really bringing the Drax and Wilfred points together, and looking at the implications that can be derived from them for applying MPs policy and the appropriate protests to accommodate changes of circumstance after the designation of an MP s. So turning to interested parties, apart from the basis for content of MPs falling within the scope of Section six of the Planning Act 2000. a date? Are there any other factors that might be encompassed by the W ms reference to relevant changing circumstance? So if I go first to East Suffolk Council,

1:06:34

Andrew at Suffolk cancel, I don't think there's anything additional we need to add, we've already referred to a substantial weight being applied to need not challenging the merits, the appropriate process under Section six. I think Mr. Walker may Angus Walker may have a contribution to make about the emerging MPs is I'll just see whether he's got a point to add.

1:07:02

Thank you, madam. Yes. Angus Walker for yourself a council of b2b pitmans. I have a very brief point I exchanged emails with these officials yesterday to ask if there was any news on the new npss. And the reply was, we will publish the consultation on the draft MPs is in due course. So I'm praying that wasn't quite the scoop I was hoping for. So it remains the case that they haven't come out yet. The energy white paper does say the area aiming to designate them by the end of this year, which is looking increasingly unlikely, but they are likely to come out in draft possibly still during the examination and almost certainly before the decision on this application. So either you or the Secretary of State will have to ask parties what they think of them when they if depending on the timing. They will naturally although the existing national policy statements will still be the definitive ones, the new drafts will no doubt be important and relevant once they are published. I should note that previously, draft national policy seems have changed quite a lot between the draft and the designated version, particularly in response to parliamentary scrutiny of them. So I mean, wait to be attributed to them should be given appropriately. And that's basically all I have to say. Thank you very much.

1:08:39

Thank you. Right I think it's Professor blowers you have your hand up Hello, hello.

1:08:55

I'm not quite sure how to deal with this because I want to talk about the paragraph which says sub clause which says changing circumstances over the last hour or two this whole discussion has got bogged down in a lot of legal niceties with the represent with the with the developer basically in a defensive mode, trying to restrict discussion into into very narrow channels, if I may say so. I would like to open it up a bit. But you may not permit that because we seem to have got bogged down into this very narrowly defined approach to need and policy. I wanted to talk both about need an policy because I think there are policy issues related to need, which have not even been talked about so far. So I hope you'll allow me to continue For the moment, and then no doubt, you'll say, right, this is out of order?

1:10:06

Well, I have to say that it does seem to me not to be on this particular agenda point and agenda item. And there has been a flow to this hearing. So you have the option of making a written submission. If you just want to give me two heads, the headline points that you wanted to refer to, and then I'll ask you to put the rest in writing. I've already

1:10:32

I've already committed this to writing. I haven't sent it but I've committed it to writing. But I do think opportunity should be had to say something about the issue of climate change, which, which seems to me to be a major and transformative change in circumstances. Because the argument is, has been in terms of need that we need nuclear energy and size Well, in particular, as essential to meeting our our net zero targets. The converse of that is that actually, climate change is liable or likely to prevent the development of of sizewell C, because of the impact it has on on the coast in the long run. And that was basically the argument I wanted to put. But on the question of need, it seems to me that the basic point is very clear that we don't need we don't need new nuclear in particular, we've already committed to

five gigawatts, running through to the mid century. And after that point, it seems to be very likely that nuclear could be well surplus to requirements. And the opportunity cost would be high in terms of alternatives. I mean, that that basic point seems to be very clear. But there is the question of the potential suitability of the site in terms of need now, it's been said several times this morning and this afternoon, that the existing NPS is the appropriate framework for policy. And so I turn your attention to a statement in the NPS, which says that the the risk of in terms of the risk of flooding, the site could potentially be protected against flood risk throughout its operational lifetime, including the potential effects of climate change, storm surge and tsunami taking into account possible countermeasures. I know there has been a big debate on that. And I don't want to go further, except to say that the the, the developer has made statements to the effect that they consider that that their policy is viable, with, with the sea level rise, as presently anticipated, and meets the necessary criteria for the worst case but plausible climate change scenarios. I think that really needs to be interrogated very closely, particularly with respect to the most recent IPCC judgement.

1:13:27

Professor blys, I will stop you there, because that is better made in a written submission, as it's not directly on this agenda point. But if you would put the remaining points in writing, and that's for deadlines. Seven

1:13:42

organiser, I'm most disappointed with that point, it seems to me you've allowed today already a number of discursive discussions on on various other matters. And other point that I wish to make on climate change, I think is fundamental. I think it needs to be taken seriously by your your process, given the statements that are made by the recent IPCC announcements that we cannot rule out. The changes after my concern is the period after the end of operation into the next century, and there's nothing in the plans about that. I I feel really concerned that the developer is getting away very easily with not having to make any response about except some bland statements that they will tell you something by deadline seven. Well, I hope they do because there's the situation seems to me it is unlikely now that that can survive, that we simply cannot know. And if we don't need the power station, why on earth are we contemplating developing, leaving radioactive waste and decommissioning on that site until late in the next century? I mean, it just seems to me. So we lost our way to ask. I agree with that. But as I say, I'm sorry that these matters, which seemed me absolutely fundamental, don't seem to be debated, or they're being deferred and not listened to. And I hope very much that your panel will begin to take these matters seriously, rather than get into the pernicky little judgments we've been talking about this morning in a very narrowly conceived agenda. Thank you, Professor blows. Right. Rican, Scott, you now have your hand up.

1:15:49

Thank you. I get I've been following closely. I just want to make a slightly different point about the the policy review. We first got involved in it some years ago, when when it was flagged, and I think I've explained that in writing. And the formula for the review at the time was changes in policy and law. You know, that was in the in the announcement document. I don't want to contest that. But if there is a dispute about what what the ministerial statements to the Lords and Commons, in 2017 means with with reference to change of circumstance, they could of course, be applied quite strict. It I think that's

what we've been doing. We've been applying policy, some of which can be local, I think we're going to discuss that later, some national and international, as was, in fact, the case with the Heathrow judgement. The change of circumstances concept might have been referring to the change of circumstances of this project in this site, as a planning issue. And what we've been trying to argue is that those changes in circumstances are important. In them, I think that this means there's a focus on NPS, six, rather than alternative forecasts and models and so on, and n one, and n six, of course, in the course of the examination, three new proposals, or nuclear of one kind or another half Co Op in Wales, is quite clear in the review process. That and also in the narrative of the developer, that the starting position of NPS six, which has eight sites of which the government thought seven were needed, you know, has been radically set aside. And we've come back now to the rather qualified statements about wanting a second major nuclear power station. So the whole question of what an alternative is, you know, is now thrown open? Because when I first got involved, and then our group got involved, we were considering what might be the merits, trying to address the way the issue have been posed? What were the merits of other sites compared to Sizemore See? Well, it seems to me is now a free standing project, as I said earlier, in an open energy market, which is potentially also an open European energy market. That's quite a radical change of circumstance. And then you come to the local change of circumstances. And I note, many of the baselines date back to and draw on the authority of the N one and n six, and the site assessments, the SCA is, as I call them, of that time, many of us say,

1:18:49

I'm just going to say that we did listen to you at the open floor hearing on change of circumstance, and we listen very carefully. Are there any new points that you want to make? Because some of these points you've already made?

1:19:03

Well, I think the vide one would be the case law proposed by developers relevant in order to include his row, which raises the climate issue. And there are others which we will nominate. Thank you.

1:19:19

Thank you. And the Heathrow judgement, I believe, is already in the examination library. Thank right. Mr. Phillpotts returned to you. Yes, yes.

1:19:34

Thank you, Madam, I can be very brief because essentially, we've explained by reference to the case law, what the implications are for the application of policy and also the appropriate process to accommodate change of circumstance, which is the section six process. Just briefly in response to Mr. Scott. Of course, as you'll be aware, both mbse and one and also MPs n six, deal with alternatives in the context of new nuclear, specifically, and the government statement in the energy white paper about the ongoing suitability of the MPLS for dealing with applications does not discriminate between different parts of it and include those parts of the policy. Secondly, Madam, as you said, we haven't we haven't built within nuclear, nuclear, but there are alternatives. Thank you. Sorry, Mr. Scott, you You are not muted. And yeah, so thank you. For the Thank you, madam. The second point I was going to make not

only have we included the Supreme Court's judgement in the Heathrow case in our submissions, which we put in following the preliminary meeting, part one, but also for reasons which we have explained that judgement is entirely consistent with the judgments of the High Court and the Court of Appeal. In the Drax case, and it's all part as I've indicated earlier, I have quite a reasonably long line of authority, which essentially makes same point. That was all I had to say. Thank you, Mr. Phil part. Right. So if we move on now to the next agenda item for a that's the updated energy and emissions projections. And I will broaden that to include some of the other modelling that's referred to in the planning statement update Appendix A. And that sets out the applicants case in relation to the need for nuclear and makes reference to the recent base modelling in analysing the extent of need, that exists for new nuclear generation and considers what contribution to that need would be made by size We'll see. So the planning saved up state that concludes that the beneath base analysis supports the MPs conclusions that the need for new nuclear is clear and urgent. We have already covered some aspects of this and some people have spoken or read already on the base modelling and the analysis. So if there are any new points to make under this agenda item from interested parties are here those net nail Crumpton, if I could hear from you, please.

1:22:51

Thank you, Madam Chair, and Neil Crumpton on behalf of task. I just like to say that I don't wish to challenge the energy, sorry, the the climate projections emission projections, and our need to achieve net zero by 2050. Although I would say I think most people would say the earlier the better. Realistically, that may be a challenge. What I would say is that I do challenge the Bayes modelling on the lower electricity projection of the 575 terawatt hours a year, I think it will be much near the higher end if not beyond the higher end, given the need for hydrogen in the most recent strategy. On the CCC report, as I've said before, what I would say is that that require the the current modelling is based on blue hydrogen, and I can't see how we can get to net zero if you're using blue, blue hydrogen, because natural gas with CCS still has residual emissions, you can only usually capture about 90% of the carbon dioxide. So it'd be every terawatt hour of hydrogen will be associated with about 20 grammes of carbon. So in terms of netzero, we need to be not going via blue hydrogen, but electrolytic hydrogen and also some degree of carbon negativity to match the the emissions that will arrive from agriculture etc. And that's why I mentioned a small amount of whatever sustainable biomass we do have be focused in the electricity sector, not on aviation, which is non essential, and that's why the modelling today is insufficient in my view. But I would also say that The ink the credit the case for increased hydrogen plays into the hands of the renewables scenarios more than a nuclear scenario. Because the more hydrogen you need for electronic sorry, more electricity you need for electrolysis means that you need to be build more of renewables or whatever. And then the supply of variable renewable supply, which is intermittent weather dependent, is an excess of grid demand for more of the year. And therefore there's less need for dispatchable power, which is one of the things that causes more emissions, because it's often often using blue hydrogen. And that changes the modelling significantly, in my view. So again, the modelling and the DDM model needs to incorporate that green hydrogen, netzero and electromagnetic, the curtailed waste that is huge in some most renewable scenarios, into its modelling. And all that feeds into lower emissions in the renewable and ccus scenarios, but it also lowers costs, and there is a value for money issue here, but it also feeds back that with reduced costs, you can buy more of the things in the electricity sector to reduce carbon emissions. So there is a degree of circularity, which that modelling needs to really tease out. I'd also said that renewables

projects, particularly offshore wind and solar can deploy to 2035. When you're funding, whatever, with nuclear, you get all at the end, in 2035. Whereas with renewable projects, they're obviously a lot smaller, and they can come online during the period 2025 to 2035. So there's carbon benefit there in terms of decarbonisation earlier. So I would say that the, the DDM model, which informs the need and all the historic white papers, etc, we've had to date is in need of substantive upgrading. And

1:27:28

bays do say it is doing continual upgrading, and it's obliged to fry ropey reasons, not just in one on a and six. And therefore, I would say that, we strongly recommend that the that there is a case a moral case, as well as whatever case to urgently address the modelling, and make sure it's up to date before any final investment decision be made. Thank you very much.

1:27:58

Thank you. Thank you. So I hear from Ian walls, Friends of the Earth.

1:28:08

Thank you, Madam Chair. Is this the correct? place to mention to comment on the modelling that the applicant is used for working out the co2 footprint of various aspects of the nuclear power plant?

1:28:25

No, that is not. Oh, I'm just looking at the base map, the base modelling sorry. And so we're looking now at various items in the planning statement update, which was making the applicants case for the need for nuclear. So if you have comments to make on the carbon footprint that has been considered in written questions, and so if you have submissions to make on that, if you could make those in writing at deadlines that,

1:28:58

okay, there's no opportunity to make them a but I can put it in as written. So let's put that in writing. That's not on the agenda. Okay. Thank you. Mr. Part, Doug, power of Greenpeace.

1:29:20

Thank you. I, I hope these comments are going to be sufficiently relevant for taking into account which is that they are quite general issues about the nature of government modelling, including the energy and emissions projections that government has, but it does relate to the overall question of need and and where the government stands. Which is that the Energy and Environment projections and indeed other modelling like the modelling 2050 work that came out subsequently is very good on talking about the outputs from the model, it's very poor on talking about the inputs to the model. And you may be familiar with the the old it adage about modelling and computer programmes, which is garbage in and garbage out. And that it's quite a frustrating document to read if one is looking at the choices that appear to be underpinning the modelling, the extent modelling and the outputs. So, for example, in those projections figure 5.1. It talks about electricity generation by fuel source. And it appears to show that renewables, which is not broken out into wind and solar, which you'd expect, if you were giving a proper evaluation of what the system is looking like, just generally, renewables doesn't appear to go up from around about 2026 or 27, through to nearly 2040, it's more or less the same level of generation.

Now, it's extremely hard to understand why that should be the case. And why given that they are cheap, given the level of variable renewables within the grid at that point is by no means saturated, given that they will be so much cheaper than other sources yet, over that time, it appears quite a lot of new nuclear is coming into the system. Again, that it's very, very hard to understand how a cost effective policy would lead to those kind of outcomes. But we don't know because there is no publication of the inputs to the modelling. Now, in that, in that sense, simply saying that this modelling, justifies whatever you want to justify, including nuclear really just says, under the circumstances that we've kept secret, we have an output that says new nuclear is needed. It does not justify new nuclear. So I express my frustration with the reliance on this quality of evidence, something that I'm sure inspectors have to deal with on a routine basis, the quality of evidence that is presented as the justification for this kind of audit, Rob this model that what modelling is produced, compared to other models, which are not produced by governments but by others, like Imperial College who are extremely transparent about the assumptions that are made underpinning the the outputs that they produce, and come away with markedly different results about what a cost effective pathway for decarbonisation should be. So with that word on, and that's a particular example that I gave, I referred earlier to comments that external commentators, I mean, respected external commentators have made about the prices for green hydrogen. In those models, essentially, the cheaper green hydrogen becomes, the less you need dispatchable reliable generation because higher higher levels of renewables would mean that you would need less reliance on on things like new nuclear or indeed carbon capture and storage. But we can't interrogate that because such as is published appears to be just a given. Now, I did speak to one of the modelling team, not for the Energy and Environment protections, but for the modelling 2050 study and pointed out because I had actually publicly written on the on the rather strange way in which they've treated hydrogen and how that directly impacts on on the choices like the amount of new nuclear that one needs. And their reply.

1:34:23

witness that Allison Downes and Andy blowers were both in that meeting, they said, Well, we can always do more sensitivity analysis. Well, yes, of course you can, but actually you're ruling out or not using as one of the sensitivities the the expectation of what people like the European Commission and Bloomberg New Energy Finance, say the like is the likely cost trajectories, you're keeping it much higher within those models. So, I suppose my point is that these models are not sufficiently transparent and they are not sufficiently robust to be metric for the reliance on the outcomes that they produce, which appears to be a need for greater nuclear. And that other models which are more transparent, and I, in my estimation, hakea, producing higher quality of evidence does not delivered that outcome.

1:35:22

Thank you. Right, I'll just ask the applicant to respond, and then we'll take a break.

1:35:32

Thank you, Madam, before turning to Mr. Rose to see what if anything he might want to say about those matters. I should say that a lot of what we've just been listening to, isn't really, if I may say, so focused on the agenda item, as I understand it, which is looking not at the role of modelling in supporting the government's stated policy positions in relation to the need for new nuclear, which a lot of what you've heard was going to, but rather the contribution that this project could make to meeting

the need for new nuclear generating capacity. And therefore, challenges to the merits of the government's modelling as a basis for his conclusions on need is really not on point. The way that we have made reference to the modelling, in particular, in Appendix A to the planning statement update is in the context of our attempt to provide a quantitative assessment of this matter, doing the best we can on the material that is available. And I just wondered if I could provide some initial comments in relation to the nature of that exercise and the context in which it takes place?

1:37:14

Yeah, Mr. Phil plot that was actually the scope of this first part of item four. So we're coming on to the extent of contribution of particular project in a minute. So really, it was just looking at how you utilised that modelling in Appendix A of the update.

1:37:34

Exactly right. And before coming on to any questions of contribution. I just wondered if I could just explain what what's been done. As has been made clear already, and the relevant references have been provided in earlier submissions that there is no obligation on you or the Secretary of State to undertake quantitative assessment, but recognising what the Court of Appeal has said, which is that one is not precluded from doing so and it would be open to a decision maker in appropriate circumstances to undertake such an assessment. It was considered helpful to put in something which so far as is possible to do in the absence of numerical targets or limits, and provided some sense of what the quantitative contribution might be. But as paragraph a point one, point 10 explains that that's the nature of the exercise considering the modelling to understand the extent of me that exists for nuclear generation, then consider the contribution to that need made by the size of our seat proposals, but a 114 recognises quite openly and rightly, that the scenarios that are used in that context are not government targets, or policy, and explains that the base analysis notes there are many different possible pathways for the power sector, but they do illustrate the scale of new low carbon generation required for the power system to meet net zero. So recognising that neither the national policy statement or the energy white paper, set targets or limits and that that is indeed a striking feature of what they say and recognising that the energy white paper makes explicit nothing It says should be interpreted as introducing such a limit. We have used the two scenarios that the policy documents recent policy document itself chooses to illustrate the position As the best available information to do that, if it was thought to be helpful. However, if one was looking at it from a qualitative perspective, then certainly the key commitment that has identified in the energy white paper to bring at least one large scale new nuclear project fit by the end of this parliament, would be relevant when considering on a qualitative basis, the weight that would be proportionate to the actual contribution that sizewell c would make. And there's no evidence that this key commitment in government policy is likely to be met without development, consent being granted for sizewell. But more generally, the point that the Court of Appeals seems to be driving at in paragraph 66 is the scope that the MPs allows for the decision maker to attach proportionate weight to the contribution made by different projects, recognising that not all projects that go over the onset threshold will make the same contribution. And broadly speaking, the greater the contribution, the greater the weight that might be attached. And there is inevitably a spectrum from the smallest smallest density generating station, which might just exceed the 50 megawatt threshold, all the way to the very largest. And this is a project that would be at the very end, very far end of that spectrum. And therefore, in so far as one is seeking to attach proportionate weight

to it, that must be reflected in the weight that is attached. And so there's no necessity for a quantitative assessment here in order to attach substantial weight to the contribution that this scheme would make, that if the examining authority thinks that it is helpful, we provided such information as we can in order to assist in that process. So I'll just see if Mr. Rhodes wants to add anything to that or to respond to anything that we've heard so far.

1:42:17

Thank you, John Rhodes for the applicant. Just to say very briefly, and to explain the role as Mr. Filbert says of that assessment within the planning statement update. The applicant's case doesn't rely on the modelling the applicant's case relies on government policy. The modelling helps to explain the development of government policy. And it helps, especially helps explain to quantify the scale of contribution. But the government itself doesn't rely on the detailed outcome of the modelling as it makes clear the outcome from the modelling and generates illustrative scenarios, which is placed into the energy white paper. And it recognises that could be a scale of different responses in terms of energy mix, to the need that it's identified. But perhaps, for instance, on hydrogen, it's understandable why the modelling doesn't place as much reliance on hydrogen to some parties may like because given the scale and urgency of the need, what the government clearly identifies is a necessity to rely upon low carbon energy generation that is proven and reliable. And it makes that point clearly in relation to nuclear power generation. And it explains it in the white paper explains its position, both in quantitative terms, but also qualitative terms that we've identified this morning, why it relies on new nuclear as part of that future energy mix. So, of course, the important outcome is what the policy says. And the policy is clear is informed by the modelling. And if there are detailed points about the modelling, it's probably better for parties to take them up with government rather than to take them up with ourselves. It's the conclusion which the government draws from the modelling, which is set out clearly in policy statement, which is important for the purposes of examination. That's not to say that want to step away at all, from what we said in the planning statement update is clearly helpful and relevant, and the government's explained its position. And it's clearly helpful that we have an up to date modelling which the government considers appropriate. But the important thing, quantitative and qualitative terms, is what the policy concludes and has recently stated and restated. Thank you. Thank you, Madam

1:44:37

Chair. And thank you, Mr. Phil Plot. So we'll adjourn now for a short break and resume at quarter to four. And just to remind those watching on live stream to refresh your browsers to enable you to view the restarted live stream. So the hearing is now adjourned