

From: [Magdalena Gray](#)
To: [Wylfa Newydd](#)
Cc: [Kate Harrison](#)
Subject: Wylfa Newydd - Issue Specific Hearing request
Date: 04 December 2018 21:43:53
Attachments: [Wylfa Newydd - Submission of Written Representation and Summary - Greenpeace .msg](#)
Importance: High

Dear Ms Sully

We are instructed by Greenpeace Ltd, an Interested Party in the Examination of the application for development consent by Horizon Nuclear Power Limited for the proposed Wylfa Newydd Nuclear Power Station.

We have today submitted a Written Representation on behalf of Greenpeace (email submission attached) which sets out that, as no national policy statement (NPS) applies to the application for development consent (the nuclear policy “has no effect” on applications set for deployment beyond 2025 - a position agreed by Government), significant weight can only be given to the outdated nuclear policy (EN-1 and EN-6) if there have been no relevant changes of circumstance.

Our WR sets out the substantial number of changes in circumstance which have taken place since the designation of the NPS in 2011 and the White Paper of 2008 on which the NPS is based, and thus makes the case that it would be unlawful for the Inspectorate to give such weight to the outdated NPS in light of these relevant changes.

The Rule 8 letter of 6 November 2018 contains no indication that an Issue Specific Hearing is scheduled in relation to the lack of extant nuclear policy and whether the need for nuclear has been established. This is required given no national policy statement applies, and – as our WR submits – significant weight cannot be given to the now outdated NPS.

In addition, please note the intention of the new NPS cannot be taken into account for the purposes of the determination until such time as there exists a draft, which at this time it does not.

Please confirm if you agree with this analysis, and if you do not, the reasons for this. Otherwise, we look forward to receiving details from you regarding an Issue Specific Hearing on the policy need for nuclear and will register our interest to appear at this hearing accordingly.

Kind regards

Magdalena

Magdalena Gray
Solicitor
Harrison Grant
45 Beech Street
London EC2Y 8AD

Tel (direct dial): +44 (0)20 7826 8522

Email: magdalenagray@hglaw.co.uk

Website: www.hglaw.co.uk

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Ms Frances Fernandes
Lead Member of the Panel of Inspectors
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

By email only to Wylfa@pins.gsi.gov.uk

Your ref: EN010007
Our ref: 20011658

4 December 2018

Dear Ms Fernandes

Written Representation on behalf Greenpeace UK in connection with the application by Horizon Nuclear Power Limited for an Order Granting Development Consent (the "Application") for the Wylfa Newydd Nuclear Power Station

We are instructed by Greenpeace Ltd - an Interested Party in the Examination - to submit this written representation (WR) in response to the invitation to do so by the Inspectorate in a letter dated 6 November 2018.

Greenpeace Ltd ("Greenpeace UK") is a not-for-profit organisation which campaigns for the protection of the natural environment. It is recognised internationally and in the UK, and is routinely consulted by governments and others on policies, plans and programmes affecting the environment.

Overview of the WR

This WR will set out the following:

- 1) That the assertion made by Horizon Nuclear Power Limited (the "Applicant") that 'significant weight' should be given to the National Policy Statement (EN-1 and EN-6) by the Inspectorate in the determination of the Application is erroneous;
- 2) That, as no national policy applies, the determination of the Application will be conducted under Section 105 of the Planning Act 2008 (this is agreed by the Applicant¹);
- 3) That, for the purposes of Section 105, 'significant weight' can only be given to the outdated National Policy Statement if there have been no '*relevant changes of*

¹ Page 4 of the Applicant's Planning Statement (June 2018) (PINS reference: EN010007)

circumstance'(as per the governing Ministerial Statement);

- 4) That since the designation of the NPS in 2011 and the 2008 White Paper on which it is based, there have been a significant number of relevant changes of circumstance, including:

a) Urgent Need	a failure to meet the policy objective;
b) Shift in Subsidy Regime	a failure to deliver on the promise of subsidy-free nuclear new-build;
c) Cost of Renewable Energy	outdated policy position as to the cost of renewable energy versus nuclear;
d) Energy Security	an outdated concept of 'baseload';
e) Radioactive Nuclear Waste	an unreasonable and exploitative use of 'interim' measures of storage with no foreseeable solution; and
f) Climate Change	a radical development in climate change science, independent expert recommendations, plus international commitments which post-date the policy.

- 5) Therefore, as there have been relevant changes of circumstance, the Inspectorate cannot attribute 'significant weight' to the National Policy Statement (EN-1 and EN-6); and
- 6) To attribute significant weight to the outdated policy in spite of these substantial and numerous changes in circumstance, would be unlawful, rendering the Inspectorate's determination of the Application vulnerable to judicial review.

Scope of the WR

Paragraph 7.5 of the Planning Inspectorate Advice Note (8.4) provides that the Examining Authority may disregard submissions if they relate to the "merits of policy in a National Policy Statement".

In this case there is no extant National Policy Statement.

The discretion under paragraph 7.5 of the Advice Note does not apply and the Inspectorate must consider the WR fully and in accordance with its duty.

1. Energy National Policy Statement

Background under the Planning Act 2008

There is a statutory obligation under section 104 of the Planning Act 2008 ("PA 2008") to determine the Application in accordance with any "relevant national policy statement."²

² Section 104(4) Planning Act 2008

Where no national policy applies, the decision must be made pursuant to section 105 of the PA 2008 by having regard to all relevant considerations.

EN-1 and EN-6

The government adopted a National Policy Statement ("NPS") for energy and nuclear energy in 2011. This comprised of the Overarching National Policy Statement ("EN-1") and the National Policy Statement for Nuclear Power Generation ("EN-6").

The purpose of EN-6 was to:

"facilitate the delivery of new nuclear power electricity generation on some or all of the sites listed in this NPS by the end of 2025."³

This policy is structured on the premise that Government believed there existed an urgent need for nuclear power generation to be deployed before 2025:

*"In order to be considered potentially suitable and therefore listed in this NPS, **sites had to be shown to be capable of deployment by the end of 2025.** However, ...the Government believes that new nuclear power stations need to be developed significantly earlier than the end of 2025."⁴ (emphasis added)*

EN-6 identified Wylfa as one of the eight sites potentially suitable, provided it could be deployed by the end of 2025. Government accepts that EN-6 does not apply, for the purposes of the statutory obligation under s104 of the PA 2008, to nuclear power development which is not able to demonstrate deployment by the end of 2025:

"... EN-6, only "has effect" for the purposes of section 104 of the Planning Act 2008 ("the Act") for development which forms parts of a project able to demonstrate expected deployment by the end of 2025."⁵

The Application's Planning Statement confirms that the first reactor at Wylfa would not be deployed until "around 2027."⁶

Applicability of EN-6 to the Examination of the Application

EN-6 does not, therefore, have effect for the purposes of determining the Application. EN-1, on the other hand, is not out of date in its entirety. However, its nuclear policy⁷ when read

³ Paragraph 1.8.1 of EN-6 Vol I (available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/47859/2009-nps-for-nuclear-volumeI.pdf

⁴ Paragraph 2.2.2 of EN-6 Vol I (available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/47859/2009-nps-for-nuclear-volumeI.pdf

⁵ Written Ministerial Statement on Energy Infrastructure by Lord Henley (dated 7 December 2017) Written Statement HLWS316 (available at: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2017-12-07/HLWS316/>)

⁶ Paragraph 1.1.3 of the Applicant's Planning Statement (PINS ref: EN010007)

⁷ On the "urgent need" in 2008, meaning for power stations to be built by 2025, paragraph 3.5.1 of EN-1

with EN-6 cannot apply to new nuclear build after 2025, and therefore does not apply to this Application.

In support of this, we rely on the fact that the policy objectives have not been met. In particular, the failure of the Government to address the “urgent need” of nuclear power by no later than 2025, and the failure to avoid public subsidy in nuclear new build. These failures to achieve the policy objectives are set out in detail below in paragraph 2(a) and 2(b) respectively, and amount to a change in circumstances.

The determination of the Application reverts to section 105 of the PA 2008 (decisions in cases where no national policy has effect)⁸. This requires the Secretary of State to have regard to a ‘wide variety of matters’ when deciding the Application, rather than submitting to the prescription of the NPS.

Note that ‘wide variety of matters’ does not include the intention of the new NPS, until such time as there exists a draft, which at this time it does not.⁹

The Ministerial Statement on Energy Infrastructure (the “Ministerial Statement”) expresses support for the principle of new nuclear power, particularly at the sites identified in EN-6, including Wylfa, beyond the 2025 cut off point.¹⁰

However, the Ministerial Statement also declares that in determining applications under section 105 of the PA 2008, 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 policy in EN-1 and EN-6.**”¹¹ (emphasis added)

This position has been repeated in paragraph 3.11 of the Government’s Consultation Response to the new NPS Siting Criteria.¹²

The Applicant makes the absurd claim in the Planning Statement¹³ that,

“There have been no relevant changes in circumstances which would suggest that anything less than significant weight should be given to policy in NPS 1 and NPS EN-6...”

(available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/47854/1938-overarching-nps-for-energy-en1.pdf)

⁸ This is accepted by the Applicant, page 4 of the Planning Statement, PINS reference EN010007

⁹ Written Ministerial Statement on Energy Infrastructure by Lord Henley (dated 7 December 2017) Written statement HLWS316 available at: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2017-12-07/HLWS316/>

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² 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

¹³ Paragraph 1.3.15 of the Applicant’s Planning Statement (PINS Reference Number: EN010007) dated June 2018

This WR submits that the evidence in connection with changes in circumstance since the designation of the NPS is overwhelming.

Contrary to how the Inspectorate is being incorrectly implored to do by the Applicant, significant weight should not and cannot be given to policy in EN-1 and EN-6 in determining the Application.

2. Change of circumstances for the purposes of section 105(2) of the PA 2008

The NPS (comprising EN-1 and EN-6 together) is 7 years old and is based on the White Paper on Nuclear Power dated January 2008¹⁴ (the "White Paper") which is now almost 11 years old.

What follows is a non-exhaustive list (bullets 2(a) – (f)) of the changes of circumstance for the purposes of section 105(2) of the PA 2008, which negates the ability of the Inspectorate to give significant weight to policy in EN-1 and EN-6 in determining the Application.

a) Urgent need

The NPS is hinged on the "urgent need" for nuclear, which is to be deployed before the end of 2025;

"...Government believes that there is an urgent need for new electricity generation plant, including nuclear power..."¹⁵

and

"Given the urgent need...it is important that new nuclear power stations are constructed and start generating...significantly earlier than 2025."¹⁶

EN-6 also accepts that a failure to achieve this policy objective would make it "*more difficult and expensive to meet the Government's targets for significant and urgent decarbonisation of the economy.*"¹⁷

The White Paper projected the first power output to be in 2018¹⁸. Now in the final month of 2018 and none of the designated sites have been deployed, and only one site (Hinkley Point C) has obtained a development consent.

¹⁴ A White Paper on Nuclear Power (January 2008) *Department for Business Enterprise and Regulatory Reform*, available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228944/7296.pdf

¹⁵ Paragraph 3.5.1 of EN-1, available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/47854/1938-overarching-nps-for-energy-en1.pdf

¹⁶ *Ibid.* paragraph 3.5.9

¹⁷ Paragraph 2.2.3 of EN-6 Vol I, available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/47859/2009-nps-for-nuclear-volumeI.pdf

¹⁸ Chart 3: Indicative pathway to possible new nuclear stations, page 136 of the White Paper 2008, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228944/7296.pdf

Hinkley Point C ("HPC") will also fail to meet the deployment deadline of 2025 (if it can be built at all), as will all other proposed sites, including Wylfa Newydd.

The categoric failure at every single site to meet the explicit policy deadline of 2025 – which Government deemed necessary to address the urgent need – represents a huge change in circumstances. The reality is entirely different to the prediction that predicated the policy.

By continuing to divert unprecedented quantities of public money and resource away from renewables - which can be deployed on quickly and cheaply¹⁹ - and into a demonstrably slow and expensive nuclear industry, the UK categorically fails to meet the NPS objective of addressing the "urgent need" to decarbonise the energy supply.

b) Shift in Subsidy Regime

The call on the public purse for nuclear power has completely changed since the NPS and the White Paper it was based on.

In 2008 there was no suggestion that public subsidy was required, and the position in the White Paper was that, "*nuclear is currently one of the cheapest low-carbon electricity generation technologies.*"²⁰

In 2010, the Government was adamant that the public would entirely avoid lengthy and costly overruns that had become a "hallmark of nuclear plant construction".²¹

Further, in 2011, Chris Huhne, the Secretary of State for Energy and Climate Change under which the NPS was designated, promised that new nuclear would be built "***without a penny of public subsidy.***"²²

Then, nestled in a one line bullet point in the Notes to Editors section of a 2015 Government press release, is an admission of the complete renege of the subsidy-free promise:

*"The Government confirms that it is not continuing the 'no public subsidy policy' of the previous administration."*²³

This came the day after the then energy minister, Andrea Leadsom, told MPs:

*"It is vital that industries over time stand on their own two feet. I don't think anyone here would advocate an industry that only survives because of a subsidy paid by the billpayer."*²⁴

¹⁹ See paragraph 2(c) of this WR for further analysis of renewable energy

²⁰ Page 6 of the White Paper, available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228944/7296.pdf

²¹ BBC Business Article, 4 June 2018 'Government U-turn on Nuclear Deal', available at: <https://www.bbc.co.uk/news/business-44363366>

²² Taken from speech on Energy and the Environment at the Liberal Democrat Conference in September 2011, available at: <https://www.newstatesman.com/uk-politics/2011/09/energy-renewable-jobs-carbon>

²³ Penultimate bullet point under Notes to Editors, Department of Energy and Climate Change press release dated 21 October 2015, available at: <https://www.gov.uk/government/news/hinkley-point-c-to-power-six-million-uk-homes>

²⁴ Full footage of the Energy and Climate Change Select Committee at which this occurred can be viewed on Parliament TV: <https://www.parliamentlive.tv/Event/Index/8dd17e5b-e895-45b4-a199-9bc501929666>

She was justifying 87% cuts to subsidies for solar power, just as they were on the brink of becoming cheaper than gas²⁵.

The subsidy deal for the much criticised Hinkley Point C ("HPC") was agreed in 2016, after years of delays, and will – if it is ever deployed - cost consumers in excess of £30bn.²⁶

The White Paper estimated the price of nuclear as £30/MWh²⁷, yet the amount agreed in the HPC deal was more than three times that (and over twice the wholesale price of power²⁸).

The National Audit Office (NAO) has slammed the 35 year contract of £92.5/MWh as having, "*locked consumers into a risky and expensive project with uncertain strategic and economic benefits.*"²⁹

The NAO also advises that a withdrawal from Euratom³⁰ – as has been decided by Government as part of the UK's decision to leave the European Union - may be interpreted as a change of law which could result in a change to the HPC contract price or trigger termination and compensation payable to EDF under the Secretary of State Investor Agreement arrangements.³¹ Any increase in price or compensation payable would again, be borne by the consumer/tax-payer.

The Public Accounts Committee ("PAC") also criticised the Government for failing to revisit the terms of the deal, despite the estimated costs to the consumer having risen five-fold during the years between original negotiation and signing the deal, concluding that, "*no part of Government was really championing the consumer interest.*"³²

PAC further criticised Government's failure to consider the deal's impact on household bills beyond 2030, despite the fact that consumers will be burdened with the high fixed price for electricity HPC until long after 2030, "**even if other technologies become better value.**"³³

It was also reported by the Guardian on 20 October 2015, available at:

<https://www.theguardian.com/environment/2015/oct/20/energy-minister-open-minded-about-uk-solar-subsidy-cuts>

²⁵ https://www.theguardian.com/environment/2015/oct/22/wind-and-solar-power-likely-to-match-gas-on-cost-by-2020-say-uk-climate-advisers?CMP=share_btn_tw

²⁶ Figure used in the HPC Inquiry, PAC Report

<https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/393/393.pdf>

²⁷ Para 2.49 of the White Paper on Nuclear Power (January 2008) *Department for Business Enterprise and Regulatory Reform*, available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228944/7296.pdf

²⁸ <https://www.theguardian.com/news/2017/dec/21/hinkley-point-c-dreadful-deal-behind-worlds-most-expensive-power-plant>

²⁹ Paragraph 25, Conclusion on Value for Money, National Audit Office Report on Hinkley Point C, 23 June 2017, available at: <https://www.nao.org.uk/wp-content/uploads/2017/06/Hinkley-Point-C.pdf>

³⁰ European Atomic Energy Community (Euratom), a pan-European atomic energy regulator.

³¹ Paragraph 3.17 of the National Audit Office Report on Hinkley Point C, 23 June 2017, available at: <https://www.nao.org.uk/wp-content/uploads/2017/06/Hinkley-Point-C.pdf>

³² Hinkley Point C Inquiry, Public Accounts Committee report, taken from the Summary, available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/393/393.pdf>

³³ *Ibid.* paragraph 3 and Qq 42–43; C&AG's Report, paras 13, 2.16, available at: <https://www.nao.org.uk/wp-content/uploads/2017/06/Hinkley-Point-C.pdf>

Further dishonouring the subsidies policy position, Business Secretary Greg Clark announced on 4 June 2018 that formal talks were underway with Hitachi (the Applicant's owner) to provide direct investment for the Wylfa Newydd project. It has been reported that an initial agreement has been made for the UK to take a stake of at least £5bn in the £16bn project.³⁴

In a statement to Parliament, Greg Clark claimed negotiations would be subject to full Government, regulatory and other approvals, including value for money, due diligence and State Aid requirements.³⁵ Clark admits that this includes the recommendations of PAC (above) and NAO, which requires the Government to ensure "*it periodically reconsiders its strategic case for supporting nuclear power*"³⁶ in light of "*technological changes or wider economic and political factors*".³⁷

A letter from the chair of PAC, Meg Hillier, was sent to Greg Clark requesting he confirm that details of the strategic case for any Wylfa Newydd deal would be published shortly.³⁸ As far as we are aware, nothing more than a holding response has been provided.³⁹

Yet the Japanese press reported on 5 June 2018 that the UK had agreed to finance the Wylfa Newydd project and that a Memorandum of Understanding had already been signed:

*"The British government will arrange the entire 2 trillion yen in loans that Hitachi requested, sweetening its offer from a previously proposed 1 trillion yen."*⁴⁰

The reported 'strike price' agreed for Wylfa Newydd is £75-77/MWh⁴¹ for the duration of its proposed 60-year lifespan (which will not start generating electricity until at least 2027⁴²). Contrast this with the cost of UK utility-scale solar PV generation, which has fallen by approximately 20% per year since 2014 and is currently estimated at £50-55/MWh.⁴³

³⁴ Reported by the Guardian, 'UK takes £5bn stake in Welsh nuclear power station in policy U-turn', 4 June 2018, available at: <https://www.theguardian.com/environment/2018/jun/04/uk-takes-5bn-stake-in-welsh-nuclear-power-station-in-policy-u-turn>

³⁵ Oral statement by Greg Clark to Parliament, 4 June 2018, available at: <https://www.gov.uk/government/speeches/statement-to-parliament-on-horizon-project-at-wylfa-newydd>

³⁶ Paragraph 28 of the National Audit Office Report as part of the Hinkley Point C Inquiry, dated 23 June 2017, available here: <https://www.nao.org.uk/wp-content/uploads/2017/06/Hinkley-Point-C.pdf>

³⁷ *Ibid.*

³⁸ Letter from Meg Hillier (Chair of PAC) to Greg Clark (Secretary of State), dated 12 June 2018, available here: <https://www.parliament.uk/documents/commons-committees/public-accounts/Correspondence/2017-19/Letter-Chair-to-Secretary-of-State-BEIS-Third-Report-of-Session-2017-19-12-June-2018.pdf>

³⁹ Letter from Greg Clark (Secretary of State) to Meg Hillier (Chair of PAC), June 2018, available here: <https://www.parliament.uk/documents/commons-committees/public-accounts/Correspondence/2017-19/Wylfa%20Newydd%20power%20plant.pdf>

⁴⁰ Article from the Nikkei Asian Review, Business Deals, 'Hitachi clears financing hurdle on British nuclear plant', 5 June 2018, available at: <https://asia.nikkei.com/Business/Business-Deals/Hitachi-clears-financing-hurdle-on-British-nuclear-plant2>

⁴¹ Reported by the Solar Trade Association, 'Press Release: Billions for Wylfa Nuclear Power, while Low-Cost Solar still shut Out Of Competitive Markets?' 4 June 2018, available at: <https://www.solar-trade.org.uk/press-release-billions-for-wylfa-nuclear/>

⁴² Paragraph 1.1.3 of the Applicant's Planning Statement (PINS ref: EN010007)

⁴³ Reported by the Solar Trade Association, 'Press Release: Billions for Wylfa Nuclear Power, while Low-Cost Solar still shut Out Of Competitive Markets?' 4 June 2018, available at: <https://www.solar-trade.org.uk/press-release-billions-for-wylfa-nuclear/>

The level of subsidy afforded to the current nuclear new build offering is not only contrary to the objective of the NPS, detrimental to the consumer, and lacking in transparent due process, but it exists at such a level because Government has failed to attract private investment.

Take for instance, Toshiba's UK withdrawal from the proposed Moorside nuclear new build site in Cumbria. Despite the £100m loss it will face by pulling out, Toshiba admits that "...*the economically rational decision is to withdraw from the UK nuclear power plant construction...*"⁴⁴

Hitachi is also yet to decide the level of investment it is prepared to make in Wylfa Newydd.⁴⁵

The policy objective of protecting consumers and offering subsidy-free nuclear power has not been met. Subsidy-free new nuclear power does not exist, and the economics are so shaky that private investors are refusing to be involved.

This represents a clear change in circumstances for the purposes of section 105(2) of the PA 2008, which negates the ability of the Inspectorate to give significant weight to policy in EN-1 and EN-6 in determining the Application.

c) Cost of Renewable Energy

The position in the White Paper against renewables was that they would be expensive compared with nuclear:

"[Renewables] would also be costly; the analysis...shows that generation costs from these technologies are higher than those for nuclear power."⁴⁶

Whilst the White Paper failed to specify these costs, a 2014 UK Trade and Investment report estimated costs at £155/MWh⁴⁷.

However, even in that time, the price of off-shore wind dropped by 50% in the two years between 2015 and 2017 and new projects are being contracted for at £57.50/MWh⁴⁸.

Industry expects strike prices to continue to plummet, with Government remaining confident that the next round of contracts (due to be auctioned in May 2019) will see prices awarded below £53/MWh (the maximum price it has allowed)⁴⁹.

Contrast this against the strike price of £92.5/MWh for HPC power, and the estimated strike price of £77.5-£80/MWh⁵⁰ for Wyfla Newydd power. In addition to providing power at more

⁴⁴ Reported by BBC Business News, 'Toshiba's UK withdrawal puts Cumbria nuclear plant in doubt', 8 November 2018, available at: <https://www.bbc.co.uk/news/business-46122255>

⁴⁵ <http://www.hitachi.eu/en-gb/press/discussion-status-horizons-wylfa-nuclear-project-uk-government-toward-final-investment>

⁴⁶ Para 2.31 of the White Paper

⁴⁷ UK Trade & Investment, *UK Offshore Wind: Opportunities for trade and investment*, page 23, June 2015, available at: http://greeninvestmentgroup.com/media/44638/osw-pitchbook_ukti_june-2015.pdf

⁴⁸ Reported by New Energy Update, September 2017, available at: <http://newenergyupdate.com/wind-energy-update/uk-offshore-wind-prices-drop-50-two-years-ge-unveils-48-mw-onshore-turbine>

⁴⁹ <https://www.renewablesnow.com/news/uk-government-allocates-gbp60m-for-3rd-cfd-auction-633981/>

⁵⁰ <https://www.ft.com/content/00be1bc4-64c2-11e8-90c2-9563a0613e56> and

<https://www.thetimes.co.uk/edition/business/deadline-day-for-japans-hitachi-over-wales-15bn-horizon-nuclear-plant-mdxhnj9x8>

than drastically lower cost (more than 40% lower in some cases), these wind farms will be opening long before HPC or Wylfa Newydd.

Additionally, both solar and onshore wind could be deployed at much greater scale with minimal government support. The price of onshore wind has come down sharply since 2008 and is now also being deployed in small amounts without subsidy.⁵¹

The price of ground based solar is also falling rapidly and is expected to match the wholesale price of around £50/MWh in 2019 because development is happening without subsidy in the best locations.⁵²

The view held in the White Paper that renewables are too expensive to bring forward, is exceptionally out of date. The economics of generating electricity from fossil fuels that the NPS relied upon are deteriorating rapidly as renewable energy technology plunges in costs."⁵³

For nuclear power, on the other hand, which has been around for over 50 years, "*real costs have consistently gone up...despite nuclear industry claiming the cost curve for nuclear would start to go down as past problems were solved by the latest generation of nuclear designs.*"⁵⁴"

It also carries a delivery risk, as stated in the 2018 Progress Report from the Climate Change Committee ("CCC") which adds:

*"If new nuclear projects were not to come forward, it is likely that renewables would be able to be deployed on shorter timescales and at lower cost."*⁵⁵

Wylfa Newydd demonstrates the severity of the delivery risk. In August of this year, Japanese press reported that major US construction firm Bechtel Corporation is to withdraw as the main builder for the project, based on its assessment that the dramatic increase in construction costs would make it hard to make the project profitable.⁵⁶

In addition, the PAC report warns that the Government has talked up the boost to jobs and skills as the financial case for HPC has weakened.⁵⁷

As Chris Huhne put it when advocating for new nuclear in his NPS delivery speech, "*In the thirties, we did not create new jobs by bringing back the textiles, coal and iron jobs that were lost. We created new jobs in new industries.*"⁵⁸

⁵¹ Business Green, 'Construction to begin on 'UK's first subsidy free wind farm'

<https://www.businessgreen.com/bg/news/3032689/construction-to-begin-on-uks-first-subsidy-free-wind-farm>

⁵² Solar Power Portal, 'UK subsidy-free solar to commence in 2019', 1 November 2018, available at:

https://www.solarpowerportal.co.uk/blogs/uk_subsidy_free_solar_to_commence_in_2019

⁵³ Conclusion of a Bloomberg New Energy Finance report dated 28 March 2018, available at:

<https://www.bloomberg.com/news/articles/2018-03-28/fossil-fuels-squeezed-by-plunge-in-cost-of-renewables-bnbf-says>

⁵⁴Professor Steven Thomas, University of Greenwich, 2015 <https://unearthed.greenpeace.org/2015/11/18/every-new-power-needs-a-subsidy/>

⁵⁵ Box 2.2., page 72, CCC 2018 Progress Report, available at: <https://www.theccc.org.uk/wp-content/uploads/2018/06/CCC-2018-Progress-Report-to-Parliament.pdf>

⁵⁶ The Asahi Shimbun, Asia & Japan Watch, 'U.S. firm pulls out of building Hitachi nuclear plant in Britain', 17 August 2018, available at: <http://www.asahi.com/ajw/articles/AJ201808170035.html>

⁵⁷ Hinkley Point C inquiry, Public Accounts Committee report, taken from the Summary, available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/393/393.pdf>

⁵⁸ The official transcript of Former Energy Minister Chris Huhne's Speech on Energy and the Environment, available at: <https://www.newstatesman.com/uk-politics/2011/09/energy-renewable-jobs-carbon>

This is what is required now. Only it is nuclear new build which is the outdated, expensive, sluggish industry. Job creation is not an adequate excuse to continue to pursue nuclear, when jobs in renewable energy and technology could be plentiful if the Government pursued renewables with the same vigour.

The dramatic drop in the costs of off-shore wind in particular, and the ability for it (and solar and onshore wind) to come forward on a subsidy-free basis at a fraction of the strike price of nuclear represents a significant change in circumstances for the purposes of s105(2) of the PA 2008. To place significant weight on the outdated NPS which cites renewable energy as prohibitively expensive versus nuclear would be irrational, misleading and damaging to the consumer.

d) Energy Security

A key justification in the White Paper for nuclear and against the extensive deployment of renewables was the idea that nuclear was 'baseload' and renewables (such as wind power) were variable, unpredictable and unreliable.⁵⁹

Nuclear, it was claimed, could "*ensure a diverse mix of technology and fuel sources*" and reduce the risks of supply interruptions and of sudden and large spikes in electricity prices that can arise when a single technology or fuel dominates electricity generation.⁶⁰

This policy justification has seen a dramatic change in circumstances.

Former Head of National Grid, Steve Holliday, stated - even in 2015 - that "*[t]he idea of baseload power is already outdated*"⁶¹ and further that large-scale nuclear reactors were also an outdated concept, because the future will be "*much more driven by availability of supply; by demand side response and management.*"⁶²

Independent energy analysts, Aurora, put the costs of managing wind's intermittency at £7/MWh⁶³, making it still much cheaper than nuclear when costed on the whole system.

It also offers that if the regulatory playing field was levelled, wind could be "*a viable long-term route to market for offshore wind to provide further confidence in the offshore wind industry in GB, helping to secure further investment, jobs and supply chain opportunities.*"⁶⁴

⁵⁹ Paragraph 2.31 of the White Paper 2008, available at: available at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228944/7296.pdf

⁶⁰ Paragraph 3.5.3 of EN-1, available at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/47854/1938-overarching-nps-for-energy-en1.pdf

⁶¹ Interview dated 11 September 2015 <https://energypost.eu/interview-steve-holliday-ceo-national-grid-idea-large-power-stations-baseload-power-outdated/>

⁶² *Ibid.*

⁶³ Aurora Energy Research, '*The new economics of offshore wind*', January 2018, available at:
<https://www.auroraer.com/wp-content/uploads/2018/01/The-new-economics-of-offshore-wind.-Aurora-Energy-Research-Report..pdf>

⁶⁴ *Ibid.*

Further, the National Infrastructure Commission ("NIC") have said that opportunities from 'smart grid' technology and the rapid advancement of digitisation of energy means the scope for managing intermittency through demand response is much greater than a few years ago.⁶⁵

The NIC's report also warns: "*There is a large amount of untapped potential which could revolutionise the way we view and operate our system and result in lower costs. We need to ensure we unlock it, rather than replicating a system that was designed for a different age.*"⁶⁶

These system management tools combined with flexible backup are at least as good an option as gas power (which is much cheaper than nuclear) for 'keeping the lights on' even in a low wind winter period.⁶⁷

Specifically, on power storage, lithium-ion battery costs have fallen by 79% since 2010⁶⁸. UK has a development pipeline of 7GW of battery storage projects, 3500 times what was deployed in 2010.

Storage of power over longer time periods may be more challenging, but a Brainpool study⁶⁹ has already shown that, even at today's prices, a combination of renewables and electrolysis to produce hydrogen for long-term storage is more cost-effective than nuclear in delivering secure low carbon power supplies for European countries with reasonable renewable resources (which would certainly include the UK).

What is certain is that the expectation of 8 nuclear sites designated in the NPS to come forward and to provide energy security by the end of 2025 at the latest, has not, and will not happen.

Renewable energy can no longer be discounted for unreliability as it is under the NPS. This represents a further change in circumstances for the purposes of the determination of the Application under s105(2) PA 2008.

e) Radioactive Nuclear Waste

As far back as 1976, warnings have been articulated about the inadequate management and disposal of radioactive waste solutions which existed, with the Royal Commission on Environmental Pollution declaring that new reactors should not be built until the problem had been solved⁷⁰.

⁶⁵ National Infrastructure Commission report, March 2016, 'Smart Power', available at: <https://www.nic.org.uk/wp-content/uploads/Smart-Power.pdf>

⁶⁶ *Ibid.* (para 1.28)

⁶⁷ Findings from the Energy and Climate Intelligence Unit, 2018, available at: <https://eciu.net/reports/2018/gb-power-transition-get-smart>

⁶⁸ Bloomberg Report, *Fossil Fuels Squeezed by Plunge in Cost of Renewables, BNEF Says*, 28 March 2018, available at: <https://www.bloomberg.com/news/articles/2018-03-28/fossil-fuels-squeezed-by-plunge-in-cost-of-renewables-bnef-says>

⁶⁹ Energy Brainpool, 'Controllable Renewable Energies: An Alternative to Nuclear Power Cost Comparisons for Poland, Slovakia, Czech Republic and Hungary', 25 April 2018, available at: https://www.energybrainpool.com/fileadmin/download/Studien/Study_2018-04_25_GPE_Controllable_Renewable_Energies_An_Alternative_to_Nuclear_Power.pdf

⁷⁰ Paragraph 518 of the Royal Commission on Environmental Pollution report presented to Parliament in September 1976, available at: <https://webarchive.nationalarchives.gov.uk/20110322144120/http://www.rcep.org.uk/reports/06-nuclear/1976-06nuclear.pdf>

The White Paper acknowledged the issue, offering that 'interim' facilities should be used until geological facilities became available.⁷¹ EN-6 admitted that geological storage was 'technically achievable' but that interim storage could be used until it was achieved.⁷²

The problem of how to safely store radioactive nuclear waste remains unsolved. For decades the government has failed to find a community willing to host this growing stockpile of high-level radioactive waste. Making the problem bigger makes it both more urgent, and more difficult to solve.

Yet Wylfa Newydd intends to increase the total level of radioactivity of UK nuclear waste by 70%, and as an 'interim' solution, to store it on site for a century.⁷³

The Inspectorate should not be satisfied that the Wylfa Newydd project can exploit the outdated policy interpretation of an 'interim' method of on-site storage of highly radioactive nuclear waste. 'Interim' cannot reasonably be taken to mean 'indefinite' – yet at present there has been no move forward in the provision of any solution to nuclear waste since the White Paper, nor any prospect of one being delivered.

In addition, when the NPS was designated, the UK was part of Euratom – and therefore party to rules and research on nuclear material and how it is moved around. But Government has decided that leaving the European Union means leaving Euratom. This is likely to mean potentially huge changes to the way nuclear businesses operate. There is also no clarity on security of movement of highly hazardous and indestructible waste in Europe or the basic logistics of how it will work after Brexit.

Therefore, both in respect to the unreasonable extension of the 'interim' solution in the NPS to the management and disposal of radioactive waste, and in respect of further changes pending as part of Brexit, significant weight cannot be attributed to the NPS for the purposes of determining the Application under section 105(2) of the PA 2008.

f) Climate Change

The very first sentence of the foreword to the 2008 White Paper was, "*Climate Change is quite simply the biggest challenge facing humanity*".⁷⁴

EN-1 anticipated that for the UK to meet its climate change objectives, there was an urgent need for new nuclear power.⁷⁵

Nuclear new build was supposed to be the Government's answer. It has categorically failed to deliver as its success in meeting those objectives depended on some or all of the policy designated sites having been deployed before the end of 2025. As has previously been discussed, none of the sites will be generating power by this deadline.

Last month, and a decade after the Climate Change Act 2008 was passed, Government officially instructed the Committee on Climate Change (CCC) to advise on whether the UK should set a target for net zero emissions. It had been thought that this goal would have a

⁷¹ Page 83 of the White Paper 2008

⁷² Para 2.11.3 EN-6

⁷³ According to Radioactive Waste Management Limited, available at:

<https://rwm.nda.gov.uk/publication/differences-between-2013-and-2010-derived-inventory/>

⁷⁴ Page 4 of the White Paper 2008

⁷⁵ Paragraph 3.5.1 of EN-1

target date of 2050, building on the previous goal of 80% by the same year under the Climate Change Act.

However, the wording of Energy and Clean Growth Minister, Claire Perry's letter to the CCC asks for a recommendation on what "range" of emissions should be in place by 2050 to be in line with the Paris Agreement's warming goals, opening the door for an earlier target for achieving net zero status.⁷⁶

This comes after the stark warning from the Intergovernmental Panel on Climate Change (IPCC) on the prospects of meeting the Paris Agreement's goal of keeping temperature increases below 1.5C.

The IPCC report cites models for a 1.5C pathway where by 2050 renewables account for 70-85 per cent of global power supplies⁷⁷. It also found that all scenarios would require rapid and far-reaching transitions in energy, land, urban and infrastructure, and industrial systems⁷⁸.

The IPCC also states that "*The political, economic, social and technical feasibility of solar energy, wind energy and electricity storage technologies has improved dramatically over the past few years, while that of nuclear energy and Carbon Dioxide Capture and Storage (CCS) in the electricity sector have not shown similar improvements.*"⁷⁹

It has also been reported that in the wake of the IPPC report, business leaders have called on governments to prioritise climate action and provide **more supportive policy** environments that can accelerate the phasing out of fossil fuels.⁸⁰

Withdrawing from the nuclear new build strategy would leave room for the simple, low-cost renewable technologies to come forward and much greater pace in line with the rapid industrial change required to achieve net zero status. This position is supported by the CCC, which made four key recommendations to Government in its 2018 Progress Report, the number one message being, "**Support the simple, low-cost options.**"⁸¹

The changes in climate change science over the last decade, the subsequent commitment to the Paris Agreement, the findings of the IPCC, and the pending reassessment of the UK's net zero targets by the CCC, represent a dramatic shift in circumstances since the NPS in its attitude to tackling climate change.

It would be irrational and irresponsible to attribute any weight to an NPS with such drastically out of date climate change aspirations.

⁷⁶Letter from Clare Perry to CCC dated 15 October 2018, available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/748489/CCC_commission_for_Paris_Advice - Scot_UK.pdf

⁷⁷ <https://www.businessgreen.com/bg/news/3064052/ipcc-limiting-warming-to-15c-requires-a-net-zero-global-economy-by-2050>

⁷⁸ *Ibid.*

⁷⁹ Para 4.3.1 https://www.ipcc.ch/pdf/special-reports/sr15/sr15_draft.pdf

⁸⁰ <https://www.businessgreen.com/bg/analysis/3064027/ipcc-15c-report-the-green-economy-reacts>

⁸¹ Available at: <https://www.theccc.org.uk/publication/reducing-uk-emissions-2018-progress-report-to-parliament/>

Conclusion

The Applicant places considerable and misleading reliance on the nuclear NPS, and the 'significant weight' that it should be given in the Inspectorate's determination of the Application. This is wrong in law.

The Application fails to acknowledge the dramatic change of circumstances which have occurred in the years following the designation of the NPS and the White Paper on which it is based.

Relevant changes of circumstance invalidate the ability of the Inspectorate to attach 'significant weight' to the NPS in the determination of the Application under section 105(2) of the PA 2008.

These overwhelming changes, as set out in detail in this WR (at paragraphs 2 (a) – (f)), demonstrate that attributing significant weight to the NPS (comprised of EN-1 and EN-6) in determining the Application for Wylfa Newydd would be irrational, unreasonable and unlawful.

To attach significant weight would be to go outside of the statutory parameters and result in vigorous legal challenge.

Yours faithfully,

A large black rectangular redaction box covering a signature.

Harrison Grant