

From: [REDACTED]
To: [Wylfa Newydd](#)
Subject: EN010007: ExA Deadline 3 comment - jc181218
Date: 18 December 2018 11:35:22
Attachments: [EN010007 ExA Deadline 3 comment DCO evid-deficit & dDCO amend jc181218.docx](#)

FAO

Wylfa Newydd Case Team
Infrastructure Planning Inspectorate

Dear Madam/Sir

Please find attached Deadline 3 Comment.

Summary

- 3.1 Equality of arms: structural representation disadvantage
 - 3.1.1 Examination documentation avalanche, post Examination commencement
- 3.2 More apparent DCO Evidence deficit:
 - 3.2.1 APP-133 and APP-141: Wylfa Magnox Substation site meteorological mast
 - 3.2.2 Wylfa Magnox Station site tidal and storm surge data
 - 3.2.3 REP2-216 Local Impacts Report: Nuclear emergency preparedness
 - 3.2.4 REP2-354: physically impossible or extremely unlikely offsite radioactive contamination
 - 3.2.5 REP2-101: Contingency plans for no replacement reactor at the Wylfa site
 - 3.2.6 REP2-041: Draft SoCG between the Applicant and IACC
 - 3.2.7 APP-401 and REP2-046: Assessment of effects of WNDA ground dewatering (during construction) on Wylfa Magnox reactor buildings and radioactive waste containing structures
- 3.3 REP2-020: draft Development Consent Order (Rev. 3)
 - 3.3.1 Unwarranted wide definition of "maintain", under Article 2(1)

signed,

J Chanay

Summaries of earlier comment

RR-087

1. Representation resource capacity: gross asymmetry
2. Devolved land use planning jurisdiction in Wales: deletions arguably warranted from proposed Grant of DCO
 - Proposed Spent Fuel Storage Facility (SFSF: Building 201) and Intermediate Level Waste Storage Facility (ILWSF: Building 202), respectively (PINS APP-014).
 - Site Preparation and Clearance (SPC): Planning Application 38C310F/EIA/ECON
3. Disclosure warranted from Statutory Consultees

REP1-038

1. Apparent DCO Evidence deficit:
 - 1.1 Any Annex A list photographs taken by the ExA Panel, USI 22.10.2018
 - 1.2 APP-133;
 - 1.3 APP-143;
 - 1.4 APP-233 radioactive waste management; and
 - 1.5 APP-233 radioactive waste interim storage DCO Work No 1D planning jurisdiction.
2. Apparent DCO public consultation deficit:
 - 2.1 the principal geographical area;
 - 2.2 APP-233 radioactive waste management;
 - 2.3 APP-234 consequences and impact of nuclear accidents in North Wales; and,
 - 2.4 APP-129 AONB and North Anglesey Heritage Coast obliteration at Porth-y-pistyll.
3. Incomprehensible terminology:
seismology; and,
windroses.
4. AS-010 embedded mitigation

REP2-305

- 2.1 Lack of equality of arms
- 2.2 Further apparent DCO Evidence deficit:
 - 2.2.1 APP-406, RR-115 and EV-010: Relevant UK Government policy on Wylfa Newydd deployability
 - 2.2.2 REP1-005 and REP1-006: DCO tailpieces
 - 2.2.3 Section 106 commitments and site restoration contingency: the Applicant's financial soundness
 - 2.2.4 APP-067, APP-088, APP-095, APP-096 and APP-122: Economic impacts
 - 2.2.5 Local economic impact opportunity cost of public finance: significant change in material fact
 - 2.2.6 REP1-005 dDCO Schedule 3 addendum: real time logging of all species recording, monitoring and reporting data with the Local Environmental Records Centre in North Wales
- 2.3 Further apparent public consultation deficit:
 - 2.3.1 Section 106 agreements
- 2.4 Devolved jurisdiction issues
 - 2.4.1 REP1-005 and REP1-006: dDCO Work No. 1D Interim Storage Facilities for Intermediate Level Radioactive Waste and Spent Fuel, respectively
 - 2.4.2 REP1-005 and REP1-006: Other potential DCO transgression on devolved jurisdiction?

More on evidence deficit and dDCO amendment

EN010007 ExA Deadline 3 Comment

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

Summary

- 3.1 Equality of arms: structural disadvantage
 - 3.1.1 Examination documents avalanche, post Examination commencement
 - 3.2 More apparent DCO Evidence deficit:
 - 3.2.1 APP-133 and APP-141: Wylfa Magnox Electricity Substation site meteorological mast
 - 3.2.2 Wylfa Magnox Station site tidal and storm surge data
 - 3.2.3 REP2-216 Local Impacts Report: Nuclear emergency preparedness
 - 3.2.4 REP2-354: physically impossible or extremely unlikely offsite radioactive contamination
 - 3.2.5 REP2-101: Contingency plans for no replacement reactor at the Wylfa site
 - 3.2.6 REP2-041: Draft SoCG between the Applicant and IACC
 - 3.2.7 APP-401 and REP2-046: Assessment of effects of WNDA ground dewatering (during construction) on Wylfa Magnox reactor buildings and radioactive waste containing structures
 - 3.3 REP2-020: draft Development Consent Order (Rev. 3)
 - 3.3.1 Unwarranted wide definition of “maintain”, under Article 2(1)
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3.1 Equality of arms: structural disadvantage

3.1.1 Examination documents avalanche, post Examination commencement

- 3.1.1.1 According to the Examination Library, between 3rd December 2018 and 14th December 2018, the host local authority (a statutory consultee on the instant Grant of DCO Examination), introduced 160 new documents under Deadline 2.
- 3.1.1.2 Further, the Applicant submitted 59 supplementary documents under Deadline 2, adding to the 17 new documents produced under Deadline 1. These come on top of a very large initial tranche at the DCO Application stage: para.2.1.2 in REP2-305 referring.
- 3.1.1.3 This avalanche, under a very short statutory Examination Timetable, hardly commends due engagement and reasonable opportunity for Interested Parties to appraise properly the Examination evidence.
- 3.1.1.4 The timing of availability of the avalanche documents is capable of dispelling objective notion of fairness in the Examination process. The setting of a start date for an Examination appears

to be entirely in the ExA's gift. As, indeed, is the manner in which Examination proceedings may be conducted. Under the Planning Act 2008, a Preliminary Meeting under section 88 sets the six-month conclusion clock ticking for an Examination (section 98, referring). Naturally, a question obviously arises. What hindered the ExA in this particular instance from liaising and co-ordinating with the host local authority (as well as other statutory consultees) on respective timescales for completion and availability of documents, before determining a date for the section 88 Meeting? What statutory provision prevented the ExA, prior to setting the section 88 Meeting date, from adopting a reasonably fair minded approach, say for example, by,

- a. issuing an ExQ1 at the outset;
 - b. awaiting the availability of the bulk of Examination documents from the host local authority and other statutory consultees;
 - c. awaiting the availability of the bulk of supplementary Examination documents from the Applicant; and,
 - d. allowing all Interested Parties at least three months' grace following availability of the evidence above, as reasonable opportunity for appraising the evidence in question?
- 3.1.1.5 On the face of it, the avalanche creates an impression the ExA may have been a tad too hasty in alighting on the date for a section 88 Meeting. Might the needs of the Planning Inspectorate, the Applicant, the statutory Examination time limit, and public interest fairness have been balanced more judiciously? Unless, that is, should it be the case that reasonable expectations of Interested Parties are wholly an irrelevance for the ExA.

3.2 More apparent DCO Evidence deficit

3.2.1 APP-133 and APP-141: Wylfa Magnox Electricity Substation site meteorological mast

- 3.2.1.1 According to the National Grid operator, there is apparently a meteorological mast located to the south east of the existing Electricity Substation, on the Magnox Site: para.5.4.1 in REP2-312, referring.
- 3.2.1.2 The Applicant would not appear to refer on-site meteorological data from this mast. In the absence, it is not possible to assess the degree of confidence or correlation in the meteorological data relied upon by the Applicant in APP-133 (Figure D14-1 Windrose), and APP-141 (Appendix B windroses). The data in APP-133 is generated using weather prediction modelling software (para.14.2.10, referring). The data in APP-141 relies on primary measurements taken at RAF Valley, located some 20 km south-west of the Wylfa site. As noted under section 2.6 in APP-141:

“However, due to the distance and potential localised influences of topographical/coastal effects, it may not necessarily be the case that data from RAF Valley is completely representative of those conditions more local to the development site.”

- 3.2.1.3 In that regard, the ExA are respectfully requested to require the Applicant to obtain from the Nuclear Decommissioning Authority or Magnox Limited (whoever owns, operates or maintains the mast),
- a. all on-site annual wind rose data records from 1971 to 2018, inclusive, and assess these for benchmarking the modelled data; and,
 - b. incidence of extreme weather conditions recorded on-site between 1971 and 2018, inclusive.

3.2.2 Wylfa Magnox Station site tidal and storm surge data

- 3.2.2.1 The ExA are respectfully requested further to require the Applicant to obtain from Magnox Limited and/or the Nuclear Decommissioning Authority,
- a. recorded annual tidal range data at the Wylfa site for the period 1971 to 2018, inclusive;
 - b. data on tidal surges recorded at the Wylfa site during the period 1971-2018; and,
 - c. parametric data on storm surges recorded at the Wylfa site during the period 1971-2018, inclusive.

3.2.3 REP2-216 Local Impacts Report: Nuclear emergency preparedness

- 3.2.3.1 The proposed Grant of DCO aims to authorise the Applicant to construct, operate and maintain a new NSIP Nuclear Generating Station at Wylfa. What appears to be missing from the Examination Library is a Local Impact Report addressing and reviewing the implications of, and measures deployable, in the undesirable event of a serious nuclear accident (however remote the probability) resulting in significant, or considerable, discharge of radioactive materials into the environment, across and beyond the site planning area.
- 3.2.3.2 The ExA are respectfully requested to invite the host local authority to consider rectifying the following information deficit, turning on experience to date and lessons learned from nuclear emergency planning exercises at the now defunct Magnox Wylfa Nuclear Power Station.
- a. The frequency and the findings of independent evaluation of the Wylfa Magnox Emergency Plan measures, and practice exercises, as regarding arrangements for:
 - (i) the 1.6 km planning area around the site;
 - (ii) evacuation out to 4 km;
 - (iii) off site countermeasures extending out to 15 km from the site; and,
 - (iv) arrangements for and location of shelters and iodine distribution out to approximately 15 km.
 - b. What planning is under way or proposed by the authority for extending specific emergency planning measures from 15 km to 30 km, as proposed under the Draft REPPIR 2019¹.
- 3.2.3.3 The ExA are respectfully requested likewise to require the Applicant to adduce for Examination,
- a. draft proposals for informing the public on preparedness measures deployable in the undesirable event of a serious nuclear accident, occurring during the Wylfa Newydd operating phase (however remote the probability), and resulting in significant or considerable discharge of radioactive materials into the environment; and,
 - b. the updated Wylfa Newydd Site Justification Report (incidentally, missing from the current Examination Library),
- in order for Interested Parties to appraise and comment on the Applicant's proposed emergency planning considerations as the operator of Wylfa Newydd.

¹ The DRAFT Radiation (Emergency Preparedness and Public Information) Regulations 2019. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/746573/Draft_REPPIR_regulations.pdf

3.2.4 REP2-354: physically impossible or extremely unlikely offsite radioactive contamination

- 3.2.4.1 According to the Office for Nuclear Regulation, the designer of the UKABWR (the reactor type proposed by the Applicant for Wylfa Newydd under the proposed Grant of DCO) claims that “events which could result in a severe accident with offsite contamination are either physically impossible or extremely unlikely”: Q10.6.13 in REP2-354, referring.
- 3.2.4.2 Given the proposed Grant of DCO aims to authorise the Applicant to construct, operate and maintain a new NSIP UKABWR Nuclear Generating Station at Wylfa, the ExA are respectfully requested to require the Applicant to disclose, in view of Q10.6.13 information,
- a. what variation to the prevailing Wylfa Magnox Nuclear Emergency Plan the Applicant is minded to propose for a Wylfa Newydd Nuclear Emergency Plan, and the justification; and,
 - b. the draft heads of terms for a Wylfa Newydd Nuclear Emergency Plan.

3.2.5 REP2-101: Contingency plans for no replacement reactor at the Wylfa site

- 3.2.5.1 Regarding Policy Recommendation 3 in REP2-101, the ExA are respectfully requested to invite the host local authority to inform the Examination as to:
- a. any immediate action taken by the authority in 2012;
 - b. any contingency planning reports commissioned or prepared; and,
 - c. measures the authority is prepared to implement should the Applicant’s parent corporate global entity (namely, Hitachi Limited) decide not to proceed with constructing the proposed new build nuclear power station at Wylfa², irrespective of Grant of DCO for Wylfa Newydd by the UK Secretary of State subsequent to the ExA’s concluding recommendation.

3.2.6 REP2-041: Draft SoCG between the Applicant and IACC

- 3.2.6.1 According to para.1.4.6 in REP2-041,

“The Power Station will be operational for approximately 60 years after which it will be decommissioned. The buildings will be removed from the site and all spent fuel and radioactive waste managed. The end state of the site will be agreed with the regulators.”

- 3.2.6.2 On the face of it, this statement stands as a paean to economising on truth, and in the process encapsulating misrepresentation of material fact.
- 3.2.6.3 The parties should be required to set the record straight. If the Power Station buildings will be removed from the site after 60 years, what will happen thereafter to the buildings containing all the spent fuel and intermediate level radioactive waste?

² Gosden E (2018) Hitachi may drop Welsh nuclear plant. *The Times*, 11 December 2018.

‘Shares in Hitachi rose by as much as 2.9 per cent at one point after Japanese media reported that it was considering abandoning work on the proposed Wylfa plant because of rising costs.

‘...

‘... Hitachi’s chairman, said last week that it was in “an extremely severe situation” as it struggled to attract outside investors.’

3.2.7 APP-401 and REP2-046: Assessment of effects of WNDA ground dewatering (during construction) on Wylfa Magnox reactor buildings and radioactive waste containing structures

- 3.2.7.1 There is no evidence in APP-401 that the Applicant has either considered or provided appropriate assessment of effects of the lowering of the water table across the WNDA, during the proposed construction of the twin UKABWRs, on the now retired Magnox reactors and buildings, including cavities and structures containing or holding post-decommissioning Magnox radioactive waste.
- 3.2.7.2 This arguably amounts to significant omission from the Applicant's environmental assessments presented to the ExA in the Application for Grant of DCO for Wylfa Newydd.
- 3.2.7.3 The dewatering activity will be carried out by the Applicant. In REP2-046, the Applicant accepts there exists real risk of lateral forces (amongst other effects) generated by its dewatering activity impinging on Magnox structures: SoCG ID MAG27, in Table 3-1, referring. The Applicant informs it is liaising with Magnox Limited to understand potential impact and any need for mitigation. Clearly, the Applicant's activity under the proposed Grant of DCO would be the causative agent of any impact on Magnox structures.
- 3.2.7.4 It would appear imperative for the ExA to require the Applicant to adduce as a matter of urgency full environmental assessment of the effects of dewatering of the WNDA site, during the construction of the proposed NSIP Wylfa Newydd Nuclear Generating Station, on the safety and integrity of the now closed Magnox reactors, and all residual cavities and structures used for (or intended to be used for) storing post-decommissioning intermediate level radioactive waste.

3.3 REP2-020: draft Development Consent Order (Rev. 3)

3.3.1 Unwarranted wide definition of “maintain”, under Article 2(1)

- 3.3.1.1 The definition of “maintain” under Article 2 (1) of the proposed Grant of DCO is excessively wide and warrants amending, as a matter of sound development consents governance. In particular, the following activity terms should be deleted:

adjust any part of the authorised development;
alter any part of the authorised development;
improve any part of the authorised development;
landscape any part of the authorised development;
preserve any part of the authorised development;
remove any part of the authorised development;
reconstruct any part of the authorised development;
refurbish any part of the authorised development;
extend any part of the authorised development;
enlarge any part of the authorised development; and,
replace any part of the authorised development,

- 3.3.1.2 The inclusion of works involved under the cover of these activity terms in a Grant of DCO for Wylfa Newydd would be tantamount to granting the Applicant a blank DCO. The Applicant should be obliged to apply to the Secretary of State in respect of any such activity or variation during the Nuclear Generating Station's operating life, at the respective time. Future work under each activity is capable of having environmental effects which logically could not be amenable to proper assessment at the time of determining the relevant Decision to Grant the Applicant the desired DCO.
- 3.3.1.3 It could not be in the public interest to favour the Applicant universal authority to determine, without due and proper public scrutiny, whether or not any such work activity gives rise to any materially new or materially different environmental effects to those identified in the Environmental Statement, or vary the authorised development as described in Schedule 1 (Authorised development).