The Sizewell C Project

8.4 Planning Statement Update

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1 INTRODUCTION

1.1.1 The purpose of this partial Planning Statement Update is to provide a review of any relevant changes and developments in policy and law which have arisen since the submission of the Sizewell C Project DCO application in May 2020 and to suggest how that may affect the approach to decision making presented in the **Planning Statement** [APP-590].

1.1.2 The preparation and submission of the DCO reflected the position in relation to national policy at May 2020 (i.e. when the application was submitted). The **Planning Statement** [APP-590] provides a legislative and policy summary at **Section 1.7**, a more detailed legislative and policy context in **Chapter 3** and an assessment of the benefits of the Sizewell C Project, including in relation to need at **Section 7.2**.

1.1.3 Since the submission of the application there have been developments in national policy and in the assessment of the need for new nuclear power generation and relevant policies have been tested in the Courts. Perhaps most significantly, the Government published *the Energy White Paper – Powering our Net Zero Future* in December 2020 (Ref. 1.71) and, accompanying it, a paper which describes BEIS' analysis of the electricity system in 2050 called *Modelling 2050 -electricity system analysis December 2050* (Ref. 1.72).

1.1.4 As well as the Energy White Paper this document addresses the implications of the following documents, which have arisen since submission of the application and which may also be relevant and important:

- Updated Energy and Emissions Projections 2019 (October 2020) (Ref. 1.73)
- The Ten Point Plan for a Green Industrial Revolution (November 2020) (Ref. 1.74)
- National Infrastructure Strategy (November 2020) (Ref. 1.75)
- Response to the National Infrastructure Assessment (November 2020) (Ref. 1.76)
- The Sixth Carbon Budget: The UK's path to Net Zero (December 2020) (Ref. 1.77)

1.1.5 The update also addresses the outcome of challenges in the Courts to the DCO decision on the proposals for two gas-fired generating units at the Drax

Power Station, which have arisen since the preparation of the **Planning Statement** [APP-590], including judgements of the High Court in May 2020 (Ref. 1.78) and the Court of Appeal in January 2021 (Ref. 1.79).

1.1.6 Since the DCO application was submitted the Wylfa Newydd Nuclear Power Station DCO application has been withdrawn (in January 2021). The recommendation report of the Examining Authority (ExA) from July 2019 has subsequently been published (Ref. 1.80). Although the application will not now progress to a decision, the ExA's findings are of note (as the only such findings on a nuclear power scheme since the Hinkley Point C decision in 2013, and the only findings relating to a nuclear power scheme assessed under section 105 of the Planning Act).

1.1.7 This Planning Statement Update should be read alongside the **Planning Statement** [APP-590] and does not seek to repeat the content of the relevant sections. Where these developments have a bearing of the content of the **Planning Statement** [APP-590]**,** however, appropriate cross reference is provided and the paper makes clear where any change in approach or emphasis from that set out in the Planning Statement is necessary.

1.1.8 This report is structured as follows:

- **Section 2** - provides a review of the relevant policy related documents listed above;
- **Section 3** – provides a review of the Drax High Court and Court of Appeal judgments, and the Wylfa Newydd ExA report; and
- **Section 4** - considers the implications of the above for the application of NPS policy to the Sizewell C Project,

1.1.9 **Appendix A** provides an updated analysis of the need for new nuclear generation. The relevance of that analysis is also considered in **Section 4**.

1.1.10 **Appendix B** provides an update to the status of relevant local planning policy in relation to the Sizewell C Project following the adoption of the East Suffolk Council Suffolk Coastal Local Plan (SCLP) on 23 September 2020.

2 REVIEW OF ENERGY WHITE PAPER AND OTHER RELEVANT DOCUMENTS

2.1.1 This section provides a brief review of relevant documents and publications since the submission of the DCO application in May 2020 up to and including the publication of the Energy White Paper in December 2020 (Ref. 1.71).

2.1.2 In 2019 the UK committed to bring all greenhouse gas emissions to net zero by 2050 and brought that commitment into force through the Climate Change Act 2008 (2050 Target Amendment) Order 2019 (Ref. 1.27). The commitment was reflected in the November 2019 Conservative and Unionist Party Manifesto (Ref. 1.81) which set out a 'guarantee' of "*Reaching Net Zero by 2050 with investment in clean energy solutions and green infrastructure to reduce carbon emissions and pollution".*

2.1.3 The **Planning Statement** [APP-590] provided a review of relevant documents and publications at the time of submission including *Nuclear power in the UK 2016* (paragraph 3.6.6) (Ref. 1.22), *Building a Britain Fit for the Future November 2017* (paragraph 3.6.13) (Ref. 1.22), *2018 BEIS energy projections* (paragraph 3.6.7) (Ref. 1.23) and the *Climate Change Committee 2019 progress report* (paragraph 3.6.15) (Ref. 1.30). These documents highlighted the increasing demand for electricity, the loss of existing generating capacity and the benefits of nuclear as part of the energy mix, given its ability to deliver low carbon and reliable power at scale.

2.1.4 Publications since that time further emphasise the Government's policy commitment to net zero, the implications of the commitment to net zero for electricity demand and the importance of new nuclear as part of the UK's energy mix. The relevant documents are set out chronologically in this review to provide the context which has led to the up to date policy statement in the Energy White Paper that the Government confirms its commitment to supporting large scale nuclear projects as part of the UK's future energy mix.

a) The Government Response to the Committee on Climate Change's 2020 Progress Report to Parliament (October 2020)

2.1.5 The Government Response to the CCC 2020 Progress Report (Ref 1.84) sets the tone for the subsequent Government publications in November and the Energy White Paper in December 2020. It highlights that, in meeting net zero targets by 2050, electricity demand could double as it is used to decarbonise heat and transport and that the UK will need a substantial increase in low carbon generation and a mix of technologies to deliver a low carbon, low cost and reliable electricity system that can adapt to our needs (page 17).

2.1.6 The report states that *"regardless of the precise level of demand, we agree with the CCC's net zero report that the falling cost of wind and solar means that they are likely to provide the majority of our generating capacity in 2050"* (page 17) but recognising that *"in order to deliver a reliable system, wind and solar will need to be complemented by sources of power which are available when the wind does not blow and the sun does not shine. This will*

increasingly have to come from low carbon sources including nuclear, and biomass or gas with carbon capture and storage…" (page 18).

2.1.7 The report specifically recognises the future role of new nuclear and the challenges posed by the impending retirement of much of the UK's nuclear capacity, stating that *"nuclear power will continue to play a role in the UK's future energy mix as we transition to a low-carbon economy, including through our investments in small and advanced modular reactors. In 2019, nuclear power stations provided approximately 17% of the electricity generated in the UK. Over the next decade, many UK nuclear plants will be coming to the end of their lives at a time when the demand for low-carbon electricity is likely to increase…"* (page 19).

2.1.8 Accordingly, the report provides a conclusion at page 82 that "we agree with the CCC that the majority of low carbon generating capacity in 2050 is likely to be provided by renewable technologies but that there will still be a key role for low-carbon 'firm' (i.e. not weather dependent) power, such as nuclear and gas CCUS, to decarbonise while maintaining security of supply and keeping costs low".

b) The Ten Point Plan for a Green Industrial Revolution (November 2020)

2.1.9 Government published '*The Ten Point Plan for a Green Revolution*' (Ref.1.74) in November 2020 to set out actions for the next ten years necessary to accelerate the path to net zero and, by doing so, support the economic recovery from the impact of coronavirus. The scale of the Plan's ambition would be hard to overstate. The Prime Minister's foreword explains that the Plan will mobilise £22 billion of government investment, and potentially three times as much from the private sector, to create and support up to 250,000 green jobs. The UK is intended to become the leading country in the world for green technology and finance… "*laying the foundations for decades of economic growth by delivering zero emissions*".

2.1.10 As part of this, Point 3 of the Ten Point Plan proposes "Delivering New and Advanced Nuclear Power". The Plan explains (at page 12) that:

- "*our electricity system will grow and could double in size by 2050 as demand for low-carbon electricity in sectors like heat and transport rises. Nuclear power provides a reliable source of low-carbon electricity"*;
- Government is *"pursuing large-scale nuclear"* as well as future technologies through investment in SMRs and AMRs; and

- New nuclear power will both produce low carbon power and create jobs and growth across the UK.

2.1.11 The Ten Point Plan sets out the 'policy impacts' of each point. For nuclear this identifies the *"key role for nuclear in delivering deep decarbonisation of our electricity system, alongside renewables and other technologies"* and *"high-skills jobs created and sustained across the UK"* (page 13).

2.1.12 The Ten Point Plan places further emphasis on the benefits of construction employment associated with new nuclear projects, using Hinkley Point C (HPC) as its case study. HPC is credited with creating around 25,000 employment opportunities through construction, 900 jobs in operation and the Plan reports that £1.67 billion has already been spent with companies in the South West.

c) National Infrastructure Strategy (November 2020)

2.1.13 Shortly after the Ten Point Plan, Government published the 'National Infrastructure Strategy – Fairer, faster, greener' (NIS) (Ref.1.75). The Strategy identifies the criticality of infrastructure and focuses on how infrastructure can support economic recovery from the impact of the pandemic and explains the Government's future ambitions for the UK's infrastructure networks.

2.1.14 The NIS is clear that investment in infrastructure is fundamental to delivering net zero emissions by 2050. It states that: *"to achieve net zero by 2050, the power system will need to be virtually carbon free and significantly larger to cope with the additional demand from electrification in transport, heating and some industrial processes. This expanded system will require increased investments in network infrastructure, sources of flexibility, such as interconnection, demand response and storage and enough low carbon generation capacity to provide the vast majority of the UK's electricity needs"* (page 50).

2.1.15 The NIS notes that *"the bulk of this generation needed by 2050 will likely be provided by low cost renewables. However, given their intermittent nature there will also be a requirement for more reliable sources of power in the future energy provision of the UK. In particular, power generated from nuclear or power stations that burn hydrogen, or gas with carbon capture and storage"* (page 50).

2.1.16 At page 52, the NIS recognises the important role of nuclear in UK power generation as a *"proven, value-for-money source of reliable low carbon power which can complement renewables".* The NIS confirms that

government is pursuing large scale nuclear projects subject to clear value for money for both consumers and taxpayers and all relevant approvals. It states that further details would follow in the Energy White Paper.

2.1.17 The NIS notes that Government consulted on a nuclear Regulated Asset Base (RAB) funding model and is continuing to consider the role of government finance in construction (page 51).

d) Response to the National Infrastructure Assessment (November 2020)

2.1.18 The National Infrastructure Commission (NIC) published its National Infrastructure Assessment (NIA) in October 2018. Alongside the NIS, Government published its response to the NIA recommendations (Ref.1.76).

2.1.19 The document provides a direct response to the recommendation of the NIA that the Government should not agree support for more than one nuclear power station beyond Hinkley Point C, before 2025. The response states that *"government agrees with the NIC regarding the importance of developing a flexible electricity system and agrees there is a significant role of renewable generation in delivering a low cost, stable and low carbon electricity system"* (paragraph 1.49).

2.1.20 However, the response then notes that *"since the NIC assessment was published, the Government has legislated for a target of net zero greenhouse gas emissions by 2050. This is likely to result in a significant increase in electricity demand and require the power sector to reach low levels of carbon emissions. In turn, these factors further affect electricity system requirements to decarbonise at lowest cost, including the necessary sources of generation"* (paragraph 1.51).

2.1.21 The response states that, as a result, *"it is important to maintain options by pursuing additional large-scale nuclear projects subject to clear value for money for both consumers and taxpayers and all relevant approvals"* (para 1.52). Again, further details are promised in the Energy White Paper.

e) The Sixth Carbon Budget: The UK's path to Net Zero (December 2020)

2.1.22 As set out in the Planning Statement (paragraph 3.6.15) the Committee on Climate Change (CCC) report *Reducing UK Emissions – 2019 Progress Report to Parliament* (Ref. 1.30) recognised the need for nuclear power as part of a balanced energy mix alongside renewables, requiring investment to achieve the scale of deployment required by 2050.

2.1.23 In December 2020, the CCC published The Sixth Carbon Budget: The UK's path to Net Zero (Ref. 1.77) which sets its recommendations for the UK's sixth carbon budget for the period 2033 to 2037 (the first five carbon budgets covering the period 2008 to 2032). This was the first carbon budget set since the Government's commitment to net zero by 2050 and it advises that emissions will have to fall more quickly than required in the existing carbon budgets.

2.1.24 The CCC report uses scenarios rather than recommendations (exploring the actions required in order to reduce UK emissions to Net Zero by 2050 at the latest) to identify a 'Balanced Net Zero Pathway' which would meet the objectives of the sixth budget. In the Balanced Net Zero Pathway low carbon share (including new nuclear) increases from 50% now to 100% by 2035 (i.e. the power sector reaches zero emissions by 2035 – see page 26) thereby decarbonising electricity generation entirely. The key features of this scenario are:

- **Increasing demand for electricity** – this *"reflects increasing electrification of the economy"* and a doubling in demand from around 300TWh to 610TWh by 2050 (page 134) although the report also suggests that demand could even treble (page 25). The report predicts that demand will rise by 50% to 460TWh by 2035 (page 25 and 134).

- **A more flexible electricity system** - through storage, use of surplus electricity and interconnectors.

- **Decreasing carbon intensity of electricity generation** – by phasing out unabated fossil fuel generation by 2035 and increasing variable renewables to 80% of generation by 2050 supported by dispatchable low carbon generation and new nuclear. This preferred scenario would see new nuclear projects restore nuclear generation to current levels by 2035 despite the retirement of existing nuclear plants in the 2020s, reaching 10GW of total nuclear capacity by 2035 with 8GW of new-build capacity (page 135).

2.1.25 This is consistent with BEIS modelling[1] which identifies two 'net zero scenarios' (explained in Appendix A of this document) which also show that new build nuclear must replace retiring capacity by 2035. The BEIS modelling projects the need for between 20-30GW of new nuclear new build capacity by 2050.

[1] (Annex O: Net Zero and the power sector scenarios (December 2020) (Ref. 1.82)

f) Energy White Paper – Powering our Net Zero Future (December 2020)

2.1.26 The foreword to the Energy White Paper recognises that the Government has set a world-leading net zero target but that simply setting the target is not enough – it needs to be achieved because failure to do so would have catastrophic consequences. New nuclear is confirmed to have an important role to play.

Key messages for new nuclear generation

2.1.27 Chapter 2 specifically addresses 'Power' and recognises that:

> *"Electricity is a key enabler for the transition away from fossil fuels and decarbonising the economy cost effectively by 2050".*

2.1.28 The Energy White Paper notes that all nuclear capacity with the exception of Sizewell B and Hinkley Point C (which is under construction and due to deploy in 2025) will have stopped generating by the end of 2030 (page 41). Government has also committed to ending coal as part of the electricity mix by no later 2025.

2.1.29 The Energy White Paper notes that, at the same time as capacity is being retired, electricity demand will significantly increase. It reports therefore that: "*while retiring capacity will need to be replaced to keep pace with existing levels of demand, our modelling suggests that overall demand could double out to 2050. This is because of the electrification of cars and vans and the increased use of clean electricity replacing gas for heating. As a result, electricity could provide more than half of final energy demand in 2050, up from 17 per cent in 2019"* (page 41).

2.1.30 **Figure 3.2** of the White Paper sets out the basis for the prediction of doubling demand by 2050, referring to electricity demand in different 'net zero scenarios', identified through BEIS modelling, which suggest electricity demand could increase by 2050 to between 575TWh and 672TWh from around 300TWh in 2020 (this update addresses this modelling in more detail at Appendix A).

2.1.31 At page 42 the Energy White Paper confirms that *"this would require a four-fold increase in clean electricity generation with the decarbonisation of electricity increasingly underpinning the delivery of our net zero target"*.

2.1.32 The Energy White Paper states that the Government is not planning for a specific technology solution (page 42), but it sets out the following for nuclear:

- a low-cost net zero system is likely to be composed predominantly of wind and solar, but renewable technologies need to be complemented by other reliable technologies including nuclear (page 43)
- nuclear power is an important source of reliable clean electricity which is an energy dense technology, providing large volumes of power from very little land area and can reduce system costs at low levels of emissions (page 48)
- analysis suggests additional nuclear power beyond Hinkley Point C will be needed in a low-cost 2050 energy system of very low emissions and that "*we must be ready for this*" (page 48)
- **Figure 3.4** (page 44) presents two illustrative 2050 electricity generation mixes which show how the system could meet a doubling of demand, while reducing emissions and at low cost. *Both "serve to emphasise how much additional generation capacity we will need to build and how much electricity it produces to satisfy high levels of demand*". Both involve a significant increase in nuclear generation by 2050 compared to today's levels. Nuclear is illustrated with two or three times current (2019) capacity.
- the nuclear sector makes a significant contribution to the UK economy (around £7billion GVA in 2016) (page 56) and particularly delivers economic growth and jobs in regional locations. It states that *"the nuclear industry currently employs around 60,000 people. Building, operating and decommissioning our nuclear assets takes place in some of the most remote areas of the UK. Developing the domestic supply chain for the sector has the potential to transform the prosperity of these regions. It provides high-value and skilled employment opportunities, unlocking investment to support infrastructure projects and growing manufacturing and industrial capability"* (page 56).

2.1.33 This is confirmed on page 48 of the White Paper, which sets out the employment benefits of large scale new nuclear plants and advises that the Government remains open to further projects, if the industry is able to reduce costs and demonstrate timely delivery. The text on page 49 confirms that government expects this to be the case and is working with the sector for this purpose.

2.1.34 The Energy White Paper progresses this analysis into policy commitments in relation to large scale nuclear. This includes a key commitment (page 16 and page 48) of:

"Aiming to bring at least one largescale nuclear project to the point of Final Investment Decision by the end of this Parliament, subject to clear value for money and all relevant approvals."

2.1.35 At the same time as publishing the Energy White Paper, the Government confirmed that it was to enter into negotiations with EDF in relation to the Sizewell C project as it considers options to enable investment in at least one nuclear power station by the end of this Parliament as committed in the Energy White Paper.

2.1.36 A BEIS press release on 14 December 2020[2] stated that *"this is the next step in considering the Sizewell C project, and negotiations will be subject to reaching a value for money deal and all other relevant approvals, before any final decision is taken on whether to proceed. The successful conclusion of these negotiations will be subject to thorough scrutiny and needs to satisfy the government's robust legal, regulatory and national security requirements".* BEIS also specifically noted that the project could create thousands of new jobs during construction and operation.

2.1.37 The Energy White Paper also supports advanced nuclear innovation alongside support for large scale nuclear projects.

Key messages for policy

2.1.38 As well as demonstrating the Government's clear commitment to progressing large scale nuclear projects as part of the roadmap to net zero, the Energy White Paper provides some further guidance on the application of NPS policy.

2.1.39 The Energy White Paper (page 55) sets out further matters of importance for this examination; particularly that:

- the suite of energy NPSs will be reviewed, to ensure they reflect the policies in the White Paper, with an aim to designate updated NPS by the end of 2021[3];

[2] https://www.gov.uk/government/news/government-sets-out-plans-for-clean-energy-system-and-green-jobs-boom-to-build-back-greener

[3] In April 2021 BEIS requested input from statutory and relevant technical experts on the scope of the AoS and approach to the HRA with responses due by 6 May 2021

- the Energy White Paper *"shows that the need for the energy infrastructure set out in energy NPS remains, except in the case of coal-fired generation";*
- while the NPS review is undertaken "*the current suite of NPS remain relevant government policy and have effect for the purposes of the Planning Act 2008. They will, therefore, continue to provide a proper basis on which the Planning Inspectorate can examine, and the Secretary of State can make decisions on, applications for development consent"; and*
- *"nothing in this white paper should be construed as setting a limit on the number of development consent orders which may be granted for any type of generating infrastructure set out in the energy NPS".*

2.1.40 The implications of these statements (in relation to the position set out in the **Planning Statement** [APP-590]) are considered in **Section 4** of this document.

g) Summary

2.1.41 Relevant government publications and policy statements since the submission of the DCO application reinforce the need for significant increases in electrification in order to meet net zero by 2050 and make clear the crucial role that low-carbon technologies have to play in supporting intermittent renewables in achieving this at low cost.

2.1.42 This is translated into specific support from government for new large scale nuclear, including at least one large scale nuclear project to the point of FID by 2024. BEIS confirmed, at the same time as publishing this commitment in the Energy White Paper, that it was to enter into negotiations with EDF in relation to the Sizewell C project.

2.1.43 The passage of time since the 2011 suite of Energy NPS has served to increase the need and demand for low carbon energy from new nuclear at the same time that substantial existing capacity is being retired. In this context, it is unsurprising that government policy has restated its support for new nuclear in the clearest, up to date terms. The effect is that the strength of the need for and policy support for new nuclear set out in the Planning Statement is reinforced.

2.1.44 The extent to which this affects the decision making framework in this case is considered in **Section 4**.

2.1.45 Appendix A of this update provides more detail on the BEIS modelling which has informed the Energy White Paper and considers the consequences of that evidence in the context of the 'need' case set in the Planning Statement.

3 RELEVANT DECISIONS / JUDGEMENTS

3.1.1 This section provides an overview of the High Court and subsequent Court of Appeal judgements relating to the "Drax Re-power Project" in May 2020 and January 2021 respectively. Those judgements are relevant because they have directly considered the weight and effect of the Energy NPS, and the approach to be taken to their application having regard to changes in circumstance since their publication.

3.1.2 This section also considers the conclusions of the Examining Authority in their report on the Wylfa Newydd nuclear power station DCO application following the publication of their recommendation report (from July 2019) in February 2021 after the formal withdrawal of the application by Horizon Nuclear Power.

a) The Drax judgements

3.1.3 In considering the role of NPS EN-1 and EN-6 (in relation to nuclear) in establishing an urgent need for nuclear power, the **Planning Statement** [APP-590] referred to the Secretary of State's (SoS) decision on 4 October 2019 to grant development consent for the new gas fired power station at Drax (the "Drax Re-power Project).

3.1.4 Paragraph 3.6.4 of the Planning Statement referred to paragraphs 4.9 – 4.20 of the decision which confirmed the view of the SoS that the need assessment set out in NPS EN-1 is both up to date and authoritative.

3.1.5 Since then the High Court has dismissed the challenge of Client Earth to the SoS's decision (shortly after the **Planning Statement** [APP-590] was produced in May 2020) and more recently the Court of Appeal judgment in January 2021 upheld the High Court's decision. This section briefly summarises these judgements before considering their implications for the application of NPS policy for the SZC project.

i. High Court – R (Client Earth) v the Secretary of State for Business, Energy and Industrial Strategy (May 2020)

3.1.6 This summary concentrates on matters of relevance for the consideration of the Sizewell C application for development consent. This includes the interpretation of references to need in the NPSs and the correct approach to

take in considering changes in circumstance since the designation of an NPS.

3.1.7 Through its application for judicial review the claimant (Client Earth) pursued a line of argument it had advanced at the DCO examination, including particularly that the need for the project set out in the NPS was now out of date, as a number of circumstances had changed – particularly circumstances related to climate change policy and to the quantitative need for new facilities in the light of consented facilities and new projections of future need.

3.1.8 Paragraphs 26 to 31 of the High Court judgement dealt with the regime established for NSIPs through the Planning Act 2008 and the purpose of preparing and designating NPSs to establish the need for infrastructure so this issue and the merits of policy generally would not be open to challenge through subsequent development control decision-making procedures. Tracing back to the White Paper *Planning for a Sustainable Future* (Ref. 1.83) which had preceded the 2008 Act, the judgement identified Parliament's intention that an NPS would settle the need for a particular form of development, so that need would not have to be debated at planning inquiries – something which, in the past, had been the cause of significant delay. The judgement reported that *"new evidence, such as a change in circumstance since the policy was adopted, would be addressed by the Secretary of State making a revision to the policy, in so far as he or she judged that to be appropriate"* (paragraph 31).

3.1.9 Paragraphs 32 to 38 set out the statutory framework for designating an NPS (as set out in the Planning Act 2008), including the requirement for an appraisal of sustainability and strategic environmental assessment as well as consultation and parliamentary scrutiny. The Court recognised (paragraph 34) that policy in an NPS *"may determine the need for a particular infrastructure project, or development of a particular type"* and *"it may describe that need in quantitative or qualitative terms, or a mixture of the two".*

3.1.10 The judgement explained that section 6(1) of the Act obliges the Secretary of State to review an NPS whenever he or she thinks it is appropriate and under section 6 (3) and 6 (4) they must, in deciding whether to review an NPS (in full or in part), consider whether there has been a significant change in any circumstances on the basis of which the policy set out in the statement was decided (and whether the change was not anticipated at the time, and, if it had been anticipated, whether the policy would have been materially different).

3.1.11 Paragraph 38 of the judgement explained therefore that "*the 2008 Act proceeds on the legal principle that significant changes in circumstances affecting the basis for, or content of, [a NPS] may only be taken into account through the statutory process of review under section 6*." (emphasis added)

3.1.12 Paragraph 73 of the judgement refers to the "scale" and "urgency" of the need for each type of infrastructure identified at paragraph 3.1.3 of NPS EN-1 and notes that the policy does not seek to define need in quantitative terms. The judgement stated that this is consistent with the broad indications in the NPS of the potential need to double or treble generating capacity by 2050 and the unequivocal statement in paragraph 3.1.2 of NPS EN-1 that the Government does not consider it appropriate for policy to set targets or limits on different types of technology.

3.1.13 The Court found therefore (paragraph 80) that, "*apart from indicating need for a minimum amount of new capacity by 2025, the references to need in EN-1 were not expressed in quantitative terms".* Instead, the judgement stated, at paragraph 81, that EN-1 focuses on qualitative need and provides that the UK needs all types of energy infrastructure covered by the NPS in order to achieve energy security while at the same time dramatically reducing greenhouse gases. The judgement noted at paragraph 83 that different types of electricity generation with different characteristics complement each other (including the references to nuclear power as a proven technology able to provide continuous low carbon generation which will help reduce the UK's dependence on fossil fuels as stated in section 3.5 off NPS EN-1).

3.1.14 Paragraph 106 reiterated that the merits of policy set in an NPS are not open to challenge in the examination process or through the determination of a DCO. Paragraph 107 then addresses section 104 of the Planning Act which applies to decisions where an NPS has effect. It states that section 104(7) of the Act (i.e. the exception to the Secretary of State's duty to decide the application in accordance with relevant NPS where satisfied that the adverse impact of the proposed development would outweigh its benefits) cannot be used to circumvent section 104(3). So, where an NPS stated there was a need for a particular project and ruled out alternatives, it was not permissible for that subject to be considered under s104(7) even where a change of circumstances has occurred since the designation of the NPS.

3.1.15 The judgement explained at paragraph 108, *the "inability to use s. 104(7) to challenge the merits of policy in a NPS also precludes an argument that there has been a change in circumstance since the policy was designated so that reduced, or even no, weight should be given to it*". Again, the appropriate means to deal with changes of events since the policy was found to be the section 6 NPS review mechanism.

3.1.16 The judgement reinforces this later at paragraph 136, stating that the proper interpretation of a policy such as an NPS is an objective question of law and does not depend on the evidence which happens to be presented in one particular examination. In other words, the presentation of evidence to suggest any lack of quantitative need for a project for which need is established in the NPS is not a legitimate material consideration. Paragraph 137 reinforces this, stating that NPS EN-1 does not require that the need for each type of energy NSIP set out in EN-1 should be reassessed 'from time to time' in the consideration of individual NSIPs or that they are dependent on quantitative need being shown. Again, *"that approach would amount to a revision of the policy and belongs to the process of review under s.6".*

ii. Court of Appeal - R. (on the application of ClientEarth) v Secretary of State for Business, Energy and Industrial Strategy, Drax Power Limited (January 2021)

3.1.17 The Court of Appeal concluded that the SoS interpreted the relevant policies in NPS EN-1 correctly on the approach to the assessment of need (paragraphs 48 – 76) and that proposals are to be assessed on the basis that need has been demonstrated (paragraph 60). It therefore upheld the Judgment of the High Court.

3.1.18 It reiterated that there is no quantitative limit in EN-1 on the general need for the types of generating capacity within the scope of EN-1 or a specific need for any particular type (paragraph 59).

3.1.19 Paragraphs 66-67 addressed the approach to the weight to be given to the contribution a particular project makes to meeting need (NPS EN1 paragraph. 3.2.3). The Court of Appeal held that:

- Whilst substantial weight should be given to the considerations of need the weight to be attached to the contribution is not fixed.
- The decision-maker must judge what weight would be proportionate to the anticipated extent of the development's contribution to satisfying need for infrastructure of that type.
- There is no prescribed approach to that exercise, which does not have to be approached on a quantitative rather than a qualitative basis.
- It demands a predictive assessment.
- Even without there being a specific target or limit for a particular type of infrastructure in relevant NPS, it might be possible, and in some cases

appropriate, to undertake a quantitative assessment of need (but the NPS does not compel the decision maker to do so).

3.1.20 Paragraph 68 therefore states that the relevant paragraphs of the NPS are 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 EN-1, including CCR fossil fuel generation infrastructure, it ensures that the decision-maker takes a realistic, and not an exaggerated, view of the weight to be given to "considerations of need" in the particular case before him, which should be "proportionate to"* the *"actual contribution" the project is likely to make to "satisfying the need" for infrastructure of that type...".*

3.1.21 The Court found that the Secretary of State was entitled to conclude that the presumption in favour of granting consent, in paragraph 4.1.2 of EN-1, should apply (paragraph 70) and that the decision-maker should give substantial weight to the contribution of projects that satisfy need (paragraph 71). Paragraph 71 stated that "*the SoS noted that the examining authority had recommended that no weight be given to the development's contribution to meeting this need. She made it clear that she disagreed with the examining authority's approach. In her view applications for consent for energy NSIPs for which a need had been identified by the national policy statements "should be assessed on the basis that they will contribute towards meeting that need and that this should be given significant weight" (paragraph 4.18). This seems an accurate understanding of what EN-1 says".*

3.1.22 The Court of Appeal judgement also reconfirmed that section 6 of the 2008 Act represents the appropriate process to accommodate changes of circumstance after designation of an NPS and that (in accordance with section 106 of the Act) representations relating to the merits of policy in the NPS should be disregarded (paragraph 105). Section 104 (7) does not provide a means of challenging NPS policy or of anticipating a review of the policy (paragraph 105).

b) Wylfa Newydd Power Station

3.1.23 The Wylfa Newydd application for development consent was withdrawn on 27 January 2021 although the Examining Authority's (ExA's) report (dated 23 July 2019) was subsequently published in the interests of openness and transparency. The report recommended that the Secretary of State should withhold consent.

3.1.24 This update does not address the site-specific considerations in that case in detail, because they turn on the particular facts, circumstances and evidence

with which the ExA was dealing, but it is useful (as the latest ExA report on a nuclear project, and one prepared for a project being considered under section 105) to review the considerations in relation to policy and need as these are of more general application.

3.1.25 The ExA noted that, following the 2017 Written Ministerial Statement on Energy Infrastructure (the 2017 Ministerial Statement) the proposed development would fall to be considered under s105 of the PA2008 and that, where there is no relevant change to circumstances, the 2017 Ministerial Statement states that it is likely that significant weight would be given to policy in EN-1 and EN-6 and the NPSs remain important and relevant.

3.1.26 The ExA stated at para 5.5.9 that "*circumstances in relation to the generation of electricity, particularly from renewable technologies, have changed significantly since 2011 when the NPSs were produced; however, the WMS states that it is likely that significant weight would (continue) to be given to the policy in EN-1 and EN-6 so long as "there is no relevant change of circumstances". It is not the ExA's role to make policy, its role is to make recommendations within the context of existing policy. For the ExA "relevant change of circumstances" must mean changes in relation to policy, assessment criteria or the identification, in principle, of a particular site. The ExA sees no relevant change in the circumstances of (a) the need for a variety of technologies to generate low-carbon electricity, including nuclear; (b) the urgency of that task and (c) the identification of Wylfa as a potentially suitable site"* (emphasis added).

3.1.27 The ExA's conclusions on that issue reflect a similar approach to that set out by the Court in the Drax case (above). Whilst the ExA in that case did not have the benefit of the Court's judgment to guide them, their conclusions nevertheless reflected a recognition that it is not the role of an individual examination to decide whether the NPSs are up to date having regard to subsequent changes of circumstance. That is a matter exclusively for the Secretary of State to consider pursuant to section 6.

3.1.28 At 5.12.1 the ExA noted that the UK's energy needs are constantly evolving but that *"...in the ExA's opinion, what is clear is that the fundamental issues/challenges regarding provision of energy remain unchanged from when NPS-EN1 and EN-6 were adopted. Namely that the UK will continue to need energy; that demand for energy is likely to increase in the future; that this energy will need to be low carbon and that for energy security the UK is likely to require a mix of technologies and fuels".*

3.1.29 The ExA accepted that these energy needs could be met in alternative ways but these alternatives are not before the ExA and therefore do not prove that there is no need for nuclear power (para 5.12.2).

3.1.30 With regard to "urgency' the ExA found that *"there continues to be an increasing and urgent demand for low-carbon energy which, subject to policy decisions, nuclear power, albeit on a longer timescale than envisaged by the NPSs, could help to meet"* (para 5.12.3).

3.1.31 The ExA, therefore, in considering whether there was still a need for energy and new infrastructure of the type proposed, found that "*the fact that the nuclear power provision envisaged for and encouraged to be delivered by 2025, had not materialised, did not mean either the 'need' or the 'urgency' to generate, low-carbon electricity from nuclear energy were negated*" (para 22.6.2).

3.1.32 The ExA concluded that there was a clear and urgent need for new low carbon infrastructure and the application could contribute to meeting that need (para 5.6.2). Para 19.2 states *"As a direct benefit the proposal would provide a source of low carbon energy for an estimated 65-year operational life that could serve 5.5 million households. The proposed development would therefore comply with the objectives of the NPS EN-1 and would contribute to Welsh national policy objectives in relation to securing a low carbon future and providing jobs. Furthermore, it would help to deliver the wellbeing goals set out in the Wellbeing of Future Generations (Wales) Act 2015 (WBFGA). The ExA considers the need case remains an important and relevant consideration that weighs in favour of the proposed development"*

3.1.33 Having regard to the Drax decision and the approach taken by the ExA in the Wylfa recommendation report, it is now clear that it is for government, rather than individual ExAs to determine whether changes in circumstance justify revisiting the issue of need as set out in the NPS by means of a review pursuant to section 6. In the meantime, the terms of the NPS are clear and are not to be questioned in decisions on individual applications for development consent.

3.1.34 The Wylfa ExA would also not have been aware of the Energy White Paper and the confirmation it brings that the need set out in the NPS remains and that the NPSs themselves remain relevant government policy and a proper basis on which to examine nuclear NSIP applications.

4 IMPLICATIONS FOR THE APPLICATION OF NPS POLICY

4.1.1 This section of the update summarises the implications of the matters set out in the previous sections for the application of NPS policy for the Sizewell C Project.

a) NPS Policy

4.1.2 The **Planning Statement** [APP-590] addresses the policy and legislative context and approach to decision making for the Sizewell C Project having regard to the 2017 Written Statement (Ref. 1.4) at section 1.7 (paragraphs 1.7.2 – 1.79), section 3.2 (paragraphs 3.2.1 – 3.2.6), section 3.3 (paragraphs 3.3.1 – 3.3.8).

4.1.3 The subsequent judgments in the Drax case have implications for the approach set out in **Sections 3.6** and **3.8** of the **Planning Statement** [APP-590] (and summarised at paragraph 11.1.2), which address whether there has been any "change in circumstances" since the designation of the NPS (specifically in relation to need and the SSA).

4.1.4 **Section 3.9** of the **Planning Statement** [APP-590] concludes on the application of NPS police to the Sizewell C application.

4.1.5 The Drax judgements have helpfully clarified that any material change in circumstances relating to matters affecting the weight to be attached to the NPS, or the need case which it sets out, are matters not for this examination but for a review of the NPS pursuant to section 6 of the 2008 Act.

4.1.6 For the purposes of the Sizewell C Project examination, the matters summarised in **Sections 2** and **3** of this report help to address and reinforce the approach to need, and to the weight that is attached to the policy in the Energy NPSs pending their replacement with revised NPSs.

4.1.7 In relation to need, the 2017 Ministerial Statement (the relevant terms of which are set out in the **Planning Statement** [APP-590] at **Section 3.3**) reiterated the continuing need for new nuclear. In short it stated that:

- "*The assessment of need for new electricity generation carried out to support EN-1 remains valuable and continues to be relevant*";
- "*Government is confident that both EN-1 and EN-6 incorporate information, assessments and statements which will continue to be*

important and relevant for projects which will deploy after 2025, including statements concerning the need for nuclear power";

- "*new nuclear power remains key to meeting our 2050 obligations*"; and
- "*The Government believes it is important that there is a strong pipeline of new nuclear power to contribute to the UK's future energy needs*."

4.1.8 This, of course, is consistent with the Energy White Paper, which confirms (on page 55) that the suite of Energy NPS establish the need for new energy infrastructure and that *"the need for the energy infrastructure set out in the NPS remains*". Whilst the NPSs must continue to be treated as up to date and authoritative statements of Government policy on the need for new nuclear, they are now further bolstered by recent clear and unequivocal government policy statements explaining that the need assessments that the NPS are based on are themselves up to date.

4.1.9 The more recent analysis which has informed the Energy White Paper (see above and Appendix A) confirms the scale and urgency of the need.

4.1.10 The status of the NPS is most recently addressed in the Energy White Paper (on page 55), which confirms that, pending the current review of the NPS, the current suite of NPS remain relevant government policy and "have effect" for the purposes of the Planning Act 2008.

4.1.11 The 2017 Ministerial Statement made clear that, even if EN-6 is considered not to have effect in relation to a particular application, the Secretary of State would be required, under Section 105 of the Act to have regard to the content of EN-1 and EN-6, unless they had been suspended or revoked.

4.1.12 The Energy White Paper helpfully establishes that the current NPS *"will continue to provide a proper basis on which the Planning Inspectorate can examine and the Secretary of State can make decisions on applications for development consent."* (Energy White Paper page 55).

4.1.13 This review reinforces the position taken in the **Planning Statement** [APP-590]. The Secretary of State has indicated that the decision on an application such as this now falls to be taken under the terms of Section 105 of the 2008 Act. For the purposes of such a decision, the NPSs are important and relevant considerations, and significant weight should be given to them. The need case set out in the NPSs are to be treated as authoritative and up to date statements of Government policy. NPS EN-1 and EN-6 continue to provide the appropriate policy tests and guidance for the examination and determination of new nuclear DCO applications.

4.1.14 In accordance with Section 106 of the Act, the merits of policy in the NPSs are matters exclusively to be dealt with through a review of the NPSs by the Secretary of State under section 6 of the Act and not matters for the decision making process on individual DCO applications. This applies equally to decisions taken under s104 or s105 of the Act.

b) Contribution of the Sizewell C Project in meeting the need for nuclear

4.1.15 The Courts have found that, whilst there is no compulsion to undertake a quantitative assessment of need it may be possible and appropriate to do so in some cases. NPS EN-1 establishes (at paragraph 3.2.3) that the decision maker should give "*substantial weight to considerations of need*" and that the weight to be attached to the consideration of need in any given case should be proportionate to the anticipated extent of a project's actual contribution to satisfying the need for a particular type of infrastructure.

4.1.16 It is therefore useful to consider recent BEIS modelling[4] in more detail in order to understand the extent of need that exists for new nuclear generation and then to consider what contribution to that need would be made by the Sizewell C proposals. This analysis is provided at Appendix A.

4.1.17 The analysis shows that BEIS modelling of the energy requirements necessary to achieve net zero in 2050 (whether in a high or low demand scenario) rely upon the construction at least of the new build capacity of Hinkley Point C and Sizewell C (before 2035)[5] and an increase of 3 or 4 times that nuclear capacity by 2050. Hinkley Point C is under construction but Sizewell C provides the only realistic additional opportunity to meet that forecast requirement.

[4] In *Annex O: Net Zero and the power sector scenarios (December 2020)* (Ref 1.82) and *Modelling 2050: electricity system analysis (December 2020)* (Ref 1.72)
[5] Which is also supported by the CCC analysis in the *Sixth Carbon Budget (December 2020)* (Ref. 1.77)

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APPENDIX A: THE NEED FOR NUCLEAR

A.1.1 The urgent need for nuclear power is addressed at **Section 7.2** of the **Planning Statement** [APP-590].

A.1.2 The need case set out in the NPSs is now further strengthened and underlined by the UK Government commitment to net zero by 2050. The analysis informing the NPS was predicated on the former commitment to cut greenhouse gas emissions by at least 80% by 2050 compared to 1990 levels. The NPS identified this as a major challenge requiring major investment in new technologies and the electrification of much of our heating, industry and transport, predicting that electricity consumption could double by 2050.

A.1.3 There is now a substantial amount of contemporary analysis that supports this and recognises the large scale increase in electricity demand required to meet net zero objectives and the need for nuclear as part of the energy mix to provide reliable low carbon energy to complement intermittent renewables sources. Section 2 of this update provides a review of the relevant documents and policies published since the submission of the Sizewell C Project application for development consent, and therefore updates the position set out at **Section 7.2** of the **Planning Statement** [APP-590].

A.1.4 This has culminated in the specific recognition in the Energy White Paper (EWP) that (as predicted in the NPS) electricity demand could double by 2050 (page 41) and that this would require a four-fold increase in clean electricity generation to meet net zero (page 42). The EWP is clear that renewable technologies need to be complemented by other reliable technologies including nuclear (page 43) which provides an important source of reliable clean electricity (page 48).

A.1.5 The Energy White Paper progresses this support into a firm commitment to at least one large scale nuclear station reaching FID by the end of this Parliament (i.e. the end of 2024). If this is to be achieved, the only realistic option is Sizewell C. The Wylfa Newydd DCO application has been withdrawn and no other projects have progressed to the application stage.

A.1.6 Government specifically confirmed in a press release published alongside the Energy White Paper that negotiations were being progressed with EDF in relation to the Sizewell C Project.

A.1.7 Neither the reference to at least one large scale nuclear generating station nor the terms of the NPS, however, set a limit on the number of consents for any particular type of generating infrastructure.

A.1.8 Modelling prepared by BEIS which has informed the preparation of the Energy White Paper puts in context the scale of additional electricity

generating capacity that is required in order to achieve net zero and the contribution that nuclear will have to play.

A.1.9 The Courts have found that whilst there is no compulsion to undertake a quantitative assessment of need when assessing the weight to be given to the contribution a particular project will make in meeting that need, it may be possible and appropriate to do so in some cases. NPS EN-1 establishes (at paragraph 3.2.3) that the decision maker should give "*substantial weight to considerations of need*" and that the weight to be attached to the consideration of need in any given case should be proportionate to the anticipated extent of a project's actual contribution to satisfying the need for a particular type of infrastructure.

A.1.10 It is therefore useful to consider recent BEIS modelling in more detail in order to understand the extent of need that exists for new nuclear generation and then to consider what contribution to that need would be made by the Sizewell C proposals.

a) Updated energy and emissions projections 2019 (BEIS) (October 2020)

A.1.11 In considering increasing future demand for electricity, the Planning Statement (at paragraph 3.6.7) referred to the previous 2018 energy and emissions (EEP) BEIS projections (Ref. 1.23) (covering greenhouse gas emissions and energy demand), which predicted a steady increase in Final Energy Demand (FED) for electricity. The updated EEP2019 (Ref. 1.73) covers the period 2019 to 2040 and the projection figures for FED for electricity remain approximately the same as the 2018 projections reported in the **Planning Statement** [APP-590].

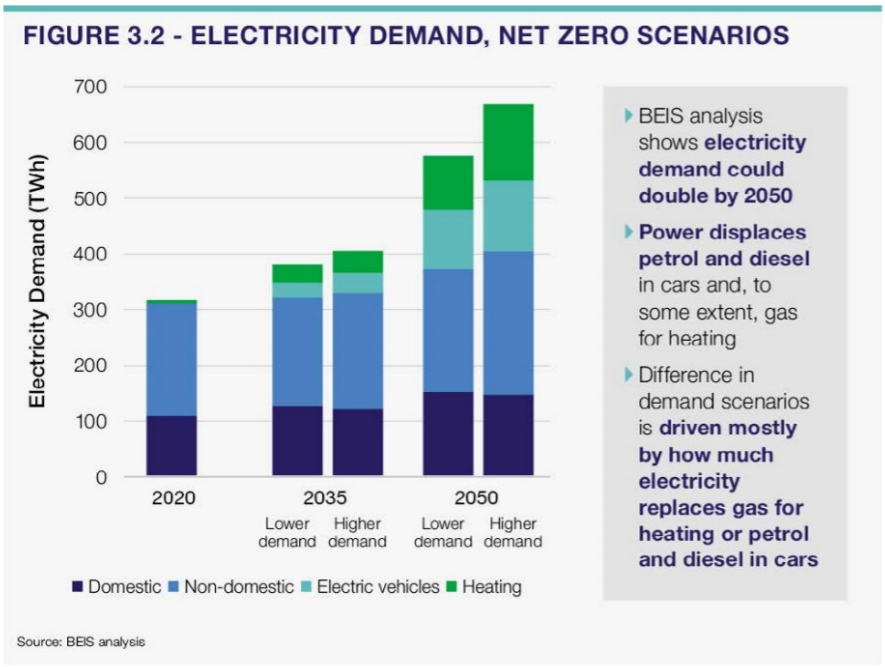
A.1.12 It is important to note, however, that the figures in the EEP (the "reference scenario") are projections based on existing policies and only go up to 2040. As such, they are not consistent with the 2050 net zero target or reflective of predictions of the necessary increase in future electricity generation.

A.1.13 A separate *Annex O: Net Zero and the power sector scenarios* (Ref. 1.82) was subsequently published by BEIS in December 2020. It shows two illustrative net zero electricity demand and generation scenarios which, unlike the projections in EEP2019, go beyond what could be expected to happen under current policies. The key headlines are that:

- BEIS modelling identifies two illustrative power sector demand scenarios that would support reaching net zero (with 2050 power sector demands of between 575TWh and 672TWh)[6]. To put this into context,

[6] Net Zero Lower demand and Net Zero Higher demand - as shown at Table 1 of Annex O (Power sector demand levels consistent with meeting net zero across the whole economy)

the total electricity supplied by UK generation sources and imports is currently around 300TWh[7]. These scenarios (Net Zero Higher demand and Net Zero Lower demand) are shown in **Figure 3.2** of the Energy White Paper:



Source: Energy White Paper Figure 3.2 (page 42)[8]

- Two different balanced technology mixes for the deployment of primary low carbon technologies in 2050 are examined, both of which include nuclear alongside gas with carbon capture utilisation and storage (CCUS), wind and solar[9]. Hydrogen fired generation is not included in these scenarios due to uncertainties over potential timing. These mixes were within the 10% lowest total system costs for the power sector to contribute to the decarbonisation levels needed for Net Zero.

- Under either scenario nuclear generation would rise above 2020 levels by 2035 (taking into account existing plants closing and being replaced by new nuclear generation). This would involve around 8GW of new

[7] Annex O supplementary data: Major power producers' generation by source (Net Zero scenarios in Annex G format)

[8] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945899/201216_BEIS_EWP_Command_Paper_Accessible.pdf

[9] The level of low carbon capacities in 2050 assumed are shown at Table 2 (2050 Capacities in GW used in the scenarios)

build nuclear capacity by 2035[10] (current installed generating capacity is approximately 9.4GW[11] but all existing nuclear power stations other than Sizewell B are due to have stopped generation by the end of 2030).

- By 2050 the two net zero scenarios require substantial deployment of most technologies compared to the "reference scenario". This includes 10-20GW more nuclear (than the reference scenario) rising to a total generation capacity of between 20-30GW[12] (to achieve nuclear generation of between 160TWh and 240TWh for the Net Zero Lower and Higher demand scenarios respectively).

A.1.14 These scenarios are not government targets or policy (the BEIS analysis notes that 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 i.e. substantial additional deployment for most low carbon and renewable technologies (over the projections in the EEP "reference scenario") and that low carbon generation sources (including nuclear and gas CCUS) will be needed to support renewables as part of the mix.

b) Modelling 2050 – electricity system analysis (December 2020)

A.1.15 The more detailed technical modelling paper *Modelling 2050 – electricity system analysis* sets out BEIS's analysis of the future electricity system used to inform the Energy White Paper.

A.1.16 The paper reinforces the increasing importance of electricity in supporting delivery of net zero and that understanding how to deliver more electricity whilst producing fewer carbon emissions, taking account of the relative cost of doing so, is central to developing an energy strategy to support the delivery of net zero (page 3).

A.1.17 The paper sets out further detail (than Annex O) on the assumptions, methodology and outputs of BEIS's analysis of the electricity system in 2050 to consider the cost impact of reducing emissions at different levels of demand using different combinations of generating and storage technologies. This involved testing the two power sector demand scenarios

[10] Annex O supplementary data: Major power producers' cumulative new electricity generating capacity (Net Zero scenarios in Annex H format)

[11] Hinkley Point B (1061MW), Hunterston B (1074MW), Heysham I (1179MW), Dungeness B (1120MW), Heysham II (1254MW), Torness (1250MW), Sizewell B (1216MW). Source: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/789655/Nuclear_electricity_in_the_UK.pdf

[12] Page 8 of Annex O

described above (i.e. Net Zero Lower demand and Net Zero Higher demand) against 3360 different low carbon deployment mixes[13].

A.1.18 Unlike Annex O, the paper also considers the potential role of hydrogen fired generation and presents separate 'with hydrogen' scenarios.

A.1.19 The paper again recognises the uncertainty of modelling over a long period and does not seek to determine the precise level of demand or a single optimal technology mix. Like the Annex O analysis, however, it illustrates the nature and scale of new generation required for the power system to meet the 2050 objectives, but in more detail.

A.1.20 This includes key conclusions which demonstrate the difficulty of achieving Net Zero without firm low-carbon power. Key conclusions on system costs and decarbonisation trends are set out at **Section 2** and demonstrate that:

- Electricity system costs are lowest when carbon intensity is between 5-25gCO2/kWh (or 5-15gCO2/kWh with hydrogen).
- All low-cost solutions include significant levels of wind and solar (and wind and solar generation could more than quadruple by 2050). However, relying solely on renewables would significantly limit the amount of decarbonisation that could be achieved and increase the system cost of decarbonisation[14].
- Introducing new nuclear or gas CCUS greatly increases the range of decarbonisation options – and the analysis finds that low-cost solutions at low emissions (at 5gCO2/kWh or below) can only be achieved with a combination of new nuclear and gas CCUS (pages 9 and 10).
- With hydrogen, generation mixes without nuclear and CCUS similarly limit the amount of decarbonisation that can be achieved and/or increase the system costs at low emissions (although lower emissions are achievable at lower cost than without hydrogen) (pages 9 and 10).

A.1.21 **Section 4** then addresses which potential deployment mixes can provide low cost solutions (with and without hydrogen) for the higher and lower demand scenarios and different levels of carbon intensity between 5-25gCO2/kWh. In summary, with regard to nuclear, this shows that:

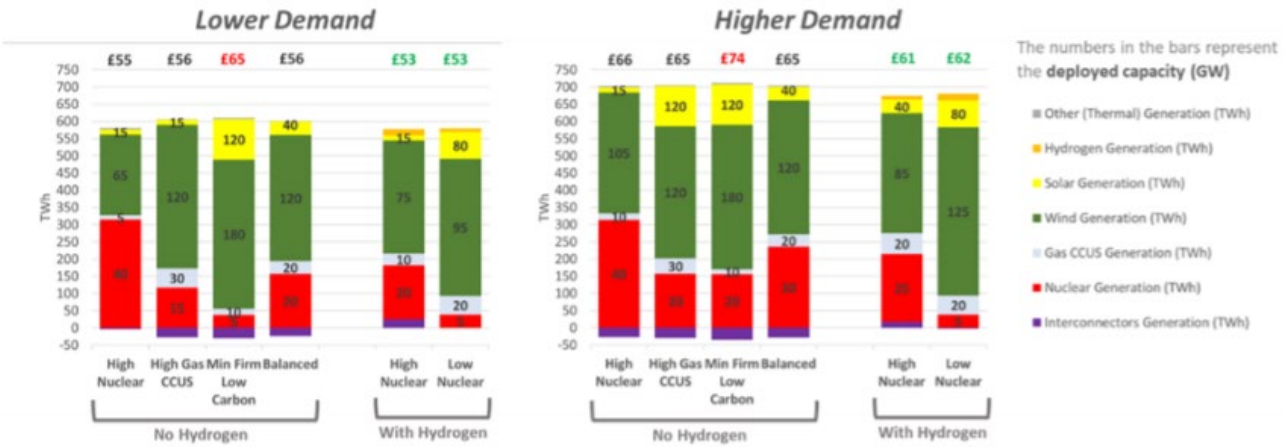
[13] The different employment mixes were based on plausible 2050 capacity ranges of low carbon technologies including Gas CCUS 2-30GW, Offshore Wind 40-120 GW, Onshore Wind 15-60GW, Solar 15-120GW, Nuclear 5-40GW

[14] As explained at page 9 "*this is because the additional renewable capacity required to replace unabated gas generation during periods of low renewable output either increases systems costs more than using additional nuclear and/or gas CCUS to do the same thing".*

- Without hydrogen generation low-cost solutions at low carbon intensities (i.e. 5gCO2/kWh or below) can only be achieved with a combination of new nuclear and gas CCUS. To deliver this carbon intensity for the higher demand scenario combinations comprising 20GW-40GW of nuclear and 15-30GW of gas CCUS (at least 50GW in total) are needed to provide low-cost solutions over all technology cost scenarios.

- Moderate levels of low carbon hydrogen could replace unabated gas and reduce the requirement for other low carbon generation, but the extent will depend on the quantity and cost of hydrogen available for generating electricity. This scenario would still involve significant new nuclear deployment. **Section 4.1** notes that to deliver a carbon intensity at or below 5gCO2/kWh at higher demand, combinations comprising 15GW-30GW of nuclear and 15-30GW of gas CCUS (at least 35GW in total) are needed to provide low-cost solutions over all technology cost scenarios.

- Nuclear is shown to be a 'no regrets' option – i.e. deployment mixes with significant amounts of nuclear are as low or lower cost than mixes without nuclear. **Section 4.5** illustrates that with no hydrogen, high nuclear options (for both lower and higher demand scenarios) are significantly cheaper than options with higher levels of solar and wind). **Figure 11** from **Section 4.5** of the report is extracted below:



c) Source: Modelling 2050 – electricity system analysis (December 2020) Figure 11

A.1.22 In summary, the modelling demonstrates (as already concluded through Annex O above) that, without hydrogen fired generation, all low cost solutions

require other forms of low carbon generation including nuclear and gas CCUS. The analysis demonstrates that to deliver a carbon intensity at or below 5gCO2/kWh at higher demand scenario generation mixes would comprise 20GW-40GW of nuclear[15] (and demonstrate that mixes at the higher end of that scale could deliver at lower costs than mixes with lower nuclear capacity).

A.1.23 The analysis suggests that moderate levels of low-carbon hydrogen could reduce the requirement for other low-carbon generation. The extent of the impact is dependent on the quantity and cost of hydrogen available for generating electricity and, as recognised in Annex O, although hydrogen may have a role to play in the power sector in future, there remain uncertainties over timing of this technology. However, even in a with hydrogen scenario the modelling shows that a high level of nuclear (up to 25GW) can deliver low cost as part of the generation mix (equal or lower than a higher mix of wind and solar)[16].

d) Conclusions on the 'need' for nuclear

A.1.24 The two scenarios presented by BEIS would involve nuclear new build of around 8GW by 2035, which would only bring total nuclear capacity back on par with current levels (this is also consistent with the CCC analysis[17]). The BEIS analysis projects that the new build nuclear requirement could be 20-40GW by 2050 (for the lower and higher scenario respectively).

A.1.25 To put that into context, that represents a new build requirement over the next 30 years roughly two to four times greater than the UK's entire current nuclear generating capacity. Even under the lower scenario that would be substantially more nuclear generating capacity than has ever historically been delivered in the UK (nuclear installed capacity peaked at 12.7 GW in 1995 with the opening of Sizewell B)[18].

A.1.26 Whilst there are a number of alterative pathways to achieving net zero, reliable low carbon generation will be required to complement renewables generation. Deployment mixes with significant amounts of nuclear are as low or lower cost than mixes without nuclear.

[15] Page 16 (section 4.1) of *Modelling 2050 – electricity system analysis*
[16] See tables at Section 4.5 of *Modelling 2050 – electricity system analysis* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943714/Modelling-2050-Electricity-System-Analysis.pdf
[17] See page 135 of the Sixth Carbon Budget. The Balanced Pathway reaches 10 GW of total nuclear capacity by 2035, with 8 GW of new-build capacity https://www.theccc.org.uk/wp-content/uploads/2020/12/The-Sixth-Carbon-Budget-The-UKs-path-to-Net-Zero.pdf
[18] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/789655/Nuclear_electricity_in_the_UK.pdf

A.1.27 The BEIS analysis supports the NPS conclusions that the need for new nuclear is clear and urgent. This is further endorsed by government in up-to-date terms through the explicit support for large scale nuclear in the Energy White Paper.

e) The contribution of the Sizewell C Project to meeting the need

A.1.28 The proposed Sizewell C nuclear power station would comprise two UK EPR™ units, with an expected net electrical output of approximately 1,670 megawatts per unit, giving a total site capacity of approximately 3,340MW.

A.1.29 The current nuclear power generating capacity in the UK is currently around 9,360MW (as set out at **Table A1**). The vast majority of this capacity will close over the next decade with only Sizewell B remaining operational beyond 2030 and Sizewell B is currently scheduled to close in 2035[19].

A.1.30 The only additional capacity currently at the planning or construction stage is Hinkley Point C, which will deliver 3,260MW by 2026.

Table A1 – existing and consented nuclear capacity[20]

	Capacity (MW)	Opening date	Closure date	Status (at 2021)
Hinkley B	1061	1976	2023	Operational
Hunterston B	1074	1976	2023	Operational
Hartlepool	1207	1983	2024	Operational
Heysham I	1179	1983	2024	Operational
Dungeness B	1120	1983	2028	Operational
Heysham II	1254	1988	2030	Operational
Torness	1250	1988	2030	Operational
Sizewell B	1216	1995	2035	Operational
Total existing capacity (MW)	**9361**			
HPC 1	1630	2025	2086	Construction
HPC 2	1630	2026	2087	Construction
Total in construction (MW)	**3260**			

A.1.31 Following the withdrawal of the application for Wylfa Newydd, there are no current applications for development consent for any of the sites identified in NPS EN-6, other than the Sizewell C Project. Bradwell B is in the pre application stage (and underwent an initial stage of consultation and EIA Scoping in 2020) but the application has been paused to prioritise technical feasibility work. Scoping Opinions were issued for Oldbury in 2011 and

[19] Although potentially subject to proposals to extend operation by 20 years to 2055

[20] Source: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/789655/Nuclear_electricity_in_the_UK.pdf

Moorside (Sellafield) in 2015 but neither have progressed further through the pre application process.

A.1.32 The BEIS and CCC analysis both suggest that nuclear generation would achieve 2020 levels by 2035 despite the replacement of retiring capacity. Both suggest that this will involve 8GW of new build capacity (which alongside Sizewell B would bring capacity up to around the current 9.4GW capacity at 2035[21]).

A.1.33 The combination of Hinkley Point C and Sizewell C would deliver around 6.6GW of capacity. Additional new build capacity would be required by 2035 in order to achieve the 8GW capacity relied upon in the BEIS modelling - and three or four times more than that combined capacity would be required to deliver the potential scale of capacity identified in the BEIS 2050 projections of 20 – 30GW[22].

A.1.34 To put this into further context, in the preceding 30 years to 2020, the UK has delivered only 2GW of new build capacity.

A.1.35 Whilst the NPSs do not set a specific target or limit for a particular type of infrastructure, this recent analysis by BEIS highlights the substantial scale of new electricity generation required in order to achieve net zero targets and specifically the scale of nuclear new build compared to today's existing and planned capacity. Substantial weight should plainly be given to the importance of Sizewell C in helping the UK to meet the urgent need for new nuclear.

[21] Although unless the operational life of Sizewell B is extended to 2055 this is also scheduled to close in 2035
[22] With reference to the 2050 nuclear capacity figures at Table 2 of Annex O

APPENDIX B: SUFFOLK COASTAL LOCAL PLAN ADOPTION

a) Introduction

B.1.1 This Appendix provides an update to the status of relevant local planning policy in relation to the Sizewell C Project following the adoption of the East Suffolk Council Suffolk Coastal Local Plan (SCLP) on 23 September 2020.

B.1.2 The preparation and submission of the Sizewell C Project DCO occurred alongside the preparation, submission and examination of the SCLP by East Suffolk Council. The submitted DCO documents therefore reflect the position of local planning policy as of May 2020 (i.e. when the application was submitted). Since then the SCLP Examination in Public was concluded, the Inspector's Report issued and the plan adopted. This Appendix therefore identifies relevant previously adopted policies that have now been superseded and draft policies which were altered between submission of the DCO and adoption of the plan.

B.1.3 The DCO application provides a summary of local planning policy in the **ES, Volume 1, Chapter 3 Legislation and Policy Context** [APP-174] and **Planning Statement** [APP-590] and **Appendices** [APP-592 to 598]. References to local planning policy are made elsewhere throughtout the sutmission.

b) SCLP Examination in public

B.1.4 The Suffolk Coastal Final Draft Local Plan was submitted for examination on 29 March 2019 with hearings carried out between 20 August and 20 September 2019.

B.1.5 Following the hearings, a Main Modifications consultation was held for ten weeks between 1 May and 10 July 2020.

B.1.6 The Inspector's Report was published on 8 September 2020 and found that the SCLP satisfies the requirements of the Planning and Compulsory Purchase Act 2004 (as amended) and is sound, subject to the 'Main Modifications' being incorporated into the plan.

B.1.7 Following the receipt of the Inspector's Report, the East Suffolk Full Council Committee voted to adopt the Suffolk Coastal Local Plan (including Main Modifications) on 23 September.

B.1.8 At the same time as the SCLP Main Modification consultation stage, the Sizewell C DCO application was submitted to the Planning Inspectorate on 27 May 2020 and the application was accepted for examination on 24 June 2020.

c) Inspector's Report and amended policy

B.1.9 This section summarises the relevant text from the Inspector's Report, identifies which of the planning policy alterations are relevant to the DCO application, summarises any changes and considers the impacts of any policy alterations for the DCO.

B.1.10 Section 3.10 of the **Planning Statement** [APP-590] summarises the regional and local planning policies of relevance to the Sizewell C Project and paragraph 3.10.5 of the **Planning Statement** [APP-590] establishes the documents that comprise the Development Plan at the time of submission. This comprised:

- The Suffolk Coastal Local Plan remaining Saved Policies – July 2018;
- The Suffolk Coastal District Local Plan Core Strategy & Development Management Policies (July 2013);
- The Site Allocations and Area Specific Policies Development Plan Document (January 2017);
- The Area Action Plan for the Felixstowe Peninsula (January 2017); and
- The Leiston Neighbourhood Plan 2015-2029.

B.1.11 The adopted SCLP now supersedes the Suffolk Coastal Local Plan remaining Saved Policies, Core Strategy & Development Management Policies, the Site Allocations and Area Specific Policies Development Plan Document and the Felixstowe Area Action Plan. Any references to these policies in the application submission are therefore now superseded.

B.1.12 Paragraphs 3.10.9 – 3.10.12 of the Planning Statement also refers to the Suffolk Coastal Final Draft Local Plan, which was the version of the SCLP submitted for Examination. Any references to that draft version of the plan are also superseded – although many remained largely unchanged. The section below identifies any relevant differences in policies between the draft referred to in the DCO submission and the finally adopted form of the Local Plan.

i. Inspector's Report

B.1.13 During the Examination, the Inspector identified that one of the main issues upon which the soundness of the Local Plan depends was whether the Local Plan's strategic policy for Major Energy (Policy SCLP3.4) is effective and justified.

B.1.14 In considering this issue, the Inspector found that:

> *"[Policy SCLP3.4] and the supporting text should be amended to include the decommissioning of existing plant and facilities, particularly the ongoing project at Sizewell A Power Station.*
>
> *Proposals for Nationally Significant Infrastructure Projects (NSIP) are considered against the designated National Policy Statements in a specific consenting process, rather than through the Town and Country Planning process. To be effective, the Policy and text should be amended so that it is clear as to how the Policy would be applied in the NSIP process.*
>
> *The Policy as submitted is not consistent with national policy for planning obligations as set out in paragraph 56 of the Framework. The Policy criteria should be amended so that community benefit would be sought as mitigation of harm, rather than to 'compensate burden' and to seek, rather than require positive outcomes, so that it is consistent with the tests for planning obligations as set out in the Framework. In addition, the Policy and text should be amended so that the Plan sets a positive strategy for the conservation and enjoyment of the historic environment, consistent with paragraph 185 of the Framework. Furthermore, the text should address the consideration of alternative sites for major energy infrastructure outside of the AONB, so as to be consistent with paragraph 172 of the Framework."* (paras 199 – 201)

B.1.15 The Inspector concluded that, subject to the proposed alterations above (which are reflected in the Main Modifications), the Plan provides effective strategic policies for major energy (para 202).

ii. Amended policies

B.1.16 As set out above, the Inspector found that the Local Plan's strategic policy for Major Energy (Policy SCLP3.4) was effective and justified, subject to alterations set out in the Main Modifications.

B.1.17 The final changes to Policy SCLP3.4 and any other relevant amended policies are addressed in turn below. For clarity, additional text (added to the adopted SCLP) is shown underlined in blue and policy text that has been removed is shown in red and struck through.

SCLP3.4: Major proposals for energy infrastructure

B.1.18 Local Plan Policy SCLP3.4 relates to the delivery of major energy projects across the plan area and identifies a series of policy requirements which the impacts arising from these projects must have regard to.

B.1.19 In accordance with the conclusions of the Inspector's Report, wording has been altered in the SCLP3.4 policy preamble at paragraph 3.57, as follows:

> *"The cumulative impact of hosting a variety of major energy infrastructure facilities in the area is likely to have an impact on existing and future generations. To balance this impact a variety of local economic, environmental and community mitigation and enhancement measures ~~benefits will need~~ may be required ~~to be delivered~~ to ensure proposed Major Energy Infrastructure Projects are acceptable in planning terms. ~~an overall positive balance of outcomes for the local communities and the District.~~ Community mitigation and enhancement could take many different forms over the plan period, but in land use terms these could be in the form of but not limited to examples such as sports facilities, meeting places, woodland planting schemes or habitat creation. Any measures proposed would need to be in accordance with the tests of for planning obligations and planning conditions set out in the National Planning Policy Framework."*

B.1.20 SZC Co. does not consider that the adopted version of Policy SCLP3.4 affects the assessments carried out within the Sizewell C DCO application or sets out any new matters which are not already identified and addressed within the **Planning Statement** [APP-590].

B.1.21 In addition to the above amendments, an extra criterion requiring proposals for major energy infrastructure projects to have regard to the requirement for a "robust Heritage Impact Assessment" has been added to the series of policy requirements which a major energy project must have regard to.

B.1.22 In accordance with the additional requirement for a Heritage Impact Assessment in Policy SCLP3.4, and paragraph 5.8.8 of EN-1, **ES Chapters 16** (Terrestrial Historic Environment) [APP-272] and **23** (Marine Historic Environment) [APP-334] present robust assessments of the potential effects on the terrestrial and marine historic environment arising from the construction and operation of the main development site.

SCLP10.4: Landscape character

B.1.23 Local Plan Policy SCLP10.4 sets out policy in relation to landscape character and is relevant to development that may impact on the Suffolk Coast and Heaths Area of Outstanding Natural Beauty.

B.1.24 In accordance with the Inspector's Report and Main Modifications, an additional paragraph has been added to the policy wording of SCLP10.4 to clarify rather than alter how development proposals affecting the natural beauty and special qualities of the AONB would be assessed and to provide clarity regarding the matter of the 'setting' of the AONB. The new paragraph states:

> *"Development will not be permitted where it would have a significant adverse impact on the natural beauty and special qualities of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty, that cannot be adequately mitigated. Development within the Area of Outstanding Natural Beauty, or within its setting, will be informed by landscape and visual impact assessment to assess and identify potential impacts and to identify suitable measures to avoid or mitigate these impacts. Planning permission for major development in the Area of Outstanding Natural Beauty will be refused other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest, subject to the considerations set out in the National Planning Policy Framework."*

B.1.25 The additional paragraph is in accordance with the NPPF and NPS. The new text provides helpful clarity but it does not alter the policy approach which had already been identified and addressed at the time of the DCO submission. Therefore, it is not considered that the alterations to the above policies will have a significant impact on the DCO application.

SCLP12.35: Land at Innocence Farm

B.1.26 The Final Draft Local Plan included a new allocation of employment land at Innocence Farm, Trimley St Martin (Policy SCLP12.35), specifically in relation to the operation of the Port of Felixstowe.

B.1.27 The site and allocation were discussed through the Local Plan Examination, however, the Inspector concluded that the Innocence Farm allocation was not adequately justified and it had not been shown that the proposal could be

delivered over the plan period. Consequently, the Innocence Farm allocation (Policy SCLP12.35) was removed from the Local Plan before being adopted.

B.1.28 As detailed in **Chapter 3** of **Volume 8** of the **ES** and the **Site Selection Report** [APP-591] appended to the **Planning Statement** [APP-590] the land at Innocence Farm also formed part of the assessment of the preferred location for the Freight Management Facility.

B.1.29 During the site selection process it was acknowledged that draft Policy SCLP12.35 provided that the allocation could, in exceptional circumstances, be used to assist in the delivery of nationally significant infrastructure projects.

B.1.30 However, as set out at **Section 8.5** of the **Site Selection Report** [APP-591], the Innocence Farm site was discounted and the site at Seven Hills emerged from the site selection process as being the most suitable and appropriate for the siting of the proposed Freight Management Facility.

B.1.31 The Innocence Farm site was discounted due to greater potential noise and traffic impacts (amongst other issues) and the removal of the employment land allocation from the adopted Local Plan tends to reinforce the assessment and conclusions of the **Site Selection Report** [APP-591]**.**

iii. Other altered policies

B.1.32 Additional policies have been subject to minor changes that may be relevant.

SCLP7.1: Sustainable Transport

B.1.33 The following modifications have been made to SCLP7.1: Sustainable Transport:

> *"Development will be supported where:*
>
> *a) Any significant impacts on the highways network are mitigated;*
>
> *~~a)~~ b) It is proportionate in scale to the existing transport network;*
>
> *c) All available opportunities to enable and support travel on foot, by cycle or public transport have been considered and taken;*
>
> *~~b)~~ d) It is located close to, and provides safe pedestrian and cycle access to services and facilities;*

~~c)~~ *e) It is well integrated into and enhances the existing cycle network including the safe design and layout of new cycle routes and provision of covered, secure cycle parking;*

~~d)~~ *f) It is well integrated into, protects and enhances the existing pedestrian routes and the public rights of way network;*

~~e)~~ *g) It reduces conflict between users of the transport network including pedestrians, cyclists, users of mobility vehicles and drivers and does not reduce road safety; and*

~~*f) It will improve public transport in the rural areas of the District; and*~~

~~g)~~ *h) The cumulative impact of new development will not create severe impacts on the existing transport network.*

Development will be expected to contribute to the delivery of local sustainable transport strategies for managing the cumulative impacts of growth.

Opportunities to improve provision of or access to public transport, in rural and urban areas will be supported."

B.1.34 As SZC Co. has sought to secure alternative means of transport where practicable, it is not considered that the additional wording included in SCLP7.1: Sustainable Transport has any impact on the Sizewell C proposals.

SCLP10.1: Biodiversity and Geodiversity

B.1.35 An additional paragraph has been included in the policy wording of SCLP10.1: Biodiversity and Geodiversity, as set out below but it raises matters already considered in the application:

"The Recreational disturbance Avoidance and Mitigation Strategy has been prepared to provide a mechanism through which impacts from increased recreation can be avoided and mitigated via financial contributions towards the provision of strategic mitigation. Where mitigation is provided through alternative mechanisms, applicants will need to provide an Appropriate Assessment to demonstrate that all impacts are mitigated for, including in-combination effects. Depending on the size and location of the development, additional measures such as Suitable

Alternative Natural Green Spaces (SANGS) may be required as part of development proposals."

iv. Other policies

B.1.36 The Planning Statement and appendices make reference to an additional selection of local planning policies from the Final Draft Local Plan on more detailed topics including:

- SCLP2.2: Strategic infrastructure priorities;
- SCLP3.1: Strategy for growth in Suffolk Coastal District;
- SCLP3.3: Settlement boundaries;
- SCLP3.5: Infrastructure requirements;
- SCLP7.2: Parking proposals and standards;
- SCLP9.5: Flood risk;
- SCLP9.6: SuDS;
- SCLP10.5: Settlement coalescence;
- SCLP11.2: Residential amenity.

B.1.37 The policies above have had typos corrected and/or other non-significant amendments, but the principle and intent of the policies has not been altered. These alterations have therefore not been considered in more detail.

d) Conclusion

B.1.38 Policies identified to be relevant to the Sizewell C Project in the SCLP were subject to amendment following the submission of the DCO application.

B.1.39 The extent of amendments to these policies was relatively minor and it is considered that the Sizewell C Project continues to be consistent with relevant local planning policy.

B.1.40 Even where policies have been subject to significant alterations (i.e. SCLP3.4 and SCLP10.4), the revised text tends to enhance the consistency of the policy with that set out in the NPS and does not affect the assessments carried out within the Sizewell C DCO application or raise

any new matters which are not already identified and addressed within the **Planning Statement** [APP-590].

B.1.41 The final Local Plan policies are in accordance with National Policy and are, therefore, not materially different from the policy framework that was relied upon in the Planning Statement. The assessments made within the **Planning Statement** [APP-590] continue to be appropriate.