

Nuclear Free Local Authorities new nuclear monitor



Number 11, September 2006

RESPONDING TO THE DTI CONSULTATION ON THE POLICY FRAMEWORK FOR NEW NUCLEAR BUILD

1. **Action**

Please ensure your authority objects to the Government's proposed commitment to new nuclear build before 31 October 2006.

2. **In brief**

The Government intends to:

- issue a statement that new nuclear power stations are needed;
- rely on the statement thereafter so as to exclude argument on the need for nuclear power at any future public inquiry;
- emasculate the role of the public inquiry by the use of other decision-making procedures separate from and prior to the inquiry; and
- restrict the inquiry to the consideration of local impacts only.

Both the statement, and this policy undermining the inquiry system, will be incorporated into a White Paper to be published in some six months time. It is vital that the opportunity is used to register opposition to the statement of need and to these proposals. Objections must be lodged by 31 October 2006.

Additionally, note that the consultation process (and documentation) is, in our view, very confusing and in breach of legal and administrative requirements. These aspects are being taken up directly by the NFLA Secretariat.

3. **Consultation document and submission of objections**

The consultation document "Consultation on the Policy Framework for New Nuclear Build" is at <http://www.dti.gov.uk/consultations/page32340.html>

Responses should be sent by email to: nuclearpolicyframework@dti.gsi.gov.uk
or by letter to: Energy Review: Nuclear Policy Framework
Department of Trade and Industry
1 Victoria Street London SW1H 0ET

THE LOCAL GOVERNMENT VOICE ON NUCLEAR ISSUES

4. Resources

Recent issues of *New Nuclear Monitor* underpin this action alert:

Issue 10 - *Powering Britain: Sustainable Energy Strategies and the Role of Local Authorities: key highlights from submission to the UK Energy Review* July 2006

Issue 9 - *Responding To 'our Energy Challenge'* March 2006

Issue 8 - *Nuclear Power Is Not The Solution To Climate Change* May 2005

See: http://www.nuclearpolicy.info/New_Nuclear_Monitor/new_nuclear_monitor.html

5. Background

- 5.1 In 2003 Government saw no case for new nuclear build.¹ A review of this decision started in January this year. The Government explained:

*The 2003 Energy White Paper recognised that replacement nuclear build might be necessary if we are to meet our carbon targets, but concluded that its then current economics made it unattractive and that there were also important issues of nuclear waste to be resolved. The Review will examine whether recent changes in energy prices have changed that assessment and at the other issues that would be raised by building new nuclear power stations. These other issues include all the characteristics of nuclear, including its creation of long-term liabilities such as nuclear waste; and how these liabilities should be managed and paid for.*²

Consultation on this and other energy issues ended on 14 April 2006.

- 5.2 On 15 May the Prime Minister told the CBI that nuclear “was back on the table with a vengeance.” This strongly suggested the outcome of the Review was a foregone conclusion. Stephen Hale, until recently special adviser to the then Environment Secretary, Margaret Beckett, said in July that the Prime Minister “refused to consider the alternatives” to nuclear energy. “The depressing truth is that the review was undertaken primarily to act as a springboard to formally initiate the government's nuclear position.”³

- 5.3 In July the conclusions of the Energy review were issued.⁴ On nuclear, it proposed:

- ... reform of the planning regime for electricity projects
- a clear statement of our position on new nuclear build. [p16]

and stated

We have concluded that new nuclear power stations would make a significant contribution to meeting our energy policy goals. [p17]

¹ The 2003 Energy White Paper – ‘Our energy future – creating a low carbon economy’

² “Our Energy Challenge: Securing clean affordable energy for the long term.”, page 6

³ Observer 9th July 2006 <http://politics.guardian.co.uk/homeaffairs/story/0,,1816301,00.html> and <http://politics.guardian.co.uk/comment/story/0,,1816067,00.html>

⁴ “The Energy Challenge”: see <http://www.dti.gov.uk/energy/review/>

6. **The Consultation (Issue 1): emasculating the public inquiry**

To progress the nuclear option, the Government has agreed to the nuclear industry demand to reduce risk and capital costs by speeding-up the decision-making procedures and removing uncertainty about the outcome. The Government plans that there will be no cross-examination or opportunity to present evidence at an inquiry as respects:

- the need for new nuclear power;
- the justification for new nuclear power;
- the appropriateness of the site(s) chosen for new nuclear power;
- the safety of new nuclear power;
- the steps to be taken to protect the environment and people from radioactive waste;
- the security hazards involved intrinsically and post 9/11 and 7/7.

To achieve this result, the Government:

- is purporting to consult now on “need” (see 7 below)
- may consult on “justification”
- will consult on a “strategic siting assessment”.

The Health and Safety Executive will consult on safety issues and the Environment Agency (or SEPA) will consult on environmental protection issues. The intention is that:

- all these processes will merely allow the public to offer their views principally via written response: there will be no opportunity to challenge other responses from industry and no commitment to the rigorous analysis that cross-examination at an inquiry brings to bear. The Government and Regulators will themselves decide what weight to attach to the comments they receive;
- all these matters will be decided on *before* any public inquiry;
- the outcomes will *not* be open to any further debate at the inquiry.

NFLAs strongly object to this approach because:

- a public inquiry is necessary so that *all* these issues are properly considered within a public inquiry to ensure environmental protection, public safety, authentic local democratic accountability for an extremely hazardous industry, transparency and public confidence in the decision-making;
- it would set a precedent for railroading other projects and undermining vital aspects of land-use planning which must concern all planning authorities.

NFLAs also believe that the Government’s strategy is legally flawed.

Apart from this:

- the assertion of need is not underpinned with any consensus on the evidence (see below);
- justification is not merely an option: it is required under European law;
- strategic siting assessment must not be used to avoid the requirements of the EU Strategic Environmental Assessment directive;

- consultation on safety issues will be impossible whilst it remains the view of the Office of Civil Nuclear Security that all new nuclear reactors will present a terrorist threat and so all information on safety should be protected from disclosure.⁵

To ensure that a public inquiry is not limited to local impacts, all local authorities are urged:

- to object in principle but also
- to demand a *joint* public inquiry, which would consider all the issues mentioned above under the following powers to hold an inquiry -
 1. Regulation 17 Justification of Practices Involving Ionising Radiation Regulations (for the analysis of justification);
 2. Section 14(1) and (2B) Health and Safety at Work Act 1974 (safety issues and safety licensing)
 3. Section 24(2) Radioactive Substances Act 1993 (radioactive waste issues)
 4. Schedule 8 Electricity Act 1989 (whether consent to construct and operate a nuclear station should be granted)

7. The Consultation (Issue 2): Statement of Need

7.1 The Government intends to adopt the following policy statement:

Proposed statement of Need:

The Government believes that nuclear has to play a role in the future UK generating mix because of its contribution to increased diversity of energy supplies and its role as a source of low carbon generation. The Government believes that the evidence gathered during the Energy Review and the associated public consultation supports such a view. [Energy Challenge P166 Box A3]

The Government's rationale for this statement is as follows:

Through the Energy Review, the Government has carefully considered the relevant issues to new nuclear power:

- *economics of nuclear power;*
- *environmental and climate change issues;*
- *security of energy supply issues; and*
- *safety, security and radiological issues, including waste, for nuclear.*

Further details are available on the Energy Review website:

<http://www.dti.gov.uk/energy/review/>

The Government has gathered and assessed considerable amounts of evidence on these issues and the potential role that nuclear could play in helping the UK meet its energy policy goals. As a low carbon form of energy nuclear can help reduce our emissions, and in increasing the diversity of our energy supplies it can help to increase the reliability of our energy supply. Taking all these issues into account, the Government has concluded that nuclear has a role to play in the future UK generating mix alongside other low carbon generating options. [Energy Challenge p165/6]

7.2 NFLAs disagree with these conclusion:

- the economics are not remotely clear;

⁵ For example, the details of potential hazards from new reactors will not be released: "The type of detailed information contained in safety cases would be of great use as an aid to a potential attacker for choosing targets and planning an operation." see OCNS "Finding the balance" page 17:
<http://www.dti.gov.uk/files/file23308.pdf#search=%22OCNS%20Balance%22>

- the asserted CO2 and security of supply advantages of nuclear are not as good as those of other methods of replacing current nuclear capacity;
- safety is yet to be demonstrated for the new reactors envisaged;
- security is not demonstrable when the Office of Civil Nuclear Security considers all new reactors are potential terrorist targets;
- neither the method of management of radioactive waste nor its cost are known.

The Government has in our view been very selective over the evidence: *New Nuclear Monitor 10* (see 4 Resources above) shows Government has not based its Energy Review conclusions on the evidence it received. Local government as a whole was particularly strong in its opinion that renewable energy, combined heat and power generation, better energy efficiency and energy saving in homes and workplaces must be prioritised over new nuclear construction. The contractor to the Department of Trade and Industry that prepared an analysis of responses to the Energy Review concluded:

Most individuals who responded to the consultation, including a significant number of people responding to campaigns, were negative about nuclear energy, because of accidents, such as Chernobyl, as well as the danger of terrorist attacks and concerns over the security of uranium supply.

Radioactive waste was also cited as a major concern.

- 7.3 On economics, the Government states that it “does not take a view on the future relative costs of different generating technologies” (Energy Challenge Para 5.96 p113). Despite this it concludes: “Nuclear is a *potentially* economic source of electricity generation.” Energy Challenge para 5.98 P113). This conclusion was based on a DTI cost-benefit study comparing nuclear costs with gas costs, which was not made available for consultation under the Energy Review and whose assumptions have not been independently verified.⁶ The study itself states, variously:

The analysis highlights considerable uncertainty surrounding economic appraisal of possible nuclear investments. This stems from various sources, including uncertainty as regards nuclear construction costs and gas prices.[p3]

There is considerable uncertainty as regards the forecast cost of new nuclear power generation. Cost data from detailed studies summarised in Table 2 shows that this applies to construction costs (ranging from £500-2,500 / kW), construction time (60-120 months), and cost of capital (5-10%)⁷ [p13]

The fact that designs are at least somewhat untested suggests that there must be a degree of uncertainty about what costs would be in the UK context if there were to be a new nuclear programme.[p16]

Despite all these caveats, the same study is then used to underpin the much firmer conclusion in the consultation document that “Nuclear is economic in a range of likely gas and carbon price scenarios.” This appears to verge dangerously on spin when “is *potentially*

⁶ Ernst & Young LLP (special advisers to the Energy Review) were asked by the DTI to verify the model but not the assumptions see p2 <http://www.dti.gov.uk/files/file31936.pdf>

⁷ Table 2 is taken from “*The Economics of Nuclear Power – Analysis of Recent Studies*, by Steve Thomas, Public Sector International Research Unit, Greenwich University, July 2005, funded by The Environment Agency.

economic” becomes “is economic”. Yet this is the sand upon which the statement of need is built.

NFLAs prefer the views of the Government’s Sustainable Development Commission:

*The economics of nuclear new-build are highly uncertain. There is little, if any, justification for public subsidy, but if estimated costs escalate, there’s a clear risk that the taxpayer will be have to pick up the tab.*⁸

... and of the House of Commons Select Committee on Environmental Audit:

*18. No simple answer can be given to the question of the likely cost of nuclear power.*⁹

7.4 On waste, one of the Committee on Radioactive Waste Management’s “main assumptions” in its recent recommendations (31 July 2006) is that “No new build waste is consigned to the repository”¹⁰ The DTI’s own cost benefit study appears to be in error in assuming the opposite.¹¹

7.5 Future regulatory decision-making processes on justification, safety, security and waste need to consider the issues free from this premature view. The Government cannot exercise its legal role vis-à-vis these processes if it has already a closed mind. The analysis of justification, for example, must occur before need can be established: Government Guidance on justification states quite explicitly that “This appraisal should include the economic, social, health and safety, waste disposal and decommissioning benefits and detriments.”¹²

8. Conclusion

NFLAs consider:

- that the Government is intent on emptying the public inquiry of any significance other than the consideration of local environmental impacts. This policy has been demanded by the nuclear industry as a prerequisite to investment so as to avoid proper scrutiny of its case;
- that Government’s attempt to curtail debate and the role of the public inquiry in this way is offensive, misguided, potentially unlawful and corrosive of democratic values and the traditions of local participation in planning matters;
- that the conclusion that nuclear is needed that it wishes to enshrine as policy has not been arrived at properly, is entirely premature and may constitute an unlawful limitation on the discretion that it must use in supervising subsequent regulatory decision-making;

⁸ <http://www.sd-commission.org.uk/pages/060306.html>

⁹ Annex 1: Conclusions and recommendations Paragraph 18 House of Commons Select Committee on Environmental Audit Sixth Report <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmenvaud/584/58411.htm>

¹⁰ Annex 5 Page 183 CoRWM: Report on final recommendations for the long-term management of the UK's radioactive waste: <http://www.corwm.org.uk/content-1092>

¹¹ p20 waste disposal cost in DTI “Nuclear power generation cost benefit analysis”

<http://www.dti.gov.uk/energy/review/implementation/nuclear-framework/page31831.html>

¹² Para 45, “Guidance on the implementation of the Justification of Practices Involving Ionising Radiations Regulations 2004”, DEFRA <http://www.defra.gov.uk/environment/radioactivity/government/legislation/justification.htm>

- that there has been no proper process of fact gathering, or authentic consultation and that the present consultation is equally inadequate and a sham.

9. **Suggested objection**

“ This authority objects to the proposed framework. It does not agree that new nuclear build is needed. It believes this view is not supported by impartial consideration of the issues and that the conclusion is premature and prejudicial to other regulatory decisions that would have to be taken. It strongly objects to the plan to undermine the importance of the public inquiry and has no confidence that the procedures for allowing prior public comment on aspects of the overall regulatory process can ever be a substitute for the rigorous testing and analysis of the evidence of industry, government and regulator at an inquiry. We call on the Government to confirm that if a firm proposal to build is made, Government will provide for a joint public inquiry based on the powers contained in Regulation 17 Justification of Practices Involving Ionising Radiation Regulations, Section 14(1) and (2B) Health and Safety at Work Act 1974, Section 24(2) Radioactive Substances Act 1993 and Schedule 8 Electricity Act 1989.”

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