

Rt. Hon Ed Davey MP
Secretary of State for Energy and
Climate Change
3 Whitehall Place
London
SW1A 2AW

7th March 2013

By email and post

Dear Secretary of State

New Nuclear Power
Radioactive Waste Management
Determination of Planning Application

We are writing in relation to the determination you are due to make concerning the application by EDF to build a power station at Hinkley Point.

We understand that a recommendation has been made to you by the Planning Inspectorate's National Infrastructure Planning Unit. We do not know what that recommendation is, but in our view it would be unlawful for you to grant planning consent for a new nuclear power station at this time. This is because there is nowhere to dispose of the higher activity wastes, in particular, intensely radioactive spent fuel, and intermediate level radioactive waste, which will inevitably be produced by a new nuclear power station - and no prospect of any disposal facility in line with Government's policy, plans and assurances being found.

The Nuclear White paper promised that:

"before development consents for new nuclear power stations are granted, the Government will need to be satisfied that effective arrangements exist or will exist to manage and dispose of the waste they will produce".¹

The National Policy Statement for Nuclear Power Generation (EN-6) Annex B to the Nuclear Policy Statement ["NPS"] sets out the Government's reasoning and conditions for why it believed, at the time of the NPS, that effective arrangements to manage and dispose of the waste from new nuclear power stations existed or would exist.

The reasoning records that the Managing Radioactive Waste Safely White Paper ["MRWS"] sets out the framework for the implementation of geological disposal, including a flexible site selection process based on voluntarism and partnership.

¹ <http://webarchive.nationalarchives.gov.uk/+/http://www.berr.gov.uk/files/file43006.pdf>

It is recorded that the Government is committed to making the voluntarism and partnership approach to site selection work through the MRWS process. In particular, Annex B sets out the following:

In paragraph B.3.1 it is stated that:

The [MRWS] sets out the framework for the implementation of geological disposal, including a flexible site selection process based on voluntarism and partnership.

Experience.....demonstrates that this approach is likely to be the most successful way to develop a safe, secure and environmentally acceptable facility that secures public confidence, which is why the Government has adopted this approach.

In paragraph B.3.4

The [MRWS] set out a step-by-step site selection process. Formal "expressions of interest" by communities about potential involvement, which is the first step in the process, have already been received.

Interim storage

B.4.5. Based on domestic and international experience, the Government is satisfied that interim storage facilities are and will be safe and effective, and will remain so as long as necessary. For example, the building of new stores and periodic refurbishment of stores if needed, until a geological disposal facility is available. In the event that geological disposal facilities are not available to accept radioactive waste in accordance with the indicative timetable set out above, the Government is satisfied that interim storage will provide an extendable, safe and secure means of containing waste for as long as it takes to site and construct a GDF."

This section of the NPS concludes, at paragraph B.5.3

"In line with commitments to review this NPS the government will keep the arrangements for radioactive waste management and disposal under review and will consider whether any new significant evidence or material that comes forward in the future provides ground for revisiting its conclusion."

Thus, the Government's plans for new nuclear power are predicated on its belief that there will be a disposal facility, that plans are underway and that interim storage can be provided in the meantime. The plans for interim storage are stated to be for spent nuclear fuel at least 100 years, but the NPS also states that "The Government does not expect on site interim storage to be required for as long as 160 years."²

It is on that basis that the Appraisal of Sustainability ["AOS"] was carried out – see for example para 6.4.11 of the AOS main report which recorded that;

² https://whitehall-admin.production.alpha.gov.co.uk/government/uploads/system/uploads/attachment_data/file/37052/1943-nps-nuclear-power-annex-volII.pdf

"For the purposes of this assessment, final disposal of new nuclear spent fuel is considered to be in a GDF following a period of interim storage at the site of a new nuclear power station"
and

6.1.9 "In line with government policy on the management of higher activity waste, this appraisal considers a Geological Disposal Facility ["GDF"] as the final destination for spent fuel and ILW. However, the appraisal presented in this section is not a detailed assessment of this facility. It is expected that as the concept design and location are finalised, an SEA and EIA for a GDF will be completed."

Thus there has been no Appraisal of Sustainability on the basis that no GDF exists, and that there is no prospect of one.

Further, Volume 2 of the Environmental Statement, forming part of EDF's Development Consent Order Application said:

"arrangements for Site Spent Fuel Management"

7.6.10 "This period of interim storage is assumed to last until around 2130 when, on current planning assumptions, the GDF will be available to receive spent fuel from new nuclear power stations and the spent fuel produced with the Hinkley Point EPRs will have cooled to a level compatible with its disposal.

7.6.11 the planning assumption is therefore that the ISFS would provide storage for spent fuel from the HPC UK EPR reactor units from around 10 years after the start-up of Unit 1 until the spent fuel is transferred off-site for disposal at the GDF at around 2130. The ISFS would be designed for a life of at least 100 years and there would be a capability for this to be both achieved and extended, if necessary, through refurbishment or replacement. The ISFS will be designed to be capable of operating independently of other parts of the power station in recognition of the fact that it will have a lifetime that would, under current assumptions, extend beyond the decommissioning of the other facilities on the site."

This further demonstrates the point that there is no planning contingency or application for a situation where no GDF exists and that there is no prospect of one.

Thus, the whole decision making process to date is demonstrably based on an assumption that there will be a suitable GDF for new waste arising, based on the Government's belief that there would be a suitable facility in a community willing to house it – see for example, *DECC: Managing Waste Safely: How will we find a site?*

However, on 30 January 2013, Cumbria County Council voted against proceeding to stage 4 of the government's Managing Radioactive Waste Safely (MRWS) programme. Progressing to stage 4 would include work to identify and assess potential sites for a GDF for the final disposal of high level radioactive waste (HLW).

Copeland and Allerdale Borough Councils voted in favour of participating in the next stage of the MRWS programme.

You advised in a ministerial statement that:

- Owing to the need for consent at both borough and county level, the current site selection process for a GDF in west Cumbria would end.
- The government remains committed to nuclear power as a key part of the UK's future energy mix and to geological disposal for the long-term management of HLW.
- The Department for Energy and Climate Change will, therefore, embark on a renewed drive to encourage further local authorities to come forward to participate in the MRWS programme.

This further confirms the position that there is no GDF and no realistic prospect of one.

Under the 2008 Planning Act the Secretary of State must determine an application in accordance with any relevant NPS except where to do so would:

- Lead to the UK being in breach of its international obligations.
- Be in breach of any statutory duty that applies to the NPS.
- Be unlawful.
- Result in adverse impacts of the development outweighing the benefits.
- Be contrary to the regulations dealing with how decisions are made.

The plan for waste disposal that underpins the NPS is no longer viable: in our view it is therefore no longer possible or lawful to give planning permission for Hinkley C.

Yours sincerely

Greenpeace UK