

**EXECUTIVE MEMBER:** Councillor Elaine Woodburn  
Leader and Portfolio Holder for Strategic and Nuclear Policy

**LEAD OFFICER:** Pat Graham - Director of Economic Growth

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**WHAT BENEFITS WILL THESE PROPOSALS BRING TO COPELAND RESIDENTS?**

The construction and completion of the new nuclear power plant will provide significant direct and indirect economic opportunities for the residents and businesses of Copeland

**WHY HAS THIS REPORT COME TO THE EXECUTIVE?**

The Executive has received and considered a report at a meeting on 29<sup>th</sup> July 2014 which outlined a range of issues which the Executive and Council will need to take into account as proposals for the new nuclear power plant at Moorside evolve. Amongst those issues was the need to;

1. Review the Council's governance processes and constitutional arrangements to ensure that any decisions required could be made in a timely and effective manner.
2. Consider the resource implications for the Council and options for procuring additional support
3. Consider the need for an internal communications strategy for the Council on this issue

This report considers those issues.

**RECOMMENDATIONS:**

That the Executive agrees to the proposal to;

1. Create a Nationally Significant Infrastructure Projects (NSIPs) Panel and instigate any formal processes needed to secure constitutional change required to enable the Panel to be established.
2. That until the NSIPs Panel is established that the Executive take any interim decisions with regard to the Development Consent Order process.
3. Identify options for the procurement of an external provider to provide technical advice and support services to the Council and its role within the Development Consent Process
4. Seek to re-tender the provision of specialist nuclear and energy legal advice
5. Establish an internal communications strategy for the project

## 1. INTRODUCTION

- 1.1 Members have been advised of increasing momentum of the processes which will lead to the development on a new nuclear power plant at Moorside.
- 1.2 Given the scale and significance of the development the proposal will be considered as a Nationally Significant Infrastructure Project (NSIP). Whilst decisions on the grant of planning permission, through a Development Consent Order (DCO), will rest with the Secretary of State for Energy and Climate Change, the Council retains a formal role as lead planning authority and will be required to offer formal decisions at various stages of the process. The Council will be expected to produce a Local Impact Report (LIR) which will outline areas where there may be some degree of contention over the developers' proposals.
- 1.3 Some development relating to the overall scheme may fall to be considered under the more conventional planning process with applications made under the Town & Country Planning Act (TCPA) and determined by the Council acting as local planning authority. Throughout the process it is likely that less formal decisions will need to be made to ensure that development is proceeding in line with the Council's key policy objectives.
- 1.4 It is worthy of note that proposals for the National Grid's North West Coast Connection will proceed towards the submission a Development Consent Order in a similar timeframe to that which is proposed for new build.
- 1.5 Members are reminded that all costs incurred by the Council with regard to both the Moorside project and North West Coast Connections will be recovered via Planning Performance Agreements which are in place.
- 1.6 There are a number of issues which prompt consideration of a specific decision making process needed to support the Council's role.
  - Parts of the DCO process will require Council decisions in limited timeframes. Current constitutional arrangements would prevent integration with Council decision making processes.
  - Given the nature of the proposals it may be considered that a bespoke body should be established as existing arrangements – Planning Panel, Strategic Nuclear and Energy Board, Executive - may not be the most effective forums for decisions on a project of this kind.
  - It may be appropriate to give consideration to adjustment to officer delegation to support the Council's role in the process.

- Whilst Strategic Nuclear and Energy Board meetings have been used to provide an opportunity to keep members informed of progress, the projects are likely to change more rapidly and to have wider implications as they proceed. There is logic in establishing a formal forum which facilitates the wider dissemination of information.
- Consideration needs to be given to decision making process once the Council's decision making structures change around the role of an elected mayor.

## **2. KEY STATUTORY DECISION POINTS**

### **2.1 DCO APPLICATION PROCESS**

#### **Environmental Impact Assessment Scoping**

- The Council is required to express a view on the submissions of the applicant relating to the scope of issues which would need to be covered by an Environmental Statement as part of the Environmental Impact Assessment of the development. The Council has 28 days from receipt of the applicant's submission to advise the Planning Inspectorate (PINS) of its decision. It has been indicated that this Scoping Report will be submitted at the beginning of November 2014 with the Council's response required by the end of that month

#### **Statement of Community Consultation (SoCC)**

- The applicant is required to submit a Statement of Community Consultation. This document outlines the applicant's intended course of action to engage with stakeholders and the wider community as proposals for new development are submitted for consideration. The Council has a statutory obligation to advise PINS of its response to the submission of a SoCC by the applicant within 28 days of receipt. National guidance stresses that the formal 28 day process should be preceded by discussion with the local authority. NuGen have indicated an intention to submit a SoCC in September 2014.

(If the timetable suggested by NuGen is achieved it is unlikely that any new constitutional arrangements which may be considered necessary would be in place. A decision on this part of the process will need to be made within existing arrangements most likely through the Executive, if necessary through a special meeting).

## **Adequacy of Consultation (AoC)**

- On submission of the DCO for appraisal by PINS, the Council has 14 days to advise of its position having regard to the Adequacy of Consultation – has the applicant consulted in a manner sufficient to enable the community to adequately participate in the decision making process.

Anticipated submission of DCO April 2017

## **TCPA APPLICATIONS**

NuGen have indicated their intention to submit a number of applications under the conventional TCPA process. This will be subject to the normal timeframes for the determination of planning applications – subject to agreement of extension of time for decisions to be made.

Applications for advanced site excavation and for a beach Marine Onshore Landing Facility are potentially to be submitted in September 2014 with a 26 week period expected for determination

- 2.3 In addition to decisions where there is a statutory time requirement the Council will need to engage in a variety of appraisal processes which will determine the Council's formal position on various aspects of the development proposals.

- Develop updated legacy strategy ( q3/4 2014)
- Agree a Communications Strategy (q3/4 2014)
- Develop and agree Community Benefits and Community Infrastructure Levy package (q1/3 2015)
- Monitor stage 1 DCO consultation (q1 2015)
- Monitor stage 2 DCO consultation (q1 2016)
- Monitor public consultation (q2/3 2016)
- Agree CBC position on final Environmental Statement (q1 2017)
- Agree Statement of Common Ground (q1 2017)
- Agree and submit Local Impact Report (q2 2017)

## **3. OPTIONS TO BE CONSIDERED AROUND KEY STATUTORY DECISIONS**

- 3.1 There is no current provision or requirement for decisions relating to development to be considered by Council and no basis to expect that full council

would need to make any of the key decisions inherent in nuclear new build or grid connection proposals

- 3.2 The Executive of the Council are mandated to make key, strategic decisions. Whilst the development of nationally significant infrastructure in the Borough is clearly strategically important, many of the key decisions are about acceptance of process or technical decisions. The constitutional arrangements for the executive to receive and consider reports would inhibit response at some key decision stages with statutory limits, notwithstanding constitutional arrangements to call special meetings. There may be some specific areas of decision making where the Executive is constitutionally prevented from making decisions. Exceptionally it may be considered that the Executive should approve the final Local Impact Report which is the statement of the Council's overall assessment of the proposal and its impact upon the local community, which is considered by the Inspectorate team advising the Secretary of State.
- 3.3 SNEB and Planning Panel have clearly specified functions. In the case of the Planning Panel this is part of the statutory function of the Council. It is arguable that the body contributing to the consideration of the Council's position in respect of new nuclear and related development should be able to make assessment beyond the conventional planning considerations and that decisions should not be made by the Planning Panel. Constitutionally SNEB has no decision making powers at present – whilst the Board benefits from knowledge of the nuclear and energy sectors, the decisions which the Council will be required to make extend beyond this focus.
- 3.4 It may be considered appropriate to establish a decision making body with the specific remit to oversee the process of managing NSIPs, where necessary making the key decisions highlighted above and other decisions which are required of the Council. Decisions could include those relating to planning applications made under the TCPA which would otherwise be expected to form part of the DCO process. Ancillary development would be the subject of applications considered under delegated powers or by Planning Panel. The exception of final sanction of the LIR, as matter reserved for approval of the Executive may be considered. An NSIPs Panel would be the obvious recipient of periodic reports (monthly) to provide member awareness of progress in projects. The procurement process to secure the resources necessary to would be expected to be covered through normal powers of delegation to the Strategic Nuclear and Planning Manager and the Director of Economic Growth, or established provisions for decisions made by the Executive. The NSIPs Panel may logically consist of Portfolio holders for Nuclear and Energy, and Community Planning and their shadows; the Chair of Planning Panel and the Chair of the LDF Working Group. The constitution of the new Panel should make provision for the need to call meetings outside of, or in addition to a set pattern, to meet

demands placed on the Council given timings within the DCO process. The Panel may be afforded the power to refer matters to the Executive and Full Council, where it was considered that matters of such strategic or budgetary significance required the attention of the Strategic decision making body or the full council membership – there is an issue in the ability to provide clarity in the definition strategic or budgetary significance.

#### **4. RESOURCING THE DCO PROCESS**

- 4.1 It is clear that as the pace of the above process begins to gather the resource commitment for the Council will be considerable. As lead body within the Planning Performance Agreement (PPA) with NuGeneration Ltd and Cumbria County Council the scope of the impact on this Council's operations will be across the Board from financial management through to planning and project management.
- 4.2 The PPA is an agreement between the local authorities and the developer which allows for the Councils to recover their relevant costs of engaging with the DCO process. Such an agreement has been formally signed by all parties and a process for costs recovery is in place.
- 4.3 Currently Council engagement with the project has been at a strategic planning level but shortly there is likely to be a need for additional engagement around project and programme management, planning policy and development management, socio-economics, economic development and community regeneration, financial management and accountancy and procurement. There is clearly some real benefit to the project (and to the individuals involved) from utilising existing staff resources and capabilities and local knowledge. However there is a strong likelihood that the extent of the work will create significant pressures in terms of both the scale of resource required and the scope of expertise needed.
- 4.4 Options to consider for the procurement of additional resource include;
  - I. Utilise existing staff resource and expertise and 'buy-in' on an ad-hoc basis additional support as required both to provide additional support and expertise and to back-fill existing staff.
  - II. As i) above but procuring additional support through a framework agreement with an external supplier to provide services on a 'call-on call-off basis' to meet the expected peaks and troughs of the process
- 4.5 Of the options above Option II provides greater flexibility for the process and is the preferred route. However should Members support this route as an option it is recommended that officers investigate a range of sub-options including the potential for utilising existing frameworks operated by partner organisations

including Cumbria County Council. Such a framework arrangement could be utilised for any other NSIPs schemes that the Council might be engaged with.

- 4.6 In addition Members will also be aware that in 2011 the Council procured specialist legal advisors to advise on matters relating to nuclear and energy issues. This current arrangement has worked well but the contract will terminate in 2015 and the proposal is to re-tender and seek an external provider for this specialist area of work.

## **5. DEVELOPING AN INTERNAL COMMUNICATIONS STRATEGY FOR THE PROJECT**

- 5.1 As the project and development consent process gathers pace there will be a need to ensure that all Members and staff across the Council are kept fully informed of developments. The approach is to utilise existing Council communication tools including the regular publication of the 'Members Update' and 'Team Brief' and 'The Latest Word' for staff.

## **6. CONCLUSIONS**

- 6.1 The extent of the impact on the Council's operations brought about by the Development Consent Process associated with the proposed construction of a new nuclear power station at the Moorside site will be substantial. There are a range of issues that require consideration to enable the Council to participate in the process. There are constitutional, procedural and practical reasons for adjusting decision making process to enable the effective operation of the Council in the NSIPs process for both nuclear new build and grid connection proposals. Whilst some decisions will be made some time into the future, the start of formal submission by NuGen later this year creates some imminent decision points. The most pragmatic way forward would seem to be secured through the creation of a new bespoke body within the Council which has the authority to make decisions and to oversee the NSIPs process in a manner consistent with the strictures of the DCO process. Necessary constitutional changes should be initiated at the earliest opportunity given the process necessary to secure such change and the time taken for that process to run its course.
- 6.2 In addition there will be significant pressures on staff resources and the range of skills available to fully engage with the process. The conclusion is that the Council should procure an external provider to provide a range of planning and project management related services on a call-on call-off basis to supplement and support existing resources.

## **7. STATUTORY OFFICER COMMENTS**

7.1 The Monitoring Officer's comments are: The proposed interim arrangements are satisfactory from a decision making perspective and the longer term implications around constitutional amendments are noted. There will be some resourcing requirements from the Democratic Services team and potentially some training needs for elected members.

7.2 The Section 151 The impact on the Council's operations of the Development Consent Process associated with the proposed construction of a new nuclear power station at the Moorside site will be substantial.

The council will recover costs in connected to both the Moorside project and North West Coast Connections will be recovered via Planning Performance Agreement, but these must be robust but flexible enough to ensure all of our costs can be recovered .

Following Contract procedure rules when tendering/re tendering works will ensure the council gains best value for money for services to be procured in connection with these projects

7.3 EIA Comments: EIA Comments: The Council considers the Equality Act 2010 Public Sector equality duty and impact of the 'Nuclear New Build ' and the impact on the protected characteristics to ensure that we take advantage of any opportunities to advance equalities.

In particular the Council will:

- Complete a full equality impact assessment
- In partnership with communities, ensure that community consultation meetings/activity and or events are accessible for all.
- Consider the impact of community benefits in line with the protected characteristics within the Equality Scheme.

7.4 Policy Framework: In line with the Council's key priorities it will work to be an effective public service partner so we can get the best deal for Copeland. Through the construction and implementation of the Nuclear Newbuild the Council aims to advocate and seek to increase the prosperity of Copeland.

7.5 Other consultee comments, if any: None

## **8. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?**

8.1 The project will be managed by a Project Team led by the Director of Economic Growth.

8.2 As part of the Project Teams discussions a risk register related to the Council's role in the process has been established and will be updated on a regular basis.

**7. WHAT MEASURABLE OUTCOMES OR OUTPUTS WILL ARISE FROM THIS REPORT?**

**List of Appendices**

**List of Background Documents:**