

NATIONAL POLICY STATEMENTS (NPS) FOR ENERGY – RE-CONSULTATION RESPONSE

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SUMMARY:

In November 2009 Government published for consultation six draft Energy NPSs. At a Special Council meeting in February 2010, Members agreed a response to Government. In the summer the new coalition Government announced that it would be re-consulting on the draft documents. In October the Government launched the re-consultation process and published its response to the initial consultation, which identifies the key themes and responds to them. The purpose of this report is to highlight key changes made to the draft documents following the Governments consideration of the comments received from the initial consultation and seek Members endorsement to a draft consultation response for submission to Government by the closing date of 24th January.

Recommendation:

That Council agrees the response to the Department of Energy and Climate Change regarding the Energy National Policy Statements as set out in Appendix A, and, that the Chief Executive, in consultation with the Portfolio Holder for Nuclear, be given delegated authority to make minor additions and amendments to the final responses (if necessary) before the consultation deadline.

1. INTRODUCTION AND BACKGROUND:

- 1.1 Having considered the responses received to the original consultation and the outputs of the Parliamentary scrutiny of that process, the new coalition Government has made changes to the draft Energy NPSs and accompanying Appraisals of Sustainability (AoSs). Given the changes that have been made the Government are now re-consulting on the revised draft NPSs and associated documents. The consultation closes on Monday 24 January 2011.
- 1.2 Subject to the consultation and further Parliamentary scrutiny, the Government intends to finalise and formally approve the energy National Policy Statements in Spring 2011. These National Policy Statements would then be used by the Infrastructure Planning Commission when it makes decisions on applications for development consent for nationally significant energy infrastructure.
- 1.3 The principal purpose of consultation on the revised draft energy NPSs, as with the previous consultation, is to identify whether they are fit for purpose: in other words,

whether they provide a suitable framework for decision-making on applications for development consent for nationally significant energy infrastructure.

- 1.4 However, given the process of consultation the draft energy NPSs have already undergone, and the fact that the previously published draft NPSs were in many ways similar to the drafts which are being consulted on now, this report aims to highlight the main changes to the draft energy NPSs and proposes a consultation response for Members consideration.
- 1.5 Government is asking interested parties to focus their responses on those aspects of the policy that have changed and on any aspects which they think should change since the previous consultation. However, all consultation responses will be considered. As previously, the Government has set a number of questions in order to structure the consultation response.
- 1.6 Subject to this consultation, continuing Parliamentary scrutiny and final ratification by Parliament, the Government intends to finalise and then formally designate (adopt) the energy NPSs in 2011.
- 1.7 Once they have been designated the energy NPSs will be the primary consideration for the Infrastructure Planning Commission (IPC) when it makes decisions on applications for development consent for nationally significant energy infrastructure under the Planning Act 2008.
- 1.8 However the Government has announced that it intends to bring in legislation that would abolish the IPC, giving its function of examining applications to a Major Infrastructure Planning Unit (MIPU) within the Planning Inspectorate. The MIPU would provide a recommendation and a report on development consent to the Secretary of State. The MIPU would thus operate a process which is largely the same but with a different decision maker at the conclusion of the process. Until such time as the Planning Act 2008 is amended, the IPC will have the functions set out in that Act, and in cases where there is a designated NPS, the NPS will form the basis for decision making.
- 1.9 The Government does not currently expect that there should be any need to change the planning policies or decision-making criteria set out in the NPSs if these proposed changes are implemented. The intention is that designated NPSs should provide the policy framework for decisions by the Secretary of State in the same way as they will for the IPC while it exists.

2. THE GOVERNMENT RESPONSE TO THE CONSULTATION ON THE DRAFT

NATIONAL POLICY STATEMENTS FOR ENERGY INFRASTRUCTURE – KEY CHANGES

2.1 The previous consultation between November 2009 and February 2010 sought comments on the following documents;

- Draft Overarching NPS for Energy (EN-1)
- Draft NPS for Fossil Fuel Electricity Generating Infrastructure (EN-2);
- Draft NPS for Renewable Energy Infrastructure (EN-3);
- Draft NPS for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4);
- Draft NPS for Electricity Networks Infrastructure (EN-5);
- Draft NPS for Nuclear Power Generation (EN-6);
- Appraisals of Sustainability (AoSs) of the drafts of EN-1 to 6; Habitats Regulations Assessments (HRAs) of the drafts of EN-1 to 6; and
- Draft Impact Assessment for the drafts of EN-1 to 6.

Over 3000 responses were received to the consultation which included six national events and eleven local events including three in Copeland. Transcripts from all local events have been made available on the energy NPS consultation website.

2.2 The Government believes that the most significant changes that these documents have undergone are:

Reconsideration of alternatives: The selection and appraisal of policy alternatives within the AoSs for EN-1 to EN-5 have been reconsidered. New alternatives have been developed and appraised. This means that the likely impacts of consenting new energy infrastructure in accordance with the policies set out in these NPSs should be clearer.

Need for the infrastructure: This section sets out the need for new energy infrastructure and has been updated to take account of the latest modelling and Pathways to 2050 work. The changes are reflected in EN-1 which is where the need for individual technologies also now appears.

Potentially suitable sites for nuclear power station development: Kirksanton and Braystones in Cumbria have been removed from the list of potentially suitable sites within EN-6. Dungeness in Kent remains off the list.

The suite of documents now also includes a draft **Appraisal of Sustainability Monitoring Strategy**. Monitoring will test the actual significant environmental and sustainability effects of implementing the energy NPSs against the predicted effects. One draft monitoring strategy covering all the energy NPSs has been included for public consultation. It includes suggested indicators and data sources for monitoring significant effects.

2.3 **The revised draft Overarching National Policy Statement for Energy (EN-1)**

EN-1 is an umbrella document, under which all of the remaining draft energy NPSs sit. Its role is:

- to set out how the suite of energy NPSs will work;
- to explain the framework of existing Government policy for energy infrastructure; and
- to establish the need for new nationally significant energy infrastructure.

Key changes

The document has been changed to reflect latest modelling analysis in respect of the need for new energy infrastructure. In terms of Carbon Capture and Storage the main change is that the Government is proposing an emissions performance standard (EPS) that will prevent coal fired power stations being built unless they can meet that standard

2.4 **The revised draft NPS for Fossil Fuel Electricity Generating Infrastructure (EN-2);**

This NPS, taken together with EN-1, provides the primary basis for decisions by IPC on applications it receives for fossil fuel generating stations with over 50 MW (megawatts) generating capacity.

Key changes

This NPS has been revised to clarify that the transportation of fuel and residues is multi-modal but there is a preference for water-borne transport where available. It also clarifies that sites should be located near existing transport infrastructure where possible. The text has been further edited to be consistent with EN-1 and EN-3.

2.5 **The revised draft NPS for Renewable Energy Infrastructure (EN-3)**

This NPS, taken together with EN-1, provides the primary basis for decisions by IPC on applications it receives for renewable energy infrastructure. This covers any energy infrastructure for biomass and/or waste generating above 50 MW, any offshore wind farm generating above 100MW, and any onshore wind farm generating more than 50MW. This NPS does not cover other types of renewable energy generation, such as schemes that generate electricity from tidal or wave power which are planned for inclusion in a separate NPS.

Key changes

The “need case” for new renewable electricity infrastructure is now in the revised draft EN-1. Regarding Biomass sustainability the text has been revised to take account of the latest position on the Renewables Obligation Certificates (ROCs), but may need to be further revised if the proposed policy on ROCs referred to there, as

having been subject to consultation, is not adopted.

New text has been included to explain the circumstances in which Green Belt provisions might be applicable when considering offshore applications. Further guidance on the noise and vibration impacts of Biomass/Waste has also been included

2.6 The revised draft NPS for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)

This NPS, taken together with EN-1, provides the primary basis for decisions by the IPC on applications it receives for gas supply infrastructure and gas and oil pipelines, and including infrastructure that is being assessed as associated development with another Nationally Significant Infrastructure Project.

Key changes

The need case for new gas supply infrastructure and gas and oil pipelines is now in the revised draft EN-1. The document also makes changes to references to: CO2 pipelines; regulatory controls that apply to the safety of shipping liquefied natural gas; geological assessments of salt caverns for storage; and additional advice for applicants around noise impacts of a pipeline and noise impacts of gas emissions due to flaring or venting

2.7 The revised draft NPS for Electricity Networks Infrastructure (EN-5)

This NPS, taken together with EN-1, provides the primary basis for decisions by IPC on applications it receives for electricity networks infrastructure, covering above ground electricity lines of 132 kilovolts (kV) and above, and other infrastructure for electricity networks that is associated with Nationally Significant Infrastructure Projects, such as substations and converter stations. This NPS will be particularly relevant to guide potential development consent applications which will come forward from the National Grid to provide power line connections to new nuclear build facilities in Copeland and unlock the wider potential of the Energy Coast.

Key changes

There is recognition that the visual impacts of electricity infrastructure including towers can be intrusive. Generic landscape and visual effects are covered in EN-1. In addition there are specific considerations which apply to electricity networks which are covered in EN-5 including the issue of under-grounding which the NPS attempts to clarify. In relation to this the NPS states;

- In considering whether all or part of the proposed electricity lines should be placed underground to obtain the benefits of reductions in landscape and/or visual impacts, the IPC will need to weigh the reductions in visual intrusion against the impacts

(economic, environmental and social) and technical challenges of undergrounding.

- Because the impacts and costs will vary so much between individual projects, each project should be assessed on a case by case basis depending on the specific circumstances of the project and the IPC should only refuse consent for overhead line proposals on the basis that undergrounding is preferable if it is satisfied that the benefits from undergrounding outweigh any extra economic, social and environmental impacts and the technical difficulties are surmountable. It should consider:
 - The landscape in which the proposed line will be set, (in particular, the proximity to residential areas, and those of natural beauty or historic importance);
 - The additional cost of undergrounding (which will always be more expensive than overhead lines, but varies considerably from project to project depending on whether the line is buried directly in open agricultural land or whether more complex tunnelling and civil engineering through conurbations and major cities is required. Repair impacts are also significantly higher than for overhead lines as are the costs associated with any later upgrading.)
 - The environmental and archaeological consequences (undergrounding a 440kV line may mean disturbing a swathe of ground up to 40 metres across, which can disturb sensitive habitats, have an impact on soils and geology, and damage heritage assets, in many cases more than an overhead line would.)

The NPS goes on to describe a range of mitigation measures that applicants and the IPC will need to consider to minimise visual intrusion and concerns regarding exposure to Electro Magnetic Fields (EMFs).

2.8 Draft NPS for Nuclear Power Generation (EN-6)

This NPS, taken together with EN-1, provides the primary basis for decisions by IPC on applications it receives for nuclear generating stations with over 50MW generating capacity.

This NPS lists the sites that the Government has judged to be potentially suitable for the deployment of new nuclear power stations by the end of 2025 and the reasons why those sites are considered potentially suitable.

This NPS also sets out the Government's conclusion that it is satisfied that effective arrangements will exist to manage and dispose of the waste that will be produced by new nuclear power stations in the UK; and that there are Imperative Reasons of Overriding Public Interest (IROPI) for why it should proceed despite it not being possible at this stage to rule out any adverse effects on European Sites.

Key changes

There are a number of key changes that have been included within the revised draft document of significance for West Cumbria.

2.8.1 *The Management and Disposal of Radio Active Waste.*

Changes have been made in the draft document which are intended to;

- Demonstrate the Governments confidence that geological disposal will be implemented
- Clarify the Governments expectations in relation to the likely duration of onsite storage of higher activity waste, and
- Clarify the role of the IPC in relation to the arrangements for the management and disposal of wastes from new nuclear power stations.

Specifically the document concludes that;

- The Government is satisfied that effective arrangements will exist to manage and dispose of the waste that will be produced from new nuclear power stations and as a result the IPC should not consider this question. However there may be planning issues relating to the on-site management of radioactive waste which it is appropriate for the IPC to consider as part of the development consent application
- The Government is satisfied that the approach meets the requirements of the Appraisal of Sustainability

2.8.2 *Applications for nuclear development on a site not listed in the NPS*

The original NPS for Nuclear (EN-6) contained a list of proposed sites that were considered potentially suitable for deployment by the end of 2025. Having considered all of the nominated sites, the Government believes that only those sites listed in the revised NPS meet the criteria for deployment by 2025. For Copeland and West Cumbria the Government has already announced that they consider that the sites at Braystones and Kirksanton are not deployable by 2025 having surrendered their grid connections, and therefore are no longer included within the draft NPS. However the revised NPS states that should the IPC receive and accept a development consent application for a new nuclear power station on a site that is not listed in the NPS, the IPC will examine the proposal and make a recommendation to the Secretary of State. It is worth noting that the Government have also excluded the Braystones and Kirksanton sites on the basis of the potential impact on the Lake District National Park. Nonetheless the Braystones and Kirksanton site owners, RWE, state: "We firmly believe that both sites are excellent options for new nuclear development by 2025...(and)... We will now consider our response to the (NPS) consultation..."

2.8.3 *The need for all of the listed sites*

The NPS now includes 8 sites, including the land adjacent to Sellafield , as being suitable for development by 2025. The Government is of the view that all 8 are required to be listed as this allows sufficient flexibility to meet the urgent need for

new nuclear power stations whilst still enabling the IPC to refuse consent should it consider it appropriate to do so.

2.8.4 *Individual site assessments*

The revised NPS for Nuclear also includes updated site assessments for all of the 8 sites that remain within the NPS including the land adjacent to Sellafield, taking on board a range of comments made during the consultation including: reference to impacts on the Irish Sea; transport; nationally and internationally designated sites; and the proximity of existing facilities to any potential new build.

2.9 **Appraisals of Sustainability (AoSs) of the drafts of EN-1 to 6; Habitats Regulations Assessments (HRAs) of the drafts of EN-1 to 6**

AoSs are required by the Planning Act 2008 and are intended to help to ensure that NPSs take account of environmental, social and economic considerations, with the objective of contributing to the achievement of sustainable development. They incorporate the requirements of the regulations that implement the Strategic Environmental Assessment Directive. The AoS for EN 1-5 has informed the preparation of all the energy NPSs, although the Nuclear NPS was subject to a separate AoS. There are also AoS reports for each site.

The aim of the HRA is to assess the implications of NPSs for protected habitats. The main HRA appraises the revised draft Nuclear NPS as a whole. There are also HRA reports for each site.

2.10 **Draft Impact Assessment for the drafts of EN-1 to 6.**

The Impact Assessment analyses the administrative costs and benefits of proposed Government interventions contained within the NPSs to business, the public sector and the third sector (voluntary organisations).

3. **THE RE-CONSULTATION PROCESS**

- 3.1 For this consultation to be most effective, the Government is asking interested parties to focus their responses on those aspects of the suite of policy documents that have **changed or any relevant change in circumstances since the previous consultation**. As with the previous consultation Government is seeking comments to a range of questions as below. The first two consultation questions below reflect this approach by focusing on what Government consider to be the most significant changes. However, respondents are free to make other comments and the Government will consider these where appropriate.

Government recognises that changes to the list of potential sites for new nuclear power stations will be of interest to some respondents, particularly those who live in the vicinity of a site. Question 3 can be used to make comments on specific sites.

When considering responses to this consultation, the Government will give greater weight to responses that are based on argument and evidence, rather than simple expressions of support or opposition.

3.2 The questions posed are as follows;

Question 1: Do you have any comments on the appraisal of policy alternatives within the Appraisals of Sustainability for EN-1 to 5?

Question 2: Do you have any comments on the revised Need case in the Overarching National Policy Statement?

Question 3: Do you have any other comments on the revised National Policy Statements and accompanying documents?

3.3 Attached as Appendix 1 is a copy of the Governments consultation document **with suggested responses for Members comment/endorsement**. The comments have been shaped by discussions at the Nuclear Working Group meeting on 2nd December and an open forum held on 9th Dec when officials from DECC accepted an invitation to attend a local consultation event to which all Members of the Council were invited along with other community and stakeholder representatives. A total of 45 residents and stakeholders attended the event which generated a useful discussion which has been used to shape the Council's view on the re-consultation submission.

4. CONCLUSIONS

- 4.1 Government has identified a national need for substantial new electricity generation capacity by 2025 to meet growing demand from low carbon sources. It seeks 35GW of new electricity generating capacity from renewable sources and 25GW from conventional sources with as much as possible from nuclear. Copeland is well placed to contribute directly to Government energy policy through the development of new generating capacity and the potential development of new support services to the nuclear sector.
- 4.2 The proposed revised National Policy Statements for Energy and their supporting Appraisals of Sustainability are generally welcome and should facilitate the implementation of Government energy policy.



Complete list of consultation Questions

Question 1: Do you have any comments on the appraisal of policy alternatives within the Appraisals of Sustainability for EN-1 to 5?

The Council supports the proposal and agrees that it is appropriate that the 'baseline' against which the effects of implementing the NPS policies is compared should be the environment as it now stands, rather than a comparison between implementing the same policies with and without an NPS.

Additionally the Council agrees that the appraisal should consider the advantages and disadvantages of different policies which could be adopted in the NPSs as alternative ways of trying to meet overall energy policy objectives.

Question 2: Do you have any comments on the revised Need case in the Overarching National Policy Statement?

Copeland Borough Council supports the need case made within the NPSs. Specifically for the Government to meet its energy and climate change objectives for the UK, there is an urgent need for all types of nationally significant energy infrastructure, including new nuclear power. Nuclear power generation is a low carbon, proven technology, which is anticipated to play an increasingly important role as we move to diversify and decarbonise our sources of electricity. New nuclear power stations will help to ensure a diverse mix of technology and fuel sources, which will increase the resilience of the UK's energy system. The Council supports Government policy that new nuclear power should be able to contribute as much as possible to the UK's need for new non-renewable capacity.

Question 3: Do you have any other comments on the revised National Policy Statements and accompanying documents? These are:

- a) Revised draft Overarching National Policy Statement for Energy (EN-1)
- b) Revised draft National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2)

- c) Revised draft National Policy Statement for Renewable Energy Infrastructure (EN-3)
- d) Revised draft National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)
- e) Revised draft National Policy Statement for Electricity Networks Infrastructure (EN-5)
- f) Revised draft National Policy Statement for Nuclear Generation (EN-6) including the list of potentially suitable sites for the deployment of new nuclear power stations by 2025?
- g) Revised Appraisal of Sustainability for EN- 1
- h) Revised Appraisal of Sustainability for EN-2
- i) Revised Appraisal of Sustainability for EN-3
- j) Revised Appraisal of Sustainability for EN-4
- k) Revised Appraisal of Sustainability for EN-5
- l) Revised Appraisals of Sustainability for EN-6
- m) Appraisal of Sustainability Monitoring Strategy
- n) Revised Habitats Regulations Assessment for EN-1
- o) Revised Habitats Regulations Assessment for EN-2
- p) Revised Habitats Regulations Assessment for EN-3
- q) Revised Habitats Regulations Assessment for EN-4
- r) Revised Habitats Regulations Assessment for EN-5
- s) Revised Habitats Regulations Assessments for EN-6
- t) Revised Impact Assessment for the Energy NPSs

The Council welcomes the inclusion of the site adjoining the current Sellafield site as a potential location for a new nuclear power station for development before 2025 in the draft Nuclear NPS. Development on land adjacent to the Sellafield site continues to be the strong preference of the Council and other community leaders in West Cumbria. It continues to be the preference of the community in West Cumbria as evidenced by the views expressed at the public meeting on the revised draft NPSs in Whitehaven on 9 December. The Council recognises that there is enough land at Sellafield to host significantly more generating units than currently proposed by NuGeneration Ltd, and that consolidating development adjacent to Sellafield could provide significant benefits to both the local economy and the Governments aspirations for new electricity generation by 2025. Further the Council and local residents, as evidenced by comments received at the consultation event on 9th Dec, are keen to encourage the Government and the Nuclear De-commissioning Authority, to investigate the potential for the re-use of land currently being de-commissioned on the existing Sellafield site, for long term post-2025 nuclear new build and/or new nuclear mission opportunities.

The Council initially expressed disappointment that the Government had withdrawn the sites at Kirksanton and Braystones from the list of potential sites for nuclear new build, having supported their inclusion in the response to the first Nuclear NPS consultation. However on receiving the evidence that both are not deployable by 2025 and therefore do not meet the Governments criteria for inclusion, the Council accepts that they are not included.

The Council welcomes the Government's decision not to preclude alternative

arrangements for the management of spent nuclear fuel from new build reactors, including the potential for a central storage facility, if a site can be identified and the necessary regulatory and planning permissions and community benefits obtained.

The Council understands Government's wish to evidence more clearly progress towards development of a geological disposal facility for higher activity radioactive wastes. The Council continues to consider that the best prospects for progress will be through sustained Government commitment to the key MRWS principles of voluntarism, right of withdrawal and staged community benefits.

The Council agrees it is appropriate for radioactive waste disposal arrangements to be considered by the IPC (or its successor body) when deciding upon planning applications to construct new nuclear power stations.