

DELEGATED

AGENDA No.

**REPORT TO PLANNING
COMMITTEE**

8 DECEMBER 2010

**REPORT OF THE CORPORATE
DIRECTOR OF DEVELOPMENT
AND NEIGHBOURHOOD
SERVICES**

National Policy on Nuclear Power, The Government Response to consultation and a second Nuclear power station site at Hartlepool

Summary

Members will be aware that the 2008 Planning Act introduced a new planning system for applications to build nationally significant infrastructure facilities in England and Wales. These are the large scale facilities that support the economy and vital public services.

The changes are a response to the delays and costs associated with taking major infrastructure projects through the existing planning system. These included long public inquiries and a lack of clarity around national policy and the need for developers to seek a range of different consents for the same project.

The new system covers applications for major energy generation, railways, ports, major roads, airports and water and waste infrastructure. Smaller infrastructure projects which fall below the thresholds set out in the 2008 Act, and other developments such as housing and retail, will continue to be dealt with under the existing planning system.

Only the Nuclear Power and Airports NPS include more specific information on where developments might be built, although locational criteria in the other NPS may guide promoters to appropriate types of areas. Where there is a conflict between the Development Plan for an area and a National Policy Statement, the National Policy Statement will be followed. National Policy Statements will also become 'material considerations' for local planning authorities when considering planning applications for development under the main town and country planning system.

The revised Nuclear Power consultation now includes details of the Government's response to the choice of a new Nuclear power site near the existing Hartlepool Power Station. As a neighbouring planning authority, Stockton on Tees is entitled to comment both on the consultation and also when an application is made under the process for nationally significant infrastructure facilities. This report therefore considers the Government's response to the consultation, the choice of site and outlines the process and role this Council would have in the determination of an application for a new Nuclear power station at Hartlepool.

Recommendation:

That the report be noted.

1. Background

1.1 In 2009 the Government began consulting on an Overarching National Policy Statement for Energy. This included individual statements for:

Renewable Energy Generation – including wind farms, energy from waste and biomass plants Fossil

Fuel Electricity Generating Infrastructure – e.g. gas, oil and coal fired power stations)

Gas Supply Infrastructure and Gas and Oil Pipelines

Electricity Networks Infrastructure – e.g. power lines and substations

Nuclear Power Generation

1.2 Only the Nuclear Power and Airports NPS include more specific information on where developments might be built, although locational criteria in the other NPS may guide promoters to appropriate types of areas. Where there is a conflict between the Development Plan for an area and a National Policy Statement, the National Policy Statement will be followed. National Policy Statements will also become ‘material considerations’ for local planning authorities when considering planning applications for development under the main town and country planning system.

1.3 With a change of Government in May 2010, it was decided to abolish the Infrastructure Planning Commission and transfer their powers to the Planning Inspectorate. However, at this point in time the process remains the same but Ministers will take decisions on applications within the same statutory fast-track timeframe as the current regime. .

2. Transitional arrangements

2.1 Until new legislation is in place the Infrastructure Planning Commission will continue in its present role until it is abolished. During this interim period, should an application reach decision-stage and where the relevant National Policy Statement has been designated, the Infrastructure Planning Commission will decide the application. If an application reaches decision stage and the relevant National Policy Statement has not been designated, the Infrastructure Planning Commission will make a recommendation to the Secretary of State, who will take the decision

3. The Government Consultation on the draft energy National Policy Statements for Energy Infrastructure

3.1 The principal purpose of the consultation was to identify whether the draft energy National Policy Statements are fit for purpose and whether they provide a suitable framework for the Infrastructure Planning Commission to make decisions on applications for development consent for nationally significant energy infrastructure.

3.2 In the case of the draft Nuclear NPS, the consultation also sought views on the Government’s assessment of the potential suitability of sites for the deployment of new nuclear power stations, and the Government’s assessment of arrangements to manage and dispose of waste from new nuclear power stations.

3.3 Public consultations on draft NPSs are intended to provide an opportunity for debate on the national need for the various types of infrastructure rather than repeating this when each large infrastructure application is considered by IPC/PINS.

Once a finalised NPS is in place, the IPC/PINS will focus on the issues related to that particular planning application rather than the wider issues of need.

3.4 The Government's detailed response to the comments it received relating to the proposed site at Hartlepool are set out in full at Appendix 1

4. How will it work?

4.1 The IPC/PINS will operate a one-stop development consent process for nationally significant infrastructure projects.

4.2 The IPC/PINS will decide whether to grant consent on the basis of the policies set out in the NPSs, taking into account domestic and European law, reports from affected local authorities, and evidence put forward by local communities and other interested parties during examination.

4.3. In making its decision the IPC/PINS will weigh up the benefits and adverse impacts of the application.

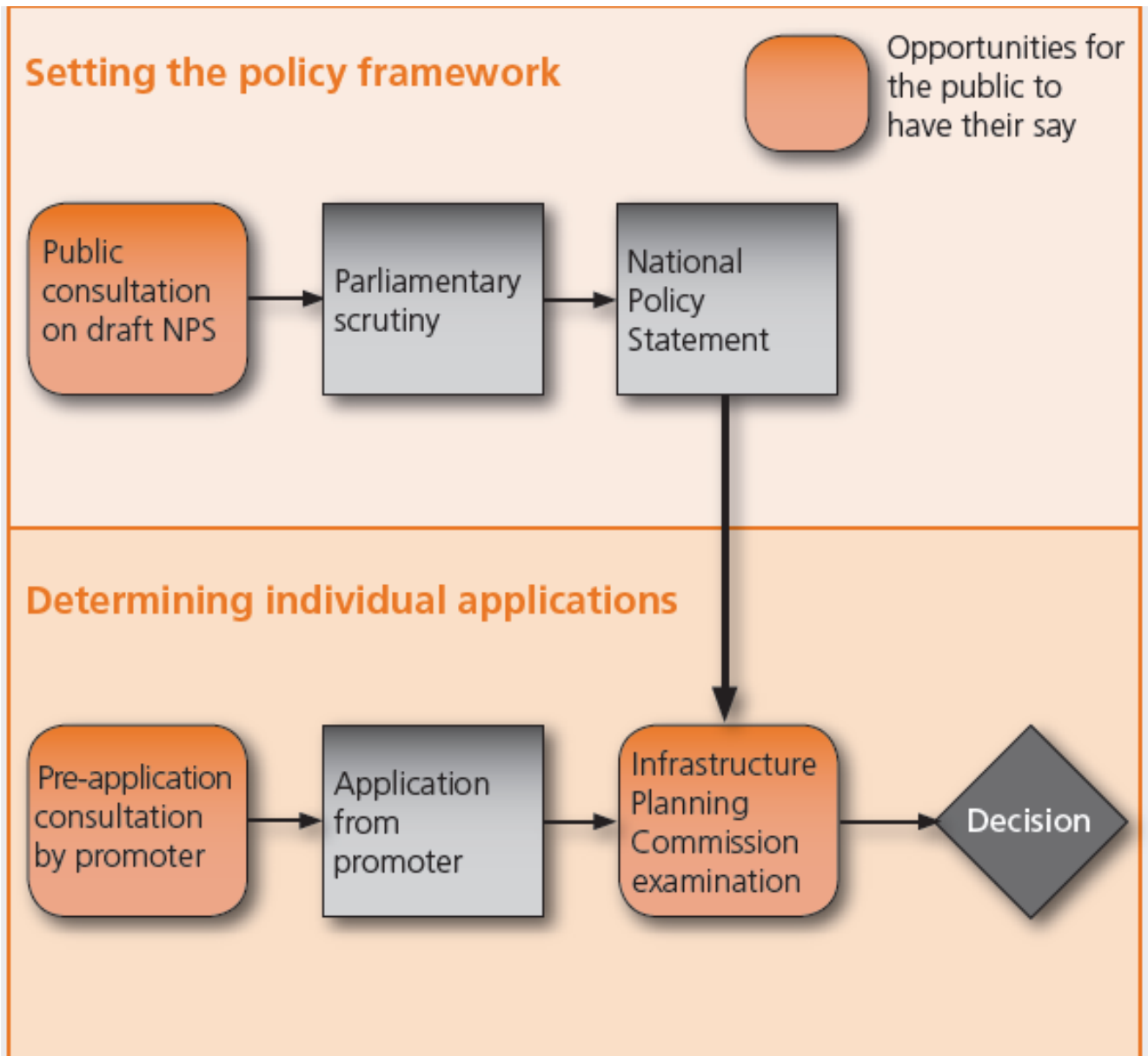
4.4 The IPC/PINS will have to give detailed reasons for its decisions and can be challenged in the courts if people think it has acted unreasonably.

4.5. The new process will provide clearer and better opportunities for the public and local communities to get involved from an early stage in decisions that will affect them

4.6. There will now be three opportunities for individuals and groups to have their say.

They are:

- During the public consultations on the draft NPSs when applications are being prepared for submission to the IPC/PINS – at this stage developers are required to consult with local communities about what they plan to do, and
- During the IPC/PINS' examination of applications – when individuals and groups can submit evidence in writing as well as in person
- At open-floor hearings held by the IPC/PINS



5. The role of an adjacent Local Planning Authority

5.1 There is no legal requirement to consult neighbouring authorities about the Statement of Community Consultation.

5.2. Guidance on the new regime stresses that all matters should be resolved so far as possible before the application is submitted to the IPC/PINS. The function of the Commissioner(s) will be to decide or recommend to the relevant Secretary of State whether or not a development consent order should be granted (Sections 104 or 105 of the Planning Act 2008), and on what terms, with only limited scope to require or allow changes to the proposal after submission. It will be for the local authority to seek any changes to the draft proposal which it considers necessary, including dealing with any matters requiring negotiation, before the application is finalised and submitted.

5.3 Where a proposal is an EIA development a developer may request the IPC/PINS to prepare a scoping opinion. Before doing so the legislation requires that the IPC/PINS should consult local authorities as well as other prescribed bodies. This will include the authority or authorities (in the case of linear projects or projects which straddle boundaries) within whose area(s) the proposal falls, commonly referred to as the “host” authority or authorities; together with any local authorities that share a boundary with a host authority. In two-tier areas this test will include the County Council and all adjoining authorities, including District Councils which adjoin the County Council’s area. Regardless of whether a proposal is an EIA development (and whether a scoping opinion is sought), the promoter is required to consult both the host authorities and adjoining authorities and other prescribed bodies which they consider will be materially affected by the project under Section 42 of the 2008 Act. Advice note three: Scoping opinion consultation contains advice on the IPC/PINS’s role in the process of scoping environmental statements and is intended to assist applicants and statutory consultees.

5.4 Each host authority will be consulted by the promoter in the development of the draft Statement of Community Consultation (SOCC), and will have the right to comment to the IPC/PINS on the suitability of the SOCC. Each host authority and adjoining authority will, after an application has been submitted, be able to make representations on the adequacy of the consultation actually carried out by the applicant and will, after an application has been accepted by the IPC/PINS, be invited to submit a Local Impact Report giving details of the likely impact of the proposed development on the authority’s area (or part of its area).

5.5 It is recommended that authorities affected by a proposal to confer at an early stage to establish whether they can make common cause and work jointly. Joint working will offer several benefits because it will –

- enable the authorities to present a united face to the promoter in addressing the merits of the proposal, any changes which may come forward in response to evidence on prospective impacts, and any matters which require negotiation
- simplify and speed up communication, avoid the promoter having to deal separately with the several authorities, and reduce the risk of misunderstanding and mixed messages
- offer the opportunity to integrate the authorities’ approaches to public information and consultation, including the production of common material which will provide consistent information to local communities
- enable the sharing of costs if it becomes apparent that the authorities need to carry out or commission studies to test aspects of the case presented by the promoter (e.g. within an environmental statement)
- maximise efficiency and minimise staff resource implications for all the affected Authorities.

5.6 It is especially important that neighbouring authorities are consulted to ensure that all of the local communities which may be affected by a proposed development are able to participate in the consultation activity. It may be that more people will be affected in a neighbouring area than in the area which could host the proposed development.

5.7 The first specific role for the local authority comes in section 42 of the Act, which provides that the applicant must consult each defined local authority about the proposed application. Section 43 specifies that the local authorities which must be consulted are each local authority in whose area the NSIP would be situated; and also any of the neighbouring local authorities. Any response which a local authority makes following a consultation under section 42 of the Act may be a representation in terms of the local authority's own vision and place-shaping.

5.8 Local authorities may decide to comment on the suitability of the proposed application by reference to the relevant local development framework or development plan. Alternatively, such representations may reflect other aspects of the proposed application which are of particular importance to the local authority. Under the provisions of the Act, they will therefore be given an opportunity to present their views directly to the promoter about any proposed application. The Act provides that the promoter must not set a deadline of less than 28 days for any responses. Local authorities are encouraged to take full advantage of this opportunity to present their views directly to the promoter on any aspects of the proposed application which are of importance or concern to them, such as measures to mitigate any adverse impacts, so that the promoter can consider their comments before finalising their proposals.

5.9 More widely, local authorities will be invited by the IPC/PINS to submit a 'local impact report' (LIR), which sets out what the local authority believes will be the likely impacts of the proposed development on its area (or any part of its area).

5.9 This report may differ from other representations made by the local authority, in that LIRs are intended to allow local authorities to represent the broader views of their residents. Consequently, a local authority which has been invited to submit a LIR may decide to cover a broad range of local interests and impacts. The LIR should be used by local authorities as the means by which they submit their views to the IPC/PINS on the likely impacts of the proposed development on their area, based on their existing body of local knowledge and evidence on local issues. Hence there is no need for the local impact report to replicate the EIA. This report is distinct from any representation a local authority may choose to make in respect of the merits of an application and any subsequent approvals that should be delegated to the local authority for determination (e.g. on detailed designs).

6 The Government's response to the consultation on the proposed new Hartlepool Nuclear Power Station site.

6.1 The Government's full response in relation to Questions 20, 21a, 21d is attached at appendix 1 and is comprehensive. The key issues and responses are set out below

Comments on safety, security, health and non-proliferation risks of new nuclear power stations

6.2 The Government acknowledges the safety, security, health and non-proliferation concerns raised by respondents. However, taking all the evidence into account, the Government believes that the risks associated with nuclear power are small and that the existing regulatory regime is such that those risks can be effectively managed. Further, the Government remains satisfied that the drafting of the revised draft Nuclear NPS appropriately covers these impacts

Strategic Siting Assessment: general

6.3 The SSA is a process to identify and assess sites which are strategically suitable for the deployment of new nuclear power stations by the end of 2025. In addition to calling for

nominations, a study was commissioned to identify any alternative sites across England and Wales.

6.4 The SSA has assessed whether a site is potentially suitable for a new nuclear power station rather than assessing a detailed application for development consent. It is possible, in theory, that different developers could bring forward different detailed proposals which may not affect the site's overall strategic suitability, which is the remit of the SSA. The SSA criteria represent those issues which Government is capable of assessing at a national level and at an early stage in the planning process.

6.5 Detailed plans will continue to emerge for individual planning applications. A conclusion that a site is potentially suitable does not mean that an individual application for development consent at that site will be granted by the IPC/PINS. The IPC/PINS will have to carefully consider what is proposed in the application, and at a level of site specific detail which is beyond what was achievable in a national level assessment.

6.6 The SSA did not require nominators to specify how many reactors may be developed at a site. For the majority of the criteria, the assessment considered the area within the nominated boundary rather than the number of reactors that would be on it, which was less relevant at the level that the assessment was conducted. For instance, the flood risk assessment of the area within the boundary would apply regardless of the number of reactors that were on a site. For those criteria where it was more relevant at this stage, size of site (D9) and cooling (D10), a baseline of one reactor was used. The AoS has also used a base case of one reactor, apart from at Hinkley Point and Sizewell where the AoS took note of nominator statements that they plan to develop twin reactors at the site

6.7 The draft Nuclear NPS identified potential cumulative effects of more than one nuclear development at a strategic level. It identified both potential cumulative impacts in particular regions, for instance on biodiversity or visual impact on landscape, and opportunities, for instance on employment and supporting industries.

6.8 The assessment found that there was scope for mitigation of some impacts, but in some cases total mitigation is unlikely. However, not all cumulative impacts can be adequately assessed at this stage. For instance when assessing the cumulative impact on transport, factors such as the potential timing of the development and the number of employees will make a significant difference to the cumulative impact of more than one power station. This sort of information is not currently available. Ruling sites out now purely on the basis of cumulative effects risks prematurely precluding a site from development before an adequately detailed proposal could come forward with potential mitigating actions.

6.9 There can be no certainty that development consent on all sites listed in the revised draft Nuclear NPS will be sought or granted. This could result in removing sites now on the basis of cumulative effects which may not in practice materialise. Given this, and as it is for the private sector to build and operate new nuclear power stations, if sites are considered potentially suitable then the Government does not think it appropriate to stipulate which application should come forward first.

6.10 The assessment of environmental impacts was drawn from the AoS and HRA for each site. The HRAs for the sites which are in the NPS concluded that it could not rule out adverse effects on the integrity of European-designated ecological sites. However, the assessment proposed a suite of avoidance and mitigation measures which could be considered as part of

a project level HRA. It was assessed that the effective implementation of these measures may help to avoid or mitigate adverse effects.

6.11 Given the scope for avoidance and mitigation, and the need for sites, the Government does not think that sites should be ruled out from the revised draft Nuclear NPS where adverse effects cannot be ruled out at this stage (Dungeness is the only nominated site which overlaps with a European protected site to such an extent that the avoidance of adverse effects is not considered possible and mitigation of the effects of direct land take is assessed as unlikely to be successful).

6.12 The assessment has considered sites, rather than specific applications, and has been undertaken at a strategic level where specific project level information is not yet available, including in some cases information about the choice of reactor, the location of the finalised boundaries of the development site, the location and extent of ancillary infrastructure (such as marine off loading facilities, transport infrastructure, housing/community facilities) and the location of flood defences. These factors will all affect the scale of impacts and affect the avoidance and mitigation measures which might be feasible. At this strategic level, detailed suggestions for mitigation have been considered in the absence of project specific detail. Mitigation measures have not therefore been stipulated for each site. This avoids the risk mitigation measures which would have been appropriate for a particular development are missed, or stipulated where they are not necessary.

6.13 A threshold of potential mitigation has not been set as this may mean ruling sites out against effects which do not arise. Methods to avoid or reduce impacts will be explored in more detail at the project level when the developer has detailed information to design a bespoke package of mitigation measures tailored to suit local conditions.

Hartlepool Strategic Siting Assessment Specific Sites

6.14 Given that the site meets the SSA criteria, and having considered evidence from, inter alia, the public consultation, the spring 2009 opportunity for public comments, regulators, the revised AoS and HRA, the Government has concluded that the site is potentially suitable and it is included in the revised draft Nuclear NPS.

6.15 The assessment considers that there are a number of areas which would require further consideration by the applicant, the IPC and/or the regulators should an application for development consent come forward, including the effects of any proposals on biodiversity including on the Tees Estuary, and consideration of existing land use.

Demographics

6.16 In determining the site population factors for advising the Government with regard to the demographics criterion in the SSA the HSE's generic demographic analysis was carried out to a radius of 30 km from the proposed site and this would have therefore taken account of the influence of population centres out to that distance. The HSE's assessment is based on data from the National Population Database 2, updated in 2008, and therefore takes into account changes in populations since development of the existing power station.

Flooding, storm surge and tsunami

6.17 Should an application for development consent come forward, the applicant will need to demonstrate that they have assessed the implications of the proposed project on strategies for managing the coast set out in the latest Shoreline Management Plan.

Proximity to hazardous industrial facilities and operations

6.18 As referenced in the draft Nuclear NPS, the site passed this criterion in the SSA, however given this proximity to neighbouring 'upper tier' COMAH establishments, the applicant would need to demonstrate to the HSE that the facility could be protected against risk from adjacent hazardous facilities throughout its lifetime. The HSE has identified a further neighbouring COMAH site, Fine Organics Ltd, which has been referenced in the revised draft NPS and accompanying maps.

6.19 The HSE's assessment of the site concluded that at a strategic level there were no concerns sufficient to rule out the future use of the site for nuclear development. During any site licensing phase, external hazards would be examined in considerably more detail, and appropriate arrangements and safety justifications developed to take account of any potential threats.

Internationally designated sites of ecological importance and D7: Nationally designated sites of ecological importance

6.20 The HRA report for Hartlepool identified that habitat loss as a result of construction of the power station and associated infrastructure (such as the cooling water intake and outfall structures and the possible construction of marine off-loading facilities) within Teesmouth and Cleveland Coast SPA/Ramsar could result in the direct loss, albeit temporarily, of designated and supporting habitats.

6.21 The HRA report has set out a number of suggested avoidance and mitigation measures for the IPC to consider such as avoiding or minimising losses of habitat through site layout and design (for example using tunnelling techniques for cooling water infrastructure to minimise impacts on habitats at the surface). The HRA report also sets out that connectivity of important wildlife corridors around the nominated site should be maintained and opportunities for habitat creation, restoration and enhancement should be sought where possible.

6.22 Regarding Hartlepool Power Station local wildlife site, the assessment has considered impacts on internationally and nationally designated sites of ecological importance, such as SSSIs. Nature and wildlife reserves in local areas may not have statutory status but the Government recognises they can be sites of local importance. The Government considers that impacts upon local sites are more appropriately addressed by the IPC at the development consent stage when EIAs are undertaken and project level information is available as potential impacts to them will be locally rather than strategically significant.

Comments on Health

6.23 The HPA has advised that in COMARE's 10th report no evidence was found of excesses of childhood leukaemia or other childhood cancers around British nuclear power plants. Furthermore, in its 11th report (2006), COMARE examined the childhood cancer throughout Great Britain and concluded that many types of childhood cancers do not occur in a random fashion; in other words clustering is a general feature of childhood leukaemia or other childhood cancers.

6.24 Local primary care trusts and public health observatories currently have responsibilities for maintaining surveillance of cancer rates and investigating reports of clusters, including those of adult cancers. COMARE has advised that they are not aware of any reports from either the local primary care trusts or public health observatories that have shown evidence of cancer clusters, including thyroid cancer, in populations around Hartlepool.

Conclusion

7.1 The conclusion can therefore be drawn that in principle the Government consider that the site at Hartlepool satisfies the main criteria for a Nuclear Power Station site. There appear to be only two outstanding elements requiring further detailed information which would be submitted at the application stage relating to ecology (locally significant impacts) and proximity to hazardous industrial facilities.

7.2 It would appear therefore that no adverse issues/impacts have been identified by the Government which would affect Stockton on Tees. However as indicated above the Council would be consulted on an application for a Nuclear Power Station at Hartlepool. The details of the application would be carefully scrutinised and reported to the Planning Committee to consider the Council's formal response to the consultation

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IMPLICATIONS

Financial Implications: None

Environmental Implications: As report

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report

Community Safety Implications: The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report.

Background Papers

The Government Response to the Consultation on the Draft National Policy Statements for Energy Infrastructure

WARD AND WARD COUNCILLORS: ALL