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Nuclear consultation: fair and full?

The Government will announce its new consultation on nuclear power in mid-May, at the same time as it publishes the Energy White Paper.

As a result of Greenpeace's successful legal challenge to the 2006 Energy Review consultation process, the Government has been forced back to the drawing board to conduct what should be a comprehensive and necessarily lengthy review on whether to support new nuclear plants.

This short paper sets out some of the key questions which must be addressed as part of this consultation, and some of the information requirements to support a proper consultation on a new build nuclear programme.

Background

In February this year, Greenpeace sought a Judicial Review on the Government's decision to support new nuclear following the Energy Review in 2006. Mr Justice Sullivan found in favour of Greenpeace and ruled that the Government's decision was "unlawful".

In his judgment he made several significant criticisms of the process used by the Government in reaching its conclusion. He described the consultation as "seriously flawed" and "misleading". Meanwhile, he criticised the consultation process as "manifestly inadequate and unfair".¹

Importantly, the judgment also drew attention to a promise made in the Government's 2003 Energy White Paper, stating there would be the "fullest public consultation"² before any new nuclear stations would be built. In 2007, Mr Justice Sullivan said that consultation was a right not a privilege. This right extends to the whole adult population of the UK.

During the forthcoming consultation there are a number of key issues which must be properly raised and covered. No decision to support new nuclear power, certainly not one which would expect to gain public confidence, can be made without doing so.

Many of the issues discussed in this briefing were either: presented in a misleading way during the 2006 Energy Review; only briefly touched on; or not mentioned at all. The duty to carry out the "fullest public consultation" requires full and frank disclosure by the Government of all the important issues.

¹ The Queen on the application of Greenpeace Limited -v- Secretary of State for Trade and Industry, Feb 2007 (<http://www.greenpeace.org.uk/MultimediaFiles/Live/FullReport/ERJRSullivanJudgement.pdf>)

²Energy White Paper 2003: Our Energy Future - Creating a Low Carbon Economy
<http://www.dti.gov.uk/energy/policy-strategy/energy-white-paper-2003/page21223.html>



Key questions

The following section sets out some of the key questions that must be addressed (including the release of all undisclosed reports) to inform any consultation on nuclear new build.

Will support for new nuclear be a disincentive for the development of renewable technologies and other strategies for reducing CO2 emissions?

Information must be supplied on the alternatives to nuclear new build, including renewable technologies, increased energy efficiency, decentralised energy models and the comparative economics of different systems.

What impact will a new nuclear programme have on the EU commitment for 20% of European energy to come from renewable sources?

In March 2007, the Government accepted a binding commitment that 20% of the EU's energy must come from renewable sources by 2020. The consultation must consider if new nuclear build will affect the UK reaching its share of the target.

How much would a new nuclear programme cost?

The consultation must include full information about costs at all stages of the nuclear cycle, including the construction, operation (including waste storage), liabilities, insurance cover, decommissioning, site clearance and waste disposal.

What are the risks to the public from new nuclear build?

The process must discuss the implications of an expansion of the nuclear industry in terms of increased risk to both public health and safety in the UK and to states which might be affected by accidents or terrorist attack at reactor sites, waste transports and waste management facilities.

What are the implications on local communities for waste transport?

An expansion of the nuclear industry would lead to an increase in the volumes of nuclear waste and materials transported across the country. Communities affected by waste transport must be fully consulted.



What are the security threats to a new nuclear programme?

Security is a key area of consultation, including threats from domestic and international terrorism which could impact on the UK and other states, and from the potential proliferation impact of nuclear materials and technology use.

What are the options for the siting of new nuclear power stations?

The consultation must look at the overall impact of siting new nuclear power stations, with particular reference to health, safety, security and waste storage and disposal.

What are the flooding risks to nuclear sites?

Specifically the consultation should look at the risks of flooding of potential nuclear power station sites from climate change impacts such as sea level rise and storm surges.

What are the design options for nuclear power?

The options for the types of new nuclear power stations must be considered, including safety concerns, construction costs and timelines for operating and decommissioning.

What are the financial implications for Government?

Clearly the financial aspects must be examined, including all information on the extent of direct and indirect financial support from the Government for nuclear.

What about the waste?

It is clear that CoRWM's recommendations only refer to legacy waste, and do not consider any waste from a new generation of nuclear power stations. The consultation must examine plans for the storage and disposal of new waste, and what effect the management options for this new waste will have on dealing with legacy waste. This examination must include looking at the costs; options for interim storage; community partnerships; and waste transports. This should also include the potential for state aid support.

What about spent fuel?

The issue of spent fuel from new build; including the environmental and security implications of reactor site storage or at other locations, and final disposal or long term storage costs, transport risks and the impact of timelines for handling this material on other waste management strategies.

Consultation process

In order to frame a meaningful and comprehensive consultation the Sustainable Development Commission, the Government's own advisory body on environmental issues, has recently published a briefing paper setting out very clear guidance on how the forthcoming nuclear consultation should be run³.

Specifically the SDC recommendations for the consultation process were as follows:

- *Clarity*: identify the problem; clarify exactly what the consultation is trying to achieve and from whom; and identify what can and cannot be changed.
- *Integration*: ensure the programme of consultations and communications on nuclear is integrated with wider energy policy and the climate change debate.
- *Independence*: the engagement should be overseen by a balanced and independent 'oversight' group'; that it should be carried out by professional process experts; and be independently evaluated from the outset.
- *Layered Approach*: the process should fit the needs of the audience, with technical discussions about reactor design and safety running alongside wider public engagement.
- *Feedback*: follow through from the engagement / consultation should ensure the nation finds out how the results will be used and how they can be part of the solution.

The SDC cautions the Government that consultation on the issue of nuclear power must be comprehensive, informed and conducted over a long enough period to elicit and consider genuine and informed responses from the broader public as well as traditional stakeholders.

The failure to do so would not only leave the Government vulnerable to legal challenge but lead in all probability to widespread hostility and mistrust of any policy decision made on future energy policy.

If the SDC's guidelines are followed, including the requirement to provide information, it would be the basis for the "fullest public consultation" promised on nuclear power.

³ "Public Engagement and Nuclear Power", Sustainable Development Commission, Mar 2007, (http://www.sd-commission.org.uk/publications/downloads/Nuclear_public_engagement-briefing.pdf)



Conclusion

When the Government sets out its new consultation plans later this month, they will be subject to close scrutiny, both legally and politically.

Legally, it must not make the same mistakes it made with the last consultation.

Politically, it will have to defend itself against accusations that its approach to energy policy has been incompetent.

This paper sets out some of the process issues, and key questions, which must be addressed as part of that consultation on new nuclear. Anything less and the Government will again be guilty of running an inadequate and flawed consultation.

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