

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

Eversheds
Eversheds House
Great Bridgewater Street
Manchester
M1 5ES

Eich cyf . Your ref: P.KJPC.117481.000011
Ein cyf: Our ref: A-PP049-07-016

Date: 31 July 2003

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990: SECTIONS 77 & 266
APPLICATION BY MAGNOX ELECTRIC PLC
FOR THE CONSTRUCTION OF A NEW INTERMEDIATE LEVEL WASTE STORE
TO REPLACE EXISTING STORES ON SITE, AND REDUCTION IN HEIGHT OF
FORMER REACTOR BUILDINGS AND THEIR RE-ROOFING AND RE-CLADDING
AT TRAWSFYNYDD POWER STATION, TRAWSFYNYDD**

Consideration has been given to the report of the Inspector Keith P Durrant MA BArch (Hons) RIBA ARIAS MRTPI FRSA who held a local inquiry into your client's application for the construction of a new Intermediate Level Waste Store to replace existing stores on the site: and the reduction in height of the former reactor buildings from 55 metres to about 35 metres and their re-roofing and re-cladding at Trawsfynydd Power Station, Trawsfynydd, Gwynedd. He was accompanied by Emyr Jones BSc (Hons) CEng MICE MCMI (Assistant Inspector) and Dr Dan Galson BSc

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MSc PhD (Assessor in matters related to radioactivity and risk) was appointed as the Assessor to advise the Inspector on matters concerning pollution.

2. On 27 July 2001 the National Assembly for Wales directed under Section 77 of the Town and Country Planning Act 1990 (the 1990 Act) that the application be referred to it rather than be determined by the local planning authority. On 16 July 2003 the Assembly resolved that a committee, to be known as Planning Decision Committee 2003/1 be established, in accordance with Standing Order 35 to discharge the functions of the Assembly under Section 77 of the 1990 Act, in respect of the application by Magnox Electric plc. The application relates to the development of operational land of a statutory undertaker and has therefore been dealt with jointly by the National Assembly and the Secretary of State for Trade and Industry (the Secretary of State) pursuant to Section 266 of the Town and Country Planning Act 1990.

3. The Inspector's conclusions are set out at paragraphs C1- C32 of his report, a copy of which is enclosed, together with that of the Assessor, and those paragraphs are at Annex A to this letter. The Inspector recommended that the application be approved, subject to planning conditions.

4. The Planning Decision Committee and the Secretary of State agree with the Inspector's conclusions, and those of the Assessor adopted by the Inspector as relevant to the application and its determination, and both accept the Inspector's recommendation.

5. After the application was called in the National Assembly requested further environmental information from your client in November and December 2001, in addition to that contained in the Environmental Statement which accompanied the application, and this was subsequently submitted. An amended application was submitted on 12 July 2002 and, after consultation with interested parties, the National Assembly accepted the amendments in a letter dated 21 August 2002 and indicated that the application would be determined in its amended form. Subsequently your client submitted consequential changes to the Environmental Statement. The Planning Decision Committee and the Secretary of State have taken this environmental information, which they are satisfied is that required for the purposes of the relevant Environmental Assessment Regulations, into consideration in reaching their decision on this application.

6. Legal submissions were put to the inquiry related to the legality of the inquiry process and the adequacy of the environmental information made on behalf of the Nuclear Free Local Authorities Steering Committee (NFLA). Neither the Planning Decision Committee nor the Secretary of State find any substance in the submissions put forward by the NFLA. They do not consider that any substantive evidence has been put forward which would justify the conclusion that the description of the application should cover the project for the clearance of the whole site including decommissioning and dismantling. In their view the application is one for the construction of an Intermediate Level Waste Store, and the alteration of existing structures, and that this development has been properly subject to the relevant Environmental Assessment Regulations.

7. The Planning Decision Committee and the Secretary of State agree with the Inspector that it did not fall within the scope of the inquiry to anticipate the long term radioactive waste policies of the Government, the future requirements of the regulatory bodies, which conduct their regulatory functions in accordance with those policies, or the funding implications for future generations. They accept his view that the land use implications of the development are limited to being satisfied that the application can proceed without creating any adverse environmental impacts of a kind properly controlled by the planning system, there are no risks of pollution not capable of control by other regulators and the development would not foreclose the visual benefits to a prominent and intrusive site in the National Park that may arise by decommissioning and clearing it as soon as possible.

8. The Planning Decision Committee and the Secretary of State agree with the Inspector's conclusion, for the reasons given by him, that the proposal is not likely to create any adverse environmental effects during the life of the store and the former reactors of a kind properly controlled by the planning system, including the provision of appropriate planning conditions. They agree with him that the proposal constitutes a major development and that, in the public interest, there are exceptional circumstances in this case justifying the development relating to the need at national level to store Intermediate Level Waste from Trawsfynydd on site until it can be accommodated in a national repository, the need to refurbish the reactor buildings, the absence of scope for providing the development outside the National Park and the clear benefits to the landscape of the National Park in reconfiguring the reactor buildings by creating a unified and less prominent design for the site. They also agree with his conclusions, at C.16 to C.23 of his report, on the relationship of the proposal to wider environmental issues, including the broader implications for the decommissioning process of lowering the height of the reactors and of the implicit time-scales for decommissioning. They accept his view that that the weight of expert evidence from the applicant and the Health & Safety Executive demonstrates that lowering the reactor roofs would not preclude safely or practically working on them to complete in due course the dismantling, whatever the time-scale. With regard to the risks of pollution they see no reason to disagree with the conclusion of the Assessor that there are no scientific or technical reasons in relation to the risks of pollution why planning permission should not be given.

9. In conclusion the Planning Decision Committee and the Secretary of State both agree with the Inspector, for the reasons given by him, that the proposed development is in accordance with the development plan and that there are no material considerations to indicate other than that conditional permission should be granted.

10. The Planning Decision Committee and the Secretary of State have carefully considered the question of the conditions to be attached to the planning permission having regard to the conditions canvassed and discussed at the inquiry, the comments of the Inspector and Assessor, and the advice contained in Welsh Office Circular 35/95. Subject to the comments below on disputed condition 6 they accept the Inspector's conclusions on planning conditions and consider that the conditions recommended by him, listed at Appendix 4, of his report should be imposed. As regards disputed condition 6 the Planning Decision Committee and the Secretary of State accept the argument put forward on behalf of your client that the suggested

time specific condition would not comply with the tests at paragraph 14 of Circular 35/95 (necessity, relevance to planning, fairly related to development and reasonable) because the condition is not derived from evidence but from the desire to put pressure on others to make available the proposed permanent storage facility elsewhere. The Planning Decision Committee and the Secretary of State also agree that this condition would fail the test of enforceability because the evidence at the inquiry shows that the store will have to remain until contents have been safely transported elsewhere. In these circumstances and having regard to the Inspector's conclusion that the proposed development is in accordance with the development plan, the confirmation by the Health & Safety Executive and the Environment Agency Wales that they have no objection to the proposal, the controls exercised by the relevant regulatory bodies over final decommissioning and the Assessor's conclusion that there are no scientific or technical reasons why planning permission should not be given, the Planning Decision Committee and the Secretary of State accept that there is no justification for the imposition of a time specific condition. Furthermore, the provisions of section 267 of the Act prohibit the imposition of a specified time period in such a condition in the absence of the consent of the applicant. The Planning Decision Committee and the Secretary of State have therefore applied condition 6 in the Inspector's list of recommended conditions at Appendix 4 subject to amendments reflecting their view that the description of the national repository for Intermediate Level Waste should be clarified, and flexibility given in relation to the timescale for the removal of waste after a means of off-site storage becomes available

FORMAL DECISION

11. For the reasons given by the Inspector the Planning Decision Committee and the Secretary of State hereby grant planning permission in respect of planning application Ref. NP5/73/287 dated 6 July 2001 (as amended) for (i) the construction of a new intermediate level waste store to replace existing stores on site; and (ii) the reduction in height of the former reactor buildings from 55 metres to about 35 metres and their re-roofing and re-cladding subject to the conditions in Annex B to this letter.

12. This letter, a copy of which has been sent to the National Park Officer, Snowdonia National Park, does not convey any approval or consent which may be required under any enactment, bye law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

13. Your client's and the Health & Safety Executive's application for an award of

costs against the Nuclear Free Local Authorities Steering Committee will be the subject of a separate letter.

Yours faithfully


Carwyn Jones AM
Chair, Planning Decision Committee 2003/1


Nigel Peace
Authorised by the Secretary of State for Trade and Industry to sign in that behalf

Enc: Leaflets "H" and "HC"

CONCLUSIONS

The references in superscript are to the Conclusions' principal sources in my Report or in the Appendices.

C.1. In preparing these conclusions, I have had regard to the development plan and all other material considerations. I have also had regard to the Environmental Statement; to comments from statutory consultees; to the representations duly made by other persons; and to the further information requested by the National Assembly for Wales; and therefore to the likely environmental effects of the proposed development^{9, 11}. I have taken note of the advice of my specialist Assessor contained in his separate Report (at Appendix 3). I adopt his conclusions where relevant to the application and its determination.

The Scope of the Inquiry

C.2. In the light of the above and the submissions made at the inquiry, I judge there to be significant development plan and other material considerations that set the context for the determination of the planning application^{27-29, 83-87, 95, 106; 32, 42-43; 40, 50; 24, 60, 74}. They are that:

- the development is an integral part of the decommissioning process at the former nuclear power station at Trawsfynydd, which is already underway and which does not in itself require planning permission;
- that process (including the parts which form the planning application) is subject to separate and ongoing regulation and control by the Health and Safety Executive (HSE), the Environment Agency (EA) and the Office for Civil Nuclear Security;
- in determining the application and the factors material to it, it is established policy and law that it should be assumed that the other regulatory regimes will operate satisfactorily (in this case through the issuing and enforcement of the licences that govern the dismantling of the plant and buildings, the management of radioactive waste arisings, their storage and ultimate disposal off site);
- the timing of both the ultimate disposal of Intermediate Level Waste (ILW) to be stored temporarily in the proposed new building and of the removal of the two reactor buildings, which in the meantime would be lowered in height and re-clad, will be governed by Government policy decisions on the management of radioactive waste, which is now under review;
- in the meantime the ILW is on site, is being packaged and has to be safely stored; and the two reactor buildings (containing radioactive materials) are also there and have to be safely managed;
- the land use planning implications of the above were foreseen in the adoption in 1999 of the *Eryri Local Plan*, which in *Policy G 4* accepts (with caveats) the temporary storage on the site of ILW that was generated there, pending the availability of a national repository.

C.3. This reflects the scope of the Inquiry as envisaged by the Assembly's Rule 6(10) Statement and the subsequent correspondence between the Planning Inspectorate and the main parties, prior to opening. In particular, the parties were advised that:

- the Inquiry should examine the landscape planning aspects of the proposals including their implicit and explicit lifetime. If BNFL's proposals are intended to last until the wastes in question are disposed of into a disposal facility then that is the proposal to be examined;
- the term 'alternative options for the interim storage of ILW' (in the Rule 6(10) Statement) should be specific to the land use planning issues associated with ILW storage on the Trawsfynydd nuclear power station site.

C.4. I have therefore approached my conclusions on the basis that:

- the application is for building and landscaping works to provide for the temporary storage of ILW on-site and for the interim alteration and refurbishment of the reactor buildings;
- although it is material that this is a stage in the longer-term clearance and restoration of the Trawsfynydd site, the visual and environmental consequences can and should be treated on their merits.

C.5. I do not therefore seek to anticipate:

- what the long term radioactive waste management policies of the Government may be;
- what may be required by other regulators of the applicant or its successor during the long decommissioning process (of up to 100 years);
- what may be the funding implications for future generations.

It follows that the objections in principle to the definition of the project and hence the scope of the inquiry put forward by the Nuclear Free Local Authorities (NFLA) are not accepted by me as relevant. There are, however, legal issues involved in that submission and in the responses of the applicant and HSE - which are matters for others to consider ^{15, 30, 88, 108}

C.6. The land use planning implications of the development are limited, I believe, to being satisfied that:

- the application proposal can proceed without creating any adverse environmental effects of a kind properly controlled by the planning system;
- there are no risks of pollution not capable of control by the actions of the other regulators;
- the development would not foreclose the visual benefits to a prominent and intrusive site in the National Park that may arise by decommissioning and clearing it as soon as is reasonably practicable - in line with current Government policy as expressed in *Cm2919*, and the duty in the *National Parks and Access to the Countryside Act 1949 (as amended)* to have regard to the purposes of the Park.

C.7. I draw comfort in relation to the second point above from the confirmation by the HSE and the EA that they have no objection to the proposals ^{82, 94}; and the conclusion of my Assessor that there are no scientific or technical reasons why planning permission should not be given. That includes matters relating to the accidental release of radioactivity upon which the Assembly asked to be informed ^{Appendix 3}. I turn therefore to the first and third points and set them in the context of the development plan and of *Planning Policy Wales (PPW)*.

Meeting Planning Policies

C.8. The most relevant and up-to-date development plan policies of the Snowdonia National Park Authority (NPA) are to be found in the *Eryri Local Plan*. I have already referred to *Policy G 4* as giving qualified support to an ILW Store on the site. For reasons that I explain below, I am of the view that the application should also be examined in the context of both *PPW* and *Local Plan Policy PC 1* and *Policy PC 4*. They relate to compliance with the purposes of National Park designation and to the handling of major development ^{6-21, 22-25, 59-66, 73-76, 79, 101, 104-106}

C.9. It is clear to me at least that the three parts of the application (the construction of the ILW Store, the alterations to the reactor buildings, and the associated access and landscaping works) constitute an integrated design that stands or falls as a whole. That is evident from:

- the way in which the design has been conceived and then assessed in the Environmental Statement, in particular the balance struck in planning the decommissioning process, including choosing from the generic options evaluated by the applicant at an earlier stage;
- the decisions then taken, in designing the scale and form of the development, about the proportion and type of waste to be packaged and stored in the new building, compared with decisions about how much contaminated material should remain in the reactor buildings and in what form;
- the strong objection to the possibility of a split decision from both the NPA and the applicant on the grounds of non-divisibility at this stage of the planning process.

C.10. Given that it is one application and one project, then the first test it seems to me should be against *Policy PC 4* and *PPW* as to whether or not the application constitutes major development – and then to consider the exceptions and benefits. Contrary to the views of both the NPA and the applicant, I have come to the conclusion that it is major development, for the following reasons:

- it is national in character in that its form and function relates to UK-wide decisions yet to be taken about the long term disposal of radioactive waste;
- in scale and appearance it will have a very significant and (given the length of time that the buildings are likely to remain) potentially long term impact on the landscape of the National Park - which could stretch beyond 40 years in the case of the ILW Store and 100 years for the lowered reactor buildings.

It therefore meets the criteria suggested in *Paragraph 2.8* of the *Local Plan* and *Paragraph 5.5.6* of *PPW*.

C.11. Both Welsh and local policy is that major development should not take place in the Snowdonia National Park except in exceptional circumstances. I am satisfied that, in the public interest, those circumstances do exist this case, using the relevant criteria in *PPW*, *Paragraph 5.5.6* and in *Local Plan Policy PC 4*, because :

- there is a need at a national level to store ILW from Trawsfynydd until it can be accommodated in a national repository, whatever form that eventually takes;
- that need should be met temporarily on the site as an exception to *Policy PC 4* because it is envisaged it should do so in *Policy G 4* (subject to conditions to which I return below);

- HSE consider there is an essential need to refurbish the reactor buildings to ensure the continued safety of the core and the bioshield (and I can confirm from the site inspections that there is significant physical deterioration of the concrete structures) ^{93, Appendix 3};
- there is no scope for providing the development outside the Park, simply because the problem is at Trawsfynydd, to be dealt with there in line with the proximity principle and best practice for managing radioactive waste as sought by both the HSE and the EA (and accepted by the NPA and others);
- there are clear benefits to the landscape of the National Park in reconfiguring the reactor buildings by creating a unified and less prominent design for the site, once extraneous buildings have been cleared and landscaping implemented;

C.12. Those benefits reflect the importance of having regard to National Park purposes as expressed in *Local Plan Policy PC 1* (and also by inference in *Policies TA 10* and *TA 11*) - notably the protection and enhancement of the natural beauty of the area. The impact on the local economy would however be broadly neutral, given that decommissioning will have to proceed in some form (subject to continuity of employment being sustained ¹⁰²).

C.13. I believe the new scale and form created by the reactor roof shapes, the interesting pallet of materials, and the sympathetic siting of the ILW Store tucked into the contours behind the reactors will result in an attractive ensemble. It will fit much better into the landforms, colours and textures of the area than do the present utilitarian concrete structures. Other possible sites for the Store within the site would be much more prominent. From the most public viewpoints, especially in close and middle distance views, be it from roadside, lake or hill, the improvement will be marked. However, because of the structures' high visibility, including from above, it will be crucial that the texture and reflectivity of the external materials (especially the roofs) are considered in detail as the design and its enhanced landscape setting is developed into implementation.

C.14. Other aspects of the development upon which the Assembly asked to be informed were shown in uncontested expert evidence (which I accept) ^{68-71, 81, 95, 100, 122, 130, 132, 134}.

- not to conflict with the protection of the wildlife of the area or its peaceful enjoyment, during the construction phase particularly, as endorsed in the case of the ecology of the area by the Countryside Council for Wales;
- not, given effective licence controls by the EA in accordance with their annual discharge limits for radionuclides, to affect the aquatic environment, nor increase the risk of flooding. Local concerns about the levels of radioactivity in Llyn Trawsfynydd are understood and are commented on by the Assessor ^{Appendix 3 at Section 6.3}, but those historic levels are unaffected by what is now proposed;
- not to impose harmful noise levels during construction at nearby properties which cannot be mitigated adequately by a condition;
- to generate traffic levels that would be low in absolute terms and which would, in using the existing access, have no material effect on the operation of the highway network; once works are complete there would be no day-to-day activity at the site;
- that there would no use of explosives.

C.15. I conclude therefore that the application proposal is in accord with the development plan and PPW. Subject to the discussion below, it would not be likely to create any adverse environmental effects during the life of the Store and the former reactors of a kind properly controlled by the planning system, if mitigated by conditions.

The Relationship to Wider Environmental Matters

C.16. Much of the above was accepted by interested parties at the Inquiry who nonetheless remain opposed to the development. They are particularly unhappy about the broader implications for the decommissioning process of lowering the height of the reactors and of the implicit time-scales for complete dismantling ^{31-39, 40-48, 89-93, 96-97, 99, 109-113, 115-118, 120-121, 1240-127, 129, 141}. Those objections assert, as matters that ought to weigh against approval, that:

- the decision-making process of BNFL that led to the planning applications was flawed in its treatment of generic options for decommissioning Magnox reactors; or at best not testable at this Inquiry given the lack of detailed information about their MADA exercise;
- without evidence of a rigorous and open examination of the options the Best Practicable Environmental Option (BPEO) for the site has not been demonstrated;
- an earlier removal of the reactors (or leaving them alone except for limited refurbishment) would obviate the need to lower the roofs, avoiding the possibility that the planned works would eventually hamper efficient or safe removal because of restricted headroom;
- not implementing the scheme for the reactors could thus help hasten the day when the site was cleared, to the long term benefit of the landscape of the Park - and that day could then be in about 30 years or less, rather than the 100 years assumed by the applicant.

C.17. I am not persuaded by the first two of those arguments, for the following reasons:

- whatever process of decision-making was adopted by BNFL in arriving at a preferred generic decommissioning strategy for their Magnox reactors was and is subject to Quinquennial Review by HSE - who has the responsibility for rigorously examining it and who, with caveats and subject to further review, appears content that the strategy is on the right lines;
- as previously concluded, the time-scale for full decommissioning is primarily a matter for the HSE, EA and others in implementing Government policies for the management of radioactive waste, to an order of priorities set by the regulators in the light of the availability of a disposal route and the availability of resources - neither of which could have been properly determined at this Inquiry;

C.18. However, it is relevant to consider whether, in applying its mind to the best way to proceed at Trawsfynydd, the applicant should nonetheless have demonstrated more fully that the chosen local option was the best environmentally for the intended temporary purposes. I disagree therefore with the applicant's assertion that the BPEO process is not a planning tool ²⁹ (see, for example, *Paragraph 12.5.2 of PPW*). The Assessor suggests that, with the proper application of the BPEO principle to this site, alternative design options should have been more fully explored ^{Appendix 3 at Sections 2.2 & 2.3}. For example, a smaller footprint for the reactor buildings and/or the ILW Store may also have been acceptable in terms of risk and safety, as well as possibly offering visual advantages.

C.19. I do not accept however the Assessor's conclusion that consideration of the issues was as a consequence hampered by the lack of a site specific BPEO ^{Appendix 3 at Section 7.4}. Indeed, the Assessor nonetheless concludes that the development is acceptable ^{Appendix 3 at Sections 2.1 & 7.4}. The information available to the inquiry was adequate for me to judge that the alternative design options would, by comparison with the application scheme and in the large-scale landscape context of Trawsfynydd:

- have only a marginally different visual impact on the National Park.;
- not impinge significantly differently on an eventual decision as to their life, such as to better fit the Park's purposes;
- not vary much in their other environmental impacts -given the controls on safety and discharges to the atmosphere, land and water exercised by others.

I am therefore content that the application proposal meets the objectives of local and national planning policy in respect of being a good environmental and design solution for this waste stream, where (crucially) the location is already determined. I also accept the Assessor's advice that, given the type of Nirex approved packs already being used for the ILW, the Store is of an appropriate design and size using known techniques to prevent the release of radioactivity ^{Appendix 3 at Sections 2.2 & 6.1}.

C.20. I am equally not persuaded by the other considerations raised:

- the weight of expert evidence from the applicant and the HSE is that lowering the reactor roofs would not preclude safely or practically working on them to complete in due course the dismantling, whatever the time-scale. The Assessor concurs with these views ^{Appendix 3 at Sections 5.1 & .2}, as do I as an architect;
- the benefits to be gained to the landscape of the Park by reconfiguring the reactor buildings (even if this is for a relatively short period should the timing of final decommissioning come forward) outweigh I believe the alternative of a continuation of the present structures for decades;
- early dismantling of the reactor buildings in advance of a national repository may necessitate building a second (probably very large) ILW store on the site, whose environmental impact or sustainability has not been assessed but is unlikely in my view to be beneficial.

C.21. A final material consideration to consider is the "fall-back" option – in other words what would happen if planning permission were refused. The applicant suggests that it would have to:

- utilise existing buildings on the site to store the ILW;
- refurbish the reactor buildings without changing their scale or profile;

and could do so at a similar order of cost compared with the application scheme.

C.22. Setting aside the question of whether planning permission would be needed for all or part of those works ⁷⁶, I believe that would be an unhappy outcome, both visually and environmentally. The opportunity would be lost to achieve now an enhancement of the landscape of the National Park. Furthermore it would, on the evidence of the HSE, be unlikely

to satisfy their requirements for passive safety and should therefore be given little weight and not regarded as a realistic option^{93, Appendix 3 at Section 2.2}

C.23. I further conclude, therefore, that there are no material considerations that would weigh against the granting of permission in accordance with the development plan.

Planning Conditions

C.24. I have already indicated that permission would need to be conditional. Possible conditions were canvassed and discussed at the Inquiry^{41, 61, 70, 74, 79-81, 94, 107, 113}. Consequently a measure of agreement between the applicant, the NPA and Gwynedd Council was reached (although not with the Council for National Parks - and not with the applicant on one significant matter that is discussed below).

C.25. Appended to this Report are my suggested conditions, based (with some modifications) on those agreements and suggestions^{Appendix 4}. They seek first, in no. 2, to define the application drawings, which is necessary given the amendments submitted prior to the Inquiry. They also ask (nos. 3 and 4) for further details of materials and ensure that the comprehensive landscape design and management scheme on the drawings and in the documentation is implemented. Both are necessary to achieve the quality of development to be expected in the National Park.

C.26. Condition no. 5, restricting ILW storage to waste from Trawsfynydd, is needed to ensure that the proximity principle of waste management is upheld. It deals with local concerns about imported waste and reflects the intentions of the applicant in any event. It is also, significantly, a requirement of *Local Plan Policy G 4*. The noise condition, no. 8, is somewhat complex, but is based on that agreed by the applicant with the local authority and properly seeks to mitigate that impact during construction in a peaceful rural area.

C.27. The disputed condition, no. 6, seeks to control the temporary life of the ILW store through its eventual removal, and no. 7 on site reinstatement logically follows. (I accept that similar conditions can not be placed on the existing "permanent" reactor buildings, although others would wish to see it^{86, Doc. 110}.) The applicant believes a temporary life condition should not specify a date or time-span, but should only relate to the availability of a national repository, since that time-scale is uncertain and in the hands of others. The NPA, Gwynedd Council and the Council for National Parks believe that a specific time condition is necessary to ensure that the planning authority retains some control of a key developed site in the National Park, so as to ensure National Park purposes are given due weight in the future. The legal arguments as to the appropriateness of a condition limiting the life of the ILW store to a set number of years (and others in a similar vein) are submitted in the inquiry documents^{Docs. 104 ff.} and the legality of such a condition is a matter of law for the National Assembly for Wales. If the applicant's legal arguments are accepted, condition no. 6 would be appropriate, as it seeks the removal of the ILW store when an alternative facility is available, without setting any time limit.

C.28. The contrary arguments for a time specific condition are rational. Such a condition would be relevant to planning. It would meet the objectives of *Policy G 4* as explained in the reasoned justification for that policy. The controls to be exercised by others, such as the HSE, over final decommissioning have, as their basis, matters of function and priority other than the impact on the landscape of the Park. That is the responsibility of the planning system. To allow the involvement of the planning system is not to second guess the other decision makers, but to ensure that each comes to the table contributing according to their own function.

- C.29. At its simplest, it is an application for a temporary building which, in principle, should not be permitted to remain longer than it is needed and should, when dismantled, be followed by full site restoration. If it has to stay longer all stakeholders will then be in a better position to see where the land lies in respect of national priorities and options. A time limited condition would thus enable the giving of due weight at the time to the interests of the local community and to the fulfilment of the purposes of the National Park.
- C.30. If it is concluded that a time-limited permission is legal and meets the test of Circular 35/95, the alternative condition no. 6A is recommended ^{Appendix 4}. A limit until 2040 is suggested for what would, in the absence of a national repository, then become the review date of the relevant planning matters. That date is as advised by the Assessor, who adds additional comments on the justification for such a condition from his perspective ^{Appendix 3 at Section 7.3}. That date sensibly relates to what seems to be a reasonable assumption based on present evidence of progress towards a national repository. Three years is included for the removal process, which reflects the complexity of the process.

Overall Conclusion

- C.31. I have concentrated in these conclusions on the relevant planning matters, after an Inquiry in which concerns about wider decommissioning issues were also explored. Returning to the *Rule 6(10)* matters identified by the National Assembly at the outset of the inquiry process, I therefore conclude overall that:
- the visual and environmental implications of the proposed development on the site and the surrounding area, both during the construction period as well as during future operation, are acceptable;
 - the effect on sites and species in the area protected under European legislation, and the effect of the development on the aqueous environment, during the construction period as well as during the operation, would be minimal;
 - satisfactory provisions to prevent the accidental release of radioactivity from the Intermediate Level Waste (ILW) store are inherent in the design of both the store and the packages and are acceptable to the HSE and the EA;
 - alternative options for the interim storage of ILW are constrained by both the site and the work already carried out to package the waste; where they may exist those options would have only a marginally different effect both visually and on the environment.
- C.32. **The proposed development is therefore in accord with the development plan. There are no material considerations to indicate other than that conditional permission should be granted.**

RECOMMENDATION

- C.33. It is recommended that the application be approved, subject to the planning conditions set out in *Appendix 4*.

KEITH P. DUNNANT

INSPECTOR

Annex B to
National Assembly for Wales
letter dated 31 July 2003
Reference A-PP049-07-016

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Unless approved in writing by the local planning authority, the development hereby permitted shall not be carried out otherwise than in complete accordance with the detail of the following planning application drawings: Drawing numbers 2/2/1; TFA/AB/00100; TFA/AB/0101; TFA/AB/0102; TFA/AB/00103B; TFA/AB/00104C; TFA/AB/00105B; TFA/AB/00106B; TFA/AA/01004E; TFA/AA/01005J; TFA/AA/01006F; TFA/AA/01007G; TFA/AA/01008J; TFA/AA/01009B; TFA/AA/01010B; TFA/AA/01011B; TFA/AA/01012B, TFA/AA/01013B.
3. Prior to the commencement of development samples of all proposed external materials shall have been submitted to and approved in writing by the local planning authority. Only such approved materials shall thereafter be used in the development.
4. The landscaping (including areas for restoration and habitat management) hereby approved shall be carried out in accordance with a timetable which shall have been agreed in writing with the local planning authority prior to the commencement of the development hereby permitted. Any trees or plants which within a period of five years from the completion of the landscaping works die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species, unless the local planning authority gives written consent to any variation.
5. The Intermediate Level Waste Store hereby permitted shall only be used for the storage of materials arising from the operation and decommissioning of Trawsfynydd Nuclear Power Station, excluding high level nuclear waste, and for no other purpose including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).
6. The Intermediate Level Waste store hereby permitted, together with all waste stored therein, shall be removed from the site within 3 years, or such longer period as may be agreed in writing by the local planning authority, of a national facility for the long term management of Intermediate Level Waste or other alternative means of off-site storage or disposal becoming available.
7. Following removal of the Intermediate Level Waste store in compliance with Condition 6 above, its site shall be restored in accordance with a scheme of work submitted to and agreed in writing by the local planning authority prior to the commencement of its removal.

8 a) During the construction of the development hereby permitted and between the hours of 0730 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays, the noise level arising from the site shall not exceed $L_{Aeq(1hour)} = 50dB$, measured free field at the nearest residential property (Ty Gwyn). At all other times the noise level from the site shall not exceed $L_{Aeq(1hour)} = 40Db$, measured free field at the nearest residential property (Ty Gwyn).

b) Commencing with a date one month from the commencement of the development hereby permitted, monitoring shall take place at one-month intervals of the noise levels at the nearest residential property (TyGwyn) while construction work is in progress. The monitoring shall be undertaken in accordance with part (f) of this condition.

c) The results of each noise monitoring exercise shall be forwarded to the local planning authority within 10 working days of completion.

d) The monitoring locations and frequency of sampling may be varied, or the requirement to monitor may be suspended or cancelled by agreement with the local planning authority. If the local planning authority is satisfied that noise from the site may be in breach of a noise limit set in part (a) of this condition, upon written request from the local planning authority a further noise survey shall be carried out and particulars of the noise measurements taken furnished to the local planning authority.

e) Temporary operations which may exceed the criterion levels set out above shall be notified in advance to the local planning authority and shall not exceed $67 \text{ dB } L_{Aeq 1(hour)}$, free field expressed in the same manner as above at the nearest residential property (Ty Gwyn). Operations shall not exceed the noise limit set out above at any dwelling or longer than a total of eight weeks in any 12 month period without the prior approval of the local planning authority. Temporary operations shall not be carried out outside the hours 0730 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays except in an emergency.

f. Monitoring points shall be at least 3.5m from the façade facing the site and measurements shall be of 15 minutes duration unless the site noise level is at or above the limit set in part (a) above, in which event a full 1 hour sample shall be taken. The surveys shall exclude so far as possible extraneous noises. The measurement equipment and procedure shall be carried out in accordance with the provisions BS4142: 1997 and LA 90, T, and $L_{Aeq, T}$ noise levels shall be reported in 1/3 octave bands (in the range 63 Hz to 4000 Hz), together with the weather conditions and the sources of audible noise. The monitoring position shall be visited and measured twice during each survey.

Where the 1/3 octave band analysis indicates a tonal component (determined by any 1/3 octave level being 5dB (or more) higher than the immediately adjacent 1/3 band levels within the range 63 Hz to 4000 Hz) 5dB shall be added to the measured $L_{Aeq, T}$ noise levels and the result shall be taken as being the specific noise level (as defined in BS4142; 1997) for the purpose of determining compliance with part (a) above.

Where 3 or more consecutive measurements taken on 3 separate days over the same 28 day period show an exceedance of up to 5dB(A) above the limits specified in part (a) above, in the absence of any complaints about noise arising from the site to either the local planning authority or the local authority, an application to the local planning authority for variation to part (a) above may be made. Any such variation shall be no more than 5dB(A) above the levels specified in part (a) above. Such an application shall not be made in relation to a period of temporary works as described in part (e) above.