

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

Parc Cathays
Caerdydd
CF10 3NQ

Cathays Park
Cardiff
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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"

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 $L_{Aeq}(1\text{hour}) = 50\text{dB}$, measured free field at the nearest residential property (Ty Gwyn). At all other times the noise level from the site shall not exceed $L_{Aeq}(1\text{hour}) = 40\text{Db}$, 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 (Ty Gwyn) 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 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.

