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Adroddiad

Ymchwiliad a agorwyd ar 12/11/02

Ymweliadau safle a wnaed ar 11/11/02 & 13/12/02

Report

Inquiry opened on 12/11/02

Site visits made on 11/11/02 & 13/12/02

Gan/by Keith P Durrant MA BArch(Hons) RIBA ARIAS MRTPI FRSA

Arolygydd a benodwyd gan Gynulliad Cenedlaethol Cymru a'r Ysgrifennydd Gwladol tros Ddiwydiant a Masnach

an Inspector appointed by the National Assembly for Wales and the Secretary of State for Trade & Industry

Dyddiad/Date 19 MAR 2003

SNOWDONIA NATIONAL PARK AUTHORITY

APPLICATION BY MAGNOX ELECTRIC PLC

TRAWSFYNYDD NUCLEAR POWER STATION, TRAWSFYNYDD, GWYNEDD

Cyf ffeil/File ref: APP/H9504/X/02/514182

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CONTENTS *continued*

Appendices

PREAMBLE

File Ref: APP/H9504/X/02/514182

Site address: Trawsfynydd Nuclear Power Station, Trawsfynydd, Gwynedd

- The application was called in for decision by The National Assembly for Wales by a direction made under section 77 of the 1990 Act on 27 July 2001.
- The application is made by Magnox Electric plc to Snowdonia National Park Authority.
- The application (Ref. NP5/73/287) is dated 6 July 2001.
- The development proposed is (i) the construction of a new Intermediate Level Waste Store to replace existing stores on the 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.
- The reason given for making the direction was that the proposed development raises planning issues of more than local importance.
- On the information available at the time of making the direction the following were the matters on which The National Assembly for Wales and the Secretary of State for Trade & Industry particularly wished to be informed for the purpose of their consideration of the application *(as clarified later in the Report)*:
  - the visual, environmental and access implications of the proposed development on the site and the surrounding area, including the implications during the construction period as well as during future operation, the effect of the development 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;
  - provisions to prevent the accidental release of radioactivity from the Intermediate Level Waste (ILW) store;
  - alternative options for interim storage of ILW;
  - the impact of the use of explosives on the environment should they be required to be used for excavation works required for the development.
- The Inquiry opened on 12 November 2002 and closed on 12 December 2002, having sat for 11 days. Accompanied visits to the site were made before the Inquiry opened, on 11 November 2002, and again after it closed, on 13 December 2002. Unaccompanied visits were made to the surrounding area on other occasions during the Inquiry. Pre-inquiry meetings were held on 3 July 2002 and on 21 October 2002.
- I was accompanied at the Inquiry by Mr Emyr Jones BSc(Hons) CEng MICE MCMI (Assistant Inspector); and by Dr Dan Galson BSc MSc PhD (Assessor in matters related to radioactivity and risk). In addition, Mr Rhys Roberts was appointed by the National Park Authority to act as Programme Officer, under my direction.
- At the Inquiry applications for costs were made by Magnox Electric plc and the Health & Safety Executive against the Nuclear Free Local Authorities Steering Committee. These applications are the subject of a separate Report.

Summary of Recommendation:

The application be approved, subject to conditions.

Structure of the Report

1. This preamble continues with a description of the site and its surroundings and of the application, as amended. Matters relating to the scope of the Inquiry are rehearsed, followed by a summary of the most relevant planning and related policies. Further sections of the Report set out the gist of the cases for each of the various parties at the Inquiry or who submitted written representations, each sub-divided into topics where appropriate.

2. My conclusions are then set out in a separate section, drawing on the evidence summarised in the main body of the Report and, where relevant, on the advice of my Assessor. They are structured to deal with the main issues as they emerged during the Inquiry, including the weight to be given to possible planning conditions. My recommendation flows from the conclusions.

3. The Appendices list those persons who appeared at the Inquiry and the documents submitted. They contain also the Assessor's Report and a suggested list of planning conditions.

The Site and its Surroundings

4. The site comprises a two-reactor Magnox nuclear power station that ceased electricity generation in 1991 and is in the process of being decommissioned. The spent fuel was removed to Sellafield in 1995. No new radioactivity is being generated, but there are still large inventories of radioactive waste and contaminated materials present on the site. Some materials have been and can be disposed of after decontamination, while others remain stored on site pending a decision on a long- term management option.

5. A full description of the site and its surroundings can be found in *Sections 2 and 3* of the *Statement of Common Ground (Doc. 31). Section 2.0* of *Volume 1 of the Environmental Statement (Doc. 08)* also describes the site and its surroundings and a location plan (*Dwg. No. 1/2/1)* is included in *Volume 2 of the Environmental Statement (Doc. 09). Dwg. Nos. 2/2/1 and 3/2/1,* both of which are included in *Doc. 09,* respectively show the land in the applicant's ownership and the site layout in 1998.

6. The most relevant characteristics of the site and its surroundings, as shown on the photographs at sections 9 and 19 to 31 of the applicant's *Glossary and Drawings (Doc. 43)*, are:

   - its location within the Snowdonia National Park, close to the northern shore of Llyn Trawsfynydd, a reservoir formed in the 1920's, and just to the west of the A470 trunk road;

   - the predominantly rural nature of the upland area with the nearest settlements being at Gellilydan, some 1.5km to the north, and Trawsfynydd, around 2.5km to the south;

   - the contrast between the brighter greens of the pastures, enclosed by stone walls with occasional trees as well as copse and woodland cover, close to the lake, the dark blue/greens of the conifer and deciduous plantations on the more rugged slopes, and the lighter browns, buffs and greys of the moorland, rock strewn hill-slopes and mountainsides on higher ground;

   - the prominence of the site from a number of locations, as a result of its siting and the scale and mass of the two 55m high reactor buildings and the turbine hall, although at the time

of the Inquiry work on dismantling the turbine hall had commenced and a number of smaller buildings had already been removed;

- the presence of National Grid and MANWEB sub-stations adjacent to the north-east and north of the site (and which are unaffected by the decommissioning process).

The Content of the Application

7. The planning application was made in full to the Snowdonia National Park Authority *(Docs. 06 & 07)*. The letter of 6 July 2001 from BNFL (the parent company of Magnox Electric), which accompanied the application, describes the development as a proposal to:

   - construct a new store to hold Intermediate Level Radioactive Waste (ILW) produced on the Trawsfynydd site, to replace existing stores;
   - reduce the height of the former reactor buildings at Trawsfynydd Power Station from the existing 55 metres to about 35 metres;
   - reclad the former reactor buildings by removing the existing concrete cladding and replacing this with local slate, stainless steel panels and glazing; and
   - re-roof the reduced height buildings in a new curved configuration.

   The application plans also indicated that extensive landscaping works would be carried out, both on and off the site.

8. The July letter also asserted that the proposal is in line with Magnox Electric's generic strategy for decommissioning its former nuclear power stations. The key points of that strategy in relation to the application were summarised as:

   - all buildings on site, except the reactor buildings, will be dismantled as soon as practicable after they are no longer needed;
   - most operational ILW will be retrieved, packaged, stored on site and handled in the long term in accordance with Government policy;
   - the reactor buildings and their residual contents will be placed in a passive safe storage condition in a manner appropriate to the site.

9. An Environmental Statement accompanied the application. After it was called-in by the National Assembly, further environmental information was requested from the applicant in November and December 2001 and subsequently submitted *(Docs. 08-10, 13)*.

10. In a letter dated 12 July 2002, Magnox Electric submitted an amended application, which:

    - reduced the size of the proposed ILW store;
    - altered the curved roof profile of the lowered reactor buildings;
    - made consequential changes to the landscaping and the internal access roads.

11. 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. The application plans and supporting information, including consequential changes to the Environmental Statement, are at *Docs. 11 & 12*.

12. The key elements of the proposal comprise:

- a large new building to contain several thousand shielded waste packages of various types which have been approved by Nirex as the responsible body. The main function of this store is to ensure that operational ILW remains in a state of passive safety until such time as a national repository or a centralised store is available. As each waste package (either by design or by its incorporation with a shielded overpack) largely has its own radiation shielding, the main function of the building envelope would be to provide weatherproofing, although some radiation protection would also be afforded.

- a reconfigured pair of reactor buildings (known as Safestores) comprising the reactor cores, bioshields, external items that have become contaminated during reactor operations (such as the gas ducts and boilers), and the enclosing structures. The main function of the core and bioshield is to ensure that the radioactive materials are maintained in a state of passive safety until such time as the reactors are dismantled. The main function of the enclosing structure during the Safestore period is to provide weatherproofing, although some further radiation protection is also provided for contaminated items external to the bioshield, such as the cooling systems.

The Scope of the Inquiry

13. Clarification of the scope of the Inquiry as indicated by the National Assembly's Rule 6(10) letter of 9 May 2002 was sought both by the applicant and by the National Park Authority (NPA) *(see letters on case file)*. They asked for an explanation as to the meaning and ambit of the term "alternative options for interim storage of ILW". The Assembly advised, in a letter from the Planning Inspectorate dated 24 May 2002 to BNFL *(on case file)*, 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";

and subsequently, in a letter to the NPA dated 27 May 2002 *(on case file)*, that:

- "… the term 'alternative options for the interim storage of ILW' should be specific to the land use planning issues associated with ILW storage on the Trawsfynydd nuclear power station site."

14. The issues underlying this exchange were of some moment at the Inquiry. The weight to be given to the relationship of the planning application proposal to the wider generic decommissioning strategy of Magnox Electric (and to the role of other regulators in that process) are therefore discussed below in the cases for the parties and in my conclusions. The Assessor also comments in his Report at *Appendix 3*.

15. In addition, I draw the attention of the Assembly and the Secretary of State to the legal submissions, 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 *(Doc. 119)*. The responses of the applicant and the Health and Safety Executive (HSE) are at *Docs. 120 & 121.*

UK and Welsh National Policies and Advice

16. Relevant policy advice from the Welsh Assembly Government is to be found in *Planning Policy WALES (PPW).* Chapter 2 refers to *Planning for Sustainability* and states that, in accordance with its statutory duty, the Assembly will promote sustainable development in the exercise of its functions. A number of underpinning principles to the Assembly Government's approach to planning policy for sustainable development, and broad objectives deriving therefrom, are referred to. Chapter 5 on *Conserving and Improving Natural Heritage and the Coast* advises that major developments should not take place in National Parks except in exceptional circumstances. Chapter 13 on *Minimising and Managing Environmental Risks and Pollution* notes that planning and environmental management are separate but complementary, and indicates that the planning system has an important role in avoiding or minimising the adverse effects of any environmental risks on present or future land use.

17. The Welsh and UK policies towards National Parks are underpinned by the duty (inserted as *s.11A* of the *National Parks and Access to the Countryside Act 1949* by *S.62* of the *Environment Act 1995*) on all relevant authorities to have regard to the purposes of the Parks. A key purpose relevant to this application is:

    - to conserve and enhance the natural beauty, wildlife and cultural heritage of Snowdonia.

18. Two White Papers published by the UK Government are also of relevance. These are *Review of Radioactive Waste Management Policy: Final Conclusions (Cm2919)* and *Managing the Nuclear Legacy: A strategy for action (Cm5552).*

19. The former concludes that where the demands of safety are overriding, intermediate and low level waste stored pending the availability of a disposal route must be treated as necessary to improve storage conditions. It notes the Government's belief that, in general:

    - the process of decommissioning nuclear plants should be undertaken as soon as it is reasonably practicable to do so, taking account of all the relevant factors.

    The Government accepts that it would be unwise for operators to take steps which would foreclose technically or economically the option of completing particular stages of decommissioning on an earlier time-scale than proposed, should that be required. However, there are a number of potentially feasible and acceptable decommissioning strategies, including Safestore. The White Paper requires the HSE, in consultation with the environment agencies, to review nuclear operators' decommissioning strategies quinquennially.

20. The latter gives details of the proposal to set up a new Liabilities Management Authority (LMA) with a specific remit to ensure the nuclear legacy is cleaned up safely, securely, cost effectively and in ways which protect the environment for the benefit of current and future generations.

21. In conjunction with the devolved administrations, DEFRA has published a consultation document *Managing Radioactive Waste Safely: Proposals for developing a policy for managing solid radioactive waste in the UK.* It states that, during the interim period while policy is being developed and implemented, existing and future arisings of radioactive waste will be safely stored in accordance with regulatory requirements, with a presumption that stores will need to last at least 50 years.

Structure and Local Plan Policies

22. The County Strategy, as set out in the approved *Gwynedd Structure Plan*, includes *Strategic Policy 4* which requires regard to be had to the need to both protect and enhance marine, coastal, terrestrial and atmospheric environments when considering development proposals. *Policy D1* seeks to protect and enhance the environment of Gwynedd, particularly in three designated areas, one of which is the Snowdonia National Park.

23. The adopted *Eryri Local Plan*, in *Policy PC 1*, is generally supportive of development proposals which improve the quality or status of the National Park, provided they do not significantly conflict with the purposes of the National Park designation. *Policy PC 4* states that major development will not be permitted in the National Park save in exceptional circumstances where it can be demonstrated that it is in the public interest and three specific criteria are satisfied. They are:

    - there being a demonstrated need for the development at a national level;
    - the development must or can only be located within the National Park and no alternative site or solution is possible;
    - the benefits of the development and any associated compensatory and mitigating measures significantly outweigh the detrimental impact the development is likely to cause to the environment or cultural qualities of the Park.

24. In *Para. 16.24*, the *Local Plan* indicates that material arising from decommissioning of Trawsfynydd, if permanently stored on the site would be likely to be of a scale that is major development, incompatible with National Park purposes. As an exception to *Policy PC 4, Policy G 4* therefore states that only the temporary storage of accumulated intermediate level waste, generated at the site of the former Trawsfynydd nuclear power station, will be permitted at the site. However, that is subject to the provisos that no national repository or alternative means of storing the waste is available; and that no waste other than that generated at Trawsfynydd is stored. Conditions or obligations will be sought to ensure that the use is temporary and ceases, with the radioactive waste removed, once that national repository becomes available.

25. Relevant design guidance is in *Policies TA 10* and *TA 11*. The former generally asks for good design and landscaping in keeping with the amenity of the park. The latter resists the use of cladding materials that would be prominent in the landscape or to neighbouring residents and the visiting public. It generally requires the roofs of new buildings and extensions to be natural Welsh mineral slate or an approved equivalent, although it allows the use of alternative appropriately coloured and textured materials in certain cases.

THE CASE FOR MAGNOX ELECTRIC PLC

26. The application should be approved because it is in accordance with the development plan and there are no material considerations that indicate otherwise. It accords with *PPW*, there are no significant adverse environmental consequences but there are significant visual benefits. It meets the need to store radioactive waste safely and promotes the statutory purposes of the National Park.

The Scope of the Inquiry

27. Many of those who made representations to the Assembly requesting that a public Inquiry be held did so, not because they wished to express opposition to the proposed development as such. They hoped this would provide an opportunity to examine the applicant's decommissioning strategy generally, resulting in some form of recommendation or requirement that the reactors should be dismantled earlier than is currently proposed.

28. The Assembly called in the planning application under the *Town and Country Planning Act 1990*; planning legislation therefore governs the scope and purpose of the Inquiry. It is, of course, possible that those advising the Assembly were not themselves entirely clear as to whether the planning application could be determined without consideration of wider issues relevant to decommissioning nuclear power stations. It is submitted that it can, because:

- the timing of reactor dismantling is not a matter of planning control, and certainly not a matter which arises for determination on this planning application;
- much of the activity which has already occurred (and will occur) at Trawsfynydd to progress decommissioning has not required or will not require a planning application;
- that includes using existing buildings for the temporary storage of ILW or for creating a Safestore within the terms of the existing planning permission *(Doc. 28)*, contrary to what is believed by the NPA (a "fall-back" position should this application not succeed);
- while the decision makers should satisfy themselves that other regulatory regimes (the HSE, Environment Agency (EA) and Office of Civil Nuclear Security - *see note at Doc. 50*) are in place for regulating the design, construction and use of the proposed development, it should then be assumed for the purposes of determining this planning application that the regimes for which they are responsible will operate satisfactorily, in accordance with the principles in *PPW* and the case law which supports them *(see also HSE submission at Doc. 118)*;
- the determination of a planning application does not involve a separate test requiring an applicant to show that his proposal is the Best Practicable Environmental Option (BPEO) for that development over and above the tests set by the development plan and government policy.

29. BPEO is not a concept in planning legislation, but derives from that controlling pollution from prescribed substances (which are not involved here). *Paragraph 2.3.2* of *PPW* says that planning policies and proposals should … "*encourage opportunities to reduce waste and all forms of pollution and promote good environmental management and best environmental practice*". So, the Assembly's concepts of good environmental management and best environmental practice are to do with the reduction of waste and all forms of pollution. If the proposal complies with *Para. 2.9.2, chapter 12* and *chapter 13* of *PPW* (the passages of that

document which flesh out the 9th bullet point of *Para. 2.3.2*) there can be no basis for saying that it fails to meet government policy.

30. As far as the effect on the scope of the Inquiry of the legal submissions of the Nuclear Free Local Authorities (NFLA) are concerned *(Doc. 119)*, there is a full legal response to that and the other matters raised at *Doc. 121*. The NFLA is wrong in contending that the 'development' (or 'project') which had to be assessed is the "complete clearance of the site i.e. decommissioning and dismantling and that the scheme for the altered reactor buildings and the ILW store is an interim phase of this project". In this case, the 'project' (the term used in the relevant *EC Directive*) is the 'development' for which planning permission is sought in the application before the Inquiry, i.e. the ILW Store and the alterations to the reactor buildings.

Relationship to Applicant's Decommissioning Strategy

31. The approach adopted in the application derives from the applicant's generic decommissioning strategy for its Magnox plants, adapted for the special circumstances of a site within the Snowdonia National Park *(the current strategy is in the appendix to Doc. 21)*. The proposed works have been designed to meet the needs of the site to safely store ILW temporarily; and to carry out alterations to the reactor buildings to create a safe environment for the contaminated materials that remain within them, pending long term removal.

32. The timing of the various steps involved in decommissioning a nuclear power station falls to be considered in the policy context set by *Cmd. 2919 (Doc. 20)*. Although Government policy is under review, *Cmd. 2919* has not been withdrawn and remains the current statement of policy. The fundamental policy is: *"The Government believes that, in general, the process of decommissioning nuclear plants should be undertaken as soon as it is reasonably practicable to do so, taking account of all relevant factors"*. Nuclear operators were asked to draw up strategies for decommissioning their redundant plant including justification of the timetables proposed and demonstration of the adequacy of the financial provision being made to implement the strategies. To ensure that operators' decommissioning strategies remain soundly based as circumstances change, they have to be reviewed quinquennially by HSE, who consult the Environment Agencies.

33. While the applicant has adopted a decommissioning strategy known as deferred site clearance, it fully understands that it is Government policy that the reactors should be decommissioned as soon as reasonably practicable, taking account of all relevant factors. If the HSE take the view at some time in the future that it will be reasonably practicable to dismantle the reactors sooner than the applicant currently proposes, that will emerge from a future Quinqennial Review (QQR). Similarly, if the HSE took the view that the alterations to the reactor buildings currently proposed would foreclose site clearance earlier than currently proposed, whether technically or economically, they would have said so in the evidence.

34. In its most recent QQR published in February 2002 *(Doc. 21)*, the HSE, through its Nuclear Installations Inspectorate (NII), stated that: "*The NII regards the strategies proposed by Magnox Electric for decommissioning its power stations and for radioactive waste management to be appropriate. They are largely consistent with both national and international policy statements and guidance and are potentially flexible enough to be able to accommodate lessons learned during ongoing decommissioning activities".* A number of matters were identified where the NII stated that it would be expecting further information at the next review. It also made it clear that it would be prudent for Magnox Electric to continue to retain the option to dismantle its reactors sooner than its current proposal and at the next

review to provide justification as to why a shorter time-scale would not be reasonably practicable. Thus, the question of the time-scale for dismantling is one of the matters already considered in the QQR and which will be considered in future reviews. It is also under active consideration by the Government, who are currently consulting widely *(Doc. 24)*.

35. It was made clear by the applicant's predecessor, the CEGB, that early dismantling of the reactors would be technically feasible and the applicant has not suggested otherwise, although it would be much more costly. The fact that Italy and Japan are contemplating early dismantling of reactors is not due to some technological innovation. In Italy it is a matter of Government policy. In Japan it is so that they can build a new power station on the site. Although early dismantling is regarded as technically feasible and under contemplation with BNFL's involvement in Italy, it does not follow that early dismantling is the best course at Trawsfynydd having regard to all relevant factors. It merely demonstrates that BNFL is regarded as having the technical expertise to provide the required assistance. Even in Italy (and Japan) dismantling will not proceed unless and until a repository for the arisings is made available; otherwise it will be deferred.

36. The question as to when dismantling would be reasonably practicable involves balancing a large number of factors. Cost is certainly one of them, but at present there is no policy guidance as to the weight to be attached to each. That is left to operators, subject to review by the HSE. The Inquiry has been seen by some as a forum in which they can question the weight that the applicant has placed on these factors and its overall judgement on the balance; hence the requests for details of its multi-attribute decision-aiding analysis (MADA). But the Inquiry did not have (and, given its purpose, could not have been expected to have) all the relevant factors before it. Further, one might ask rhetorically how could it possibly be thought that it would be appropriate for the Inquiry to express views about matters on which the Government is itself consulting and reviewing its policy. It is quite unnecessary for it to do so. There is a range of opinion as to whether the applicant's decision to defer dismantling for approximately 100 years is the best strategy. But, as long as the grant of planning permission does not preclude options that might be adopted in future, there is no reason why planning permission should be refused.

37. There are two good reasons why the details of the MADA exercise were not produced:

- they would have been irrelevant to the determination of the planning application - the MADA exercise referred to in the Environmental Statement did not inform the choice of proposal in the planning application and the case for it does not depend upon the choice of decommissioning strategy; putting it another way, upon the hypothesis that the details had been produced and found to be defective, that finding would not affect any of the considerations which are material to the determination of the planning application;

- the details are commercially sensitive.

38. One factor relevant to the timing of the dismantling of Trawsfynydd's reactors is the consequence of undertaking dismantling before a disposal facility is available for the ILW and Low Level Waste (LLW) arising. Early reactor dismantling would give rise to a substantial quantity of radioactive waste in addition to the amount that the applicant currently proposes to accommodate in the proposed ILW store. If dismantling were to be undertaken before a permanent disposal facility is available, this would require the construction of very large stores, which would have to be built before dismantling commenced *(see note at Doc. 51)*.

The NPA thought that this would be very detrimental to the National Park. On any analysis that detriment would endure for a considerable period.

39. The applicant's current strategy will involve the reactors remaining for up to 100 years. This has recently been accepted by the regulators; but this strategy will be reviewed every five years against a policy context that decommissioning should be undertaken as soon as reasonably practicable having regard to all relevant factors. So, there is a possibility, but no more, that dismantling will in due course be brought forward. It is not possible to be more precise than this.

Implementation of the Decommissioning Strategy at Trawsfynydd

40. The **ILW store** is required to store 'operational' waste, of which there is now a significant quantity at Trawsfynydd, some of it retrieved and packaged and some yet to be retrieved, but there is no facility to which it can be taken for final disposal. It must, therefore, be stored safely at Trawsfynydd until it can be disposed of elsewhere. That can be achieved either by adapting existing buildings or by building a purpose-built store. No other options have been identified. While it is technically feasible to adapt existing buildings, involving works that would not require planning permission, this would be a far less satisfactory solution than the construction of a purpose-built store. No one who has submitted evidence or representations to this Inquiry has contended otherwise.

41. No other use for the store is intended. Consequently, a condition that restricts the use of the new ILW store to radioactive material that has arisen at Trawsfynydd would be appropriate. The justification for the store also stems from the absence of a final disposal facility elsewhere. As soon as such a facility is available to receive packages from Trawsfynydd, the intention is that they will be transferred there. Once achieved, there will no longer be any justification to retain the store. Thus, a condition that requires removal of the store once it ceases to be used for its intended purpose would be appropriate. There are differences of opinion on the wording of such a condition, as explained in the submissions *(Docs. 113 & 114).* In short, a precise time-scale expressed in years is not justified judged against the tests in *Circular 35/95 (The Use of Conditions in Planning Permissions).*

42. The time-scale envisaged by NIREX is that a final disposal facility might be open to receive waste in about 2040 and closed for receiving waste thirty years later in 2070 *(Doc. 49)*. In response to a request to assess the earliest date achievable, NIREX has also said that, on the basis of a series of very optimistic assumptions (not least that a suitable site might emerge voluntarily), incomplete work indicated 2025 might be possible (*Doc. 54).* The *draft EC Directive (Doc. 60)* is trying to put pressure on Member States to resolve issues relating to the disposal of nuclear waste. However, it is not known whether such a directive will eventually be confirmed, nor does it follow that an early date will be achievable. Even when a facility is open to receive waste, it cannot be predicted when it will take it from Trawsfynydd.

43. Thus the planning application has to be determined at a time when there is considerable uncertainty about the timing of the availability of this facility. There is therefore no justification for assuming that a facility will definitely be available at any specific date. In this climate of uncertainty, the UK Government has stated its policy for the 'interim period': "*The presumption should be that existing stores will need to last for at least 50 years*" *(in Doc. 24).*

44. As to alternative options for interim storage of ILW within the Trawsfynydd site, they are:

- different potential locations for the proposed ILW store;

- retention and adaptation of existing buildings for the purpose of storing ILW (the "fall-back" option).

45. The siting of the proposed store relates to both practical and visual considerations. No one has suggested that, if in principle the store is acceptable on site, the proposed location is not appropriate. No off-site location has actually been promoted by objectors, let alone one that would be available in the required time-scale.

46. The alternative of adapting and using existing buildings has been explored in the Alternative Implementation Report *(Doc. 47*). Enough work has been done to establish that they have the capacity to accommodate the waste, even if additional physical works would be required to make them suitable for long-term storage of ILW. However, NII Inspectors as well as the applicant have a clear preference for a purpose built store.

47. A question was raised as to whether it would be better to store the waste in containers without overpacks and to design the store so as to incorporate the additional shielding that would be required. At Trawsfynydd, retrieval of radioactive waste has been in progress for a number of years. The packaging system is the subject of a 'letter of comfort' from NIREX. The majority have integral shielding but the remainder will be stored in overpacks, which were designed as an expedient to enable the waste to be stored temporarily in the existing buildings. The overpacks themselves will not be disposed of in a national repository, and will probably be capable of re-use. They are merely a means of providing shielding pending final disposal of the waste. At Trawsfynydd, it is better to continue to use the system already adopted.

48. A further question arose as to the contingency that the applicant has allowed in calculating the size of the store. The amount of space required for the waste already retrieved and packaged can be calculated accurately; there is, however, uncertainty about the amount of space required for waste not yet retrieved. The Applicant has demonstrated a prudent approach to calculating the size of the store, taking account of the need both to minimise its size and to provide enough space *(Doc. 52)*.

49. As to the measures to prevent the accidental release of radioactivity from the ILW store, this stems from the nature of ILW, its safe packaging, the safe design of the store and the management of the site during and after construction. The statutory regimes that will require and enable the regulation of the design, construction and use of the store are explained in the evidence of the HSE and the EA. Having regard to *PPW*, it is submitted that sufficient information has been provided to demonstrate that there are adequate control regimes under other legislation. Those responsible for operating those regimes are satisfied that the proposed development is capable of being designed and used in a manner which will prevent the accidental release of radioactivity.

50. **The reactor buildings** give rise to different considerations from the ILW store. They exist, are large and visually prominent, have stood for some forty years and are now in need of substantial repair and refurbishment. The realistic choice facing the applicant is whether:

- to repair and refurbish them (the "fall-back" option);

or, as it has chosen to do:

- to alter them to reduce their height, re-roof and re-clad them in a manner designed to reduce significantly their visual impact in the National Park.

51. There is no engineering or safety need for the alterations; the motivation for promoting them is to improve visual amenity due to the site's unique position in the National Park. No one has contended that the objective of reducing the visual impact of the existing buildings would not be achieved. There is really only one issue that has emerged in relation to the proposed alterations to reactor buildings: will they preclude 'early site clearance'?

52. The circumstances in which it may be decided to dismantle the reactors sooner than currently proposed may be summarised as:

    - a change in the factual circumstances affecting the reactors themselves, which seems extremely unlikely;

    - a change in Government policy.

53. Early dismantling (say after 30 years) is not in any event an alternative to the development in the planning application. However, the applicant recognizes that it is important not to foreclose options. Two arguments have been raised during the Inquiry to the effect that the alterations would preclude early dismantling:

    - that lowering the roof would result in a physical obstruction;

    which is not so, because the clearance allowed in the design above the charge face is likely to provide sufficient space; that clearance will increase as the concrete below is gradually removed; and the proposed roof has been designed so that a section or sections can be cut out and a temporary one erected, supported on the main trusses;

    - that by spending money now on the alterations, it may make early dismantling more problematical because the applicant does not have the funds before 2065, and so additional 'unnecessary' expenditure will increase that risk;

    however costs of a similar order are going to be incurred in any event and it is not the grant of planning permission which will be the cause of that expenditure. The whole question of timing of dismantling reactors is currently under review by Government. If it wishes to bring forward the date of dismantling the reactors, and if this will require more financial provision than has so far been made, it is they who will have to make the necessary funds available.

54. Consideration was also given to reducing the footprint in addition to reducing the height, but this was rejected on account of the difficulty in disposing of the quantity of low level radioactive waste which would arise and the dose commitment that would be incurred.

55. With regard to repairing them as they exist, the works involved are set out in the Alternative Implementation Report *(Doc. 47)*. Although less robust than the Implementation Report for the preferred option *(Doc. 46)*, that conclusion applies to the feasibility of storing ILW in existing buildings. In so far as the Alternative Report deals with repair of the reactor buildings, it is regarded as robust. It was contended that the reactor buildings could be 'patched up' at lesser cost; but that assumed that dismantling will occur in 30 years. However it would be unwise to plan now upon that assumption. In addition, in broad terms there is little difference in capital cost between the two options and the lifetime cost of the alternative is likely to be greater *(see note at Doc. 56 on comparative costs)*. The evidence that the existing buildings need a great deal of repair has not been challenged.

56. It has been explained above that BPEO is not a test of a planning application. However, as it happens, in this case, the evidence establishes that the proposed alterations to the reactors

would be the BPEO. It was acknowledged by most that the reactors should not be dismantled for at least thirty years and that in the meantime (however long that is) the buildings and the radioactive materials that they contain should be kept safe. It was also acknowledged that they require major repair. No one has coherently suggested that there is a better option than the proposed alterations to the reactor buildings. The length of time for which it will be appropriate to retain them before final dismantling is not known, but there is a good chance that it will be considerable. It is, therefore, prudent to construct stores that are sufficiently durable to last for that lengthy period.

57. So, if a comparison is to be drawn, it is between the alterations as proposed and an alternative means of dealing with the reactor buildings in circumstances in which it is uncertain how long the buildings will need to house the reactors. The only candidate is the refurbishment of the existing buildings. The planning application proposal is clearly preferable to the alternative. No one has suggested that the proposal is inconsistent with *Paragraph 2.9.2, Chapter 12* or *Chapter 13* of *PPW*. It can therefore be concluded that the proposed alterations are the BPEO for retaining the reactor buildings in such a way that the radioactive materials that they contain are kept passively safe for the period before being finally dismantled.

58. The consequence of refusing planning permission for the proposed alterations to the reactor buildings is that they will remain, with their present height and appearance, for exactly the same amount of time as the reactor buildings would remain if they were altered as proposed. The decision whether or not to grant planning permission for this element of the proposed development will not determine the date at which the site is eventually cleared.

Satisfying Planning Policies

59. The proposed development is in accordance with the development plan. That conclusion was consistent with the Officers' Report to the Planning Committee of the SNPA of 26 June 2002, which indicated that the application conforms with *the Eryri Local Plan Policy G 4*, and is not contrary to other relevant Local Plan policies. The NPA has maintained this position.

60. Given the compliance of the ILW Store proposal with *Policy G 4,* it is clear that the proposed alterations to the reactors are not "major". Only the Council for National Parks (CNP) claimed that they would be. The *Local Plan* gives no precise definition of the phrase major development although *Paras. 2.8 to 2.10* of the supporting text provide an indication of the type of development at which *Policy PC 4* is aimed. That policy sets its face against major development *"because of the serious impact it may have on the area's natural beauty"*. Thus major development is that which is not only large in scale but is detrimental to the purposes of the National Park. Only need at a national level would be likely to outweigh such detriment.

61. As required by the *Local Plan*, the application has been designed to create an architecture and landscape worthy of the site and of this century. The shape of the buildings, notably the curved roofs, would reflect the natural form of their mountain and lake surroundings; and the materials have been chosen to similarly respect the natural colours of the landscape. A condition requiring the consent of the NPA to the details of the materials would be acceptable. The smaller scale of the reactor buildings would sit comfortably in their National Park setting. Extensive planting on and off the site would enhance the landscape. Key features of the established landscape, including the garden designed by Sylvia Crowe, will be kept. Tree planting and habitat creation has already begun and as it matures will screen parts of the site from roadside views, or provide a softening of the impact of the lowered reactors *(see photomontages at Doc. 43)*.

62. Only two matters raised by the policies in *PPW* have emerged as significant:

- the way in which the principles of sustainable development have been embodied in the document;
- the discussion in *Para. 5.5.6* of major development in national parks.

63. National, regional and local planning policy has been progressively reviewed in the light of the principles of sustainable development. Where national and local policies are up to date, the principles of sustainable development do not comprise an additional layer of policy advice against which a proposal must be tested, but rather have been incorporated into policies which have been drafted for the specific purpose of development control. If the planning application is consistent with the development control policies in *PPW*, then it is also consistent with the Assembly's policies on sustainable development.

64. Similarly, the development plan was prepared taking account of the principles of sustainable development as set out in the UK strategy. While *PPW* is a more recent statement of policy and is applicable in Wales, for present purposes there appears to be no material difference.

65. *Paragraph 5.5.6* of *PPW* concerns major development in the National Park. The thrust is contained in the sentence: "*major development should not take place in National Parks except in exceptional circumstances*". A development that had a positive effect would amount to "exceptional circumstances". What has to be rigorously examined is the development proposed in the planning application. The examination of the proposals in an Environmental Statement and at the Inquiry has been sufficiently rigorous to justify the conclusion that the development proposed would enhance the natural beauty of the Park.

66. The operational ILW needs to be stored on site. There is no sensible potential for locating the ILW Store anywhere other than Trawsfynydd. The need could be met in another way, that is, by refurbishing and using existing buildings, but it appears to be universally accepted that the best solution is the construction of a new store. No one has suggested an alternative location for the store or seriously contended that it is materially over-sized. We believe that the need has been sufficiently 'rigorously' examined to conclude that it has been amply justified. With regard to the reactor buildings, they need to be kept weatherproof and until it is appropriate to dismantle them. The alterations will achieve this and self-evidently there is no potential for locating them elsewhere. They have been shown to be both beneficial and preferable to the alternative of retention and repair of the existing.

67. The question was raised as to whether it might be possible to grant planning permission for one element of the proposed development (for example, the ILW Store) and not the other element (i.e. a split decision). This should not be entertained for three main reasons:

- it would allow development that is in substance not that which was applied for or consulted upon, which would have a different impact on the National Park landscape;
- it would require a new Environmental Statement in order for the environmental information and impacts to be properly assessed;
- a new ILW Store on its own, leaving the reactors alone, would bring no benefit to the National Park (as confirmed by the NPA in their evidence).

Other Matters

68. The likely method of construction is the subject of the Implementation Report *(Doc. 46)*. It provides a thorough examination of the tasks that a contractor will have to undertake, and is as reliable an assessment as could possibly be made, short of actually letting the contract. It confirms that it is not proposed to use explosives. No one has offered contrary evidence.

69. The Implementation Report has in turn provided a sound basis for considering the implications of construction. The effect of the development in terms of traffic and access, noise and vibration, ecology, air quality and geo-environment are the subject of additional specialist reports *(Docs. 38 to 42)*. The aqueous environment is dealt with partly in the ecology report and partly in the geo-environmental report. The reports have been provided to meet the Assembly's request to be informed on these matters. No one has raised any issue that suggested that it was necessary to call any of the authors as witnesses at the Inquiry.

70. The reports concluded that:

- traffic during construction (of either alternative) would be higher than assumed in the Environmental Statement but low in absolute terms which would have no material effect on the operation of the highway network; once works are complete there will be no day-to-day activity at the site;

- noise impacts on nearby dwellings during construction can be successfully monitored and mitigated in accordance with limits laid down in planning conditions agreed with Gwynedd Council and the NPA *(Doc. 115)*; once works are complete there is unlikely to be any impact on the existing noise climate;

- despite the relatively high nature conservation value of some of the ecological features in the surrounding area, neither alternative will have any direct adverse impacts on significant habitats and species; any short term loss or damage will be offset by the longer-term landscape design and restoration proposals, including the habitat and dust management plans for the site and its surroundings (although if more land is needed for a larger ILW store then the benefits on site would be less);

- any impacts on air quality will be limited to the construction phase (and would be similar in either scheme) and would not breach air quality criteria; any impact can be mitigated by adopting sensible management techniques in conjunction with Gwynedd Council *(as proposed in Doc. 40, Appendix 1)*;

- adverse geo-environmental impacts during the construction period (including discharges of contaminated groundwater via the diversion culvert to the lake, which may need to be refined) can be avoided or mitigated, but will arise whether or not planning permission is granted for the applications – and will be subject to strict control and monitoring by the EA in accordance with their annual discharge limits for radionuclides, which will not be breached; after works are complete there will be no significant impacts.

71. There will, therefore, be some temporary effects of constructing the proposed development, which can and will be mitigated. However, if planning permission is refused, alternative works will have to be undertaken as a fall-back *(Doc. 47)*. While such works would not be identical in nature, they would give rise to broadly similar effects as summarised above. A refusal of planning permission would not avoid the effects of construction activities.

THE CASE FOR THE SNOWDONIA NATIONAL PARK AUTHORITY

72. Subject to the imposition of appropriate conditions, especially on time-scale and on detailed design matters, the application is supported. That conclusion has been reached following a consideration of the statutory National Park purposes and the relevant policies of the development plan.

Satisfying Planning Policies

73. It is not accepted that *Eryri Local Plan Policy PC 4* on major development in the National Park is of direct relevance, as the ILW store is expressly exempt by *Policy G 4* and the works to the reactor buildings are not considered to be major. The latter are intended to reduce the scale, and change the appearance, of existing structures for which there is no evidence of national need. The consequences would be perceived in a relatively local context by residents and visitors who find themselves within the zone of visual influence of the scheme. The impacts contemplated by *Policy PC 4* are anticipated to be detrimental, whilst it is generally agreed that the visual impacts of the proposal before the Inquiry would be a significant improvement on the existing situation, particularly in foreground and middle distance views. In arriving at that conclusion, the NPA carried out an extensive analysis of the likely impact on the site's surroundings from key viewpoints *(in Doc. 59)*.

74. The *Local Plan* requires in *Policy G 4* that any consent for the ILW store should be temporary. The NPA therefore looks for this to be achieved by way of a specific time-limited condition that would ensure a role for the local community and the planning system in protecting National Park interests *(see submissions at Doc. 107)*. That decision should not be left solely in the hands of other regulators with other priorities. It accepts however that, in the absence of a national repository as envisaged in the *Local Plan*, there is an immediate need to store ILW on site; and that the proposed building is no larger than is reasonably necessary for the amount of waste likely to be generated *(Doc. 52)*.

75. The works to the reactor building are also welcomed by the NPA. The power station buildings have little to do with the culture of this part of North Wales or indeed the wider historic fabric of the area. They are all large utilitarian structures, which were sited in this location because of the readily available and abundant supply of water together with perceived rock stability. They are a damaging intrusion into the landscape and the proposals before the Inquiry considerably reduce that harm, subject to a condition requiring the approval of materials that would respect the landscape of the area. *Policies TA 10* and *11* essentially require that the design of development should be good and sympathetic, using local materials where possible. It is accepted in this case that there are limits to what is possible - for example the use of slate or stone on the reactor building roof would be impractical. Although not content with the proposed roofing material as demonstrated on site, the NPA is satisfied that an acceptable solution can be found.

76. The 1958 planning permission was a consent to generate electricity; and it is accepted that on site storage of operational waste, during the operational life of the plant, was incidental to the main activity of electricity generation. However, the use of the site for storage post cessation of generating activity, as envisaged in the applicant's fall back position, would amount to a change of use in that an ancillary activity would become the sole activity on site. Thus the HSE's doubts on the fall back option, and the caveats expressed in the applicant's preliminary Alternative Implementation Report *(Doc. 47)*, emphasise the need for the proposal before the Inquiry.

77. The NPA is also fundamentally opposed to a split decision. It would give the worst of both worlds in failing to offer an enhancement of the site. The early dismantling of the reactors is not before the Inquiry. In any event, it is also accepted that this would expose operatives to increased and unnecessary danger and would generate massive amounts of waste. That would require additional on site storage in buildings *(Doc. 51)* whose scale would harm the visual qualities of the Snowdonia National Park.

THE CASE FOR GWYNEDD COUNCIL

78. Gwynedd Council cautiously supports the proposals (subject to conditions) and considers that the alterations to the reactor buildings would be an improvement on their current appearance.

Satisfying Planning Policies

79. The Council's major concern is that a condition be imposed limiting the life of the ILW store, but it is not argued that planning factors should take precedence over decommissioning strategy or safety concerns *(see submissions at Doc. 108)*. This would ensure that the planning system would continue to have a role to play in the case of a large building in the National Park, built to store nuclear waste, when the policy context relating to the timing of the removal of its contents is not fixed. Such a condition would also ensure that the building is removed when it is no longer needed. It would enable the planning system to bring legitimate pressure to bear upon those operating in other legislative and policy regimes to try and make sure that the time when the building is no longer needed arrives as soon as reasonably can be the case. As explained in the submission, this approach would be lawful and would satisfy the tests in *Circular 35/95.*

80. It is accepted that a condition could not lawfully be imposed upon any grant of permission requiring the removal of the reactor buildings within a certain time-scale, or upon the happening of a certain event. However, whilst the Council did not call evidence on the matter, it requests that the decision-makers give careful consideration to the effect of lowering the roofs of the reactor buildings on the economics of earlier decommissioning as it did not find the applicant's evidence on this point very illuminating.

Other Matters

81. All of the Council's other concerns or interests (on particularly materials, noise, dust and access) can either be met by the agreed conditions *(for example, the noise condition at Doc. 115)* or by advice, as necessary, tendered outside the application process.

THE CASE FOR THE HEALTH & SAFETY EXECUTIVE

82. The issues that are properly before the Inquiry are confined by the relative regulatory roles of the HSE (through its NII)), the EA and the planning decision-maker. Having regard to that, the application is supported. The ILW store is needed urgently and is of an appropriate siting, size and shape. The reduction in height of the reactor buildings can be achieved as part of the licensing process and is desirable given the condition of the existing buildings. Together they will facilitate the overall decommissioning process.

The Scope of the Inquiry

83. It is clear from *PPW* and supporting case law *(see submissions at Doc. 118)* that the planning system should not be used to secure objectives achievable under other legislation. Keeping to the appropriate scope of the Inquiry:

    - avoids creating conflict between the requirements of the planning and the HSE regulatory regime, which operate against different constraints and considerations;

    - is consistent with the approach of planning policy in *PPW, Para. 13.10.2* - which indicates that planning authorities should operate on the basis that the relevant pollutant control regimes will be properly applied and enforced by the other responsible agencies;

    - avoids creating a false expectation that somehow the outcome of the Inquiry will determine the future decommissioning of Trawsfynydd, when it cannot.

84. The decision-makers in this case are not concerned with prescribing the method or the time-scale for the decommissioning exercise that is now underway. The HSE and the EA will decide that through their regulatory machinery. The merits or demerits of Government policy are not for debate; akin with planning policy these are a given in the decision-making process. At present it is accepted that there are large areas of that policy that remain to be settled; but there are separate processes of deliberation to decide those policies. The methodology, legislative framework and future of the generic programme identified by the applicant for all its licensed sites is not the subject matter of the application. The extent of consultation processes and the character and antecedents of the applicant are wholly immaterial to what the planning process needs to consider.

85. Take the time-scale for decommissioning as an example:

    - on the basis of what reliable evidence before the Inquiry could it be concluded that decommissioning should be completed within, say, 25 years?

    - what reliable empirical evidence is there before the Inquiry to gainsay the conclusion of the regulator responsible (the HSE) that the reactor buildings as adapted are capable of being put into a passively safe state?

86. These questions can only be sensibly answered by the appropriate regulator in the context of its regulatory system. The planning process can not determine them. To ensure consistency the planning process has to respect the conclusions of the properly qualified regulatory body. To do otherwise leads potentially to a situation where the licensee faces conflicting requirements from the different regulatory regimes within which it has to operate. It would also be irrational for the planning regime to set a time limit in the absence of knowing that at that time the HSE and the EA will consent to off-site storage and that a national repository will be available.

87. In reality there was no challenge either to the breadth and scope of the powers enjoyed by the HSE or their effectiveness and skill in deploying them to effectively control all aspects of safety in relation to licensed sites. Under *S. 4(2)* of the *Nuclear Installations Act 1965,* in addition to those imposed on the grounds of safety, conditions can be imposed with respect to the handling, treatment and disposal of nuclear matter. The site is controlled and inspected now under an effective licence - and no new one is required for the proposed works *(Doc. 22).* The HSE enjoys a close relationship with the EA in the co-ordination of their regulatory functions *(see Memorandum of Understanding at Doc. 68).* In addition, the creation of the LMA resolves concerns about future resources for the decommissioning of nuclear sites.

88. The NFLA submissions *(Doc. 119)* are also compelling evidence of the need to be clear about the proper subject matter of this Inquiry. The project is clearly defined as the proposal that is before the Assembly and the Secretary of State for planning permission, whereas NFLA wants the facts to be different - that the project is the entire decommissioning process. In an effort to try to change the facts, the submission embarks on an extensive recitation of irrelevant cases to try to demonstrate "linkage" between the project seeking planning permission (thereby betraying that the author clearly understands what in fact the project is) and the decommissioning process. This is misconceived, as is explained in HSE's response to the submission *(Doc. 120).*

Relationship to Applicant's Decommissioning Strategy

89. The HSE's Quinquennial Review (QQR) of BNFL's generic strategy for decommissioning its nuclear sites *(Doc. 21)*, as a mechanism for determining the most appropriate way of achieving that decommissioning, was not challenged in principle. Conversely, it appears to be accepted that it is a powerful mechanism to secure continuing improvement and early decommissioning from the licensee. CNP has expressed concern that it does not feature sufficiently prominently the interests of the visual quality of the National Park. In fact, their interests are happily coincident; the sooner the site is cleared the better which is another good reason for not needing a time limit condition. Further such an argument overlooks the fact that the QQR (and the other HSE guidance) is generic, and the Executive envisages more extensive consultations with interested parties in the future. This will secure the input of the CNP and others.

90. Turning to the planning issues raised by the Inspector, these relate to:

- the length of time over which the visual impact from the ILW building will be experienced;
- the consequences of not reducing the height of the reactor buildings.

91. So far as the first issue is concerned the evidence from the QQR provides the current expectations, subject to the principle of pursuing decommissioning as soon as reasonably practicable. This is the best evidence available and is effectively the basis for the environmental assessment of the proposal. Such an assessment does not require a substantive reassessment of the decommissioning time-scale; it is uncontroversial that it will be needed during this period unless using the QQR and its licensing powers the HSE secures earlier decommissioning in line with the policy principles.

92. In any event there is little objection to this aspect of the proposals. It does not appear to be said that the building is only acceptable if on site for 25 years or some other time period; in fact it is generally accepted that whilst needed for on site storage and decommissioning it is acceptable in planning terms when balancing need against harm. The self-evidence of this is borne out by the CNP submissions which accepted that the need for the store outweighed any visual or other harm and accepted that until there was a facility for off site storage that need would justify the retention of the building.

93. So far as the second issue is concerned as HSE has identified there is a need for essential re-cladding of the building. There are also safety benefits, albeit not over-riding, from the works proposed. The adapted facility is capable of being made passively safe. It appears uncontroversial that in planning and visual terms the proposal is an improvement.

THE CASE FOR THE ENVIRONMENT AGENCY WALES

94. Having regard to the statutory powers, duties and responsibilities of the Agency in relation to the matters of concern to the Assembly, there is no information upon which it could conclude that planning permission for the proposed development ought to be refused. Neither does it seek that any planning permission granted be subject to any particular conditions.

The Scope of the Inquiry

95. No radioactive waste (solids, liquids and gases) may be disposed of on or from the site unless an appropriate authorisation has been granted by the Agency under the provisions of the *Radioactive Substances Act 1993*. The current authorisation for Trawsfynydd is up-to-date, being effective from 18 December 2002 (*Doc. 65).* Through this control any exposure to the public, resulting from discharges, is as low as reasonably achievable having taken economic and social factors into account. The Agency has further functions and responsibilities under the *Water Resources Act 1991* and the *Environmental Protection Act 1990.* It, therefore, has sufficient powers to prohibit activities in the event of non-compliance with the authorisations granted, and uses its powers and duties under the relevant legislation to ensure that a high level of protection for the environment, taken as a whole, is secured.

Relationship to Applicant's Decommissioning Strategy

96. There is currently no available disposal route in the United Kingdom for intermediate level waste, and there are currently no authorisations that would permit the operator to transfer the waste elsewhere, with the consequence that such waste will have to remain stored at the site. This also represents a significant constraint on the choice of decommissioning options available to the operator. The Agency accepts that early dismantling of the more radioactive parts of the reactor building would be technically complex involving potential radiation doses to the workforce. It would produce secondary radioactive wastes that would themselves require disposal.

97. The Agency does not object to the overall decommissioning strategy reflected in the planning application and considers that a grant of planning permission would not foreclose earlier reactor dismantling, if the availability of a final disposal route for intermediate level waste was brought forward.

THE CASE FOR TRAWSFYNYDD COMMUNITY COUNCIL &

THE CASE FOR COUNCILLOR J ISGOED WILLIAMS

98. Subject to a definite guarantee that waste generated elsewhere will not be brought to the site and confirmation that the waste on site will be monitored for its life, the application is accepted and supported. Decommissioning should continue and the Safestores should be built, as there is no other option. The local community feels that we should face reality with our feet firmly on the ground.

The Views of the Local Community

99. The two redundant reactors cannot be dismantled and cleared away because of the lack of a national repository for radioactive waste. Accepting that they will remain on site for a considerable period, it is imperative that the height of the reactor buildings is reduced so that buildings of a very high standard, which would require minimal maintenance work over the next 100 years, could be built around and over them. This would protect what remains inside from the ingress of water or dampness and represents the only safeguard to ensure that no reaction occurs to the stored radioactive materials stored inside.

100. A purpose built ground level store for the accumulated ILW is essential. The method adopted has been approved by the NII and explained to the Local Community Liaison Committee over the last eight years. Such a purpose built store will guarantee that no water, be it heavy rain or floods, can penetrate inside it. The site's inland location will ensure that it will not be affected by rising sea levels as a result of climatic changes.

101. BNFL has already made a commendable effort in preparing for decommissioning by producing a detailed Environmental Assessment. Over 40,000 broad-leafed native trees have been planted which will eventually screen much of the site from public views. This, and the reduction in height of the reactor buildings, will considerably improve its appearance.

102. Concern is expressed that any delays in granting planning permission could jeopardise the jobs of the 120 workers currently employed at the site. Experience over the years has shown that such decisions take a long time, and when permission is eventually granted BNFL could employ contractors from outside Wales and the rural area would lose out once again.

THE CASE FOR THE COUNCIL FOR NATIONAL PARKS

103. Having heard the evidence, the Council for National Parks (CNP) accepts that the construction of the ILW Store is necessary and that, subject to the imposition of appropriate conditions, lowering the roof of the reactor buildings would be an improvement over the present position in terms of National Park purposes. However, mere improvement is not enough; the obligation under *S.11A* of the *1949 National Parks and Access to the Countryside Act (as amended)* is to seek the best outcome for National Park purposes. A comparison can be made also with the lesser tests in the conservation area legislation *(relying on Doc. 109)*.

Satisfying Planning Policies

104. The proposal as a whole constitutes major development as defined in the *Local Plan,* in *PPW,* and in *Circular 13/99.* There is no basis or precedent for an approach which splits up the development and then considers part as major and part as not. The policy tests should be applied to the development as a whole and these require a rigorous examination of the alternatives and the approach to choosing between them. Given the lack of an accessible MADA, there has not been a rigorous examination involving considerations of safety, cost and visual amenity leading to an optimum time for dismantling.

105. The planning system should approach this site as it would any other contaminated site. The only material difference between it and more conventional sites is that here, unlike the generality of cases, there is no prospect of a developer offering to remediate the site as part of a beneficial development proposal. Avoidable prolongation of the presence of the visually intrusive buildings is inconsistent with National Park purposes, as set out in the legislation. Therefore, the planning system needs to be robust in ensuring that land use planning

objectives and, in particular, National Park purposes are properly in play, now and in the future, when issues relating to the regulation of the site are discussed.

106. It is accepted that there should be no duplication with another regulatory regime, but that would not be the case as neither the HSE nor the EA is able to protect all the interests in question, including, in particular National Park purposes. HSE does not consider visual impact to be its responsibility or within its remit. It treats all Magnox stations equally, irrespective of location, and can only use its powers in relation to safety considerations. Neither does it involve the public, despite the need for public involvement in the decision making process, and it would have no role once the nuclear risk is removed.

107. Conditions or legal agreements should therefore be imposed on any planning permission to ensure that the planning system will have an involvement in, and a degree of control over, decisions on the timing of dismantling *(see also submissions at Docs. 110 & 111)*. This would ensure that National Park purposes are properly part of that decision. It is accepted that the ILW Store will not be removed from the site until a national repository is available. However, subject to any overriding safety objection, the ILW should be removed from the store, before the equivalent from other ILW stores at other Magnox sites, and its site cleared and restored as soon as reasonably practical after that. Considerations of sustainability and inter-generational equity further suggest that there is no basis to justify delaying dismantling of the reactors beyond the time when a national repository is available. This, together with clearance and restoration of the rest of the site, should also be the subject of conditions or a legal agreement.

THE CASE FOR THE NUCLEAR FREE LOCAL AUTHORITIES

108. The case for the Nuclear Free Local Authorities Steering Committee (NFLA) incorporates that of the Wales Forum of Nuclear Free Local Authorities. They question the scope and adequacy of the application and of the accompanying Environmental Statement in a legal submission *(Doc. 119, with responses at Doc. 120 & 121)*. It is submitted that until those issues (which relate to the whole decommissioning process) are resolved, it would be unlawful to grant planning permission.

Relationship to Applicant's Decommissioning Strategy

109. NFLA favours the earliest possible dismantling of the reactor buildings consistent with the establishment of a national facility for the storage or disposal of ILW, as proposed for similar reactors in Italy and Japan. This means that it would be paid for and undertaken as near as possible by the generation that the facility has benefited and would reduce the risks arising from the need to preserve documents, knowledge, capital and investments.

110. The European Commission intends to impose a requirement to identify a geological repository by 2008 and have it licensed by 2018 *(Doc. 60)*. A decision on a single site by 2010 and a facility by 2018 to 2022 is feasible on the programme envisaged by DEFRA. The current non-availability of such a facility, cannot, therefore, be used to support a long deferral period.

111. The applicant's Safestore strategy signals a clear intention to defer dismantling for at least a century. Although there may be financial advantages to such an approach, it breaches the requirements of intergenerational equity, the polluter pays principle, and the policy

requirement that steps which technically or economically foreclose the option of completing decommissioning on an earlier time-scale should not be taken.

112. The applicant has not carried out a BPEO exercise and refused to make its MADA available for scrutiny. As a result, the Inquiry could not examine alternative decommissioning strategies and their costs. *(Inspector's Note: the NFLA wrote to the Secretary of State on this matter during the Inquiry, but I am not aware of any reply – see Doc. 82. I had previously indicated to the Inquiry that the detailed MADA information sought was not essential to arriving at a recommendation on the specific application on this site).*

113. If either aspect of the proposal forecloses or makes more difficult the option of earlier dismantling it should be refused. If the Inquiry is satisfied that this is not the case, it should recommend the earliest site clearance consistent with the establishment of a national storage or disposal facility. A condition requiring a review, with public involvement, of the timing of final dismantling when a national facility becomes available should be imposed. The UK Government should also ensure that adequate funds are in place to allow prompt dismantling when the facility becomes available or 30 years from shutdown, whichever occurs first.

THE CASE FOR THE WELSH ANTI-NUCLEAR ALLIANCE

114. WANA supports the construction of a new ILW Store, as it follows good practice for the passive safe storage of such waste. This support is on the understanding that the store should be large enough to take all the ILW presently on the site, including that currently within the reactors themselves. However, WANA opposes the proposal to lower the reactor roofs and considers that reactor dismantling should commence in 2020.

Relationship to Applicant's Decommissioning Strategy

115. Information on the safety case at Trawsfynydd, which has a direct bearing on the evaluation of the propositions in the applicant's case, has not been made available. Instead we have been given a catalogue of good intentions. The main issue for the decision-makers is how best to discharge their responsibilities to ensure public safety for present and future generations.

116. It is accepted that the immediate clearance of the site is impossible, because there is nowhere for the radioactive waste to go. The reactor buildings contain large quantities of radioactive waste in a configuration that is potentially unstable and will continue to deteriorate. The issue, therefore, is how the radioactive waste may be stored on-site, in a way that ensures it is passively safe.

117. The proposed 100-year deferral is based on expediency rather than science and violates the principles of sustainable development and intergenerational equity. Such a delay would not result in safe access for workers and, irrespective of the selected deferral period, remote techniques are always going to be necessary. The lowered roofs, which will require to be removed at some future date, would place an obstacle in the way of the hazard reduction process, as demonstrated by *Fig. 3* in *Doc. 84*.

118. An optimum deferral period of 30 years can be identified which is long enough to reap the practical benefits of radioactive decay, but short enough to avoid the structural deterioration that could make dismantling more difficult. Other countries, notably Italy and Japan, are working to time-scales consistent with this, with BNFL involvement. If a 30-year period is enforced, granting consent for the lowering of the roofs would have resulted in the wasting of

considerable resources. That is because the applicant's claim that the cost of maintaining the existing buildings would be of the same order as the application proposals is questioned.

THE CASE FOR CND CYMRU

119. CND Cymru does not object to the construction of the ILW Store. However, approval should not be given to the lowering of the roofs of the reactor buildings. The burden of the legacy from the operation of Trawsfynydd Nuclear Power Station must not be moved to weigh on the people and the environment in other communities

Relationship to Applicant's Decommissioning Strategy

120. There is no Government commitment to a central nuclear waste store and it cannot be assumed that one will be constructed. The ILW Store should, therefore, be considered as a permanent store and be large enough to contain all the waste on site, including that which at present is part of the reactors and the containment vessels.

121. It is accepted that the reactor buildings urgently need weatherproofing but they should be dismantled as soon as technically possible. Lowering the roofs could militate against their eventual decommissioning. Indeed, although the NPA supports the lowering of the roof, it also states that this will not have a significant impact on the visual amenity of the area.

122. The issue of Llyn Trawsfynydd should also be addressed because of the dangers created by the concentration of lethal radionuclides in the silt below the waters of the lake, particularly if a lowering of the water level as a result of dam failure exposed the harmful sediments. There is the further problem of human activity as a result of public access to the lake, which causes the sediments to be distributed into the atmosphere and the surrounding area.

THE CASE FOR FRIENDS OF THE EARTH CYMRU

123. The constituent groups in FoE Cymru object to the proposals for Trawsfynydd as being premature, unsound and unjustified.

Relationship to Applicant's Decommissioning Strategy

124. BNFL's case for delaying decommissioning is unsound. It is based on a misconception that workers will be able to enter the reactor areas after 70 – 90 years, and leaves the problem of the unstable graphite core with stored Wigner energy. It:

- relies on dubious monetary discounting techniques;
- is ethically unsound, contrary to sustainable development policy, and
- does not recognise that skill and knowledge bases are liable to disappear.

125. The BPEO needs to be determined, prior to any planning decision. BNFL's internal determination does not do this as it was not open and consultative, did not involve a wide range of stakeholders, and failed to take the greater emphasis on sustainable development and

the precautionary principle into account. The protection of public health, including the effects of the environment on public health, supersedes the approach of judging acceptable risk, and must be given priority.

126. The company has declined to disclose information on degradation, corrosion, leachate movement, research and development programmes and budgets, and hazard analysis and risk assessments to support its case. The alternatives, including early and mid-term clearance of the site, need to be fully considered with early decommissioning (as planned for Magnox plants in Japan and Italy) being an obvious alternative to the Safestores. Whilst this would result in larger volumes of ILW, requiring a larger store, it would be offset by the removal of the reactors.

127. BNFL's competence to take on the decommissioning operations is questioned and the new Liabilities Management Authority should be given time to develop their own decommissioning policy.

THE CASE FOR CADNO

128. CADNO is the acronym for '*Cymdeithas Atal Distryw Niwclear Oesol'* (Association for the Prevention of Perpetual Nuclear Destruction). It believes that BNFL should not be allowed to reduce the height of the reactor buildings, but accepts the need for an ILW store in the short term. The full picture cannot be seen at the moment, as much information was not submitted to the Inquiry and a number of changes are envisaged over the next few years.

Relationship to Applicant's Decommissioning Strategy

129. It is submitted that the reactor heights should be left as they are until the establishment of the Liabilities Management Authority and, given the valid arguments submitted to the Inquiry for dismantling the reactors as soon as possible, the next Quinquennial Review is published. It is preferable not to do anything that will impede the eventual total dismantling of the reactors and the site should be restored to its natural state during our lifetime. There is no merit in improving the appearance of the buildings for a short period - the public has lived with it for 40 years - and there is no point in spending so much on something that is going to be demolished in any case. It is considered that the selection process gave undue weight to financial and visual aspects at the expense of important considerations, such as health and the public's peace of mind in the long-term.

130. Groundwater conditions in and around the site, and the extent and variability of faulting in the rock, means that this is one of the worst locations to store radioactive waste. The view expressed that removing the ILW from Trawsfynydd to a national facility should be given priority, because of the site's location in the National Park, is wholeheartedly supported. However, this should be done as soon as possible rather than in 25 years time.

131. The impression gained is that there was, and is, no intention to dismantle the reactors, with the reduction in height being a first step towards mounding in the long term.

Other matters

132. The alarming levels of cancer caused by ionising radiation, that cannot be ascribed to natural background radiation, is of particular concern, with cancer levels in Gwynedd being particularly high. This highlights the need for close monitoring of all nuclear establishments

and other sources of artificial radiation. As a result, the need for decommissioning Llyn Trawsfynydd is emphasised; the americium contaminated lakebed sediment being the responsibility of the nuclear industry, and no one else.

WRITTEN REPRESENTATIONS

Representations to the Inquiry

133. The **Countryside Council for Wales** (CCW) provided guidance on the preparation of the applicant's Environmental Statement in relation to its responsibilities as the Assembly's statutory advisor on sustaining natural beauty, wildlife and the opportunity for outdoor enjoyment. It has also advised the applicant and the NPA in respect of the application of the Habitat Regulations 1994. Details of correspondence and surveys are at *Doc. 99*.

134. CCW is of the opinion that no candidate Special Areas of Conservation or Sites of Special Scientific Interest would be directly harmed by the proposed development. If dust is controlled during construction, no significant impact on the assemblages of lichens and bryophytes at the two closest SSSI's (Coed y Rhygen and Ceunant Llennyrch) is anticipated. Neither would the integrity of the Meirionnydd Oakwoods and Bat Sites be adversely affected.

135. The reduction in height of the reactor buildings together with the extensive new broad-leaved woodland planting would reduce the visual impact of the existing structures substantially. Careful consideration should be given to the detail of the design and the external materials.

136. The **Campaign for the Protection of Rural Wales** submitted a Statement of Case *(Doc. 100)* but no further representations. It supports the evidence of the Council of National Parks in relation to issues of time-scale and landscape impact. It also seeks an assurance that the main elements of the Sylvia Crowe designed landscape would be protected and conserved.

137. The **Snowdonia Society** *(Doc. 101)* also supports the evidence of the Council for National Parks. Fulfilment of the statutory purposes of a National Park necessitates the removal of any significant radioactive material from the site in the shortest possible time. It is appreciated that, in the absence of a national repository for ILW, it will have to be stored on site for the near future. However, all actions taken now should be consistent with the eventual and rapid removal of the ILW once that repository is available.

138. The Society is not convinced by the applicant's claim that it would be beneficial to defer dismantling the reactors for about 100 years, unless it is the best option in terms of National Park purposes, sustainability and public safety. The evidence of WANA on the benefits of a 30 year delay is significant, as is its concerns about the practicalities of lowering the height - as is the evidence on shorter time-scales being pursued in Italy and Japan. It does not believe that the arguments for short-term visual amenity outweigh those against in terms of safety and the long-term benefits to Snowdonia.

139. Permission for an ILW store should only be granted until such time as a national repository becomes available and it should only be used for waste produced at Trawsfynydd. For visual reasons, it should be no larger than necessary - and that size should be clarified, given the contradictory sizes quoted by the applicant in the past. Should the reactors be demolished at once, a larger store would be justified - but no bigger than is needed to accommodate all the material from the site.

140. Both on visual amenity and cultural heritage grounds, there is a strong case for the site's landscape design by Sylvia Crowe to be preserved; and for any additional landscaping to be in keeping with it.

141. In his submissions *(Doc. 103)*, **Mr J Chanay** of Bangor asks about the broader decommissioning strategies of BNFL, including matters relating to safety, finance and corporate memory. He also challenges the applicant's overly elastic interpretation of *Cm2919* in assuming that the Safestore concept in a National Park is endorsed by national policy. The proposal to defer dismantling of the reactors is, he argues, neither sustainable nor in accord with the principles of inter-generational equity because it passes virtually the whole burden onto a future generation. An alternative of dismantling 20 years from the cessation of operation should have been examined as a practicable solution; as should have the options for interim storage of ILW below ground (because of the National Park location). That could include using the reactor vaults and gas circulator hall basements; and providing new underground facilities. However, if a larger above ground store is necessary, complete site clearance and full restoration should follow as soon as a national repository becomes available.

142. A retired research physicist with the UKAEA, **Dr M Madden**, raises three matters *(Doc. 102)*. He asks why it is considered safe to store ILW at the site rather than at Sellafield and what exactly is to be stored, how much and for how long. He also asks what precautions are to be taken to prevent a release of radionuclides from a terrorist attack on an above ground store.

143. Writing from Swansea, **Ms H Jordan** *(letter on case file)* objects to the granting of planning permission. She asserts that there is, with ageing Magnox stations, a likelihood of leaks of radioactive waste into local water supplies and the atmosphere. Those risks, coupled with the unresolved problem of waste storage, constitute reasons against the granting of permission.

Representations to the National Park Authority

145. The NPA received representations on the applications from a number of statutory and non-statutory parties and persons. Those responses are at *Doc. 14*. For the most part the points made were subsequently given in evidence (or superseded by it), or in the further written representations summarised above. In addition, **Mr J Elgood**, as a local resident, hopes that the station is decommissioned as quickly, completely and safely as possible. **Mrs E Jones**, who also lives locally, is against the erection of a building to store ILW to replace the existing stores on the site. She believes it would seriously harm the special characteristics of the Snowdonia National Park.

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 reclad, 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 [80, 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*.

INSPECTOR

APPENDIX 1: APPEARANCES

FOR THE APPLICANT: Mr Guy Roots QC & Mr Richard Glover, of Counsel, *instructed by Eversheds*

They called:

Dr Paul Brian Woollam	Head of the Decommissioning and Liabilities Unit in the Magnox Generation Business Group, British Nuclear Fuels plc., Berkeley Centre, Berkeley, Glos GL13 9PB
Mr Keith Graham Spooner MIOSH MSRP	Site Manager, Trawsfynydd Nuclear Power Station, Trawsfynydd, Gwynedd LL41 4DT
Mr Patrick Charlton BSc DipLD MLI	Partner in the Environs Partnership, c/o British Nuclear Fuels plc., Berkeley Centre, Berkeley, Glos GL13 9PB
Mr Roger Cockle BA MA RIBA	Director of Percy Thomas Partnership (Architects) Ltd., c/o British Nuclear Fuels plc., Berkeley Centre, Berkeley, Glos GL13 9PB
Mrs Sheila Twiddle BA MRTPI	c/o British Nuclear Fuels plc., Berkeley Centre, Berkeley, Glos GL13 9PB

FOR THE LOCAL PLANNING AUTHORITY: Mr David Manley, of Counsel, *instructed by Mr Iwan Evans, Solicitor to Snowdonia National Park Authority*

He called:

Mr Aled Sturkey MRTPI	Chief Planning Officer, Snowdonia National Park Authority, Penrhyndeudraeth, Gwynedd LL48 6LF

FOR GWYNEDD COUNCIL: Mr Martin Carter, of Counsel, *instructed by Gwynedd Council's Solicitor and Secretary*

He called:

Mr Iwan Evans BA(Hons) MRTPI	Assistant Director, Planning and Economic Development Department, Gwynedd Council, Swyddfa'r Cyngor, Caernarfon, Gwynedd LL55 1SH

FOR THE ENVIRONMENT AGENCY WALES: Mr John Barrett, of Counsel, *instructed by the Legal Officer of the Agency*

He called:

Mr Colin G Hardman MA MEng MSc CEng MIChemE MSRP	Nuclear Regulation Group Inspector, Environment Agency Wales, Chester Road, Buckley, Flintshire CH7 1NS
Dr Clive R Williams BSc PhD MINucE MSRP	Policy Development Manager for Radioactive Substances Regulation, c/o Environment Agency Wales, Llwyn Brain, Ffordd Penlan, Parc Menai, Bangor, Gwynedd LL57 4DE

FOR THE HEALTH AND SAFETY EXECUTIVE: Mr Ian Dove & Mr Satnam Choongh, both of Counsel, *instructed by the Treasury Solicitor*

They called:

Mr Laurence G Williams	Director of the Health and Safety Executive's Nuclear Safety Directorate and Her Majesty's Chief Inspector of Nuclear Installations, St. Peter's House, Stanley Precinct, Bootle, Merseyside L20 3LZ
Mr Mike Weightman	Her Majesty's Deputy Chief Inspector of Nuclear Installations, St. Peter's House, Stanley Precinct, Bootle,

Merseyside L20 3LZ

FOR THE COUNCIL FOR NATIONAL PARKS: Mr David Wolfe, of Counsel, *instructed by Miss Ruth Chambers*

He called:

Miss Ruth Chambers MA MSc	Deputy Director, Council for National Parks, 246 Lavender Hill, London SW11 1LJ

FOR THE NUCLEAR FREE LOCAL AUTHORITIES: Mr James Woolley LLB(Hons) MA, Solicitor, Solicitor's Office, 41 Rupert Road, Sheffield S7 1RN, who also gave evidence

INTERESTED PERSONS:

Cllr Tom Ellis	Cyngor Cymuned Trawsfynydd, Y Neuadd, Trawsfynydd, Gwynedd LL41 4RW *[Chairman]*
Mr Hugh Richards BArch MA MRTPI	Welsh Anti Nuclear Alliance, PO Box 1, Llandrindod Wells, Powys LD1 5AA
Mr Rod Stallard	CND Cymru, Nantgaredig, Cynghordy, Llanymddyfri SA20 0LR *[Vice chair]*
Ms Deilwen M Evans	CADNO, Cae'n Cefn, Trawsfynydd, Gwynedd LL41 4YE *[President]*
Ms Nesta Wyn Jones	Pantglas, Abergeirw, Dolgellau, Gwynedd LL40 2PG *[Member CADNO]*
Cllr J Isgoed Williams LICW	Bryn Eglwys, Trawsfynydd, Gwynedd LL41

	4UB
Dr Max Wallis PhD	Friends of the Earth Cymru, 48 Westbourne Road, Penarth

APPENDIX 2: DOCUMENTS including Plans and Photographs

General Documents

Document	01	Lists of persons present at the inquiry
Document	02	Letter of notification of the inquiry
Document	03	Notes of the pre-inquiry meeting, 3 July 2002
Document	04	Notes of the pre-inquiry meeting, 21 October 2002
Document	05	Article from the 'Daily Post' 12 November 2002

Core Documents

Document	06	Planning application
Document	07	Application plans
Document	08	Environmental Statement – Volume 1
Document	09	Environmental Statement – Volume 2
Document	10	Environmental Statement – Non Technical Summary
Document	11	Working Amendments
Document	12	Supplemental Environmental Statement
Document	13	Bundle of correspondence between the Applicant, the Snowdonia National Park Authority and the National Assembly for Wales
Document	14	Bundle of consultation responses
Document	15	Bundle of correspondence with the Planning Inspectorate
Document	16	'Planning Policy Wales', Welsh Assembly Government, March 2002
Document	17	'Gwynedd Structure Plan: Written Statement', November 1993
Document	18	'Eryri Local Plan 1993 – 2003' (Written Statement, Proposals Map, and Inset Maps and Appendices)
Document	19	'Regional Planning Policy Guidance for North Wales, 2001'
Document	20	'Review of Radioactive Waste Management Policy – Final

		Conclusions', July 1995, Cm 2919
Document	21	'A Review by HM Nuclear Installations Inspectorate – Magnox Electric plc's strategy for de-commissioning its nuclear licensed sites'
Document	22	Site Licence No: 56, Nuclear Installations Act 1965 (as amended) – Attachment of Condition to Nuclear Site Licence, Magnox Electric plc., Trawsfynydd
Document	23	Extract from 'The 1998 United Kingdom Radioactive Waste Inventory – Detailed Information for BNFL Wastes: Magnox Electric Sites', DETR/Nirex
Document	24	'Managing Radioactive Waste Safely: Proposals for developing a policy for managing solid radioactive waste in the UK', DEFRA, September 2001
Document	25	'Managing the Nuclear Legacy: A strategy for action', July 2002, cm 5552
Document	26	Set of 'Technical Advice Notes (Wales)'
Document	27	Report to, and associated minute of, the meeting of the Snowdonia National Park Authority held on 26 June 2002
Document	28	Original planning permission, Ref: EL 75/7/9 dated 1 August 1958, and associated documentation
Document	29	'UK strategy for radioactive discharges 2001 – 2020', DEFRA
Document	30	'Wise About Waste: The National Waste Strategy for Wales (Part 1)', Welsh Assembly Government
Document	31	Statement of Common Ground
Document	32	Bundle of Documents relating to the Eryri Local Plan Review
Document	33	'Learning to Live Differently, The Sustainable Development Scheme of The National Assembly for Wales'

Documents submitted by the Applicant

Document	34	Appendix 1 to Mr Spooner's Proof of Evidence
Document	35	Appendix 1 to Mr Charlton's Proof of Evidence
Document	36	Appendix 1 to Mr Cockle's Proof of Evidence
Document	37	Appendices to Mrs Twiddle's Proof of Evidence
Document	38	Report relating to Noise and Vibration Issues

Document	39	Report relating to Traffic Issues
Document	40	Report relating to Air Quality
Document	41	Report relating to Ecological Issues
Document	42	Report relating to Geo-environmental Issues
Document	43	Glossary and Drawings
Document	44	Revised drawing Nos PC3A, PC7a, PC9a, TFA/AB/00104C, and Illustration 6a Rev A
Document	45	Revised drawing Nos 1005 J and 1008 J
Document	46	Implementation Report
Document	47	Alternative Implementation Report in case planning permission is refused
Document	48	Figures A1 to A7 and Appendix B of Dr Woollam's Rebuttal Proof
Document	49	Letter dated 4 April 2000 Re: Nirex Provisioning Advice
Document	50	Note on The Office for Civil Nuclear Security
Document	51	Note on the potential visual impact of dismantling the reactor buildings and storing the arisings from the dismantling process
Document	52	Note on percentage contingency in estimation of store volume
Document	53	Extract from 'Managing Radioactive Waste Safely: Summary of Responses to the Consultation September 2001 – March 2002', July 2002
Document	54	E-mail from Nirex dated 20 November 2002
Document	55	The Heathrow Terminal Five and Associated Public Inquiries: extract from Main Report
Document	56	Note on comparison of costs
Document	57	Final dismantling programme for the Trawsfynydd intermediate level waste store
Document	58	Documents distributed at pre-inquiry site visit 11 November 2002

Documents submitted by the Local Planning Authority

Document	59	Appendices 2 to 4 of Mr Sturkey's Proof of Evidence
Document	60	Extract from 'Draft proposal for a Council Directive (Euratom) on the management of spent nuclear fuel and radioactive waste',

Commission of the European Communities

Documents submitted by Gwynedd Council

Document	61	Appendices to Mr Evans' Proof of Evidence
Document	62	Minutes of Planning and Economic Development Committee held on 15 October 1998

Documents submitted by the Environment Agency Wales

Document	63	Appendix to Dr Williams' Proof of Evidence
Document	64	Appendix to Mr Hardman's Proof of Evidence
Document	65	Radioactive Substances Act 1993: Certificate of Authorisation and Introductory Note, Trawsfynydd Power Station

Documents submitted by the Health and Safety Executive

Document	66	Appendix to Mr Williams' Proof of Evidence
Document	67	A note on the legislative framework regulating the decommissioning works at Trawsfynydd Nuclear Power Station
Document	68	'Memorandum of understanding between the Health and Safety Executive and the Environment Agency'
Document	69	'Nuclear Site Licences under the Nuclear Installations Act 1965 (as amended): Notes for Applicants'
Document	70	'Reducing risks, protecting people – HSE's decision-making process'
Document	71	'Safety Assessment Principles for Nuclear Plants'
Document	72	'Guidance for Inspectors on the management of radioactive materials and radioactive waste on nuclear licensed sites'
Document	73	'Guidance for Inspectors on decommissioning on nuclear licensed sites'
Document	74	List of LCLC members

Documents submitted by the Council for National Parks

Document	75	Appendices to Miss Chambers' Proof of Evidence
Document	76	Letter dated 5 December 2002 Re: Miss Chambers' authorisation

Documents submitted by the Nuclear Free Local Authorities

Document	77	Japan Atomic Power Company's Tokai Decommissioning Plan, (appendix to Mr Woolley's Supplementary Proof of Evidence (2))
Document	78	Bundle of documents referred to in Mr Woolley's Proofs of Evidence
Document	79	'Multi-Year Perspective in Budgeting and Public Investment Planning', Michael Spackman
Document	80	Bundle of documents referred to by Mr Woolley in cross examining Mr Williams of the HSE
Document	81	E-mail to Programme Officer dated 15 November 2002 Re: Prof. Gordon McKerron
Document	82	E-mail to Programme Officer dated 26 November 2002 Re: letter to Secretary of State for Trade and Industry
Document	83	Report to, and draft minutes of, NFLA Steering Committee on 17 October 2002

Documents submitted by Interested Persons

Document	84	Figures 1 – 3 from Mr Richards' Proof of Evidence P1
Document	85	Figures 1 – 3 from Mr Richards' Proof of Evidence P2
Document	86	Figure 1 from Mr Richards' Proof of Evidence P5
Document	87	Bundle of Documents referred to in Mr Richards' Proofs of Evidence
Document	88	Slide from Magnox Decommissioning Dialogue, submitted by Mr Richards
Document	89	Mr Richards' Statement Regarding Supporting Documents
Document	90	Letter dated 8 November 2002 from Mr Richards enclosing a letter from Sir Colin Buchanan

Document	91	Exchange of E-mails between Mr Richards and Eversheds Re: A Chronology of the Authorisation of the WANA Proofs
Document	92	Appendices to Mr Stallard's Proof of Evidence
Document	93	Figure from Ms Evans' Proof of Evidence
Document	94	Tables 1 and 2 from Ms Jones' Proof of Evidence
Document	95	Cllr Williams' CV
Document	96	Bundle of documents submitted by Dr Wallis
Document	97	Letter dated 7 December 2002 authorising Dr Wallis to give evidence
Document	98	Dr Wallis' personal details
Document	99	Written evidence submitted by the Countryside Council for Wales
Document	100	Written evidence submitted by the Campaign for the Protection of Rural Wales
Document	101	Written evidence submitted by the Snowdonia Society
Document	102	Letter dated 8 November 2002 from Dr Michael Madden
Document	103	Letters dated 17 & 23 November 2002 from J Chanay

Legal and Related Documents

Document	104	Planning conditions requested by the Snowdonia National Park Authority
Document	105	Planning permission Ref: 4/91/0949/0 (Storage buildings for intermediate level waste at Sellafield, Seascale), submitted by the Snowdonia National Park Authority
Document	106	Planning permission Ref: 6/99/103 (variation of condition to allow for the retention of a building for the storage of intermediate level waste until 31 December 2049 at Winfrith Technology Centre), submitted by the Snowdonia National Park Authority
Document	107	Snowdonia National Park Authority's Submissions on a 25 year condition
Document	108	Gwynedd Council's Submissions on a condition limiting the life of the ILW store
Document	109	South Lakeland -v- SSE [1992] 2 AC 141, submitted by the Council for National Parks

Document	110	Conditions proposed by the Council for National Parks
Document	111	Council for National Parks Submissions on legal basis for conditions submitted, extracts from Encyclopaedia of Planning Law and S -v- Brent [2002] EWCA Civ 693, cited in support
Document	112	HSE's Submissions on conditions
Document	113	Applicant's draft planning conditions and position paper on SNPA's draft conditions
Document	114	Applicant's Submissions in relation to Conditions
Document	115	Draft noise condition agreed between the Applicant and Gwynedd Council
Document	116	Officer's Report in relation to Document 105, submitted by the Applicant
Document	117	Officer's Report in relation to Document 106, submitted by the Applicant
Document	118	Initial Legal Submissions from the HSE on the subject matter of the inquiry and bundle of case law extracts cited in support
Document	119	Legal Submissions on behalf of NFLA
Document	120	HSE's response to above
Document	121	Applicant's response to above

APPENDIX 3: ASSESSOR'S REPORT

The Report of the Assessor, Dr Dan Galson, is attached.

See Separate Document.

APPENDIX 4: LIST OF RECOMMENDED CONDITIONS

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, and 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 radioactive 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 of a national repository for Intermediate Level Waste or other alternative means of off-site storage or disposal becoming available

6a. The Intermediate Level Waste store hereby permitted, together with all waste stored therein, shall be removed from the site before 31 December 2040 or within 3 years of a national

repository for Intermediate Level Waste or other alternative means of off-site storage or disposal becoming available, whichever is the sooner, unless by that time an extension of the period has been approved following application to the local planning authority under Part III of the Town and Country Planning Act 1990, or any legislation which repeals and re-enacts those provisions.

7. Following removal of the Intermediate Level Waste store in compliance with Condition 6 *(6a)* 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 $L_{Aeq\ (1\ hour)}$ = 50 dB, measured free field at the nearest residential property (Ty Gwyn). At all other times the noise level from the site shall not exceed $L_{Aeq\ (1\ hour)}$ = 40 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 for 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 of BS4142: 1997 and

LA90, T, and LAeq, 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 LAeq, 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 a 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.