

Legal and planning issues arising from the nuclear policy framework

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Overview

- Setting the scene
- Likely nuclear sites
- The planning regime
- Role of the planning inquiry
- The Scottish question
- Compulsory purchase
- Message from America
- Conclusions

Setting the scene

- Policy Issues

- Europe

- ❖ Energy Policy
 - ❖ Carbon reduction
 - ❖ Security of supply

- UK

- ❖ Climate change trends
 - ❖ Barker Review of Land Use Planning
 - ❖ Energy White Paper
 - ❖ Planning White Paper
 - ❖ Policy Framework for New Nuclear Build - Consultation

Setting the scene



Setting the scene

- Regulatory reforms
 - EA / HSE
 - Generic design assessment
- Public opinion and attitudes
- Waste storage

Likely nuclear sites

- Alongside existing sites
- Scotland
- Map (2004)



The planning regime

- Existing regime
- S. 36 Electricity Act 1989 – generating station
- S. 37 Electricity Act 1989 – electricity lines
- Consent of the Secretary of State for Trade and Industry / Scottish Executive
- Deemed planning permission

The planning regime

- Local planning authority can object, making a public inquiry almost inevitable
- Secretary of State / Scottish Executive has discretion to hold a public inquiry
- Remit of the inquiry

The planning regime

- Electricity Works (Environmental Impact Assessment) (England & Wales) Regulations 2000
 - Submission of environmental statement
- Proposal for new planning inquiry rules in Nuclear New Build Consultation
 - Apply to all generating stations
 - Pre-inquiry meetings
 - Supporting wider policy framework

Role of planning inquiry

- Planning inquiry may not consider
 - Whether there is a need for nuclear power (based on a Consultation having taken place)
 - Whether nuclear power is safe (based on Justification)
 - Whether there are alternative sites or the proposed site is viable (based on a Strategic Siting Assessment)

Role of planning inquiry

- Focus on local issues
- Possibility of judicial review, appeals and public protest if planning inquiries are seen as inadequate
- Management of issues at public inquiries
- Attempts to avoid duplication
- Expert pool, planning resources and timing considerations

The Scottish question

- Planning is a devolved matter
- Scottish Executive is responsible for applications under Electricity Act 1989 in Scotland
- Will Scottish Executive support nuclear?

“I don’t suspect that new stations will be required in Scotland”

“We do have the power to stop nuclear power stations being built...we will use those powers until the issues of nuclear waste have been resolved...”

Jack McConnell, MSP and First Minister of Scotland

The Scottish question

- Planning etc. (Scotland) Act 2006

- Tiered planning system

- Provides for National Planning Framework for Scotland to become a statutory document

“More than 50% of the supply is generated by three nuclear power stations, all of which are expected to close over the next 25 years”

“the contribution from wind power is expected to rise substantially over the next 10 years”

Compulsory Purchase

- Use of existing nuclear sites
- Crichton Down Rules
- Political will
- Attitudes of existing landowners
- Public inquiry

Message from America

- Yucca Mountain
- Problems with new build (losses and capital costs)
- Democrats not promoting nuclear as an approach to climate change or carbon reduction (yet)

Conclusions

- Reforms
 - EU Energy policy
 - Barker Review of Land Use Planning
 - Energy White Paper
 - Planning White Paper
- Issues
 - Critical timing issues for security of supply
 - Balance reality of energy need with carbon concerns
 - Legislative certainty required
 - Logistical difficulties in co-ordination of all regulatory regimes

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