

## Insights

# IMPORTANT CHANGES PROPOSED TO THE SITING OF NUCLEAR POWER STATIONS

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## SUMMARY

The Government's consultation on the siting of nuclear power stations beyond 2025 reflects the changing nuclear landscape in the UK and proposes a new approach to national planning policy that is more flexible and developer led. This is potentially exciting for the developers and manufactures of advanced nuclear technologies such as SMRs if the new policy supports scalability and cost efficiencies. However, whether the proposed changes will provide optimal support warrants careful consideration, as we explain in this Insight.

Hot off the heels of the newly designated suite of energy National Policy Statements (NPS) (comprising updates to EN-1 to EN-5, designated in January 2024) comes publication of the government's consultation on a new approach to the siting of nuclear power stations beyond 2025 and the start of the process towards designation of a brand new nuclear NPS (EN-7). The consultation (which closes on 10 March 2024) is important as it proposes some material changes to the site selection process at the DCO pre-application stage and will inform the overall policy approach in EN-7 to be consulted on later in the year.

In summary, the proposed new policy is designed to be more flexible than EN-6 (the current NPS for nuclear power generation) in response to the changing nuclear landscape and to support a longer-term pipeline of projects beyond 2025. It has a broader scope, enables site selection by developers (rather than government) and imposes no time limits for the deployment of new projects.

EN-7 will supersede EN-6 when designated, but EN-6 will not be withdrawn and will remain a material consideration to DCOs made for the sites listed in it.

## BACKGROUND

EN-6 was designated in 2011 and only applies to large-scale conventional gigawatt (GW) power plants, the only commercially viable nuclear technology available at that time, and identifies eight

geographical locations considered by the government as potentially suitable for the deployment of new nuclear power stations in England and Wales by the end of 2025.

However, advances in nuclear technologies mean that a new generation of nuclear reactors are likely to be deployed within the next decade, such as Advanced Modular Reactors (AMRs) and Small Modular Reactors (SMRs).

With nuclear energy, and in particular AMRs and SMRs, expected to play an increasingly important role in the UK's energy mix to support energy security and climate goals, as highlighted in the Energy Security Strategy, planning policy needs to catch up and accommodate these new technologies alongside conventional nuclear plant technology which will continue to remain important.

The advanced technologies are smaller than conventional nuclear power station reactors and designed so that elements of the plant can be prefabricated off-site, reducing construction risks and making these developments potentially more affordable. Needing smaller sites that are not reliant on water-cooling requirements, alongside advances that allow other nuclear outputs to be captured and used, means new sorts of sites can be considered suitable.

The new nuclear NPS must therefore be more flexible to accommodate and deliver a wider range of nuclear technologies and different siting options.

## **BROADER SCOPE**

The current EN-6 only applies to nuclear power stations with a generation capacity of over 50 megawatts (MW) at the eight sites listed in the NPS (being Bradwell, Hartlepool, Heysham, Hinkley Point, Oldbury, Moorside, Sizewell and Wylfa). The government proposes to remove this threshold and extend the scope of the new NPS to cover all planning applications for nuclear generating projects in England regardless of the technology. This would also require legislative amendments to the Planning Act 2008.

## **DEVELOPER APPROACH TO SITE SELECTION**

In a departure from the government's selection of sites in EN-6, a market-led developer approach to site selection is proposed to capitalise on a developer's knowledge and bring forward more development sites. However, the same criteria used for site selection in EN-6 which considers safety, security, environmental impacts and operational requirements, will continue to be applied to sites selected under EN-7 and there is no proposal to change it. However, the onus will be on developers to robustly justify their chosen sites against this criteria. Also to remain the same, is the role of regulators and planning authorities who will continue to provide advice on site suitability, the role of community and stakeholder engagement, and the standards of safety, security and environmental protection, which will continue to apply.

## REMOVAL OF DEPLOYMENT TIME LIMITS

Under the new proposals, DCO applications can be made at any time to PINS, rather than within a specific nomination window as required in EN-6. This is hoped to open up more siting opportunities and facilitate longer term market driven development.

## COMMENT

A more flexible and market driven approach to the selection of nuclear sites will be welcomed in the most part by nuclear developers and seen by some as an important step on the path to Net-Zero and achieving energy security. Site selection, including methodologies and appraisals, will inevitably become an area hotly contested at the public DCO 'examination' and in legal challenges in the courts.

However, broadening the scope of the DCO regime to include smaller nuclear developments is likely to attract scrutiny and raise questions as to whether the DCO planning regime is the most appropriate regime to deliver these types of new technologies, given their smaller footprint and lower energy outputs. In the long term, the advanced nuclear technologies are expected to be more affordable than large scale power plants (such as Hinkley Point C and Sizewell C), given their smaller and modular design and ability for incremental deployment. However, as with most new technologies initial costs may be prohibitively high and commercial viability a major challenge. If projects are viable, then in our experience, such new technologies create both risks and opportunities through the planning regime – including the opportunity for greater programme certainty. Given that the cost of promoting planning applications through the DCO regime can be significantly higher than the conventional planning regime, more consideration will be needed as to whether broadening its scope will optimise the role of AMRs and SMRs in the UK's nuclear energy strategy.

## RELATED PRACTICE AREAS

- Planning & Zoning

## MEET THE TEAM



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