



Office for
Nuclear Regulation

ONR Rule6(6) Statement of Case

ONR Statement of Case

[Title]

Appeal Details	
Application Reference No.	22/00244/FULEXT
Appeal Reference No.	APP/W0340/W/22/3312261
Local Planning Authority	West Berkshire Council
Location	Land to the rear of the Hollies, Burghfield
Proposal	The erection of 32 dwellings including affordable housing, parking and landscaping. Access via Regis Manor Road.

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List of Abbreviations

AWE(B)	Atomic Weapons Establishment Burghfield
DEPZ	Detailed Emergency Planning Zone
NPPF	National Planning Policy Framework
ONR	Office for Nuclear Regulation
OSEP	Off-Site Emergency Plan
REPPIR01	Radiation (Emergency Preparedness and Public Information) Regulations 2001
REPPIR19	Radiation (Emergency Preparedness and Public Information) Regulations 2019

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1. Introduction

1. ONR makes this statement of case as a Rule 6(6) party.
2. This inquiry is the redetermination of an appeal brought by T A Fisher and Sons Ltd (“**Appellant**”) against the decision of West Berkshire District Council (“**Council**”) to refuse planning permission for planning application 22/00244/FULEXT (“**Application**”) on grounds that include nuclear safety. The first public inquiry was held on 6 – 9 and 13 – 14 June 2023 (“**First Inquiry**”). AWE plc (“**AWE**”) appeared as a Rule 6(6) Party at the First Inquiry jointly with the Ministry of Defence.
3. The Application was for full planning permission for the erection of 32 dwellings including affordable housing, parking, landscaping and access via Regis Manor Road (“**Proposed Development**”) on land to the rear of The Hollies Nursing Home, Reading Road, Burghfield Common (“**Site**”).
4. On 8 August 2023, the Inspector granted planning permission for the Proposed Development (“**First Decision**”).
5. On 18 September 2023, AWE plc (“**AWE**”) filed an application for statutory review of the First Decision. ONR applied to participate and support the challenge as an interested party.
6. Permission to proceed was granted by the High Court on 2 November 2023.
7. In the event, the parties agreed that the First Decision should be quashed by consent on the basis that the reasons given by the Inspector for disagreeing with the ONR’s technical evidence/advice as an expert statutory consultee in relation to the off-site emergency plan (“**OSEP**”) were not legally adequate. A consent order was made [1].
8. On 15 March 2024, the Planning Inspectorate wrote to ONR setting directions for the redetermination. The letter noted that the Inspector for the new inquiry would consider any relevant evidence previously submitted, unless expressly superseded by its originator during this redetermination process, and to send further representations to cover any material changes of circumstances since the First Decision and/or comment on specific issues upon which the First Decision was quashed.
9. Given the basis upon which the First Decision was quashed, the details of the s288 challenge and ONR’s summary grounds in that litigation [2], ONR considers that it is more appropriate for ONR to supersede its original Statement of Case with this document. ONR expects that it will also supersede the Proofs of Evidence of its witnesses to address further the matters set out in this document.

1.1. Office for Nuclear Regulation

10. The ONR is the UK's independent nuclear regulator for safety, security, and safeguards. ONR was established as a statutory Public Corporation on 1 April 2014 under the Energy Act 2013 ("**EA 2013**"). It exists to protect people by securing safe nuclear operations.
11. ONR's principal function under EA 2013 is that "ONR must do whatever it considers appropriate for the ONR's purposes". Both nuclear safety and nuclear site health and safety are ONR purposes.
12. ONR also has responsibilities under EA 2013 to "make adequate arrangements for the enforcement of the relevant statutory provisions". Relevant statutory provisions include regulations made under the Health and Safety at Work Act 1974.
13. One critical aspect of ONR's role is to regulate the statutory framework for emergency preparedness and response. In particular, ONR monitors local authorities in the discharge of their duties to set up a Detailed Emergency Planning Zone ("**DEPZ**") and ensure there is an "adequate" Off-Site Emergency Plan ("**OSEP**") under the Radiation (Emergency Preparedness and Public Information) Regulations 2019 ("**REPPIR19**")¹.
14. The ONR provides regulatory expectations of what constitutes compliance with the REPPIR19 regime and has statutory enforcement duties and powers in the event of non-compliance. It therefore acts in both an advisory and regulatory role.
15. Land-use planning decisions can have an impact on the safety of nuclear sites through their potential effects on the following:
 - a) Emergency planning: which concerns mitigation of radiation emergencies on proposed development and existing developments from hazards arising at a nuclear site. Off-Site Emergency planning is conducted by the local authority in accordance with its duties under REPPIR 2019 and regulated by ONR; and/or
 - b) External hazards, which are risks to a nuclear site from hazards arising at, or affected by, the proposed development.
16. Since planning applications may be made for land within DEPZs established in accordance with REPPIR19, ONR has a direct regulatory interest in such land-use planning decision-making.

¹ ONR also monitors site operators (such as AWE) in the discharge of their duties to set-up an on-site emergency plan under REPPIR19

17. The ONR's role includes the regulation of nuclear safety in connection with AWE Burghfield ("**AWE(B)**"), including pursuant to REPP19.

2. Relevant Planning Policy

2.1. National Policy Statement

18. For nuclear sites, ONR's role in planning system is expressed in the National Policy Statement for Nuclear Power Generation (EN-6 Vol II)², which states,

"The Government has a longstanding policy regarding local demographics which would limit the radiological consequences to the public in the unlikely event of an accident involving the spread of radioactive materials beyond the site boundary. This policy is a measure of prudence over and above the stringent regulatory requirements imposed on nuclear operators in order to prevent such accidents.

The Office for Nuclear Regulation administers the Government's policy on the control of population around licensed nuclear sites. The Office for Nuclear Regulation fulfils this function throughout the entire life cycle of the installation through consultation with local authorities. This ensures that until the installation is delicensed, the basis for site licensing is preserved through constraints placed on the surrounding population by controls on future development."

19. Although EN-6 principally relates to nuclear power plants (which the AWE sites are not), this statement expresses a wider policy intent of development control extending for all licensed nuclear sites (which includes the AWE sites).

2.2. National Planning Policy Framework

20. ONR has a role which is set out in the National Planning Policy Framework ("**NPPF**") Paragraph 45, which states that:

"Local planning authorities should consult the appropriate bodies when considering applications for the siting of, or changes to, major hazard sites, installations or pipelines, or for development around them".

21. The NPPF Glossary defines major hazard sites, installations and pipelines as:

"Sites and infrastructure, including licensed explosive sites and nuclear installations, around which Health and Safety Executive (HSE) (and

² ONR notes that Government is presently preparing a new National Policy Statement for Nuclear Energy, but it is not expected that there will be any changes to ONR's role as expressed in policy.

Office for Nuclear Regulation) consultation distances to mitigate the consequences to public safety of major accidents may apply”.

22. Furthermore, NPPF Paragraph 5 establishes that National Policy Statements, such as EN-6, are material considerations in planning decisions:

“National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications.”

2.3. Planning Practice Guidance

23. Planning Practice Guidance sets out the role of both ONR and local authority emergency planners on advising on proposed developments in the vicinity of licensed nuclear installations. The guidance (Paragraph: 075 Reference ID: 39-075-20140306) states that:

“Consultation requirements can vary between sites for proposed developments in the vicinity of licensed nuclear installations. The Office for Nuclear Regulation specifies consultation distances and the type of developments on which it should be consulted. Where the local planning authority is in any doubt about whether the Office for Nuclear Regulation should be consulted in a particular case, it should contact them at the earliest opportunity.

Policy on public safety from major accidents – including those at nuclear installations – is set out at paragraph 95 and paragraph 45 of the National Planning Policy Framework. Given their statutory role in public safety, local authority emergency planners will have a key role to play in advising local planning authorities on developments around nuclear installations. Early engagement can help to address issues which may otherwise affect development proposals at a later stage.”

24. Planning Practice Guidance further recognises local emergency planner input and the REPIR regulations as relevant considerations (086 Reference ID: 39-086-20161209):

“For potential developments around nuclear establishments the emergency planners within the local authority responsible for the off-site plan produced under the Radiation (Emergency Preparedness and Public Information) Regulations 2001 should be consulted for pre-planning advice.”

25. Planning Practice Guidance acknowledges that ONR consultation zones may change over time (Paragraph: 078 Reference ID: 39-078-20161209):

“Changes may sometimes be required to consultation zones around sites that already have a consent for the presence of hazardous substances. The Health and Safety Executive/Office for Nuclear

Regulation will keep the consultation zones under review and will inform the local planning authority if changes are appropriate. Similarly, the local planning authority should liaise with Health and Safety Executive/Office for Nuclear Regulation if it becomes aware of changed circumstances that might affect the consultation zone.”

2.4. Local Plan

26. Policy CS8 of the Council’s Adopted Local Plan establishes that development proposals in relevant consultation zones are considered in consultation with ONR. It states that this consideration should have regard to:

“... to the scale of development proposed, its location, population distribution of the area and the impact on public safety, to include how the development would impact on “Blue Light Services” and the emergency off site plan in the event of an emergency as well as other planning criteria.”

27. Policy CS8 also states that:

“... development in the inner land use planning consultation zones of AWE Aldermaston and AWE Burghfield is likely to be refused planning permission by the Council when the Office for Nuclear Regulation (ONR) has advised against”.

2.5. Regulation

28. AWE(B) is a licensed nuclear site. AWE, which operates AWE(B), and the Council, which is the host local authority, have duties under REPP19 for which ONR is the regulator. ONR enforces the compliance of both local authorities and operators within the provisions of REPP19.
29. Additionally, ONR is the regulator for AWE at AWE(B) for the wider purposes of nuclear safety and nuclear site health and safety and has similar responsibility for enforcement of compliance with relevant statutory provisions.
30. ONR’s regulation of nuclear licensed sites and local authorities involves considerable interaction. There are separate regulatory teams in ONR for REPP19/Off-Site Emergency Planning and Site Operations on the AWE(B) site.

3. ONR's Case

3.1. Background

31. At the First Inquiry, ONR attended in its capacity as regulator with two main purposes:
 - a) to assist the Inspector in respect of ONR's statutory duties and processes; and
 - b) to ensure that ONR's views were properly understood.
32. Over the course of the First Inquiry, there was little disagreement between the parties as to ONR's statutory duties, nor confusion as to ONR's role. ONR was explicit that within that statutory context, it could only oppose development on a limited basis.
33. However, given the evidence which was heard at the First Inquiry, and the subsequent issues with the First Decision, ONR now seeks to advance a positive case in maintaining its advice that planning permission for the Proposed Development should not be granted, albeit that this positive case remains in the context of ONR's statutory role as regulator.

3.2. Basis of ONR's concerns

34. It is obviously important that new development does not compromise nuclear safety. The ONR's role includes administering Government policy on the control of population around licensed nuclear sites. The ONR provides land use planning advice as part of this role because the population which lives or works near a nuclear site has implications for nuclear and public safety in connection with that site. The land use planning advice provided by the ONR seeks to ensure that members of the public are adequately protected in the event of a radiation emergency.
35. The approach which must be adopted is a precautionary approach, given the subject matter of the assessment as regards nuclear safety. The essence of the precautionary principle is that where there is a risk of serious harm, a lack of certainty in the evidence should not be posed as a reason for not taking preventative measures.

3.3. The Regulatory Framework

36. ONR's advice is based on consideration of the potential impact of a proposed development on the credibility of the OSEP. The OSEP exists to ensure protection for all people within the DEPZ. The DEPZ is the geographical area in which it is necessary to plan for protective action in the event of a radiation emergency.

37. The Council is obliged to have an “adequate” OSEP (Reg 11(1) REPP19). The OSEP must mitigate, so far as reasonably practicable, the consequences of a radiation emergency outside the operator’s premises (Reg 11(2)).
38. The OSEP must cover events which have a low likelihood of occurrence but a high impact in the event that they do occur. An event which engaged the OSEP would be a serious, national-level emergency.
39. The presumption underlying an OSEP is that such a serious, national-level radiation emergency has happened. In that context, it is not appropriate, or relevant, to engage in what might be described as discussions regarding risk management: for example, the likelihood of an event occurring; the prevailing wind direction; whether windows are likely to be shut or not.
40. Moreover, the OSEP must cover not only exposure to radiation during an emergency, but also matters such as: wider health risks (including psychological impact); consequential injuries; economic consequences; and, social and environmental factors. This would include looking after the needs of vulnerable groups of people. In the event of a release of radiation, there would likely be widespread confusion, public anxiety, and ongoing social disruption and distress. People will need reassurance , and support in relation to psychological and psychosomatic effects. Further, the OSEP must cover the consequences of a nuclear emergency, including shelter, healthcare, food restrictions, and radiation monitoring. In consequence, it is insufficient to look only at the direct health effects of exposure to radiation. It is also insufficient to only consider emergency services: preparation and delivery of the OSEP involves a wide range of organisations.
41. The practicability of implementing off-site protective actions is inextricably linked to the density and distribution of people around the nuclear site. There are real-world constraints which limit the capability and capacity of organisations which make up the OSEP emergency response.

3.4. ONR’s Advice on the Application

42. In respect of the Application, ONR sought assurance from the emergency planning function of the Council that the Proposed Development could be accommodated within the Council’s existing OSEP arrangements or that the OSEP arrangements will be amended to accommodate the Proposed Development. No such assurance could be provided by the Council to ONR. The OSEP for AWE(B) currently – without the Proposed Development and without other consented but as yet unbuilt development – is already stretched and under considerable pressure.
43. The National Planning Policy Framework (“**NPPF**”) provides that local planning authorities should consult appropriate bodies – including the ONR – when considering applications for development around major hazard sites,

including nuclear installations such as AWE(B), as part of mitigating the consequences to public safety of major accidents (para 45). The NPPF also provides that planning should promote public safety and take into account wider security and defence requirements by “ensuring that operational sites are not affected adversely by the impact of other development proposed in the area” (para 101(b)).

44. As well as the response of the Council’s emergency planning function, there are other issues in respect of the AWE(B) OSEP and DEPZ which cause ONR concern. In particular the introduction of REPP19 led to the designation of a new, larger DEPZ in March 2020. This larger DEPZ included additional significant population centres, the M4 motorway and the Select Car Leasing Stadium. The number of residential properties in the DEPZ increased significantly. The OSEP has to accommodate these features for the first time, causing a step change in the complexity of the OSEP and the associated level of challenge in its implementation.
45. ONR adopts a multifaceted approach to enforcement, preferring to work alongside regulated bodies to ensure compliance. Pertinent to the Application, ONR has done the following:
 - a) on 13 August 2021, the ONR wrote to local planning authorities which included land within the DEPZ for AWE(B) to explain that -
 - i. because of the size of the DEPZ, there was a significant demographic challenge to the OSEP,
 - ii. this challenge had been intensified by the cumulative effect of development in the DEPZ over many years (and the volume of planning applications being made in the DEPZ remained high),
 - iii. the safety claims in the OSEP had yet to be adequately demonstrated, and,
 - iv. the ONR needed to be satisfied that the OSEP was valid;
 - b) considered the outcomes of the first statutory test of the OSEP covering the extended DEPZ in Exercise ALDEX 22, and identified areas of improvement relevant to consideration of the Application, including -
 - i. arrangements for people monitoring and associated decontamination,
 - ii. arrangements relating to evacuation holding areas for displaced persons awaiting monitoring,
 - iii. arrangements for managing the numbers and scale of displaced people, both those outside the DEPZ unable to return home and those inside the DEPZ who require evacuation, and

- iv. arrangements for managing those who self-evacuate, especially for ensuring they undergo appropriate monitoring and decontamination;
 - c) considered the outcomes of Exercise ALDEX 23, which identified similar issues which were sensitive to increased population in the DEPZ.
 - d) On 29 November 2023 (i.e. after the First Inquiry), ONR wrote to the Council setting out its formal response to Exercise ALDEX 23. That letter noted the issues of population density and informed the Council that ONR intended to carry out a series of targeted formal regulatory interventions [3]. The Council responded to ONR's letter on 6 February 2023 summarising the steps it was taking to meet ONR's concerns [4].
46. The First Inquiry was also the first occasion that ONR has applied for Rule 6 status and made submissions at an inquiry: this is a measure of how seriously ONR is taking the issue of further development in the DEPZ.
47. One particular concern to ONR which arose over the course of the First Inquiry was the quantum of permitted but unbuilt development in the DEPZ. Given the significant pressures on the OSEP which ONR has identified, and starting from the position that the OSEP can only deal with the present rather than the future, it is plain that the pressures on the OSEP will only increase. In that context, any further development within the DEPZ remains of concern to ONR. As has been noted, an OSEP is not an infinitely scalable plan.
48. Since the First Inquiry, ONR has continued to object to planning applications within the DEPZ. It attended the hearing in Appeal Ref: APP/H1705/W/23/3326959 in respect of a development at 1-9 Shyshack Lane, Baughurst. In that appeal, the Inspector adopted the approach to nuclear safety issues set out by ONR, and dismissed the appeal on the basis that the public (nuclear) safety grounds outweighed the public benefits associated with that scheme [5].

3.5. Effect of an Inadequate OSEP

49. If the OSEP became inadequate, the Council would be in statutory non-compliance and the public living in the DEPZ would not be afforded the level of protection that the law requires. This would affect not only the additional population introduced by the Proposed Development, but the entirety of the existing population in the DEPZ. Simply put, the OSEP must continue to be implementable and protect everyone who is now within the DEPZ.
50. Regulation 10(4) of REPP19 means that there is a link between the operator working with ionising radiation and the Council's duty to produce an adequate OSEP. If there were an inadequate OSEP, that has the potential that it may, in due course, lead to regulatory action that would affect site operations at AWE(B).

4. Response to Appellant's Case

51. In this section, ONR seeks to address matters which have been raised by the Appellant, or which ONR anticipates might be raised. There is inevitably some cross-over with ONR's case above.

4.1. Adequacy

52. The OSEP is either adequate or it is not: it is a binary matter. Furthermore, the judgement of adequacy is based on evidence of the present position, meaning that ONR would not know for certain that the OSEP was inadequate until evidence had become available that it had already become inadequate, i.e. retrospectively. However, statutory testing provides a mechanism for identifying weaknesses in OSEP and challenges to the continuing adequacy of the OSEP.

4.2. The Importance of Statutory Testing

53. The output of statutory tests is important evidence for understanding the margin of safety in land use planning decisions in the DEPZ. This is consistent with Cabinet Office guidance that states that "Planning for emergencies cannot be considered reliable until it is exercised and has proved to be workable, especially since false confidence may be placed in the integrity of a written plan".

54. Significant weight should be given to evidence arising from statutory testing.

4.3. Quantified Tipping Point Analysis

55. There is no methodology that can forecast in advance the specific development or development limit that, when built, will cause an OSEP to become inadequate.

56. There is no guidance, policy or established practice which supports the idea that there could or should be a tipping point assessment that sets out a quantification of how much more development would bring the OSEP into a state of being inadequate. It is not feasible and it does not happen in practice.

57. Further, ONR understands from the First Inquiry that there are a significant number of development proposals that have been granted planning permission in the DEPZ but have yet to be built, potentially leading to the introduction of thousands more people to the DEPZ. This increases the considerable uncertainty as to the margin of safety that remains in the AWE(B) OSEP.

58. The best available evidence for understanding the tolerance of the OSEP for additional development is statutory testing. The findings of statutory testing and evidence from other regulatory engagements combined with a prudent approach, is the only realistic and pragmatic means of advising on the impact of proposed developments on the OSEP.
59. Moreover, it is inevitable that any further development in the DEPZ will necessarily put further pressure on the resources of the OSEP.

4.4. Likelihood of a Radiation Emergency

60. The DEPZ is determined in accordance with a statutory process where probability is considered when evaluating which radiation emergency scenarios need to be taken forward. Once the DEPZ is determined, probability is no longer relevant: at that point, REPP19 places a statutory duty on the Council to produce an OSEP that is operable and viable should an in-scope radiation emergency occur. In other words, when evaluating the adequacy of the OSEP, it must be assumed that an in-scope radiation emergency has happened.
61. In its response to the consultation on the draft REPP19 regulations the Government stated that “The risk of a radiation emergency is therefore extremely low, but there must be robust emergency preparedness and response arrangements in place for radiological emergencies, however unlikely they may be” [6].
62. The question therefore is not “what is the likelihood of the radiation emergency?”, but “will the OSEP be effective in the event of an emergency?”. Anything that has potential to degrade that effectiveness impacts on nuclear safety.

4.5. Severity of a Radiation Emergency

63. REPP19 defines a radiation emergency as being an event that has “serious consequences”. The Nuclear Emergency Planning and Response Guidance [7] states that “an emergency involving the release of radiation into the wider environment which requires the implementation of public protection countermeasures to be implemented within the Detailed Emergency Planning Zone (DEPZ)” constitutes a “serious emergency” and will be “treated as a national level response”.
64. It follows that the level of public harm arising from a radiation emergency at AWE(B) should automatically be evaluated as significant.

4.6. Radiation Dose

65. There is little merit in arguments seeking to minimise the potential radiation dose from a nuclear emergency. The potential radiation dose which would arise from a nuclear emergency at AWE(B) is significant enough:
- a) To bring AWE(B) in-scope of REPP19 and all the requirements therein;
 - b) To warrant urgent protective action (which is sheltering potentially for up to two days) in the event of a radiation emergency, the purpose being to reduce this dose; and
 - c) To warrant a multi-agency response, both local and national, in the event of a radiation emergency in order to mitigate its consequences.
66. In any event the definition of a radiation emergency has a much wider scope than radiation dose. It also extends to perceived risk as well as actual risk.
67. An example of public health consequences resulting from a radiation emergency beyond that of radiation dose is provided in Annex U of the Nuclear Emergency Planning and Response Guidance [8]. This describes the impact on health and well-being of radiation emergency including a profound psychological impact on people and harm arising from the disruption to normal living over extended periods of time. The World Health Organisation has also set out the psychosocial harms arising from radiation emergencies, including from sheltering in place, evacuation, and radiation monitoring [9].
68. The OSEP has to mitigate all the elements included in the definition of the radiation emergency.

4.7. Sheltering

69. Sheltering is not a simple protective action. It creates a burden on individuals and also responding organisations: consideration would have to be given on how to provide medication, specialist healthcare, and food where such things are needed by sheltering members of the public. Additional population required to shelter does increase the challenge to the OSEP.
70. There is a short timeframe both to notify the public to shelter and for the sheltering to be brought into effect. However, AWE public warning systems have not been tested within the public domain and therefore the response of the public is uncertain.
71. While shelter is an important component of the OSEP, the emergency response has many more elements. These include, but are not limited to, the following:

- a) The delivery of people monitoring for health and reassurance purposes (and associated decontamination), the facilities for which have restricted throughput;
 - b) The provision of emergency accommodation for evacuated persons;
 - c) The need for emergency services to access the affected areas, which is affected by road traffic levels and issues like the self-evacuation of residents; and
 - d) The need to implement timely road closures, which is affected by road traffic levels.
72. An additional population creates challenges to the OSEP beyond that arising from the additional requirement to shelter.

4.8. The Appropriateness of the DEPZ

73. The Council determined the DEPZ for AWE(B) in accordance with a statutory process set out in REPP19. ONR is the statutory regulator for REPP19.
74. A legal challenge to the adequacy of the rationale for the AWE(B)'s DEPZ and the regulatory oversight of the DEPZ designation process was dismissed following Judicial Review [10]. The judgment noted ONR's provision of "detailed evidence of its regulatory oversight". The Judge further commented that the regulatory oversight by ONR of the DEPZ decision challenged was "multi-layered".
75. It follows that the process for determining the DEPZ is not a town and country planning process, but the outcome of other regulations (which is overseen by ONR). It follows that the appropriateness of the DEPZ should not be an issue in this appeal.

4.9. Multiagency Contributions

76. REPP19 guidance paragraph 33 states:
- "All organisations with a role in responding to a radiation emergency should be involved, as appropriate, in the preparation of emergency plans. Nominated representatives of these responding organisations should be invited to attend a multi-agency forum or group to develop plans and participate in tests."
77. REPP19 Regulation 11(5) states:
- "In preparing an off-site emergency plan, pursuant to paragraph (1) or in reviewing such a plan pursuant to regulation 12(1), the local authority must consult—

- (a) the operator of the premises to which the plan relates;
- (b) Category 1 responders in whose area in which the premises to which the emergency plan relates is situated;
- (c) Category 2 responders (where appropriate) in whose area in which the premises to which the emergency plan relates is situated;
- (d) each health authority in the vicinity of the premises to which the plan relates (if that health authority is not a Category 1 responder);
- (e) the Agency;
- (f) Public Health England³;
- (g) in addition to Public Health England, if the premises to which the emergency plan relates is in—
 - (i) Wales, Public Health Wales, and
 - (ii) Scotland, Health Protection Scotland; and
- (h) such other persons, bodies or authorities as the local authority considers appropriate”

78. REPPIR guidance paragraph 351 states:

“The purpose of consultation is to engage with and take account of relevant parties’ views during the preparation, review and revision of the off-site emergency plan, to maximise its effectiveness. Consultation should ensure that wider specialist knowledge, responsibilities and national guidance (eg the National nuclear emergency planning and response guidance (NNEPRG)²) are taken into account in developing and resourcing the off-site emergency plan”

79. The OSEP, although prepared by the Council, draws on wider specialist knowledge from a variety of agencies. Approximately twenty-five local or national agencies contributed to the preparation of the AWE(B) OSEP.

80. The capabilities and capacities of multiple agencies with wide-ranging expertise are required to implement the OSEP. Consequently, when considering the impact on the OSEP as a result of increase population, that assessment must be wider than a simple focus on blue light services.

³ Now known as UKHSA

5. Witnesses for ONR

81. ONR will call evidence in the following areas:
 - a) Emergency Preparedness and Response
 - b) Land Use Planning
 - c) Protection and Enforcement
82. As has already been noted, ONR expects that the Proofs of Evidence of its witnesses at the First Inquiry will be superseded in this inquiry.

6. Conclusions

83. There are three elements of the ONR's case which it suggests are critical to the determination of this appeal:
- a) First, ONR's assessment of the adequacy of the OSEP only takes account of development which already exists. It does not therefore include development which has been consented but not yet built-out. This is because the OSEP cannot include developed emergency arrangements for communities that do not presently exist. This means that the ONR cannot consider arrangements for those communities that do not yet exist, to judge whether the arrangements are adequate or not. At the First Inquiry, ONR became aware of the level of committed development which can be constructed at any time. In ONR's view, that development would already increase the burdens on the already stretched OSEP at a point in time which cannot be predicted.
 - b) Second, there is no such thing as a "tipping point" or "tipping point analysis" which can set out in binary terms whether or not an OSEP is adequate or inadequate. An OSEP is not infinitely scalable, and it implements an emergency plan to protect people from a nuclear emergency. Where an OSEP is under pressure or "stretched", that presents a real challenge to its adequacy, but that assessment must by its nature be qualitative, rather than quantitative.
 - c) Third, if a developer wishes to challenge the assessment of the Council's emergency planning function as to the adequacy of the OSEP, it is that developer who should demonstrate that their development can be accommodated with the OSEP. ONR's position is that the Council's emergency planning function is best placed to determine the potential impact of any proposed development on the adequacy of the OSEP, subject to ONR's views and analysis of the available data.
84. ONR's case is that there is evidence that the OSEP is under significant pressure and decision-makers should be doing everything they can to reduce pressure on the OSEP rather than testing the boundaries of where the OSEP will fail.
85. Accordingly, ONR's advice is that this Appeal should be dismissed.

7. References

- [1] THE HIGH COURT OF JUSTICE , *APPLICATION FOR PLANNING STATUTORY REVIEW UNDER SECTION 288 OF THE TOWN AND COUNTRY PLANNING ACT 1990 - CONSENT ORDER*, CLAIM NUMBER: AC-2023-LON-002758.
- [2] ONR, *FOURTH DEFENDANT'S DETAILED GROUNDS*, Claim No AC-2023-LON-002758.
- [3] ONR, *Off-Site Emergency Plan for the AWE Nuclear Licensed Sites*, ONR-TD-EPR-23-034, 2023/61771, 29th November 2023.
- [4] West Berkshire Council, *Offsite Emergency Plan for the AWE Nuclear Licensed Sites*, nl/rae, 6th February 2024.
- [5] The Planning Inspectorate, *Appeal Decision - Land at 1-9 Shyshack Lane, Boughurst, Tadley, RG26 5NH*, Appeal Ref: APP/H1705/W/23/3326959, 8 December 2023.
- [6] Department for Business, Energy & Industrial Strategy, Ministry of Defence, and Health and Safety Executive, "Revised requirements for radiological protection: emergency preparedness and response," Government Response, 5 October 2017. [Online]. Available: <https://www.gov.uk/government/consultations/revised-requirements-for-radiological-protection-emergency-preparedness-and-response>.
- [7] HM Government, "Nuclear Emergency Planning and Response Guidance - Concept of Operations," October 2015. [Online]. Available: <https://www.gov.uk/government/publications/national-nuclear-emergency-planning-and-response-guidance>. [Accessed 19 04 2023].
- [8] HM Government, "Nuclear Emergency Planning and Response - Annexes," 29 October 2015. [Online]. Available: <https://www.gov.uk/government/publications/national-nuclear-emergency-planning-and-response-guidance>.
- [9] World Health Organisation, "A framework for mental health and psychosocial support in radiological and nuclear emergencies," <https://www.who.int/publications/i/item/9789240015456>, ISBN 978-92-4-001546-3, 2020.

[10] Crest Nicholson Ors v. West Berkshire District Council (2021), “High Court of Justice, Queen’s Bench Division, Planning Court,” Neutral Citation Number: [2021] EWHC 289 (Admin), Case No: CO/2141/2020.