



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

**to
COUNCIL
1 OCTOBER 2020**

BRADWELL B SCOPING OPINION REQUEST CONSULTATION

1. PURPOSE OF THE REPORT

- 1.1 To seek delegated authority to respond to the consultation by the Planning Inspectorate on the Scoping Opinion request for the proposed development of a Bradwell B Nuclear Power Station.

2. RECOMMENDATION

That the Council delegates authority to the Director of Strategy, Performance and Governance, in consultation with the Leader of the Council, to respond to the Planning Inspectorate's consultation on any Scoping Opinion request submitted in relation to proposed Bradwell B power station and its associated development.

3. SUMMARY OF KEY ISSUES

3.1 Background

- 3.1.1 In 2010 the Government announced that Bradwell was one of eight sites it considered suitable for the siting of a new nuclear power station. Currently CGN and EDF are partnering in the development of the station and have formed a jointly owned company, Bradwell B Power Generation Company Limited (BRB).
- 3.1.2 The development of a new nuclear power station falls within the scope of the 'Nationally Significant Infrastructure Projects' (NSIPs), as set out in the Planning Act 2008. In these instances, the developer applies directly to the Secretary of State for a Development Consent Order (DCO) rather than to the Local Planning Authority for planning permission. Maldon District Council will be a consultee as part of the DCO process.
- 3.1.3 BRB undertook a Stage 1 Consultation on its initial proposals and options for the development of a Bradwell B power station and associated development earlier this year. This Council endorsed a response to the Stage 1 Consultation, submitted jointly with Essex County Council, at its meeting on the 23 June 2020.
- 3.1.4 BRB plan to undertake further consultation(s) next year and will be preparing an Environmental Statement to inform and support its proposals. Preliminary

Environmental Information is expected to accompany the statutory Stage 2 Consultation.

3.2 Scoping Opinion Consultation

- 3.2.1 The application for a Development Consent Order will need to be accompanied by an Environmental Statement (ES) prepared in accordance with Infrastructure Planning (Environmental Impact Assessment (EIA)) Regulations 2017. Regulation 10(1) of the EIA Regulations allows a person who proposes to make an application for an order granting development consent to ask the Secretary of State to state in writing its opinion as to the scope and level of detail of the information to be provided in the ES. BRB has advised that it intends to make such an application, called a Scoping Opinion request, in late September 2020.
- 3.2.2 The scoping process is undertaken by the Planning Inspectorate on behalf of the Secretary of State. There are strict timescales within the regulations. The Planning Inspectorate must adopt a scoping opinion within 42 days of receiving a scoping request. Before adopting a scoping opinion, the Planning Inspectorate must also consult the consultation bodies, which include Maldon District Council, who have 28 days to respond.
- 3.2.3 The BRB Scoping Opinion application to the Planning Inspectorate is expected to be highly technical in nature, with most of the 28 days consultation period allowed for a Council response required for seeking and collating technical advice within and beyond the Council. The 2014 Scoping Opinion application report submitted for Sizewell C power station was 246 pages in length plus appendices. It would not be practical to produce a technical response and achieve Member consideration at Committee within the 28-day consultation period.
- 3.2.4 It would normally be the case that Council responses to similar technical consultations would be delegated to a Director in accordance with the Council's constitution. There are general provisions in relation to consultations, namely: 'A Director, in liaison with the relevant Lead Member (Committee Chairman or Leader of the Council), is authorised to respond to consultation documents where the period during which a response is required does not allow the matter to be reported to the relevant committee or where the consultation is of a predominantly technical nature'.
- 3.2.5 However, the Council at its meeting on 19 December 2019 imposed further limitations in relation to the Bradwell B project, contrary to officer's recommendation. The Council resolved 'that any decisions relating to Bradwell B be brought to future meetings of the Strategy and Resources Committee and / or the Council for Members' consideration' (Minute No. 635 refers). This was in addition to the governance arrangements set out in the report.
- 3.2.6 It is expected that all major pre-DCO application consultations by BRB on its proposals for Bradwell B power station, and its associated development, will allow adequate time for Member consideration before a Council response is provided. However, there will also be times during the DCO process when there will be inadequate opportunity for prior consideration by the Strategy and Resources Committee and/or the Council. The response to the Scoping Opinion request is one of

those occasions, as would be the Council's representations during examination following the submission of any DCO application to the Planning Inspectorate.

- 3.2.7 The delegation of authority to the Director of Strategy, Performance and Governance, in consultation with the Leader of the Council, to respond to the Planning Inspectorate's consultation on any Scoping Opinion request submitted in relation to proposed Bradwell B power station and its associated development, would enable a timely and robust technical response.
- 3.2.8 Should the Council require a response to be considered at a future meeting of the Council the consultation response would not be provided within the 28-day deadline. In this event, the Council's response would not be taken into account by the Planning Inspectorate when it issues its scoping opinion to BRB. The Planning Inspectorate advice note confirms that 'Responses received after the 28-day deadline will not be considered within the scoping opinion but will be forwarded to the Applicant for their consideration and published on the National Infrastructure Planning website'.

4. CONCLUSION

- 4.1 The provision of delegated authority to the Director of Strategy, Performance and Governance, in liaison with the Leader of the Council, to respond to the Planning Inspectorate's consultation on any Scoping Opinion request submitted in relation to proposed Bradwell B power station and its associated development, would enable a timely and robust technical response to be provided.
- 4.2 Should the Council require a response to be considered at a future meeting of the Council the scoping opinion consultation response would not be provided within the 28-day deadline. In this event, the Council's response would not be taken into account by the Planning Inspectorate when it issues its scoping opinion to BRB.

5. IMPLICATIONS

- (i) **Impact on Customers** – The Council will need to respond to the DCO process in a timely and effective way to maximise potential benefits and minimise impacts.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – There is not a direct risk to the Council, but failure to effectively engage in the DCO process would put at risk the Council's ability to influence the development process and the legacy of planning decisions.
- (iv) **Impact on Resources (financial)** – There is a financial implication for the Council in engaging in the DCO process but not directly related to this report, and the issue raised.
- (v) **Impact on Resources (human)** – Staff time.
- (vi) **Impact on the Environment** – Potential impact on outcome of the DCO process if a timely Council response is not provided.

Background Papers:

Planning Inspectorate Advice Note Seven: Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements (May 2020).

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