



RULE 6 PARTIES UPDATED STATEMENT OF COMMON GROUND

APPEAL REFERENCE APP/W0340/W/22/3312261

LPA REFERENCE 22/00244/FULEXT

DATE OF INQUIRY 17th to 26th September 2024

SITE ADDRESS AND DESCRIPTION OF THE DEVELOPMENT

Land to the rear of The Hollies, Reading Road, Burghfield Common, Reading, RG7 3BH.

Erection of 32 dwellings including affordable housing, parking and landscaping. Access via Regis Manor Road.

APPELLANT: T A Fisher & Sons Ltd

LOCAL PLANNING AUTHORITY: West Berkshire District Council

RULE 6 PARTIES: AWE plc and the Ministry of Defence (**First Rule 6 Party**) and the Office for Nuclear Regulation (ONR) (**Second Rule 6 Party**)

This statement addresses the following:

1. A statement summarising matters of agreement between the First and Second Rule 6 Party;
2. Any points of departure from the Council and Appellant's Statement of Common Ground from the first public inquiry held on 6th to 14th June 2023 ("First Inquiry"); and
3. Matters of agreement arising from the UK Health Security Agency (UKHSA) Report disclosed at Appendix 10 of Carolyn Richardson, Emergency Planning, West Berkshire District Council Proof of Evidence dated August 2024 (the "UKHSA Report").

List of Abbreviations

AWE(B)	Atomic Weapons Establishment, Burghfield
DEPZ	Detailed Emergency Planning Zone
ONR	Office for Nuclear Regulation
OSEP	Off-Site Emergency Plan
REPPiR01	Radiation (Emergency Preparedness and Public Information) Regulations 2001

REPP19	Radiation (Emergency Preparedness and Public Information) Regulations 2019
SOC	Statement of Case
The Act	Energy Act 2013
The Appellant	T A Fisher and Sons Ltd
The Council	West Berkshire District Council
The Site	Land to the rear of The Hollies, Reading Road, Burghfield Common, Reading, RG7 3BH

1. Matters of agreement

The First Rule 6 Party has no comment to make on anything said in the Second Rule 6 Party's SOC or SOC dated April 2023 from the First Inquiry [CD12.1].

The Second Rule 6 Party has no comment to make on anything said in the First Rule 6 party's SOC or the SOC from the First Inquiry [CD13.1].

ONR's role, function, purposes and enforcement responsibilities are described in paragraphs 4 to 10 of the Second Rule 6 party's SOC dated April 2023 from the First Inquiry [CD12.1]. How REPP19 works is described in Sections 1.3.1. Detailed Emergency Planning Zone; 1.3.2. Off-Site Emergency Plan 1.3.3. Testing and Review; 1.3.4 Site Operations (paragraph's 11 -23). This includes ONR's nuclear site health and safety purposes (section 69 of the Act) "protecting persons, other than persons at work on GB nuclear sites, against risks to health or safety arising out of or in connection with the activities of persons at work on GB nuclear sites". ONR's status and expertise in REPP19 are highlighted in paragraph 12 and detailed in Appendix 2 of the Second Rule 6 party's SOC from the First Inquiry.

AWE's role and national security function and the regulation of AWE are detailed in paragraphs 1.2 to 1.8, 1.9 to 1.12 of the First Rule 6 party's SOC from the First Inquiry.

The DEPZ expanded around AWE (B) on 12 March 2020 when the Council determined the DEPZ for the first time under REPP19. The key changes between REPP19 and REPP19 are summarised in paragraph 3.1 of First Rule 6 party's SOC from the First Inquiry.

A DEPZ is not static and is subject to review as summarised in paragraph 3.2 of First Rule 6 party's SOC from the First Inquiry.

The determination of the DEPZ on 12 March 2020 was challenged by way of judicial review and the claim was dismissed.

REPP19 covers the preparation for a radiation emergency and the response phase (including the transition to recovery). REPP19 does not cover and ONR does not

regulate the recovery phase. The recovery phase is managed under the Civil Contingencies Act 2004 and other legislation. The ONR is a category 2 responder under the Civil Contingencies Act; the MOD could provide a response under a number of remits, including military aid to civil authorities.

Emergency planning and response is internationally accepted as a fundamental part of the hierarchy of protection for nuclear safety. This is evidenced by the inclusion of emergency response as the fifth and final level of Defence-In-Depth in nuclear safety as detailed in paragraph 121 of the REPP19 Approved Code of Practice and Guidance. REPP19 therefore plays an important function in the UK's regulatory framework for nuclear safety.

REPP19 requires the likelihood and impact of radiation emergency to be evaluated and assessed. For sites that fall within the parameters set out in REPP19 and the Approved Code of Practice and Guidance, a DEPZ and OPZ has to be determined and an OSEP implemented. REPP19 follows international best practice and the recommendations from the International Atomic Energy Agency and the determination of a DEPZ evidences the public safety risk from a radiation emergency.

Following the determination of the DEPZ on 12 March 2020, any application for planning for the Site from that date onwards became subject to ONR's land use planning arrangements.

ONR's land use planning advice for developments near AWE(B) does not consider the likelihood of a radiation emergency as this has already been established under the framework set out in REPP19.

The level of public harm in the event of a radiation emergency at AWE(B) has serious consequences.

Additional population within the DEPZ for AWE(B) creates challenges to the OSEP beyond that arising from the additional requirement to shelter.

ONR's land use planning advice is summarised in section 1.4. ONR's Land Use Planning Policy at paragraphs 24 to 26 of the Second Rule 6 party's SOC from the First Inquiry.


2. Points of departure from the Council and Appellant's Statement of Common Ground

The main area of departure is that the Council and Appellant's SOCG from the First Inquiry only records the relevant policies in the current and emerging development plan. The Rule 6 parties' position is rooted in national policy and guidance which is also relevant to this Appeal as detailed in the First and Second Rule 6 parties' SOC from the First Inquiry.

3. UKHSA Report

The role of UKHSA in radiation emergency preparedness, response and recovery and under REPP19 in the provision of advice to local authorities is explained in section 2 of the UKHSA Report.

The First and Second Rule 6 parties agree that the UKHSA Report reflects their understanding of the role of the UKHSA in the context of emergency planning and the response to and recovery from a radiological emergency. The First and Second Rule 6 Parties agree with and wish to highlight in particular the UKHSA's commentary on the Katmal reports in section 3.

Signed on behalf of First Rule 6 Party 
Date: 5 SEPT 2024
Position: Executive Director Corporate Assurance and General Counsel AWE plc

Signed on behalf of First Rule 6 Party
Date:
Position:

Signed on behalf of Second Rule 6 Party
Date:
Position:

The First and Second Rule 6 parties agree that the UKHSA Report reflects their understanding of the role of the UKHSA in the context of emergency planning and the response to and recovery from a radiological emergency. The First and Second Rule 6 Parties agree with and wish to highlight in particular the UKHSA's commentary on the Katmal reports in section 3.

Signed on behalf of First Rule 6 Party
Date:
Position: General Counsel AWE plc

Signed on behalf of First Rule 6 Party 
Date: 5 th September 2024
Position: Senior Lawyer MOD Legal Advisers

Signed on behalf of Second Rule 6 Party
Date:
Position:

The First and Second Rule 6 parties agree that the UKHSA Report reflects their understanding of the role of the UKHSA in the context of emergency planning and the response to and recovery from a radiological emergency. The First and Second Rule 6 Parties agree with and wish to highlight in particular the UKHSA's commentary on the Katmal reports in section 3.

Signed on behalf of First Rule 6 Party
Date:
Position: General Counsel AWE plc

Signed on behalf of First Rule 6 Party <i>Finbar Sedy</i>
Date: 5 th September 2024
Position: Senior Lawyer MOD Legal Advisers

Signed on behalf of Second Rule 6 Party <i>For the Government Legal Dept.</i>
Date: 05/09/24
Position: Senior Lawyer, Planning, Infrastructure and Environment Litigation Team, GLD.