

2ND EVIDENCE IN THE MATTER OF

REGINA -v- MS JULIET M^CBRIDE

NEWBURY MAGISTRATES' COURT

CLIENT: BINDMAN & PARTNERS

REF N^O R3166-AWE-2ND EVIDENCE

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REGINA -v- MS JULIET MCBRIDE

NEWBURY MAGISTRATES' COURT

1 **QUALIFICATIONS AND EXPERIENCE**

2 I am John H Large of the Gatehouse, 1 & 2 Repository Road, Ha Ha Road, Woolwich, London SE18.

3 I have given my qualifications and experience relating my ability to provide this opinion in paragraph 3
of my previous evidence of 27 February 2008.

4 **INSTRUCTIONS**

5 I have been instructed by Mr M Schwarz of Bindman & Partners, a firm of solicitors acting on behalf of
Ms J M^cBride being the Accused in this matter.

6 On 25 July Mr Schwarz instructed me to provide information and opinion on the following topics:

- a) How the agency responsible for issuing the Nuclear Site Licence (NSL77),¹ the Nuclear Installations Inspectorate (NII)² defines the fence(s) and considers the application of the requirements of the Nuclear Site Licence (NSL); and relating to the general area of the alleged trespass by the Accused
- b) which, if any, of the two fences enclosing the Atomic Weapons Establishment (AWE) Aldermaston site relates to NSL77; from which
- c) what is the line of the boundary defining the SOCPA *protected* site;
- d) is there any confusion on the labelling of the SOCPA *protected* site; and to
- e) provide details of the physical layout and geometry of the fences that enclose the AWE site at Aldermaston, particularly the fence and/or boundary markers defining NSL77.

1 The Nuclear Site Licence for AWE Aldermaston is No 77, hence NSL77 – see para 16.

2 A division of the Health & Safety Executive (HSE).

7 In my previous evidence (para 56 – 58) I described the location and extent of the NSL77 fencing.³

8 Mr Schwarz has directed me to *Section 128*, particularly *section 1*, of the *Serious Organised Crime and Police Act 2005* (SOCPA)⁴ and to the amendments rendered to SOCPA by *S12* of the *Terrorism Act 2006* (TA06)

9 I take the TA06 amendment to mean that the AWE Aldermaston is a ‘*protected site*’ being a ‘*nuclear site*’ being in accord with TA06 *S12(3) 1A(a)*. The perimeter of the Aldermaston site for the application of SOCPA is defined by TA06 *S12(3) 1B(a)* to be that of the *Nuclear Site Licence* (NSL77) as specified by the *Nuclear Installations Act 1965* (NIA65).

10 **a) NIA/NII LICENCE BOUNDARY DEFINITION**

11 The NIA65 requires the nuclear site operator, in this case AWE Management Ltd, to prepare, keep and publish a site plan showing the extent of NSL77.

12 At the scale presented, I consider that the extent of NSL77 to be adequately represented by the AWE drawing OSR-C07220, Issue B of 24 January 2000.

13 The NII is quite specific in its requirements for the boundary of a nuclear licensed site, stating in ‘*Annex 2: The Licensed Site Boundary and Map*’ of its guidance ‘*The Licensing of Nuclear Installations*’⁵

“*A2.2 The aim is to define the [nuclear] site clearly so that there can be no doubt as to its limit. This assists in the application of the nuclear site licence conditions and in establishing the extent of a licensee’s absolute liability for occurrences on a site. . .*”

[my added explanation]

14 I take this to mean that once that the extent of the nuclear site has been defined and agreed with the NII, there is no opportunity for the operator (here AWE Management Ltd) itself and without further agreement with the NII, to extend the boundary of NSL77 by adding

3 Prior to 1993, the Aldermaston and Burghfield sites (together with the other then nuclear weapon manufactories and testing facilities at Cardiff and Foulness) were operated by the Ministry of Defence (MoD) and were exempt from the licensing requirement of the *Nuclear Installations Act 1965* (NIA) under which the requirement for a *Nuclear Site Licence* applies. In April 1993 the MoD effectively privatised the sites by placing a contract for their management and operation with Hunting-BRAE Ltd. Thus the sites became ‘civilian’ managed and this aspect of the site management (but not the warhead design which remains with the MoD), falling within the NIA65 required a Nuclear Site Licence. Since 1993 there has been two companies and consortia managing Aldermaston, the present management contractor is AWE Management Ltd being a consortium of Lockheed Martin, SERCO and BNFL.

4 Sometimes referred to as SOCAP.

5 The Licensing of Nuclear Installations - <http://www.hse.gov.uk/nuclear/notesforapplicants.pdf>

contiguous parts, that is for example by extending the area of NSL77 from the inner fence to the outer fence.

15 Therefore, as I have deduced in para 9, the SOCPA *protected site* at AWE Aldermaston should correspond exactly with the boundary of NSL77.

16 **b) NUCLEAR SITE LICENCE (NSL77) BOUNDARY FENCE**

17 Give and take a few small deviations, the boundary line shown on the AWE drawing OSR-C07220, Issue B of 24 January 2000 which is embedded in the Nuclear Site Licence N° 77 of 29 March 2000 (NSL77), corresponds to the line of the *inner* fencing.

18 Now I refer to a paper compiled by the previous AWE management organisation Hunting-BRAE. This paper, '*Working towards Nuclear Site Licensing for AWE Aldermaston and Burghfield*'⁶ of February 1997, states:

'Location of Sites

*The locations of the Aldermaston and Burghfield sites are shown on the map at Annex A . . . The proposed licensed areas are, in the case of Aldermaston, bounded by the **inner** security fence . . .'*

[my truncation and added emphasis]

19 This Hunting-BRAE paper is important because following privatisation in 1993, AWE Aldermaston nuclear activities (and the sites over which these were undertaken) became subject to the NIA65 for the first time. The transfer of the nuclear safety regulatory framework from the Ministry of Defence (MoD) to the Health & Safety Executive (via the NII) introduced the requirement for a nuclear site licence under NIA65.

20 For this the Aldermaston site operator or licensee, Hunting-BRAE, had to agree the extent of the nuclear site licence for the site with the NII for the first time. I know of no amendments or modifications made during the interim period from 1997 to today that would render the original Hunting-BRAE definition of the nuclear site licence boundary obsolete.⁷

6 See <http://www.hse.gov.uk/foi/releases/aldermaston2.pdf> - this paper was obtained under a Freedom of Information request - this paper considered the necessary changes to site licensing regime brought about by the privatisation of the site management that invoked the *Nuclear Installations Act 1965* being first invoked.

7 Any modification from the Hunting-BRAE NSL64 (1997) would have been recorded at its revocation and the establishment of the new licensee AWE Management Ltd in April 2000.

21 Moreover, in June 2008 the Health & Safety Executive responded to a request for information about the signage of NSL77 at AWE Aldermaston by providing extracts of a NII inspection report carried out by the NII in June 2008:⁸

8 ----- Original Message -----

From: Andy.Lindley@hse.gsi.gov.uk
To: juliet@macbride.org.uk
Cc: David.Senior@hse.gsi.gov.uk ; Martin.NSD.Sayers@hse.gsi.gov.uk
Sent: Tuesday, June 17, 2008 2:53 PM
Subject: RE: Nuclear Licensed Site, AWE Aldermaston

Dear Ms McBride.

During recent correspondence you mentioned your concerns over the fence signage etc. at Aldermaston. I told you at the time that one of the inspection team would look into this during the next inspection and this has now been done. Notes of the inspection are included below. Certain details have been removed to ensure that what we send you is unclassified but the few words deleted do not in any way change the sense of the report. These sections are marked "XXXX"

I carried out an inspection of the marking of the nuclear site boundary. This was prompted by a concern raised by a member of the public. The particular area identified in the concern was the fence around the North Ponds area. A copy of the official map showing the extent of the nuclear site had previously been requested and sent (*July 2006*), however, in the week commencing 2 June 2008, concerns were raised regarding physical identification of the nuclear site boundary. The Aldermaston site is surrounded by a significant wire mesh fence topped with barbed/ razor wire. xxxxxxxxxxxx. The purpose of the fence is security but it also marks the boundary of the nuclear licensed site.

LC2 requires the licensee to "implement adequate arrangements to prevent unauthorised persons from entering the site". In this respect the security fence poses a significant obstacle to inadvertent entry onto the nuclear site. LC2 also requires that the licensee "shall mark the boundaries of the site by fences or other appropriate means". In this respect the boundaries are marked by fences and therefore there is no specific requirement for other appropriate means e.g. signs. Signage is provided around the site fence. In the case of the xxxxxxxx fenced boundary, signs indicating the site to be a "Nuclear Licensed Site" were seen attached to the inner fence at about 200m spacing. One such sign was seen on the North Ponds area fence, however, this is a xxxxxxxx fence and therefore the sign was attached to the outer more exposed fence. Other numerous signs warning about the "Razor Wire", "No unauthorised Access", "Police Dogs", and "CCTV monitoring" were visible around the North Ponds, however, in some cases the signs appeared to have been vandalised. These were in the instances where the signs had been attached to the outer fence.

With regard to the requirements of the licence condition I believe that the provision of the security fence on the boundary of the nuclear licensed site is more than adequate to prevent unauthorised access onto the site. In the case of a concerted effort to gain access to the site, the additional security provisions and radiation controlled areas should provide more than sufficient protection to allow such individuals to be apprehended before exposing themselves to harmful radiation. I consider that a rating of 2 (more than adequate) is appropriate.

In the area of signage, I asked for a copy of the plan showing the current signage, and asked the licensee to review the location of signs that warn the site is a nuclear licensed site, particularly at any engineered entry points on the site fence so that persons entering the site are aware of the nuclear status of the site. Also I suggested for consistency the licensee may want to bring the signage in the North Ponds area up to the level on the rest of the site so that persons outside the site boundary are also aware of the nuclear status of the site.

In essence the inspection showed that the licensee had met the requirements of the licence condition but that further potential improvements were identified and communicated to the licensee. I hope you found the above information useful.

Also I would like to take the opportunity to mention that from 1 July 2008 I am moving to another post within NII. Future correspondence should be addressed to David Senior who is now managing the AWE inspection team.

Regards

Andrew Lindley
0151 951 3722

“ . . . I carried out an inspection of the marking of the nuclear site boundary. . . . The Aldermaston site is surrounded by a significant wire mesh fence topped with barbed/ razor wire. xxxxxxxxxxxx. The purpose of the fence is security but it also marks the boundary of the nuclear licensed site. . . . Signage is provided around the site fence. In the case of the xxxxxxxx fenced boundary, signs indicating the site to be a “Nuclear Licensed Site” were seen attached to the **inner** fence at about 200m spacing. . . . “

[my truncation and emphasis, but original redaction]

22 Of the two fences forming the AWE site boundary at the point of entry made by the Accused it is only the *inner* fence that is ‘topped with barbed/ razor wire’ (see PHOTOGRAPH 1) so, according to the NII inspector, it is this *inner* fence that demarks the NSL77 boundary.

23 Condition 2 of NSL77 requires the licensee to ‘mark the boundaries of the [nuclear] site by fences or other appropriate means’. PHOTOGRAPH 2 shows an example of the NSL77 signs referred to by the NII site inspection of para 20, these signs being affixed to the *inner* fence at regular intervals.

24 I conclude that the extent of NSL77 is established to be that marked and signposted by the *inner* fence.

25 **c) SOCPA Protected Site in the Locality of the Alleged Trespass**

26 Now I refer to the locality of the alleged trespass by the Accused on 10 March 2007 – I have marked this locality by a red rectangle on FIGURE 1.

27 Assuming the reasoning of paras 9 and 24, it follows that in the general locality of the alleged trespass, it is the *inner* fence that demarks the SOCPA *protected site*.

28 This correct definition means that all areas of the AWE Aldermaston site beyond (outwards of) the *inner* fence are not within the SOCPA *protected site*. These non-SOCPA areas include the i) *sterile zone* between inner and outer fences, and ii) the so-called ‘controlled’ area extending from the *outer* fence over the grass verge to the edge of the public road.

29 Later, I shall show that these two areas, i) and ii), then (March 2007) were within the jurisdiction of the 1986 *Military Lands Byelaws* as applied at AWE Aldermaston.

30 **d) Confusion in the Definition and Labelling of the SOCPA *Protected* Site**

31 I find there to be considerable confusion and, indeed, misunderstanding in the definition and
signage of the SOCPA *protected site*, particularly in the locality of the alleged trespass.

32 I consider a degree of this confusion to have arisen because of the delayed introduction of
the *Military Land Byelaws* in June 2007.

33 **i) AWE Byelaws**

34 The AWE site at Aldermaston, as ‘owned’ and within the overall responsibility of the
Secretary of State for Defence, extends beyond the area designated by the NSL77 boundary.

35 The total site area is defined by the *The Atomic Weapons Establishment (AWE) Aldermaston
Byelaws 2007*⁹ with the site area categorised into ‘*protected*’ and ‘*controlled*’ areas.

36 In the byelaws, the *controlled* areas relate to peripheral land that is generally outside the
outer fence line and which is, again generally, unfenced but marked occasionally with signs
on posts as shown by PHOTOGRAPH 3.¹⁰ For example, at the alleged entry point of the
Accused, the *controlled* area extends over the grass verge to the edge of the public road
(Paices Hill – A340) which is, being open land, completely accessible by members of public.

37 The *protected* area relates to land that is generally at and/or inside the *outer* fence line.
Although not specifically identified as a boundary of the byelaws *protected* area, the notices
affixed refer to the *Military Lands Byelaws* (and also to SOCPA) as shown by PHOTOGRAPH
4.

38 Although differently worded, the signs shown in PHOTOGRAPHS 3 and 4 seem to refer to the
same byelaws.

9 *The Atomic Weapons Establishment (AWE) Aldermaston Byelaws 2007*, SI 2007 No 1066 27 March 2007 and coming into force on 31 May 2007 – whereas I acknowledge that these byelaws were not enacted until after the alleged offence (10 March), the government’s intent would appear to have been to introduce the new byelaws at the same time as SOCPA, in what is referred to as a ‘layered’ approach to improving security at a number of critical Ministry of Defence Sites – there is a MoD briefing note, particularly a loose minute of 27 October 2005, Ref D/DE(AS)4/2/05/06/326, taken from a bundle of documents obtained by Caroline Lucas, MEP via a request under the *Freedom of Information Act 2000* - I assume that AWE personnel, particularly those involved in security would have received instructions relating to both the byelaws and SOCPA in advance of the introduction of SOCPA.

¹⁰ The red backed signs of PHOTOGRAPH 3 were installed some time after the alleged offence of 10 March 2007, possibly in or about June 2007.

39 The *protected area* defined by the byelaws should not be confused with the *protected site*
introduced by the TA06 amendment of SOCPA.

40 **ii) SOCPA, NSL77 and the AWE Byelaws**

41 Now I shall explore the apparent confusion between the SOCPA *protected site* and the
protected area of the byelaws.

42 I have attached FIGURE 2 which is a composite of fair copies of the maps included in the
AWE Byelaws (*Plan 2 & 4 – 2 parts*) defining the *controlled* and *protected* areas at about the
point at which the Accused allegedly entered the SOCPA *protected site*.

43 Note that the overhead photograph of FIGURE 1 clearly shows the location of the *inner* and
outer fences but that these fences are not shown so clearly on FIGURE 2.

44 Now, moving on to FIGURE 3 which is an extract of the plan (AWE drawing OSR-C07220)
attached to NSL77, although some clarity of the lines has been lost in my scanning and
digital manipulation of this image, the lines of the *inner* and *outer* fences are clearly
discernable.

45 Comparison of FIGURE 2 (*AWE Byelaws*) and FIGURE 3 (*NSL77 and SOCPA Protected Site*)
shows that the *protected* areas of the byelaws are significantly different from the SOCPA
protected site. For example, on the section of the AWE site plans that I have reproduced, the
South-West ‘toe’ of the site, although a byelaws *protected area* the toe is not within NSL77
boundary and, hence, is not part of the SOCPA *protected site*.¹¹

46 **iii) SOCPA Signage**

47 At the time of the alleged offence, the SOCPA sign shown in the Crown document bundle
(see Crown photograph time stamped 03/04/2007 5.57 pm) was affixed to the *outer* fence
within the immediate locality of the point of the alleged trespass (Crown photo 10/03/2007
2:23 pm). Since that time this particular sign has been removed (see PHOTOGRAPH 5),

11 Also, there are anomalies between byelaws and SOCPA areas on both the North-West and Southern sections of the AWE site shown respectively by FIGURES 2 and 3.

although other identical SOCPA signs remain on the *outer* fence in the general locality (PHOTOGRAPH 3).¹²

48 The SOCPA signage refers to both the SOCPA *protected* site and the *Military Land Byelaws*. However, at the time of the alleged trespass (March 2007) the then existing 1986 byelaws were not effectively in place and had not been so since a number of legal difficulties were publicly aired in 2002.^{13,14}

49 I understand that the defunct 1986 byelaws were eventually superseded by the present 2007 byelaws in June 2007, that is after the alleged trespass by the Accused.¹⁵

50 Interestingly, in October 2005 MoD officials refer to the SOCPA area at AWE Aldermaston as a '*designated area*' which is quite correct because this predates the TA06 amendment to the NSL '*protected site*' status. Under these original SOCPA arrangements it would have been practicable for the 'layered' approach of dovetailing byelaws and SOCPA together thus providing, as the MoD puts it, a '*significant deterrent*' to the '*hardened, multiple repeat offender*'.

51 Put simply, for AWE Aldermaston¹⁶ the layered approach meant that the transition from the lower penalty regime of the then new byelaws would seamlessly merge into the greater deterrence of SOCPA.

12 The nearest SOCPA sign is located approximately 130m to the North-East.

13 See minutes of the House of Commons Defence Committee, 30 January, 2002 Q300 -313, para 303-304 – in answering a question from Mr Roy about the apprehension of intruders, Ms Craig of AWE noted that '*for historical reasons not all of the land within the boundaries is owned or leased by the Secretary of State, some of it is owned by West Berkshire Council, some belongs to private land owners. . . we will then be able to look at whether we need new bye-laws for AWE or not. It should also make it easier to bring injunctions against persistent trespassers once those boundaries issues have been clarified. . . .*'. Mr Clarke, Chief Constable Ministry of Defence Police, added the clarification '*. . . is it a criminal trespass, it is not a criminal trespass. As we stand at the moment there are two separate remedies, the first remedy is by the use of the bylaws . . . [but] . . . the enabling legislation is very long in the tooth and therefore those bylaws have been questioned. This is the frustration, if you like, in respect of Aldermaston, we are not able to take prosecution using those bylaws. The second remedy that we would have is in respect of injunctions, to injunct the individual to prevent them going into the premises, that is where we have had the problem in respect of ownership of the land. . . .*'

14 See also Letter Ministry of Defence Police and Guarding Agency (MDPGA) to Juliet McBride, Ref D/MDPGA(Sec)18/3/1, dated 21 February 2006 and to the paper 'HCDC: Inquiry on Defence and Security in the UK – Visit to AWE Aldermaston' 24 January 2002 states '*. . . The Committee were concerned to learn that, because of a legal loophole with regard to the definition of AWE's boundary, the AWE By-Laws cannot be implemented. . . .*'

15 Originally, the intent seems to have been to introduce the new Byelaws and SOCPA simultaneously – Ministry of Defence Police and Guarding Agency Loose Minute of 27 October 2005, Ref No D/DE(AS)4/2/05/06/326 which refers to a '*. . . layered approach, in which SOCAP and Byelaws both play a part . . .*'.

16 MDPGA, Loose Minute of 27 October 2005, Ref No D/DE(AS)4/2/05/06/3262006 states that '*. . . For instance, in an establishment such as Aldermaston where the designated area is not the totality of the MoD site, there are areas where the public has reasonable access. Byelaws allow 'controlled' access to continue whereas SOCAP is intended to afford a greater protection required around the protected area, the two approaches are therefore mutually compatible and provide MOD with a layered response.*'.

52 What is not clear from the available MoD-sourced documentation is whether AWE Aldermaston (and Burghfield, and the nuclear powered submarine servicing facilities such as Devonport in Plymouth) were considered with any distinction from those other MoD facilities that did not undertake nuclear activities (ie the military airfields, satellite control and communication centres, etc).

53 From the documentation available in the public domain,¹⁷ albeit limited, there seems to have been little cognisance given to the exceptions required at the AWE Aldermaston site in account of the TA06 amendment of the SOCPA ‘designated areas’ to ‘protected site’ introduced by the TA06 in 2007.

54 There is, for example, a ‘Question & Answer’ briefing paper¹⁸ that seems to apply generally to all SOCPA sites. This briefing paper includes the Q&A:

55 “Exactly what land will be designated at each site?

- 56 ● The clause makes clear that it will be the area within the outer perimeter of the protection provided for the site.”

57 There is also the response to a number of observations received during the AWE Aldermaston-specific public consultation period (2006-2007). These observations, summarised by the MoD Byelaws Review Team included:¹⁹

Generic Comments and MOD Response		
Generic Comments of Proposed Byelaws for Aldermaston		
Nº	SUMMARY OF PUBLIC CONSULTATION INPUTS	MOD RESPONSE AND ANSWERS
31	Does the boundary of the protected area match that of the Protected Area [sic] under Serious Organised Crime and Police Act Designation? Will confusion occur by different areas being designated with the same name?	Yes the boundaries have been designed to coincide to reduce chances of confusion.

17 In fact, so advanced were these arrangements that MoD set about ordering ‘. . . several thousand signs . . .’ from mid-2005 putting the final order to tender in or about February 2006 – see series of e-mails dated between September 2005 to February 2006 between Defence Estates Byelaws Review Team and various parties (redacted) – and by 20 March 2006 the MDPGA had “. . . instigated a process to erect appropriate signage at all protected sites. Ministry of Defence Police Officers who are stationed at . . . a protected site have been comprehensively briefed and provided with a dedicated training package. . .” – documents obtained by Caroline Lucas, MEP by a Freedom of Information request of 11 April 2006.

18 Entitled *Frequently Asked Questions*, undated but post the London bombing of July 2005.

19 AWE Aldermaston – Public Consultation Update, undated but most probably late 2006 or early 2007 - <http://www.defence-estates.mod.uk/byelaws/WordDocs/Aldermaston%20public%20%20comments.rtf>

58 Here the response clearly states that, at AWE Aldermaston, the SOCPA *'protected site'* boundary is to coincide with the line of division between the *'controlled'* and *'protected'* areas of the byelaws.

59 In another example where no regard seems to be given the fact that the boundary of NSL77 is different to that of the byelaws *'protected area'*, the Head of the MoD Byelaws Review Team, Timothy Pinchen, opined at the *AWE A Byelaws Judicial Review*²⁰ that

60 “ . . . the SOCAP offence only applies to the parts of the MOD establishments to which the public are not permitted access, ie the Protected Areas. It does not apply to the Controlled Areas. . . ”

61 In my opinion, there can be no dispute that, in the locality of the alleged trespass of the Accused, the line of the byelaws *'protected area'* is the *outer* fence, whereas the SOCPA *'protected site'* boundary should be the extent of NSL77, that is the *inner* fence.

62 Put another way, it seems to me that MoD Byelaws Review Team were themselves somewhat confused and/or disregarded the TA06 amendment that required NSL77 to define the extent of the SOCPA *'protected site'* at AWE Aldermaston.

63 My impression from studying the available documentation is that some confusion arose within the tiers of MoD management preparing for the layered introduction of the new *Military Lands Byelaws* and SOCPA. Most probably, this was because the TA06 nuclear site amendment did not apply to the greater number of SOCPA covered (non-nuclear) sites at which the new byelaws *protected area* exactly coincided with the SOCPA *designated* area, for which the SOCPA enforcement boundary was the *outer* security fence.

64 However, those sites undertaking nuclear activities required the additional complexity of incorporating the extent of the NSL which, most certainly, at AWE Aldermaston, did not correspond to either the byelaws *protected area* or the *outer* security fence. It seems to me, that late-2005 the MoD organisational bureaucracy was moving on regardless: training to administer and operate SOCPA at the many sites was underway; Q&A briefing notes

20 *Kay Tabernacle -and- Secretary of State for Defence*, CO/5317/2007, Royal Courts of Justice, Judgement 06/03/2008

compiled and printed; and thousands of SOCPA signs had been ordered, all of which had to be in place for the SOCPA enforcement date of 1 March 2006.²¹ But, at AWE Aldermaston, although the MoD Defence Estates seemed to have resolved much of the land ownership issues that were holding up application of the new byelaws, difficulties were encountered with the public consultation process which seemed to have delayed the dovetailing of SOCPA and byelaws for a further year until June 2007.

65 Elements of this confusion and misunderstanding are also apparent within the operational levels of staffing at AWE Aldermaston, including some of the individuals who have provided Witness Statements in this matter:

66 **Martin Edmundson – Security Advisor**

67 The Ministry of Defence Security Advisor, Martin Edmundson, asserts that the SOCPA designated area applies to the *outer* fence because this fence perimeter was ‘*contiguous*’ with the NSL77 perimeter:²²

68 “... *to the external [outer] perimeter of the nuclear licence site and those areas contiguous with it, i.e. the outer fence, or a combination of fences that mark the area to which the public do not have access. Thus designating SOCAP to this outer perimeter. . .*”²³

[my added explanation]

69 This is clearly at odds with the Hunting BRAE definition of the NSL77 (my para 18) being that aligned to the *inner* fence. The assumption that contiguous parts of the security system (ie the sterile zone and outer fence) can be attached to or drawn into the definition of NSL77 contravenes the requirement that any change to the extent of NSL77 has to be agreed with the NII (my para 13).²⁴ Moreover, Mr Edmundson’s assertion is completely at variance with the most recent (June 2008) and authoritative reporting of the NII site inspection reiterating that it is the *inner* fences that defines the NSL77 boundary (my para 21).

21 The SOCPA signs were not installed on the outer fence until 12 April 2006, that is after the SOCP Act coming into force date of 1 March 2006 – see Letter from Ron Harney, MDPGA, 14 September 2007, Ref AIT 21-08-2007-161315-004, AIT 22-08-2007-115522-001, RFI 31 & 33/2007

22 Witness Statement 19 March, 2007.

23 It is also evident from the comments of DS Brooks during the interview of 10 March 2007 that she considers the positioning of the SOCPA designated area signs of the outer fence to be correct.

24 The reason that it is not permitted to change the nuclear site licence boundary in a willy-nilly fashion is that not only does the NSL boundary define the site licensee’s limit of on-site liability but also, and importantly relating to nuclear safety, permitted radiation levels, off-site emergency planning, etc., there are a number of key statutes and regulations, such as the *Ionising Radiations Regulations*, the *Radiation (Emergency Planning and Public Information) Regulations*, the *Radioactive Substances Act 1960*, etc

70 **Stephen Kochli – GIS Consultant**

71 Some might define GIS (Geographic Information System) to be the ability of capturing, storing, analysing and displaying geographically referenced information. In this matter, its definition is somewhat more straightforward being that it simply refers to the making of accurate maps, that is cartography.

72 Mr Kochli also provides a double meaning to his understanding of the SOCPA boundary at AWE Aldermaston.

73 In his first statement²⁵ Steve Kochli specifically and quite positively refers to “. . . *an agreement with the NII that the inner perimeter fence demarks the NII zone*”. Moreover, he attaches a map to his statement, entitled ‘*Boundary of Nuclear Licensed Site*’, that quite clearly shows and labels that it is the *inner* fence that marks the NSL77 boundary – see FIGURE 4.

74 However, in a subsequent statement²⁶ Mr Kochli completely changes his position, opining that the fence is ‘*double-skinned*’ being the ‘*outermost*’ fence around AWE Aldermaston. He is also uncertain stating that there is ‘*no NII fence exactly*’ and, even though he had previously produced the NSL77 plan entitled ‘*Boundary of Nuclear Licensed Site*’ and referred to ‘*an agreement with the NII that the inner perimeter fence demarks the NII zone*’, quite remarkably he subsequently asserts there not to be ‘*any documentation that there is the phrase “NII Fence” specifically used*’ on the AWE site.

75 I cannot understand how Mr Kochli could have so radically changed his opinion between these two statements,^(25 & 26) particularly in that:

76 In his first statement (my para 74) Mr Kochli is clearly referring to the NSL77 documentation to which the map that he produces as evidence is attached, this being a requirement of NSL77 (my para 11). It seems to me somewhat hair-splitting to differentiate, as he does in his subsequent statement, between the map title ‘*Boundary of Nuclear Licensed Site*’ and the phrase ‘*NII Fence*’ to arrive at his conclusion that no such documentation exists.

25 Witness Statement 24 April, 2007

26 Witness Statement 10 July 2007.

- 77 Obviously and for all intents and purposes, the NSL77 map that Mr Kochli has produced is the '*NII Fence*' plan.
- 78 Similarly, it is totally contrary for Mr Kochli to first refer to '*an agreement with the NII*' about the inner fence defining the NSL77 but subsequently to indirectly retract this and assert there to be no '*NII Fence*' documentation on the AWE Aldermaston site. Referring to the NSL77 documentation, *Cl 6* of NSL77 requires the licensee (here AWE Management Ltd) to make and maintain (*Cl 6(1) & (2)* respectively) records to demonstrate compliance with NSL77 and, of course, there are a number of references to fences and boundaries in the NSL77 text itself.
- 79 So far as Mr Kochli's assertion that the ". . . *just a double-skinned fence . . . with a sterile area in the middle . . .*", it is absolutely clear by comparing FIGURES 1, 2 and 3 that the *inner fence* follows the NSL77 boundary (and hence the SOCPA *protected site*) and, generally, that the outer fence adheres to the byelaws *protected area*.
- 80 This is very evident in the inset of FIGURE 1 at which point outer and inner fences diverge as the outer fence follows the byelaws *protected-controlled areas* and the inner fence veers due south defining the line of the NSL77 boundary.
- 81 Mr Kochli impression that inner and outer fences are separated by ". . . *a sterile area in the middle . . .*" is very misleading because it implies a uniform width of sterile zone completely surrounding the AWE Aldermaston site. As shown by the overhead view of FIGURE 1, the separation of the outer and inner fences north-west of the point of alleged entry comprises a sterile zone of about 6 meter width, but just south of the alleged entry point where the inner fence veers due south, this deviation renders Mr Kochli's '*sterile area in the middle*' sufficiently spacious to accommodate a large car park and several football pitches.²⁷
- 82 Overall, I have to admit to being surprised that Mr Kochli, a GIS consultant, seems to be entirely unaware of the NII's quite detailed requirements for the NSL licensee to make and maintain a map of the nuclear site boundary, especially when it was he who produced the NSL77 boundary map as an exhibit in this matter.

27 In fact, the open ground in the South-West corner of the AWE site (that is within the byelaws *controlled area*) is marked out for 6 full size football pitches and there is an assortment of other sports pitches also laid out – indeed, close scrutiny of FIGURE 1 shows a football match in progress at the time of the Google overhead photography of the AWE site (c2007-8).

83 **Detective Sergeant Brooks - Interviewing MDP Officer**

84 When interviewing the Accused, Sergeant Brooks (HB), gives the impression that she believes the SOCPA signs to be correctly positioned on the *outer* fence.

85 This is apparent from her questioning of para 4 and 5 of p7 of the interview transcript. In this section of the interview HB refers to the Accused having to pass the SOCPA signs on her way to the *inner* fence, that is HB assumes that SOCPA applies to the area inside the *outer* fence and not, correctly, from the *inner* fence that marks NSL77.²⁸

86 My conclusion here is that at the time of the alleged trespass there existed confusion amongst those responsible for defining and maintaining the day-to-day security boundaries of the AWE Aldermaston site, inasmuch that:

87 a) Martin Edmundson believed it to be perfectly proper to tack on extra areas and fences to the boundary of NSL77 on the basis that these were contiguous to the NSL77 perimeter. In this way he effectively approved a redefinition of NSL77 without seeking the approval of the NII.

88 b) In the month or so between making his first and subsequent witness statements, Steve Kochli not only changed his mind but he adopted and expressed a completely converse opinion and, in doing so, he seemingly denied the existence of the NSL77 plan that he himself had provided for this trial.

89 c) Sergeant Brooks's line of questioning seems to be drawn from the basis that the SOCPA '*protected site*' coincided with the '*protected area*' of the byelaws, so that once the Accused had crossed over the outer fence into the sterile zone she had committed a SOCPA offence.

90 **SUMMARY OF MY OPINION AND CONCLUSIONS**

34 In conclusion, I consider that:

a) The NSL77 and byelaws *controlled* and *protected* areas do not coincide;

28 Interview transcript , 10 March 2007, p7 paras 2,4, 6 and even after being enlightened by the Accused that the SOCPA designated areas applied to the NSL77 perimeter, p8, DS Brooks seems to continue with her belief that SOCPA applies to the outer fencing, p10, para 4.

- b) to determine the SOCPA '*protected site*' only NSL77 should be referred to;
- c) at the location where the Accused entered the AWE Aldermaston establishment, the SOCPA '*protected site*' boundary being defined by NSL77 coincides with the *inner* fence.

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2ND EVIDENCE IN THE MATTER OF

REGINA -v- MS JULIET M^CBRIDE

NEWBURY MAGISTRATES' COURT

DIAGRAMS AND PHOTOGRAPHS

CLIENT: BINDMAN & PARTNERS

REF N^O R3166-DIAGRAMS

REVISION N ^O	APPROVED	1 ST ISSUE	PRESENT ISSUE
R2		01 August 2008	18 AUGUST 2008



PHOTOGRAPH 1 – INNER AND OUTER FENCES AND STERILE ZONE
SEE ALSO CROWN PHOTOGRAPH 10/03/2007 2:23 PM & 03/04/2007 5:15 PM



FIGURE 2A – NUCLEAR SITE LICENCE NOTICE ON *INNER* FENCE



FIGURE 2B – NUCLEAR SITE LICENCE NOTICE ON *INNER* FENCE



**PHOTOGRAPH 3 - BYELAWS CONTROLLED AREA SIGN ON ROADSIDE VERGE
NOTE SOCPA SIGN ON OUTER FENCE BEYOND**



PHOTOGRAPH 4 – SOCPA SIGN LOCATED ON OUTER FENCE



SECURITY FEATURE OBLITERATED

SEE ALSO CROWN PHOTOGRAPH 03/04/2007 5:57 PM

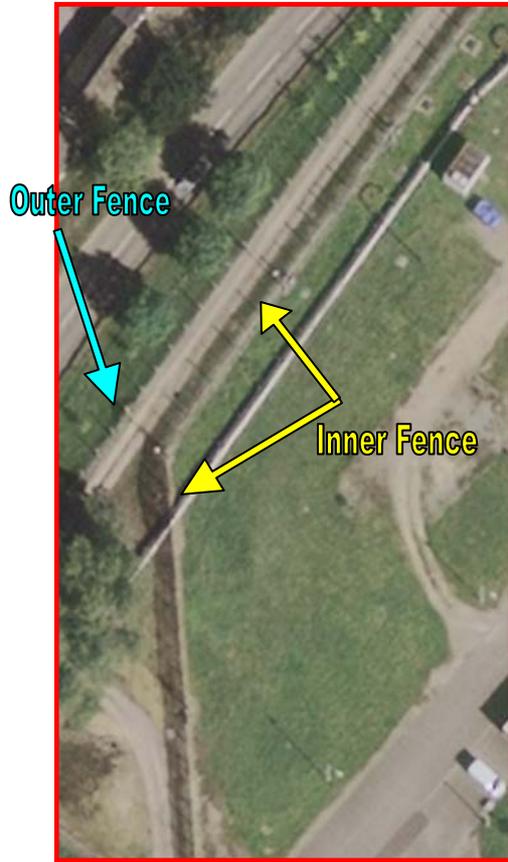


PHOTOGRAPH 5 - LOCALITY OF ALLEGED TRESPASS

THE ACCUSED IS HOLDING UP CROWN PHOTOGRAPH 10/03/2007 2:23 PM AT ABOUT THE POINT WHERE THERE WAS A SOCPA SIGN AT THE TIME OF THE ALLEGED TRESPASS

NOTE THAT THE INNER FENCE VEERS AWAY TO THE SOUTH THUS EXPANDING THE SO-CALLED STERILE AREA

BUSTER THE DOG IS ENTIRELY DISINTERESTED BUT HE IS SITTING IN THE BYELAWS 'CONTROLLED' AREA, THE OUTER FENCE MARKS THE LINE WHERE THE BYELAWS 'PROTECTED' AREA COMMENCES



**DETAIL OF LOCALITY OF THE
ALLEGED TRESPASS**

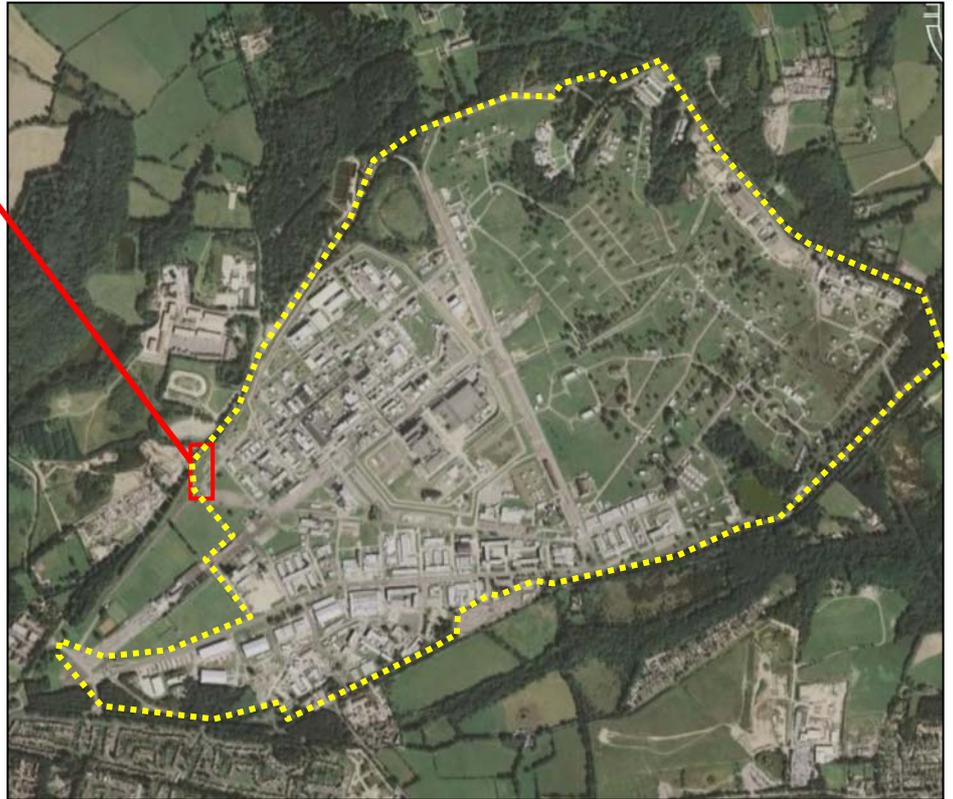


FIGURE 1 – AWE ALDERMASTON SITE
NUCLEAR LICENSED SITE BOUNDARY  APPROXIMATE

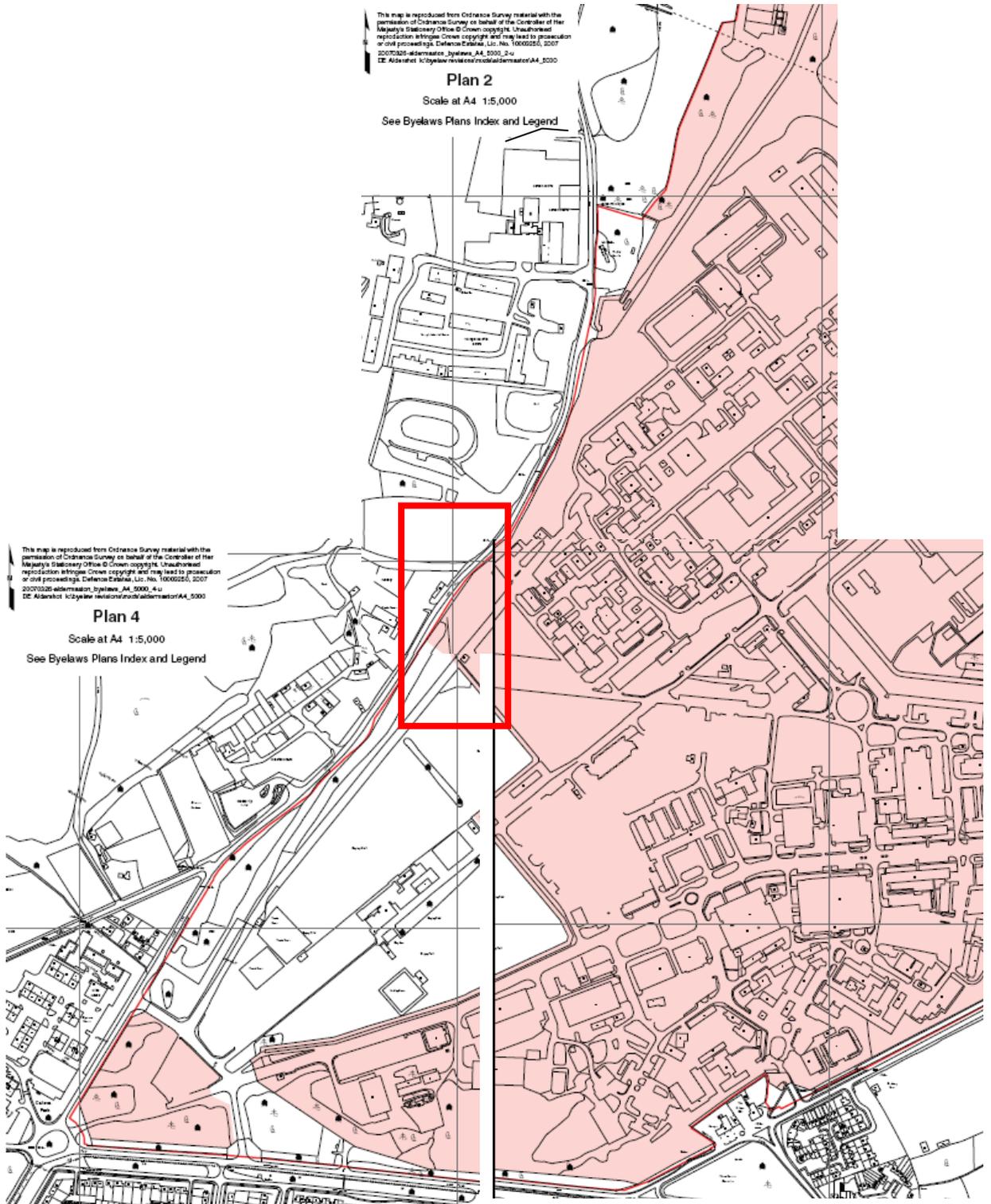


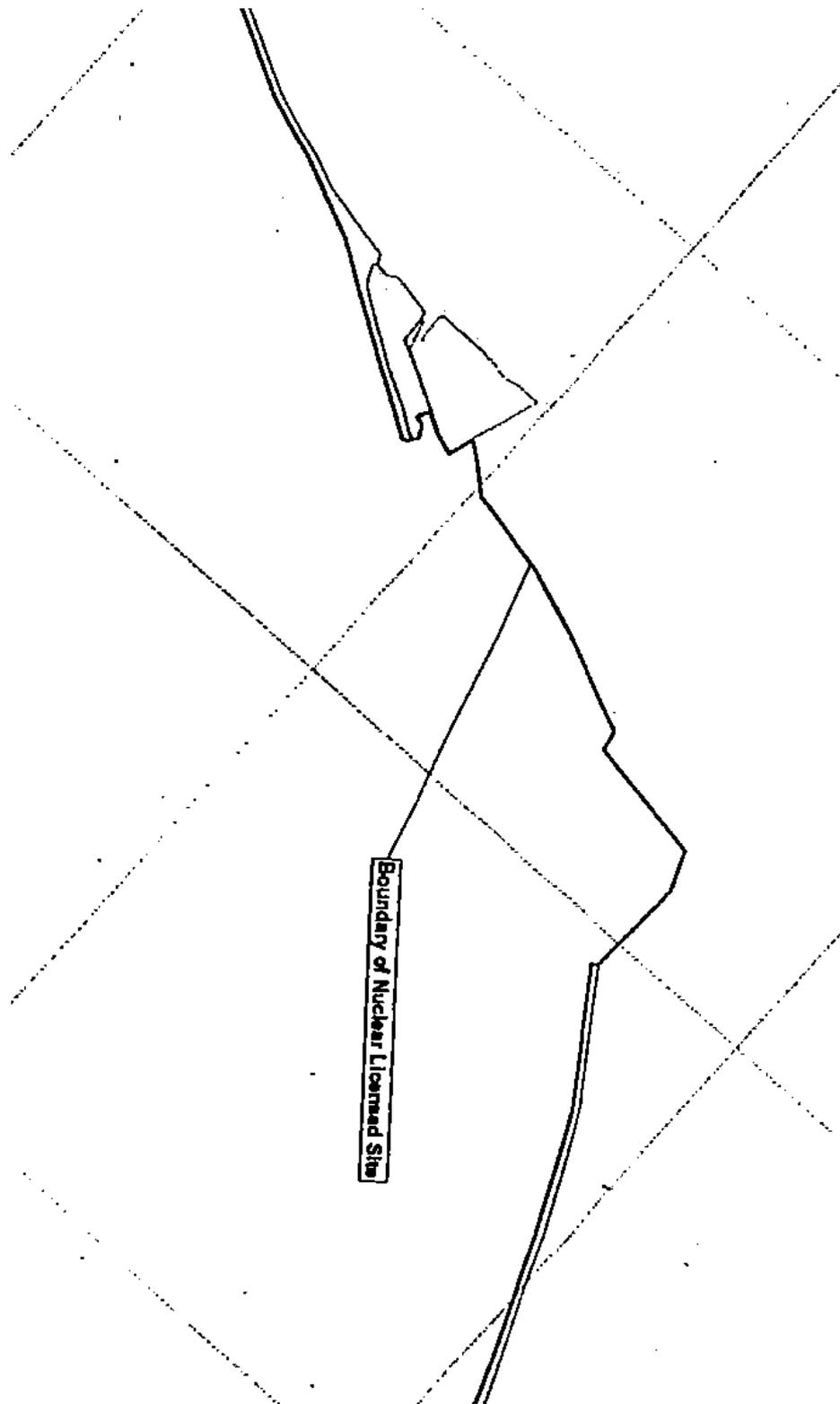
FIGURE 2 – AWE ALDERMASTON SITE – COMPOSITE OF BYELAW PLANS

 **PROTECTED AREAS**  **CONTROLLED AREAS**



FIGURE 3 – AWE ALDERMASTON SITE – NSL

 **NUCLEAR SITE LICENCE BOUNDARY**



**FIGURE 4 – DETAIL OF THE NSL77 BOUNDARY PRESENTED BY S KOCHLI
COMPARE TO FIGURE 2 FOR LOCATION OF DETAIL**