

# DEVELOPING THE IMPLEMENTATION FRAMEWORK: SITING, PLANNING REQUIREMENTS AND RIGHTS OF WITHDRAWAL



Briefing Paper 6, April 2007

## Introduction

Government states that in siting a geological repository regard must “be paid to consultation and legislative requirements, including strategic environmental assessment, environmental permitting and planning law.” It also reports that an area for further work is “... how any ability to withdraw might be incorporated into arrangements.”<sup>1</sup> Government intends to set out its approach in an implementation framework that will be subject to consultation in the second half of 2007.

NuLeAF welcomes the Government’s commitment to examine how the siting process will take into account planning requirements and a right of withdrawal on the part of participating communities. This Briefing Paper has been prepared to inform discussion between Government and NuLeAF on these topics, and on forms of agreement between participating bodies. It reflects NuLeAF’s *current thinking*, based on European and UK experience<sup>2</sup>, discussion at a series of regional seminars<sup>3</sup> and a commissioned report on siting, planning requirements and rights of withdrawal.<sup>4</sup> The proposals in this Briefing Paper should be seen as a contribution to further discussion, rather than as a set of definitive proposals.

This briefing paper is the fourth in a series of briefings about aspects of the Implementation Framework. The first three are:

- Proposals for Siting Partnerships, Briefing Paper 3, January 2007
- Initial Invitations and Local Decision-Making about Participation, Briefing Paper 4, February 2007
- Funding Participation and Enhancing Community Well-Being, Briefing Paper 5, March 2007

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<sup>1</sup> UK Government and Devolved Administrations, ‘Response to the Report and Recommendations from CoRWM’, DEFRA, 25 October 2006: <http://www.defra.gov.uk/environment/radioactivity/waste/pdf/corwm-govresponse.pdf>

<sup>2</sup> See Enviros, ‘The Implementation of a National Radioactive Waste Management Programme in the UK: Implications for Local Communities and Local Authorities’, report for NuLeAF, June 06.

<sup>3</sup> NuLeAF, ‘Managing the Nuclear Legacy – Issues for Local Government’, Regional Seminars Report, December 06.

<sup>4</sup> Hetherington Nuclear Consulting, ‘Implementing Radioactive Waste Management: Siting and Planning in Partnership’, Report to NuLeAF, April 07

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## Scope of the Briefing Paper

NuLeAF's initial views on planning, rights of withdrawal and forms of agreement were set out in a preliminary policy statement in June 2006<sup>5</sup>. This stated that:

### Step Wise Decision Making Process

NuLeAF believes that the process for siting long-term radioactive waste management facilities should involve clearly defined decision milestones that are integrated with evolving planning and regulatory processes, including requirements for sustainability appraisal and strategic environmental assessment. ...

During the course of a siting process it may be necessary to review, amend or develop Local Development Frameworks (LDFs) or Regional Spatial Strategies (RSSs). In order to clarify what is required of the developer in the siting process, the Government should issue a Planning Policy Statement specific to long-term radioactive waste management facilities.

### Rights of Withdrawal

The siting process must include a right of withdrawal on the part of participating communities. A decision to withdraw would be made by the relevant local authority/ies, following engagement with local communities, and in the light of material evidence that set out the case for withdrawal.

The implementing body would respect the decision of the local authority/ies to withdraw and would remove the affected area from the siting process. It is envisaged that the decision to participate and the right of withdrawal would be set out in a formal agreement between the implementing body and the relevant local authority/ies.

### Forms of Agreement

This might take the form, for example, of a Memorandum of Agreement. This would specify the sort of conditions under which a right of withdrawal could be exercised (for example, if evidence became available that the proposed site was unlikely to be acceptable on environmental or safety grounds). The formal agreement should also identify the milestone beyond which a right of withdrawal would no longer be available. This might, for example, be when full planning permission is granted for the development of the facility.

This Briefing Paper develops key aspects of this statement. It does so in the context of NuLeAF's proposals for a siting process that is based on the concepts of willingness to participate and partnership, as set out in Briefing Papers 3 and 4. These proposals outline the key roles of:

- Local Siting Partnerships, in terms of scrutiny of developer proposals, community

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<sup>5</sup> NuLeAF, 'Implementing Policy on the Long Term Management of Radioactive Wastes', Policy Statement 1, June 2006.

- engagement and advice and recommendations to decision-makers;
- Relevant local authority/ies, in terms of major local decisions within the siting process<sup>6</sup>.

The proposals for use of the development plan system set out below are intended to complement and support the work of a Siting Partnership.

Against this background, the Briefing Paper makes proposals about:

- utilisation of the development plan system in the siting process
- the role of planning during key stages in the siting process
- areas of further work on siting and planning
- rights of withdrawal
- forms of agreement

In making proposals, the briefing focusses on what NuLeAF would wish to see in the implementation framework, and seeks to distinguish between what should be (a) required by Government policy and (b) a matter for local discretion.

## **Utilisation of the Development Plan System in the Siting Process**

### ***Introduction to the Development Plan System***

The planning system operates under statute<sup>7</sup> and is a devolved function<sup>8</sup>. It operates through two interlinked processes:

- provision of policy frameworks through the preparation of plans, and
- control of development.

The policy adopted in plans is the predominant “material consideration” in determining a planning application for a specific development.

In England and Wales, national planning policy is set out in Planning Policy Statements (PPS)<sup>9</sup>. The primary focus of plan making is then at regional and local levels:

- Regional Spatial Strategies (RSSs) set out a spatial plan for the region that must conform with Government policy. Draft RSSs are prepared by Regional Assemblies. The Secretary of State is responsible for issuing revised RSSs after examination in public and consultation on proposed changes.

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<sup>6</sup> NuLeAF, ‘Proposals for Siting Partnerships’, Briefing Paper 3, January 2007, p5.

<sup>7</sup> Planning and Compensation Act 2004: <http://www.opsi.gov.uk/acts/acts2004/20040005.htm>

<sup>8</sup> The Act applies to Wales – but with provision for a Welsh Spatial Strategy. In Scotland a new Planning Act was recently adopted.

<sup>9</sup> A list of current Planning Policy Statements is found on the DCLG website at: <http://www.communities.gov.uk/index.asp?id=1143803>.

- Local Development Frameworks (LDFs) are a series of documents that outline local planning strategy, identify specific sites for development or conservation, and criteria against which specific development proposals will be judged. The LDF defines a local authority's policy on the development of land.
- A particular type of LDF – the Minerals and Waste Development Framework (MWDF) - covers minerals and waste policy. In two tier areas minerals and waste matters are the responsibility of the County Planning Authority.

The statutory development plan for any particular location includes the relevant RSS and LDF.

A LDF will consist of a suite of documents. These include a Local Development Scheme (setting out the schedule for development of key documents), Local Development Documents (which state policy for spatial development of the area taking into account national policy and conforming with the RSS) and a Statement of Community Involvement. Local Development Documents and Statements of Community Involvement are examined independently by a Planning Inspector to determine if they are “sound”, for example, in relation to Sustainability Appraisal. The main steps in plan preparation include evidence gathering, initial consultations, outline plan preparation, pre-submission consultation, submission to the Secretary of State, further consultation and public examination, inspector reporting, adoption, publication and ongoing monitoring and revision.

Plan development is clearly a substantial task and can take upto three years. Partial reviews and revisions at RSS, LDF and MWDF levels are possible, but likely to involve independent re-examination and consultation, taking a minimum of a year.

### ***Changes to the Planning System***

The planning system is subject to a process of review and change, which is likely to impact on the way in which large projects such as a geological repository are handled.

In particular, the recent Barker Review included the following recommendations relevant to major infrastructure projects:

- a radical overhaul of the planning system to improve speed and certainty, including the use of national “statements of strategic objectives” and potential for an independent Planning Commission to take decisions on individual applications; and
- making planning decisions at the most appropriate spatial level, principally by deciding projects of national importance at a national level, and deciding projects that have only a local impact at the local level.

More generally, the Barker report recommends a number of ways of streamlining planning processes to improve speed, transparency and efficiency, including:

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- improving local plan-making processes so plans can be drawn up in 18-24 months;
- greater certainty of timescales with new, individually tailored delivery agreements between planning authorities and developers; and
- faster processing of appeals and the use of a new Planning Mediation Service to resolve disputes outside of appeal proceedings.

The implementation framework should make it clear that changes to the planning system implemented as a result of the Barker review will have to work alongside a siting process for a geological repository that is built on the concepts of willingness to participate, partnership and community engagement.

As things currently stand, the proposed changes do not impact significantly on the proposals below about early use of the development plan system in the siting process. Note, however, that the changes would impact on the way in which planning applications associated with repository development would be handled.

As argued in earlier Briefing Papers, Government policy on the practical application of key implementation concepts should be outlined in the implementation framework. As discussed below, it may also be desirable for the integration of that framework and the revised planning regime to be set out in national planning guidance, following further work and discussion.

### ***Use of the Development Plan System***

It is proposed that the implementation framework assert in principle that the interface between the siting process and planning should be managed through use of the development plan system, as proposed by Nirex<sup>10</sup> and Hetherington<sup>11</sup>.

The purpose would be to ensure that planning policy at different levels is developed to reflect progress in the siting process, as set out in national policy and informed by the recommendations of local Siting Partnerships. This would be advantageous as the policy adopted in plans will be the predominant “material consideration” in determining planning applications associated with investigation and characterisation of sites and for repository development. An approach that did not include appropriate local plan development could increase the risk of legal challenge or significant delay when planning applications are considered.

The proposed approach could include:

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<sup>10</sup> Nirex Technical Notes 515154 & 515158 covering respectively, “Implementation of a Long-Term Radioactive Waste Management Facility within the current planning system” (September 2006) and a “Note on how the Decision Making on Long-Term Radioactive Waste Management can be structured using Strategic and Environmental Assessment Processes” (October 2006).

<sup>11</sup> Hetherington Nuclear Consulting, ‘Implementing Radioactive Waste Management: Siting and Planning in Partnership’, Report to NuLeAF, April 07.

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- preparation of a PPS explaining the interaction of siting, planning and regulatory processes (but see discussion below)
- inclusion of enabling statements in RSSs, for example, setting out a commitment of national and regional stakeholders to work together to support local communities willing to participate in a siting process
- provision for potential repository siting in LDFs/MWDFs<sup>12</sup>, for example, setting out the criteria that a proposed development would have to meet to be permitted
- preparation of a Supplementary Planning Document (SPD) setting out how local policy on repository development will be applied.

It is important to stress that use of the development plan approach must dovetail with a siting process based on willingness to participate and partnership. This has implications for the timing and process by which plans are amended or developed to address siting of a repository. In particular, at a local and regional level, plan development should be informed by the advice of the local Siting Partnership, working closely with local planning teams.

The implementation framework should acknowledge the importance of the views of the Siting Partnership in informing plan development at local and regional levels. It should also acknowledge the need for sufficient time within the siting process to enable appropriate plan development to be undertaken.

The precise detail of how local and regional plan development should be handled in participating areas should be agreed in discussion between the key players, led by officers from the the Siting Partnership and Local Planning Authorities. It is anticipated that the approach will be based on the earliest appropriate opportunity to undertake a partial review and revision of the relevant RSS, LDF and MWDF. Ways of coordinating plan development and key siting steps need to be identified through discussion and a timetable agreed.

Although early local discussions could be initiated once a decision to participate has been taken, they should not be concluded until input has been made by the local Siting Partnership.

## **The Role of Planning during Key Stages in the Siting Process**

The implementation framework should outline the relationship between the siting process and planning during key stages in the siting process. It is helpful to think of these stages in terms of:

- Area Investigation – mainly desk-based investigation leading to Siting Partnership

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<sup>12</sup> In two tier areas, given the significance of repository development, it is likely that the LDF at district level and MWDF at county level would both need to be amended or developed as appropriate to the purpose and roles of those plans.

- recommendations about sites that should be subject to field investigations
- Sites Investigation – field investigation, including borehole and geophysical work, leading to Siting Partnership recommendations about a preferred site
- Decision to Proceed – field investigation of preferred site, leading to a development proposal and Siting Partnership recommendations about whether to proceed
- Construction and Review – underground characterisation and repository development

A brief review of each stage indicates some of the aspects that could be covered in the development of local plans following establishment of a Siting Partnership.

### ***Area Investigation***

There may be a number of potential sites in a Siting Partnership area. It is anticipated that national guidance on siting criteria will be available for review and use by the Partnership in consultation with the implementor and relevant local authorities<sup>13</sup>. The criteria may also have been outlined in appropriate local plans (see above). These criteria will be used to identify potential sites. The relevant Planning Authority/ies should advise and discuss with the Partnership the range of planning issues affecting any potential sites within its area.

It is anticipated that an Environmental Assessment of each potential site will need to be undertaken by the repository development contractor, working to a scoping opinion prepared by the Local Planning Authority and informed by the Siting Partnership.

If there is more than one Siting Partnership in the UK, it will be necessary at the end of this stage to compare the merits of sites across Partnership areas as well as within them. The purpose would be to identify a short-list of sites that offer sufficient promise in terms of environmental assessment and planning requirements to justify intrusive field investigations. The stage may need to conclude with a national review of candidate sites, prior to a decision about which sites will be subject to investigation in the next stage. This review should involve representatives from the Siting Partnerships and be undertaken in an open and transparent manner.

### ***Sites Investigation***

There may be a case for the relevant LDFs/MWDFs to be amended, or for a Supplementary Planning Document to be prepared, prior to the commencement of this stage to identify the sites for further investigation. This would provide a positive material planning consideration in handling borehole applications. Alternatively it may be sufficient for applications to be determined against criteria that could have been set out in earlier development of the LDF/MWDF (see above).

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<sup>13</sup> NuLeAF Briefing Paper 4, 'Initial Invitations and Local Decision-Making', February 07, p6.

The local Siting Partnership would be active over a number of years as short-listed sites are investigated, emerging repository safety cases reviewed, outline plans for repository development prepared and suitability in planning terms assessed.

Local Planning Authorities would be active in determining applications, monitoring developments and ensuring conditions are followed. They would continue to liaise with and participate in the work of the Siting Partnership.

Again, if more than one Siting Partnership were involved, a national process would be required to assess the potential suitability of the short-listed sites, leading to the identification of a preferred site/s for detailed characterisation and repository development. This assessment should also involve representatives from the Siting Partnerships and be undertaken in an open and transparent manner.

### ***Decision to Proceed***

Once a preferred site/s has been identified, the repository contractor would seek to prepare a full planning application for determination.

In order to ensure proper involvement of the Siting Partnership and Local Planning Authority, the following steps can be envisaged:

- Preparation of safety case reports and regulatory review<sup>14</sup>
- Preparation of an indicative development proposal in the form of a 'draft' planning application
- Provisional assessment by the Siting Partnership and Local Planning Authority
- Recommendation from the Siting Partnership about whether to proceed
- Decisions by the relevant local authority/ies about whether to accept a recommendation to proceed from the Siting Partnership
- If accepted, explanation of how local planning policy is being applied (it might be appropriate to provide the explanation in the form of a Supplementary Planning Document)
- Preparation of a full planning application for determination.

At this point, the application would either be determined by the relevant Local Planning Authority, or be 'called in'. Even if the application is not initially 'called in', it may be that the Local Planning Authority would wish to ask for that to happen, so that a full Inquiry can be held. If the Barker recommendations are implemented, the application could be referred to an Inquiry Commission.

Assuming that the proposed approach based on partnership and utilisation of the

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<sup>14</sup> It is anticipated that the Environment Agencies will develop a staged approach to regulation, with a series of regulatory decision points. Early discussion will be required to ensure that there is clarity in the relationship between regulatory and local authority decision points.

development plan system has been followed, and a right of withdrawal has not been exercised (see below), the Inquiry might be expected to be 'confirmatory' in nature. In such circumstances, it is anticipated that the application would be supported by the Siting Partnership and Local Planning Authority.

### ***Construction and Review***

The Siting Partnership would have a continuing scrutiny and advisory role as construction and in-situ review proceeds<sup>15</sup>.

It should be acknowledged that the in-situ review and safety case development may not bear out the judgements on which the decision to proceed was taken. There may therefore be a need for further assessment, re-design of the repository or even abandonment of the project.

The Local Planning Authority would also be active in monitoring the development and adherence to any planning conditions, and reporting to the Siting Partnership.

## **Areas of Further Work on Planning and Siting**

### ***A Planning Policy Statement?***

As noted above, NuLeAF's preliminary policy statement expressed the view that:

In order to clarify what is required of the developer in the siting process, the Government should issue a Planning Policy Statement specific to long-term radioactive waste management facilities.

Hetherington also argues that a PPS should be prepared, suggesting that Government should consult on a draft PPS following decisions on the Implementation Framework and Outline Repository Development Plan. He adds that the PPS should be finalised following consultation with potentially 'willing to participate' communities, embryonic Siting Partnerships and Local Planning Authorities.

At this stage, NuLeAF proposes that the potential need for a PPS be kept under review as the draft implementation framework and outline repository development plan are developed, discussed, reviewed and revised. There is likely to be a need for further advice from Government setting out a more detailed explanation of the interaction of siting, planning and regulatory processes, particularly in the light of any changes to the planning system. However, it is not clear at this time that this should necessarily take

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<sup>15</sup> As pointed out in Hetherington, as construction proceeds, additional confirmatory evidence should be forthcoming, with further Science Reports and Regulatory response being produced. The previous Nirex approach split off a "Rock Characterisation Laboratory" stage – though it is not part of the current concept. The role of in-situ investigation will thus need to be fully defined before the siting process is commenced.

the form of a PPS. For example, it may be appropriate for a more flexible and location specific form of advice to be developed after the formation of Siting Partnerships. Such advice could take account of detailed discussions at a local level, for example, about how local and regional plan development should be handled in participating areas.

### ***Use of Planning Delivery Agreements?***

NuLeAF's preliminary policy statement also stated that further work should take into account studies of the use of 'Planning Delivery Agreements' (PDAs) to improve the quality of planning applications and development of major projects. There is also a recommendation in the Barker Report about the greater use of individually tailored delivery agreements between planning authorities and developers.

The final report of a pilot project on the use of PDAs, managed by the Planning Advisory Service (PAS) and Advisory Team for Large Applications (ATLAS), was published in January 2007<sup>16</sup>. The report concludes that:

.. there is universal acceptance amongst those actively involved in the pilot project that PDAs are good practice and can improve the process of dealing with the pre-application and application process for both applicants, planning officers and in many instances for other stakeholders.

Reported benefits include agreeing a project vision and objectives, a project plan and key issues list, improved communications and earlier stakeholder engagement, better quality applications and a more efficient process. The main recommendation from the pilot project is that PDAs should be formally incorporated into the planning system as a voluntary arrangement. It is also recommended that the name PDA be replaced by 'Planning Process Agreement'.

It may be that a Planning Process Agreement would be of value within a siting process for a geological repository. This would only be the case if it were able to complement and support a siting process based on the concepts of willingness to participate and partnership. It is recommended that further discussions involving Government, NuLeAF, PAS and ATLAS take place to explore whether this would indeed be the case.

### **Right of Withdrawal**

The Briefing Paper now considers an additional key component of the siting process – the principle of right of withdrawal.

It is proposed that the Implementation Framework set out Government support for the principle of right of withdrawal, that could in principle be exercised by the relevant local

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<sup>16</sup> Planning Advisory Service, 'Planning Delivery Agreements Pilot Project January – December 2006', Final Report, January 2007.

authority/ies on the basis of material evidence that sets out the reason/s for withdrawal. The framework should make it clear that once a right of withdrawal has been exercised, the area in question would be removed from the siting process.

The basis for this proposal is that a right of withdrawal:

- is an important part of a process based on 'willingness to participate'
- will help address inequality in national/local relationships
- will help ensure that the concerns of local communities are properly addressed
- will contribute to the development of local confidence in the siting process.

The principle of right of withdrawal is also supported by CoRWM and has international precedents<sup>17</sup>.

A right of withdrawal would have to be exercised in a highly responsible manner and would only be available up to a pre-defined point in the siting process<sup>18</sup>.

It is proposed that the implementation framework acknowledge that a right of withdrawal could be exercised at the end of key stages within the siting process, including:

- area investigation - if the sites proposed for field investigation are not considered acceptable
- site investigation/decision to proceed – if the site proposed for detailed characterisation/repository construction is not considered acceptable
- site characterisation/in-situ review – if the site subject to in-situ review is not found to be acceptable on environmental or safety grounds.

In each case, a decision by the relevant local authority/ies to withdraw from the siting process could only be taken after thorough consideration of:

- the advice and recommendations of the Siting Partnership
- the advice of national bodies, including the NDA and regulators
- conformity with the LDF, MWDF and RSS

Factors that may be taken into account by the local authority/ies might include:

- the extent to which the mission of the Siting Partnership is being fulfilled (see NuLeAF Briefing Paper 3)

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<sup>17</sup> See Enviro, 'The Implementation of a National Radioactive Waste Management Programme in the UK: Implications for Local Communities and Local Authorities', report for NuLeAF, June 06, section 4.8 and Annex A, and Hetherington Nuclear Consulting, 'Implementing Radioactive Waste Management: Siting and Planning in Partnership', Report to NuLeAF, April 07, Section 8.

<sup>18</sup> There is also a need for Government to consider the responsibilities that it would need to exercise in support of participating communities where sites are rejected by national bodies late in the siting process.

- the views of local communities as identified through community engagement
- the acceptability of the proposed Benefits Package
- the acceptability of the repository design concept, including its provision for the retrievability of wastes and
- the acceptability of any substantive changes to the inventory of radioactive wastes to be emplaced in the repository.

It might be reasonable to expect a local authority/ies *not* to exercise the right of withdrawal in circumstances where the Siting Partnership, NDA and regulators are all recommending that the siting process proceed, and proposals for the next stage are in conformity with local plans. Nonetheless, exercising the right of withdrawal should remain as a possibility, if after thorough review of the evidence the relevant local authority/ies can establish a documented case for withdrawal.

### **Forms of Agreement**

It is proposed that the Implementation Framework acknowledge that formal agreements between the relevant parties will be needed to underpin key aspects of the siting process, including Siting Partnerships, Participation and Benefits Packages, the planning process (including development of local plans) and rights of withdrawal (as above).

As proposed by Hetherington, a key document is likely to be a 'Siting Partnership Agreement', to be signed by Government, the NDA (and its implementing contractor) and the relevant local authority/ies. This agreement should incorporate the primary elements relevant to a Siting Partnership as identified in NuLeAF Briefing Papers 3, 4, 5 and 6.

The Hetherington report provides an outline Siting Partnership Agreement. It is proposed that this be used as the basis for review and development through the following steps:

- at a meeting between Government, NDA, CoRWM2 and NuLeAF during the course of consultation on the draft Implementation Framework;
- at a similar meeting following publication of the Implementation Framework and Outline Repository Development Plan in order to produce a 'Model Framework Agreement'; and
- for review and development by the relevant parties in participating areas when setting up a Siting Partnership.

There is also likely to be a need for separate or supplementary agreement documents (or contracts), for example, to cover the provision of funding for Participation and Benefits Packages.

## Summary and Overview

This Briefing Paper has been prepared to inform discussion between Government and NuLeAF about how the siting process should take into account planning requirements, a right of withdrawal and forms of agreement between participating bodies. The paper makes proposals about:

- utilisation of the development plan system in the siting process
- the role of planning during key stages in the siting process
- areas of further work on siting and planning
- rights of withdrawal
- forms of agreement

It does so in the context of NuLeAF's proposals for a siting process that is based on the concepts of willingness to participate and partnership, as set out in Briefing Papers 3 and 4.

The paper provides an introduction to the development plan system, and outlines the changes to the planning system that might be made as a result of the Barker Review. The Briefing Paper proposes that the implementation framework make it clear that changes to the planning system will have to work alongside a siting process for a geological repository that is built on the concepts of willingness to participate, partnership and community engagement.

On utilisation of the development plan system, it is proposed that the implementation framework assert in principle that the interface between the siting process and planning should be managed through use of that system. The purpose would be to ensure that planning policy at different levels is developed to reflect progress in the siting process, as set out in national policy and informed by the recommendations of local Siting Partnerships. This would be advantageous as the policy adopted in plans will be the predominant "material consideration" in determining planning applications associated with investigation and characterisation of sites and for repository development. An approach that did not include appropriate local plan development could increase the risk of legal challenge or significant delay when planning applications are considered.

The proposed approach could include:

- enabling statements in RSSs, for example, setting out a commitment of national and regional stakeholders to work together to support local communities willing to participate in a siting process
- provision for potential repository siting in LDFs/MWDFs, for example, setting out the criteria that a proposed development would have to meet to be permitted
- preparation of a Supplementary Planning Document (SPD) setting out how local policy on repository development will be applied.

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As use of the development plan approach must dovetail with a siting process based on willingness to participate and partnership, plan development should be informed by the advice of the local Siting Partnership, working closely with local planning teams. It is anticipated that the earliest appropriate opportunity would be taken to undertake a partial review and revision of the relevant RSS, LDF and MWDF.

On the role of planning during the siting process, the implementation framework should outline the relationship between the siting process and planning during the following main stages: area investigation, sites investigation and Decision to Proceed. During area investigation, the criteria used to identify potential sites could have been outlined in appropriate local plans. The relevant Planning Authority/ies should advise and discuss with the Partnership the range of planning issues affecting any potential sites within its area. During site investigations, applications for boreholes may be determined against criteria set out in the LDF/MWDF. Local Planning Authorities would be active in determining applications, monitoring developments and ensuring conditions are followed.

For a decision to proceed, the following steps are envisaged:

- Preparation of safety case reports and regulatory review
- Preparation of an indicative development proposal in the form of a 'draft' planning application
- Provisional assessment by the Siting Partnership and Local Planning Authority
- Recommendation from the Siting Partnership about whether to proceed
- Decisions by the relevant local authority/ies about whether to accept a recommendation to proceed from the Siting Partnership
- If accepted, explanation of how local planning policy is being applied (it might be appropriate to provide the explanation in the form of a Supplementary Planning Document)
- Preparation of a full planning application for determination.

Assuming that the proposed approach based on partnership and utilisation of the development plan system has been followed, and a right of withdrawal has not been exercised, it is anticipated that the full planning application would be supported by the Siting Partnership and Local Planning Authority.

On areas of further work on siting and planning it is proposed that:

- The potential need for a PPS be kept under review as the draft implementation framework and outline repository development plan are developed, discussed, reviewed and revised. It may be appropriate for a more flexible and location specific form of advice to be developed after the formation of Siting Partnerships.
- Further discussions involving Government, NuLeAF, PAS and ATLAS take place to

explore whether a Planning Process Agreement would be of value within a siting process for a geological repository.

On right of withdrawal, it is proposed that the Implementation Framework set out Government support for the principle, which could be exercised by the relevant local authority/ies on the basis of material evidence that sets out the reason/s for withdrawal. The framework should make it clear that once a right of withdrawal has been exercised, the area in question would be removed from the siting process.

It is proposed that the implementation framework acknowledge that a right of withdrawal could be exercised at the end of key stages within the siting process, including:

- area investigation - if the sites proposed for field investigation are not considered acceptable
- site investigation/decision to proceed – if the site proposed for detailed characterisation/repository construction is not considered acceptable
- site characterisation/in-situ review – if the site subject to in-situ review is not found to be acceptable on environmental or safety grounds.

In each case, a decision by the relevant local authority/ies to withdraw from the siting process could only be taken after thorough consideration of:

- the advice and recommendations of the Siting Partnership
- the advice of national bodies, including the NDA and regulators
- conformity with the LDF, MWDF and RSS

Factors that may be taken into account by the local authority/ies might include:

- the extent to which the mission of the Siting Partnership is being fulfilled
- the views of local communities as identified through community engagement
- the acceptability of the proposed Benefits Package
- the acceptability of the repository design concept, including its provision for the retrievability of wastes and
- the acceptability of any substantive changes to the inventory of radioactive wastes to be emplaced in the repository.

On forms of agreement, it is proposed that the Implementation Framework acknowledge that these will be needed to underpin key aspects of the siting process, including Siting Partnerships, Participation and Benefits Packages, the planning process (including development of local plans) and rights of withdrawal (as above). It is proposed that the outline Siting Partnership Agreement contained in work commissioned by NuLeAF be used as the basis for review and development through discussion between Government, NDA, CoRWM2 and NuLeAF.

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