

Meeting:	NuLeAF Steering Group, 24 th October 2012
Agenda Item:	6
Subject:	Community benefits and radioactive waste management
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Purpose:	To update the Steering Group on community benefits

Introduction

This paper updates the Steering Group on recent developments relevant to the issue of community benefits, and covers:

- examples of community benefits;
- an update on NDA position on community benefits;
- Department of Communities and Local Government (DCLG) consultation on Section 106 Agreements; and
- an update on the situation at Hinkley Point C.

Recommendation

That the Steering Group notes the developments in the NDA's position on a Community Benefits Protocol, the Hinkley Point C agreement and changes in the planning framework, and considers the implications for NuLeAF's position on this issue.

Contribution to Service Plan

This paper supports Service Plan Key Task 18: *"to seek to ensure that a consistent, proportionate and transparent approach can be taken to the establishment of Community Funds associated with key radioactive waste management facilities."*

1. Background

NuLeAF and member authorities have discussed the issues around community benefits over a number of years. In March 2008 NuLeAF published Briefing Paper 14 on **Community Funds and the development of radioactive waste management facilities**¹.

A preliminary discussion between the former Executive Director and NDA about the proposed Community Benefits Protocol was held in November 2011. The former Director also held follow-up discussion with NDA on 11 April and engaged with the UK Government and other bodies such as Renewables UK.

Based on these discussions the Steering Group agreed to review potential approaches – including the case for a national framework - when agreement has been reached in West Cumbria and further information is available about the implications of current discussions about ways of securing Very Low Level Waste (VLLW) and Low Activity Low Level Waste (LALLW) disposal routes and Intermediate Level Waste (ILW) treatment and storage consolidation.

The current Executive Co-Directors intend to continue discussions with NDA and other interested parties. (See also the proposed work programme in the draft NuLeAF Service Plan.)

2. Examples of community benefits

The principles of community benefit are well established and already operational in a number of cases:

- The process for identifying a Geological Disposal Facility (GDF) is underpinned by the need for community consent. The final report of the West Cumbria MRWS Partnership advised "If the DMBs proceed to Stage 4, then we advise that:
 - A CSP and the DMBs should base their negotiations with the Government about benefits on the Community Benefit Principles agreed by this Partnership and the Minister of Energy.
 - A CSP should agree an 'outline community benefits package' for each potential siting area being considered. Each outline package should set out possible governance arrangements, investments, scale and distribution of benefits. Government agreement to these should be secured before the end of Stage 4, to avoid a mismatch in understanding prior to expensive site investigations in Stage 5.
 - A CSP should include agreement on a satisfactory community benefits package as one of the criteria for a post-borehole right of withdrawal. These criteria should be agreed with the Government before the end of Stage 4.
 - A CSP should consider how and when to make agreements on benefits binding upon the Government. We recognise that a final decision on a GDF is at least 15 years away. However, we believe the final decision to accept a GDF should only be made if the community is convinced that the

¹ See www.nuleaf.org.uk

Government – and future governments that follow – will honour commitments on community benefits.”

- A community fund has been established by Government and the NDA to support communities around the Low Level Waste Repository (LLWR)
- The Ministry of Defence (MOD) is looking into the issue of community benefit as part of its Submarine Decommissioning Project (SDP)
- The principle of community benefit is well established for other developments, particularly those around renewable energy. Wind farms regularly provide funds for community facilities and/or offer host communities part ownership of the development thereby delivering an income for the local area²
- In addition, the **Energy Act 2004** required NDA to consider the socio-economic impacts of its activities on local communities and gave it a function of giving '*encouragement and other support to activities that benefit the social or economic life of communities.*'

Caroline Flint asked the Secretary of State for Energy and Climate Change a number of questions related to the community benefit of new build nuclear stations in the House of Commons on the 15th October 2012. In his response the Minister noted that "*The Department has analysed overseas examples of community benefit regimes, developed different scenarios and had a number of discussions with colleagues in HM Treasury, Department for Communities and Local Government and Cabinet Office to bring forward proposals on community benefit by the end of 2012.*" The Minister also noted that "*There has also been a series of regular and ad hoc meetings between officials over the last eight months with the aim of bringing forward proposals for community benefits for sites that host new nuclear power stations by the end of 2012.*"

NuLeAF will seek more information on this issue and in particular how the issue of benefits related to waste and legacy issues are being addressed.

It is also worth noting that, while not delivering community benefits, through the following mechanisms the planning system can be used to ensure wider gains from new developments:

- **The Town and Country Planning Act 1990** established Section 106 which provides that a developer may enter into a planning obligation enforceable by a local planning authority.
- The **Community Infrastructure Levy** can be used to support development by funding infrastructure that the council, local community and neighbourhoods want. The Levy came into force on 6 April 2011.

² The Wind Farm Protocol sets out the commitment by the members of the trade association, Renewables UK, to deliver real and tangible benefits to those communities that live near onshore wind farms of 5MW and above. It is available at: <http://www.bwea.com/pdf/publications/CommunityBenefits.pdf>.

3. NDA position on community benefits

The issue of community benefits was discussed as part of the NDA/NuLeAF engagement meeting held in London on the 25th September 2012.

At that meeting the NDA acknowledged that the work on a Community Benefits Protocol undertaken by the previous NuLeAF Executive Director has proved useful background to NDA thinking.

NDA remains focussed at present on high level 'pathfinder' discussions with Cumbrian local authorities about the approach that may be appropriate in relation to the large number of developments that are likely to affect the Sellafield site over the next five years. Discussions in West Cumbria are now close to concluding.

Once completed, NDA will review the Community Benefits Protocol drawn up by NuLeAF to see if it is still viable in light of the smaller number of cases which NDA will consider. However the initial view of NDA remains that it sees each case as being separate and therefore worthy of an individual agreement, not based on a national protocol.

At the meeting NDA accepted that their previous discussions on this topic with stakeholders may have raised expectations to an inappropriate level. Their view is that any application for community benefits will be dealt with on its own merits, with the SLC likely to be the determining body. NDA argued that benefits to the community come in ways other than through a Community Benefit Fund, and part of NDA's remit is to consider ways to ameliorate the impact of site decommissioning on the local economy.

4. DCLG Consultation on Section 106 Agreements

DCLG launched a consultation on the renegotiation of Planning Obligations (S106). Though the stated intention is to encourage new development by reducing obligations, it could be that this will have implications on the way CIM (Community Impact Mitigation) funding is secured via S106. However this is at present unclear. The consultation closed on October the 8th³ and a paper on consultation responses should be published by the end of the year. The government's response to the consultation should provide more clarity on this issue.

5. Hinkley Point C

Somerset councils and EDF Energy have signed an agreement that will deliver up to £100 million for local communities to mitigate the impact of the planned Hinkley Point C station. This is not a Community Benefits Fund as it is set up under the terms of an S106 Agreement.

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<http://www.communities.gov.uk/publications/planningandbuilding/renegotiationobligationsconsult>

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Within the S106, more than £64 million will be spent on supporting local communities and services such as education, training, transport and housing, with £30million already committed in relation to site preparation works.

Subject to development consent from the Secretary of State, the new investment package, which includes financial payments and contingency funds, will pay for a range of mitigation measures for communities most affected by the development (see Annex 2).

ANNEX 1: SUMMARY OF KEY POINTS ABOUT A POTENTIAL 'RADIOACTIVE WASTE COMMUNITY BENEFITS PROTOCOL'

Context and Rationale

Discussion about development of a Radioactive Waste Community Benefits Protocol.

(RWCBP) should recognise:

- the Government's strong adherence to a 'localism agenda', including policy commitments to ensure that local communities benefit from local development
- the likelihood of more restrictive, less flexible, use of Section 106 Agreements, resulting from the placing of statutory restrictions on the use of planning obligations, and the scaling back of their use in areas where Community Infrastructure Levy (CIL) schemes are introduced
- the limited applicability of the CIL to radioactive waste management developments, where the size of the levy charge (based on the floor space formula) is highly unlikely to be proportionate to the scale of the impacts of a radioactive waste management development
- the adoption or discussion about development of protocols in other or related sectors, including the wind industry, the waste industry and new nuclear build
- aspects of NDA Strategy that demonstrate the NDA's desire to move forward with the consolidation of treatment and storage of radioactive wastes at a smaller number of sites or that indicate the potential future development of new management or disposal facilities that could fulfil a multi-site role, including the near-surface disposal of short-lived ILW/graphite wastes.

In this context, the rationales for community benefits provided in accordance with a protocol would be to:

- recognise and reward communities for hosting radioactive waste management facilities with a regional or national role
- help ensure greater acceptance from local communities, thereby helping to secure the deliverability of national strategies for nuclear legacy management.

Nature of a RWCBP

It is intended that a RWCBP would provide a nationally agreed framework for negotiation of local community benefits that:

- are separate and additional to the mitigation measures that might arise solely from a Section 106 Agreement as part of the planning process
- provides flexibility so that local agreements for community benefits can reflect local circumstances.

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The protocol should help ensure that the implementation of any local community benefits scheme is undertaken within the boundaries of, and with the support of, an agreed industry and Government backed framework.

The community benefits would be a voluntary contribution from an operator or developer. The benefits would be separate from the planning process and the mitigation of a development's impacts. As such, the community benefits could not make an unacceptable development in planning terms acceptable. The benefits should have no influence on planning decisions.

Scope of a RWCBP

The protocol would apply to facilities for the treatment, storage or disposal of radioactive wastes (other than a Geological Disposal Facility) that fulfil a role in implementation of national strategies by managing radioactive wastes from more than one site, customer or sector.

It is envisaged that facilities that only manage radioactive wastes on the single site from which they arise will fall outside the scope of the RWCBP. Such facilities may, nonetheless, require mitigation measures to be put in place as a normal part of the planning process. It is also envisaged that facilities that will be used to manage radioactive wastes or spent fuel

ANNEX 2: DETAIL OF THE AGREEMENT WITH EDF ON HINKLEY POINT C

The EDF agreement in Somerset includes the following:

- Up to £8.5 million for a housing fund to mitigate potential impacts on the local housing market, including the refurbishment of local properties
- £12.8 million as the balance of a £20 million community fund for measures to enhance the quality of life in local communities. The £12.8 million will be independently administered by the Somerset Community Foundation, with council, community and EDF Energy representation on the awarding panel
- Nearly £16 million on a variety of highway improvement schemes, particularly in and around Bridgwater, to ease traffic and enhance road safety
- Over £7.1 million to improve local skills and training, including a final £2 million instalment for the Energy Skills Centre at Bridgwater College
- Up to £4.6 million towards community safety measures
- Almost £5.5 million to support economic development and tourism initiatives
- More than £3 million to support local education provision and provide extra school places, if necessary
- Almost £1 million to support local health services
- £300,000 to be spent on local heritage
- £350,000 to pay for landscape and visual improvements
- More than £440,000 to support improvements to public rights of way
- Over £865,000 on environmental measures, including contributions towards flood defence measures
- More than £3.6 million to provide additional resources to the local authorities so that they can monitor and ensure the successful implementation of the development and continue to work closely with local communities