

NuLeAF LOW LEVEL WASTE OFFICER WORKING GROUP

Note of the meeting held on 10 September 2009 at Local Government House, London

1. Attendance:

Fred Barker	NuLeAF
John Bennett	Dorset County Council
Richard Evans	Cumbria County Council
John Pitchford	Suffolk County Council
Phil Watson	Northamptonshire County Council
Mark Woodger	Maldon District Council

Apologies had been received from Peter Day, David Palk, and Lesley Stenhouse.

2. Note of the meeting on 9 June 2009.

With minor amendments the note was approved for posting on the website.

3. Matters arising

- a) The case study on the Dounreay Community Fund had been posted on the NuLeAF website.
- b) The proposed response to the NDA UK LLW Strategy consultation had been endorsed by LGA waste portfolio holders, and was awaiting final sign-off by leading NuLeAF members.
- c) PW would check whether the legal opinion on the need for planning permission for LLW disposal at Kings Cliffe hazardous landfill site could be circulated to the group.

Action: PW

- d) The action re circulation of a note on EA and HPA views on the treatment of risks and LLW disposal is still outstanding.

Action: FB

4. Update on Developments at Specific Sites and MWDF Preparation

The following developments were highlighted:

Northamptonshire

- The Kings Cliffe application was received at the end of July. It is possible that the application will be determined in mid-December. The application for the authorisation to the Environment Agency has been included as an annex in the application, so that safety case material is in

the public domain. Given the nature of the application consultation on the planning application is wider than usual. This is scheduled to finish in early October.

- There has been no discussion to date about potential community benefits.

Cumbria

- A planning application for a LLW disposal facility at Keekle Head is expected by the end of the year. The application is likely to be controversial and a public inquiry might be anticipated.
- A consultation on preferred waste management sites in the county is to start shortly, with adoption anticipated in December 2010.

Suffolk

- It is anticipated that Magnox will want to dispose of some VLLW to landfill. The question of whether planning permission might be required has not yet been fully addressed.
- There is discussion about how to address radioactive waste management in the review of regional strategy that is being undertaken.

5 Implications of Detailed Proposals for the Community Infrastructure Levy

The Government has published its detailed proposals for the Community Infrastructure Levy (CIL) for consultation, with a deadline for comments of 23 October 2009 ([CIL consultation document](#)). The proposals explain that:

- The CIL will apply to most types of new development and will be based on simple formulae which relate the size of the charge to the size and character of the development. The proceeds can be spent on local and sub-regional infrastructure.
- The facility to enter into a negotiated planning obligation will remain when the CIL is introduced to ensure that the specific impacts of a development can be mitigated, but Government proposes to introduce restrictions on its use.

The key questions for radioactive waste management development are:

- Can the CIL be applied?
- Will the restrictions on planning obligations affect the scope for establishing and using Community Funds (see NuLeAF Briefing Paper 16, June 2009, for practices to date [BP16](#))?

Whether, *in principle*, a charge can be levied on a radioactive waste management development appears to hinge on three key questions:

- Is a building part of the development?
- Does the building provide more than 100 square metres of internal floor space?

- Will the building be used sufficiently by people to have a bearing on infrastructure planning?

These questions would have to be asked on a case-by-case basis for treatment plant, storage buildings and disposal facilities.

There was a view in the group that linking provision of charges to the question of whether a building is part of the development is overly restrictive and would lead to too many exclusions. An alternative approach, for example, would be to link the charge to the fee structure for planning applications.

The NuLeAF Steering Group would consider the issues at its meeting on 15 October. It was suggested that the views of the LGA and POS be considered prior to a decision about whether NuLeAF should respond formally to the consultation.

Action: FB

6 Discussion with the NDA about the Coverage of Planning Issues in the LLW Strategy

FB reported on the outcome of a teleconference with NDA. The main points were:

- a) The NDA is happy to look at ways of providing a more detailed evidence base for planning purposes, including regional data on waste arisings and existing facilities. They do not think it would be appropriate to include this in the Strategy itself, but would like to think further about appropriate formats.
- b) NDA are happy to include some paragraphs on spatial planning in the Strategy, but wish this to focus on high level principles.
- c) NDA recognise that there is a need for further discussion about the regional dimension to LLW management, and suggest a meeting after the responses to consultation have been reviewed.

On the evidence base, it was suggested that this should be provided in a way suitable for informing the preparation of Annual Monitoring Reports at a regional level.

The group considered some draft text on spatial planning for inclusion in the UK LLW Strategy. The agreed version is attached as an Annex to this note.

FB would send the suggestion about Annual Monitoring Reports and draft text to the NDA.

Action: FB

7 Addressing Radioactive Waste Management at the Regional Level

The group agreed that it would be timely to more actively encourage regional planning bodies to address radioactive waste management. It was

agreed that FB should contact regional planners with a view to discussing an approach based on a review of relevant documentation and consideration of the following questions:

- How significant is the management of radioactive wastes in the region?
- Is additional management and disposal capacity needed in the region?
- What are the options for managing radioactive wastes in the region? Have preferred options been identified by radwaste producers? Should the options be subject to sustainability appraisal at the regional level?
- What are the most appropriate locations for providing facilities for managing radioactive wastes?
- Is there a need for a specific policy or strategy on radioactive waste management in the region (eg akin to policy on hazardous wastes)?

Action: FB

8 Potential to Control the Source and Types of Waste through Planning Agreements and Conditions

The meeting of the group in June noted that there are various ways in which the source and types of waste managed at a facility might be controlled through planning agreements or conditions. Members were asked to send examples so that they could be reviewed for their potential applicability to LLW.

The group noted that key points from examples are that:

- Any condition has to have a planning purpose otherwise it may be liable to successful challenge.
- An authority will be on stronger ground if a development plan policy sets out reasons for limiting the source or types of wastes.
- Such reasons appear to apply more to geographic sources rather than types of wastes (for example to promote net county self sufficiency and communities taking responsibility for their own wastes).
- There are examples of conditions and S106 agreements that provide various limits to the amount of wastes to be taken from outside an administrative or defined area. These include “no wastes”, “only where capacity remains that is not required to meet the needs of the county”, and “no more than 25% of the wastes”.

The point was made that consideration also needs to be given to the 6 tests for planning conditions laid out in [Circular 11/95](#).

The group discussed the potential relevance of such approaches to current applications. It was noted that the views of a local authority’s legal department would need to be taken on the approach to take in specific cases.

9 Proposal for a NuLeAF Seminar: 'Radioactive Waste Management, Spatial Planning and Development Control'

The group discussed proposals for the seminar, noting that it should take place in the Spring of 2010 when suitable case studies should be available. FB would contact potential speakers nearer the time.

Action: FB

10 Any other business

FB agreed to re-circulate the earlier note on licensing and de-licensing of nuclear sites.

Action: FB

11 Date of next meeting

The next meeting will be held on 8 December at LG House, Smith Square, London, 12.30 for 1.00 to 3.30. Papers will be sent out a week prior to the meeting.

Annex A: Draft Text on Spatial Planning for Potential Inclusion in the NDA's UK LLW Strategy Document

There are three places in the Strategy Document where reference to spatial planning could be made:

- Section 2.3 Regulation of Radioactive Waste (p15) - a paragraph on planning to sit alongside those on environment, safety, security and safeguards
- A new Section 6.3 Working with Planners (p45) - some paragraphs on the high level principles about working with planners
- Appendix 2 Regulation of LLW (p64-65) - a sub-section with more detail on planning.

Each is considered in turn.

Section 2.3

Proposed text is as follows:

“Planning

Land use planning in the UK is the subject of the Town and Country Planning Act 1990 and associated regulations as amended. It operates through two interlinked processes: the provision of policy frameworks in spatial plans, and the control of development. The policy adopted in plans is the predominant “material consideration” in determining a planning application for a specific development. For this reason, land use planning in the UK is often said to be ‘plan-led’.

In England, national planning policy is set out in Planning Policy Statements (PPS). PPS10 sets out Government policy on Sustainable Waste Management. It explains the objectives and principles that regional planning bodies and waste planning authorities should meet in preparing and delivering their planning strategies for waste management.

In Scotland [to be added]”

The primary focus of plan making is then at regional and local levels:

- Regional Spatial Strategies¹ set out a spatial plan for the region that must conform with Government policy.
- Minerals and Waste Development Frameworks (and where still applicable local waste plans) cover local authority planning policy for waste, and must conform to national planning policy and the relevant Regional Spatial Strategy.

New Section 6.3

The current Section 6.2 ends with the following para:

As per paragraph 31 (sic) of the UK LLW Policy (ref 1), the final strategy will provide guidance for national, regional and local planning authorities as necessary in the preparation of planning strategies and their appraisal.

¹ Note the Government is proposing to combine economic and regional spatial strategies in ‘regional strategies’ (www.communities.gov.uk/news/corporate/1306254)

It is suggested that an amended version of this be used at the start of a short section on 'working with planners'. The following text is proposed:

“Working with Planners

As stated in UK LLW policy (ref 1 para 32), the final strategy should be used as guidance by national, regional and local planning authorities when preparing and reviewing their planning strategies for waste management.

Waste producers and operators should recognise the importance of early dialogue with Waste Planning Authorities (WPAs) to help inform (a) the preparation of local waste development documents and (b) the handling of planning applications. As PPS10 highlights, it is important to work in constructive partnership with WPAs as delays can arise if a proposed development is not adequately conceived or does not pay due regard to local planning policies. In contrast, where proposals reflect those policies and their preferred locations for waste management facilities, applicants should expect expeditious and sympathetic handling of planning applications (paras 37-38).

PPS10 also highlights the complementary nature of planning and pollution control regimes (para 27). Where authorisations for disposal to existing facilities are sought, the operator should enter into discussion with the local WPA to take advice on whether planning permission might also be required. This should be considered on a case by case basis, taking into account the original permissions and conditions for operation of the site.

NDA recognises that planning authorities will require a sufficient evidence base, with data about the volumes and types of LLW and VLLW arisings on a region by region basis, an indication of the timing of such arisings, and information about existing and reasonably foreseeable facilities for managing LLW and VLLW in each region. This evidence will be provided in [form depends on further discussion with NDA].“

Appendix 2 [to be drafted]

If thought useful, this could include a brief overview of:

- The objectives and principles set out in PPS10
- The Government's proposals to combine economic and regional spatial strategies in 'regional strategies'
- The nature of Minerals and Waste Development Frameworks and the main stages in their preparation.