

Meeting:	NuLeAF Steering Group, 7 December 2016
Agenda Item:	7
Subject:	Updating of NuLeAF Briefing Papers and revised Briefing paper on approaches to radioactive waste in local plans (BP13)
Author:	Philip Matthews
Purpose:	To enable members to comment on a draft of a new Briefing Paper on radioactive waste in local plans

Introduction:

NuLeAF's **Briefing Paper on approaches to radioactive waste management in local plans** has been revised and updated to take account of the significant changes in the policy landscape over recent years.

These changes include the publication of NDA Strategy III and an updated Business Plan, new strategies for Higher Activity Waste (HAW) and Low Level Waste (LLW), ongoing work on Proportionate Regulatory Controls (PRC) and developments in Welsh Policy. A new Briefing Paper (BP13) is provided in Annex 1. Current local authority policies on radioactive waste are set out in an appendix to BP13 and these have also been updated. For reasons of brevity the appendix is not included in this paper but the full version of BP13 is available at the NuLeAF website.

An updating of other Briefing Papers has also been undertaken. Those that are no longer relevant to current policy have been placed in an online archive and 'live' papers have been renumbered from BP1 to BP18¹. In addition to BP13, significant changes have been made to:

- **Briefing Paper 18** - Radioactive Waste Management: A briefing for Elected Members
- **Briefing Paper 10** - UK nuclear industry LLW Strategy and local authority planning
- **Briefing Paper 6** – A Briefing for Local Authority Planners on Radioactive Waste Management

It is anticipated that additional Briefing Papers will be developed over the coming year. These will provide information on the planned NDA Radioactive Waste Strategy, the final framework for the Geological Disposal Siting Process; and government proposals for changes to regulatory controls for NDA sites.

Recommendation:

That, taking on board and comments made by Steering Group members, this Briefing Paper is agreed and is made available via the NuLeAF website.

¹ <http://www.nuleaf.org.uk/document-library/briefing-papers>

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Annex 1: NuLeAF ADVICE ON APPROACHES TO RADIOACTIVE WASTE MANAGEMENT IN LOCAL PLANS

Briefing Paper 13 (Updated November 2016)

1. Introduction

The aim of this paper is to assist planning authorities in developing an approach to radioactive waste that best meets their needs and that of their communities. The priorities of different local authorities vary – this paper outlines recent changes in the policy context and suggests the issues that should be considered by local authorities in drafting planning and waste policies. It is hoped this will be useful in future revisions of local planning documents.

Specifically, this paper covers:

- spatial planning in England including the current National Planning Policy Framework, the 'Duty to Co-operate', the National Waste Management Plan (NWMP) for England and the National Planning Policy for Waste;
- developments in Welsh policy;
- The Nuclear Decommissioning Authority (NDA) Strategy (Strategy III), published in April 2016, and plans for a Radioactive Waste Strategy;
- the Higher Activity Waste Strategy;
- Low Level Waste (LLW) Policy and Strategy;
- Low Level Waste Repository (LLWR) Strategic Review and LLW management;
- Proportionate Regulatory Controls;
- NuLeAF's advice on radioactive waste planning; and
- examples of relevant policies from local authorities across England and Wales.

The paper covers both Higher and Lower activity radioactive wastes, which can present different challenges in terms of local planning.

2. The Government's Approach to Spatial Planning in England

On 27th March 2012 the Government published a new **National Planning Policy Framework** (NPPF)². The Framework states that '*the purpose of planning is to help achieve sustainable development.*' It defines the terms as follows:

Sustainable means ensuring that better lives for ourselves don't mean worse lives for future generations

Development means growth. We must accommodate the new ways in which we will earn our living in a competitive world.

It also states that '*planning must be a creative exercise in finding ways to enhance and improve the places in which we live our lives*'; and that '*This should be a*

² <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

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*collective enterprise. Yet, in recent years, planning has tended to exclude, rather than include, people and communities.*³

a. The NPPF and radioactive waste planning

Paragraph 5 of the NPPF states that *'local authorities preparing waste plans and taking decisions on waste applications should have regard to policies in this Framework so far as relevant.'* Thus the NPPF must be taken on board in preparing waste planning documents.

At the same time Paragraph 5 notes that *'The Framework does not contain specific waste policies, since national waste planning policy will be published as part of the National Waste Management Plan for England.'* The critical guidance document for waste planning (though not potentially radioactive waste – see below) is therefore the National Waste Management Plan (NWMP) for England.

The NPPF should be read as a whole. However, certain elements of it are particularly relevant to radioactive waste and planning (direct quotes in italics):

<p>Paragraph 12 <i>The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place.</i></p>	<p>An up-to-date local plan with policies for radioactive wastes will therefore be crucial to the determination of planning applications for radioactive waste sites.</p>
<p>Paragraph 14 The presumption in favour of sustainable development should be seen as a golden thread running through both plan making and decision taking. For Decision making this means (inter alia):</p> <p><i>Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:</i></p> <ul style="list-style-type: none"> • <i>Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, or</i> • <i>Specified policies in this Framework indicate development should be restricted.</i> 	<p>The default position is to grant permission unless doing so is contrary to specific policies in the Local Plan. This is a critical issue for radioactive waste management and means that, at least in terms of the NPPF, an absence of policies means a presumption in favour of development.</p>

³ National Planning Policy Framework, Ministerial foreword
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<p>Paragraph 17 The 12 principles for planning include that: It should <i>be genuinely plan lead, empowering local people to shape their surroundings plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues</i></p>	<p>Local people and communities should therefore be involved in plan making in an on-going way.</p>
<p>Paragraph 23 and 31 <i>Local Planning Authorities should set out the strategic priorities for their area including the provision of infrastructure for waste</i></p> <p><i>And work with other authorities and providers to assess the quality and capacity of Waste ... infrastructure and its ability to meet forecast demands; and take account of the needs for nationally significant infrastructure within their areas.</i></p>	<p>Waste infrastructure should be assessed and future likely trends be taken into account, including national trends. Waste planning authorities must consult with other areas that may be impacted by proposed plans.</p>
<p>Paragraph 155 Early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses is essential.</p>	<p>Plans must be based on proper engagement, something that was also made clear by PINS at the NuLeAF seminar in March 2012. 'Proper' engagement is not defined.</p>
<p>Paragraph 178 and 179 <i>Public bodies have a duty to cooperate on planning issues that cross administrative boundaries The Government expects joint working on areas of common interest to be diligently undertaken for the mutual benefit of neighbouring authorities.</i></p> <p><i>Local planning authorities should work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly coordinated and reflected in individual Local Plans. Joint working should enable local planning authorities to work together to meet development requirements that cannot wholly be met within their work areas.</i></p>	<p>The Duty to Co-operate and collaboration is therefore crucial. This is discussed in more depth below.</p>
<p>Paragraph 203 <i>Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used when it is not possible to address unacceptable impacts through a planning condition.</i></p>	<p>In certain circumstances planning obligations can be used to make a local development acceptable. For an example of possible wording see the South Gloucestershire policy in Appendix 1.</p>

b. The Duty to Co-operate

The Duty to Co-operate (DtC) came in to force through the Localism Act 2011. Under the DtC the Government expects joint working on areas of common interest to be diligently undertaken for the mutual benefit of neighbouring authorities. The Duty also requires engagement with organisations other than neighbouring local authorities and with remote sites where they will be affected by proposed plans. It applies not just to Planning Authorities but also to a wide range of other public bodies.

Councils are required to demonstrate that they have complied with the DtC:

- Legally – at the independent examination of Waste Local Plans;
- As a policy test – a plan will only be found sound if it is deliverable and based on effective joint working on cross-boundary strategic priorities; and
- Through reporting – under Local Planning Regulations 2012 councils are required to report progress against the DtC in their Annual Monitoring Reports (AMRs).

Councils should use the DtC as an opportunity to:

- get the evidence right (and spread the cost with partner councils);
- reach agreements with partners on joint working approaches; and
- explore the opportunity for jointly adopted policies and other strategies.

Paragraphs 43 and 44 of the NPPF note the Duty to Co-operate and it is also referenced indirectly in Paragraphs 178 and 179.

The Duty to Co-operate is relevant to radioactive waste management, and strategic priorities across local boundaries should be properly co-ordinated and reflected in local plans. Opinions on the impact and usefulness of the Duty vary, but practice is still evolving. It will be important to continuously monitor the interpretation of the Duty to Co-operate in practice to fully understand the obligation that has been created.

Government guidance on the Duty is available⁴. In 2013 NuLeAF was commissioned by LLWR Ltd to undertake research on the Duty to Co-operate and its implications for management of LALLW/VLLW⁵.

c. National Waste Management Plan (NWMP) for England

The **National Waste Plan for England** was published at the end of 2013⁶, superseding Planning Policy Statement (PPS) 10 on Sustainable Waste Management. The NWMP is needed to be consistent with the requirements of Article 28 of the EU Waste Framework Directive. The NWMP does not cover radioactive waste as it is not defined as a waste in the Waste Framework Directive.

⁴ <http://planningguidance.communities.gov.uk/blog/guidance/duty-to-cooperate/what-is-the-duty-to-cooperate-and-what-does-it-require/>

⁵ <http://www.nuleaf.org.uk/wp-content/uploads/2014/10/NuLeAF-DTC-report-finalV5minus-appendices.pdf>

⁶ <https://www.gov.uk/government/publications/waste-management-plan-for-england>

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Despite this, the Department of Communities and Local Government (DCLG) issued new guidance⁷ on waste for local planning authorities in April 2015 which notes (paragraph 13) that waste planning authorities should plan for the sustainable management of Low Level Radioactive Waste. It provides advice on the implementation of the waste hierarchy, the preparation of Local Plans, regulatory regimes and inspection and monitoring.

Radioactive waste is addressed under a separate regime through the EU Directive on Spent Fuel and Radioactive Waste Management.⁸ This Directive refers to 'radioactive wastes' without distinguishing between high and lower activity wastes, although it is understood that it largely deals with higher activity wastes. It also requires the development of a 'national waste plan' but given the focus on higher activity wastes this is understood to relate to plans for geological disposal. There are also other anomalies caused by the Directives and their application to 'controlled' and radioactive wastes. For example, the ban on co-disposal of hazardous and non-hazardous waste doesn't seem to apply if the wastes are radioactive but have hazardous properties.

NuLeAF believes it is desirable for radioactive waste to be integrated into wider waste policy. We will continue to engage with Government on this issue.

Looking forward, it is not clear what impact, if any, the UK's changing relationship with the European Union will have on waste policy. Radioactive waste policy, and the NWMP, has until now been underpinned and driven by the requirements of European Directives.

d. National Planning Policy for Waste

The **National Planning Policy for Waste** was published in October 2014⁹. It is a short document providing high level guidance on the policies for waste management. As with the NWMP it does not apply directly to radioactive waste.

e. Welsh Policy

Planning policy and guidance in Wales is set by the Welsh Government. The key documents are **Planning Policy Wales**¹⁰ and **Minerals Planning Policy Wales**¹¹. The latest edition of Planning Policy Wales was published in January 2016 and provides guidance on the preparation of Local Development Plans and on making planning decisions.

Radioactive waste management is not dealt with in Planning Policy Wales. Wales has a separate policy for the management and disposal of Higher Activity radioactive waste (HAW) but the management of Low Level Radioactive Waste (LLW) in Wales is governed by the UK LLW Strategy (see below).

⁷ <http://planningguidance.communities.gov.uk/blog/guidance/waste/>

⁸ http://ec.europa.eu/energy/nuclear/waste_management/waste_management_en.htm

⁹ <https://www.gov.uk/government/publications/national-planning-policy-for-waste>

¹⁰ <http://gov.wales/topics/planning/policy/ppw/?lang=en>

¹¹ <http://gov.wales/topics/planning/policy/minerals/?lang=en>

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f. NDA Strategy and plans for a Radioactive Waste Strategy

While there is no national *planning* policy or guidance specifically on radioactive waste management, the Government has stated that NDA Strategy should be taken into account in the preparation of local plans. The King's Cliffe Inquiry Inspector also concluded that there is no merit in a claimed distinction between national planning policies and other national policies and that the latter apply to planning authorities (paras 7.14-7.17). This conclusion was endorsed by the Secretary of State in his decision letter (paras 17-18)¹². Thus NDA Strategy, the HAW Strategy and policy and strategy for LLW all apply to planning authorities.

The most recent version of NDA's over-arching Strategy¹³ was published in April 2016. It states that strategic decisions about radioactive waste management should be informed by the following key principles:

- supporting key risk and hazard reduction;
- considering the entire waste management lifecycle;
- applying the Waste Hierarchy which should be used as a framework for waste management decision making;
- promoting timely characterisation and segregation of waste;
- where appropriate, provide leadership giving greater integration across the estate and supply chain, in particular by seeking opportunities to share treatment and interim storage facilities, capabilities and learning;
- supporting and promoting the use of robust decision-making processes to identify the most advantageous options for waste management; and
- enabling the availability of sustainable, robust infrastructure for continued operations, hazard reduction and decommissioning (p59).

The Strategy adds that: *'we will pursue diverse radioactive waste management and disposal solutions where they offer benefits over previous arrangements. For instance, we continue to investigate opportunities to share waste management infrastructure across the estate and with other waste producers. We will manage these opportunities on a case-by-case basis, while engaging with stakeholders irrespective of whether such developments represent new investments proposed by us or by other organisations on our behalf. (p60)'*

The Strategy also states that *'The NDA, with support from the nuclear regulators, advocates an approach where wastes are management according to the nature of the waste (radiological, physical and chemical properties) rather than simply the radioactive waste category they fall into. To achieve this we are developing a **Radioactive Waste Strategy** that will integrate Higher Activity Waste and Low Level Waste Management.'* (p60) This Radioactive Waste Strategy is expected to be published in 2017.

g. Higher Activity Waste Strategy

A **Higher Activity Waste (HAW) Strategy**¹⁴ for the NDA estate was published for the first time in May 2016. The aim of the strategy is to ensure that HAW is in a

¹² This letter is available at <http://www.nuleaf.org.uk/nuleaf/DisplayArticle.asp?ID=9719>

¹³ <https://www.gov.uk/government/consultations/nuclear-decommissioning-authority-draft-strategy>

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form which it is possible to store safely and securely for many decades, prior to disposal in a Geological Disposal Facility (GDF). In a similar approach to LLW Strategy, the aim for HAW is to:

- Apply the waste hierarchy
- Develop alternative waste management routes
- Make best use of existing and planned assets

HAW covers High Level (HLW) and Intermediate Level (ILW) waste along with a small proportion of LLW that is unsuitable for management in LLW facilities. The strategy may lead to new management routes and the potential application of techniques such as decay storage for parts of the HAW inventory that have a relatively short half-life.

Section 4.3 of the Strategy (p53) recognises *'the important function of local planning authorities'* and commits to *'early dialogue between the (NDA) SLCs and local government decision makers on radioactive waste matters. This helps inform (i) the preparation of local waste development documents and (ii) the handling of planning applications.'* It also commits the NDA to engage with planners via NuLeAF and to ensure appropriate national and regional level workshops and events.

h. Low Level Waste (LLW) Policy and Strategy

Policy and Strategy for LLW applies to the whole UK. In its 2007 **Policy for the Long-Term Management of Solid Low Level Radioactive Waste in the United Kingdom**¹⁵, it is stated that: *Government considers that a clear statement of Government policy is needed to support the planning process. This would be taken into account in both the preparation of national, regional and local plans and the determination of planning applications. In practice, this will be provided by Ministers' assessment and agreement of the NDA's Strategy and Annual Plans* (para 31)

Published in February 2016, a refreshed **UK Strategy for the Management of Solid Low Level Waste (LLW) for the Nuclear Industry**¹⁶ was prepared by the Nuclear Decommissioning Authority (NDA) on behalf of the UK Government and is published jointly by the UK Government and the devolved administrations. It updates the earlier LLW Strategy, published in 2010, and builds on the policy for the long-term management of solid LLW in the UK, published in 2007. It maintains the same three strategic themes of the earlier documents, namely:

- The application of the waste hierarchy and a move away from the past focus on disposal;
- Making best use of existing LLW management assets, particularly the LLW Repository (LLWR) near Drigg in Cumbria; and

¹⁴ <https://www.gov.uk/government/publications/nda-higher-activity-waste-strategy>

¹⁵

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254393/Low_level_waste_policy.pdf

¹⁶

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/497114/NI_LLW_Strategy_Final.pdf

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- The need for new fit-for-purpose waste management routes.

It also recognises the significant changes that have occurred since 2010 in the way LLW is managed. These include:

- The diversion of significant volumes of LLW from the Low Level Waste Repository (LLWR) site;
- The development and use of alternative treatment and disposal routes;
- The application of the waste hierarchy by waste producers when making waste management decisions;
- The identification of opportunities for improvement and the sharing of good practices for LLW management; and
- The engagement of a broad group of stakeholders within the process.

The strategy is primarily aimed at nuclear industry waste producers, the waste management industry, environmental regulators and waste planning bodies, and will also apply to new nuclear sites as they are developed. It sits alongside strategies for the management of **Non-nuclear LLW**¹⁷ and for **Naturally Occurring Radioactive Material (NORM)**¹⁸ that have also been published for the first time in the last few years.

The Strategy also notes that the correct links need to be made between management of LLW and of Higher Activity Waste (HAW) and that the classification of LLW and HAW do not translate into clearly defined management routes. In other words, some LLW will need to be managed as HAW, and some HAW could potentially be disposed of within an LLW facility.

NuLeAF **Briefing Paper 19** provides more information on the LLW Policy and Strategy and their implications for planning and for LLW management. It is available on the NuLeAF website.

i. LLWR Strategic Review and LLW management

LLWR Ltd manage engagement and publish a range of resources on LLW management¹⁹. Their **Strategic Review 2013** sets out the management environment for LLW in the UK including:

- The LLW National Inventory and likely waste arisings in future years;
- Current LLW management strategies for the NDA estate Site Licence Companies (SLCs);
- Waste management performance;
- Research and development;

¹⁷<https://www.gov.uk/government/publications/strategy-for-the-management-of-solid-low-level-radioactive-waste-from-the-non-nuclear-industry-part-1-anthropogenic-radionuclides>

¹⁸

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335821/Final_strategy_NORM.pdf

¹⁹<http://llwrsite.com/national-waste-programme/waste-inventory/>

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- Assets and infrastructure (existing and planned) for LLW management;
- Costs associated with LLW management.

The LLWR site in Cumbria remains at the heart of LLW management, and it is one of only two engineered LLW disposal sites in the UK, the other being at Dounreay in Caithness. However, recent years have seen significant progress in the diversion of materials away from the LLWR site, with almost 90% now recovered; sent for incineration, super-compaction or metallic treatment; or (in the case of Very Low Level Waste (VLLW)), sent to a limited number of permitted landfill sites. These are at Clifton Marsh (Lancashire), King's Cliffe (Northamptonshire) and at Lillyhall (Cumbria).

The resilience of the current infrastructure, its long-term capacity, and the needs for proper engagement with communities and local authorities continue to be issues of interest to NuLeAF. NuLeAF and LLWR jointly host an annual meeting between planning authorities, LLWR and the supply chain to help ensure proper engagement. NuLeAF's Radioactive Waste Planning Group (RWPG) also acts as a forum for the discussion of the Duty to Co-operate and the review of local plans.

j. Proportionate Regulatory Controls

The UK Government, the NDA and the environment agencies across the UK are currently involved in work intended to establish a proportionate and effective framework for the management of nuclear licensed sites as they move towards site end state and next planned use.

Entitled 'Proportionate Regulatory Controls (PRC)' it has three strands, namely to:

- look at any legislative changes that will be required;
- develop Guidance on Requirements for Release of Nuclear Sites from Radioactive Substance Regulation (GRR);
- take forward and explore approaches through three 'Lead and Learn' sites, namely Trawsfynydd, Dounreay and Winfrith.

This work will have implications for the management of nuclear licensed sites, and increase the likelihood of in-situ disposal of VLLW and its use to fill voids and for landscaping. Some other installations, such as pipes and foundations, may also be left rather than removed.

It is also likely that the PRC will have implications for local planning authorities, and may propose to use planning tools such as Section 106 agreements to provide oversight to sites and to help manage any residual contamination in a safe manner.

NuLeAF has been an active partner in this work. We provided a detailed response to a consultation in May 2016²⁰ and have also provided a forum, through our Radioactive Waste Planning Group, for detailed discussion on the implications of this work for land use planning.

²⁰ <http://www.nuleaf.org.uk/document-library/consultation-responses/consultation-responses-2016>

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3. Preparation and Adoption of planning policies on radioactive waste: the current situation

Local planning policies on radioactive waste management that have been adopted or proposed by Waste Planning Authorities (WPA) are provided in the Table appended to this paper (Appendix 1). Analysis shows that a range of approaches have been taken:

- ***Some WPA plans and policies are silent on key aspects of radioactive waste management.*** As far as practicable such silence should be avoided. Note in particular the emphasis in the NPPF on a presumption in favour of planning consent where plans do not provide a clear basis for decisions, and that the most recent planning guidance directs local authorities to plan for LLW management.
- ***Some policies categorically state that no LLW/VLLW disposal on a licensed nuclear site should take place.*** Such a restrictive policy position would need to be clearly justified, given that national LLW strategy allows for on-site disposal where appropriate. For those authorities that do not favour on-site disposal it might be more appropriate to adopt a policy that includes flexibility to allow for on-site disposal if there is a need that cannot be met by suitable alternatives (see for example Oxfordshire's proposed policy).
- ***Some policies categorically state that no Intermediate Level Waste (ILW) imports will be allowed for treatment/storage.*** Such a restrictive position would need to be clearly justified, given that NDA strategy includes an intention to consolidate or co-locate storage facilities where appropriate. For those authorities concerned about 'imports' from other sites, it might be more appropriate to adopt a policy that contemplates imports only where a clear need can be demonstrated and where there would be benefits to the area. Somerset County Council had to change their policy to permit the import of radioactive waste for treatment or storage following comments from the Planning Inspector.

4. NuLeAF's advice on radioactive waste planning

Responsibility for radioactive waste planning is spread between Defra, DCLG and BEIS, with the NDA also involved through their strategy development process. There is an excess of technical information available to planning officers without sufficient focus on what is relevant to the plan making process.

It is vital that planning authorities receive a clear message from central government and the nuclear industry about what is needed. This will help local waste planning authorities become more effective, encourage consistency between local plans, and make local planning policy more robust. NuLeAF has written to or discussed this issue with all three government departments and also with the NDA.

a. How should local authorities address radioactive waste issues in planning?

The current lack of clarity makes it difficult to offer a definitive view as to how local authorities should address radioactive waste.

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However, given the issues that have arisen over recent years, sound Local Plan policies based on effective community engagement are critically important. This is supported by PINS, who believe that most legacy development²¹ will not be decided at the national level and that there is therefore a critical role for community consent and an important role for Local Plans.

Speaking at the NuLeAF seminar in March 2013 (www.nuleaf.org.uk), Rob Murfin of the Planning Officers Society argued that, while not all Waste Planning Authorities (WPAs) need to have an LLW facility, this does not mean that there should be a default position of sending the waste out of the area to an existing facility. All WPAs must have due regard to the Duty to Co-operate and should actively state the conditions under which LLW can go to given facilities.

Thus all Waste Planning Authorities need to consider radioactive waste, though the extent to which such consideration is represented in their final Plans and Policies will vary depending on the nuclear industry and non-nuclear industry presence and the facilities currently available to manage such wastes in their area and close by.

Waste Planning Authority (WPA) areas hosting existing nuclear sites require a sufficient policy framework to support decommissioning activities and on-site interim management of wastes. For WPA areas without nuclear sites, there should be careful consideration of the requirement for policies on radioactive waste management before deciding whether or not they are needed.

On this basis the following advice is offered:

Planning policies on lower level radioactive waste

Local Plans that include waste policies should state clearly how/where radioactive waste arising within the area will be managed, with appropriate engagement under the Duty to Co-operate.

National policy also requires that communities take more responsibility for their own wastes. In accordance with this, the following potential options could be considered in drawing up local planning authority policy for radioactive waste disposal:

- For nuclear industry wastes, the preferred location for LALLW/VLLW disposal may be within the nuclear site where it arises. Alternatively, where there is an aspiration for a particular end state that radioactive waste disposal would conflict with, and de-licensing, the preferred location is likely to be off site.
- If those assessments do not identify any practicable solutions then the use of existing or proposed conventional sites within the WPA's area should be considered; or,
- If none of those sites has the potential to dispose of those wastes, and the preferred option is for such wastes to go to other areas, the Duty to Co-

²¹ See Presentation by Planning Inspectorate http://www.nuleaf.org.uk/wp-content/uploads/2014/03/2012-NuLEAF_Rynd_Smith_PINS_Update.pdf

operate will be relevant and the policy would need to be developed through engagement with the relevant WPA(s).

- Proposals involving transfers of radioactive wastes to an existing or new facility should demonstrate that a) they are fully justified based on assessments of national and sub-national need, and that all other options within the area within which the wastes arise have been rigorously assessed; b) they do not have unacceptable impacts; c) local social and economic benefits outweigh any adverse impacts; d) they are acceptable to the host community
- For non-nuclear industry LALLW/VLLW, the deliverability and viability of any possible existing or future sites should be assessed. This should be informed by the waste hierarchy with disposal to landfill the last option. If it is not possible to manage wastes within the WPA, the Duty to Co-operate will be relevant for any policy that relies on such wastes going to other areas.

As noted, work is underway on Proportionate Regulatory Controls (PRC). This may have implications for nuclear licensed sites, and increase the likelihood of in-situ disposal of VLLW and its use to fill voids and for landscaping. Some other installations, such as pipes and foundations, may also be left rather than removed.

Clarity on what is proposed will emerge from 2017. Local Planning Authorities that host nuclear licensed sites should expect to be properly engaged as partners in discussions on options for the management of residual wastes and the implications for the site and their community.

Planning policy on Higher Activity Wastes, Site Restoration and Decommissioning

The Higher Activity Waste Strategy sets out an overall approach to the storage, management and disposal of HAW and the strategy also commits to effective engagement on HAW management with local planning authorities, NuLeAF and other stakeholders. Planning authorities should be content with engagement and should highlight any issues they have to NuLeAF and direct to the NDA.

Waste Planning Authorities (WPA) areas hosting existing nuclear sites require a sufficient policy framework to support decommissioning activities and on-site interim storage and management of wastes, prior to transportation to a planned Geological Disposal Facility (GDF). Examples of policies are provided in appendices.

For WPA areas without nuclear sites, there should be careful consideration of the requirement for policies on radioactive waste management before deciding whether or not they are needed.

Consideration should also be given in policies to the desired end state of sites and the scope for future uses.

Impact mitigation and community benefits (disposal aspects applicable to all WPAs)

There are a range of mechanisms which can be used to ensure mitigation and wider benefits to communities around waste storage and disposal facilities. These include Section 106 and the Community Infrastructure Levy (CIL).

Policy could state that where radioactive waste management facilities are proposed, the Waste Planning Authority will expect measures to be put in place as necessary, and as a normal part of the planning process, to mitigate the impacts of hosting such facilities.

The NDA has indicated that it is not supportive of a national approach to community benefits related to radioactive waste management. However, NuLeAF believes that a Framework for Community Benefits for regional or national VLLW, LLW or ILW management facilities should be developed²². We will continue to engage with NDA on this issue and on the maximisation of wider socio-economic gain.

Regardless of the outcome of those discussions, in a Local Plan context it might be appropriate to explain the possibility of Community Benefits as a voluntary contribution from a developer that helps to ensure that national needs are met in a way that is fair and reasonable at the local level, and which is entirely separate from the planning process.

b. How should the Duty to Co-operate be addressed?

Supported by LLWR Ltd, NuLeAF undertook research on the Duty to Co-operate. This provides guidance on how local authorities should approach the Duty to Co-operate²³.

Based on the recommendations in the paper a framework to support local planning authorities address the Duty has been established. Key elements of this approach are that:

- NuLeAF's Radioactive Waste Planning Group (RWPG) be used as a forum for raising and exploring issues around the Duty to Co-operate and radioactive waste. The Duty is a standing item on the quarterly meetings of the group.
- An annual meeting between LLWR, Waste Planning Authorities and the supply chain be held to provide a strategic overview of LALLW/VLLW operations.

c. The role of NDA and SLCs

NDA and SLCs must engage early and effectively with local authority planners covering both the sites where waste arises and that where it is intended to be treated or disposed of. The annual meeting noted in the previous section is intended to help address this issue for LLW management. The Higher Activity Waste Strategy

²² <http://www.nuleaf.org.uk/wp-content/uploads/2014/04/Briefing-Paper-26-Community-benefits-position-paper-and-framework.pdf>

²³ <http://www.nuleaf.org.uk/wp-content/uploads/2014/10/NuLeAF-DTC-report-finalV5minus-appendices.pdf>

commits to engagement on HAW management, and local authorities should expect NDA and SLCs to demonstrate this.

d. Sustainability Appraisal and SEA

Under European Directive 2001/42/EC there is a requirement that certain plans and programmes undertake a Strategic Environmental Assessment (SEA) to assess the effects on the environment. The process of an SEA is clearly defined and set out in Government guidance, and the assessment covers a range of environmental issues and also population and health. SEA's are also underway for significant plans related to nuclear legacy issues - again this is a requirement of the Directive. These include the proposals for a Geological Disposal Facility (GDF) for higher activity radioactive wastes.

Planning documents, including Local Plans, fall within the scope of the Directive, and under the Planning and Compulsory Purchase Act 2004 a wider Sustainability Appraisal is required.

NuLeAF supports the requirement for a wider sustainability appraisal. This can include all the requirements of an SEA – as has been demonstrated in many cases²⁴ and is considered to be best practice – and has the advantage of properly considering socio-economic issues as well as environmental concerns. The integrated consideration of all relevant issues is likely to lead to better outcomes that reflect the interests of the local community.

5. Looking Forward

There have been significant developments in the strategy, policy and approach to radioactive waste management in recent years. Looking forward, an integrated **Radioactive Waste Strategy** for the NDA estate is due for publication in 2017. NuLeAF will continue to be involved in the development of this, and through our Steering Group and Radioactive Waste Planning Group (RWPG) provide a forum for on-going engagement with Government, NDA, LLWR and others on these issues.

NDA continues to develop its approach to the decommissioning of all its sites. This may lead to significant changes to the interim and end states of some sites, and well defined local plans will assist local authorities in engaging with NDA on this. Of particular interest, as noted above, is current work by BEIS, the NDA and the environment agencies on **Proportionate Regulatory Controls**. This has the potential to impact on site end states and next use, and the scope for the use of planning tools, such as Section 106 agreements, to be employed to manage any residual radioactive contamination on sites. NuLeAF is an active partner in this work and is advising on the best possible approach.

²⁴ <http://www.pas.gov.uk/pas/core/page.do?pageId=152450>

Steering Group, Item 7, Revised Briefing paper on radioactive waste management in local plans (BP13), 7 December 2016