

By email to:

Date: 18th April 2018

Dear Sir or Madam,

Implementing Geological Disposal: Working with communities – response to consultation by the UK and Northern Irish Governments

1. Introduction

NuLeAF (the Nuclear Legacy Advisory Forum) is the Local Government Association (LGA) representative body on legacy wastes and decommissioning. We are directly supported by over 100 local authorities and national park authorities across England and Wales and speak for the wider LGA. The Local Government Association will not be submitting a separate response to this consultation.

NuLeAF's remit encompasses all aspects of the management of the UK's nuclear waste legacy. Our primary objectives are:

- to provide a mechanism to identify, where possible, a common local government viewpoint on nuclear legacy management issues;
- to represent that viewpoint, or the range of views of its member authorities, in discussion with national bodies, including the Welsh and UK Government, the NDA and the regulators;
- to seek to influence policy and strategy for nuclear legacy management in the interests of affected communities; and
- to develop the capacity of its member authorities to engage with nuclear legacy management at a local level.

NuLeAF was a key partner in the former Managing Radioactive Waste Safely (MRWS) process and has been closely involved in shaping the new policy through engagement with DECC/BEIS, RWM Limited and other parties. Our Executive Director was a member of the Community Representation Working Group (CRWG), established by DECC (as was) to consider community engagement and implementation processes for the GDF. We submitted detailed comments to the 2015 Call for Evidence on proposals for Working with Communities and have also been actively engaged in the parallel work on land use planning and geology.

Since the launch of the 2014 'Implementing Geological Disposal' White Paper we have held regular discussions with our members on the proposals to engage local government and communities in the siting process, drawing on their expertise as community leaders and

officers involved in economic development and land use planning. This consultation response has been informed by these discussions. We will also be submitting a response to the parallel Welsh Government consultation and the consultation on the NPS process.

2. General Comments

NuLeAF's **Policy Statement 3: Geological Disposal**¹ sets out our support for the development of a geological disposal facility (GDF) for the UK's Higher Activity Radioactive Wastes (HAW), with certain qualifications and while recognising that some local authorities take alternative views on HAW management. We have therefore been working with the UK and Welsh Governments to help shape the approach to geological disposal since the publication of the 2014 White Paper².

We welcome the recognition in the 2014 White Paper that (a) the siting process has to be based on voluntarism; (b) that all tiers of local government have a significant role to play across the entire siting process; and (c) that the GDF will only proceed if the community gives their consent in a Test of Support late in the process.

We note that the progress since 2014 has not been in line with the timetable envisaged and that awareness of the siting process is still low. We believe it is essential that Government and RWM give added momentum to the process from here on. Delays affect not just those communities who may wish to be considered for a GDF, but the larger number of communities which currently host NDA sites and Higher Activity Waste (HAW) stores.

In addition to the responses we have provided on the consultation questions, we would offer the following general comments on these draft proposals for Working with Communities.

i. Need for greater clarity

The consultation lacks clarity in relation to a number of key aspects of the proposals. If not addressed this is likely to lead to issues and challenges in the local siting processes.

There is a need to better define a number of terms (such as 'Community' or 'Search Area'), to tighten up the language used and to remove ambiguities (for example in relation to the role of local government).

The final proposals must also set out more clearly the socio-economic benefits and dis-benefits of involvement to any community. The previous MRWS process in West Cumbria failed for a variety of reasons. These included a lack of trust in the UK Government, and in particular H.M. Treasury, and their commitment to delivering the scale of investment initially promised. We are not convinced that the current process has fully taken on board the issues that led to the failure of the MRWS. It is imperative that the final proposals demonstrate that all lessons learned from the last siting process have been reflected on and addressed this time round.

ii. The role of local authorities

We note that within the Foreword for the Working with Communities consultation, the Minister states that '*previous approaches were not able to secure and sustain the necessary level of local support*', and that to be successful this time there is a need to develop an

¹ <http://www.nuleaf.org.uk/wp-content/uploads/2014/02/2007-01-25-Policy-Statement-3-Geological-Disposal-.pdf>

² <https://www.gov.uk/government/publications/implementing-geological-disposal>

'open and transparent site selection process that engages constructively with willing communities'.

We agree with this. The engineering, technological and geological challenges in delivering a GDF are undoubtedly significant. However, we believe that the greatest challenges to a successful siting process relate to local politics, socio-economics and engagement.

In particular we believe, that alongside direct engagement with potential host communities, any successful siting process must recognise the important and unique role and the expertise that local government has. Local authorities are democratically elected bodies at the centre of every community, with responsibility for and skills in community engagement, outreach, education and the support of community networks. They have expertise in economic development and regeneration, both directly and as key players within Local Enterprise Partnerships (LEPs). They have a long track record of managing community funds and resources and maximising the benefits of local spend. They also have responsibilities for land use planning, transportation, emergency planning and sustainable development.

To effectively deliver a GDF, the final approach to Working with Communities must therefore place communities and local authorities at its heart, ensuring that they are able to enter into and remain within the siting process over the decades it will take to identify a host site. Our comments on the specific consultations questions draw on this perspective.

We believe that NuLeAF, as the representative body for local government in England and Wales on matters relating to radioactive waste management and decommissioning of nuclear power stations, has and can continue to provide important insight and advice, and help co-ordinate and support local authorities involved in the siting process. We are independent of Government and the developer. We act for local government as a whole and not as an advocate for any individual council or community.

We will continue to raise awareness of the GDF siting process among local authorities up to and following the official launch and to advise RWM and Government. Post launch we believe that NuLeAF can support the siting process through:

- Advising individual local authorities entering the process and providing a forum, through our meetings and events, for the exchange of information and for the provision of feedback to BEIS and RWM.
- Organising visits and exchanges with communities involved in siting processes in other countries. It is important that visits are tailored to the needs and interests of local government. As a member of the Europe-wide Group of Municipalities with Nuclear Facilities (GMF), NuLeAF has established links with local authorities involved in parallel processes overseas.
- Participating in Community Partnership meetings, and thus providing an independent local government perspective on the operation of the Partnerships' in different communities and an overview of the all processes across the country. NuLeAF was a member of the former MRWS Partnership in West Cumbria and contributed useful insights to that.
- Undertaking or commissioning evaluations and research on the siting process and the experiences of local government and communities.

iii. Recognition of the current situation

The Government should more clearly recognise the current situation for HAW management. Higher Activity Wastes are currently stored or located at a number of sites across the UK, with by far the largest and most challenging inventory at Sellafield.

Until a GDF is delivered, a number of communities will be adversely impacted by these wastes, and delays and changes to the GDF siting process will be detrimental to them. They and other communities will also be affected by the transportation of wastes to a GDF. Their contribution, and the impacts on them, should be properly reflected in the final Working with Communities document.

More widely, it should be recognised that, even if the GDF siting process now proceeds in a timely fashion, many communities will play host to HAW for decades to come. This must be reflected in adequate community benefits and support packages, something that is not currently the case.

3. Response to consultation questions

1. Do you agree with this approach of identifying communities? Do you have any other suggestions that we should consider?

Many of our members feel that the current consultation document lacks clarity in terms of defining what the 'community' is within any local GDF siting process and determining the 'Search Area'. We appreciate the need for some degree of flexibility and for local areas to have an element of freedom to define this for themselves. However, we believe a clearer vision and context for any local decisions is required. The final Working with Communities text and/or associated guidance should give this clarity.

While the **Search Area** needs better definition, we agree with the proposed use of ward boundaries to form the edge of the Area. Any method of defining boundaries is likely to cause a negative reaction from some on the periphery, either inside or outside. An area based on ward boundaries is less contentious than a boundary detached from existing political units, as this may be perceived as an arbitrary new line.

Wards are of a smaller scale than local authority boundaries, enabling a Search Area at a better resolution than is possible if local authority boundaries are used. It also allows the establishment of Search Areas that straddle two or more local authority areas.

The definition of boundaries needs to be responsive to future reorganisation of local government. The structure of local authorities, their functions, and the area they cover, may alter significantly in coming decades, and Ward boundaries may also change. It is important that the Search Area or Potential Host Community, once agreed, remain constant throughout the process.

In terms of the **Potential Host Community (PHC)** we again agree that Ward boundaries are appropriate to use to define its edge and support the proposal (4.19) that the Community Partnership will be responsible for agreeing the PHC.

However, we believe the suggested criteria for defining the PHC may lead to a Host Community being established that is too small, both geographically and in terms of the local population.

Beyond those directly affected by the development impacts, there is a larger area containing those who will have an interest in any employment or socio-economic

activities flowing from the GDF. It may also prove challenging at an early stage of the process to define clearly what the development impacts will be.

We believe that the suggested approach may exclude many people with a clear interest in the proposal and may also reduce the likelihood that the Host Community will consent to the development. A wider Host Community is required, based around Ward Boundaries that reflect not just the site specific and transport impacts but also socio-economic interests and environmental concerns.

2. Do you agree with the approach of formative engagement? Do you support the use of a formative engagement team to carry out information gathering activities? Are there any other approaches we should consider?

We agree that anyone within an area should be able to commence discussion and seek information on geological disposal from the delivery body. We would however welcome more clarity (4.23) on the scope for Government Departments and agencies (e.g. Ministry of Defence, Forestry Commission, etc) to initiate discussions or propose their land as a potential site.

We support (4.24) the proposal that there is no requirement that preliminary or exploratory discussions should be made public but believe that there is a need for openness and transparency as soon as a decision is taken to move towards **formative engagement**. We agree that all relevant local authorities should be involved in discussions at this stage if they have not been involved in the initial discussions.

We also support the proposal (4.26) that communities must be involved during the formative engagement phase. We believe that the approach taken to this first engagement with the community is critical.

Sections 4.28 and 4.29 propose the establishment of a **formative engagement team** by the delivery body to provide guidance on engagement and to build confidence in the plans for community engagement. We believe it is essential that:

- (a) the developer works with NuLeAF and other parties with an expertise in local engagement processes to refine the broad approach proposed here before the siting process is launched.
- (b) full recognition is given by the developer, in formative engagement processes, to the expertise and knowledge that the local authorities within a Search Area have in communicating and engaging with local people.

We also note the suggested participants in the formative engagement team set out in Table 2. We support the proposal that local authorities be involved at this time if they wish.

We feel it is important that the developer engages effectively with both the political leadership and the senior executive officers of local authorities and gives adequate time for discussion and consideration by all relevant parts of the council, including economic development, transportation, education, and environmental protection/enhancement. A decision by a local authority not to engage at this point must be made in the light of a full understanding of what is proposed and its implications for the area they serve.

It may or may not be beneficial or appropriate for Local Enterprise Partnerships (LEPs) to be part of the formative engagement team. We believe this should be decided locally.

3. Do you agree with this approach to forming a Community Partnership? Are there other approaches we should consider?

We agree with the proposed size of the Community Partnership (around 12 people) and the means by which the membership is agreed.

The Partnership should involve the local authorities (if they wish) along with others representing different interests or sectors of the local population. All relevant Councils including both the District and County Councils (in two tier areas) should have representation on the Partnership if they so wish and so we welcome the statement made in 4.51. It will be necessary to offer financial support to local authorities to enable them to participate in the Community Partnership. This should cover all their direct and indirect costs.

RWM was not a full member of the previous MRWS Partnership in Cumbria and some local authorities have questioned whether they should sit on the Community Partnership. Others have asked for clarity about their exact role within any Partnership. We therefore believe it is important that Government/RWM explain clearly the reasons for RWM membership in the Partnership and define the role they will play.

While we believe it is important that Local Enterprise Partnerships (LEPs) are kept informed of the work of the Community Partnership, and involved as appropriate, we do not believe it is necessary for the LEP to be a full member of the body.

The Government is right to recognise that the Partnership's membership will evolve, given the long timeframe over which this process will operate. As such, it is important that the final framework for Working with Communities is worded so as to be adaptable to changes in local government structure, either within a specific area or due to national level reforms. We would expect that the geographic area covered by the Partnership would remain constant over the entire siting process, even if electoral boundaries alter.

Given that the requisite skills and perspectives needed by the Partnership may change over time, it may be beneficial for the Partnerships to have the ability to co-opt additional members on a fixed term basis.

4. Do you agree with the approach to engaging people more widely in the community through a Community Stakeholder Forum? Are there other approaches we should consider?

As the Community Partnership will involve only a limited number of people and organisations, making links to the wider community is essential. We support the proposals for a **Community Stakeholder Forum** and for ad-hoc **working groups**. The structure set out in Figure 4 is appropriate.

As the consultation recognises, it is vital that throughout the process there are opportunities for local people and local organisations to engage, raise concerns and have their questions answered. It is also important that those locally who oppose the plans for a GDF are given a voice and an opportunity to criticise and challenge.

In addition to the use of a formal Community Stakeholder Forum, there should be effective engagement through social media and mainstream media, and outreach work with particular groups such as the young. Local further education colleges should be

involved, providing as they do a forum for engaging with young adults and a means of developing the skills that local people will need to access employment opportunities flowing from the GDF.

The current wording of 4.55 is vague on this issue and needs clarification and strengthening.

5. Do you agree with the proposal for a Community Agreement and what it could potentially include?

We agree with this proposal. The Community Partnership and the delivery body must be clear about what is expected of them, the ways in which progress can be monitored and assessed, and how disputes can be resolved. It is also important that the Agreement is flexible and able to respond to changing circumstances or issues that may arise.

It would be helpful if, before the launch of the siting process itself, the Government could provide example Community Agreements to enable local authorities and communities to understand their form and scope, and comment on how they might be enhanced.

6. Do you agree with the proposed approach to the way community investment funding would be provided? Are there alternatives we should consider?

At present this section lacks clarity. There is a need to better explain how the separate and distinct aspects of the overall investment in any potential host community are managed and how they complement each other.

There are 4 main elements to the proposed community investment in a potential host community:

- The **direct economic benefits** that will flow from the hundreds of jobs that will be required to construct and operate the GDF along with **indirect economic benefits** e.g. to the local supply chain, skills, or in terms of the impact of additional local spend on shops, hotels, etc.;
- The **community investment funding** of £1million and then £2.5million that every community entering the process will receive;
- The investment in **mitigation measures** that will be needed to reduce or eliminate negative socio-economic or environmental impacts; and
- The **additional investment** (4.62) that will flow to the successful host community or communities.

We would like to see a clearer explanation of how each element of community investment will be designed to maximise local benefit.

In terms of **direct economic benefit**, the employment opportunities offered by GDF construction and employment should be available, wherever possible, to local people. Opportunities for local businesses should be maximised and targets set.

The **indirect benefits** and spin offs should be as significant as possible. Government must provide clarity on whether business rates generated by the GDF will be retained locally. This is an important issue for local authorities but not one that has so far been addressed. More information on all direct and indirect benefits should be provided.

It should be recognised that the scale of employment and direct economic benefits from a GDF, while very welcome, is unlikely to have a *'transformative effect'* (4.60) on most communities. What is therefore critical to generating interest in the GDF siting process and sustaining communities in it is the delivery of significant additional investment and other spin off benefits.

In terms of **community investment funding** it is stated that funding of *'up to'* £1million or £2.5 million will be available (4.61). We feel that more explanation should be provided as to the circumstances in which the full amount (e.g. £1million per annum) would not be disbursed within a given year. One concern local authorities have is that, during the siting process, there may be years in which activity is limited. Government should clarify that this in itself will not lead to a reduction or withdrawal of community investment funding within a particular year. This should also be made clearer within 4.73.

The consultation states that support should *'aim to ensure that best use can be made of the additional funding'* (4.68) by focussing on *'issues or themes that may increase the ability of local businesses and members of the community to benefit from a geological disposal facility development.'* (4.69). While we agree that the community should be actively engaged in considering the potential use of the larger scale additional investment that will flow to the host community (see below) we do not agree that community investment funding should be focussed on activities directly connected to the GDF development. Firstly, most of the communities entering the siting process will not be successful but should receive these benefits to spend on local projects as they see fit. Secondly, these statements seem to contradict the wider principles for the use of these funds set out in 4.66.

Many of our member local authorities have direct experience of managing or overseeing local community funds and in applying proper 'public value' criteria. Based on this experience, they believe the aims and objectives of such funds; the means of operation and membership of the panel overseeing fund disbursement; the approach to raising awareness of the fund locally; and the audit and reporting processes have to be clear and effective. Failure to do so runs the risk that funding will not be taken up, will be poorly managed, or will be allocated to projects of dubious value. Poor operation of the community investment funding could affect the wider siting process.

In terms of **mitigation measures**, we would like to see more information provided about how the impact mitigation hierarchy will be achieved – i.e. negative environmental impacts will be avoided, designed out, minimised and as a last resort compensated for.

We would also like to see clarity on how any potential negative economic impacts (for example on property prices or inward investment) will be addressed. In doing so it should be recognised that all communities entering a GDF siting process may suffer negative economic impacts, for example on house prices, even if the GDF does not ultimately proceed in their area. For example, a property owner near a possible GDF site may be unable to sell their property for many years based only on the suggestion that a GDF might be developed nearby.

The consultation is weak on the scale of **additional investment**. The lack of clarity on this was one of the main reasons that Cumbria County Council decided to withdraw from the previous process. Many communities and local authorities considering entering the current siting process will be particularly interested in the potential for such large-scale

funding and its impact on their local economy, environment or infrastructure over the long term. The final framework should be much clearer on the scale of such funding, the process for engaging the community in helping shape their priorities for the use of such funds, and the types of projects for which investment would be provided.

Given that the area of the Potential Host Community (PHC) may be limited, there should also be the potential for additional investment to be used to fund infrastructure projects that fall out-with the PHC. For example, improvements to a rail line may require investment over a larger area.

7. Do you agree with the proposed approach to the right to withdrawal? Do you have any views on how else this could be decided? Are there alternatives we should consider?

We agree with the proposed approach to the right of withdrawal. To minimise the risk that the community exercises its right of withdrawal, the developer will need to ensure it is responsive to the issues and concerns that inevitably arise and is also able to build relationships as the Community Partnership membership evolves over time. Of particular importance will be that changes in local government representation e.g. as a result of elections, are managed carefully.

8. Do you agree with the approach to the test of public support? Do you agree that the Community Partnership should decide how and when the test of public support should be carried out? Do you have views on how else this could be decided? Are there alternatives we should consider?

We agree that the Community Partnership should decide how and when the test of public support should be carried out.

The consultation states that '*If at this stage the relevant principal local authority representatives, at county council, unitary authority and district council levels (as appropriate) no longer wish to support the process proceeding, then we recognise it is unlikely that the Community Partnership will be able to launch or demonstrate a test of public support.*' (4.86). We believe this is a vague and ambiguous statement: it appears to assign councils neither a clear veto nor an advisory role in the decision on the Test of Public Support.

We feel that this wording is likely to lead to confusion and may result in conflict between local authorities and other members of the Community Partnership. This wording must be changed.

Our member local authorities have a range of views as to whether there should be an absolute local authority veto over the Test of Support. Many accepted the position set out in the 2014 White Paper; other believe that a clear veto is required but take differing views as to whether that should apply to one or both tiers of local government in two tier areas.

We believe that Government must:

- Establish a clear position on this issue, so that there is no ambiguity on the role of local authorities in determining whether to proceed with the Test of Support;

- Recognise that, at every stage of the process right up to and including the Test of Support, local government must play a pivotal role, drawing on their expertise, democratic mandate, and community leadership role.

9. Do you feel this process provides suitably defined roles for local authorities in the siting process? Are there alternatives we should consider?

NuLeAF has consistently argued that local authorities are of pivotal importance to the success of any GDF siting process, for reasons outlined in Section 2 of this response.

We therefore welcome the statement in Section 5 of the consultation that '*principal local authorities...will need to play an integral role in any Community Partnership.*'

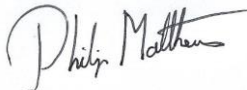
As noted in our response to Question 8, we have significant concerns about the currently defined role of local authorities in deciding on the Test of Support.

10. Do you have any other views on the matters presented in this consultation?

Some potential host communities may wish to see a commitment to the retrievability of wastes. More information should be provided on why this is not viewed as appropriate.

I hope these comments are helpful.

Yours faithfully,



Philip Matthews
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