

By email to:

Date: 18th April 2018

Dear Sir or Madam,

Geological Disposal of radioactive waste: working with potential host communities – response to Welsh Government consultation

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. Our 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, along with the Welsh Government, of the Community Representation Working Group (CRWG), established to consider community engagement and implementation processes for the Geological Disposal Facility (GDF) siting process.

We submitted detailed evidence to the UK Government's Call for Evidence on proposals for Working with Communities, and to the Welsh Government's consultation on its Higher Activity Waste (HAW) policy¹. We participated in the Welsh Government's stakeholder engagement workshop held in Cardiff in January 2017 and have also been actively engaged in the parallel work on land use planning and geology.

¹ www.nuleaf.org.uk/document-library/consultation-responses/consultation-responses-2015

Since the launch of the 2014 'Implementing Geological Disposal' White Paper we have held regular discussions with our members on the plans to engage local government and communities in the GDF 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 UK Government (BEIS) consultation and the consultation on the NPS process in England. We note the Welsh Government's desire for arrangement in Wales that are *'compatible with those being adopted by the UK Government'* but that *'Compatible arrangements do not necessarily have to be identical and we (Welsh Government) recognise that arrangements adopted in Wales will need to reflect differences between the countries.'* (para 18)

2. General Comments

NuLeAF's **Policy Statement 3: Geological Disposal**² 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 Paper³. We welcome the recognition in the 2014 White Paper that (a) the siting process has to be based on voluntarism; (b) all tiers of local government have a significant role to play across the entire siting process; and (c) the GDF will only proceed if the community gives their consent in a Test of Support late in the process.

In particular, we believe that any successful siting process must recognise the important and unique role and expertise that local government has. Local authorities are democratically elected bodies at the heart 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 Potential Host Communities** must therefore place local government and communities 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.

To this end, we welcome the appraisal of the potential benefits and detriments from hosting a geological disposal facility (GDF) set out in the consultation and the assessment of the likely impacts of a GDF development against the seven goals and five ways of working of the **Well Being of Future Generations (Wales) Act 2015**. Placing any GDF development in this wider context of sustainable development is to be supported, and in this regard the Welsh

² <http://www.nuleaf.org.uk/wp-content/uploads/2014/02/2007-01-25-Policy-Statement-3-Geological-Disposal-.pdf>

³ <https://www.gov.uk/government/publications/implementing-geological-disposal>

approach is clearer and better thought-out than the approach set out in the parallel consultation for England.

We also note the statement in the consultation on the planning implications of a GDF within the devolved Welsh context, including the **Town and Country Planning Act 1990** and the **Planning (Wales) Act 2015**. We accept the view of the Welsh Government that the scale and nature of a GDF means it would need to be considered as a Development of National Significance (DNS), but welcome the statement that no decisions on this will be taken until detailed proposals for this had been consulted upon. Any decision to define the GDF as a Development of National Significance would diminish the role of the local planning authority in the process. As any proposal for a GDF is likely to be contentious, the risks engendering a sense among the local community that they have little in the way of ownership of the process and that there is only limited democratic accountability.

Also welcome is the clear statement that, regardless of the approach to planning, the GDF development can only go ahead within a willing host community where there has been agreement through a Test of Support.

3. Response to consultation questions

1. Formative engagement is the process for identifying a potential host community as explained in paragraphs 62-71.

(a) Do you agree with this approach of identifying communities? Do you have any other solutions that we should consider?

(b) Do you agree with the proposals for an independent chair and independent facilitators and evaluators to help with the formative engagement activities? Are there any other approaches we should consider?

(c) Do you agree with the proposed membership of the formative engagement team? Are there any other potential members that should be considered? Please give your reasons for proposing additional members.

We agree with the general approach to formative engagement outlined in paragraphs 62-71.

In terms of (a), it is important that RWM raises awareness of the potential for communities to enter the process through an effective and wider ranging distribution of information as noted in para 58.

We agree that both individuals or organisations should be able to make an initial expression of interest to RWM as an 'interested party'. We agree with the general list provided (para 59) of the range of bodies that could enter into initial discussions with RWM. However, we would welcome greater clarity as to whether national public bodies such as Natural Resources Wales could act as an 'interested party' within the process.

We support the commitment to involve the local authority (and National Park Authorities where applicable) if they are not the initial instigator of discussion (Para 61). We feel that in all cases the local authority itself should be involved, and that engagement of the Local Enterprise Partnership (LEP) in itself should not be considered sufficient.

We believe that more clarity is needed on the details of the approach that will be taken, and therefore support the commitment in paras 55 and 64 that RWM will develop guidance on how it will work with communities during formative engagement and the siting process.

In terms of (b) we support the appointment of an independent chair and facilitators/evaluators to help with this stage of the process. The need for RWM to work in a flexible way with what may be very different communities, for effective stakeholder dialogue and the need for RWM to gather information in order to properly understand each area, will be of great importance to the success of any ongoing engagement. We support the need for further guidance on this (para 64).

With regard to (c), we agree with the proposed membership of the formative engagement team and the suggested role.

2. Do you agree with the proposed approach to defining a search area? Are there any other approaches we should consider?

We agree with the proposed approach to defining a Search Area. It is appropriate that there is a large degree of flexibility as to the scale and boundary of the Search Area, but that boundaries are based on existing local authority or community council areas. It is appropriate that anyone living within this defined Search Area should be eligible for community investment funding and will be able to exercise the right of withdrawal at that stage of the process. It is also right that the membership of the Community Partnership should include the relevant local authorities (if they wish) and others drawn from within the defined area.

3. Do you agree with the proposed approach to forming a Community Partnership that is supported by a Community Stakeholder Forum? Are there other approaches we should consider?

We agree with the approach that is proposed. It is important (Para 88) that the Partnership should be diverse and based on an assessment of local socio-economic and environmental interests and the diversity of the community, including Welsh language issues. We agree that all local authorities and National Park Authorities within which the Search Area sits should be invited on to the Partnership. Local authorities should also be able to join the Partnership at a later date even if they do not wish to be involved at the outset.

We agree that around 12 members is an appropriate size for the Partnership but that the Partnership should have the flexibility to alter its size and membership over time if appropriate.

It is important (para 93) that the Partnership operates under clear terms of reference that define the role of the whole Partnership and the responsibilities of individual members; also the need for accountability to the wider community.

Para 94 is also to be welcomed. It is right to note that there is a need for the sharing of information and the raising awareness not just with the wider community but also within organisations that are members of the Partnership.

There are considerable risks during the period of formative engagement. Given the long lead in time, up to 20 years, maintaining community cohesiveness and consensus may be difficult to achieve. The Community Partnership is a long-term commitment for its

members. There need to be mechanisms for ensuring continuity as members of the Community Partnership leave for various reasons (death, ill-health, personal circumstances etc.). Similarly there is a need for a guarantee in continuity in terms of Government support and in RWM's engagement in any Community Partnership.

A clear process must be in place to enable replacement of members who step down. The Partnership should also seek to engage with the likely next generation of leaders within the community (e.g. within local authorities, business organisations, the third sector) to ensure that they are aware of the work of the Partnership and plans for a GDF. This should ensure a smoother induction of new members and greater continuity in the operation of the Partnership.

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 5 is appropriate.

As the consultation recognises, it is vital that throughout the process there are opportunities for local people 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 opportunities for effective engagement through social media and mainstream media, and outreach work with particular groups such as the young. Local further education colleges should also 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.

4. Do you consider the process outlined in paragraphs 100-102 and detailed elsewhere in the consultation paper provides a suitably defined role for relevant 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.'*

In our response to Question 10, we set out our views on the proposed role of local authorities in deciding on the Test of Support.

5. Do you agree that, in Wales, the community council area or group of community council areas should be the basis for identifying a potential host community? Are alternative ways of identifying the boundary of a potential host community preferable? Please give your reasons.

We agree with the statement (para 105) that using existing political boundaries could provide a clear, democratically accountable area for the Potential Host Community (PHC). We believe that these existing boundaries should be used to define the PHC. In our response to the UK Government's consultation we have proposed the use of Ward

boundaries to define the PHC. We accept the proposal of the Welsh Government to use Community Council areas and their reasons for this suggestion within the Welsh context.

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. 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.

Our view is that, 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. We believe therefore that 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.

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

We feel that at present this section lacks clarity. There is a need to be clearer as to the way in which separate and distinct aspects of the overall investment in any potential host community are managed. There are 4 main elements 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 £2.5 million 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 (under Section 106)
- The **additional investment** 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. The **indirect benefits** and spin offs should also be maximised. More information on how this is to be achieved should be provided.

It also needs to be recognised that the scale of employment and direct economic benefits from a GDF, while very welcome, is unlikely to have a '*transformative effect*' (para 121) 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 (para 122). 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 should not lead to a reduction or withdrawal of community investment funding within a particular year.

We agree with the suggested principles for community investment funding (para 130 and 131), underpinned as they are by aims around well-being, enhancement of the environment and culture, and support for the economy. We agree that the approach should also be guided by the local economic vision and existing socio-economic strategies if available.

The consultation also states that support should *'aim to ensure that best use can be made of the additional funding'* (para 132) 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.'* (para 133). While we agree that, in the early years of the process, 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 used to support 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.

In terms of **mitigation measures**, we would like to see more information provided about how negative environmental impacts will be minimised and compensated for. We would also like to see clarity on how any potential negative economic impacts (for example on property prices or inward investment) would be addressed.

The consultation is weak on the scale of **additional investment** that will be provided. 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 potential 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. Examples of the type and scale of projects that might be supported should be provided.

Given that the area of the Host Community may be limited, there should also be the potential for additional investment to be used to fund e.g. infrastructure projects that fall outwith the Host Community. For example, improvements to a rail line may require investment over a larger area. We therefore agree with the proposal in para 134 that it is up to the Community Partnership to determine whether funding should be prioritised within the Host Community.

7. Do you agree with the proposed arrangements for managing community investment funding? Are there alternatives we should consider?

We support the proposed approach. The community investment funding should be managed by an independent and transparent body. We agree that it should be up to the Community Partnership to decide how best to fulfil this function.

8. Should the arrangements to provide communities with access to third party expert views, outlined in the UK Government and Northern Ireland Government administration jointly issued 2014 White Paper and discussed above, be extended to include communities in Wales?

The complex technical, scientific and geological underpinning of a GDF means that every community will have many questions that they would like answered, in a clear and understandable way, by reliable sources.

We agree that the Learned Societies, along with RWM, the Welsh Government, CoRWM and the regulators should offer the range of expert views required. We also believe it is essential that the Community Partnership will also be able to directly seek third party views on behalf of the community or an individual.

Over the course of the siting process, we believe that the Community Partnership should offer regular opportunities for debate or discussion on the technical, scientific and geological aspects of a GDF, involving experts with a range of views.

9. Is it appropriate for the Community Partnership to decide whether to exercise the right of withdrawal and put the question to the community? Do you have views on how this could be decided?

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.

10.A test of public support must take place in the potential host community before a GDF can be developed. Is it appropriate 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?

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 the relevant local authority representatives no longer wish to support the process proceeding, then it is unlikely that the Community Partnership will be able to launch a test of public support at that time.*' (para 148). We believe this is a vague and ambiguous statement: it appears to assign councils neither a clear veto or 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 if there is disagreement at this stage. This wording must be changed. We propose that the local authorities involved in the Community Partnership be given a clearly defined veto over whether or not to hold a Test of Support at any given time.

Finally, any test of support may well prove to be contentious, with strong passions on both sides of the argument. Great care will need to be taken to enable free and fair discussion

and to address intimidation of Community Partnership members and community leaders on either side of the debate. Social media may present particular challenges in terms of personal attacks and the presentation of false or misleading information. The Community Partnership must be properly equipped to manage this process and address any issues that may arise.

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

We have nothing further to add.

I hope these comments are helpful.

Yours faithfully,

A handwritten signature in black ink that reads "Philip Matthews". The signature is written in a cursive style with a long horizontal stroke at the end of the word "Matthews".

Philip Matthews
Executive Director
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